

# SENATE AMENDMENTS

2<sup>nd</sup> Printing

By: Vasut

H.B. No. 4612

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Brazoria County Management District  
3 No. 2; providing authority to issue bonds; providing authority to  
4 impose assessments, fees, and taxes.

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

6 SECTION 1. Subtitle C, Title 4, Special District Local Laws  
7 Code, is amended by adding Chapter 3945 to read as follows:

8 CHAPTER 3945. BRAZORIA COUNTY MANAGEMENT DISTRICT NO. 2

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3945.0101. DEFINITIONS. In this chapter:

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

12 (2) "County" means Brazoria County.

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

14 (4) "District" means the Brazoria County Management  
15 District No. 2.

16 Sec. 3945.0102. CREATION AND NATURE OF DISTRICT; IMMUNITY.

17 (a) The Brazoria County Management District No. 2 is a special  
18 district created under Section 59, Article XVI, Texas Constitution.

19 (b) The district is a governmental unit, as provided by  
20 Section 375.004, Local Government Code.

21 (c) This chapter does not waive any governmental or  
22 sovereign immunity from suit, liability, or judgment that would  
23 otherwise apply to the district.

24 Sec. 3945.0103. PURPOSE; DECLARATION OF INTENT. (a) The

1 creation of the district is essential to accomplish the purposes of  
2 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
3 Texas Constitution, and other public purposes stated in this  
4 chapter.

5 (b) By creating the district, the legislature has  
6 established a program to accomplish the public purposes set out in  
7 Sections 52 and 52-a, Article III, Texas Constitution.

8 (c) The creation of the district is necessary to promote,  
9 develop, encourage, and maintain employment, commerce,  
10 transportation, housing, tourism, recreation, the arts,  
11 entertainment, economic development, safety, and the public  
12 welfare in the district.

13 (d) This chapter and the creation of the district may not be  
14 interpreted to relieve the county or a municipality from providing  
15 the level of services provided as of the effective date of the Act  
16 enacting this chapter to the area in the district. The district is  
17 created to supplement and not to supplant county or municipal  
18 services provided in the district.

19 Sec. 3945.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

20 (a) All land and other property included in the district will  
21 benefit from the improvements and services to be provided by the  
22 district under powers conferred by Sections 52 and 52-a, Article  
23 III, and Section 59, Article XVI, Texas Constitution, and other  
24 powers granted under this chapter.

25 (b) The district is created to serve a public use and  
26 benefit.

27 (c) The creation of the district is in the public interest

1 and is essential to further the public purposes of:

2 (1) developing and diversifying the economy of the  
3 state;

4 (2) eliminating unemployment and underemployment; and

5 (3) developing or expanding transportation and  
6 commerce.

7 (d) The district will:

8 (1) promote the health, safety, and general welfare of  
9 residents, employers, potential employees, employees, visitors,  
10 and consumers in the district, and of the public;

11 (2) provide needed funding for the district to  
12 preserve, maintain, and enhance the economic health and vitality of  
13 the district territory as a community and business center;

14 (3) promote the health, safety, welfare, and enjoyment  
15 of the public by providing pedestrian ways, transit facilities,  
16 parking facilities, and public art objects, and by landscaping and  
17 developing certain areas in the district, which are necessary for  
18 the restoration, preservation, and enhancement of scenic beauty;  
19 and

20 (4) provide for water, wastewater, drainage, road, and  
21 recreational facilities for the district.

22 (e) Pedestrian ways along or across a street, whether at  
23 grade or above or below the surface, and street lighting, street  
24 landscaping, parking, and street art objects are parts of and  
25 necessary components of a street and are considered to be a street  
26 or road improvement.

27 (f) The district will not act as the agent or

1 instrumentality of any private interest even though the district  
2 will benefit many private interests as well as the public.

3 Sec. 3945.0105. INITIAL DISTRICT TERRITORY. (a) The  
4 district is initially composed of the territory described by  
5 Section 2 of the Act enacting this chapter.

6 (b) The boundaries and field notes contained in Section 2 of  
7 the Act enacting this chapter form a closure. A mistake in the  
8 field notes or in copying the field notes in the legislative process  
9 does not affect the district's:

10 (1) organization, existence, or validity;

11 (2) right to issue any type of bonds for the purposes  
12 for which the district is created or to pay the principal of and  
13 interest on the bonds;

14 (3) right to impose or collect an assessment or tax; or

15 (4) legality or operation.

16 Sec. 3945.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

17 All or any part of the area of the district is eligible to be  
18 included in one or more of the following:

19 (1) a tax increment reinvestment zone created under  
20 Chapter 311, Tax Code;

21 (2) a tax abatement reinvestment zone created under  
22 Chapter 312, Tax Code;

23 (3) an enterprise zone created under Chapter 2303,  
24 Government Code; or

25 (4) an industrial district created under Chapter 42,  
26 Local Government Code.

27 Sec. 3945.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT

1 DISTRICTS LAW. Except as otherwise provided by this chapter,  
2 Chapter 375, Local Government Code, applies to the district.

3 Sec. 3945.0108. CONSTRUCTION OF CHAPTER. This chapter  
4 shall be liberally construed in conformity with the findings and  
5 purposes stated in this chapter.

6 Sec. 3945.0109. CONFLICTS OF LAW. This chapter prevails  
7 over any provision of general law, including a provision of Chapter  
8 375, Local Government Code, or Chapter 49, Water Code, that is in  
9 conflict or inconsistent with this chapter.

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 3945.0201. GOVERNING BODY; TERMS. (a) The district is  
12 governed by a board of five directors elected or appointed as  
13 provided by this chapter and Subchapter D, Chapter 49, Water Code.

14 (b) Except as provided by Section 3945.0203, directors  
15 serve staggered four-year terms.

16 Sec. 3945.0202. COMPENSATION. A director is entitled to  
17 receive fees of office and reimbursement for actual expenses as  
18 provided by Section 49.060, Water Code. Sections 375.069 and  
19 375.070, Local Government Code, do not apply to the board.

20 Sec. 3945.0203. TEMPORARY DIRECTORS. (a) On or after the  
21 effective date of the Act creating this chapter, the owner or owners  
22 of a majority of the assessed value of the real property in the  
23 district according to the most recent certified tax appraisal roll  
24 for the county may submit a petition to the Texas Commission on  
25 Environmental Quality requesting that the commission appoint as  
26 temporary directors the five persons named in the petition. The  
27 commission shall appoint as temporary directors the five persons

1 named in the petition.

2 (b) The temporary or successor temporary directors shall  
3 hold an election to elect five permanent directors as provided by  
4 Section 49.102, Water Code.

5 (c) Temporary directors serve until the earlier of:

6 (1) the date permanent directors are elected under  
7 Subsection (b); or

8 (2) the fourth anniversary of the effective date of  
9 the Act creating this chapter.

10 (d) If permanent directors have not been elected under  
11 Subsection (b) and the terms of the temporary directors have  
12 expired, successor temporary directors shall be appointed or  
13 reappointed as provided by Subsection (e) to serve terms that  
14 expire on the earlier of:

15 (1) the date permanent directors are elected under  
16 Subsection (b); or

17 (2) the fourth anniversary of the date of the  
18 appointment or reappointment.

19 (e) If Subsection (d) applies, the owner or owners of a  
20 majority of the assessed value of the real property in the district  
21 according to the most recent certified tax appraisal roll for the  
22 county may submit a petition to the Texas Commission on  
23 Environmental Quality requesting that the commission appoint as  
24 successor temporary directors the five persons named in the  
25 petition. The commission shall appoint as successor temporary  
26 directors the five persons named in the petition.

27 Sec. 3945.0204. DISQUALIFICATION OF DIRECTORS. Section

1 49.052, Water Code, applies to the members of the board.

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 3945.0301. GENERAL POWERS AND DUTIES. The district  
4 has the powers and duties necessary to accomplish the purposes for  
5 which the district is created.

6 Sec. 3945.0302. IMPROVEMENT PROJECTS AND SERVICES. (a)  
7 The district, using any money available to the district for the  
8 purpose, may provide, design, construct, acquire, improve,  
9 relocate, operate, maintain, or finance an improvement project or  
10 service authorized under this chapter or Chapter 375, Local  
11 Government Code.

12 (b) The district may contract with a governmental or private  
13 entity to carry out an action under Subsection (a).

