

By: Kolkhorst

S.B. No. 2165

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Harris County Water Control and
3 Improvement District No. 164; granting a limited power of eminent
4 domain; providing authority to issue bonds; providing authority to
5 impose assessments, fees, and taxes.

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

7 SECTION 1. Subtitle I, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 9089 to read as follows:

9 CHAPTER 9089. HARRIS COUNTY WATER CONTROL AND IMPROVEMENT DISTRICT
10 NO. 164

11 SUBCHAPTER A. GENERAL PROVISIONS

12 Sec. 9089.0101. DEFINITIONS. In this chapter:

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

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

16 (3) "Director" means a board member.

17 (4) "District" means the Harris County Water Control
18 and Improvement District No. 164.

19 Sec. 9089.0102. NATURE OF DISTRICT. The district is a water
20 control and improvement district created under Section 59, Article
21 XVI, Texas Constitution.

22 Sec. 9089.0103. CONFIRMATION AND DIRECTORS' ELECTION
23 REQUIRED. The temporary directors shall hold an election to
24 confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 9089.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 9089.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 9089.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

11 (1) a water control and improvement district as
12 provided by general law and Section 59, Article XVI, Texas
13 Constitution, including the collection, transportation,
14 processing, disposal, and control of domestic, industrial, or
15 communal waste and the gathering, conducting, diverting, and
16 control of local storm water or other harmful excesses of water; and

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

21 Sec. 9089.0106. INITIAL DISTRICT TERRITORY. (a) The
22 district is initially composed of the territory described by
23 Section 2 of the Act enacting this chapter.

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

1 (1) organization, existence, or validity;

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

5 (3) right to impose a tax; or

6 (4) legality or operation.

7 SUBCHAPTER B. BOARD OF DIRECTORS

8 Sec. 9089.0201. GOVERNING BODY; TERMS. (a) The district is
9 governed by a board of five elected directors.

10 (b) Except as provided by Section 9089.0202, directors
11 serve staggered four-year terms.

12 Sec. 9089.0202. TEMPORARY DIRECTORS. (a) The temporary
13 board consists of:

14 (1) Louis Girard;

15 (2) Henry Chapman;

16 (3) Ford Allen;

17 (4) Michael Pratts; and

18 (5) Jay Kolb.

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

20 (1) the date permanent directors are elected under
21 Section 9089.0103; or

22 (2) the fourth anniversary of the effective date of
23 the Act enacting this chapter.

24 (c) If permanent directors have not been elected under
25 Section 9089.0103 and the terms of the temporary directors have
26 expired, successor temporary directors shall be appointed or
27 reappointed as provided by Subsection (d) to serve terms that

1 expire on the earlier of:

2 (1) the date permanent directors are elected under
3 Section 9089.0103; or

4 (2) the fourth anniversary of the date of the
5 appointment or reappointment.

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

13 Sec. 9089.0203. DESIGNATED BOARD MEETING LOCATION. (a)
14 The board shall designate a meeting place inside the district for
15 conducting the meetings of the board. The meeting place designated
16 may be a private residence or office, provided that, in the order
17 designating the meeting place, the board declares the place where
18 the meeting is held to be a public place and invites the public to
19 attend any meeting of the board held in that place.

20 (b) If the board establishes that no suitable place exists
21 for meeting inside the district, the board may designate a meeting
22 place outside the district. The board shall give notice of the
23 location of a meeting place outside the district by:

24 (1) filing a copy of the resolution designating the
25 location and a justification of why the meeting will not be held in
26 the district or within 10 miles of the boundary of the district, if
27 applicable, with the commission; and

1 (2) publishing notice of the location in a newspaper
2 of general circulation in the district.

3 (c) If the board changes the location of a meeting place
4 outside the district, the board shall give notice of the change in
5 the manner described by Subsection (b).

