

By: Eissler

H.B. No. 3514

A BILL TO BE ENTITLED

AN ACT

relating to the powers and duties of the Southwest Montgomery County Improvement District.

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

SECTION 1. Section 1(a), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(a) The Southwest Montgomery County Improvement District is ~~[created as]~~ a special district in Montgomery County created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

SECTION 2. Section 6(b), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) All land and other property in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections ~~[Section]~~ 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other powers granted under this Act.

SECTION 3. Section 9, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 9. BOARD OF DIRECTORS. (a) The ~~[Except as provided by Section 14 of this Act, the]~~ district is governed by a board of 11 directors who serve staggered terms of four years, with five or six directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may increase or decrease the

1 number of directors on the board, but only if a majority of the
2 board votes to do so. The board may not:

3 (1) increase the number of directors to more than 30;
4 or

5 (2) decrease the number of directors to fewer than
6 seven [~~Except as provided by Section 14 of this Act, six directors~~
7 ~~are elected by the voters of the district at large. Five directors~~
8 ~~are appointed as follows:~~

9 [~~(1) one director appointed by the governing body of~~
10 ~~the City of Magnolia;~~

11 [~~(2) one director appointed by the governing body of~~
12 ~~the City of Stagecoach;~~

13 [~~(3) one director appointed by the governing body of~~
14 ~~the City of Conroe;~~

15 [~~(4) one director appointed by the governing body of~~
16 ~~the Magnolia Independent School District; and~~

17 [~~(5) one director appointed by the Montgomery County~~
18 ~~Commissioners Court].~~

19 (c) The Montgomery County Commissioners Court shall appoint
20 the directors.

21 (d) Section 375.061, Local Government Code, does not apply
22 to the district.

23 (e) To be eligible to serve as a director, a person must be
24 at least 18 years old, a resident of the district, and:

25 (1) a resident of Montgomery County Commissioners
26 Court Precinct 2;

27 (2) an owner of real property in the district;

1 (3) [~~(2)~~] an owner, whether beneficial or otherwise,
2 of at least 10 percent of the outstanding stock of a corporate owner
3 of real property in the district [~~or of a corporate lessee of real~~
4 ~~property in the district with a lease term of five years or more~~
5 ~~measured from the date of appointment or election, excluding~~
6 ~~options~~];

7 (4) [~~(3)~~] an owner of at least 10 percent of the
8 beneficial interest in a trust that:

9 (A) owns real property in the district; or

10 (B) leases real property in the district with a
11 remaining [~~under an original~~] lease term of five years or more
12 measured from the date of appointment [~~or election~~], excluding
13 options;

14 (5) [~~(4)~~] a lessee of real property in the district
15 with a remaining [~~under an original~~] lease term of five years or
16 more measured from the date of appointment, excluding options;

17 (6) [~~(5)~~] an owner of at least 10 percent of the
18 outstanding interest in a general or limited partnership that:

19 (A) owns real property in the district; or

20 (B) leases real property in the district with a
21 remaining [~~under an original~~] lease term of five years or more
22 measured from the date of appointment [~~or election~~], excluding
23 options; or

24 (7) [~~(6)~~] an agent, employee, officer, or director of
25 any individual, corporation, trust, or partnership that owns or
26 leases real property described by Subdivision [~~(1)~~] (2), (3), (4),
27 [~~or~~] (5), or (6) of this subsection who is designated by the owner

or lessee to serve as a director.

(f) ~~[(d)]~~ A person may not serve ~~[be appointed]~~ as a director ~~[under Subsection (b) of this section]~~ if the person's appointment would cause more than 20 percent ~~[three members]~~ of the board to be an agent, employee, officer, or director of the same individual, corporation, trust, or partnership that owns or leases property in the district.

(g) A director may not serve more than three consecutive terms.

SECTION 4. Section 10(b), Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

(b) If a majority of the board positions are vacant ~~[six or more vacancies occur at the same time]~~, on petition of a property owner of the district, the Montgomery County Commissioners Court shall make appointments to fill the vacancies.

SECTION 5. Section 11, Chapter 323, Acts of the 78th Legislature, Regular Session, 2003, is amended to read as follows:

Sec. 11. RECOMMENDATIONS FOR SUCCEEDING BOARD ~~[ELECTION DATE FOR DIRECTORS]~~. (a) The board shall recommend to the Montgomery County Commissioners Court persons to serve on a succeeding board.