14 (c) The implementation of a district project or service is a  
15 governmental function or service for the purposes of Chapter 791,  
16 Government Code.

17 Sec. 3945.0303. RECREATIONAL FACILITIES. The district may  
18 develop or finance recreational facilities as authorized by Chapter  
19 375, Local Government Code, Sections 52 and 52-a, Article III,  
20 Texas Constitution, Section 59, Article XVI, Texas Constitution,  
21 and any other law that applies to the district.

22 Sec. 3945.0304. AUTHORITY FOR ROAD PROJECTS. Under Section  
23 52, Article III, Texas Constitution, the district may own, operate,  
24 maintain, design, acquire, construct, finance, issue bonds, notes,  
25 or other obligations for, improve, and convey to this state, a  
26 county, or a municipality for ownership, operation, and maintenance  
27 macadamized, graveled, or paved roads or improvements, including

1 storm drainage, in aid of those roads.

2 Sec. 3945.0305. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

3 (a) The district may convey a road project authorized by Section  
4 3945.0304 to:

5 (1) a municipality or county that will operate and  
6 maintain the road if the municipality or county has approved the  
7 plans and specifications of the road project; or

8 (2) the state if the state will operate and maintain  
9 the road and the Texas Transportation Commission has approved the  
10 plans and specifications of the road project.

11 (b) Except as provided by Subsection (c), the district shall  
12 operate and maintain a road project authorized by Section 3945.0304  
13 that the district implements and does not convey to a municipality,  
14 a county, or this state under Subsection (a).

15 (c) The district may agree in writing with a municipality, a  
16 county, or this state to assign operation and maintenance duties to  
17 the district, the municipality, the county, or this state in a  
18 manner other than the manner described in Subsections (a) and (b).

19 Sec. 3945.0306. NONPROFIT CORPORATION. (a) The board by  
20 resolution may authorize the creation of a nonprofit corporation to  
21 assist and act for the district in implementing a project or  
22 providing a service authorized by this chapter.

23 (b) The nonprofit corporation:

24 (1) has each power of and is considered to be a local  
25 government corporation created under Subchapter D, Chapter 431,  
26 Transportation Code; and

27 (2) may implement any project and provide any service



1 authorized by this chapter.

2 (c) The board shall appoint the board of directors of the  
3 nonprofit corporation. The board of directors of the nonprofit  
4 corporation shall serve in the same manner as the board of directors  
5 of a local government corporation created under Subchapter D,  
6 Chapter 431, Transportation Code, except that a board member is not  
7 required to reside in the district.

8 Sec. 3945.0307. LAW ENFORCEMENT SERVICES. Section 49.216,  
9 Water Code, applies to the district.

10 Sec. 3945.0308. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.  
11 The district may join and pay dues to a charitable or nonprofit  
12 organization that performs a service or provides an activity  
13 consistent with the furtherance of a district purpose.

14 Sec. 3945.0309. ECONOMIC DEVELOPMENT PROGRAMS. (a) The  
15 district may engage in activities that accomplish the economic  
16 development purposes of the district.

17 (b) The district may establish and provide for the  
18 administration of one or more programs to promote state or local  
19 economic development and to stimulate business and commercial  
20 activity in the district, including programs to:

21 (1) make loans and grants of public money; and

22 (2) provide district personnel and services.

23 (c) The district may create economic development programs  
24 and exercise the economic development powers provided to  
25 municipalities by:

26 (1) Chapter 380, Local Government Code; and

27 (2) Subchapter A, Chapter 1509, Government Code.

1       Sec. 3945.0310. STRATEGIC PARTNERSHIP AGREEMENT. The  
2 district may negotiate and enter into a written strategic  
3 partnership agreement with a municipality under Section 43.0751,  
4 Local Government Code.

5       Sec. 3945.0311. REGIONAL PARTICIPATION AGREEMENT. The  
6 district may negotiate and enter into a written regional  
7 participation agreement with a municipality under Section 43.0754,  
8 Local Government Code.

9       Sec. 3945.0312. PARKING FACILITIES. (a) The district may  
10 acquire, lease as lessor or lessee, construct, develop, own,  
11 operate, and maintain parking facilities or a system of parking  
12 facilities, including lots, garages, parking terminals, or other  
13 structures or accommodations for parking motor vehicles off the  
14 streets and related appurtenances.

15       (b) The district's parking facilities serve the public  
16 purposes of the district and are owned, used, and held for a public  
17 purpose even if leased or operated by a private entity for a term of  
18 years.

19       (c) The district's parking facilities are parts of and  
20 necessary components of a street and are considered to be a street  
21 or road improvement.

22       (d) The development and operation of the district's parking  
23 facilities may be considered an economic development program.

24       Sec. 3945.0313. ADDING OR EXCLUDING LAND. (a) The district  
25 may add land in the manner provided by Subchapter J, Chapter 49,  
26 Water Code.

27       (b) The district may exclude land in the manner provided by

1 Subchapter J, Chapter 49, Water Code. Section 375.044(b), Local  
2 Government Code, does not apply to the district.

3 (c) The district may include and exclude land as provided by  
4 Sections 54.739-54.747, Water Code. A reference in those sections  
5 to a "tax" means an ad valorem tax for the purposes of this  
6 subsection.

7 (d) If the district adopts a sales and use tax authorized at  
8 an election held under Section 3945.0602 and subsequently includes  
9 new territory in the district under this section, the district:

10 (1) is not required to hold another election to  
11 approve the imposition of the sales and use tax in the included  
12 territory; and

13 (2) shall impose the sales and use tax in the included  
14 territory as provided by Chapter 321, Tax Code.

15 (e) If the district adopts a sales and use tax authorized at  
16 an election held under Section 3945.0602 and subsequently excludes  
17 territory in the district under this section, the sales and use tax  
18 is inapplicable to the excluded territory, as provided by Chapter  
19 321, Tax Code, but is applicable to the territory remaining in the  
20 district.

21 Sec. 3945.0314. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
22 board by resolution shall establish the number of directors'  
23 signatures and the procedure required for a disbursement or  
24 transfer of district money.

25 Sec. 3945.0315. AUDIT EXEMPTION. (a) The district may  
26 elect to complete an annual financial report in lieu of an annual  
27 audit under Section 375.096(a)(6), Local Government Code, if:

1           (1) the district had no bonds or other long-term (more  
2 than one year) liabilities outstanding during the fiscal period;

3           (2) the district did not have gross receipts from  
4 operations, loans, taxes, assessments, or contributions in excess  
5 of \$250,000 during the fiscal period; and

6           (3) the district's cash and temporary investments were  
7 not in excess of \$250,000 during the fiscal period.

8           (b) Each annual financial report prepared in accordance  
9 with this section must be open to public inspection and accompanied  
10 by an affidavit signed by a duly authorized representative of the  
11 district attesting to the accuracy and authenticity of the  
12 financial report.

13           (c) The annual financial report and affidavit shall be  
14 substantially similar in form to the annual financial report and  
15 affidavit forms prescribed by the executive director of the Texas  
16 Commission on Environmental Quality under Section 49.198, Water  
17 Code.

18           Sec. 3945.0316. NO EMINENT DOMAIN POWER. The district may  
19 not exercise the power of eminent domain.

20                                   SUBCHAPTER D. ASSESSMENTS

21           Sec. 3945.0401. PETITION REQUIRED FOR FINANCING SERVICES  
22 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
23 service or improvement project with assessments under this chapter  
24 unless a written petition requesting that service or improvement  
25 has been filed with the board.

26           (b) A petition filed under Subsection (a) must be signed by  
27 the owners of a majority of the assessed value of real property in

1 the district subject to assessment according to the most recent  
2 certified tax appraisal roll for the county.

3 Sec. 3945.0402. METHOD OF NOTICE FOR HEARING. The district  
4 may mail the notice required by Section 375.115(c), Local  
5 Government Code, by certified or first class United States mail.  
6 The board shall determine the method of notice.

7 Sec. 3945.0403. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
8 The board by resolution may impose and collect an assessment for any  
9 purpose authorized by this chapter in all or any part of the  
10 district.

11 (b) An assessment, a reassessment, or an assessment  
12 resulting from an addition to or correction of the assessment roll  
13 by the district, penalties and interest on an assessment or  
14 reassessment, an expense of collection, and reasonable attorney's  
15 fees incurred by the district:

16 (1) are a first and prior lien against the property  
17 assessed;

18 (2) are superior to any other lien or claim other than  
19 a lien or claim for county, school district, or municipal ad valorem  
20 taxes; and

21 (3) are the personal liability of and a charge against  
22 the owners of the property even if the owners are not named in the  
23 assessment proceedings.

