

1-1 By: Metcalf (Senate Sponsor - Creighton) H.B. No. 1074
 1-2 (In the Senate - Received from the House May 6, 2015;
 1-3 May 6, 2015, read first time and referred to Committee on
 1-4 Administration; May 21, 2015, reported favorably by the following
 1-5 vote: Yeas 5, Nays 0; May 21, 2015, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Hancock	X			
1-8 Uresti	X			
1-9 Campbell			X	
1-10 Eltife	X			
1-11 Huffines	X			
1-12 Schwertner			X	
1-13 West	X			

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the creation of the Montgomery County Municipal Utility
 1-18 District No. 145; granting a limited power of eminent domain;
 1-19 providing authority to issue bonds; providing authority to impose
 1-20 assessments, fees, and taxes.

1-21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-22 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-23 Code, is amended by adding Chapter 8498 to read as follows:
 1-24 CHAPTER 8498. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 145

1-25 SUBCHAPTER A. GENERAL PROVISIONS

1-26 Sec. 8498.001. DEFINITIONS. In this chapter:

1-27 (1) "Board" means the district's board of directors.

1-28 (2) "Commission" means the Texas Commission on
 1-29 Environmental Quality.

1-30 (3) "Director" means a board member.

1-31 (4) "District" means the Montgomery County Municipal
 1-32 Utility District No. 145.

1-33 Sec. 8498.002. NATURE OF DISTRICT. The district is a
 1-34 municipal utility district created under Section 59, Article XVI,
 1-35 Texas Constitution.

1-36 Sec. 8498.003. CONFIRMATION AND DIRECTORS' ELECTION
 1-37 REQUIRED. The temporary directors shall hold an election to
 1-38 confirm the creation of the district and to elect five permanent
 1-39 directors as provided by Section 49.102, Water Code.

1-40 Sec. 8498.004. CONSENT OF MUNICIPALITY REQUIRED. The
 1-41 temporary directors may not hold an election under Section 8498.003
 1-42 until each municipality in whose corporate limits or
 1-43 extraterritorial jurisdiction the district is located has
 1-44 consented by ordinance or resolution to the creation of the
 1-45 district and to the inclusion of land in the district.

1-46 Sec. 8498.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
 1-47 The district is created to serve a public purpose and benefit.

1-48 (b) The district is created to accomplish the purposes of:

1-49 (1) a municipal utility district as provided by
 1-50 general law and Section 59, Article XVI, Texas Constitution; and

1-51 (2) Section 52, Article III, Texas Constitution, that
 1-52 relate to the construction, acquisition, improvement, operation,
 1-53 or maintenance of macadamized, graveled, or paved roads, or
 1-54 improvements, including storm drainage, in aid of those roads.

1-55 Sec. 8498.006. INITIAL DISTRICT TERRITORY. (a) The
 1-56 district is initially composed of the territory described by
 1-57 Section 2 of the Act enacting this chapter.

1-58 (b) The boundaries and field notes contained in Section 2 of
 1-59 the Act enacting this chapter form a closure. A mistake made in the
 1-60 field notes or in copying the field notes in the legislative process
 1-61 does not affect the district's:

- 2-1 (1) organization, existence, or validity;
- 2-2 (2) right to issue any type of bond for the purposes
- 2-3 for which the district is created or to pay the principal of and
- 2-4 interest on a bond;
- 2-5 (3) right to impose a tax; or
- 2-6 (4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

2-8 Sec. 8498.051. GOVERNING BODY; TERMS. (a) The district is

2-9 governed by a board of five elected directors.

2-10 (b) Except as provided by Section 8498.052, directors serve

2-11 staggered four-year terms.

2-12 Sec. 8498.052. TEMPORARY DIRECTORS. (a) On or after

2-13 September 1, 2015, the owner or owners of a majority of the assessed

2-14 value of the real property in the district may submit a petition to

2-15 the commission requesting that the commission appoint as temporary

2-16 directors the five persons named in the petition. The commission

2-17 shall appoint as temporary directors the five persons named in the

2-18 petition.

