

By: Metcalf

H.B. No. 5316

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the creation of the Montgomery County Municipal Utility
3 District No. 235; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 8016 to read as follows:

9 CHAPTER 8016. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 235

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8016.0101. DEFINITIONS. In this chapter:

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

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Montgomery County Municipal
17 Utility District No. 235.

18 Sec. 8016.0102. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8016.0103. CONFIRMATION AND DIRECTORS' ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 8016.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8016.0103 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. 8016.0105. 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. 8016.0106. 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. 8016.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8016.0202, directors
6 serve staggered four-year terms.

7 Sec. 8016.0202. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Natalie Simmons;

10 (2) Page Barnes;

11 (3) Sally Miller;

12 (4) Kenneth Sessum Sr.; and

13 (5) David Thomas.

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

15 (1) the date permanent directors are elected under
16 Section 8016.0103; 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 8016.0103 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 8016.0103; 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. 8016.0301. GENERAL POWERS AND DUTIES. The district
10 has the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8016.0302. 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. 8016.0303. 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. 8016.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road 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. 8016.0305. COMPLIANCE WITH MUNICIPAL CONSENT
10 ORDINANCE OR RESOLUTION. The district shall comply with all
11 applicable requirements of any ordinance or resolution that is
12 adopted under Section 54.016 or 54.0165, Water Code, and that
13 consents to the creation of the district or to the inclusion of land
14 in the district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8016.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
17 The 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 8016.0403.

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

1 election held for that purpose.

2 Sec. 8016.0402. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8016.0401, the
4 district may impose an operation and maintenance tax on taxable
5 property in the district in accordance with Section 49.107, Water
6 Code.

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

9 Sec. 8016.0403. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8016.0501. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8016.0502. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8016.0503. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Montgomery County Municipal Utility District
10 No. 235 initially includes all the territory contained in the
11 following area:

12 Being a 149.1 acre tract of land located in the B.F. Winters
13 Survey, Abstract No. 621 and the Matthew Morris Survey, Abstract
14 No. 338 in Montgomery County, Texas; said 149.1 acre tract being a
15 portion of a called 160.99 acre tract recorded in the name of Conroe
16 1484, LLC under Clerk's File (C.F.) No. 2022150104 of the Official
17 Public Records of Montgomery County (O.P.R.M.C.); said 149.1 acre
18 tract being more particularly described by metes and bounds as
19 follows (all bearings are referenced to the Texas Coordinate
20 System, North American Datum of 1983 (NAD83), Central Zone):

21 BEGINNING at a 5/8-inch iron rod with cap stamped "COSTELLO
22 INC" found at the north corner of said 160.99 acre tract, the east
23 corner of a called 5.47 acre tract recorded in the name of Asim and
24 Faisal Shahzad under C.F. No. 2012082132 of the O.P.R.M.C., being
25 on the southerly right-of-way (R.O.W.) line of F.M. 1484 (80-feet
26 wide per Volume (Vol.) 344, Page 152 of the Montgomery County Deed
27 Records (M.C.D.R.);

1 Thence, with the southerly R.O.W. line of said FM 1484 the
2 following five (5) courses:

3 1. 866.55 feet along the arc of a curve to the right, said
4 curve having a central angle of 54 degrees 15 minutes 26 seconds, a
5 radius of 915.08 feet and a chord that bears South 74 degrees 20
6 minutes 01 seconds East, a distance of 834.54 feet to a 5/8-inch
7 iron rod with cap stamped "COSTELLO INC" found;

8 2. South 47 degrees 12 minutes 18 seconds East, a distance
9 of 236.50 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
10 INC" found;

11 3. 354.05 feet along the arc of a curve to the right, said
12 curve having a central angle of 22 degrees 10 minutes 00 seconds, a
13 radius of 915.13 feet and a chord that bears South 36 degrees 07
14 minutes 18 seconds East, a distance of 351.84 feet to a 5/8-inch
15 iron rod with cap stamped "COSTELLO INC" found;

16 4. South 25 degrees 02 minutes 18 seconds East, a distance
17 of 236.30 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
18 INC" found;

19 5. 329.69 feet along the arc of a curve to the left, said
20 curve having a central angle of 18 degrees 59 minutes 07 seconds, a
21 radius of 994.97 feet and a chord that bears South 34 degrees 31
22 minutes 52 seconds East, a distance of 328.19 feet to a 5/8-inch
23 iron rod with cap stamped "COSTELLO INC" found for the northeast
24 corner of said 160.99 acre tract and the north corner of Valley
25 Oaks, Section One, a subdivision recorded in Cabinet Q, Sheet 109 of
26 the Montgomery County Plat Records;

27 6. Thence, with the common line of said 160.99 acre tract

1 and said Valley Oaks, Section One, South 41 degrees 29 minutes 36
2 seconds West, a distance of 639.24 feet to a 5/8-inch iron rod with
3 cap stamped "COSTELLO INC" found;

4 7. Thence, with the northwest lines of said Valley Oaks,
5 Section One and Valley Oaks, Section Two, an unrecorded
6 subdivision, and the southeast line of said 160.99 acre tract,
7 South 41 degrees 48 minutes 36 seconds West, a distance of 1,727.21
8 feet to a 5/8-inch capped iron rod stamped "COSTELLO INC" found for
9 the south corner of said 160.99 acre tract;

10 8. Thence, with a southwest line of said 160.99 acre tract,
11 North 47 degrees 56 minutes 11 seconds West, a distance of 339.76
12 feet to a 3/4-inch iron rod found at an interior corner of said
13 160.99 acre tract;

