

By: Metcalf

H.B. No. 5320

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 227; 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 7921A to read as follows:

CHAPTER 7921A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 227

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7921A.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. 227.

Sec. 7921A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7921A.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. 7921A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7921A.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 as required by
8 applicable law.

9 Sec. 7921A.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. 7921A.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 SUBCHAPTER B. BOARD OF DIRECTORS

5 Sec. 7921A.0201. GOVERNING BODY; TERMS. (a) The district
6 is governed by a board of five elected directors.

7 (b) Except as provided by Section 7921A.0202, directors
8 serve staggered four-year terms.

9 Sec. 7921A.0202. TEMPORARY DIRECTORS. (a) On or after the
10 effective date of the Act enacting this chapter, the owner or owners
11 of a majority of the assessed value of the real property in the
12 district may submit a petition to the commission requesting that
13 the commission appoint as temporary directors the five persons
14 named in the petition. The commission shall appoint as temporary
15 directors the five persons named in the petition.

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

17 (1) the date permanent directors are elected under
18 Section 7921A.0103; or

19 (2) the fourth anniversary of the effective date of
20 the Act enacting this chapter.

21 (c) If permanent directors have not been elected under
22 Section 7921A.0103 and the terms of the temporary directors have
23 expired, successor temporary directors shall be appointed or
24 reappointed as provided by Subsection (d) to serve terms that
25 expire on the earlier of:

26 (1) the date permanent directors are elected under
27 Section 7921A.0103; or

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

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

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 7921A.0301. GENERAL POWERS AND DUTIES. The district
12 has the powers and duties necessary to accomplish the purposes for
13 which the district is created.

14 Sec. 7921A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
15 DUTIES. The district has the powers and duties provided by the
16 general law of this state, including Chapters 49 and 54, Water Code,
17 applicable to municipal utility districts created under Section 59,
18 Article XVI, Texas Constitution.

19 Sec. 7921A.0303. AUTHORITY FOR ROAD PROJECTS. Under
20 Section 52, Article III, Texas Constitution, the district may
21 design, acquire, construct, finance, issue bonds for, improve,
22 operate, maintain, and convey to this state, a county, or a
23 municipality for operation and maintenance macadamized, graveled,
24 or paved roads, or improvements, including storm drainage, in aid
25 of those roads.

26 Sec. 7921A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
27 road project must meet all applicable construction standards,

1 zoning and subdivision requirements, and regulations of each
2 municipality in whose corporate limits or extraterritorial
3 jurisdiction the road project is located.

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

9 (c) If the state will maintain and operate the road, the
10 Texas Transportation Commission must approve the plans and
11 specifications of the road project.

12 Sec. 7921A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
13 ORDINANCE OR RESOLUTION. The district shall comply with all
14 applicable requirements of any ordinance or resolution that is
15 adopted under Section 54.016 or 54.0165, Water Code, and that
16 consents to the creation of the district or to the inclusion of land
17 in the district.

18 Sec. 7921A.0306. DIVISION OF DISTRICT. (a) The board, on
19 its own motion or on receipt of a petition signed by the owner or
20 owners of a majority of the assessed value of the real property in
21 the district, may adopt an order dividing the district.

22 (b) An order dividing a district may create one or more new
23 districts and may provide for the continuation of the district.

24 (c) An order dividing the district must:

- 25 (1) name any new district;
26 (2) include the metes and bounds description of the
27 territory of each of the districts;

1 (3) appoint temporary directors for any new district;

2 and

3 (4) provide for the division of assets and liabilities
4 between the districts.

5 (d) The board may adopt an order dividing the district
6 before or after the date the board holds an election to confirm the
7 district's creation.

8 (e) The district may be divided only if the district:

9 (1) has never issued any bonds; and

10 (2) is not imposing ad valorem taxes.

11 (f) A new district created by the division of the district
12 may not, at the time the new district is created, contain any land
13 outside the area described by Section 2 of the Act enacting this
14 chapter.

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

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

22 (i) A new district created by the division of the district
23 shall hold a confirmation and directors' election.

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

27 (k) A new district created by the division of the district

1 must hold an election as required by this chapter to obtain voter
2 approval before the district may impose a maintenance tax or issue
3 bonds payable wholly or partly from ad valorem taxes.

4 (1) The district may continue to rely on confirmation,
5 directors', bond, or tax elections held prior to the division.

6 (m) Municipal consent to the creation of the district and to
7 the inclusion of land in the district acts as municipal consent to
8 the creation of any new district created by the division of the
9 district and to the inclusion of land in the new district.