2-19 (b) Temporary directors serve until the earlier of:

2-20 (1) the date permanent directors are elected under

2-21 Section 8498.003; or

2-22 (2) September 1, 2019.

2-23 (c) If permanent directors have not been elected under

2-24 Section 8498.003 and the terms of the temporary directors have

2-25 expired, successor temporary directors shall be appointed or

2-26 reappointed as provided by Subsection (d) to serve terms that

2-27 expire on the earlier of:

2-28 (1) the date permanent directors are elected under

2-29 Section 8498.003; or

2-30 (2) the fourth anniversary of the date of the

2-31 appointment or reappointment.

2-32 (d) If Subsection (c) applies, the owner or owners of a

2-33 majority of the assessed value of the real property in the district

2-34 may submit a petition to the commission requesting that the

2-35 commission appoint as successor temporary directors the five

2-36 persons named in the petition. The commission shall appoint as

2-37 successor temporary directors the five persons named in the

2-38 petition.

SUBCHAPTER C. POWERS AND DUTIES

2-40 Sec. 8498.101. GENERAL POWERS AND DUTIES. The district has

2-41 the powers and duties necessary to accomplish the purposes for

2-42 which the district is created.

2-43 Sec. 8498.102. MUNICIPAL UTILITY DISTRICT POWERS AND

2-44 DUTIES. The district has the powers and duties provided by the

2-45 general law of this state, including Chapters 49 and 54, Water Code,

2-46 applicable to municipal utility districts created under Section 59,

2-47 Article XVI, Texas Constitution.

2-48 Sec. 8498.103. AUTHORITY FOR ROAD PROJECTS. Under Section

2-49 52, Article III, Texas Constitution, the district may design,

2-50 acquire, construct, finance, issue bonds for, improve, operate,

2-51 maintain, and convey to this state, a county, or a municipality for

2-52 operation and maintenance macadamized, graveled, or paved roads, or

2-53 improvements, including storm drainage, in aid of those roads.

2-54 Sec. 8498.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road

2-55 project must meet all applicable construction standards, zoning and

2-56 subdivision requirements, and regulations of each municipality in

2-57 whose corporate limits or extraterritorial jurisdiction the road

2-58 project is located.

2-59 (b) If a road project is not located in the corporate limits

2-60 or extraterritorial jurisdiction of a municipality, the road

2-61 project must meet all applicable construction standards,

2-62 subdivision requirements, and regulations of each county in which

2-63 the road project is located.

2-64 (c) If the state will maintain and operate the road, the

2-65 Texas Transportation Commission must approve the plans and

2-66 specifications of the road project.

2-67 Sec. 8498.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE

2-68 OR RESOLUTION. The district shall comply with all applicable

2-69 requirements of any ordinance or resolution that is adopted under

3-1 Section 54.016 or 54.0165, Water Code, and that consents to the
 3-2 creation of the district or to the inclusion of land in the
 3-3 district.

3-4 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-5 Sec. 8498.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
 3-6 district may issue, without an election, bonds and other
 3-7 obligations secured by:

3-8 (1) revenue other than ad valorem taxes; or

3-9 (2) contract payments described by Section 8498.153.

3-10 (b) The district must hold an election in the manner
 3-11 provided by Chapters 49 and 54, Water Code, to obtain voter approval
 3-12 before the district may impose an ad valorem tax or issue bonds
 3-13 payable from ad valorem taxes.

3-14 (c) The district may not issue bonds payable from ad valorem
 3-15 taxes to finance a road project unless the issuance is approved by a
 3-16 vote of a two-thirds majority of the district voters voting at an
 3-17 election held for that purpose.

