

By: Kolkhorst

S.B. No. 2179

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Fort Bend County Municipal Utility  
3 District No. 246; granting a limited power of eminent domain;  
4 providing authority to issue bonds; providing authority to impose  
5 assessments, fees, and taxes.

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

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 7996 to read as follows:

9 CHAPTER 7996. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 246

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7996.0101. DEFINITIONS. In this chapter:

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

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

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

16 (4) "District" means the Fort Bend County Municipal  
17 Utility District No. 246.

18 Sec. 7996.0102. NATURE OF DISTRICT. The district is a  
19 municipal utility district created under Section 59, Article XVI,  
20 Texas Constitution.

21 Sec. 7996.0103. CONFIRMATION AND DIRECTOR ELECTION  
22 REQUIRED. The temporary directors shall hold an election to  
23 confirm the creation of the district and to elect five permanent  
24 directors as provided by Section 49.102, Water Code.

1       Sec. 7996.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 7996.0103 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. 7996.0105. 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. 7996.0106. 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. 7996.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7996.0202, directors  
6 serve staggered four-year terms.

7           Sec. 7996.0202. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Andrew Chang;

10                   (2) Lauren Sposato;

11                   (3) Brian Taton;

12                   (4) David Pereira; and

13                   (5) Jason Jacob.

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

15                   (1) the date permanent directors are elected under  
16 Section 7996.0103; 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 7996.0103 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 7996.0103; 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. 7996.0301. 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. 7996.0302. 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. 7996.0303. 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. 7996.0304. 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. 7996.0305. 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. 7996.0401. 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 7996.0403.

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. 7996.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 7996.0401, 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. 7996.0403. 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. 7996.0501. 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. 7996.0502. 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. 7996.0503. 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 Fort Bend County Municipal Utility District  
10 No. 246 initially includes all the territory contained in the  
11 following area:

12 A METES & BOUNDS description of a 167.7 acre tract of land in the  
13 John Foster 2-1/2 Leagues Grant, Abstract 26, Fort Bend County,  
14 Texas, being that certain called 166.17 acre tract recorded under  
15 County Clerk's File Number 9619091, Official Public Records, Fort  
16 Bend County, Texas, said called 166.17 acre tract being comprised  
17 of the residue of a called 190.109 acre tract recorded in Volume  
18 493, Page 363, Deed Records, Fort Bend County, Texas, a called 1.95  
19 acre tract recorded in Volume 495, Page 702, Deed Records, Fort Bend  
20 County, Texas, and the residue of a called 51.9 acre tract recorded  
21 in Volume 493, Page 395, Deed Records, Fort Bend County, Texas, with  
22 all bearings based upon the Texas Coordinate System of 1983, South  
23 Central Zone, based upon GPS observations.

24 Beginning at a 1/2 inch iron pipe with cap marked "BGE" found in the  
25 southwest right-of-way line of F. M. Highway 359 (called 100-foot  
26 wide) for the east corner of said called 166.17 acre tract, same  
27 being the north corner of an adjoining called 2.0870 acre tract

1 recorded in Volume 2331, Page 261, Official Records, Fort Bend  
2 County, Texas, for the east corner and Place of Beginning of the  
3 herein described tract, said point being at the intersection of the  
4 southwest right-of-way line of F. M. Highway 359 and the northwest  
5 right-of-way line of Foster Creek Drive, and being in the southwest  
6 line of an adjoining called 0.246 acre tract in deed to the State of  
7 Texas recorded in Volume 433, Page 182, Deed Records, Fort Bend  
8 County, Texas;

9 Thence South 64 degrees 47 minutes 07 seconds West (called South 67  
10 degrees 33 minutes 36 seconds West) along the southeast line of the  
11 herein described tract and said called 166.17 acre tract, same  
12 being the northwest line of said adjoining called 2.0870 acre  
13 tract, 394.22 feet (called 393.49 feet) to a 2-inch iron pipe found  
14 for angle point;

15 Thence South 64 degrees 12 minutes 08 seconds West (called South 66  
16 degrees 57 minutes 54 seconds West) continuing along said line,  
17 903.79 feet (called 903.21 feet) to a 1-inch iron pipe found for  
18 angle point, said point being a west corner of said adjoining called  
19 2.0870 acre tract, same being the east corner of an adjoining called  
20 4.7984 acre tract recorded under County Clerk's File Number  
21 2020009817, Official Public Records, Fort Bend County, Texas;

