

By: Eissler

H.B. No. 4046

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 104; providing authority to impose taxes and issue bonds.

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 8244 to read as follows:

CHAPTER 8244. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 104

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8244.001. DEFINITIONS. In this chapter:

(1) "Board" means the board of directors of the district.

(2) "Director" means a member of the board.

(3) "District" means the Montgomery County Municipal Utility District No. 104.

Sec. 8244.002. NATURE OF DISTRICT. The district is a municipal utility district in Montgomery County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8244.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8244.023 before September 1, 2015:

(1) the district is dissolved September 1, 2015, except that the district shall:

1           (A) pay any debts incurred;

2           (B) transfer to Montgomery County any assets that  
3 remain after the payment of debts; and

4           (C) maintain the organization of the district  
5 until all debts are paid and remaining assets are transferred; and

6           (2) this chapter expires September 1, 2016.

7           Sec. 8244.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)

8 All land and other property included in the district will benefit  
9 from the improvements and services to be provided by the district.

10          (b) The district is created to accomplish:

11           (1) the purposes of a municipal utility district as  
12 provided by general law; and

13           (2) to the extent authorized by Section 52, Article  
14 III, Texas Constitution, the construction, acquisition,  
15 improvement, maintenance, or operation of arterial or main feeder  
16 roads or improvements in aid of those roads.

17          Sec. 8244.005. INITIAL DISTRICT TERRITORY. (a) The  
18 district is initially composed of the territory described by  
19 Section 2 of the Act creating this chapter.

20          (b) The boundaries and field notes contained in Section 2 of  
21 the Act creating this chapter form a closure. A mistake made in the  
22 field notes or in copying the field notes in the legislative process  
23 does not affect the district's:

24           (1) organization, existence, or validity;

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

1           (3) right to impose or collect an assessment or tax; or

2           (4) legality or operation.

3           [Sections 8244.006-8244.020 reserved for expansion]

4           SUBCHAPTER A-1. TEMPORARY PROVISIONS

5           Sec. 8244.021. TEMPORARY DIRECTORS. (a) The temporary  
6 board consists of:

7           (1) Patrick S. Graham;

8           (2) Kyle Rhoden;

9           (3) James H. Ragan;

10          (4) Karen Strong; and

11          (5) Antonio J. Padua.

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

13           (1) the date initial directors are elected under  
14 Section 8244.023; or

15           (2) the date this subchapter expires under Section  
16 8244.025.

17          Sec. 8244.022. ORGANIZATIONAL MEETING OF TEMPORARY  
18 DIRECTORS. As soon as practicable after all the temporary  
19 directors have qualified under Section 49.055, Water Code, the  
20 temporary directors shall meet at a location in the district  
21 agreeable to a majority of the directors. At the meeting, the  
22 temporary directors shall elect officers from among the temporary  
23 directors and conduct any other district business.

24          Sec. 8244.023. CONFIRMATION AND INITIAL DIRECTORS'  
25 ELECTION. Not later than the second anniversary of the  
26 organizational meeting held under Section 8244.022, the temporary  
27 directors shall hold an election to confirm the creation of the

1 district and to elect five initial directors as provided by Section  
2 49.102, Water Code.

3 Sec. 8244.024. INITIAL ELECTED DIRECTORS; TERMS. Unless  
4 the initial board otherwise agrees, the directors elected under  
5 Section 8244.023 shall draw lots to determine which two shall serve  
6 until the first regularly scheduled election of directors under  
7 Section 8244.052 and which three shall serve until the second  
8 regularly scheduled election of directors.

9 Sec. 8244.025. EXPIRATION OF SUBCHAPTER. This subchapter  
10 expires September 1, 2015.

11 [Sections 8244.026-8244.050 reserved for expansion]

12 SUBCHAPTER B. BOARD OF DIRECTORS

13 Sec. 8244.051. DIRECTORS; TERMS. (a) The district is  
14 governed by a board of five directors.

15 (b) Except for temporary or initial directors, directors  
16 serve staggered four-year terms.

17 Sec. 8244.052. ELECTION OF DIRECTORS. On the uniform  
18 election date in May of each even-numbered year, the appropriate  
19 number of directors shall be elected.

20 [Sections 8244.053-8244.100 reserved for expansion]

21 SUBCHAPTER C. POWERS AND DUTIES

22 Sec. 8244.101. MUNICIPAL UTILITY DISTRICT POWERS AND  
23 DUTIES. (a) The district has the powers and duties provided by the  
24 general law of this state, including Chapters 49 and 54, Water Code,  
25 applicable to municipal utility districts created under Section 59,  
26 Article XVI, Texas Constitution.

27 (b) The district has the powers and duties necessary to

1 accomplish the purposes for which the district is created.

