

By: Zerwas

H.B. No. 1068

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Fort Bend County Municipal Utility District No. 216; 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 8424 to read as follows:

CHAPTER 8424. FORT BEND COUNTY MUNICIPAL UTILITY DISTRICT NO. 216

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8424.001. 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. 216.

Sec. 8424.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8424.003. CONFIRMATION AND DIRECTORS' 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. 8424.004. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section 8424.003  
3 until each municipality in whose corporate limits or  
4 extraterritorial jurisdiction the district is located has  
5 consented by ordinance or resolution to the creation of the  
6 district and to the inclusion of land in the district.

7       Sec. 8424.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)  
8 The district is created to serve a public purpose and benefit.

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

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

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

16       Sec. 8424.006. INITIAL DISTRICT TERRITORY. (a) The  
17 district is initially composed of the territory described by  
18 Section 2 of the Act enacting this chapter.

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

23       (1) organization, existence, or validity;

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

27       (3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 8424.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8424.052, directors serve  
6 staggered four-year terms.

7           Sec. 8424.052. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Elizabeth D. Barnett;

10                  (2) Phillip S. Froehlich;

11                  (3) Jeff Holstein;

12                  (4) Teresa Kelly; and

13                  (5) Harry Peyton.

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

15                   (1) the date permanent directors are elected under  
16 Section 8424.003; or

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

19           (c) If permanent directors have not been elected under  
20 Section 8424.003 and the terms of the temporary directors have  
21 expired, successor temporary directors shall be appointed or  
22 reappointed as provided by Subsection (d) to serve terms that  
23 expire on the earlier of:

24                   (1) the date permanent directors are elected under  
25 Section 8424.003; or

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

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

8                    SUBCHAPTER C. POWERS AND DUTIES

9        Sec. 8424.101. GENERAL POWERS AND DUTIES. The district has  
10 the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12        Sec. 8424.102. MUNICIPAL UTILITY DISTRICT POWERS AND  
13 DUTIES. The district has the powers and duties provided by the  
14 general law of this state, including Chapters 49 and 54, Water Code,  
15 applicable to municipal utility districts created under Section 59,  
16 Article XVI, Texas Constitution.

17        Sec. 8424.103. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23        Sec. 8424.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road  
24 project must meet all applicable construction standards, zoning and  
25 subdivision requirements, and regulations of each municipality in  
26 whose corporate limits or extraterritorial jurisdiction the road  
27 project is located.

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

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

9        Sec. 8424.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE  
10 OR RESOLUTION. The district shall comply with all applicable  
11 requirements of any ordinance or resolution that is adopted under  
12 Section 54.016 or 54.0165, Water Code, and that consents to the  
13 creation of the district or to the inclusion of land in the  
14 district.

15                SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16        Sec. 8424.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The  
17 district may issue, without an election, bonds and other  
18 obligations secured by:

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

20                (2) contract payments described by Section 8424.153.

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

25        (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

election held for that purpose.

Sec. 8424.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8424.151, 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.

Sec. 8424.153. 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. 8424.201. 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. 8424.202. 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. 8424.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Fort Bend County Municipal Utility District No. 216 initially includes all the territory contained in the following area:

Being 503.983 acres of land located in the John Randon League, Abstract Number 76, Fort Bend County, Texas, being all of that certain called 411.052 acre tract conveyed to Fulshear Lakes, Ltd. by instrument of record under File Number 2014007854 of the Official Public Records of Real Property of said Fort Bend County (F.B.C.O.P.R.R.P.), being all of that certain called 70.1425 acre tract, designated Tract I, conveyed to Fulshear Lakes, Ltd., by an instrument of record under File Number 2014007853, F.B.C.O.P.R.R.P., same being all of Rustic Oaks Subdivision, a plat of record under Volume 14, Page 13 of the Plat Records of said Fort Bend County (F.B.C.P.R.), (Slide Number 185B, F.B.C.P.R.), being all of that certain called 14.313 acre tract, designated Tract II, conveyed to Fulshear Lakes, Ltd., by an instrument of record under File Number 2014007853, F.B.C.O.P.R.R.P., being all of that certain called 5.32 acre tract, designated Lot 1 of the Cornelius Randon Estate as recorded in Volume 179, Page 128-A of the Deed Records of said Fort Bend County (F.B.C.D.R.), being the same land, designated

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1 Tract III, as conveyed to Fulshear Lakes, Ltd., by an instrument of  
2 record under File Number 2014007853, F.B.C.O.P.R.R.P., and being  
3 all of that certain called 4.000 acre tract, conveyed to Fulshear  
4 Lakes, Ltd. by instrument of record under File Number 2014007852,  
5 F.B.C.O.P.R.R.P.; said 503.983 acres being more particularly  
6 described by metes and bounds as follows (all bearings referenced  
7 to Texas Coordinate System, South Central Zone, Grid North, NAD83  
8 (NA2011) Epoch 2010.00;

