

By: Hughes

S.B. No. 2621

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Briar Branch Estates Municipal Utility District of Hunt County; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8011A to read as follows:

CHAPTER 8011A. BRIAR BRANCH ESTATES MUNICIPAL UTILITY DISTRICT OF HUNT COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8011A.0101. DEFINITIONS. In this chapter:

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

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

(3) "Director" means a board member.

(4) "District" means the Briar Branch Estates Municipal Utility District of Hunt County.

Sec. 8011A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8011A.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

directors as provided by Section 49.102, Water Code.

Sec. 8011A.0104. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8011A.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district as required by applicable law.

Sec. 8011A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

Sec. 8011A.0106. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and

interest on a bond;

(3) right to impose a tax; or

(4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8011A.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8011A.0202, directors serve staggered four-year terms.

Sec. 8011A.0202. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Bobby Pannkuk;

(2) Rob Lyday;

(3) Peter Kim;

(4) Julio Ramos; and

(5) Harvey Chavez.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8011A.0103; or

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

(c) If permanent directors have not been elected under Section 8011A.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1) the date permanent directors are elected under Section 8011A.0103; or

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

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

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 8011A.0301. GENERAL POWERS AND DUTIES. The district
12 has the powers and duties necessary to accomplish the purposes for
13 which the district is created.

14 Sec. 8011A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
15 DUTIES. The district has the powers and duties provided by the
16 general law of this state, including Chapters 49 and 54, Water Code,
17 applicable to municipal utility districts created under Section 59,
18 Article XVI, Texas Constitution.

19 Sec. 8011A.0303. AUTHORITY FOR ROAD PROJECTS. Under
20 Section 52, Article III, Texas Constitution, the district may
21 design, acquire, construct, finance, issue bonds for, improve,
22 operate, maintain, and convey to this state, a county, or a
23 municipality for operation and maintenance macadamized, graveled,
24 or paved roads, or improvements, including storm drainage, in aid
25 of those roads.

26 Sec. 8011A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
27 road project must meet all applicable construction standards,

1 zoning and subdivision requirements, and regulations of each
2 municipality in whose corporate limits or extraterritorial
3 jurisdiction the road project is located.

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

9 (c) If the state will maintain and operate the road, the
10 Texas Transportation Commission must approve the plans and
11 specifications of the road project.

12 Sec. 8011A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
13 ORDINANCE OR RESOLUTION. The district shall comply with all
14 applicable requirements of any ordinance or resolution that is
15 adopted under Section 54.016 or 54.0165, Water Code, and that
16 consents to the creation of the district or to the inclusion of land
17 in the district.

18 Sec. 8011A.0306. DIVISION OF DISTRICT. (a) The board, on
19 its own motion or on receipt of a petition signed by the owner or
20 owners of a majority of the assessed value of the real property in
21 the district, may adopt an order dividing the district.

22 (b) An order dividing a district may create one or more new
23 districts and may provide for the continuation of the district.

24 (c) An order dividing the district shall:

25 (1) name any new district;

26 (2) include the metes and bounds description of the
27 territory of each of the districts;

1 (3) appoint temporary directors for any new district;
2 and

3 (4) provide for the division of assets and liabilities
4 between the districts.

5 (d) The board may adopt an order dividing the district
6 before or after the date the board holds an election to confirm the
7 district's creation.

8 (e) The district may be divided only if the district:

9 (1) has never issued any bonds; and

10 (2) is not imposing ad valorem taxes.

11 (f) A new district created by the division of the district
12 may not, at the time the new district is created, contain any land
13 outside the area described by Section 2 of the Act enacting this
14 chapter.

15 (g) On or before the 30th day after the date of adoption of
16 an order dividing the district, the district shall file the order
17 with the commission and record the order in the real property
18 records of each county in which the district is located.

19 (h) This chapter applies to any new district created by the
20 division of the district, and a new district has all the powers and
21 duties of the district.

22 (i) A new district created by the division of the district
23 shall hold a confirmation and directors' election.

24 (j) If the creation of the new district is confirmed, the
25 new district shall provide the election date and results to the
26 commission.

