

By: Metcalf

H.B. No. 4641

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 177 of Montgomery 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 8085 to read as follows:

CHAPTER 8085. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 177 OF MONTGOMERY COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8085.0101. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Conroe, Texas.

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

(4) "Director" means a board member.

(5) "District" means the Montgomery County Municipal Utility District No. 177 of Montgomery County.

Sec. 8085.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8085.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to

1 confirm the creation of the district and to elect five permanent
2 directors as provided by Section 49.102, Water Code.

3 Sec. 8085.0104. CONSENT OF MUNICIPALITY REQUIRED. The
4 temporary directors may not hold an election under Section
5 8085.0103 until each municipality in whose corporate limits or
6 extraterritorial jurisdiction the district is located has
7 consented by ordinance or resolution to the creation of the
8 district and to the inclusion of land in the district.

9 Sec. 8085.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

18 Sec. 8085.0106. INITIAL DISTRICT TERRITORY. (a) The
19 district is initially composed of the territory described by
20 Section 2 of the Act enacting this chapter.

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

25 (1) organization, existence, or validity;

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

1 interest on a bond;

2 (3) right to impose a tax; or

3 (4) legality or operation.

4 Sec. 8085.0107. EFFECT OF ANNEXATION. Notwithstanding any
5 other law, if any of the territory of the district is annexed by the
6 city into the city's corporate limits, the district:

7 (1) retains all of the district's outstanding debt and
8 obligations; and

9 (2) is not dissolved.

10 SUBCHAPTER B. BOARD OF DIRECTORS

11 Sec. 8085.0201. GOVERNING BODY; TERMS. (a) The district is
12 governed by a board of five elected directors.

13 (b) Except as provided by Section 8085.0202, directors
14 serve staggered four-year terms.

15 Sec. 8085.0202. TEMPORARY DIRECTORS. (a) On or after
16 September 1, 2019, the owner or owners of a majority of the assessed
17 value of the real property in the district may submit a petition to
18 the commission requesting that the commission appoint as temporary
19 directors the five persons named in the petition. The commission
20 shall appoint as temporary directors the five persons named in the
21 petition.

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

23 (1) the date permanent directors are elected under
24 Section 8085.0103; or

25 (2) September 1, 2023.

26 (c) If permanent directors have not been elected under
27 Section 8085.0103 and the terms of the temporary directors have

1 expired, successor temporary directors shall be appointed or
2 reappointed as provided by Subsection (d) to serve terms that
3 expire on the earlier of:

4 (1) the date permanent directors are elected under
5 Section 8085.0103; or

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

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

15 SUBCHAPTER C. POWERS AND DUTIES

16 Sec. 8085.0301. GENERAL POWERS AND DUTIES. The district
17 has the powers and duties necessary to accomplish the purposes for
18 which the district is created.

19 Sec. 8085.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
20 DUTIES. The district has the powers and duties provided by the
21 general law of this state, including Chapters 49 and 54, Water Code,
22 applicable to municipal utility districts created under Section 59,
23 Article XVI, Texas Constitution.

24 Sec. 8085.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
25 52, Article III, Texas Constitution, the district may design,
26 acquire, construct, finance, issue bonds for, improve, operate,
27 maintain, and convey to this state, a county, or a municipality for

1 operation and maintenance macadamized, graveled, or paved roads, or
2 improvements, including storm drainage, in aid of those roads.

3 Sec. 8085.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
4 road project must meet all applicable construction standards,
5 zoning and subdivision requirements, and regulations of each
6 municipality in whose corporate limits or extraterritorial
7 jurisdiction the road project is located.

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

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

16 Sec. 8085.0305. COMPLIANCE WITH MUNICIPAL CONSENT
17 ORDINANCE OR RESOLUTION. The district shall comply with all
18 applicable requirements of any ordinance or resolution that is
19 adopted under Section 54.016 or 54.0165, Water Code, and that
20 consents to the creation of the district or to the inclusion of land
21 in the district.

22 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

23 Sec. 8085.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
24 The district may issue, without an election, bonds and other
25 obligations secured by:

- 26 (1) revenue other than ad valorem taxes; or
27 (2) contract payments described by Section 8085.0403.

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

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

9 Sec. 8085.0402. OPERATION AND MAINTENANCE TAX. (a) If
10 authorized at an election held under Section 8085.0401, the
11 district may impose an operation and maintenance tax on taxable
12 property in the district in accordance with Section 49.107, Water
13 Code.

