

1-1 By: Metcalf (Senate Sponsor - Kolkhorst) H.B. No. 5318
 1-2 (In the Senate - Received from the House May 3, 2023;
 1-3 May 4, 2023, read first time and referred to Committee on Local
 1-4 Government; May 15, 2023, reported favorably by the following
 1-5 vote: Yeas 7, Nays 0; May 15, 2023, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7				
1-8	X			
1-9	X			
1-10			X	
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of the Montgomery County Water Control and
 1-20 Improvement District No. 6; granting a limited power of eminent
 1-21 domain; providing authority to issue bonds; providing authority to
 1-22 impose assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle I, Title 6, Special District Local Laws
 1-25 Code, is amended by adding Chapter 9058 to read as follows:

1-26 CHAPTER 9058. MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT
 1-27 DISTRICT NO. 6

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 9058.0101. DEFINITIONS. In this chapter:

1-30 (1) "Board" means the district's board of directors.

1-31 (2) "Commission" means the Texas Commission on
 1-32 Environmental Quality.

1-33 (3) "Director" means a board member.

1-34 (4) "District" means the Montgomery County Water
 1-35 Control and Improvement District No. 6.

1-36 Sec. 9058.0102. NATURE OF DISTRICT. The district is a water
 1-37 control and improvement district created under Section 59, Article
 1-38 XVI, Texas Constitution.

1-39 Sec. 9058.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-40 REQUIRED. The temporary directors shall hold an election to
 1-41 confirm the creation of the district and to elect five permanent
 1-42 directors as provided by Section 49.102, Water Code.

1-43 Sec. 9058.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-44 temporary directors may not hold an election under Section
 1-45 9058.0103 until each municipality in whose corporate limits or
 1-46 extraterritorial jurisdiction the district is located has
 1-47 consented by ordinance or resolution to the creation of the
 1-48 district and to the inclusion of land in the district.

1-49 Sec. 9058.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.
 1-50 (a) The district is created to serve a public purpose and benefit.

1-51 (b) The district is created to accomplish the purposes of:

1-52 (1) a water control and improvement district as
 1-53 provided by general law and Section 59, Article XVI, Texas
 1-54 Constitution, including the collection, transportation,
 1-55 processing, disposal, and control of domestic, industrial, or
 1-56 communal waste and the gathering, conducting, diverting, and
 1-57 control of local stormwater or other harmful excesses of water; and

1-58 (2) Section 52, Article III, Texas Constitution, that
 1-59 relate to the construction, acquisition, improvement, operation,
 1-60 or maintenance of macadamized, graveled, or paved roads, or
 1-61 improvements, including storm drainage, in aid of those roads.

2-1 Sec. 9058.0106. INITIAL DISTRICT TERRITORY. (a) The
 2-2 district is initially composed of the territory described by
 2-3 Section 2 of the Act enacting this chapter.

2-4 (b) The boundaries and field notes contained in Section 2 of
 2-5 the Act enacting this chapter form a closure. A mistake made in the
 2-6 field notes or in copying the field notes in the legislative process
 2-7 does not affect the district's:

2-8 (1) organization, existence, or validity;

2-9 (2) right to issue any type of bond for the purposes
 2-10 for which the district is created or to pay the principal of and
 2-11 interest on a bond;

2-12 (3) right to impose a tax; or

2-13 (4) legality or operation.

2-14 SUBCHAPTER B. BOARD OF DIRECTORS

2-15 Sec. 9058.0201. GOVERNING BODY; TERMS. (a) The district is
 2-16 governed by a board of five elected directors.

2-17 (b) Except as provided by Section 9058.0202, directors
 2-18 serve staggered four-year terms.

2-19 Sec. 9058.0202. TEMPORARY DIRECTORS. (a) On or after the
 2-20 effective date of the Act enacting this chapter, the owner or owners
 2-21 of a majority of the assessed value of the real property in the
 2-22 district may submit a petition to the commission requesting that
 2-23 the commission appoint as temporary directors the five persons
 2-24 named in the petition. The commission shall appoint as temporary
 2-25 directors the five persons named in the petition.