2 Sec. 8244.102. ROAD PROJECTS. (a) To the extent authorized  
3 by Section 52, Article III, Texas Constitution, the district may  
4 acquire, construct, or finance a road that meets the criteria or  
5 requirements for a thoroughfare, arterial, or collector road of the  
6 county in which the road is located or the municipality in whose  
7 corporate limits or extraterritorial jurisdiction the road is  
8 located or improvements in aid of that road.

9 (b) A road project must meet all applicable standards,  
10 regulations, and ordinances of the municipality or county in whose  
11 jurisdiction the district is located.

12 Sec. 8244.103. RECREATIONAL FACILITIES; LIMIT ON EMINENT  
13 DOMAIN POWER. (a) In this section, "recreational facilities" and  
14 "develop and maintain" have the meanings assigned by Section  
15 49.462, Water Code.

16 (b) The district may develop and maintain recreational  
17 facilities.

18 (c) The district may not, for the development or maintenance  
19 of a recreational facility, acquire by condemnation land, an  
20 easement, or other property inside or outside the district.

21 Sec. 8244.104. COMPLIANCE WITH MUNICIPAL CONSENT  
22 ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section  
23 54.016, Water Code, the district shall comply with all applicable  
24 requirements of any ordinance or resolution adopted by the  
25 governing body of the municipality that consents to the creation of  
26 the district or to the inclusion of lands within the district.

1 [Sections 8244.105-8244.150 reserved for expansion]

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 8244.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The  
4 district may issue, without an election, bonds and other  
5 obligations secured by revenue or contract payments from any source  
6 other than ad valorem taxation.

7 (b) The district must hold an election in the manner  
8 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
9 before the district may impose an operation and maintenance tax or  
10 issue bonds payable from ad valorem taxes.

11 Sec. 8244.152. OPERATION AND MAINTENANCE TAX. (a) If  
12 authorized at an election held under Section 8244.151, the district  
13 may impose an operation and maintenance tax on taxable property in  
14 the district in accordance with Section 49.107, Water Code.

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

17 [Sections 8244.153-8244.200 reserved for expansion]

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8244.201. AUTHORITY TO ISSUE BONDS AND OTHER  
20 OBLIGATIONS. The district may issue bonds or other obligations  
21 payable wholly or partly from ad valorem taxes, impact fees,  
22 revenue, grants, or other district money, or any combination of  
23 those sources, to pay for any authorized district purpose.

24 Sec. 8244.202. BONDS FOR ROAD PROJECTS. (a) The district  
25 may not issue bonds to finance projects authorized by Section  
26 8244.102 unless the issuance is approved by a vote of a two-thirds  
27 majority of the voters of the district voting at an election called

1 for that purpose.

2 (b) Bonds or other obligations issued or incurred to finance  
3 projects authorized by Section 8244.102 may not exceed one-fourth  
4 of the assessed value of the real property in the district.

5 Sec. 8244.203. BONDS FOR RECREATIONAL FACILITIES. If  
6 authorized at an election under Section 8244.151, the district may  
7 issue bonds payable from ad valorem taxes to pay for the development  
8 and maintenance of recreational facilities.

9 Sec. 8244.204. TAXES FOR BONDS. At the time bonds payable  
10 wholly or partly from ad valorem taxes are issued:

11 (1) the board shall impose a continuing direct annual  
12 ad valorem tax, without limit as to rate or amount, for each year  
13 that all or part of the bonds are outstanding; and

14 (2) the district annually shall impose an ad valorem  
15 tax on all taxable property in the district in an amount sufficient  
16 to:

17 (A) pay the interest on the bonds as the interest  
18 becomes due;

19 (B) create a sinking fund for the payment of the  
20 principal of the bonds when due or the redemption price at any  
21 earlier required redemption date; and

22 (C) pay the expenses of imposing the taxes.

23 SECTION 2. The Montgomery County Municipal Utility District  
24 No. 104 initially includes all the territory contained in the  
25 following area:

26 All that certain 1,073.141 acre (46,746,003 square feet) parcel of  
27 land situated in the Joseph A. Parker Survey, Abstract Number 418,

1 in Montgomery County, Texas, and being out of and a portion of that  
2 certain call 1,554.570 acre tract described in a Warranty Deed to  
3 Pacific Indio Properties, Inc. in Clerk's File Number 2006-013955  
4 of the Official Public Records of Real Property at Montgomery  
5 County, Texas (O.P.R.R.P.M.C.T.), out of and a portion of that  
6 certain call 877.775 acre tract described in a Warranty Deed to  
7 Pacific Indio Properties, Inc. recorded in Clerk's File Number  
8 2005-116796 of the O.P.R.R.P.M.C.T., out of and a portion of that  
9 certain call 2,086.441 acre tract described in a Warranty Deed to  
10 Pacific Indio Properties, Inc. recorded in Clerk's File Number  
11 2005-116793 of the O.P.R.R.P.M.C.T., and a portion of that certain  
12 call 435.784 acre tract described in a Warranty Deed to Pacific  
13 Indio Properties, Inc. recorded in Clerk's File Number 2005-116798  
14 of the O.P.R.R.P.M.C.T., said 1,073.141 acre tract being more  
15 particularly described by metes and bounds as follows: (All  
16 bearings are referenced to the Texas State Plane Coordinate System,  
17 South Central Zone)

