

By: Vasut

H.B. No. 4598

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Brazoria County Municipal Utility District No. 80; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8152 to read as follows:

CHAPTER 8152. BRAZORIA COUNTY MUNICIPAL UTILITY DISTRICT NO. 80

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8152.0101. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the Brazoria County Municipal Utility District No. 80.

Sec. 8152.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8152.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8152.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8152.0103 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8152.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) The district is created to serve a public purpose and benefit.

9 (b) The district is created to accomplish the purposes of:

10 (1) a municipal utility district as provided by
11 general law and Section 59, Article XVI, Texas Constitution; and

12 (2) Section 52, Article III, Texas Constitution, that
13 relate to the construction, acquisition, improvement, operation,
14 or maintenance of macadamized, graveled, or paved roads, or
15 improvements, including storm drainage, in aid of those roads.

16 Sec. 8152.0106. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

19 (b) The boundaries and field notes contained in Section 2 of
20 the Act enacting this chapter form a closure. A mistake made in the
21 field notes or in copying the field notes in the legislative process
22 does not affect the district's:

23 (1) organization, existence, or validity;

24 (2) right to issue any type of bond for the purposes
25 for which the district is created or to pay the principal of and
26 interest on a bond;

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8152.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8152.0202, directors
6 serve staggered four-year terms.

7 Sec. 8152.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Jason Keith;

10 (2) Michelle Cantone;

11 (3) Karin Eveslage;

12 (4) Naomi Eynon; and

13 (5) Peggy Bredehoft.

14 (b) Temporary directors serve until the earlier of:

15 (1) the date permanent directors are elected under
16 Section 8152.0103; or

17 (2) the fourth anniversary of the effective date of
18 the Act enacting this chapter.

19 (c) If permanent directors have not been elected under
20 Section 8152.0103 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8152.0103; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

1 (d) If Subsection (c) applies, the owner or owners of a
2 majority of the assessed value of the real property in the district
3 may submit a petition to the commission requesting that the
4 commission appoint as successor temporary directors the five
5 persons named in the petition. The commission shall appoint as
6 successor temporary directors the five persons named in the
7 petition.

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8152.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8152.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8152.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8152.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards,
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8152.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8152.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The district may issue, without an election, bonds and other
18 obligations secured by:

- 19 (1) revenue other than ad valorem taxes; or
20 (2) contract payments described by Section 8152.0403.

21 (b) The district must hold an election in the manner
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval
23 before the district may impose an ad valorem tax or issue bonds
24 payable from ad valorem taxes.

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8152.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8152.0401, the
4 district may impose an operation and maintenance tax on taxable
5 property in the district in accordance with Section 49.107, Water
6 Code.

7 (b) The board shall determine the tax rate. The rate may not
8 exceed the rate approved at the election.

9 Sec. 8152.0403. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

15 (b) A contract approved by the district voters may contain a
16 provision stating that the contract may be modified or amended by
17 the board without further voter approval.

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8152.0501. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8152.0502. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8152.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Brazoria County Municipal Utility District
10 No. 80 initially includes all the territory contained in the
11 following area:

12 TRACT 1

13 Being 28.703 acres of land out of the Charles Hays Survey,
14 Section No. 8, Abstract No. 534, Brazoria County, Texas, being
15 29.749 acres, less, save, and except 1.046 acres, as described
16 below:

17 Being 29.749 acres of land, BEGINNING at a 3/4 inch diameter
18 iron pipe found for the southeast corner of a called 2.7475 Acre
19 tract (Brazoria County Clerk File No. 98-035620), with said corner
20 being in the westerly right-of-way line of State Highway No. 288
21 (width varies);

22 THENCE South 9 degrees 41 minutes 26 seconds East, a distance
23 of 884.06 feet to a point for corner;

24 THENCE South 86 degrees 6 minutes 0 seconds West, a distance
25 of 1218.88 feet to a point for corner;

26 THENCE North 4 degrees 59 minutes 49 seconds West, a distance
27 of 1241.56 feet to a point for corner;

1 THENCE North 86 degrees 25 minutes 46 seconds East, a
2 distance of 714.33 feet to a point for corner;

3 THENCE South 3 degrees 42 minutes 42 seconds East, a distance
4 of 357.17 feet to a point for corner;

5 THENCE North 86 degrees 10 minutes 0 seconds East, a distance
6 of 440.31 feet to the POINT OF BEGINNING and containing 29.749 acres
7 of land, more or less.