2-26 (b) Temporary directors serve until the earlier of:

2-27 (1) the date permanent directors are elected under
 2-28 Section 9058.0103; or

2-29 (2) the fourth anniversary of the effective date of
 2-30 the Act enacting this chapter.

2-31 (c) If permanent directors have not been elected under
 2-32 Section 9058.0103 and the terms of the temporary directors have
 2-33 expired, successor temporary directors shall be appointed or
 2-34 reappointed as provided by Subsection (d) to serve terms that
 2-35 expire on the earlier of:

2-36 (1) the date permanent directors are elected under
 2-37 Section 9058.0103; or

2-38 (2) the fourth anniversary of the date of the
 2-39 appointment or reappointment.

2-40 (d) If Subsection (c) applies, the owner or owners of a
 2-41 majority of the assessed value of the real property in the district
 2-42 may submit a petition to the commission requesting that the
 2-43 commission appoint as successor temporary directors the five
 2-44 persons named in the petition. The commission shall appoint as
 2-45 successor temporary directors the five persons named in the
 2-46 petition.

2-47 SUBCHAPTER C. POWERS AND DUTIES

2-48 Sec. 9058.0301. GENERAL POWERS AND DUTIES. The district
 2-49 has the powers and duties necessary to accomplish the purposes for
 2-50 which the district is created.

2-51 Sec. 9058.0302. WATER CONTROL AND IMPROVEMENT DISTRICT
 2-52 POWERS AND DUTIES. The district has the powers and duties provided
 2-53 by the general law of this state, including Chapters 49 and 51,
 2-54 Water Code, applicable to water control and improvement districts
 2-55 created under Section 59, Article XVI, Texas Constitution, and
 2-56 specifically including the powers and duties authorized under
 2-57 Subchapter H, Chapter 51, Water Code.

2-58 Sec. 9058.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
 2-59 52, Article III, Texas Constitution, the district may design,
 2-60 acquire, construct, finance, issue bonds for, improve, operate,
 2-61 maintain, and convey to this state, a county, or a municipality for
 2-62 operation and maintenance macadamized, graveled, or paved roads, or
 2-63 improvements, including storm drainage, in aid of those roads.

2-64 Sec. 9058.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
 2-65 road project must meet all applicable construction standards,
 2-66 zoning and subdivision requirements, and regulations of each
 2-67 municipality in whose corporate limits or extraterritorial
 2-68 jurisdiction the road project is located.

2-69 (b) If a road project is not located in the corporate limits

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

3-5 (c) If the state will maintain and operate the road, the
3-6 Texas Transportation Commission must approve the plans and
3-7 specifications of the road project.

3-8 Sec. 9058.0305. COMPLIANCE WITH MUNICIPAL CONSENT
3-9 ORDINANCE OR RESOLUTION. The district shall comply with all
3-10 applicable requirements of any ordinance or resolution that is
3-11 adopted under Section 42.042 or 42.0425, Local Government Code, and
3-12 consents to the creation of the district or to the inclusion of land
3-13 in the district.

3-14 Sec. 9058.0306. LIMITATION ON USE OF EMINENT DOMAIN. The
3-15 district may not exercise the power of eminent domain outside the
3-16 district boundaries to acquire a site or easement for:

3-17 (1) a recreational facility, as defined by Section
3-18 49.462, Water Code; or

3-19 (2) a road project authorized by Section 9058.0303.

3-20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-21 Sec. 9058.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
3-22 The district may issue, without an election, bonds and other
3-23 obligations secured by:

3-24 (1) revenue other than ad valorem taxes; or

3-25 (2) contract payments described by Section 9058.0403.

3-26 (b) The district must hold an election in the manner
3-27 provided by Chapters 49 and 51, Water Code, to obtain voter approval
3-28 before the district may impose an ad valorem tax or issue bonds
3-29 payable from ad valorem taxes.

3-30 (c) The district may not issue bonds payable from ad valorem
3-31 taxes to finance a road project unless the issuance is approved by a
3-32 vote of a two-thirds majority of the district voters voting at an
3-33 election held for that purpose.