27 (k) A new district created by the division of the district

1 must hold an election as required by this chapter to obtain voter
2 approval before the district may impose a maintenance tax or issue
3 bonds payable wholly or partly from ad valorem taxes.

4 (1) The district may continue to rely on confirmation,
5 directors', bond, or tax elections held prior to the division.

6 (m) Municipal consent to the creation of the district and to
7 the inclusion of land in the district acts as municipal consent to
8 the creation of any new district created by the division of the
9 district and to the inclusion of land in the new district.

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Sec. 8011A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
12 The district may issue, without an election, bonds and other
13 obligations secured by:

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

15 (2) contract payments described by Section
16 8011A.0403.

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

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

25 Sec. 8011A.0402. OPERATION AND MAINTENANCE TAX. (a) If
26 authorized at an election held under Section 8011A.0401, the
27 district may impose an operation and maintenance tax on taxable

property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8011A.0403. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8011A.0501. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8011A.0502. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 8011A.0503. BONDS FOR ROAD PROJECTS. At the time of

1 issuance, the total principal amount of bonds or other obligations
2 issued or incurred to finance road projects and payable from ad
3 valorem taxes may not exceed one-fourth of the assessed value of the
4 real property in the district.

5 SECTION 2. The Briar Branch Estates Municipal Utility
6 District of Hunt County initially includes all the territory
7 contained in the following area:

8 All of that certain lot, tract, or parcel of land situated in the
9 Benjamin Lindsey Survey, Abstract No. 635, the James Moore Survey,
10 Abstract No. 654, and the George W. Van Cleave Survey, Abstract
11 No. 1074, Hunt County, Texas, being all of that certain tract of
12 land described in the deed from Jacky G. Leinart to Jerry L.
13 Leinart, as recorded in Document Number 2010-11417 of the Reap
14 Property Records of Hunt County, Texas (hereinafter called Subject
15 Tract One), being all of that certain tract of land described in the
16 deed from Jacky G. Leinart to Jerry L. Leinart, as recorded in
17 Document Number 2010-11416 of the Real Property Records of Hunt
18 County, Texas (hereinafter called Subject Tract Two), and being
19 more particularly described by metes and bounds as follows:

20 BEGINNING at a 1/2" iron rod with plastic cap stamped "STOVALL &
21 ASSOC" found for a corner lying in the projected centerline of
22 County Road Number 1076 and in the North line of that certain tract
23 of land described in the deed from Aurthur W. Doyle to Arthur W.
24 Doyle, et ux, as recorded in Volume 902, Page 681 of the Official
25 Public Records of Hunt County, Texas, said corner being an outside
26 ell corner of the said Subject Tract One, and the Southeast corner
27 of that certain tract of land described in the deed from Larry

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1 Coursey, et ux to Jason M. Circle, et al, as recorded in Document
2 Number 2019-08100 of the Records of Hunt County, Texas;
3 THENCE N. 00 deg. 47 min. 27 sec. W. a distance of 1459.33 feet along
4 the centerline of the said County Road Number 1076, the West line of
5 the said Subject Tract One, the West line of the said Subject Tract
6 Two, the East line of the said Circle tract, and the East line of
7 that certain tract of land described as First Tract, Tract Two in
8 the deed from Rita Rene Hammack to Gary Wright Hammack, as recorded
9 in Volume 829, Page 261 of the Official Public Records of Hunt
10 County, Texas to a 1/2" iron rod with plastic cap stamped "STOVALL &
11 ASSOC" found for a corner lying in the intersection of the said
12 County Road Number 1076 and County Road Number 1074, said corner
13 being the Northwest corner of the said Subject Tract Two, and the
14 Southwest corner of that certain tract of land described in the deed
15 from William Sidney Lanier to GLA Ventures, LLC, as recorded in
16 Document Number 2021-15288 of the Records of Hunt County, Texas;
17 THENCE N. 89 deg. 24 min. 32 sec. E. a distance of 2914.28 feet along
18 the centerline of County Road Number 1074, the North line of the
19 said Subject Tract Two, the South line of the said Ventures tract,
20 the South line of that certain tract of land described in the deed
21 from Marty Allan O'Brien, et ux, to Robert John Crowell, as recorded
22 in Document Number 2021-23485 of the Records of Hunt County, Texas
23 to a 1/2" iron rod with plastic cap stamped "STOVALL & ASSOC" found
24 for a corner lying in the projected centerline of the said County
25 Road Number 1074, and the West line of that certain tract of land
26 described in the deed from S. K. Greer, et ux to Hunt County School
27 Trustee, as recorded in Volume 245, Page 653 of the Deed Records of