3-18 Sec. 8498.152. OPERATION AND MAINTENANCE TAX. (a) If
 3-19 authorized at an election held under Section 8498.151, the district
 3-20 may impose an operation and maintenance tax on taxable property in
 3-21 the district in accordance with Section 49.107, Water Code.

3-22 (b) The board shall determine the tax rate. The rate may not
 3-23 exceed the rate approved at the election.

3-24 Sec. 8498.153. CONTRACT TAXES. (a) In accordance with
 3-25 Section 49.108, Water Code, the district may impose a tax other than
 3-26 an operation and maintenance tax and use the revenue derived from
 3-27 the tax to make payments under a contract after the provisions of
 3-28 the contract have been approved by a majority of the district voters
 3-29 voting at an election held for that purpose.

3-30 (b) A contract approved by the district voters may contain a
 3-31 provision stating that the contract may be modified or amended by
 3-32 the board without further voter approval.

3-33 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-34 Sec. 8498.201. AUTHORITY TO ISSUE BONDS AND OTHER
 3-35 OBLIGATIONS. The district may issue bonds or other obligations
 3-36 payable wholly or partly from ad valorem taxes, impact fees,
 3-37 revenue, contract payments, grants, or other district money, or any
 3-38 combination of those sources, to pay for any authorized district
 3-39 purpose.

3-40 Sec. 8498.202. TAXES FOR BONDS. At the time the district
 3-41 issues bonds payable wholly or partly from ad valorem taxes, the
 3-42 board shall provide for the annual imposition of a continuing
 3-43 direct ad valorem tax, without limit as to rate or amount, while all
 3-44 or part of the bonds are outstanding as required and in the manner
 3-45 provided by Sections 54.601 and 54.602, Water Code.

3-46 Sec. 8498.203. BONDS FOR ROAD PROJECTS. At the time of
 3-47 issuance, the total principal amount of bonds or other obligations
 3-48 issued or incurred to finance road projects and payable from ad
 3-49 valorem taxes may not exceed one-fourth of the assessed value of the
 3-50 real property in the district.

3-51 SECTION 2. The Montgomery County Municipal Utility District
 3-52 No. 145 initially includes all the territory contained in the
 3-53 following area:

3-54 BEING 265.772 ACRES OF LAND IN THE THOMAS P. DAVY SURVEY, A-162 AND
 3-55 THE BENNETT BLAKE SURVEY, A-4 MONTGOMERY COUNTY, TEXAS, SAID
 3-56 265.772 ACRES BEING OUT OF THE WILLIS-WAUKEGAN, LTD. 583.12 ACRE
 3-57 TRACT OF LAND, DEED OF WHICH IS RECORDED UNDER COUNTY CLERKS' FILE
 3-58 NUMBER 2004-095061, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID
 3-59 265.772 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

3-60 BEGINNING at the West corner of the above mentioned 583.12
 3-61 acre tract of land and the South corner of the Duane T. Corley,
 3-62 Trustee 200.00 acre tract of land, deed of which is recorded under
 3-63 County Clerks' File Number 2004-094357, Montgomery County Real
 3-64 Property Records, for the West corner of the herein described tract
 3-65 of land;

3-66 THENCE N. 57° 34' 10" E., along the Northwest line of said
 3-67 583.12 acre tract of land and the Southeast line of the above
 3-68 mentioned 200.00 acre tract of land for a distance of 2,401.60 feet
 3-69 to the West corner of the Foroutan Amini and Michele Rodgers-Amini

