

By: Bell of Montgomery

H.B. No. 5344

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 236; 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 7968A to read as follows:

CHAPTER 7968A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 236

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7968A.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. 236.

Sec. 7968A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7968A.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. 7968A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7968A.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. 7968A.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. 7968A.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. 7968A.0201. GOVERNING BODY; TERMS. (a) The district
6 is governed by a board of five elected directors.

7 (b) Except as provided by Section 7968A.0202, directors
8 serve staggered four-year terms.

9 Sec. 7968A.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 7968A.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 7968A.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 7968A.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. 7968A.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. 7968A.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. 7968A.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. 7968A.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. 7968A.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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

19 Sec. 7968A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
20 The district may issue, without an election, bonds and other
21 obligations secured by:

- 22 (1) revenue other than ad valorem taxes; or
23 (2) contract payments described by Section
24 7968A.0403.

25 (b) The district must hold an election in the manner
26 provided by Chapters 49 and 54, Water Code, to obtain voter approval
27 before the district may impose an ad valorem tax or issue bonds

1 payable from ad valorem taxes.

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

6 Sec. 7968A.0402. OPERATION AND MAINTENANCE TAX. (a) If
7 authorized at an election held under Section 7968A.0401, the
8 district may impose an operation and maintenance tax on taxable
9 property in the district in accordance with Section 49.107, Water
10 Code.

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

13 Sec. 7968A.0403. CONTRACT TAXES. (a) In accordance with
14 Section 49.108, Water Code, the district may impose a tax other than
15 an operation and maintenance tax and use the revenue derived from
16 the tax to make payments under a contract after the provisions of
17 the contract have been approved by a majority of the district voters
18 voting at an election held for that purpose.

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

22 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

23 Sec. 7968A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
24 OBLIGATIONS. The district may issue bonds or other obligations
25 payable wholly or partly from ad valorem taxes, impact fees,
26 revenue, contract payments, grants, or other district money, or any
27 combination of those sources, to pay for any authorized district

1 purpose.

2 Sec. 7968A.0502. TAXES FOR BONDS. At the time the district
3 issues bonds payable wholly or partly from ad valorem taxes, the
4 board shall provide for the annual imposition of a continuing
5 direct ad valorem tax, without limit as to rate or amount, while all
6 or part of the bonds are outstanding as required and in the manner
7 provided by Sections 54.601 and 54.602, Water Code.

8 Sec. 7968A.0503. BONDS FOR ROAD PROJECTS. At the time of
9 issuance, the total principal amount of bonds or other obligations
10 issued or incurred to finance road projects and payable from ad
11 valorem taxes may not exceed one-fourth of the assessed value of the
12 real property in the district.

13 SECTION 2. Montgomery County Municipal Utility District
14 No. 236 initially includes all the territory contained in the
15 following area:

16 A 231.1123 ACRE TRACT OF LAND IN THE S. TERRY SURVEY, ABSTRACT
17 NO. 564, MONTGOMERY COUNTY, TEXAS, BEING OUT OF AND A PART OF A
18 CALLED 1,702.2 ACRE TRACT CONVEYED TO DAYAKAR PUSKOOR, TRUSTEE OF
19 1992 GUNIGANTI CREDIT SHELTER TRUSTS, AKA THE GUNIGANTI FAMILY
20 TRUSTS AS RECORDED UNDER MONTGOMERY COUNTY CLERK'S FILE NUMBER
21 (M.C.C.F. NO.) 2019097078 (DESCRIBED UNDER M.C.C.F. NO.
22 2012127211), THE SAID 231.1123 ACRE TRACT BEING MORE PARTICULARLY
23 DESCRIBED BY METES AND BOUNDS AS FOLLOWS, (WITH BEARINGS BASED ON
24 THE TEXAS COORDINATE SYSTEM OF 1983, CENTRAL ZONE, AS DETERMINED BY
25 GPS MEASUREMENTS):

26 COMMENCING at a 3/4-inch iron rod found marking an angle in
27 the west line of said 1,702.2 acre tract, and the west line of a

