

By: Creighton

S.B. No. 2163

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 199; 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 8499 to read as follows:

CHAPTER 8499. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 199

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8499.0101. 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 Montgomery County Municipal Utility District No. 199.

Sec. 8499.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8499.0103. 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. 8499.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8499.0103 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. 8499.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) 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. 8499.0106. 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. 8499.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8499.0202, directors
6 serve staggered four-year terms.

7 Sec. 8499.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Joshua Kelly Hancock;

10 (2) Santina Daily;

11 (3) Linda Perez;

12 (4) Sue Robinson; and

13 (5) Quency D. Perkins.

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

15 (1) the date permanent directors are elected under
16 Section 8499.0103; or

17 (2) September 1, 2025.

18 (c) If permanent directors have not been elected under
19 Section 8499.0103 and the terms of the temporary directors have
20 expired, successor temporary directors shall be appointed or
21 reappointed as provided by Subsection (d) to serve terms that
22 expire on the earlier of:

23 (1) the date permanent directors are elected under
24 Section 8499.0103; or

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

27 (d) If Subsection (c) applies, the owner or owners of a

1 majority of the assessed value of the real property in the district
2 may submit a petition to the commission requesting that the
3 commission appoint as successor temporary directors the five
4 persons named in the petition. The commission shall appoint as
5 successor temporary directors the five persons named in the
6 petition.

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8499.0301. GENERAL POWERS AND DUTIES. The district
9 has the powers and duties necessary to accomplish the purposes for
10 which the district is created.

11 Sec. 8499.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
12 DUTIES. The district has the powers and duties provided by the
13 general law of this state, including Chapters 49 and 54, Water Code,
14 applicable to municipal utility districts created under Section 59,
15 Article XVI, Texas Constitution.

16 Sec. 8499.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
17 52, Article III, Texas Constitution, the district may design,
18 acquire, construct, finance, issue bonds for, improve, operate,
19 maintain, and convey to this state, a county, or a municipality for
20 operation and maintenance macadamized, graveled, or paved roads, or
21 improvements, including storm drainage, in aid of those roads.

22 Sec. 8499.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
23 road project must meet all applicable construction standards,
24 zoning and subdivision requirements, and regulations of each
25 municipality in whose corporate limits or extraterritorial
26 jurisdiction the road project is located.

27 (b) If a road project is not located in the corporate limits

1 or extraterritorial jurisdiction of a municipality, the road
2 project must meet all applicable construction standards,
3 subdivision requirements, and regulations of each county in which
4 the road project is located.

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

8 Sec. 8499.0305. COMPLIANCE WITH MUNICIPAL CONSENT
9 ORDINANCE OR RESOLUTION. The district shall comply with all
10 applicable requirements of any ordinance or resolution that is
11 adopted under Section 54.016 or 54.0165, Water Code, and that
12 consents to the creation of the district or to the inclusion of land
13 in the district.

14 Sec. 8499.0306. DIVISION OF DISTRICT. (a) The district may
15 be divided into two or more new districts only if the district:

16 (1) has no outstanding bonded debt; and

17 (2) is not imposing ad valorem taxes.

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

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

25 (d) The board, on its own motion or on receipt of a petition
26 signed by the owner or owners of a majority of the assessed value of
27 the real property in the district, may adopt an order dividing the

1 district.

2 (e) The board may adopt an order dividing the district
3 before or after the date the board holds an election under Section
4 8499.0103 to confirm the district's creation.

5 (f) An order dividing the district shall:

6 (1) name each new district;

7 (2) include the metes and bounds description of the
8 territory of each new district;

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

10 and

11 (4) provide for the division of assets and liabilities
12 between the new districts.

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

17 (h) Any new district created by the division of the district
18 shall hold a confirmation and directors' election as required by
19 Section 8499.0103. If the voters of a new district do not confirm
20 the creation of the new district, the assets, obligations,
21 territory, and governance of the new district revert to the
22 original district.

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

26 (j) Any new district created by the division of the district
27 must hold an election as required by this chapter to obtain voter

1 approval before the district may impose a maintenance tax or issue
2 bonds payable wholly or partly from ad valorem taxes.

3 (k) Municipal consent to the creation of the district and to
4 the inclusion of land in the district granted under Section
5 8499.0104 acts as municipal consent to the creation of any new
6 district created by the division of the district and to the
7 inclusion of land in the new district.

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. 8499.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

10 The district may issue, without an election, bonds and other
11 obligations secured by:

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

13 (2) contract payments described by Section 8499.0403.

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

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

22 Sec. 8499.0402. OPERATION AND MAINTENANCE TAX. (a) If

23 authorized at an election held under Section 8499.0401, the
24 district may impose an operation and maintenance tax on taxable
25 property in the district in accordance with Section 49.107, Water
26 Code.