24 (c) The lien is effective from the date of the board's  
25 resolution imposing the assessment until the date the assessment is  
26 paid. The board may enforce the lien in the same manner that the  
27 board may enforce an ad valorem tax lien against real property.

1       (d) The board may make a correction to or deletion from the  
2 assessment roll that does not increase the amount of assessment of  
3 any parcel of land without providing notice and holding a hearing in  
4 the manner required for additional assessments.

5                   SUBCHAPTER E. TAXES AND BONDS

6       Sec. 3945.0501. TAX ELECTION REQUIRED. The district must  
7 hold an election in the manner provided by Chapter 49, Water Code,  
8 or, if applicable, Chapter 375, Local Government Code, to obtain  
9 voter approval before the district may impose an ad valorem tax.

10       Sec. 3945.0502. OPERATION AND MAINTENANCE TAX. (a) If  
11 authorized by a majority of the district voters voting at an  
12 election under Section 3945.0501, the district may impose an  
13 operation and maintenance tax on taxable property in the district  
14 in the manner provided by Section 49.107, Water Code, for any  
15 district purpose, including to:

- 16                   (1) maintain and operate the district;  
17                   (2) construct or acquire improvements; or  
18                   (3) provide a service.

19       (b) The board shall determine the operation and maintenance  
20 tax rate. The rate may not exceed the rate approved at the  
21 election.

22       (c) Section 49.107(h), Water Code, does not apply to the  
23 district.

24       Sec. 3945.0503. AUTHORITY TO BORROW MONEY AND TO ISSUE  
25 BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on  
26 terms determined by the board.

27       (b) The district may, by competitive bid or negotiated sale,

1 issue bonds, notes, or other obligations payable wholly or partly  
2 from ad valorem taxes, assessments, impact fees, revenue, contract  
3 payments, grants, or other district money, or any combination of  
4 those sources of money, to pay for any authorized district purpose.

5 (c) The limitation on the outstanding principal amount of  
6 bonds, notes, or other obligations provided by Section 49.4645,  
7 Water Code, does not apply to the district.

8 Sec. 3945.0504. BONDS SECURED BY REVENUE OR CONTRACT  
9 PAYMENTS. The district may issue, without an election, bonds  
10 secured by:

11 (1) revenue other than ad valorem taxes, including  
12 contract revenues; or

13 (2) contract payments, provided that the requirements  
14 of Section 49.108, Water Code, have been met.

15 Sec. 3945.0505. BONDS SECURED BY AD VALOREM TAXES;  
16 ELECTIONS. (a) If authorized at an election under Section  
17 3945.0501, the district may issue bonds payable from ad valorem  
18 taxes.

19 (b) Section 375.243, Local Government Code, does not apply  
20 to the district.

21 (c) At the time the district issues bonds payable wholly or  
22 partly from ad valorem taxes, the board shall provide for the annual  
23 imposition of a continuing direct annual ad valorem tax, without  
24 limit as to rate or amount, for each year that all or part of the  
25 bonds are outstanding as required and in the manner provided by  
26 Sections 54.601 and 54.602, Water Code.

27 (d) All or any part of any facilities or improvements that

1 may be acquired by a district by the issuance of its bonds may be  
2 submitted as a single proposition or as several propositions to be  
3 voted on at the election.

4 Sec. 3945.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The  
5 board may not issue bonds until each municipality in whose  
6 corporate limits or extraterritorial jurisdiction the district is  
7 located has consented by ordinance or resolution to the creation of  
8 the district and to the inclusion of land in the district.

9 (b) This section applies only to the district's first  
10 issuance of bonds payable from ad valorem taxes.

11 SUBCHAPTER F. SALES AND USE TAX

12 Sec. 3945.0601. APPLICABILITY OF CERTAIN TAX CODE  
13 PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition,  
14 computation, administration, enforcement, and collection of the  
15 sales and use tax authorized by this subchapter except to the extent  
16 Chapter 321, Tax Code, is inconsistent with this chapter.

17 (b) A reference in Chapter 321, Tax Code, to a municipality  
18 or the governing body of a municipality is a reference to the  
19 district or the board, respectively.

20 Sec. 3945.0602. ELECTION; ADOPTION OF TAX. (a) The  
21 district may adopt a sales and use tax if authorized by a majority  
22 of the voters of the district voting at an election held for that  
23 purpose.

24 (b) The board by order may call an election to authorize the  
25 adoption of the sales and use tax. The election may be held on any  
26 uniform election date and in conjunction with any other district  
27 election.



1       (c) The ballot shall be printed to provide for voting for or  
2 against the proposition: "Authorization of a sales and use tax in  
3 the Brazoria County Management District No. 2 at a rate not to  
4 exceed \_\_\_\_\_ percent" (insert rate of one or more increments of  
5 one-eighth of one percent).

6       Sec. 3945.0603. SALES AND USE TAX RATE. (a) On or after the  
7 date the results are declared of an election held under Section  
8 3945.0602, at which the voters approved imposition of the tax  
9 authorized by this subchapter, the board shall determine and adopt  
10 by resolution or order the initial rate of the tax, which must be in  
11 one or more increments of one-eighth of one percent.

12       (b) After the election held under Section 3945.0602, the  
13 board may increase or decrease the rate of the tax by one or more  
14 increments of one-eighth of one percent.

15       (c) The initial rate of the tax or any rate resulting from  
16 subsequent increases or decreases may not exceed the lesser of:

17               (1) the maximum rate authorized by the district voters  
18 at the election held under Section 3945.0602; or

19               (2) a rate that, when added to the rates of all sales  
20 and use taxes imposed by other political subdivisions with  
21 territory in the district, would result in the maximum combined  
22 rate prescribed by Section 321.101(f), Tax Code, at any location in  
23 the district.

24       Sec. 3945.0604. TAX AFTER MUNICIPAL ANNEXATION. (a) This  
25 section applies to the district after a municipality annexes part  
26 of the territory in the district and imposes the municipality's  
27 sales and use tax in the annexed territory.

1       (b) If at the time of annexation the district has  
2 outstanding debt or other obligations payable wholly or partly from  
3 district sales and use tax revenue, Section 321.102(g), Tax Code,  
4 applies to the district.

5       (c) If at the time of annexation the district does not have  
6 outstanding debt or other obligations payable wholly or partly from  
7 district sales and use tax revenue, the district may:

8           (1) exclude the annexed territory from the district,  
9 if the district has no outstanding debt or other obligations  
10 payable from any source; or

11           (2) reduce the sales and use tax in the annexed  
12 territory by resolution or order of the board to a rate that, when  
13 added to the sales and use tax rate imposed by the municipality in  
14 the annexed territory, is equal to the sales and use tax rate  
15 imposed by the district in the district territory that was not  
16 annexed by the municipality.

17       Sec. 3945.0605. NOTIFICATION OF RATE CHANGE. The board  
18 shall notify the comptroller of any changes made to the tax rate  
19 under this subchapter in the same manner the municipal secretary  
20 provides notice to the comptroller under Section 321.405(b), Tax  
21 Code.

22       Sec. 3945.0606. USE OF REVENUE. Revenue from the sales and  
23 use tax imposed under this subchapter is for the use and benefit of  
24 the district and may be used for any district purpose. The district  
25 may pledge all or part of the revenue to the payment of bonds,  
26 notes, or other obligations, and that pledge of revenue may be in  
27 combination with other revenue, including tax revenue, available to

1 the district.

2 Sec. 3945.0607. ABOLITION OF TAX. (a) Except as provided  
3 by Subsection (b), the board may abolish the tax imposed under this  
4 subchapter without an election.

5 (b) The board may not abolish the tax imposed under this  
6 subchapter if the district has outstanding debt secured by the tax,  
7 and repayment of the debt would be impaired by the abolition of the  
8 tax.

9 (c) If the board abolishes the tax, the board shall notify  
10 the comptroller of that action in the same manner the municipal  
11 secretary provides notice to the comptroller under Section  
12 321.405(b), Tax Code.

13 (d) If the board abolishes the tax or decreases the tax rate  
14 to zero, a new election to authorize a sales and use tax must be held  
15 under Section 3945.0602 before the district may subsequently impose  
16 the tax.