22 Thence South 65 degrees 23 minutes 33 seconds West (called South 68  
23 degrees 09 minutes 19 seconds West) along the southeast line of the  
24 herein described tract and said called 166.17 acre tract, same  
25 being the northwest line of said adjoining called 4.7984 acre  
26 tract, and the northwest line of the adjoining called 2.2476 acre  
27 tract (Tract 1) recorded under County Clerk's File Number



1 2019076157, Official Public Records, Fort Bend County, Texas, being  
2 the Northwest line of the adjoining Foster Creek Estates Section I  
3 (unrecorded), 1,323.90 feet (called 1,323.75 feet) to a 3/4 inch  
4 iron pipe found for a reentry corner to the herein described tract  
5 and said called 166.17 acre tract, same being the northwest corner  
6 of said adjoining called 2.2476 acre tract;

7 Thence South 00 degrees 32 minutes 24 seconds West (called South 03  
8 degrees 18 minutes 10 seconds West) along the lower east line of the  
9 herein described tract and said called 166.17 acre tract, at 150.33  
10 feet pass a 5/8 inch iron rod with cap marked "Jones | Carter  
11 Reference Point" set on said line, and continuing for a total  
12 distance of 200.33 feet (called 200.33 feet) to a point in the  
13 centerline of Jones Creek for the southmost corner of the herein  
14 described tract and said called 166.17 acre tract, said point being  
15 in the north line of the adjoining Foster Island Estates  
16 Subdivision, according to map or plat thereof recorded under County  
17 Clerk's File Number 20040121, Plat Records, Fort Bend County,  
18 Texas;

19 Thence along the common line of the herein described tract and said  
20 adjoining Foster Island Estates Subdivision, and an adjoining  
21 called 8.366 acre tract recorded under County Clerk's File Number  
22 9896247, Official Public Records, Fort Bend County, Texas, the  
23 adjoining Karaugh II Subdivision, according to map or plat thereof  
24 recorded under Slide Number 1116-A, Plat Records, Fort Bend County,  
25 Texas, the adjoining Karaugh I Subdivision, according to map or  
26 plat thereof recorded under Slide Number 1492-B and 1493-A, Plat  
27 Records, Fort Bend County, Texas, an adjoining called 7.7856 acre

1 tract recorded under County Clerk's File Number 2008003503,  
2 Official Public Records, Fort Bend County, Texas, being Lots 18, 19  
3 and 20 of Bella Vista Subdivision (unrecorded), and an adjoining  
4 tract being called Lot 17 recorded under County Clerk's File Number  
5 2003047705, Official Public Records, Fort Bend County, Texas, being  
6 the centerline of Jones Creek, with the following meanders:

- 7 North 87 degrees 04 minutes 35 seconds West, 289.67
- 8 feet;
- 9 North 85 degrees 29 minutes 43 seconds West, 251.76
- 10 feet;
- 11 North 84 degrees 40 minutes 36 seconds West, 342.97
- 12 feet;
- 13 North 86 degrees 50 minutes 56 seconds West, 62.39
- 14 feet;
- 15 North 74 degrees 35 minutes 50 seconds West, 55.93
- 16 feet;
- 17 North 66 degrees 11 minutes 06 seconds West, 29.61
- 18 feet;
- 19 North 54 degrees 10 minutes 40 seconds West, 153.83
- 20 feet;
- 21 North 40 degrees 09 minutes 54 seconds West, 134.38
- 22 feet;
- 23 North 27 degrees 37 minutes 35 seconds West, 181.25
- 24 feet;
- 25 North 19 degrees 58 minutes 36 seconds West, 88.57
- 26 feet;
- 27 North 07 degrees 20 minutes 02 seconds West, 72.18

1 feet;  
2 North 01 degree 44 minutes 42 seconds West, 81.65 feet;  
3 North 06 degrees 08 minutes 04 seconds East, 124.80  
4 feet;  
5 North 15 degrees 03 minutes 32 seconds East, 127.07  
6 feet;  
7 North 17 degrees 42 minutes 04 seconds East, 161.56  
8 feet;  
9 North 16 degrees 13 minutes 50 seconds East, 258.44  
10 feet;  
11 North 16 degrees 18 minutes 33 seconds East, 155.30  
12 feet;  
13 North 10 degrees 25 minutes 11 seconds East, 268.61  
14 feet;  
15 North 11 degrees 22 minutes 10 seconds East, 221.57  
16 feet;  
17 North 00 degrees 44 minutes 27 seconds West, 73.43  
18 feet;  
19 North 00 degrees 35 minutes 53 seconds West, 227.47  
20 feet;  
21 North 00 degrees 33 minutes 29 seconds West, 338.43  
22 feet to a point for the northwest corner of the herein  
23 described tract and said called 166.17 acre tract,  
24 same being the southwest corner of an adjoining called  
25 55.876 acre tract recorded under County Clerk's File  
26 Number 2019037877, Official Public Records, Fort Bend  
27 County, Texas, said point being in the east line of the