(b) After reviewing the recommendations, the Montgomery County Commissioners Court shall approve or disapprove the directors recommended by the board.

(c) If the Montgomery County Commissioners Court is not satisfied with the recommendations submitted by the board, the board, on the request of the commissioners court, shall submit to

1 the commissioners court additional recommendations.

2 (d) If any provision of Subsections (a) through (c) is found
3 to be invalid, the commission shall appoint the board from
4 recommendations submitted by the preceding board. ~~[The election of~~
5 ~~a director is held on the uniform election date in September of the~~
6 ~~year in which an elected director's term expires.]~~

7 SECTION 6. The heading to Section 16, Chapter 323, Acts of
8 the 78th Legislature, Regular Session, 2003, is amended to read as
9 follows:

10 Sec. 16. BORROWING MONEY FOR INITIAL DISTRICT OPERATIONS
11 ~~[BEFORE CONFIRMATION ELECTION]~~.

12 SECTION 7. Section 16, Chapter 323, Acts of the 78th
13 Legislature, Regular Session, 2003, is amended by amending
14 Subsections (a) and (b) and adding Subsection (d) to read as
15 follows:

16 (a) Before levying an assessment ~~[the election confirming~~
17 ~~the district and the election imposing a limited sales and use tax]~~,
18 the board may borrow money to hire employees, obtain office space,
19 ~~[pay fees and costs of holding elections,~~ and pay other costs and
20 expenses reasonably necessary to prepare for commencement of
21 operation.

22 (b) Funds borrowed for a purpose described by Subsection (a)
23 of this section are repayable by the district only if an assessment
24 is levied as required by Chapter 375, Local Government Code ~~[the~~
25 ~~elections result in the confirmation of the district and imposition~~
26 ~~of a limited sales and use tax]~~. The district shall repay those
27 funds not later than the fifth anniversary of the date the funds

1 were borrowed.

2 (d) This section does not impair or invalidate any action
3 taken by the board to borrow money that occurred before September 1,
4 2005.

5 SECTION 8. Section 28, Chapter 323, Acts of the 78th
6 Legislature, Regular Session, 2003, is amended to read as follows:

7 Sec. 28. BONDS AND OTHER OBLIGATIONS. (a) The district may
8 issue bonds or other obligations payable wholly or partly from
9 taxes, assessments, impact fees, revenue, grants, or other money of
10 the district, or any combination of those sources of money, to pay
11 for any authorized purpose of the district.

12 (b) The district may issue a bond or other obligation in the
13 form of a bond, note, certificate of participation or other
14 instrument evidencing a proportionate interest in payments to be
15 made by the district, or other type of obligation.

16 (c) The board may issue bonds of the district in the manner
17 provided by Subchapter J, Chapter 375, Local Government Code,
18 except that Sections 375.207 and 375.208, Local Government Code, do
19 not apply.

20 (d) [~~(b)~~] If the district issues bonds for the primary
21 purpose of providing water, sewage, or drainage facilities, the
22 district must obtain the commission's approval in the manner
23 provided by Chapter 49, Water Code.

24 (e) [~~(c)~~] In addition to the sources of money described by
25 Subchapter J, Chapter 375, Local Government Code, the bonds of the
26 district may be secured and made payable, wholly or partly, by a
27 pledge of any part of the net proceeds the district receives from a

1 specified portion of the sales and use tax authorized by this Act.

2 SECTION 9. Section 30, Chapter 323, Acts of the 78th
3 Legislature, Regular Session, 2003, is amended to read as follows:

4 Sec. 30. DISSOLUTION. (a) Except as provided by Section
5 375.264, Local Government Code, the Montgomery County
6 Commissioners Court may dissolve the district by unanimously voting
7 to adopt an ordinance dissolving the district [~~Subchapter M,~~
8 ~~Chapter 375, Local Government Code, governs the dissolution of the~~
9 ~~district, except that Section 375.263 of that subchapter does not~~
10 ~~apply to the district~~].