10 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

11 Sec. 7921A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

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

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

15 (2) contract payments described by Section
16 7921A.0403.

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

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

25 Sec. 7921A.0402. OPERATION AND MAINTENANCE TAX. (a) If

26 authorized at an election held under Section 7921A.0401, the
27 district may impose an operation and maintenance tax on taxable

1 property in the district in accordance with Section 49.107, Water
2 Code.

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

5 Sec. 7921A.0403. CONTRACT TAXES. (a) In accordance with
6 Section 49.108, Water Code, the district may impose a tax other than
7 an operation and maintenance tax and use the revenue derived from
8 the tax to make payments under a contract after the provisions of
9 the contract have been approved by a majority of the district voters
10 voting at an election held for that purpose.

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

14 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

15 Sec. 7921A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
16 OBLIGATIONS. The district may issue bonds or other obligations
17 payable wholly or partly from ad valorem taxes, impact fees,
18 revenue, contract payments, grants, or other district money, or any
19 combination of those sources, to pay for any authorized district
20 purpose.

21 Sec. 7921A.0502. TAXES FOR BONDS. At the time the district
22 issues bonds payable wholly or partly from ad valorem taxes, the
23 board shall provide for the annual imposition of a continuing
24 direct ad valorem tax, without limit as to rate or amount, while all
25 or part of the bonds are outstanding as required and in the manner
26 provided by Sections 54.601 and 54.602, Water Code.

27 Sec. 7921A.0503. BONDS FOR ROAD PROJECTS. At the time of

1 issuance, the total principal amount of bonds or other obligations
2 issued or incurred to finance road projects and payable from ad
3 valorem taxes may not exceed one-fourth of the assessed value of the
4 real property in the district.

5 SECTION 2. The Montgomery County Municipal Utility District
6 No. 227 initially includes all the territory contained in the
7 following area:

8 Being 581.9 acres of land, more or less, located in the John
9 Corner Survey, Abstract 8, Thomas Chatham Survey, Abstract 127, and
10 the Raleigh Rogers Survey, Abstract 33, C. B. Stewart Survey,
11 Abstract 479, and the William W. Shepperd Survey, Abstract 480,
12 Montgomery County, Texas, out of land conveyed to Homeplace Lands,
13 LLC, as recorded under Clerk's File No. 2012125424 of the Official
14 Public Records of Real Property, Montgomery County, Texas,
15 (O.P.R.M.C.), being comprised of three (3) tracts as described
16 below; said 581.9 acres, more or less, being more particularly
17 described as follows, with all bearings referenced to the Texas
18 Coordinate System, Central Zone, NAD83 (NA2011) Epoch 2010.00:

19 TRACT 1: 11.9 Acres

20 BEGINNING at a westerly corner of Hilltop Ranch, Section 1, a
21 plat as recorded in Cabinet "O", Sheet 138, of the Montgomery County
22 Map Records (M.C.M.R.), lying in an easterly right-of-way line of
23 FM 2854 (width varies), and a northerly line of land conveyed to
24 Homeplace Lands, LLC, as recorded under Clerk's File
25 No. 2012125424, of the O.P.R.M.C.;

26 THENCE EASTERLY approximately 498 feet, more or less, with
27 and adjoining a westerly line of said Hilltop Ranch, Section 1, to

1 the northeast corner of the herein described tract;

2 THENCE SOUTHERLY approximately 1,208 feet, more or less, with
3 and adjoining said westerly line of said Hilltop Ranch, Section 1,
4 to the southeast corner of the herein described tract, lying in the
5 common Extra Territorial Jurisdiction (ETJ) line of the City of
6 Conroe and the City of Montgomery, Texas;

7 THENCE SOUTHWESTERLY approximately 201 feet, more or less,
8 along a curve to the right, with and adjoining said common City of
9 Conroe and City of Montgomery ETJ line, to the southwest corner of
10 the herein described tract, lying in said easterly line of FM 2854;

11 THENCE NORTHERLY approximately 1,333 feet, more or less, with
12 and adjoining said easterly right-of-way line of F.M. 2854, to the
13 POINT OF BEGINNING, and containing approximately 11.9 acres of
14 land. This document was prepared under 22 Texas Administrative Code
15 §138.95, does not reflect the results of an on the ground survey,
16 and is not to be used to convey or establish interests in real
17 property except those rights and interests implied or established
18 by the creation or reconfiguration of the boundary of the political
19 subdivision for which it was prepared.