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

16 Sec. 8085.0403. CONTRACT TAXES. (a) In accordance with
17 Section 49.108, Water Code, the district may impose a tax other than
18 an operation and maintenance tax and use the revenue derived from
19 the tax to make payments under a contract after the provisions of
20 the contract have been approved by a majority of the district voters
21 voting at an election held for that purpose.

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

25 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

26 Sec. 8085.0501. AUTHORITY TO ISSUE BONDS AND OTHER
27 OBLIGATIONS. The district may issue bonds or other obligations

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

5 Sec. 8085.0502. TAXES FOR BONDS. At the time the district
6 issues bonds payable wholly or partly from ad valorem taxes, the
7 board shall provide for the annual imposition of a continuing
8 direct ad valorem tax, without limit as to rate or amount, while all
9 or part of the bonds are outstanding as required and in the manner
10 provided by Sections 54.601 and 54.602, Water Code.

11 Sec. 8085.0503. BONDS FOR ROAD PROJECTS. At the time of
12 issuance, the total principal amount of bonds or other obligations
13 issued or incurred to finance road projects and payable from ad
14 valorem taxes may not exceed one-fourth of the assessed value of the
15 real property in the district.

16 SECTION 2. The Montgomery County Municipal Utility District
17 No. 177 of Montgomery County initially includes all the territory
18 contained in the following area:

19 MUD PARCEL

20 Being 208.41 acres (9,078,221 square feet) tract of land situated
21 in the G.W. Lonis Survey, Abstract 313 and F.K. Henderson Survey,
22 Abstract 248 of Montgomery County, Texas, said 208.41 acre parcel
23 more particularly described by metes and bounds as follows with all
24 bearings based on Texas State Plane Coordinate System, Central
25 Zone, North American Datum 1983;

26 BEGINNING at a point whose Northing is 10142421.53 and whose
27 Easting is 3824308.59;

1 THENCE North $00^{\circ}36'47''$ West, a distance of 8.71 feet to a calculated
2 point;
3 THENCE North $04^{\circ}10'12''$ West, a distance of 1055.32 feet to a
4 calculated point;
5 THENCE along a curve to the LEFT, having a radius of 3020.00 feet, a
6 delta angle of $18^{\circ}12'14''$, and whose long chord bears North $11^{\circ}24'01''$
7 West, a distance of 955.48 feet to a calculated point;
8 THENCE North $18^{\circ}30'13''$ West, a distance of 927.01 feet to a
9 calculated point;
10 THENCE along a curve to the LEFT, having a radius of 2765.61 feet, a
11 delta angle of $20^{\circ}11'13''$, and whose long chord bears North $53^{\circ}40'39''$
12 East, a distance of 969.38 feet to a calculated point;
13 THENCE along a curve to the LEFT, having a radius of 2643.58 feet, a
14 delta angle of $38^{\circ}02'19''$, and whose long chord bears South $89^{\circ}31'30''$
15 East, a distance of 1723.01 feet to a calculated point;
16 THENCE South $18^{\circ}28'21''$ East, a distance of 226.85 feet to a
17 calculated point;
18 THENCE North $71^{\circ}10'51''$ East, a distance of 937.01 feet to a
19 calculated point;
20 THENCE along a curve to the LEFT, having a radius of 2638.25 feet, a
21 delta angle of $18^{\circ}20'33''$, and whose long chord bears South $50^{\circ}24'21''$
22 East, a distance of 840.99 feet to a calculated point;
23 THENCE South $17^{\circ}29'19''$ East, a distance of 962.39 feet to a
24 calculated point;
25 THENCE South $71^{\circ}48'30''$ West, a distance of 1060.89 feet to a
26 calculated point;
27 THENCE South $71^{\circ}42'10''$ West, a distance of 1300.52 feet to a

1 calculated point;
2 THENCE South 18°17'50" East, a distance of 788.67 feet to a
3 calculated point;
4 THENCE South 72'30'01" West, a distance of 1934.65 feet to the POINT
5 OF BEGINNING, containing 208.41 acres (9,078,221 square feet) of
6 land in Montgomery County, Texas.

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

14 (b) The governor, one of the required recipients, has
15 submitted the notice and Act to the Texas Commission on
16 Environmental Quality.

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

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

25 SECTION 4. (a) If this Act does not receive a two-thirds
26 vote of all the members elected to each house, Subchapter C, Chapter
27 8085, Special District Local Laws Code, as added by Section 1 of

1 this Act, is amended by adding Section 8085.0306 to read as follows:

2 Sec. 8085.0306. NO EMINENT DOMAIN POWER. The district may
3 not exercise the power of eminent domain.

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

7 SECTION 5. This Act takes effect September 1, 2019.