27 (b) The board shall determine the tax rate. The rate may not

1 exceed the rate approved at the election.

2 Sec. 8499.0403. CONTRACT TAXES. (a) In accordance with
3 Section 49.108, Water Code, the district may impose a tax other than
4 an operation and maintenance tax and use the revenue derived from
5 the tax to make payments under a contract after the provisions of
6 the contract have been approved by a majority of the district voters
7 voting at an election held for that purpose.

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

11 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

12 Sec. 8499.0501. AUTHORITY TO ISSUE BONDS AND OTHER
13 OBLIGATIONS. The district may issue bonds or other obligations
14 payable wholly or partly from ad valorem taxes, impact fees,
15 revenue, contract payments, grants, or other district money, or any
16 combination of those sources, to pay for any authorized district
17 purpose.

18 Sec. 8499.0502. TAXES FOR BONDS. At the time the district
19 issues bonds payable wholly or partly from ad valorem taxes, the
20 board shall provide for the annual imposition of a continuing
21 direct ad valorem tax, without limit as to rate or amount, while all
22 or part of the bonds are outstanding as required and in the manner
23 provided by Sections 54.601 and 54.602, Water Code.

24 Sec. 8499.0503. BONDS FOR ROAD PROJECTS. At the time of
25 issuance, the total principal amount of bonds or other obligations
26 issued or incurred to finance road projects and payable from ad
27 valorem taxes may not exceed one-fourth of the assessed value of the

1 real property in the district.

2 SECTION 2. The Montgomery County Municipal Utility District
3 No. 199 initially includes all the territory contained in the
4 following area:

5 Being 310.3 acres of land in the Soloman Brown Survey,
6 Abstract 5, Montgomery County, Texas, said 310.3 acres being a
7 portion of a called 40.0202 acre tract described in the deed to
8 James R. Fogarty and Cheryl L. Fogarty by an instrument of record in
9 Document Number 2018005474 of the Official Public Records of
10 Montgomery County, Texas (M.C.O.P.R.), a portion of a called
11 103.1967 acre tract described in the deed to MA Goodson
12 Enterprises, Inc, by an instrument of record in File Number 9401044
13 of the Official Public Records of Real Property of Montgomery
14 County, Texas (M.C.O.P.R.R.P.), a portion of a called 62.5930 acre
15 tract described in the deed to MA Goodson Enterprises, Inc by an
16 instrument of record in File Number 9401047, M.C.O.P.R.R.P., a
17 portion of a called 20 acre tract described in the deed to James R.
18 Fogarty by an instrument of record in File Number 2005-085111,
19 M.C.O.P.R.R.P., all of the remainder of a called 29.881 acre tract
20 described in the deed to James R. Fogarty and Cheryl L. Fogarty by
21 an instrument of record in Document Number 9401042, M.C.O.P.R., all
22 of a called 40.074 acre tract described in the deed to James R.
23 Fogarty by an instrument of record in File Number 2007-035819,
24 M.C.O.P.R.R.P., all a called 16.706 acre tract described in the
25 deed to Seung Teak Yoo and Sood Hee Yoo by an instrument of record in
26 File Number 2007-081356, M.C.O.P.R.R.P., and all of the remainder
27 of a called 61.39 acre tract described in the deed to Christine

1 Lewis-Lyman by an instrument of record in File Number 2000-063284,
2 M.C.O.P.R.R.P., said 310.3 acre tract being more particularly
3 described by metes and bounds as follows (Bearings based on said
4 40.0202 acre tract);

5 BEGINNING at the northeast corner of said 29.881-acre tract;

6 Thence, along the east line of said 29.881-acre tract the following
7 two (2) courses:

8 1. South $01^{\circ} 07' 23''$ East, 111.60 feet to a point for corner;

9 2. South $00^{\circ} 02' 23''$ East, 1,418.50 feet to the northeast
10 corner of a called 2.003-acre tract described in the deed to James
11 R. Fogarty and Senie Paulette Fogarty by an instrument of record in
12 File Number 9721964, M.C.O.P.R.R.P.;

13 Thence, along the north and west line of said 2.003-acre tract the
14 following three (3) courses:

15 1. South $89^{\circ} 53' 52''$ West, 310.90 feet to a point for corner;

16 2. South $33^{\circ} 32' 08''$ East, 263.98 feet to a point for corner;

17 3. South $16^{\circ} 14' 02''$ West, 185.49 feet to the southwest
18 corner of said 2.003 acre tract, same being on the north line of a
19 called 52.8273 acre tract described in the deed to John W. Caveness
20 and Connie M. Caveness by an instrument of record in File Number
21 2000-096833, M.C.O.P.R.R.P.;