4-1 74.119 acre tract of land, deed of which is recorded under County
4-2 Clerks' File Number 2009-010950, Montgomery County Real Property
4-3 Records, for the North corner of the herein described tract of land;
4-4 THENCE S. 32° 25' 50" E., leaving said Northwest and Southeast
4-5 line, along the Southwest line of the above mentioned 74.119 acre
4-6 tract of land and across said 583.12 acre tract of land for a
4-7 distance of 920.00 feet to the South corner of said 74.119 acre
4-8 tract of land for an inside corner of the herein described tract of
4-9 land;
4-10 THENCE N. 57° 34' 10" E., continuing across said 583.12 acre
4-11 tract of land and along the Southeast line of said 74.119 acre tract
4-12 of land for a distance of 3,490.97 feet to the West line of
4-13 Willis-Waukegan Road at the East corner of said 74.119 acre tract of
4-14 land for the North corner of the herein described tract of land;
4-15 THENCE S. 32° 26' 09" E., leaving the above mentioned
4-16 Southeast line for a distance of 194.13 feet to a corner of the
4-17 herein described tract of land;
4-18 THENCE along the East line of said 583.12 acre tract of land
4-19 and the West line of the above mentioned Willis-Waukegan Road the
4-20 following calls to a corner of the herein described tract of land;
4-21 1) S. 25° 13' 00" E., for a distance of 275.54 feet;
4-22 2) S. 23° 20' 51" E., for a distance of 236.97 feet;
4-23 3) S. 18° 07' 26" E., for a distance of 153.41 feet to the
4-24 North corner of the Raul Rodriguez 55.955 acre tract of land, deed
4-25 of which is recorded under County Clerks' File Number 2009-008448,
4-26 Montgomery County Real Property Records;
4-27 THENCE S. 66° 39' 09" W., leaving said East and West line,
4-28 across said 583.12 acre tract of land and along the North line of
4-29 the above mentioned Rodriguez tract of land, for a distance of
4-30 1,185.46 feet to the beginning of a curve to the left for a corner of
4-31 the herein described tract of land;
4-32 THENCE in a Southwesterly direction, continuing across said
4-33 583.12 acre tract of land and along said Rodriguez North line and
4-34 said curve to the left having a radius of 270.00 feet, a central
4-35 angle of 09° 06' 30", for an arc length of 42.92 feet, chord bears S.
4-36 61° 47' 43" W., 42.88 feet to the end of curve for a corner of the
4-37 herein described tract of land;
4-38 THENCE S. 57° 21' 09" W., continuing across said 583.12 acre
4-39 tract of land and along said Rodriguez North line for a distance of
4-40 1,457.60 feet to the West corner of said 55.955 acre tract of land
4-41 for an inside corner of the herein described tract of land;
4-42 THENCE S. 32° 26' 40" E., continuing across said 583.12 acre
4-43 tract of land and along the Northwest line of said Rodriguez tract
4-44 of land for a distance of 70.00 feet to the North corner of the Raul
4-45 Rodriguez and Wife Bernardina Rodriguez, 73.07 acre of land, deed
4-46 of which is recorded under County Clerks' File Number 2011-041469,
4-47 Montgomery County Real Property Records, for a corner of the herein
4-48 described tract of land;
4-49 THENCE S. 57° 21' 07" W., continuing across said 583.12 acre
4-50 tract of land and along the North line of the above mentioned 73.07
4-51 acre tract of land for a distance of 1,061.01 feet to its' Northwest
4-52 corner for an inside corner of the herein described tract of land;
4-53 THENCE S. 06° 51' 06" W., continuing across said 583.12 acre
4-54 tract of land and along the West line of said 73.07 acre tract of
4-55 land for a distance of 1,521.50 feet to its' West corner for an
4-56 inside corner of the herein described tract of land;
4-57 THENCE S. 59° 33' 43" E., continuing across said 583.12 acre
4-58 tract of land and along the Southwest line of said 73.07 acre tract
4-59 of land for a distance of 1,541.82 feet to a corner of the herein
4-60 described tract of land;
4-61 THENCE continuing across said 583.12 acre tract of land and
4-62 along the South and West lines of said 73.07 acre tract of land the
4-63 following calls to a corner of the herein described tract of land;
4-64 1) S. 81° 41' 54" E., for a distance of 65.14 feet;
4-65 2) S. 13° 37' 01" E., for a distance of 27.17 feet;
4-66 3) S. 18° 13' 47" W, for a distance of 16.81 feet;
4-67 4) S. 33° 00' 05" W, for a distance of 78.46 feet;
4-68 5) S. 18° 02' 43" W, for a distance of 31.61 feet;
4-69 6) S. 03° 01' 00" W, for a distance of 33.62 feet;

