

By: Stephenson

H.B. No. 4639

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 237; 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 8063 to read as follows:

CHAPTER 8063. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 237

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8063.0101. 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 Fort Bend County Municipal Utility District No. 237.

Sec. 8063.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8063.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8063.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8063.0103 or 8063.0401, issue bonds, or incur any debt until each
4 municipality in whose corporate limits or extraterritorial
5 jurisdiction the district is located has consented by ordinance or
6 resolution to the creation of the district and to the inclusion of
7 land in the district.

8 Sec. 8063.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

17 Sec. 8063.0106. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

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

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 8063.0201. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8063.0202, directors
7 serve staggered four-year terms.

8 Sec. 8063.0202. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 8063.0103; or

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

20 (c) If permanent directors have not been elected under
21 Section 8063.0103 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 8063.0103; or

27 (2) the fourth anniversary of the date of the

appointment or reappointment.

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

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8063.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8063.0302. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8063.0303. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8063.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial

jurisdiction the road project is located.

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

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

Sec. 8063.0305. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8063.0306. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1) has no outstanding bonded debt; and

(2) is not imposing ad valorem taxes.

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

(c) Any new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

(d) The board, on its own motion or on receipt of a petition

1 signed by the owner or owners of a majority of the assessed value of
2 the real property in the district, may adopt an order dividing the
3 district.

4 (e) The board may adopt an order dividing the district
5 before or after the date the board holds an election under Section
6 8063.0103 to confirm the creation of the district.

7 (f) An order dividing the district shall:

8 (1) name each new district;

9 (2) include the metes and bounds description of the
10 territory of each new district;

11 (3) appoint temporary directors for each new district;

12 and

13 (4) provide for the division of assets and liabilities
14 between or among the new districts.

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) Any new district created by the division of the district
20 shall hold a confirmation and directors' election as required by
21 Section 8063.0103.

22 (i) If the creation of the new district is confirmed, the
23 new district shall provide the election date and results to the
24 commission.

25 (j) Any new district created by the division of the district
26 must hold an election as required by this chapter to obtain voter
27 approval before the district may impose a maintenance tax or issue

bonds payable wholly or partly from ad valorem taxes.

(k) Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8063.0104 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8063.0401. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 8063.0403.

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

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

Sec. 8063.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8063.0401, the 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.

1 Sec. 8063.0403. CONTRACT TAXES. (a) In accordance with
2 Section 49.108, Water Code, the district may impose a tax other than
3 an operation and maintenance tax and use the revenue derived from
4 the tax to make payments under a contract after the provisions of
5 the contract have been approved by a majority of the district voters
6 voting at an election held for that purpose.

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

10 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

11 Sec. 8063.0501. AUTHORITY TO ISSUE BONDS AND OTHER
12 OBLIGATIONS. The district may issue bonds or other obligations
13 payable wholly or partly from ad valorem taxes, impact fees,
14 revenue, contract payments, grants, or other district money, or any
15 combination of those sources, to pay for any authorized district
16 purpose.

17 Sec. 8063.0502. TAXES FOR BONDS. At the time the district
18 issues bonds payable wholly or partly from ad valorem taxes, the
19 board shall provide for the annual imposition of a continuing
20 direct ad valorem tax, without limit as to rate or amount, while all
21 or part of the bonds are outstanding as required and in the manner
22 provided by Sections 54.601 and 54.602, Water Code.

23 Sec. 8063.0503. BONDS FOR ROAD PROJECTS. At the time of
24 issuance, the total principal amount of bonds or other obligations
25 issued or incurred to finance road projects and payable from ad
26 valorem taxes may not exceed one-fourth of the assessed value of the
27 real property in the district.