22 Thence, along the north and west lines of said 52.8273-acre tract
23 the following two (2) courses:

24 1. North $88^{\circ} 13' 49''$ West, 460.67 feet to a point for corner
25 on the east line of the aforementioned 103.1967-acre tract;

26 2. South $00^{\circ} 07' 22''$ East, along the east line of said
27 103.1967-acre tract, 854.94 feet the northeast corner of the

1 aforementioned 40.0202-acre tract;

2 Thence, along the north, and east line of said 40.0202-acre tract
3 the following eight (8) courses:

4 1. North 89° 59' 04" East, 616.71 feet to a point for corner;

5 2. North 00° 11' 41" West, 203.03 feet to a point for corner;

6 3. North 89° 59' 04" East, 59.61 feet to a point for corner;

7 4. South 00° 02' 44" East, 100.03 feet to a point for corner;

8 5. North 88° 12' 49" West, 1.00 feet to a point for corner;

9 6. South 00° 11' 41" East, 500.34 feet to a point for corner;

10 7. South 00° 16' 14" East, 1,185.29 feet to a point for
11 corner;

12 8. South 00° 45' 09" West, 228.66 feet to a point for corner;

13 Thence, South 66° 54' 29" West, departing the east line of said
14 40.0202 acre tract and across said 40.0202 acre tract, the
15 aforementioned 103.1967 acre tract, the aforementioned 62.5930
16 acre tract, and the aforementioned 20 acre tract, 3,145.13 feet to a
17 point for corner on the west line of said 20 acre tract;

18 Thence, North 00° 10' 05" West, along the west line of said 20-acre
19 tract, 830.64 feet to the northwest corner of said 20 acre tract,
20 same being on the west line of the aforementioned 61.39 acre tract;

21 Thence, along the west line of said 61.39-acre tract the following
22 two (2) courses:

23 1. North 00° 10' 05" West, 1,764.87 feet to a point for
24 corner;

25 2. North 02° 02' 55" East, 942.94 feet to the northwest
26 corner of said 61.39-acre tract, same being the southwest corner of
27 the aforementioned 16.706-acre tract;

1 Thence, along the west and north lines of said 16.706-acre tract the
2 following eight (8) courses:

- 3 1. North 00° 44' 18" East, 643.03 feet to a point for corner;
- 4 2. South 89° 51' 13" East, 99.90 feet to a point for corner;
- 5 3. North 00° 44' 18" East, 146.55 feet to a point for corner;
- 6 4. South 88° 53' 29" West, 350.80 feet to a point for corner;
- 7 5. North 00° 37' 44" East, 60.02 feet to a point for corner;
- 8 6. North 88° 53' 29" East, 250.97 feet to a point for corner;
- 9 7. North 00° 44' 18" East, 285.92 feet to a point for corner;
- 10 8. South 88° 57' 25" East, 641.64 feet to the northeast
11 corner of said 16.706-acre tract, same being on the west line of the
12 aforementioned 40.074-acre tract;

13 Thence, along the west and north lines of said 40.074-acre tract the
14 following three (3) courses:

- 15 1. North 00° 44' 18" East, 1,133.33 feet to a point for
16 corner;
- 17 2. North 89° 51' 31" East, 38.98 feet to a point for corner;
- 18 3. North 89° 56' 48" East, 722.00 feet to the northeast
19 corner of said 40.074-acre tract, same being the northwest corner
20 of the aforementioned 103.1967-acre tract;

21 Thence, along the north line of said 103.1967-acre tract, the
22 following two (2) courses:

- 23 1. North 89° 16' 55" East, 215.01 feet to a point for corner;
- 24 2. North 89° 27' 57" East, 535.44 feet to the northeast
25 corner of said 103.1967-acre tract, same being the northwest corner
26 of the aforementioned 29.881-acre tract;

27 Thence, along the north line of said 29.881-acre tract the

1 following two (2) courses:

- 2 1. North 89° 27' 57" East, 200.34 feet to a point for corner;
- 3 2. North 88° 40' 09" East, 478.07 feet to the POINT OF
- 4 BEGINNING and containing 310.3 acres of land.

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

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

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

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

23 SECTION 4. (a) If this Act does not receive a two-thirds
24 vote of all the members elected to each house, Subchapter C, Chapter
25 8499, Special District Local Laws Code, as added by Section 1 of
26 this Act, is amended by adding Section 8499.0307 to read as follows:

27 Sec. 8499.0307. NO EMINENT DOMAIN POWER. The district may

1 not exercise the power of eminent domain.

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

5 SECTION 5. This Act takes effect September 1, 2021.