8 LESS, SAVE, AND EXCEPT 1.046 acres of land, as described
9 below:

10 COMMENCING at the 3/4 inch diameter iron rod found for the
11 northwest corner of said 29.749 acre tract in the southerly
12 right-of-way of State Farm to Market Highway No. 1462 (FM 1462);
13 Thence South 4 Degrees 28 Minutes 30 Seconds East , a distance of
14 419.00 feet along the westerly line of said 29.749 acre tract to a
15 one inch outside diameter iron pipe found for reference; Thence
16 North 85 degrees 31 Minutes 30 Seconds East a distance of 40.29 feet
17 to a 3/8 inch iron rod found for the northwest corner and POINT OF
18 BEGINNING for this 1.046 acre tract:

19 THENCE South 64 degrees 29 minutes 18 seconds East, a
20 distance of 130.00, to a point for corner;

21 THENCE North 85 degrees 30 minutes 42 seconds East, a
22 distance of 147.22, to a point for corner;

23 THENCE South 4 degrees 29 minutes 18 seconds East, a distance
24 of 105.00, to a point for corner;

25 THENCE South 85 degrees 30 minutes 42 seconds West, a
26 distance of 34.64, to a point for corner;

27 THENCE South 55 degrees 30 minutes 42 seconds West, a

1 distance of 260.00 feet, to a point for corner;

2 THENCE North 4 degrees 29 minutes 18 seconds West, a distance
3 of 300.00 feet to the POINT OF BEGINNING or herein described 1.046
4 acre tract, which is save and excepted from the overall
5 description, leaving 28.703 net acres of land.

6 TRACT 2

7 Being 74.337 acres of land in the H.T. & B. Railroad Company
8 Survey, Section No. 9, Abstract No. 238 and the Charles M. Hayes
9 Survey (H.T.&B. Railroad Company Survey, Section No. 8), Abstract
10 No. 534, Brazoria County, Texas, as described below:

11 BEGINNING at a concrete monument found in the westerly
12 right-of-way line of State Highway No. 288 (SH288) (width varies)
13 and being the northeast corner of a called 74.33 acre tract (Tract
14 I, Brazoria County Clerk File No. 03-064681);

15 THENCE southeasterly, along the westerly right-of-way of
16 SH288, South 5 degrees 49 minutes 2 seconds East, a distance of
17 1947.71 feet to a concrete monument found for corner;

18 THENCE southeasterly along the westerly right-of-way of
19 SH288 and a curve to the right, having a radius of 11249.16, a delta
20 angle of 2 degrees 17 minutes 57 seconds, and whose long chord bears
21 South 4 degrees 40 minutes 4 seconds East, a distance of 451.38 feet
22 to a point for corner;

23 THENCE southeasterly, along the westerly right-of-way of
24 SH288, South 3 degrees 31 minutes 5 seconds East, a distance of
25 190.13 feet, to a point for the southeast corner of said 74.337 acre
26 tract;

27 THENCE South 87 degrees 24 minutes 20 seconds West, a

1 distance of 1318.57 feet, to a point for the southwest corner of
2 said 74.337 acre tract;

3 THENCE North 2 degrees 28 minutes 16 seconds West, a distance
4 of 1673.38 feet, to a point for corner;

5 THENCE North 5 degrees 29 minutes 27 seconds West, a distance
6 of 263.30 feet, to a point for corner;

7 THENCE North 0 degrees 46 minutes 11 seconds East, a distance
8 of 550.12 feet, to a point for corner;

9 THENCE North 33 degrees 26 minutes 58 seconds East, a
10 distance of 99.38 feet, to a point for corner;

11 THENCE North 86 degrees 22 minutes 28 seconds East, a
12 distance of 1108.80 feet, to the POINT OF BEGINNING and containing
13 74.337 acres of land, more or less.