17 (e) This section does not apply to a decrease in the sales  
18 and use tax authorized under Section 3945.0604(c)(2).

19 SUBCHAPTER G. HOTEL OCCUPANCY TAX

20 Sec. 3945.0701. DEFINITION. In this subchapter, "hotel"  
21 has the meaning assigned by Section 156.001, Tax Code.

22 Sec. 3945.0702. APPLICABILITY OF CERTAIN TAX CODE  
23 PROVISIONS. (a) For purposes of this subchapter:

24 (1) a reference in Subchapter A, Chapter 352, Tax  
25 Code, to a county is a reference to the district; and

26 (2) a reference in Subchapter A, Chapter 352, Tax  
27 Code, to the commissioners court is a reference to the board.

1       (b) Except as inconsistent with this subchapter, Subchapter  
2 A, Chapter 352, Tax Code, governs a hotel occupancy tax authorized  
3 by this subchapter, including the collection of the tax, subject to  
4 the limitations prescribed by Sections 352.002(b) and (c), Tax  
5 Code.

6       Sec. 3945.0703. TAX AUTHORIZED; USE OF REVENUE. The  
7 district may impose a hotel occupancy tax for any purpose described  
8 by Section 351.101 or 352.101, Tax Code.

9       Sec. 3945.0704. TAX RATE. (a) The amount of the hotel  
10 occupancy tax may not exceed the lesser of:

11           (1) the maximum rate prescribed by Section 352.003(a),  
12 Tax Code; or

13           (2) a rate that, when added to the rates of all hotel  
14 occupancy taxes imposed by other political subdivisions with  
15 territory in the district and by this state, does not exceed the sum  
16 of the rate prescribed by Section 351.0025(b), Tax Code, plus two  
17 percent.

18       (b) The district tax is in addition to a tax imposed by a  
19 municipality under Chapter 351, Tax Code, or by the county under  
20 Chapter 352, Tax Code.

21       Sec. 3945.0705. INFORMATION. The district may examine and  
22 receive information related to the imposition of hotel occupancy  
23 taxes to the same extent as if the district were a county.

24       Sec. 3945.0706. USE OF REVENUE. The district may use  
25 revenue from the hotel occupancy tax for any district purpose that  
26 is an authorized use of hotel occupancy tax revenue under Chapter  
27 351 or 352, Tax Code. The district may pledge all or part of the

1 revenue to the payment of bonds, notes, or other obligations and  
2 that pledge of revenue may be in combination with other revenue  
3 available to the district.

4 Sec. 3945.0707. ABOLITION OF TAX. (a) Except as provided  
5 by Subsection (b), the board may abolish the tax imposed under this  
6 subchapter.

7 (b) The board may not abolish the tax imposed under this  
8 subchapter if the district has outstanding debt secured by the tax,  
9 and repayment of the debt would be impaired by the abolition of the  
10 tax.

11 SUBCHAPTER I. DISSOLUTION

12 Sec. 3945.0901. DISSOLUTION. (a) The board shall dissolve  
13 the district on written petition filed with the board by the owners  
14 of at least two-thirds of the assessed value of the property subject  
15 to assessment or taxation by the district based on the most recent  
16 certified county property tax rolls.

17 (b) The board by majority vote may dissolve the district at  
18 any time.

19 (c) The district may not be dissolved by its board under  
20 Subsection (a) or (b) if the district:

21 (1) has any outstanding bonded indebtedness until that  
22 bonded indebtedness has been repaid or defeased in accordance with  
23 the order or resolution authorizing the issuance of the bonds;

24 (2) has a contractual obligation to pay money until  
25 that obligation has been fully paid in accordance with the  
26 contract; or

27 (3) owns, operates, or maintains public works,

1 facilities, or improvements unless the district contracts with  
2 another person for the ownership, operation, or maintenance of the  
3 public works, facilities, or improvements.

4 (d) Sections 375.261, 375.262, and 375.264, Local  
5 Government Code, do not apply to the district.

6 SECTION 2. The Brazoria County Management District No. 2  
7 initially includes all the territory contained in the following  
8 area:

9 TRACT 1:

10 All that certain 160.92 acres tract of land, being a part of  
11 that certain called 264.533 Acre Tract containing Lots 10, 11, and  
12 19 of the Bogart and Taylor Subdivision of the West 1/2 of the  
13 W.D.C. Hall League, Abstract 69, Brazoria County, Texas, a Plat of  
14 record in Volume 16, at Pages 518 and 519 of the Deed Records of  
15 Brazoria County, Texas (B.C.D.R.), and being that 264.533 Acre  
16 Tract described in a deed from Buffet Inc. to Tehama Communities,  
17 LLP recorded in Clerk File (C.F.) 2005-069871, said 160.92 acres  
18 tract of land being more particularly described as follows:

19 BEGINNING at a 4 -inch square concrete monument found at the  
20 Northeast corner of said Lot 10, said concrete monument being the  
21 same described in that certain deed to Claud B. Hamill recorded in  
22 Volume 1121, at Page 386 of the B.C.D.R., being also the Northwest  
23 corner of Lot 9 of said Bogart and Taylor Subdivision;

24 THENCE South 03 degrees 02 minutes 53 seconds East, 2,652.55  
25 feet coincident with the West line of said Claud B. Hamill Tract,  
26 being also the East line of Lot 10 of said Bogart and Taylor

27 Subdivision, point also being the Southeast corner of the

1 herein tract;

2           THENCE South 86 degrees 57 minutes 14 seconds West, 2,642.69  
3 feet coincident with the North lines of Lot 18 and 19, being also  
4 the South line of Lots 10 and 11 of said Bogart and Taylor

5           Subdivision to a point for corner, from which a 1/2-inch iron  
6 rod set for reference bears North 76 degrees 03 minutes 10 seconds  
7 West, 18.35 feet, and a 3/4 inch iron pipe found for reference bears  
8 North 01 degrees 24 minutes 37 seconds East, 23.52 feet;

9           THENCE North 03 degrees 02 minutes 53 seconds West, 2,652.55  
10 feet coincident with the West line of said Lot 11 to a 1-1/4 inch  
11 iron pipe found for corner;

12           THENCE North 86 degrees 57 minutes 14 seconds East, 2,642.69  
13 feet coincident with the North lines of said Lots 10 and 11, along  
14 the South line of a platted road to the POINT OF BEGINNING,  
15 containing 160.92 acres of land, more or less.

16           TRACT 2:

17           A survey of 42.95 Acres out of Lot 9 of the Bogart and Taylor  
18 subdivision of the West 1/2 of the W.D.C. Hall League, Abstract 69  
19 according to the Plat recorded in Volume 1, Page 64 of the Map  
20 Records of Brazoria County, Texas (B.C.M.R), and being more  
21 particularly described by metes and bounds as follows:

22           BEGINNING at a set 1/2 inch iron rod with a cap in the  
23 Northwest corner of Lot 9 set on the South right-of way line of  
24 Adams Road / County Road 841, a public road, presently unopened, for  
25 the Northwest corner of this tract and the POINT OF BEGINNING;

26           THENCE North 86 degrees 57 minutes 02 seconds East, along the  
27 South line of said public road, a distance of 700.55 feet for the

1 Northeast corner of this tract;

2           THENCE South 03 degrees 00 minutes 50 seconds East, a  
3 distance of 2,657.47 feet for the Southeast corner of this tract,  
4 said point being in the South lines of Lot 9;

5           THENCE South 86 degrees 57 minutes 14 seconds West, along the  
6 centerline of Ditch 316-00-00 as recorded in Iowa Colony Drainage  
7 District No. 5, a distance of 707.48 feet for the Southwest corner  
8 of this tract;

9           THENCE North 02 degrees 51 minutes 52 seconds West, along the  
10 West lines of Lot 9, same being the East line of that tract of land  
11 (Lots 10, 11, and 19, Bogart and Taylor) as described by deed  
12 recorded in B.C.C.F. No. 85030634, a distance of 2,657.44 feet to  
13 the POINT OF BEGINNING and containing 42.95 acres of land, more or  
14 less, and being a part of the same property described in the deed  
15 "Tract C" as described in the Clerk 's File No. 2008-037928 of  
16 Brazoria County, Texas, to which deed and the record thereof  
17 reference is here made for all appropriate purposes.

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

25           (b) The governor, one of the required recipients, has  
26 submitted the notice and Act to the Texas Commission on  
27 Environmental Quality.



