

By: Metcalf

H.B. No. 5318

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Water Control and Improvement District No. 6; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9058 to read as follows:

CHAPTER 9058. MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 6

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9058.0101. 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 Water Control and Improvement District No. 6.

Sec. 9058.0102. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9058.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 9058.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 9058.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 9058.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

11 (1) a water control and improvement district as
12 provided by general law and Section 59, Article XVI, Texas
13 Constitution, including the collection, transportation,
14 processing, disposal, and control of domestic, industrial, or
15 communal waste and the gathering, conducting, diverting, and
16 control of local stormwater or other harmful excesses of water; and

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

21 Sec. 9058.0106. INITIAL DISTRICT TERRITORY. (a) The
22 district is initially composed of the territory described by
23 Section 2 of the Act enacting this chapter.

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

1 (1) organization, existence, or validity;

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

5 (3) right to impose a tax; or

6 (4) legality or operation.

7 SUBCHAPTER B. BOARD OF DIRECTORS

8 Sec. 9058.0201. GOVERNING BODY; TERMS. (a) The district is
9 governed by a board of five elected directors.

10 (b) Except as provided by Section 9058.0202, directors
11 serve staggered four-year terms.

12 Sec. 9058.0202. TEMPORARY DIRECTORS. (a) On or after the
13 effective date of the Act enacting this chapter, the owner or owners
14 of a majority of the assessed value of the real property in the
15 district may submit a petition to the commission requesting that
16 the commission appoint as temporary directors the five persons
17 named in the petition. The commission shall appoint as temporary
18 directors the five persons named in the petition.

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

20 (1) the date permanent directors are elected under
21 Section 9058.0103; or

22 (2) the fourth anniversary of the effective date of
23 the Act enacting this chapter.

24 (c) If permanent directors have not been elected under
25 Section 9058.0103 and the terms of the temporary directors have
26 expired, successor temporary directors shall be appointed or
27 reappointed as provided by Subsection (d) to serve terms that

1 expire on the earlier of:

2 (1) the date permanent directors are elected under
3 Section 9058.0103; or

4 (2) the fourth anniversary of the date of the
5 appointment or reappointment.

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

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 9058.0301. GENERAL POWERS AND DUTIES. The district
15 has the powers and duties necessary to accomplish the purposes for
16 which the district is created.

17 Sec. 9058.0302. WATER CONTROL AND IMPROVEMENT DISTRICT
18 POWERS AND DUTIES. The district has the powers and duties provided
19 by the general law of this state, including Chapters 49 and 51,
20 Water Code, applicable to water control and improvement districts
21 created under Section 59, Article XVI, Texas Constitution, and
22 specifically including the powers and duties authorized under
23 Subchapter H, Chapter 51, Water Code.

24 Sec. 9058.0303. 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. 9058.0304. 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. 9058.0305. 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 42.042 or 42.0425, Local Government Code, and
20 consents to the creation of the district or to the inclusion of land
21 in the district.

22 Sec. 9058.0306. LIMITATION ON USE OF EMINENT DOMAIN. The
23 district may not exercise the power of eminent domain outside the
24 district boundaries to acquire a site or easement for:

25 (1) a recreational facility, as defined by Section
26 49.462, Water Code; or

27 (2) a road project authorized by Section 9058.0303.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9058.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

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

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 9058.0403.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

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

Sec. 9058.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9058.0401, 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. 9058.0403. 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.

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

4 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

5 Sec. 9058.0501. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, contract payments, grants, or other district money, or any
9 combination of those sources, to pay for any authorized district
10 purpose.

11 Sec. 9058.0502. TAXES FOR BONDS. At the time the district
12 issues bonds payable wholly or partly from ad valorem taxes, the
13 board shall provide for the annual imposition of a continuing
14 direct ad valorem tax, without limit as to rate or amount, while all
15 or part of the bonds are outstanding as required and in the manner
16 provided by Chapter 51, Water Code.

17 Sec. 9058.0503. BONDS FOR ROAD PROJECTS. At the time of
18 issuance, the total principal amount of bonds or other obligations
19 issued or incurred to finance road projects and payable from ad
20 valorem taxes may not exceed one-fourth of the assessed value of the
21 real property in the district.