6 SUBCHAPTER C. POWERS AND DUTIES

7 Sec. 9089.0301. GENERAL POWERS AND DUTIES. The district
8 has the powers and duties necessary to accomplish the purposes for
9 which the district is created.

10 Sec. 9089.0302. WATER CONTROL AND IMPROVEMENT DISTRICT
11 POWERS AND DUTIES. The district has the powers and duties provided
12 by the general law of this state, including Chapters 49 and 51,
13 Water Code, applicable to water control and improvement districts
14 created under Section 59, Article XVI, Texas Constitution,
15 specifically including the powers and duties authorized under
16 Subchapter H, Chapter 51, Water Code.

17 Sec. 9089.0303. 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. 9089.0304. 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. 9089.0305. 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 42.042 or 42.0425, Local Government Code, and
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 Sec. 9089.0306. LIMITATION ON USE OF EMINENT DOMAIN. The
16 district may not exercise the power of eminent domain outside the
17 district boundaries to acquire a site or easement for:

18 (1) a recreational facility, as defined by Section
19 49.462, Water Code; or

20 (2) a road project authorized by Section 9089.0303.

21 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

22 Sec. 9089.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
23 The district may issue, without an election, bonds and other
24 obligations secured by:

25 (1) revenue other than ad valorem taxes; or

26 (2) contract payments described by Section 9089.0403.

27 (b) The district must hold an election in the manner

1 provided by Chapters 49 and 51, Water Code, to obtain voter approval
2 before the district may impose an ad valorem tax or issue bonds
3 payable from ad valorem taxes.

4 (c) The district may not issue bonds payable from ad valorem
5 taxes to finance a road project unless the issuance is approved by a
6 vote of a two-thirds majority of the district voters voting at an
7 election held for that purpose.

8 Sec. 9089.0402. OPERATION AND MAINTENANCE TAX. (a) If
9 authorized at an election held under Section 9089.0401, the
10 district may impose an operation and maintenance tax on taxable
11 property in the district in accordance with Section 49.107, Water
12 Code.

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

15 Sec. 9089.0403. CONTRACT TAXES. (a) In accordance with
16 Section 49.108, Water Code, the district may impose a tax other than
17 an operation and maintenance tax and use the revenue derived from
18 the tax to make payments under a contract after the provisions of
19 the contract have been approved by a majority of the district voters
20 voting at an election held for that purpose.

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

24 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

25 Sec. 9089.0501. AUTHORITY TO ISSUE BONDS AND OTHER
26 OBLIGATIONS. The district may issue bonds or other obligations
27 payable wholly or partly from ad valorem taxes, impact fees,

1 revenue, contract payments, grants, or other district money, or any
2 combination of those sources, to pay for any authorized district
3 purpose.

4 Sec. 9089.0502. TAXES FOR BONDS. At the time the district
5 issues bonds payable wholly or partly from ad valorem taxes, the
6 board shall provide for the annual imposition of a continuing
7 direct ad valorem tax, without limit as to rate or amount, while all
8 or part of the bonds are outstanding as required and in the manner
9 provided by Section 51.433, Water Code.

10 Sec. 9089.0503. BONDS FOR ROAD PROJECTS. At the time of
11 issuance, the total principal amount of bonds or other obligations
12 issued or incurred to finance road projects and payable from ad
13 valorem taxes may not exceed one-fourth of the assessed value of the
14 real property in the district.

15 Sec. 9089.0504. BONDS FOR RECREATIONAL FACILITIES. (a)
16 The district may develop recreational facilities and issue bonds
17 for recreational facilities as provided by Chapter 49, Water Code,
18 regardless of whether the district's territory overlaps, wholly or
19 partly, with the territory of a political subdivision that is
20 authorized to develop recreational facilities and issue bonds for
21 recreational facilities under Chapter 49, Water Code.