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

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

9           SECTION 4. This Act takes effect immediately if it receives  
10 a vote of two-thirds of all the members elected to each house, as  
11 provided by Section 39, Article III, Texas Constitution. If this  
12 Act does not receive the vote necessary for immediate effect, this  
13 Act takes effect September 1, 2021.

ADOPTED

MAY 27 2021

By: Larry Taylor

Lacey Daw  
Secretary of the Senate H.B. No. 4612

Substitute the following for H.B. No. 4612:

By: [Signature]

C.S. H.B. No. 4612

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Brazoria County Management District  
3 No. 2; providing authority to issue bonds; providing authority to  
4 impose assessments, fees, and taxes.

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

6 SECTION 1. Subtitle C, Title 4, Special District Local Laws  
7 Code, is amended by adding Chapter 3945 to read as follows:

8 CHAPTER 3945. BRAZORIA COUNTY MANAGEMENT DISTRICT NO. 2

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 3945.0101. DEFINITIONS. In this chapter:

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

12 (2) "County" means Brazoria County.

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

14 (4) "District" means the Brazoria County Management

15 District No. 2.

16 Sec. 3945.0102. CREATION AND NATURE OF DISTRICT; IMMUNITY.

17 (a) The Brazoria County Management District No. 2 is a special  
18 district created under Section 59, Article XVI, Texas Constitution.

19 (b) The district is a governmental unit, as provided by  
20 Section 375.004, Local Government Code.

21 (c) This chapter does not waive any governmental or  
22 sovereign immunity from suit, liability, or judgment that would  
23 otherwise apply to the district.

24 Sec. 3945.0103. PURPOSE; DECLARATION OF INTENT. (a) The

1 creation of the district is essential to accomplish the purposes of  
2 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
3 Texas Constitution, and other public purposes stated in this  
4 chapter.

5 (b) By creating the district, the legislature has  
6 established a program to accomplish the public purposes set out in  
7 Sections 52 and 52-a, Article III, Texas Constitution.

8 (c) The creation of the district is necessary to promote,  
9 develop, encourage, and maintain employment, commerce,  
10 transportation, housing, tourism, recreation, the arts,  
11 entertainment, economic development, safety, and the public  
12 welfare in the district.

13 (d) This chapter and the creation of the district may not be  
14 interpreted to relieve the county or a municipality from providing  
15 the level of services provided as of the effective date of the Act  
16 enacting this chapter to the area in the district. The district is  
17 created to supplement and not to supplant county or municipal  
18 services provided in the district.

19 Sec. 3945.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.  
20 (a) All land and other property included in the district will  
21 benefit from the improvements and services to be provided by the  
22 district under powers conferred by Sections 52 and 52-a, Article  
23 III, and Section 59, Article XVI, Texas Constitution, and other  
24 powers granted under this chapter.

25 (b) The district is created to serve a public use and  
26 benefit.

27 (c) The creation of the district is in the public interest

1 and is essential to further the public purposes of:

2 (1) developing and diversifying the economy of the  
3 state;

4 (2) eliminating unemployment and underemployment; and

5 (3) developing or expanding transportation and  
6 commerce.

7 (d) The district will:

8 (1) promote the health, safety, and general welfare of  
9 residents, employers, potential employees, employees, visitors,  
10 and consumers in the district, and of the public;

11 (2) provide needed funding for the district to  
12 preserve, maintain, and enhance the economic health and vitality of  
13 the district territory as a community and business center;

14 (3) promote the health, safety, welfare, and enjoyment  
15 of the public by providing pedestrian ways, transit facilities,  
16 parking facilities, and public art objects, and by landscaping and  
17 developing certain areas in the district, which are necessary for  
18 the restoration, preservation, and enhancement of scenic beauty;  
19 and

20 (4) provide for water, wastewater, drainage, road, and  
21 recreational facilities for the district.

22 (e) Pedestrian ways along or across a street, whether at  
23 grade or above or below the surface, and street lighting, street  
24 landscaping, parking, and street art objects are parts of and  
25 necessary components of a street and are considered to be a street  
26 or road improvement.

27 (f) The district will not act as the agent or

1 instrumentality of any private interest even though the district  
2 will benefit many private interests as well as the public.

3 Sec. 3945.0105. INITIAL DISTRICT TERRITORY. (a) The  
4 district is initially composed of the territory described by  
5 Section 2 of the Act enacting this chapter.

6 (b) The boundaries and field notes contained in Section 2 of  
7 the Act enacting this chapter form a closure. A mistake in the  
8 field notes or in copying the field notes in the legislative process  
9 does not affect the district's:

10 (1) organization, existence, or validity;

11 (2) right to issue any type of bonds for the purposes  
12 for which the district is created or to pay the principal of and  
13 interest on the bonds;

14 (3) right to impose or collect an assessment or tax; or

15 (4) legality or operation.

16 Sec. 3945.0106. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
17 All or any part of the area of the district is eligible to be  
18 included in one or more of the following:

19 (1) a tax increment reinvestment zone created under  
20 Chapter 311, Tax Code;

21 (2) a tax abatement reinvestment zone created under  
22 Chapter 312, Tax Code;

23 (3) an enterprise zone created under Chapter 2303,  
24 Government Code; or

25 (4) an industrial district created under Chapter 42,  
26 Local Government Code.

27 Sec. 3945.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT

1 DISTRICTS LAW. Except as otherwise provided by this chapter,  
2 Chapter 375, Local Government Code, applies to the district.

3 Sec. 3945.0108. CONSTRUCTION OF CHAPTER. This chapter  
4 shall be liberally construed in conformity with the findings and  
5 purposes stated in this chapter.

6 Sec. 3945.0109. CONFLICTS OF LAW. This chapter prevails  
7 over any provision of general law, including a provision of Chapter  
8 375, Local Government Code, or Chapter 49, Water Code, that is in  
9 conflict or inconsistent with this chapter.

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 3945.0201. GOVERNING BODY; TERMS. (a) The district is  
12 governed by a board of five directors elected or appointed as  
13 provided by this chapter and Subchapter D, Chapter 49, Water Code.

14 (b) Except as provided by Section 3945.0203, directors  
15 serve staggered four-year terms.

16 Sec. 3945.0202. COMPENSATION. A director is entitled to  
17 receive fees of office and reimbursement for actual expenses as  
18 provided by Section 49.060, Water Code. Sections 375.069 and  
19 375.070, Local Government Code, do not apply to the board.

20 Sec. 3945.0203. TEMPORARY DIRECTORS. (a) On or after the  
21 effective date of the Act creating this chapter, the owner or owners  
22 of a majority of the assessed value of the real property in the  
23 district according to the most recent certified tax appraisal roll  
24 for the county may submit a petition to the Texas Commission on  
25 Environmental Quality requesting that the commission appoint as  
26 temporary directors the five persons named in the petition. The  
27 commission shall appoint as temporary directors the five persons

1 named in the petition.

2 (b) The temporary or successor temporary directors shall  
3 hold an election to elect five permanent directors as provided by  
4 Section 49.102, Water Code.

5 (c) Temporary directors serve until the earlier of:

6 (1) the date permanent directors are elected under  
7 Subsection (b); or

8 (2) the fourth anniversary of the effective date of  
9 the Act creating this chapter.

10 (d) If permanent directors have not been elected under  
11 Subsection (b) and the terms of the temporary directors have  
12 expired, successor temporary directors shall be appointed or  
13 reappointed as provided by Subsection (e) to serve terms that  
14 expire on the earlier of:

15 (1) the date permanent directors are elected under  
16 Subsection (b); or

17 (2) the fourth anniversary of the date of the  
18 appointment or reappointment.

19 (e) If Subsection (d) applies, the owner or owners of a  
20 majority of the assessed value of the real property in the district  
21 according to the most recent certified tax appraisal roll for the  
22 county may submit a petition to the Texas Commission on  
23 Environmental Quality requesting that the commission appoint as  
24 successor temporary directors the five persons named in the  
25 petition. The commission shall appoint as successor temporary  
26 directors the five persons named in the petition.

27 Sec. 3945.0204. DISQUALIFICATION OF DIRECTORS. Section

1 49.052, Water Code, applies to the members of the board.

2 SUBCHAPTER C. POWERS AND DUTIES

3 Sec. 3945.0301. GENERAL POWERS AND DUTIES. The district  
4 has the powers and duties necessary to accomplish the purposes for  
5 which the district is created.