3-34 Sec. 9058.0402. OPERATION AND MAINTENANCE TAX. (a) If
3-35 authorized at an election held under Section 9058.0401, the
3-36 district may impose an operation and maintenance tax on taxable
3-37 property in the district in accordance with Section 49.107, Water
3-38 Code.

3-39 (b) The board shall determine the tax rate. The rate may not
3-40 exceed the rate approved at the election.

3-41 Sec. 9058.0403. CONTRACT TAXES. (a) In accordance with
3-42 Section 49.108, Water Code, the district may impose a tax other than
3-43 an operation and maintenance tax and use the revenue derived from
3-44 the tax to make payments under a contract after the provisions of
3-45 the contract have been approved by a majority of the district voters
3-46 voting at an election held for that purpose.

3-47 (b) A contract approved by the district voters may contain a
3-48 provision stating that the contract may be modified or amended by
3-49 the board without further voter approval.

3-50 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-51 Sec. 9058.0501. AUTHORITY TO ISSUE BONDS AND OTHER
3-52 OBLIGATIONS. The district may issue bonds or other obligations
3-53 payable wholly or partly from ad valorem taxes, impact fees,
3-54 revenue, contract payments, grants, or other district money, or any
3-55 combination of those sources, to pay for any authorized district
3-56 purpose.

3-57 Sec. 9058.0502. TAXES FOR BONDS. At the time the district
3-58 issues bonds payable wholly or partly from ad valorem taxes, the
3-59 board shall provide for the annual imposition of a continuing
3-60 direct ad valorem tax, without limit as to rate or amount, while all
3-61 or part of the bonds are outstanding as required and in the manner
3-62 provided by Chapter 51, Water Code.

3-63 Sec. 9058.0503. BONDS FOR ROAD PROJECTS. At the time of
3-64 issuance, the total principal amount of bonds or other obligations
3-65 issued or incurred to finance road projects and payable from ad
3-66 valorem taxes may not exceed one-fourth of the assessed value of the
3-67 real property in the district.

3-68 Sec. 9058.0504. BONDS FOR RECREATIONAL FACILITIES. (a)
3-69 The district may develop recreational facilities and issue bonds

4-1 for recreational facilities as provided by Chapter 49, Water Code,
4-2 regardless of whether the district's territory overlaps with the
4-3 territory of a political subdivision that is authorized to develop
4-4 recreational facilities and issue bonds for recreational
4-5 facilities under Chapter 49, Water Code.

4-6 (b) The authority of the district to develop recreational
4-7 facilities and issue bonds for recreational facilities under this
4-8 section does not limit the authority of another political
4-9 subdivision whose territory the territory of the district may
4-10 overlap, wholly or partly, to develop recreational facilities and
4-11 issue bonds for recreational facilities under Chapter 49, Water
4-12 Code.

4-13 SECTION 2. The Montgomery County Water Control and
4-14 Improvement District No. 6 initially includes all the territory
4-15 contained in the following area:

4-16 Being 299 acres of land, more or less, located in the Raleigh
4-17 Rogers Survey, Abstract 33, Montgomery County, Texas, out of land
4-18 conveyed to Homeplace Lands, LLC, as recorded under Clerk's File
4-19 No. 2012125424 of the Official Public Records of Real Property,
4-20 Montgomery County, Texas, (O.P.R.M.C.), being comprised of two (2)
4-21 tracts as described below; said 299 acres, more or less, being more
4-22 particularly described as follows, with all bearings referenced to
4-23 the Texas Coordinate System, Central Zone, NAD83 (NA2011) Epoch
4-24 2010.00:

4-25 TRACT 1: 105 Acres

4-26 BEGINNING at the northeast corner of the herein described
4-27 tract, lying in a southwesterly line of the BN & SF Railroad
4-28 right-of-way, from which the northwest corner of a 216.521 acre
4-29 tract, as defined under Clerk's File No. 2012125424 of the
4-30 O.P.R.M.C., also being the southwest corner of land conveyed to
4-31 Douglas B. & Carolyn Lee as recorded under Clerk's File
4-32 No. 2014125321 of the O.P.R.M.C., bears NORTH 86 degrees 42 minutes
4-33 33 seconds EAST, 2,038.61 feet;