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Hunt County, Texas, said corner being the Northeast corner of the said Subject Tract Two and the Southeast corner of the said Crowell tract;

THENCE S. 00 deg. 43 min. 41 sec. E. a distance of 2269.39 feet along the Centerline of the said County Road Number 1074, the East line of the said Subject Tract Two, the East line of the said Subject Tract One, the West line of the said Trustee tract, the West line of that certain tract of land described in the deed from The Veterans Land Board of Texas to J. B. McNatt, as recorded in Volume 576, Page 535 of the Deed Records of Hunt County, Texas, the West line of that certain tract of land described in the deed from The Veterans Land Board of Texas to Sherman A. Green as recorded in Volume 603, Page 120 of the Deed Record of Hunt County, Texas to a 1/2" iron rod found for a corner at an angle point lying in the projected intersection of the said County Road Number 1074 and County Road Number 1080, said corner being the Southwest corner of the said Green tract and the Northwest corner of that certain tract of land described in the deed from Walton TX Wagner Fields Limited Partnership to Walton Tx Wagner Fields Acquisition LP, as recorded in Document Number 2018-07298 of the Records of Hunt County, Texas;

THECNE S. 00 deg. 05 min. 52 sec. W. a distance of 203.41 feet along the said County Road Number 1074, the East line of the said Subject Tract One, and the West line of the said Acquisition tract to a 1/2" iron rod with plastic cap stamped "STOVALL & ASSOC" set for a corner, said corner being the Southeast corner of the said Subject Tract One and an inside ell corner of the said Acquisition tract;

THENCE S. 89 deg. 19 min. 11 sec. W. at a distance of 18.20 feet

1 passing a 3/8" iron rod found for a reference and continuing in all
2 a distance of 2009.86 feet along the South line of the said Subject
3 Tract One, the North line of the said Acquisition tract, and
4 generally along a fence to a 5" Bois D' Arc fence corner post for a
5 corner lying in the East line of the said Doyle tract, said corner
6 being the Southwest corner of the said Subject Tract;
7 THENCE N. 00 deg. 36 min. 42 sec. W. a distance of 952.91 along the
8 West line of the said Subject Tract One and the East line of the said
9 Doyle tract to a 1/2" iron rod with plastic cap stamped "STOVALL &
10 ASSOC" set for a corner, said corner being an inside ell corner of
11 the said Subject Tract One;
12 THENCE N. 89 deg. 46 min. 37 sec. W. a distance of 516.69 feet along
13 the South line of the said Subject Tract One and the North line of
14 the said Doyle tract to a 1/2" iron rod with plastic cap stamped
15 "STOVALL & ASSOC" found for a corner, said corner being an outside
16 ell of the said Subject Tract One;
17 THENCE N. 00 deg. 12 min. 46 sec. E. a distance of 60.07 feet along
18 the West line of the said Subject Tract, the East line of the said
19 Doyle tract to a 1/2" iron rod with plastic cap stamped "STOVALL &
20 ASSOC" found for a corner, said corner being an inside ell corner of
21 the said Subject Tract;
22 THENCE S. 88 deg. 56 min. 31 sec. W. a distance of 386.19 feet along
23 the South line of the said Subject Tract One and the North line of
24 the said Doyle tract to the POINT OF BEGINNING and containing 145.19
25 acres of land.

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, the
11 lieutenant governor, and the speaker of the house of
12 representatives 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 are fulfilled
16 and accomplished.

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 8011A, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 8011A.0307 to read as
21 follows:

22 Sec. 8011A.0307. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

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

27 SECTION 5. This Act takes effect immediately if it receives

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1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2023.