SECTION 2. The Fort Bend County Municipal Utility District No. 237 initially includes all the territory contained in the following area:

Being an approximate 2,555.5 acres located in the Abraham D. Kelker Survey, Abstract 273, the M. M. Ryon Survey, Abstract 368, the William Byrne Survey, Abstract 112, and the Henry Wilcox Survey, Abstract 342, and located in extraterritorial jurisdiction of the Town of Thompsons, Fort Bend County, Texas, more particularly described by metes and bounds as follows, (all bearings referenced to the Texas Coordinate System, South Central Zone, NAD83):

TRACT 1

BEGINNING at the north or northwest corner of the M. M. Ryon Survey, Abstract 380, said corner being an interior corner on the south line of the M. M. Ryon Survey, Abstract 368;

Thence, South 42° 11' 26" West, along the northwesterly line of the M. M. Ryon Survey, Abstract 380, 1,372.63 feet more or less to a point for a westerly southwest corner of said M. M. Ryon Survey, Abstract 368, same being the northeast corner of the Michael Young League, Abstract 99, Fort Bend County, Texas;

Thence, North 47° 55' 18" West, departing the northwesterly line of said M. M. Ryon Survey, Abstract 380 and along the northeasterly line of said Michael Young League and along the southwesterly line of said M. M. Ryon Survey, Abstract 368, at 594.00 feet more or less pass the common south corner of said M. M. Ryon Survey, Abstract 368 and said William Byrne Survey, continuing along the northeasterly line of said Michael Young League and along

1 the southwesterly line of said William Byrne Survey, at 5,130.00
2 feet more or less pass the common south corner of said William Byrne
3 Survey and the aforementioned Henry Wilcox Survey, continuing along
4 the northeasterly line of said Michael Young League and along the
5 southwesterly line of said Henry Wilcox Survey, in all a total of
6 14,246.76 feet more or less to a point for the common west corner of
7 said Henry Wilcox Survey and said Michael Young League, said point
8 being on the southeasterly line of the E. P. Everett Survey,
9 Abstract 387, Fort Bend County, Texas;

10 Thence, North 42° 00' 43" East, along the northwesterly line
11 of said Henry Wilcox Survey and the southeasterly line of said E. P.
12 Everett Survey, 1,416.67 feet more or less to a point for the common
13 north corner of said Henry Wilcox Survey and said S. B. Pentecost
14 Survey, said point being on the southwesterly line of the Wiley
15 Martin League, Abstract 56, Fort Bend County, Texas;

16 Thence, South 67° 54' 35" East, along the southwesterly line
17 of the Wiley Martin League and the northeasterly line of said Henry
18 Wilcox Survey, 9,702.78 feet more or less to a point for the
19 northeast corner of said Henry Wilcox Survey, said point being the
20 northwest corner of the Peter Teal Survey, Abstract 337, Fort Bend
21 County, Texas;

22 Thence, South 42° 04' 42" West, along the southeasterly line
23 of said Henry Wilcox Survey and the northwesterly line of the Peter
24 Teal Survey, 1,661.11 feet more or less to a point for the common
25 west corner of said Peter Teal Survey and the aforementioned
26 William Byrne Survey;

27 Thence, South 47° 55' 18" East, along the northeasterly line

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1 of said William Byrne Survey and the southwesterly line of said
2 Peter Teal Survey, 4,536.11 feet more or less to a point for the
3 common east corner said Peter Teal Survey and said William Byrne
4 Survey, said point being on the northwesterly line of the
5 aforementioned M. M. Ryon Survey, Abstract 368;

6 Thence, North 42° 04' 42" East, along the northeasterly line
7 of said M. M. Ryon Survey, Abstract 368 and the southwesterly line
8 of said Peter Teal Survey, 3,389.92 feet more or less to a point for
9 corner in the centerline of a farm road;

10 Thence, South 25° 06' 53" West, along the centerline of a farm
11 road, 843.77 feet more or less to a point for corner;

12 Thence, South 67° 30' 40" East, 2,249.84 feet more or less to a
13 point for corner on the west right-of-way line of State Farm to
14 Market Road No. 762 (called 80 feet wide);

15 Thence, South 22° 25' 03" West, along west right-of-way line
16 of said State Farm to Market Road No. 762, 5,356.02 feet more or
17 less to a point for corner on the northeasterly line of the
18 aforementioned M. M. Ryon Survey, Abstract 380 and the
19 southwesterly line of said M. M. Ryon Survey, Abstract 368;

20 Thence, North 47° 48' 34" West, along the northeasterly line
21 of said M. M. Ryon Survey, Abstract 380 and the southwesterly line
22 of said M. M. Ryon Survey, Abstract 368, 3,571.19 feet more or less
23 to the POINT OF BEGINNING and containing 1,339.9 acres of land more
24 or less.