22 (b) The authority of the district to develop recreational
23 facilities and issue bonds for recreational facilities under this
24 section does not limit the authority of another political
25 subdivision whose territory the territory of the district may
26 overlap, wholly or partly, to develop recreational facilities and
27 issue bonds for recreational facilities under Chapter 49, Water

1 Code.

2 SECTION 2. The Harris County Water Control and Improvement
3 District No. 164 initially includes all the territory contained in
4 the following area:

5 Being a 192.3 acre tract of land located in the E.R. Green
6 Survey, Abstract No. 307 in Harris County, Texas; said 192.3 acre
7 tract being a portion of a called 198.4 acre tract of land recorded
8 in the name of Emptor Betka. LLC. in Clerk's File (C.F.)
9 No. RP-2020-616041 of the Official Public Records of Real Property
10 of Harris County (O.P.R.R.P.H.C.); said 192.3 acre tract being more
11 particularly described by metes and bounds as follows (all bearings
12 are referenced to the Texas Coordinate System, North American Datum
13 of 1983 (NAD83), South Central Zone):

14 Beginning at a 1/2-inch iron rod found at the northeast
15 corner of said 198.4 acre tract and the northwest corner of a called
16 1.75 acre tract recorded in the name of Roderick Cantu and Sheadian
17 Atika Cantu, husband and wife, and Jeremy Robert Claiborne in C.F.
18 No. RP-2019-446964 of the O.P.R.R.P.H.C., and being on the
19 southerly right-of-way line of Betka Road (60 feet wide);

20 1. Thence, with the easterly line of said 198.4 acre tract
21 and the westerly line of said 1.75 acre tract, South 01 degrees 43
22 minutes 16 seconds East, a distance of 480.39 feet to a 5/8-inch
23 iron rod found at the southwest corner of said 1.75 acre tract and
24 the northwest corner of a called 33.84 acre tract of land recorded
25 in the name of Arthur Liere in C.F. No. Y500999 of the
26 O.P.R.R.P.H.C.;

27 2. Thence, continuing with the easterly lines of said 198.4

1 acre tract, the westerly line of said 33.84 acre tract and the
2 westerly line of a called 25.64 acre tract of land recorded in the
3 name of Arthur Roy Liere, Sr. in C.F. No. U739040 of the
4 O.P.R.R.P.H.C., South 01 degrees 44 minutes 01 seconds East, a
5 distance of 633.11 feet to a found 5/8-inch iron rod with "Prejean"
6 cap;

7 3. Thence, continuing with the easterly line of said 198.4
8 acre tract, the westerly line of said 25.64 acre tract, South 01
9 degrees 49 minutes 23 seconds East, at distance of 298.77 feet pass
10 a 5/8-inch iron rod with "Prejean" cap" found at an interior corner
11 of said 198.4 acre tract and continuing a total distance of 428.78
12 feet to a 5/8-inch iron rod found at an interior corner of said
13 198.4 acre tract and the northwest corner of a called 65.239 acre
14 tract of land recorded in the name of CCI Hockley, LLC. in C.F.
15 No. RP-2020-175741 of the O.P.R.R.P.H.C.;

16 4. Thence, with the easterly line of said 198.4 acre tract
17 and the westerly line of said 65.239 acre tract, South 01 degrees 45
18 minutes 50 seconds East, a distance of 1,249.20 feet to a 5/8-inch
19 iron rod with cap stamped "COSTELLO INC" found;

20 5. Thence, continuing with the easterly line of said 198.4
21 acre tract and the westerly line of said 65.239 acre tract, South 01
22 degrees 53 minutes 46 seconds East, a distance of 794.23 feet to a
23 5/8-inch iron rod found at the southwest corner of said 65.239 acre
24 tract and the northwest corner of a called 30 acre tract of land
25 recorded in the name of F. E. Dennison in C.F. No. B746174 of the
26 O.P.R.R.P.H.C.;

27 6. Thence, continuing with the easterly line of said 198.4

1 acre tract and the westerly line of said 30 acre tract, South 01
2 degrees 46 minutes 15 seconds East, a distance of 375.43 feet to a
3 5/8-inch iron rod with cap stamped "COSTELLO INC" found;