14 TRACT 3

15 Being 60.32 acres of land out of Lots 6 and 7 of the Bogart and
16 Taylor subdivision of the west 1/2 of the W.D.C. Hall League,
17 Abstract 69 according to the plat recorded in Volume 1, Page 64 of
18 the Map Records of Brazoria County (B.C.M.R.), Texas, and being
19 more particularly described by metes and bounds as follows:

20 BEGINNING at a found 1/2" iron rod with a cap in the northeast
21 corner of Lot 7, said point being in the south lines of that called
22 74.33 acre tract described by deed recorded in BCCF No. 03-064681
23 (therein called "Tract 1") out of the CM Hays Survey, Section 8,
24 A-534, with said point also being the northeast corner of this tract
25 on the west right-of-way line of State Highway 288 and the point of
26 beginning;

27 THENCE, S 03°00'50" E, along the west right-of-way line of

1 State Highway 288, a distance of 2,622.00 feet to a set 1/2" iron
2 rod with cap for the southeast corner of this tract on the north
3 right-of-way line of Adams Road / County Road 841, a public road,
4 presently unopened;

5 THENCE S 86°57'02'' W, along the north right-of-way line of
6 Adams Road, a distance of 1,000.00 feet for the southwest corner of
7 this tract, said point also being located in the south lines of Lot
8 6;

9 THENCE N 03°00'50'' W, a distance of 2,633.04 feet for the
10 northwest corner of this tract, said point being in the said south
11 lines of the 74.33 acre tract;

12 THENCE N 87°35'00'' E, along the north line of Lots 6 and 7,
13 same being the said south lines of 74.33 acre tract, a distance of
14 1,000.05 feet to the point of beginning and containing 60.32 acres
15 of land, more or less, and being a part of the same property
16 described in the deed "Tract B" as described in the Clerk's File
17 No. 2008-037928 of Brazoria County, Texas, to which deed and the
18 record thereof reference is here made for all appropriate purposes.

19 TRACT 4

20 Being 61.01 acres of land out of Lots 8 and 9 of the Bogart and
21 Taylor subdivision of the west 1/2 of the W.D.C. Hall League,
22 Abstract 69 according to the plat recorded in Volume 1, Page 64 of
23 the Map Records of Brazoria County, Texas (B.C.M.R), and being more
24 particularly described by metes and bounds as follows:

25 BEGINNING at a set 1/2" iron rod with a cap in the northeast
26 corner of Lot 8, set on the south right-of way line of Adams Road /
27 County Road 841, a public road, presently unopened, for the

1 northeast corner of this tract on the west right-of-way line of
2 State Highway 288 and the point of beginning;

3 THENCE, S 03°00'50'' E, along the west right-of-way line of
4 State Highway 288, a distance of 2,657.53 feet to the southeast
5 corner of this tract, said point lying in the centerline of Ditch
6 316-00-00 as recorded in Iowa Colony Drainage District No. 5;

7 THENCE S 86°57'14'' W, along said Ditch 316-00-00, same being
8 the south lines of Lots 8 and 9, a distance of 1,000.00 feet for the
9 southwest corner of this tract;

10 THENCE N 03°00'50'' W, a distance of 2,657.47 feet for the
11 northwest corner of this tract, said point being in the aforesaid
12 south line of the public road;

13 THENCE N 86°57'02'' E, along the north line of Lots 8 and 9,
14 same being the said south line of the public road, a distance of
15 1,000.00 feet to the point of beginning and containing 61.01 acres
16 of land, more or less, and being a part of the same property
17 described in the deed "Tract B" as described in the Clerk's File
18 No. 2008-037928 of Brazoria County, Texas, to which deed and the
19 record thereof reference is here made for all appropriate purposes.

20 SECTION 3. (a) The legal notice of the intention to
21 introduce this Act, setting forth the general substance of this
22 Act, has been published as provided by law, and the notice and a
23 copy of this Act have been furnished to all persons, agencies,
24 officials, or entities to which they are required to be furnished
25 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
26 Government Code.

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on
2 Environmental Quality.

3 (c) The Texas Commission on Environmental Quality has filed
4 its recommendations relating to this Act with the governor, the
5 lieutenant governor, and the speaker of the house of
6 representatives within the required time.

7 (d) All requirements of the constitution and laws of this
8 state and the rules and procedures of the legislature with respect
9 to the notice, introduction, and passage of this Act are fulfilled
10 and accomplished.

11 SECTION 4. (a) If this Act does not receive a two-thirds
12 vote of all the members elected to each house, Subchapter C, Chapter
13 8152, Special District Local Laws Code, as added by Section 1 of
14 this Act, is amended by adding Section 8152.0306 to read as follows:

15 Sec. 8152.0306. NO EMINENT DOMAIN POWER. The district may
16 not exercise the power of eminent domain.

17 (b) This section is not intended to be an expression of a
18 legislative interpretation of the requirements of Section 17(c),
19 Article I, Texas Constitution.

20 SECTION 5. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect September 1, 2021.