6 Sec. 3945.0302. IMPROVEMENT PROJECTS AND SERVICES. (a)  
7 The district, using any money available to the district for the  
8 purpose, may provide, design, construct, acquire, improve,  
9 relocate, operate, maintain, or finance an improvement project or  
10 service authorized under this chapter or Chapter 375, Local  
11 Government Code.

12 (b) The district may contract with a governmental or private  
13 entity to carry out an action under Subsection (a).

14 (c) The implementation of a district project or service is a  
15 governmental function or service for the purposes of Chapter 791,  
16 Government Code.

17 Sec. 3945.0303. RECREATIONAL FACILITIES. The district may  
18 develop or finance recreational facilities as authorized by Chapter  
19 375, Local Government Code, Sections 52 and 52-a, Article III,  
20 Texas Constitution, Section 59, Article XVI, Texas Constitution,  
21 and any other law that applies to the district.

22 Sec. 3945.0304. AUTHORITY FOR ROAD PROJECTS. Under Section  
23 52, Article III, Texas Constitution, the district may own, operate,  
24 maintain, design, acquire, construct, finance, issue bonds, notes,  
25 or other obligations for, improve, and convey to this state, a  
26 county, or a municipality for ownership, operation, and maintenance  
27 macadamized, graveled, or paved roads or improvements, including



1 storm drainage, in aid of those roads.

2 Sec. 3945.0305. CONVEYANCE AND APPROVAL OF ROAD PROJECT.

3 (a) The district may convey a road project authorized by Section  
4 3945.0304 to:

5 (1) a municipality or county that will operate and  
6 maintain the road if the municipality or county has approved the  
7 plans and specifications of the road project; or

8 (2) the state if the state will operate and maintain  
9 the road and the Texas Transportation Commission has approved the  
10 plans and specifications of the road project.

11 (b) Except as provided by Subsection (c), the district shall  
12 operate and maintain a road project authorized by Section 3945.0304  
13 that the district implements and does not convey to a municipality,  
14 a county, or this state under Subsection (a).

15 (c) The district may agree in writing with a municipality, a  
16 county, or this state to assign operation and maintenance duties to  
17 the district, the municipality, the county, or this state in a  
18 manner other than the manner described in Subsections (a) and (b).

19 Sec. 3945.0306. NONPROFIT CORPORATION. (a) The board by  
20 resolution may authorize the creation of a nonprofit corporation to  
21 assist and act for the district in implementing a project or  
22 providing a service authorized by this chapter.

23 (b) The nonprofit corporation:

24 (1) has each power of and is considered to be a local  
25 government corporation created under Subchapter D, Chapter 431,  
26 Transportation Code; and

27 (2) may implement any project and provide any service

1 authorized by this chapter.

2 (c) The board shall appoint the board of directors of the  
3 nonprofit corporation. The board of directors of the nonprofit  
4 corporation shall serve in the same manner as the board of directors  
5 of a local government corporation created under Subchapter D,  
6 Chapter 431, Transportation Code, except that a board member is not  
7 required to reside in the district.

8 Sec. 3945.0307. LAW ENFORCEMENT SERVICES. Section 49.216,  
9 Water Code, applies to the district.

10 Sec. 3945.0308. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.  
11 The district may join and pay dues to a charitable or nonprofit  
12 organization that performs a service or provides an activity  
13 consistent with the furtherance of a district purpose.

14 Sec. 3945.0309. ECONOMIC DEVELOPMENT PROGRAMS. (a) The  
15 district may engage in activities that accomplish the economic  
16 development purposes of the district.

17 (b) The district may establish and provide for the  
18 administration of one or more programs to promote state or local  
19 economic development and to stimulate business and commercial  
20 activity in the district, including programs to:

21 (1) make loans and grants of public money; and

22 (2) provide district personnel and services.

23 (c) The district may create economic development programs  
24 and exercise the economic development powers provided to  
25 municipalities by:

26 (1) Chapter 380, Local Government Code; and

27 (2) Subchapter A, Chapter 1509, Government Code.

1       Sec. 3945.0310. STRATEGIC PARTNERSHIP AGREEMENT. The  
2 district may negotiate and enter into a written strategic  
3 partnership agreement with a municipality under Section 43.0751,  
4 Local Government Code.

5       Sec. 3945.0311. REGIONAL PARTICIPATION AGREEMENT. The  
6 district may negotiate and enter into a written regional  
7 participation agreement with a municipality under Section 43.0754,  
8 Local Government Code.

9       Sec. 3945.0312. PARKING FACILITIES. (a) The district may  
10 acquire, lease as lessor or lessee, construct, develop, own,  
11 operate, and maintain parking facilities or a system of parking  
12 facilities, including lots, garages, parking terminals, or other  
13 structures or accommodations for parking motor vehicles off the  
14 streets and related appurtenances.

15       (b) The district's parking facilities serve the public  
16 purposes of the district and are owned, used, and held for a public  
17 purpose even if leased or operated by a private entity for a term of  
18 years.

19       (c) The district's parking facilities are parts of and  
20 necessary components of a street and are considered to be a street  
21 or road improvement.

22       (d) The development and operation of the district's parking  
23 facilities may be considered an economic development program.

24       Sec. 3945.0313. ADDING OR EXCLUDING LAND. (a) The district  
25 may add land in the manner provided by Subchapter J, Chapter 49,  
26 Water Code.

27       (b) The district may exclude land in the manner provided by

1 Subchapter J, Chapter 49, Water Code. Section 375.044(b), Local  
2 Government Code, does not apply to the district.

3 (c) The district may include and exclude land as provided by  
4 Sections 54.739-54.747, Water Code. A reference in those sections  
5 to a "tax" means an ad valorem tax for the purposes of this  
6 subsection.

7 (d) If the district adopts a sales and use tax authorized at  
8 an election held under Section 3945.0602 and subsequently includes  
9 new territory in the district under this section, the district:

10 (1) is not required to hold another election to  
11 approve the imposition of the sales and use tax in the included  
12 territory; and

13 (2) shall impose the sales and use tax in the included  
14 territory as provided by Chapter 321, Tax Code.

15 (e) If the district adopts a sales and use tax authorized at  
16 an election held under Section 3945.0602 and subsequently excludes  
17 territory in the district under this section, the sales and use tax  
18 is inapplicable to the excluded territory, as provided by Chapter  
19 321, Tax Code, but is applicable to the territory remaining in the  
20 district.

21 Sec. 3945.0314. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
22 board by resolution shall establish the number of directors'  
23 signatures and the procedure required for a disbursement or  
24 transfer of district money.

25 Sec. 3945.0315. AUDIT EXEMPTION. (a) The district may  
26 elect to complete an annual financial report in lieu of an annual  
27 audit under Section 375.096(a)(6), Local Government Code, if:

1           (1) the district had no bonds or other long-term (more  
2 than one year) liabilities outstanding during the fiscal period;

3           (2) the district did not have gross receipts from  
4 operations, loans, taxes, assessments, or contributions in excess  
5 of \$250,000 during the fiscal period; and

6           (3) the district's cash and temporary investments were  
7 not in excess of \$250,000 during the fiscal period.

8           (b) Each annual financial report prepared in accordance  
9 with this section must be open to public inspection and accompanied  
10 by an affidavit signed by a duly authorized representative of the  
11 district attesting to the accuracy and authenticity of the  
12 financial report.

13           (c) The annual financial report and affidavit shall be  
14 substantially similar in form to the annual financial report and  
15 affidavit forms prescribed by the executive director of the Texas  
16 Commission on Environmental Quality under Section 49.198, Water  
17 Code.

18           Sec. 3945.0316. NO EMINENT DOMAIN POWER. The district may  
19 not exercise the power of eminent domain.

20                           SUBCHAPTER D. ASSESSMENTS

21           Sec. 3945.0401. PETITION REQUIRED FOR FINANCING SERVICES  
22 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
23 service or improvement project with assessments under this chapter  
24 unless a written petition requesting that service or improvement  
25 has been filed with the board.

26           (b) A petition filed under Subsection (a) must be signed by  
27 the owners of a majority of the assessed value of real property in

1 the district subject to assessment according to the most recent  
2 certified tax appraisal roll for the county.

3 Sec. 3945.0402. METHOD OF NOTICE FOR HEARING. The district  
4 may mail the notice required by Section 375.115(c), Local  
5 Government Code, by certified or first class United States mail.  
6 The board shall determine the method of notice.