9 BEGINNING at the common north corner of said 411.052 acre  
10 tract and that certain called 58.96 acre tract conveyed to Nigel  
11 Stewart Patterson, et ux by an instrument of record under File  
12 Number 2009110810, F.B.C.O.P.R.R.P., being on the line common to  
13 the north line of said John Randon League and the south line of the  
14 I. H. Charles League, Abstract Number 17 of said Fort Bend County,  
15 and being within existing Rogers Road (width varies), from which a  
16 found 5/8-inch iron rod (bent) bears North 09° 56' 38" West, 0.52  
17 feet and also from which the common easterly corner of said John  
18 Randon League and the George Roberts League, Abstract Number 432 of  
19 said Fort Bend County bears North 87° 41' 03" East, 3,932.37 feet;

20 Thence, with the easterly line of said 411.052 acre tract,  
21 the following five (5) courses:

22 1. South 02° 02' 39" East, with the westerly line of  
23 said 58.96 acre tract, passing at 30.69 feet (called 31.0 feet) a  
24 found 1/2-inch iron pipe, and continuing for a total distance of  
25 1,104.86 feet (called 1,105.0 feet) to a 1/2-inch iron pipe found  
26 for corner;

27 2. South 02° 21' 32" East, continuing with the westerly



1 line of said 58.96 acre tract, 1,232.04 feet (called 1,232.08 feet)  
2 to a 3/4-inch iron pipe found for corner;

3           3. South 01° 43' 27" East, continuing with the westerly  
4 line of said 58.96 acre tract, 1,133.03 feet (called 1,132.98 feet)  
5 to a 5/8-inch iron rod with plastic cap stamped "LJA ENG" previously  
6 set for the southwest corner of said 58.96 acre tract;

7           4. North 87° 47' 51" East, with the southerly line of  
8 said 58.96 acre tract, passing at 296.51 feet a found 1" iron pipe,  
9 and continuing for a total distance of 1,004.52 feet (called  
10 1,004.50 feet) to a 1/2-inch iron pipe found on the westerly line of  
11 that certain called 241.258 acre tract conveyed to Rogers Road  
12 Investors, LP by an instrument of record under File Number  
13 2009066602, F.B.C.O.P.R.R.P.;

14           5. South 02° 18' 57" East, with the westerly line of  
15 said 241.258 acre tract, passing at 2,894.68 feet the approximate  
16 centerline of Fulshear Creek, same being the common westerly corner  
17 of said 241.258 acre tract and that certain called 58.139 acre tract  
18 conveyed to K. R. Arnold, et ux, by an instrument of record under  
19 File Number 1999008859, F.B.C.O.P.R.R.P., and continuing with the  
20 westerly line of said 58.139 acre tract, for a total distance of  
21 4,646.53 feet (called 4,646.9 feet) to a 5/8-inch iron rod with  
22 plastic cap stamped "LJA ENG" previously set for the southeast  
23 corner of said 411.052 acre tract, being on the northerly line of  
24 that certain called 100-foot wide tract conveyed to Metropolitan  
25 Transit Authority of Harris County by an instrument of record under  
26 Volume 2478, Page 1664, F.B.C.D.R.;

27           Thence, South 81° 25' 02" West, with the line common to the

1 south line of said 411.052 acre tract and the north line of said  
2 100-foot wide tract, passing at 1,532.69 feet (called 1,532.63  
3 feet) a 1/2-inch iron pipe found for the common south corner of said  
4 411.052 acre tract and aforementioned Rustic Oaks Subdivision, and  
5 continuing along the line common to the south line of said Rustic  
6 Oaks Subdivision and the north line of said 100-foot wide tract,  
7 continuing for a total distance of 3,010.59 feet to a 1/4-iron pipe  
8 found for the southwest corner of said Rustic Oaks Subdivision and  
9 aforementioned 70.1425 acre tract, same being the southeast corner  
10 of that certain called 5.32 acre tract, designated Lot 8 of  
11 aforementioned Cornelius Randon Estate, and as conveyed to Walter  
12 Kelly, et al, by an instrument of record under File Number  
13 2012140197, F.B.C.O.P.R.R.P.;

14 Thence, North 02° 37' 49" East, with the common line of said  
15 Rustic Oaks Subdivision, said 70.1425 acre tract and said Lot 8,  
16 362.39 feet to a 5/8-inch iron rod with plastic cap stamped "LJA  
17 ENG" previously set for the common east corner of said Lot 8 and  
18 aforementioned Lot 1 conveyed to Fulshear Lakes, Ltd.;