4-34 THENCE SOUTHEASTERLY with and adjoining said southwesterly
4-35 line of said BN & SF Railroad right-of-way line approximately 2,789
4-36 feet, more or less, to the southeast corner of the hereon described
4-37 tract, lying in a northerly line of land as described in a warranty
4-38 deed to Earle T. McCants and Edward W. McCants as recorded under
4-39 Clerk's File No. 99002183 of the Official Public Records of Real
4-40 Property Montgomery County, Texas (O.P.R.R.P.M.C.);

4-41 THENCE WESTERLY approximately 3,351 feet, more or less, with
4-42 and adjoining a northerly line of said Earle T. McCants and Edward
4-43 W. McCants tract to the southwest corner of the herein described
4-44 tract, also being a northerly interior corner of said McCants
4-45 tract;

4-46 THENCE NORTHERLY at approximately 918.7 feet, passing a
4-47 northerly corner of said Earle T. McCants and Edward W. McCants
4-48 tract, and continuing a total distance of 1,989 feet, more or less,
4-49 to the northwest corner of the herein described tract;

4-50 THENCE EASTERLY approximately 1,425 feet, more or less, to
4-51 the POINT OF BEGINNING, and containing approximately 105 acres of
4-52 land. This document was prepared under 22 Texas Administrative Code
4-53 §138.95, does not reflect the results of an on the ground survey,
4-54 and is not to be used to convey or establish interests in real
4-55 property except those rights and interests implied or established
4-56 by the creation or reconfiguration of the boundary of the political
4-57 subdivision for which it was prepared.

4-58 TRACT 2:194 Acres

4-59 BEGINNING at a southeast corner of a tract, conveyed to David
4-60 L. and Cathy L. Messecar, as recorded under Clerk's File
4-61 No. 9626214 of the Official Public Records of Real Property
4-62 Montgomery County, Texas (O.P.R.R.P.M.C.), also being the
4-63 southwest corner of an 18.984 acre tract as described under Clerk's
4-64 File No. 2012125424 of the Official Public Records Montgomery
4-65 County, Texas (O.P.R.M.C.), lying in the westerly right-of-way line
4-66 of F.M. 2854;

4-67 THENCE SOUTH 52 degrees 53 minutes 12 seconds EAST,
4-68 approximately 353 feet, more or less, to an easterly corner of the
4-69 herein described tract, lying in a northwesterly line of a 2.9785

5-1 acre tract as defined under Clerk's File No. 2018005218 of the
5-2 O.P.R.M.C.;

5-3 THENCE SOUTHWESTERLY approximately 699 feet, more or less,
5-4 with and adjoining said northwesterly line of the 2.9785 acre
5-5 tract, to a point of curvature and easterly corner of the herein
5-6 described tract;

5-7 THENCE SOUTHERLY approximately 448 feet, more or less, along
5-8 a curve to the left, with and adjoining said northwesterly line of
5-9 the 2.9785 acre tract;

5-10 THENCE SOUTHEASTERLY approximately 154 feet, more or less,
5-11 with and adjoining said northwesterly line of the 2.9785 acre
5-12 tract, and a northerly line of a 123.962 acre tract as recorded
5-13 under Clerk's File No. 2009-017518 of the O.P.R.M.C., to the
5-14 centerline meanders of a tributary ditch of MOUND CREEK, also being
5-15 a northerly corner of said 123.962 acre tract and an easterly corner
5-16 of the herein described tract;

5-17 THENCE SOUTHWESTERLY approximately 2,392 feet, more or less,
5-18 with and adjoining the northerly line of said 123.962 acre tract and
5-19 the centerline meanders of a tributary ditch of MOUND CREEK, to a
5-20 southerly corner of the herein described tract;