20 TRACT 2: 370 Acres

21 Being 370 acres of land out of the John Corner Survey,
22 Abstract 8, William W. Shepperd Survey, A-480, C. B. Stewart
23 Survey, Abstract 479, Thomas Chatham Survey, A-127, and the Raleigh
24 Rogers Survey, A-33, Montgomery County, Texas:

25 Beginning at the northwest corner of a 60 foot by 60 foot
26 cemetery, as defined under Clerk's File No. 2011113416 of the
27 Official Public Records Montgomery County, Texas (O.P.R.M.C.),

1 lying in an easterly right-of-way line of FM 149, and being a
2 westerly corner of land described under Clerks File No. 2012125424
3 of the O.P.R.M.C.;

4 THENCE NORTHERLY approximately 492 feet, more or less, with
5 and adjoining said easterly right-of-way line of F.M. 149, to the
6 northwest corner of the herein described tract, lying in a
7 southerly City of Montgomery, City Limit line;

8 THENCE EASTERLY approximately 2,028 feet, more or less, with
9 and adjoining a said southerly City Limit line, to a southerly line
10 of a 14.755 acre tract as defined under Clerk's File No. 2018119879
11 of the O.P.R.M.C., for a northerly corner of the herein described
12 tract;

13 THENCE SOUTHEASTERLY approximately 151 feet, more or less,
14 with and adjoining said southerly line of the 14.755 acre tract, to
15 a northerly corner of the herein described tract;

16 THENCE NORTHEASTERLY approximately 50 feet, more or less,
17 with and adjoining said southerly line of the 14.755 acre tract, to
18 a northerly corner of the herein described tract, lying in said
19 southerly City Limit line;

20 THENCE EASTERLY approximately 3,448 feet, more or less, with
21 and adjoining said southerly City Limit line, to a northerly corner
22 of the herein described tract;

23 THENCE NORTHERLY approximately 3,346 feet, more or less, with
24 and adjoining said southerly City Limit line, to a northerly corner
25 of the herein described tract;

26 THENCE EASTERLY approximately 806 feet, more or less, with
27 and adjoining said southerly City Limit line, to the northeast

1 corner of the herein described tract, lying in a westerly
2 right-of-way line of FM 2854;

3 THENCE SOUTHERLY approximately 5,500 feet, more or less, with
4 and adjoining said westerly right-of-way line of FM 2854, to the
5 southeast corner of the herein described tract, also being the
6 northeast corner of a 22.178 acre tract as recorded under Clerk's
7 File No. 2018119879 of the O.P.R.M.C.;

8 THENCE WESTERLY approximately 1,148 feet, more or less, with
9 and adjoining the northerly line of said 22.178 acre tract, to a
10 southerly corner of the herein described tract;

11 THENCE SOUTHERLY approximately 662 feet, more or less, with
12 and adjoining the westerly line of said 22.178 acre tract, to a
13 southerly corner of the herein described tract, lying in a common
14 Extra Territorial Jurisdiction (ETJ) line of the City of Conroe and
15 the City of Montgomery, Texas;

16 THENCE WESTERLY approximately 2,377 feet, more or less, with
17 and adjoining said common ETJ line, to a southerly corner of the
18 herein described tract;

19 THENCE SOUTHERLY approximately 3,273 feet, more or less, with
20 and adjoining said common ETJ line, to the most southerly corner of
21 the herein described tract, lying in the north easterly
22 right-of-way line of the BN & SF Railroad;

23 THENCE NORTHWESTERLY approximately 1,034 feet, more or less,
24 with and adjoining said northeasterly right-of-way line of the BN &
25 SF Railroad, to a westerly corner of the herein described tract;

26 THENCE NORTHWESTERLY approximately 71 feet, more or less to a
27 southerly corner of Shannon Place, a plat as recorded in Cabinet

1 "D", Sheet 160-A, of the Montgomery County Map Records (M.C.M.R.);

2 THENCE NORTHERLY approximately 4,046 feet, more or less, with
3 and adjoining the easterly line of said Shannon Place, to the
4 northeast corner of said plat, lying in a southerly line of the C.
5 B. Stewart Survey, A-479, as shown on said plat;

6 THENCE WESTERLY approximately 1,628 feet, more of less, with
7 and adjoining the northerly line of said Shannon Place, to a
8 westerly corner of the herein described tract;