1           aforementioned adjoining Lot 17;  
2 Thence North 87 degrees 02 minutes 40 seconds East (called North 88  
3 degrees 55 minutes 40 seconds East) along the north line of the  
4 herein described tract and said called 166.17 acre tract, same  
5 being the south line of said adjoining called 55.876 acre tract, the  
6 south line of an adjoining called 5.5428 acre tract, an adjoining  
7 called 1.419 acre tract, and an adjoining called 15.554 acre tract,  
8 all recorded under County Clerk's File Number 2019037877, Official  
9 Public Records, Fort Bend County, Texas, at 30.00 feet pass a 5/8  
10 inch iron rod with cap marked "Jones | Carter Reference Point" set  
11 on said line, at 947.67 feet pass a 3/4 inch iron pipe found on said  
12 line for the southeast corner of said adjoining called 1.419 acre  
13 tract, same being the southwest corner of said adjoining called  
14 50.554 acre tract, and continuing for a total distance of 1,455.77  
15 feet (called 1,468.16 feet) to a 1/2 inch iron pipe with cap marked  
16 "BGE" found for angle point, said point being the southeast corner  
17 of said adjoining called 50.554 acre tract, same being the  
18 southwest corner of an adjoining called 26.623 acre tract recorded  
19 under County Clerk's File Number 2011089606, Official Public  
20 Records, Fort Bend County, Texas;  
21 Thence North 78 degrees 42 minutes 14 seconds East (called North 80  
22 degrees 38 minutes 40 seconds East) along the north line of the  
23 herein described tract and said called 166.17 acre tract, same  
24 being the south line of said adjoining called 26.623 acre tract,  
25 94.16 feet (called 94.16 feet) to a 1/2 inch iron pipe with cap  
26 marked "BGE" found for angle point;  
27 Thence North 85 degrees 27 minutes 59 seconds East (called North 87

1 degrees 21 minutes 10 seconds East) continuing along said line,  
2 1,232.81 feet (called 1,232.98 feet) to a 1/2 inch iron pipe with  
3 cap marked "BGE" found for the northeast corner of the herein  
4 described tract and said called 166.17 acre tract, same being the  
5 southeast corner of said adjoining called 26.623 acre tract, and  
6 being in the southwest right-of-way line of F. M. Highway 359, being  
7 the southwest line of an adjoining called 0.084 acre tract in deed  
8 to the State of Texas recorded in Volume 433, Page 185, Deed  
9 Records, Fort Bend County, Texas;

10 Thence South 23 degrees 48 minutes 05 seconds East (adjoiner called  
11 South 22 degrees 09 minutes East) along the northeast line of the  
12 herein described tract and said called 166.17 acre tract, same  
13 being the southwest right-of-way line of F. M. Highway 359, 571.26  
14 feet (adjoiner called 577.0 feet) to a concrete monument found for  
15 angle point;

16 Thence South 24 degrees 24 minutes 26 seconds East (adjoiner called  
17 South 22 degrees 47 minutes East) continuing along said line, at  
18 84.92 feet pass a 1/2 inch iron rod found 1.36 feet left of said  
19 line, at 118.14 feet pass a 1/2 inch iron pipe with cap marked "BGE"  
20 found 0.98 feet right of said line, at 821.48 feet pass a concrete  
21 monument found on said line, and continuing for a total distance of  
22 1,054.61 feet to the Place of Beginning and containing 167.7 acres  
23 of land, more or less.

24 SECTION 3. (a) The legal notice of the intention to  
25 introduce this Act, setting forth the general substance of this  
26 Act, has been published as provided by law, and the notice and a  
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished  
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
3 Government Code.

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

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

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

15 SECTION 4. (a) If this Act does not receive a two-thirds  
16 vote of all the members elected to each house, Subchapter C, Chapter  
17 7996, Special District Local Laws Code, as added by Section 1 of  
18 this Act, is amended by adding Section 7996.0306 to read as follows:

19 Sec. 7996.0306. NO EMINENT DOMAIN POWER. The district may  
20 not exercise the power of eminent domain.

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

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

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1 Act takes effect September 1, 2021.