5-21 THENCE SOUTHERLY approximately 571 feet, more or less, with
5-22 and adjoining a westerly line of said 123.962 acre tract, to a
5-23 southerly corner of the herein described tract, also being the
5-24 northeast corner of a 3.50 acre tract as defined under Clerk's File
5-25 No. 214046987 of the O.P.R.M.C.;

5-26 THENCE WESTERLY approximately 342 feet, more or less, with
5-27 and adjoining the north line of said 3.50 acre tract, to a southerly
5-28 corner of the herein defined tract;

5-29 THENCE SOUTHWESTERLY approximately 247 feet, more or less,
5-30 with and adjoining a westerly line of said 3.50 acre tract, to a
5-31 southerly of the herein defined tract, lying in a northeasterly
5-32 line of the BN & SF Railroad right-of-way;

5-33 THENCE NORTHWESTERLY approximately 4,144 feet, more or less,
5-34 with and adjoining said northeasterly line of the BN & SF Railroad
5-35 right-of-way, to the northwest corner of the herein described
5-36 tract;

5-37 THENCE NORTH 86 degrees 42 minutes 33 seconds EAST,
5-38 approximately 1,908 feet, more or less, to the northwest corner of a
5-39 216.521 acre tract, as defined under Clerk's File No. 2012125424 of
5-40 the O.P.R.M.C., also being the southwest corner of land conveyed to
5-41 Douglas B. & Carolyn Lee as recorded under Clerk's File
5-42 No. 2014125321 of the O.P.R.M.C., and being a northerly corner of
5-43 the herein described tract;

5-44 THENCE EASTERLY approximately 3,227 feet, more or less, with
5-45 and adjoining the southerly line of said Douglas B. & Carolyn Lee
5-46 tract and a southerly line of said David L. and Cathy L. Messecar
5-47 tract, to the POINT OF BEGINNING, and containing approximately 194
5-48 acres. This document was prepared under 22 Texas Administrative
5-49 Code §138.95, does not reflect the results of an on the ground
5-50 survey, and is not to be used to convey or establish interests in
5-51 real property except those rights and interests implied or
5-52 established by the creation or reconfiguration of the boundary of
5-53 the political subdivision for which it was prepared.

5-54 SECTION 3. (a) The legal notice of the intention to
5-55 introduce this Act, setting forth the general substance of this
5-56 Act, has been published as provided by law, and the notice and a
5-57 copy of this Act have been furnished to all persons, agencies,
5-58 officials, or entities to which they are required to be furnished
5-59 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-60 Government Code.

5-61 (b) The governor, one of the required recipients, has
5-62 submitted the notice and Act to the Texas Commission on
5-63 Environmental Quality.

5-64 (c) The Texas Commission on Environmental Quality has filed
5-65 its recommendations relating to this Act with the governor, the
5-66 lieutenant governor, and the speaker of the house of
5-67 representatives within the required time.

5-68 (d) All requirements of the constitution and laws of this
5-69 state and the rules and procedures of the legislature with respect

6-1 to the notice, introduction, and passage of this Act are fulfilled
6-2 and accomplished.

6-3 SECTION 4. (a) Section 9058.0306, Special District Local
6-4 Laws Code, as added by Section 1 of this Act, takes effect only if
6-5 this Act receives a two-thirds vote of all the members elected to
6-6 each house.

6-7 (b) If this Act does not receive a two-thirds vote of all the
6-8 members elected to each house, Subchapter C, Chapter 9058, Special
6-9 District Local Laws Code, as added by Section 1 of this Act, is
6-10 amended by adding Section 9058.0306 to read as follows:

6-11 Sec. 9058.0306. NO EMINENT DOMAIN POWER. The district may
6-12 not exercise the power of eminent domain.

6-13 (c) This section is not intended to be an expression of a
6-14 legislative interpretation of the requirements of Section 17(c),
6-15 Article I, Texas Constitution.

6-16 SECTION 5. This Act takes effect immediately if it receives
6-17 a vote of two-thirds of all the members elected to each house, as
6-18 provided by Section 39, Article III, Texas Constitution. If this
6-19 Act does not receive the vote necessary for immediate effect, this
6-20 Act takes effect September 1, 2023.

6-21

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