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1 called 150.00 acre tract, conveyed to TC LB Royal Pines, LP as
2 recorded under M.C.C.F. NO. 2021171601;

3 THENCE, North 03°35'35" West, along the west line of said
4 1,702.2 acre tract, and said 150.00 acre tract, passing at a
5 distance of 10.54 feet, a found 5/8" iron rod with cap stamped
6 "TERRA", passing at a distance of 874 feet, the approximate
7 centerline of White Oak Creek, being the northwest corner of the
8 said 150.00 acre tract, continuing along the west line of said
9 1,702.2 acre tract a total distance of 4,572.60 feet, to a 1/2" iron
10 rod found marking the northeast corner of Lot 6, Block 3, White Oak
11 Crossing Sec 4 (WOC4), map or plat thereof recorded under Cabinet
12 (Cab.) Z, Sheet (Sht.) 3640 Montgomery County Map Records
13 (M.C.M.R.), and an interior corner of said 1,702.2 acre tract, and
14 the herein described tract;

15 THENCE, South 87°08'26" West, along the north lines of said
16 WOC4, and White Oak Crossing Sec 3 (WOC3), map or plat thereof
17 recorded under Cab. Z, Sht. 2286 M.C.M.R., common with the
18 southerly line of said 1,702.2 acre tract and the herein described
19 tract, a distance of 2,132.46 feet, to a 5/8" iron rod with cap
20 stamped "HOVIS" found marking the northwest corner of Lot 19, Block
21 5, of said WOC3;

22 THENCE, North 07°21'12" West, departing said common line,
23 over and across said WOC3, A 19.14 acre tract conveyed to Prabhakar
24 R. Guniganti as recorded under M.C.C.F. NO. 2016114018, and said
25 1,702.2 acre tract, a distance of 4,946.84 feet, to the west line of
26 said 1,702.2 acre tract marking the southwest corner, and POINT OF
27 BEGINNING of the herein described tract;

1 THENCE, North 02°19'57" West, along the west line of said
2 1,702.2 acre tract, passing at a distance of 7.13 feet the southerly
3 Right-Of-Way (R.O.W.) line of State Highway 99 (A.K.A. Grand
4 Parkway), as described in the agreed final judgement recorded under
5 M.C.C.F. NO. 2022115684, passing at a distance of 407.22 feet, the
6 northerly R.O.W. line of said State Highway 99, continuing a total
7 distance of 2,694.43 feet, to the northwest corner of said 1,702.2
8 acre tract and the herein described tract;

9 THENCE, North 86°56'15" East, along the northerly line of said
10 1,702.2 acre tract, a distance of 2,313.87 feet, to an angle in the
11 north line of said 1,702.2 acre tract and the herein described
12 tract;

13 THENCE, North 88°18'37" East, along the northerly line of said
14 1,702.2 acre tract, a distance of 84.62 feet, to the northeast
15 corner of the herein described tract;