9 THENCE NORTHERLY approximately 1,120 feet, more or less, with
10 and adjoining a northerly line of said Shannon Place and an easterly
11 line of a 10.59 acre tract as recorded under Clerk's File
12 No. 2011113416 of the O.P.R.M.C., to a westerly corner of the
13 herein described tract;

14 THENCE WESTERLY approximately 438 feet, more or less, with
15 and adjoining the northerly line of said 10.59 acre tract and said
16 cemetery tract, to the POINT OF BEGINNING, and containing
17 approximately 370 acres of land. This document was prepared under
18 22 Texas Administrative Code §138.95, does not reflect the results
19 of an on the ground survey, and is not to be used to convey or
20 establish interests in real property except those rights and
21 interests implied or established by the creation or reconfiguration
22 of the boundary of the political subdivision for which it was
23 prepared.

24 TRACT 3: 180 Acres

25 Being 180 acres of land out of the Raleigh Rogers Survey,
26 A-33, Montgomery County, Texas:

27 BEGINNING at a southwest corner of a 23.362 acre tract, as

1 described in a deed recorded under Clerk's File No. 2006-104958 of
2 the Official Public Records of Real Property Montgomery County,
3 Texas (O.P.R.R.P.M.C.), lying in the easterly right-of-way line of
4 F.M. 149, and being a westerly corner of land described under Clerks
5 File No. 2012125424 of the Official Public Records Montgomery
6 County, Texas (O.P.R.M.C.);

7 THENCE EASTERLY approximately 1,669 feet, more or less, with
8 and adjoining a southerly line of said 23.362 acre tract, also being
9 a southerly line of the Montgomery 149, LLC tract as recorded under
10 Clerk's File No. 2018058916 of the O.P.R.M.C., to a westerly
11 interior corner of the herein described tract;

12 THENCE NORTHERLY approximately 2,151 feet, more or less, with
13 and adjoining the easterly line of said Montgomery 149, LLC tract to
14 an easterly interior corner of said Montgomery 149, LLC tract, also
15 being a northerly corner of the herein described tract;

16 THENCE EASTERLY approximately 302 feet, more or less, with
17 and adjoining said Montgomery 149, LLC tract, to the northeast
18 corner of the herein described tract, lying in a southwesterly
19 right-of-way line of the BN & SF Railroad;

20 THENCE SOUTHEASTERLY approximately 918 feet, more or less,
21 with and adjoining a southwesterly right-of-way line of the BN & SF
22 Railroad, to an easterly corner of the herein described tract,
23 lying in the common Extra Territorial Jurisdiction (ETJ) line of
24 the City of Conroe and the City of Montgomery, Texas;

25 THENCE SOUTHERLY approximately 3,811 feet, more or less, with
26 and adjoining said common ETJ line, to the southeast corner of the
27 herein described tract, lying in a northerly line of land as

1 described in a warranty deed to Earle T. McCants and Edward W.
2 McCants as recorded under Clerk's File No. 99002183 of the
3 O.P.R.R.P.M.C.;

4 THENCE WESTERLY approximately 2,561 feet, more or less, with
5 and adjoining said northerly line of Earle T. McCants and Edward W.
6 McCants tract, to the southwest corner of the herein described
7 tract, lying in said easterly right-of-way line of FM 149;

8 THENCE NORTHERLY approximately 2,391 feet, more or less, with
9 and adjoining said easterly right-of-way line of FM 149, to the
10 POINT OF BEGINNING, and containing approximately 180 acres. This
11 document was prepared under 22 Texas Administrative Code §138.95,
12 does not reflect the results of an on the ground survey, and is not
13 to be used to convey or establish interests in real property except
14 those rights and interests implied or established by the creation
15 or reconfiguration of the boundary of the political subdivision for
16 which it was prepared.

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

24 (b) The governor, one of the required recipients, has
25 submitted the notice and Act to the Texas Commission on
26 Environmental Quality.

27 (c) The Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor, the
2 lieutenant governor, and the speaker of the house of
3 representatives within the required time.

4 (d) All requirements of the constitution and laws of this
5 state and the rules and procedures of the legislature with respect
6 to the notice, introduction, and passage of this Act are fulfilled
7 and accomplished.

8 SECTION 4. (a) If this Act does not receive a two-thirds
9 vote of all the members elected to each house, Subchapter C, Chapter
10 7921A, Special District Local Laws Code, as added by Section 1 of
11 this Act, is amended by adding Section 7921A.0307 to read as
12 follows:

13 Sec. 7921A.0307. NO EMINENT DOMAIN POWER. The district may
14 not exercise the power of eminent domain.

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

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