7 Sec. 3945.0403. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
8 The board by resolution may impose and collect an assessment for any  
9 purpose authorized by this chapter in all or any part of the  
10 district.

11 (b) An assessment, a reassessment, or an assessment  
12 resulting from an addition to or correction of the assessment roll  
13 by the district, penalties and interest on an assessment or  
14 reassessment, an expense of collection, and reasonable attorney's  
15 fees incurred by the district:

16 (1) are a first and prior lien against the property  
17 assessed;

18 (2) are superior to any other lien or claim other than  
19 a lien or claim for county, school district, or municipal ad valorem  
20 taxes; and

21 (3) are the personal liability of and a charge against  
22 the owners of the property even if the owners are not named in the  
23 assessment proceedings.

24 (c) The lien is effective from the date of the board's  
25 resolution imposing the assessment until the date the assessment is  
26 paid. The board may enforce the lien in the same manner that the  
27 board may enforce an ad valorem tax lien against real property.

1        (d) The board may make a correction to or deletion from the  
2 assessment roll that does not increase the amount of assessment of  
3 any parcel of land without providing notice and holding a hearing in  
4 the manner required for additional assessments.

5                    SUBCHAPTER E. TAXES AND BONDS

6        Sec. 3945.0501. TAX ELECTION REQUIRED. The district must  
7 hold an election in the manner provided by Chapter 49, Water Code,  
8 or, if applicable, Chapter 375, Local Government Code, to obtain  
9 voter approval before the district may impose an ad valorem tax.

10        Sec. 3945.0502. OPERATION AND MAINTENANCE TAX. (a) If  
11 authorized by a majority of the district voters voting at an  
12 election under Section 3945.0501, the district may impose an  
13 operation and maintenance tax on taxable property in the district  
14 in the manner provided by Section 49.107, Water Code, for any  
15 district purpose, including to:

- 16                    (1) maintain and operate the district;  
17                    (2) construct or acquire improvements; or  
18                    (3) provide a service.

19        (b) The board shall determine the operation and maintenance  
20 tax rate. The rate may not exceed the rate approved at the  
21 election.

22        (c) Section 49.107(h), Water Code, does not apply to the  
23 district.

24        Sec. 3945.0503. AUTHORITY TO BORROW MONEY AND TO ISSUE  
25 BONDS AND OTHER OBLIGATIONS. (a) The district may borrow money on  
26 terms determined by the board.

27        (b) The district may, by competitive bid or negotiated sale,

1 issue bonds, notes, or other obligations payable wholly or partly  
2 from ad valorem taxes, assessments, impact fees, revenue, contract  
3 payments, grants, or other district money, or any combination of  
4 those sources of money, to pay for any authorized district purpose.

5 (c) The limitation on the outstanding principal amount of  
6 bonds, notes, or other obligations provided by Section 49.4645,  
7 Water Code, does not apply to the district.

8 Sec. 3945.0504. BONDS SECURED BY REVENUE OR CONTRACT  
9 PAYMENTS. The district may issue, without an election, bonds  
10 secured by:

11 (1) revenue other than ad valorem taxes, including  
12 contract revenues; or

13 (2) contract payments, provided that the requirements  
14 of Section 49.108, Water Code, have been met.

15 Sec. 3945.0505. BONDS SECURED BY AD VALOREM TAXES;  
16 ELECTIONS. (a) If authorized at an election under Section  
17 3945.0501, the district may issue bonds payable from ad valorem  
18 taxes.

19 (b) Section 375.243, Local Government Code, does not apply  
20 to the district.

21 (c) At the time the district issues bonds payable wholly or  
22 partly from ad valorem taxes, the board shall provide for the annual  
23 imposition of a continuing direct annual ad valorem tax, without  
24 limit as to rate or amount, for each year that all or part of the  
25 bonds are outstanding as required and in the manner provided by  
26 Sections 54.601 and 54.602, Water Code.

27 (d) All or any part of any facilities or improvements that



1 may be acquired by a district by the issuance of its bonds may be  
2 submitted as a single proposition or as several propositions to be  
3 voted on at the election.

4 Sec. 3945.0506. CONSENT OF MUNICIPALITY REQUIRED. (a) The  
5 board may not issue bonds until each municipality in whose  
6 corporate limits or extraterritorial jurisdiction the district is  
7 located has consented by ordinance or resolution to the creation of  
8 the district and to the inclusion of land in the district.

9 (b) This section applies only to the district's first  
10 issuance of bonds payable from ad valorem taxes.

11 SUBCHAPTER F. SALES AND USE TAX

12 Sec. 3945.0601. APPLICABILITY OF CERTAIN TAX CODE  
13 PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition,  
14 computation, administration, enforcement, and collection of the  
15 sales and use tax authorized by this subchapter except to the extent  
16 Chapter 321, Tax Code, is inconsistent with this chapter.

17 (b) A reference in Chapter 321, Tax Code, to a municipality  
18 or the governing body of a municipality is a reference to the  
19 district or the board, respectively.

20 Sec. 3945.0602. ELECTION; ADOPTION OF TAX. (a) The  
21 district may adopt a sales and use tax if authorized by a majority  
22 of the voters of the district voting at an election held for that  
23 purpose.

24 (b) The board by order may call an election to authorize the  
25 adoption of the sales and use tax. The election may be held on any  
26 uniform election date and in conjunction with any other district  
27 election.

1       (c) The ballot shall be printed to provide for voting for or  
2 against the proposition: "Authorization of a sales and use tax in  
3 the Brazoria County Management District No. 2 at a rate not to  
4 exceed \_\_\_\_ percent" (insert rate of one or more increments of  
5 one-eighth of one percent).

6       Sec. 3945.0603. SALES AND USE TAX RATE. (a) On or after the  
7 date the results are declared of an election held under Section  
8 3945.0602, at which the voters approved imposition of the tax  
9 authorized by this subchapter, the board shall determine and adopt  
10 by resolution or order the initial rate of the tax, which must be in  
11 one or more increments of one-eighth of one percent.

12       (b) After the election held under Section 3945.0602, the  
13 board may increase or decrease the rate of the tax by one or more  
14 increments of one-eighth of one percent.

15       (c) The initial rate of the tax or any rate resulting from  
16 subsequent increases or decreases may not exceed the lesser of:

17           (1) the maximum rate authorized by the district voters  
18 at the election held under Section 3945.0602; or

19           (2) a rate that, when added to the rates of all sales  
20 and use taxes imposed by other political subdivisions with  
21 territory in the district, would result in the maximum combined  
22 rate prescribed by Section 321.101(f), Tax Code, at any location in  
23 the district.

24       Sec. 3945.0604. TAX AFTER MUNICIPAL ANNEXATION. (a) This  
25 section applies to the district after a municipality annexes part  
26 of the territory in the district and imposes the municipality's  
27 sales and use tax in the annexed territory.

1       (b) If at the time of annexation the district has  
2 outstanding debt or other obligations payable wholly or partly from  
3 district sales and use tax revenue, Section 321.102(g), Tax Code,  
4 applies to the district.

5       (c) If at the time of annexation the district does not have  
6 outstanding debt or other obligations payable wholly or partly from  
7 district sales and use tax revenue, the district may:

8           (1) exclude the annexed territory from the district,  
9 if the district has no outstanding debt or other obligations  
10 payable from any source; or

11           (2) reduce the sales and use tax in the annexed  
12 territory by resolution or order of the board to a rate that, when  
13 added to the sales and use tax rate imposed by the municipality in  
14 the annexed territory, is equal to the sales and use tax rate  
15 imposed by the district in the district territory that was not  
16 annexed by the municipality.

17       Sec. 3945.0605. NOTIFICATION OF RATE CHANGE. The board  
18 shall notify the comptroller of any changes made to the tax rate  
19 under this subchapter in the same manner the municipal secretary  
20 provides notice to the comptroller under Section 321.405(b), Tax  
21 Code.

22       Sec. 3945.0606. USE OF REVENUE. Revenue from the sales and  
23 use tax imposed under this subchapter is for the use and benefit of  
24 the district and may be used for any district purpose. The district  
25 may pledge all or part of the revenue to the payment of bonds,  
26 notes, or other obligations, and that pledge of revenue may be in  
27 combination with other revenue, including tax revenue, available to

1 the district.

2 Sec. 3945.0607. ABOLITION OF TAX. (a) Except as provided  
3 by Subsection (b), the board may abolish the tax imposed under this  
4 subchapter without an election.