22 Sec. 9058.0504. BONDS FOR RECREATIONAL FACILITIES. (a)
23 The district may develop recreational facilities and issue bonds
24 for recreational facilities as provided by Chapter 49, Water Code,
25 regardless of whether the district's territory overlaps with the
26 territory of a political subdivision that is authorized to develop
27 recreational facilities and issue bonds for recreational

1 facilities under Chapter 49, Water Code.

2 (b) The authority of the district to develop recreational
3 facilities and issue bonds for recreational facilities under this
4 section does not limit the authority of another political
5 subdivision whose territory the territory of the district may
6 overlap, wholly or partly, to develop recreational facilities and
7 issue bonds for recreational facilities under Chapter 49, Water
8 Code.

9 SECTION 2. The Montgomery County Water Control and
10 Improvement District No. 6 initially includes all the territory
11 contained in the following area:

12 Being 299 acres of land, more or less, located in the Raleigh
13 Rogers Survey, Abstract 33, Montgomery County, Texas, out of land
14 conveyed to Homeplace Lands, LLC, as recorded under Clerk's File
15 No. 2012125424 of the Official Public Records of Real Property,
16 Montgomery County, Texas, (O.P.R.M.C.), being comprised of two (2)
17 tracts as described below; said 299 acres, more or less, being more
18 particularly described as follows, with all bearings referenced to
19 the Texas Coordinate System, Central Zone, NAD83 (NA2011) Epoch
20 2010.00:

21 TRACT 1: 105 Acres

22 BEGINNING at the northeast corner of the herein described
23 tract, lying in a southwesterly line of the BN & SF Railroad
24 right-of-way, from which the northwest corner of a 216.521 acre
25 tract, as defined under Clerk's File No. 2012125424 of the
26 O.P.R.M.C., also being the southwest corner of land conveyed to
27 Douglas B. & Carolyn Lee as recorded under Clerk's File

1 No. 2014125321 of the O.P.R.M.C., bears NORTH 86 degrees 42 minutes
2 33 seconds EAST, 2,038.61 feet;

3 THENCE SOUTHEASTERLY with and adjoining said southwesterly
4 line of said BN & SF Railroad right-of-way line approximately 2,789
5 feet, more or less, to the southeast corner of the hereon described
6 tract, lying in a northerly line of land as described in a warranty
7 deed to Earle T. McCants and Edward W. McCants as recorded under
8 Clerk's File No. 99002183 of the Official Public Records of Real
9 Property Montgomery County, Texas (O.P.R.R.P.M.C.);

10 THENCE WESTERLY approximately 3,351 feet, more or less, with
11 and adjoining a northerly line of said Earle T. McCants and Edward
12 W. McCants tract to the southwest corner of the herein described
13 tract, also being a northerly interior corner of said McCants
14 tract;

15 THENCE NORTHERLY at approximately 918.7 feet, passing a
16 northerly corner of said Earle T. McCants and Edward W. McCants
17 tract, and continuing a total distance of 1,989 feet, more or less,
18 to the northwest corner of the herein described tract;

19 THENCE EASTERLY approximately 1,425 feet, more or less, to
20 the POINT OF BEGINNING, and containing approximately 105 acres of
21 land. This document was prepared under 22 Texas Administrative Code
22 §138.95, does not reflect the results of an on the ground survey,
23 and is not to be used to convey or establish interests in real
24 property except those rights and interests implied or established
25 by the creation or reconfiguration of the boundary of the political
26 subdivision for which it was prepared.