25 TRACT 2

26 BEGINNING at a point for the northwest corner of that certain
27 called 95.392 acre tract (referred to as Parcel PS09-C03) conveyed

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1 to Texas Genco Holdings, Inc by an instrument of record in File
2 Number 2002094433, F.B.C.O.P.R., said Texas Genco Holdings, Inc
3 formerly known as NRG Texas, LP by certificate of Merger dated March
4 15, 2006 and filed for record under File Number 2006042648,
5 F.B.C.O.P.R., and now known as NRG Texas Power LLC by certificate of
6 Merger dated June 28, 2007 and filed for record under File Number
7 2007089660, F.B.C.O.P.R., said point being on the southerly
8 right-of-way line of Smithers Lake Road (Width varies);

9 Thence, South 36° 10' 27" West, along the west line of said
10 95.392 acre tract, 73.99 feet more or less to a point for corner;

11 Thence, South 53° 49' 32" East, along a southwesterly line of
12 said 95.392 acre tract, 2,501.52 feet more or less to a point for
13 corner;

14 Thence, South 53° 49' 45" East, continuing along a
15 southwesterly line of said 95.392 acre tract, 10.54 feet more or
16 less to a point for corner on the easterly line of the
17 aforementioned Abraham D. Kelker Survey, same being the westerly
18 line of the H. A. Alsbury Survey, Abstract 102, Fort Bend County,
19 Texas;

20 Thence, South 22° 26' 59" West, along the easterly line of
21 said Abraham D. Kelker Survey and the westerly line of said H. A.
22 Alsbury Survey, 5,076.45 feet more or less to a point for the south
23 corner of said Abraham D. Kelker Survey and said H. A. Alsbury
24 Survey, said point being on the northerly line of the A. P. George
25 Survey, Abstract 754, Fort Bend County, Texas;

26 Thence, North 67° 33' 01" West, along the southerly line of
27 said Abraham D. Kelker Survey and the northerly line of said A. P.

1 George Survey, 8,571.11 feet more or less to a point for corner on
2 the east right-of-way line of State Farm to Market Road No. 762
3 (called 80 feet wide);

4 Thence, North 22° 26' 59" East, along the east right-of-way
5 line of said State Farm Market Road No. 762, 7,245.94 feet more or
6 less to a point for corner at the intersection of the east
7 right-of-way line of said State Farm to Market Road No. 762 and the
8 aforementioned southerly right-of-way line of Smithers Lake Road;

9 Thence, South 53° 49' 32" East, along the southerly
10 right-of-way line of said Smithers Lake Road, 6,329.05 feet more or
11 less to the POINT OF BEGINNING and containing 1,215.6 acres of land.

12 Said Tract 1 and Tract 2 containing a total of 2,555.5 acres
13 of land more or less.

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

21 (b) The governor, one of the required recipients, has
22 submitted the notice and Act to the Texas Commission on
23 Environmental Quality.

24 (c) The Texas Commission on Environmental Quality has filed
25 its recommendations relating to this Act with the governor, the
26 lieutenant governor, and the speaker of the house of
27 representatives within the required time.

1 (d) All requirements of the constitution and laws of this
2 state and the rules and procedures of the legislature with respect
3 to the notice, introduction, and passage of this Act are fulfilled
4 and accomplished.

5 SECTION 4. (a) If this Act does not receive a two-thirds
6 vote of all the members elected to each house, Subchapter C, Chapter
7 8063, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 8063.0307 to read as follows:

9 Sec. 8063.0307. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

14 SECTION 5. This Act takes effect immediately if it receives
15 a vote of two-thirds of all the members elected to each house, as
16 provided by Section 39, Article III, Texas Constitution. If this
17 Act does not receive the vote necessary for immediate effect, this
18 Act takes effect September 1, 2019.