19 Thence, South 87° 17' 09" West, with the common line to said  
20 Lot's 1 and 8, 434.10 feet to a 5/8-inch iron rod with plastic cap  
21 stamped "LJA ENG" previously set for the southwest corner of said  
22 5.32 acre tract conveyed to Fulshear Lakes, Ltd.;

23 Thence, North 02° 13' 49" West, along the west line of said  
24 5.32 acre tract conveyed to Fulshear Lakes, Ltd., 444.84 feet to a  
25 1/2-inch iron pipe found for the northwest corner of said 5.32 acre  
26 tract, also being on a south line of the aforementioned 14.313 acre  
27 tract;

1           Thence, South 87° 15' 05" West, with said south line, 522.20  
2 feet to a 5/8-inch iron rod with plastic cap stamped "LJA ENG"  
3 previously set for corner;

4           Thence, South 02° 11' 04" East, continuing along a south line  
5 of said 14.313 acre tract, 442.70 feet to a 1-inch iron pipe found  
6 for corner;

7           Thence, South 87° 05' 11" West, continuing along a south line  
8 of said 14.313 acre tract, 507.27 feet to a 5/8-inch iron rod with  
9 plastic cap stamped "LJA ENG" previously set for corner;

10          Thence, North 02° 29' 17" West, continuing along a south line  
11 of said 14.313 acre tract, 445.89 feet to point for corner, from  
12 which a found 5/8-inch iron rod with cap stamped "RPLS No. 2085"  
13 bears South 76° 14' 39" East, 0.23 feet;

14          Thence, South 87° 26' 47" West, continuing along a south line  
15 of said 14.313 acre tract, passing at 486.91 feet a found 5/8-inch  
16 iron rod with cap stamped "RPLS No. 2085" and continuing for a total  
17 distance of 512.83 feet to a PK-Nail found for corner within  
18 existing Pool Hill Road (width unknown);

19          Thence, North 02° 33' 10" West, with the most westerly line of  
20 said 14.313 acre tract and within said existing Pool Hill Road,  
21 196.30 feet to a PK-Nail found for the common west corner of said  
22 14.313 acre tract and that certain called 5.155 acre tract conveyed  
23 to Royal Parrot Farm, LLC by an instrument of record under File  
24 Number 2010000252, F.B.C.O.P.R.R.P.;

25          Thence, North 87° 25' 18" East, with the common line to said  
26 14.313 acre tract and said 5.155 acre tract, passing at 22.96 feet a  
27 found 5/8-inch iron rod with cap stamped "RPLS No. 2085", and

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1 continuing for a total distance of 1,143.40 feet to the common south  
2 corner of aforementioned 4.000 acre tract conveyed to Fulshear  
3 Lakes, Ltd. and said 5.155 acre tract, from which a found 1/2-inch  
4 iron rod with cap (illegible) bears North 15° 28' 18" West, 0.92  
5 feet;

6 Thence, North 02° 34' 42" West, departing the north line of  
7 said 14.313 acre tract and along the line common to said 4.000 acre  
8 tract and said 5.155 acre tract, 196.40 feet to the common north  
9 corner said 4.000 acre tract and said 5.155 acre tract and also  
10 being on the south line of that certain called 9.15 acre tract  
11 conveyed to Eula Mac Taplin, et al., by an instrument of record  
12 under Volume 2259, Page 1936, F.B.C.D.R., from which a found  
13 1/2-inch iron rod with cap stamped "Precision Surveying" bears  
14 South 46° 34' 34" West, 0.26 feet;

15 Thence North, 87°25'18" East, along the line common to said  
16 4.000 acre tract and said called 9.15 acre tract, 887.17 feet, to  
17 5/8-inch iron rod with plastic cap stamped "LJA ENG" previously set  
18 for corner on the westerly line of aforementioned 70.1425 acre  
19 tract and Rustic Oaks Subdivision, from which a 1-inch pipe with  
20 "Cotton Surveying" cap bears South 18°04'42" East, 3.68 feet;

21 Thence North 03°16'16" East, with the line common to said 9.15  
22 acre tract and said 70.1425 acre tract and Rustic Oaks Subdivision,  
23 197.17 feet to a 1-inch iron pipe in concrete found for the common  
24 east corner of said 9.15 acre tract and that certain called 18.87  
25 acre tract, designated Tract I, conveyed to Robert Fendley, by  
26 instrument of record under Volume 1415, Page 037, F.B.C.D.R.;

27 Thence, North 01°17'54" West, with the westerly line of said

70.1425 acre tract and Rustic Oaks Subdivision, 565.92 feet to a 1-inch iron pipe found for corner;

Thence, North 00° 49' 19" West, continuing along the westerly line of said 70.1425 acre tract and said Rustic Oaks Subdivision, 196.67 feet to a point for corner on the approximate centerline of Fulshear Creek and being the line common to the north line of said Rustic Oaks Subdivision, said 70.1425 acre tract and a south line of the aforementioned 411.052 acre tract;