4 7. Thence, continuing with the easterly line of said 198.4
5 acre tract and the westerly line of said 30 acre tract, South 02
6 degrees 11 minutes 29 seconds East, a distance of 264.05 feet to a
7 5/8-inch iron rod with cap stamped "COSTELLO INC" found at the
8 southwest corner of said 30 acre tract and the northwest corner of a
9 called 39.365 acre tract of land recorded in the name of Floyd
10 Emanuel Dennison and wife, Ruby Dennison in C.F. No. J223460 of the
11 O.P.R.R.P.H.C.;

12 8. Thence, continuing with the easterly line of said 198.4
13 acre tract and with the westerly line of said 39.365 acre tract,
14 South 01 degrees 48 minutes 44 seconds East, a distance of 1,046.67
15 feet to a 5/8-inch iron rod with cap stamped "COSTELLO INC" found at
16 the southeast corner of said 198.4 acre tract and the southwest
17 corner of said 39.365 acre tract, and being on the northerly line of
18 a called 617.0 acre tract of land recorded in the name of Emptor
19 Hockley LLC. in C.F. No. RP-2020-106668 of the O.P.R.R.P.H.C.;

20 9. Thence, with the southerly line of said 198.4 acre tract
21 and the northerly line of said 617.0 acre tract, South 88 degrees 01
22 minutes 10 seconds West, a distance of 1,589.27 feet to a 5/8-inch
23 iron rod with "Prejean" cap found at the southwest corner of said
24 198.4 acre tract and the southeast corner of a called 197.0000 acre
25 tract of land recorded in the name of DXC Technology Services LLC.
26 in C.F. No. RP-2018-66195 of the O.P.R.R.P.H.C.;

27 10. Thence, with the westerly line of said 198.4 acre tract

1 and the easterly line of said 197.0000 acre tract, North 01 degrees
2 49 minutes 20 seconds West, at a distance of 2,775.23 feet pass a
3 5/8-inch iron rod with "Prejean" cap found at the southeast corner
4 of Reserve "A" of HP Data Center Sec 1, a subdivision recorded under
5 Film Code No. 631126 of the Map Records of Harris County, and
6 continuing with the easterly line of said HP Data Center Sec 1 a
7 total distance of 5,275.06 feet to a 5/8-inch iron rod with
8 "Prejean" cap found at the northwest corner of said 198.4 acre tract
9 and the northeast corner of said 197.0000 acre tract and said HP
10 Data Center Sec 1, and being on the southerly right-of-way line of
11 aforesaid Betka Road;

12 Thence, with the northerly line of said 198.4 acre tract and
13 said southerly right-of-way line of Betka Road, the following three
14 courses:

15 11. North 88 degrees 20 minutes 14 seconds East, a distance
16 of 281.70 feet to a 5/8-inch iron rod with "Prejean" cap found;

17 12. North 88 degrees 08 minutes 11 seconds East, a distance
18 of 989.89 feet to a 5/8-inch iron rod with "Prejean" cap found;

19 13. North 87 degrees 57 minutes 04 seconds East, a distance
20 of 318.55 feet to the Point of Beginning and containing 192.3 acres
21 of land.

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

1 Government Code.

2 (b) The governor, one of the required recipients, has
3 submitted the notice and Act to the Texas Commission on
4 Environmental Quality.

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

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

13 SECTION 4. (a) Section 9089.0306, Special District Local
14 Laws Code, as added by Section 1 of this Act, takes effect only if
15 this Act receives a two-thirds vote of all the members elected to
16 each house.

17 (b) If this Act does not receive a two-thirds vote of all the
18 members elected to each house, Subchapter C, Chapter 9089, Special
19 District Local Laws Code, as added by Section 1 of this Act, is
20 amended by adding Section 9089.0306 to read as follows:

21 Sec. 9089.0306. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2021.