5 (b) The board may not abolish the tax imposed under this  
6 subchapter if the district has outstanding debt secured by the tax,  
7 and repayment of the debt would be impaired by the abolition of the  
8 tax.

9 (c) If the board abolishes the tax, the board shall notify  
10 the comptroller of that action in the same manner the municipal  
11 secretary provides notice to the comptroller under Section  
12 321.405(b), Tax Code.

13 (d) If the board abolishes the tax or decreases the tax rate  
14 to zero, a new election to authorize a sales and use tax must be held  
15 under Section 3945.0602 before the district may subsequently impose  
16 the tax.

17 (e) This section does not apply to a decrease in the sales  
18 and use tax authorized under Section 3945.0604(c)(2).

19 SUBCHAPTER I. DISSOLUTION

20 Sec. 3945.0901. DISSOLUTION. (a) The board shall dissolve  
21 the district on written petition filed with the board by the owners  
22 of at least two-thirds of the assessed value of the property subject  
23 to assessment or taxation by the district based on the most recent  
24 certified county property tax rolls.

25 (b) The board by majority vote may dissolve the district at  
26 any time.

27 (c) The district may not be dissolved by its board under

1 Subsection (a) or (b) if the district:

2           (1) has any outstanding bonded indebtedness until that  
3 bonded indebtedness has been repaid or defeased in accordance with  
4 the order or resolution authorizing the issuance of the bonds;

5           (2) has a contractual obligation to pay money until  
6 that obligation has been fully paid in accordance with the  
7 contract; or

8           (3) owns, operates, or maintains public works,  
9 facilities, or improvements unless the district contracts with  
10 another person for the ownership, operation, or maintenance of the  
11 public works, facilities, or improvements.

12           (d) Sections 375.261, 375.262, and 375.264, Local  
13 Government Code, do not apply to the district.

14           SECTION 2. The Brazoria County Management District No. 2  
15 initially includes all the territory contained in the following  
16 area:

17           TRACT 1:

18           All that certain 160.92 acres tract of land, being a part of  
19 that certain called 264.533 Acre Tract containing Lots 10, 11, and  
20 19 of the Bogart and Taylor Subdivision of the West 1/2 of the  
21 W.D.C. Hall League, Abstract 69, Brazoria County, Texas, a Plat of  
22 record in Volume 16, at Pages 518 and 519 of the Deed Records of  
23 Brazoria County, Texas (B.C.D.R.), and being that 264.533 Acre  
24 Tract described in a deed from Buffet Inc. to Tehama Communities,  
25 LLP recorded in Clerk File (C.F.) 2005-069871, said 160.92 acres  
26 tract of land being more particularly described as follows:

27           BEGINNING at a 4 -inch square concrete monument found at the

1 Northeast corner of said Lot 10, said concrete monument being the  
2 same described in that certain deed to Claud B. Hamill recorded in  
3 Volume 1121, at Page 386 of the B.C.D.R., being also the Northwest  
4 corner of Lot 9 of said Bogart and Taylor Subdivision;

5         THENCE South 03 degrees 02 minutes 53 seconds East, 2,652.55  
6 feet coincident with the West line of said Claud B. Hamill Tract,  
7 being also the East line of Lot 10 of said Bogart and Taylor

8         Subdivision, point also being the Southeast corner of the  
9 herein tract;

10         THENCE South 86 degrees 57 minutes 14 seconds West, 2,642.69  
11 feet coincident with the North lines of Lot 18 and 19, being also  
12 the South line of Lots 10 and 11 of said Bogart and Taylor

13         Subdivision to a point for corner, from which a 1/2-inch iron  
14 rod set for reference bears North 76 degrees 03 minutes 10 seconds  
15 West, 18.35 feet, and a 3/4 inch iron pipe found for reference bears  
16 North 01 degrees 24 minutes 37 seconds East, 23.52 feet;

17         THENCE North 03 degrees 02 minutes 53 seconds West, 2,652.55  
18 feet coincident with the West line of said Lot 11 to a 1-1/4 inch  
19 iron pipe found for corner;

20         THENCE North 86 degrees 57 minutes 14 seconds East, 2,642.69  
21 feet coincident with the North lines of said Lots 10 and 11, along  
22 the South line of a platted road to the POINT OF BEGINNING,  
23 containing 160.92 acres of land, more or less.

24         TRACT 2:

25         A survey of 42.95 Acres out of Lot 9 of the Bogart and Taylor  
26 subdivision of the West 1/2 of the W.D.C. Hall League, Abstract 69  
27 according to the Plat recorded in Volume 1, Page 64 of the Map

1 Records of Brazoria County, Texas (B.C.M.R), and being more  
2 particularly described by metes and bounds as follows:

3 BEGINNING at a set 1/2 inch iron rod with a cap in the  
4 Northwest corner of Lot 9 set on the South right-of way line of  
5 Adams Road / County Road 841, a public road, presently unopened, for  
6 the Northwest corner of this tract and the POINT OF BEGINNING;

7 THENCE North 86 degrees 57 minutes 02 seconds East, along the  
8 South line of said public road, a distance of 700.55 feet for the  
9 Northeast corner of this tract;

10 THENCE South 03 degrees 00 minutes 50 seconds East, a  
11 distance of 2,657.47 feet for the Southeast corner of this tract,  
12 said point being in the South lines of Lot 9;

13 THENCE South 86 degrees 57 minutes 14 seconds West, along the  
14 centerline of Ditch 316-00-00 as recorded in Iowa Colony Drainage  
15 District No. 5, a distance of 707.48 feet for the Southwest corner  
16 of this tract;

17 THENCE North 02 degrees 51 minutes 52 seconds West, along the  
18 West lines of Lot 9, same being the East line of that tract of land  
19 (Lots 10, 11, and 19, Bogart and Taylor) as described by deed  
20 recorded in B.C.C.F. No. 85030634, a distance of 2,657.44 feet to  
21 the POINT OF BEGINNING and containing 42.95 acres of land, more or  
22 less, and being a part of the same property described in the deed  
23 "Tract C" as described in the Clerk 's File No. 2008-037928 of  
24 Brazoria County, Texas, to which deed and the record thereof  
25 reference is here made for all appropriate purposes.

26 SECTION 3. (a) The legal notice of the intention to  
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a  
2 copy of this Act have been furnished to all persons, agencies,  
3 officials, or entities to which they are required to be furnished  
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
5 Government Code.

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

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

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

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2021.



**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 27, 2021**

**TO:** Honorable Dade Phelan, Speaker of the House, House of Representatives

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4612** by Vasut (Relating to the creation of the Brazoria County Management District No. 2; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Passed 2nd House**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Special District Local Laws Code to create a certain special district and provide for its authority to issue bonds and impose assessments, fees, and taxes.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JMc, CMA, AF, ANE

**LEGISLATIVE BUDGET BOARD**

**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 18, 2021**

**TO:** Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4612** by Vasut (Relating to the creation of the Brazoria County Management District No. 2; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **Committee Report 2nd House, Substituted**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Special District Local Laws Code to create a certain special district and provide for its authority to issue bonds and impose assessments, fees, and taxes.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JMc, AF, CMA, ANE

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**May 19, 2021**

**TO:** Honorable Paul Bettencourt, Chair, Senate Committee on Local Government

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4612** by Vasut (Relating to the creation of the Brazoria County Management District No. 2; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Engrossed**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Special District Local Laws Code to create a certain special district and provide for its authority to issue bonds and impose assessments, fees, and taxes.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JMc, AF, CMA, ANE

**LEGISLATIVE BUDGET BOARD**  
**Austin, Texas**

**FISCAL NOTE, 87TH LEGISLATIVE REGULAR SESSION**

**April 19, 2021**

**TO:** Honorable Garnet Coleman, Chair, House Committee on County Affairs

**FROM:** Jerry McGinty, Director, Legislative Budget Board

**IN RE: HB4612** by Vasut (Relating to the creation of the Brazoria County Management District No. 2; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.), **As Introduced**

**No significant fiscal implication to the State is anticipated.**

The bill would amend the Special District Local Laws Code to create a certain special district and provide for its authority to issue bonds and impose assessments, fees, and taxes.

**Local Government Impact**

No significant fiscal implication to units of local government is anticipated.

**Source Agencies:**

**LBB Staff:** JMc, AF, CMA, ANE