27 TRACT 2:194 Acres

1 BEGINNING at a southeast corner of a tract, conveyed to David
2 L. and Cathy L. Messecar, as recorded under Clerk's File
3 No. 9626214 of the Official Public Records of Real Property
4 Montgomery County, Texas (O.P.R.R.P.M.C.), also being the
5 southwest corner of an 18.984 acre tract as described under Clerk's
6 File No. 2012125424 of the Official Public Records Montgomery
7 County, Texas (O.P.R.M.C.), lying in the westerly right-of-way line
8 of F.M. 2854;

9 THENCE SOUTH 52 degrees 53 minutes 12 seconds EAST,
10 approximately 353 feet, more or less, to an easterly corner of the
11 herein described tract, lying in a northwesterly line of a 2.9785
12 acre tract as defined under Clerk's File No. 2018005218 of the
13 O.P.R.M.C.;

14 THENCE SOUTHWESTERLY approximately 699 feet, more or less,
15 with and adjoining said northwesterly line of the 2.9785 acre
16 tract, to a point of curvature and easterly corner of the herein
17 described tract;

18 THENCE SOUTHERLY approximately 448 feet, more or less, along
19 a curve to the left, with and adjoining said northwesterly line of
20 the 2.9785 acre tract;

21 THENCE SOUTHEASTERLY approximately 154 feet, more or less,
22 with and adjoining said northwesterly line of the 2.9785 acre
23 tract, and a northerly line of a 123.962 acre tract as recorded
24 under Clerk's File No. 2009-017518 of the O.P.R.M.C., to the
25 centerline meanders of a tributary ditch of MOUND CREEK, also being
26 a northerly corner of said 123.962 acre tract and an easterly corner
27 of the herein described tract;

1 THENCE SOUTHWESTERLY approximately 2,392 feet, more or less,
2 with and adjoining the northerly line of said 123.962 acre tract and
3 the centerline meanders of a tributary ditch of MOUND CREEK, to a
4 southerly corner of the herein described tract;

5 THENCE SOUTHERLY approximately 571 feet, more or less, with
6 and adjoining a westerly line of said 123.962 acre tract, to a
7 southerly corner of the herein described tract, also being the
8 northeast corner of a 3.50 acre tract as defined under Clerk's File
9 No. 214046987 of the O.P.R.M.C.;

10 THENCE WESTERLY approximately 342 feet, more or less, with
11 and adjoining the north line of said 3.50 acre tract, to a southerly
12 corner of the herein defined tract;

13 THENCE SOUTHWESTERLY approximately 247 feet, more or less,
14 with and adjoining a westerly line of said 3.50 acre tract, to a
15 southerly of the herein defined tract, lying in a northeasterly
16 line of the BN & SF Railroad right-of-way;

17 THENCE NORTHWESTERLY approximately 4,144 feet, more or less,
18 with and adjoining said northeasterly line of the BN & SF Railroad
19 right-of-way, to the northwest corner of the herein described
20 tract;

21 THENCE NORTH 86 degrees 42 minutes 33 seconds EAST,
22 approximately 1,908 feet, more or less, to the northwest corner of a
23 216.521 acre tract, as defined under Clerk's File No. 2012125424 of
24 the O.P.R.M.C., also being the southwest corner of land conveyed to
25 Douglas B. & Carolyn Lee as recorded under Clerk's File
26 No. 2014125321 of the O.P.R.M.C., and being a northerly corner of
27 the herein described tract;

1 THENCE EASTERLY approximately 3,227 feet, more or less, with
2 and adjoining the southerly line of said Douglas B. & Carolyn Lee
3 tract and a southerly line of said David L. and Cathy L. Messecar
4 tract, to the POINT OF BEGINNING, and containing approximately 194
5 acres. This document was prepared under 22 Texas Administrative
6 Code §138.95, does not reflect the results of an on the ground
7 survey, and is not to be used to convey or establish interests in
8 real property except those rights and interests implied or
9 established by the creation or reconfiguration of the boundary of
10 the political subdivision for which it was prepared.

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) Section 9058.0306, Special District Local
3 Laws Code, as added by Section 1 of this Act, takes effect only if
4 this Act receives a two-thirds vote of all the members elected to
5 each house.

6 (b) If this Act does not receive a two-thirds vote of all the
7 members elected to each house, Subchapter C, Chapter 9058, Special
8 District Local Laws Code, as added by Section 1 of this Act, is
9 amended by adding Section 9058.0306 to read as follows:

10 Sec. 9058.0306. NO EMINENT DOMAIN POWER. The district may
11 not exercise the power of eminent domain.

12 (c) This section is not intended to be an expression of a
13 legislative interpretation of the requirements of Section 17(c),
14 Article I, Texas Constitution.

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