14 9. Thence, with an interior line of said 160.99 acre tract,
15 South 44 degrees 15 minutes 23 seconds West, at a distance of 382.76
16 feet pass a 3/4-inch iron rod found for reference, continue in all a
17 distance of 470.14 feet to the southeast corner of said 160.99 acre
18 tract, same being on the centerline of Caney Creek;

19 Thence, with the meanders of the centerline of Caney Creek
20 the following twenty-one (22) courses:

21 10. North 59 degrees 33 minutes 18 seconds West, a distance
22 of 174.86 feet;

23 11. South 80 degrees 55 minutes 47 seconds West, a distance
24 of 200.00 feet;

25 12. South 47 degrees 51 minutes 27 seconds West, a distance
26 of 227.00 feet;

27 13. North 52 degrees 25 minutes 33 seconds West, a distance

- 1 of 100.00 feet;
- 2 14. North 03 degrees 50 minutes 27 seconds East, a distance
3 of 185.00 feet;
- 4 15. North 43 degrees 01 minutes 33 seconds West, a distance
5 of 120.00 feet;
- 6 16. North 65 degrees 42 minutes 33 seconds West, a distance
7 of 185.00 feet;
- 8 17. South 82 degrees 21 minutes 27 seconds West, a distance
9 of 100.00 feet;
- 10 18. South 23 degrees 41 minutes 27 seconds West, a distance
11 of 232.00 feet;
- 12 19. South 57 degrees 01 minutes 27 seconds West, a distance
13 of 112.00 feet;
- 14 20. North 71 degrees 50 minutes 33 seconds West, a distance
15 of 123.00 feet;
- 16 21. North 27 degrees 55 minutes 33 seconds West, a distance
17 of 138.00 feet;
- 18 22. North 03 degrees 57 minutes 27 seconds East, a distance
19 of 175.00 feet;
- 20 23. North 43 degrees 04 minutes 33 seconds West, a distance
21 of 238.00 feet;
- 22 24. North 77 degrees 35 minutes 33 seconds West, a distance
23 of 200.00 feet;
- 24 25. North 21 degrees 40 minutes 33 seconds West, a distance
25 of 80.00 feet;
- 26 26. North 49 degrees 35 minutes 27 seconds East, a distance
27 of 160.00 feet;

1 27. North 31 degrees 31 minutes 33 seconds West, a distance
2 of 134.00 feet;

3 28. South 83 degrees 26 minutes 27 seconds West, a distance
4 of 232.00 feet;

5 29. South 51 degrees 32 minutes 27 seconds West, a distance
6 of 174.30 feet;

7 30. North 25 degrees 41 minutes 33 seconds West, a distance
8 of 290.50 feet;

9 31. North 07 degrees 58 minutes 15 seconds West, a distance
10 of 97.30 feet to the southeast R.O.W. line of said FM 1484 (width
11 varies per Vol. 344, Pg. 144 and Vol. 344, Pg. 147 of the M.C.D.R.,
12 and C.F. No. 9325884 and 9325885 of the O.P.R.M.C.);

13 Thence, with the southeast R.O.W. line of said FM 1484 the
14 following two (2) courses:

15 32. North 64 degrees 28 minutes 00 seconds East, a distance
16 of 450.50 feet to a 5/8-inch iron rod with cap stamped "COSTELLO
17 INC" found;

18 33. 232.59 feet along the arc of a curve to the left, said
19 curve having a central angle of 12 degrees 45 minutes 13 seconds, a
20 radius of 1,044.93 feet and a chord that bears North 55 degrees 28
21 minutes 49 seconds East, a distance of 232.11 feet;

22 34. Thence, through said 160.99 acre tract, South 49 degrees
23 35 minutes 33 seconds East, a distance of 575.87 feet;

24 35. Thence, continuing through said 160.99 acre tract,
25 North 41 degrees 55 minutes 01 seconds East, at a distance of 801.87
26 feet pass the south corner of a called 5.255 acre tract recorded in
27 the name of Michael Chardwick Et Ux. under C.F. No. 81-03320 of the

1 O.P.R.M.C., at a distance of 1,095.65 feet pass the south corner of
2 a called 3.5567 acre tract recorded in the name of David Hernandez
3 under C.F. No. 2002102847 of the O.P.R.M.C, at a distance of
4 1,295.06 feet pass a 1/2-inch iron rod found at the south corner of
5 a called 4.35 acre tract recorded in the name of Andrew S. Gordon
6 and Jessica Faye Taylor under C.F. No. 2020045361 of the
7 O.P.R.M.C., at a distance of 1,751.38 feet pass a 3/4-inch iron rod
8 found at the south corner of aforesaid 5.47 acre tract, continue in
9 all a distance of 2,664.84 feet to the Point of Beginning and
10 containing 149.1 acres of land.

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

18 (b) The governor, one of the required recipients, has
19 submitted the notice and Act to the Texas Commission on
20 Environmental Quality.

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

25 (d) All requirements of the constitution and laws of this
26 state and the rules and procedures of the legislature with respect
27 to the notice, introduction, and passage of this Act are fulfilled

1 and accomplished.

2 SECTION 4. (a) If this Act does not receive a two-thirds
3 vote of all the members elected to each house, Subchapter C, Chapter
4 8016, Special District Local Laws Code, as added by Section 1 of
5 this Act, is amended by adding Section 8016.0306 to read as follows:

6 Sec. 8016.0306. NO EMINENT DOMAIN POWER. The district may
7 not exercise the power of eminent domain.

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

11 SECTION 5. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2023.