11 (b) On dissolution of the district, Montgomery County
12 assumes all bonds, debts, obligations, and liabilities of the
13 district, and the board shall transfer ownership of all property
14 and assets of the district to[+]

15 [~~(1)~~] Montgomery County[~~+~~or

16 [~~(2)~~ ~~if on the date of dissolution of the district more~~
17 ~~than 50 percent of the territory in the district is located in the~~
18 ~~corporate limits of a municipality, that municipality~~].

19 (c) Section 375.263, Local Government Code, does not apply
20 to the district.

21 SECTION 10. Chapter 323, Acts of the 78th Legislature,
22 Regular Session, 2003, is amended by adding Sections 33, 34, 35, and
23 36 to read as follows:

24 Sec. 33. PETITION REQUIRED FOR FINANCING SERVICES AND
25 IMPROVEMENTS. (a) The board may not finance a service or
26 improvement project under this Act unless a written petition
27 requesting that service or improvement has been filed with the

1 board.

2 (b) A petition filed under Subsection (a) of this section
3 must be signed by:

4 (1) the owners of a majority of the assessed value of
5 real property in the district subject to assessment according to
6 the most recent certified tax appraisal roll for Montgomery County;
7 or

8 (2) at least 50 persons who own real property in the
9 district, if more than 50 persons own real property in the district
10 as determined by the most recent certified tax appraisal roll for
11 Montgomery County.

12 Sec. 34. NONPROFIT CORPORATION. (a) The board by
13 resolution may authorize the creation of a nonprofit corporation to
14 assist and act for the district in implementing a project,
15 providing residential housing, or providing a service authorized by
16 this Act.

17 (b) The nonprofit corporation:

18 (1) has each power of and is considered for purposes of
19 this chapter to be a local government corporation created under
20 Chapter 431, Transportation Code; and

21 (2) may implement any project and provide any service
22 authorized by this Act.

23 (c) The board shall appoint the board of directors of the
24 nonprofit corporation. The board of directors of the nonprofit
25 corporation shall serve in the same manner as the board of directors
26 of a local government corporation created under Chapter 431,
27 Transportation Code, except that a board member is not required to

1 reside in the district.

2 Sec. 35. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board
3 by resolution may impose an assessment.

4 (b) An assessment, a reassessment, or an assessment
5 resulting from an addition to or correction of the assessment roll
6 by the district, penalties and interest on an assessment or
7 reassessment, an expense of collection, and reasonable attorney's
8 fees incurred by the district:

9 (1) are a first and prior lien against the property
10 assessed;

11 (2) are superior to any other lien or claim other than
12 a lien or claim for county, school district, or municipal ad valorem
13 taxes; and

14 (3) are the personal liability of and a charge against
15 the owners of the property even if the owners are not named in the
16 assessment proceedings.

17 (c) The lien is effective from the date of the board's
18 resolution imposing the assessment until the date the assessment is
19 paid. The board may enforce the lien in the same manner that the
20 board may enforce an ad valorem tax lien against real property.

21 Sec. 36. REMOVAL OF DIRECTOR FOR CAUSE. (a) On petition by
22 a majority of directors, the board, after notice and hearing, may
23 remove a director for misconduct or failure to carry out the
24 director's duties.

25 (b) Section 375.065, Local Government Code, does not apply
26 to the district.

27 SECTION 11. Sections 10(a) and (c), 15, 25(b), (c), and (d),

1 and 26, Chapter 323, Acts of the 78th Legislature, Regular Session,
2 2003, are repealed.

3 SECTION 12. (a) The changes in law made by this Act do not
4 affect the entitlement of a director serving on the board of the
5 Southwest Montgomery County Improvement District immediately
6 before the effective date of this Act to continue to carry out the
7 board's functions for the remainder of the director's term.

8 (b) A person serving as a member of the board of the
9 Southwest Montgomery County Improvement District on the effective
10 date of this Act shall continue to serve until the appointment of a
11 new director for that position.

12 (c) Not later than June 1, 2006, the Montgomery County
13 Commissioners Court shall appoint directors to the board of the
14 Southwest Montgomery County Improvement District to replace a
15 director appointed or elected before the effective date of this
16 Act. The commissioners court shall appoint five members with terms
17 expiring June 1, 2007, and six members with terms expiring June 1,
18 2009.

19 SECTION 13. This Act takes effect September 1, 2005.