- 5-1 7) S. 55° 16' 32" E., for a distance of 12.71 feet;
- 5-2 8) N. 83° 10' 28" E., for a distance of 24.02 feet;
- 5-3 9) N. 69° 31' 40" E., for a distance of 50.14 feet;
- 5-4 10) 73° 39' 10" E., for a distance of 10.05 feet to the
- 5-5 Southeast corner of said 73.07 acre tract of land on the West line
- 5-6 of the Richard Koch 104.129 acre tract of land, deed of which is
- 5-7 recorded under County Clerks' File Number 2009-006656, Montgomery
- 5-8 County Real Property Records, for a corner of the herein described
- 5-9 tract of land;

5-10 THENCE S. 03° 52' 35" W., continuing across said 583.12 acre
 5-11 tract of land and along the West line of the above mentioned 104.129
 5-12 acre tract of land for a distance of 759.90 feet to the Northwest
 5-13 line of the Maurice Hoffman 25.770 acre tract of land, deed of which
 5-14 is recorded under County Clerks' File Number 9325516, Montgomery
 5-15 County Real Property Records on the Southeast line of said 583.12
 5-16 acre tract of land for the Southeasterly corner of the herein
 5-17 described tract of land;

5-18 THENCE S. 57° 37' 47" W., along the above mentioned Northwest
 5-19 and Southeast line for a distance of 1,333.78 feet to the South
 5-20 corner of said 583.12 acre tract of land for the Southwest corner of
 5-21 the herein described tract of land;

5-22 THENCE N. 32° 26' 50" W., along the Southwest line of said
 5-23 583.12 acre tract of land for a distance of 5,019.25 feet to the
 5-24 POINT OF BEGINNING and containing in all 265.772 acres of land.

5-25 This description is based upon an exhibit as prepared by
 5-26 Jeffrey Moon and Associates, Inc., dated October 17, 2014. Bearings
 5-27 are based upon the West line of the 583.12 acre tract of land.

5-28 SECTION 3. (a) The legal notice of the intention to
 5-29 introduce this Act, setting forth the general substance of this
 5-30 Act, has been published as provided by law, and the notice and a
 5-31 copy of this Act have been furnished to all persons, agencies,
 5-32 officials, or entities to which they are required to be furnished
 5-33 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
 5-34 Government Code.

5-35 (b) The governor, one of the required recipients, has
 5-36 submitted the notice and Act to the Texas Commission on
 5-37 Environmental Quality.

5-38 (c) The Texas Commission on Environmental Quality has filed
 5-39 its recommendations relating to this Act with the governor, the
 5-40 lieutenant governor, and the speaker of the house of
 5-41 representatives within the required time.

5-42 (d) All requirements of the constitution and laws of this
 5-43 state and the rules and procedures of the legislature with respect
 5-44 to the notice, introduction, and passage of this Act are fulfilled
 5-45 and accomplished.

5-46 SECTION 4. (a) If this Act does not receive a two-thirds
 5-47 vote of all the members elected to each house, Subchapter C, Chapter
 5-48 8498, Special District Local Laws Code, as added by Section 1 of
 5-49 this Act, is amended by adding Section 8498.106 to read as follows:

5-50 Sec. 8498.106. NO EMINENT DOMAIN POWER. The district may
 5-51 not exercise the power of eminent domain.

5-52 (b) This section is not intended to be an expression of a
 5-53 legislative interpretation of the requirements of Section 17(c),
 5-54 Article I, Texas Constitution.

5-55 SECTION 5. This Act takes effect September 1, 2015.

5-56 * * * * *