16 THENCE, over and across said 1,702.2 acre tract, the
17 following twenty nine (29) courses and distances:

18 South 01°34'11" East, a distance of 523.07 feet, to an angle
19 in the east line of the herein described tract;

20 South 88°20'05" East, a distance of 320.48 feet, to an angle
21 in the east line of the herein described tract;

22 South 72°57'20" East, a distance of 524.04 feet, to an angle
23 in the east line of the herein described tract;

24 South 55°07'09" East, a distance of 242.85 feet, to an angle
25 in the east line of the herein described tract;

26 South 26°44'17" East, a distance of 274.37 feet, to an angle
27 in the east line of the herein described tract;

1 South 34°39'23" East, a distance of 466.61 feet, to an angle
2 in the east line of the herein described tract;

3 South 29°43'18" East, a distance of 94.04 feet, to an angle in
4 the east line of the herein described tract;

5 South 03°45'41" West, a distance of 196.73 feet, to an angle
6 in the east line of the herein described tract;

7 South 27°52'41" East, a distance of 382.54 feet, to an angle
8 in the east line of the herein described tract;

9 South 29°14'09" East, a distance of 98.06 feet, to an angle in
10 the east line of the herein described tract;

11 South 18°42'01" West, a distance of 156.58 feet, to an angle
12 in the east line of the herein described tract;

13 South 45°05'06" West, a distance of 138.46 feet, to an angle
14 in the east line of the herein described tract;

15 South 72°00'22" West, a distance of 171.11 feet, to an angle
16 in the east line of the herein described tract;

17 South 64°09'37" West, a distance of 133.85 feet, to the
18 beginning of a curve to the right;

19 In a southwesterly direction, along said curve to the right,
20 having a radius of 3,014.66 feet, a central angle of 01°26'03"
21 (chord bears South 64°04'47" West, 75.45 feet) and an arc distance
22 of 75.45 feet, to the beginning of a reverse curve to the left;

23 In a southwesterly direction, along said reverse curve to the
24 left, having a radius of 100.00 feet, a central angle of 13°17'38"
25 (chord bears South 57°47'21" West, 23.15 feet) and an arc distance
26 of 23.20 feet, to the beginning of a reverse curve to the right;

27 In a southwesterly direction, along said reverse curve to the

1 right, having a radius of 500.00 feet, a central angle of 12°42'15"
2 (chord bears South 57°29'40" West, 110.64 feet) and an arc distance
3 of 110.86 feet, to the beginning of a reverse curve to the left;

4 In a southwesterly direction, along said reverse curve to the
5 left, having a radius of 100.00 feet, a central angle of 07°23'59"
6 (chord bears South 60°08'48" West, 12.91 feet) and an arc distance
7 of 12.92 feet, to the beginning of a reverse curve to the right;

8 In a southwesterly direction, along said reverse curve to the
9 right, having a radius of 100.00 feet, a central angle of 23°30'02"
10 (chord bears South 68°11'50" West, 40.73 feet) and an arc distance
11 of 41.02 feet, to the point of tangency;

12 South 79°56'51" West, a distance of 52.57 feet, to the
13 beginning of a curve to the right;

14 In a westerly direction, along said curve to the right,
15 having a radius of 100.00 feet, a central angle of 24°12'11" (chord
16 bears North 87°57'04" West, 41.93 feet) and an arc distance of 42.24
17 feet, to the point of compound curvature;

18 In a northwesterly direction, along said compound curve to
19 the right, having a radius of 500.00 feet, a central angle of
20 01°07'37" (chord bears North 75°17'10" West, 9.83 feet) and an arc
21 distance of 9.83 feet, to the point of reverse curvature;

22 In a southwesterly direction, along said reverse curve to the
23 left, having a radius of 100.00 feet, a central angle of 59°15'48"
24 (chord bears South 75°38'44" West, 98.88 feet) and an arc distance
25 of 103.43 feet, to the point of tangency;

26 South 46°00'50" West, a distance of 240.66 feet, to an angle
27 in the southerly line of the herein described tract;

1 North 47°45'22" West, a distance of 351.90 feet, to the
2 beginning of a curve to the right;

3 In a northwesterly direction, along said curve to the right,
4 having a radius of 1,250.00 feet, a central angle of 01°33'58"
5 (chord bears North 46°58'23" West, 34.17 feet) and an arc distance
6 of 34.17 feet, to the point of tangency;

7 South 53°50'57" West, a distance of 302.10 feet, to the
8 beginning of a curve to the left;

9 In a southwesterly direction, along said curve to the left,
10 having a radius of 2,000.00 feet, a central angle of 17°35'11"
11 (chord bears South 45°03'21" West, 611.48 feet) and an arc distance
12 of 613.89 feet, to the point of tangency;

13 South 36°15'45" West, a distance of 406.05 feet, to an angle
14 in the southerly line of the herein described tract;

15 THENCE, North 68°09'29" West, a distance of 1,868.05 feet, to
16 the POINT OF BEGINNING, and containing 231.1123 acres of land.

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 7968A, Special District Local Laws Code, as added by Section 1 of
11 this Act, is amended by adding Section 7968A.0306 to read as
12 follows:

13 Sec. 7968A.0306. 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.