Thence, along the south line of said 411.052 acre tract and along the meanders of said Fulshear Creek, the following five (5) courses:

1. South 85° 09' 23" West, 488.60 feet to a point for corner;

2. North 74° 47' 41" West, 354.56 feet to a point for corner;

3. North 18° 11' 05" West, 260.16 feet to a point for corner;

4. North 09° 17' 09" East, 391.53 feet to a point for corner;

5. North 00° 34' 16" West, 47.82 feet (called 48.67 feet) to a point for corner on the south line of that certain called 71.56 acre tract conveyed to Lavetta Lazzara by an instrument of record under Volume 2320, Page 1231, F.B.C.D.R., and an undivided fifty (50) percent interest conveyed to Lavetta Lazzara, Trustee by an instrument of record under Volume 2479, Page 591, F.B.C.D.R.;

Thence, North 87° 05' 26" East, with the common line of said 411.052 acre tract and said 71.56 acre tract, passing at 76.49 feet

1 a found 1/2-iron pipe and continuing for a total distance of 817.56  
2 feet (called 816.0 feet) to a 1/2-inch iron pipe found for corner;

3 Thence, North 01° 49' 07" West, with the line common to said  
4 411.052 acre tract and said 71.56 acre tract, 2,373.01 feet (called  
5 2,373.19 feet) to a PK-Nail in asphalt previously set for the  
6 northeast corner of said 71.56 acre tract;

7 Thence, North 01° 47' 54" West, with the westerly line of said  
8 411.052 acre tract, 2,073.64 feet (called 2,074.08 feet) to a gun  
9 barrel found for the common easterly corner of that certain called  
10 5.432 acre tract conveyed to Emma Jean Smith by an instrument of  
11 record under Volume 2707, Page 2128, F.B.C.D.R. and that certain  
12 called 46.33 acre tract conveyed to Frances Peckham Kelly, et al.,  
13 by an instrument of record under volume 433, Page 87, F.B.C.D.R. and  
14 under Probate Record Number 08-CPR-020916 of the Probate Records of  
15 said Fort Bend County;

16 Thence, North 01° 20' 51" West, with the westerly line of said  
17 411.052 acre tract, 1,070.10 feet (called 1,069.68 feet) to point  
18 for corner on the northerly line of the aforementioned John Randon  
19 League and the southerly line of the J. San Pierre Survey, Abstract  
20 Number 81, of said Fort Bend County and the northwest corner of said  
21 411.052 acre tract, and being within the aforementioned Rogers  
22 Road, from which a found 5/8-inch iron rod (bent) bears South 77° 51'  
23 34" East, 0.29 feet;

24 Thence, North 87° 41' 03" East, with the northerly line of  
25 said 411.52 acre tract, said John Randon League, and the southerly  
26 line of said J. San Pierre Survey and the aforementioned I. H.  
27 Charles League, 1,829.92 feet to the POINT OF BEGINNING and

1 containing 503.983 acres of land and of which 1.320 acres (57,529  
2 square feet) of land lies within the existing roadway area of said  
3 Rogers Road.

4 SECTION 3. (a) The legal notice of the intention to  
5 introduce this Act, setting forth the general substance of this  
6 Act, has been published as provided by law, and the notice and a  
7 copy of this Act have been furnished to all persons, agencies,  
8 officials, or entities to which they are required to be furnished  
9 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
10 Government Code.

11 (b) The governor, one of the required recipients, has  
12 submitted the notice and Act to the Texas Commission on  
13 Environmental Quality.

14 (c) The Texas Commission on Environmental Quality has filed  
15 its recommendations relating to this Act with the governor, the  
16 lieutenant governor, and the speaker of the house of  
17 representatives within the required time.

18 (d) All requirements of the constitution and laws of this  
19 state and the rules and procedures of the legislature with respect  
20 to the notice, introduction, and passage of this Act are fulfilled  
21 and accomplished.

22 SECTION 4. (a) If this Act does not receive a two-thirds  
23 vote of all the members elected to each house, Subchapter C, Chapter  
24 8424, Special District Local Laws Code, as added by Section 1 of  
25 this Act, is amended by adding Section 8424.106 to read as follows:

26 Sec. 8424.106. NO EMINENT DOMAIN POWER. The district may  
27 not exercise the power of eminent domain.

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

4           SECTION 5. This Act takes effect immediately if it receives  
5 a vote of two-thirds of all the members elected to each house, as  
6 provided by Section 39, Article III, Texas Constitution. If this  
7 Act does not receive the vote necessary for immediate effect, this  
8 Act takes effect September 1, 2015.