18 BEGINNING at a 5/8 inch iron rod with plastic cap stamped "D L HARDY  
19 RPLS 4847" found for the northwest corner of that certain call 640.6  
20 acre tract described in a Warranty Deed with Reservation of  
21 Minerals to J.R. Development, Inc., in Clerk's File Number  
22 2002-062840 of the O.P.R.R.P.M.C.T., an interior corner of said  
23 1,554.570 acre tract, and the upper northeast corner of the herein  
24 described tract;

25 THENCE, with the westerly line of said 640.6 acre tract and the  
26 upper easterly line of the herein described tract, South 39 Degrees  
27 21 Minutes 37 Seconds East, at 2,869.24 feet pass a 5/8 inch iron



1 rod with plastic cap stamped "BENCHMARK ENGR." found for the lower  
2 southeast corner of said 1,554.570 acre tract and the northeast  
3 corner of said 877.775 acre tract, and continue, in all, a distance  
4 of 7,047.32 feet to a 5/8 inch iron rod with plastic cap stamped "D L  
5 HARDY RPLS 4847" found in the northerly line of said 435.784 acre  
6 tract for the southeast corner of said 877.775 acre tract, the  
7 southwest corner of said 640.6 acre tract and an interior corner of  
8 the herein described tract;

9 THENCE, with the northerly line of said 435.784 acre tract, the  
10 southerly line of said 640.6 acre tract, and the lower northerly  
11 line of the herein described tract, North 56 Degrees 46 Minutes 11  
12 Seconds East, at 2,138.38 feet pass a 5/8 inch iron rod with plastic  
13 cap stamped "DL HARDY RPLS 4847" found for reference, and continue,  
14 in all, a distance of 3,476.46 feet to a point on the west bank of  
15 the West Fork of the San Jacinto River for the southeast corner of  
16 said 640.6 acre tract and the lower northeast corner of the herein  
17 described tract;

18 THENCE, with the meanders of the west bank of the West Fork of the  
19 San Jacinto River, the following thirty-nine (39) courses:

20 1) South 13 Degrees 38 Minutes 59 Seconds East, a distance  
21 of 89.80 feet;

22 2) South 13 Degrees 32 Minutes 44 Seconds East, a distance  
23 of 73.39 feet;

24 3) South 10 Degrees 02 Minutes 02 Seconds East, a distance  
25 of 86.13 feet;

26 4) South 19 Degrees 38 Minutes 25 Seconds East, a distance  
27 of 116.02 feet;

- 1           5) South 23 Degrees 30 Minutes 13 Seconds East, a distance  
2 of 146.03 feet;
- 3           6) South 15 Degrees 38 Minutes 58 Seconds East, a distance  
4 of 136.96 feet;
- 5           7) South 24 Degrees 20 Minutes 58 Seconds East, a distance  
6 of 150.85 feet;
- 7           8) South 22 Degrees 37 Minutes 55 Seconds East, a distance  
8 of 128.90 feet;
- 9           9) South 15 Degrees 49 Minutes 40 Seconds East, a distance  
10 of 87.81 feet;
- 11          10) South 30 Degrees 09 Minutes 40 Seconds East, a distance  
12 of 109.62 feet;
- 13          11) South 35 Degrees 54 Minutes 03 Seconds East, a distance  
14 of 102.44 feet;
- 15          12) South 38 Degrees 48 Minutes 09 Seconds East, a distance  
16 of 177.26 feet;
- 17          13) South 55 Degrees 14 Minutes 59 Seconds East, a distance  
18 of 23.28 feet;
- 19          14) South 27 Degrees 42 Minutes 03 Seconds East, a distance  
20 of 174.50 feet;
- 21          15) South 37 Degrees 57 Minutes 28 Seconds East, a distance  
22 of 108.37 feet;
- 23          16) South 27 Degrees 51 Minutes 40 Seconds East, a distance  
24 of 165.56 feet;
- 25          17) South 28 Degrees 21 Minutes 03 Seconds East, a distance  
26 of 135.03 feet;
- 27          18) South 32 Degrees 22 Minutes 27 Seconds East, a distance

- 1 of 99.58 feet;
- 2 19) South 32 Degrees 48 Minutes 53 Seconds East, a distance  
3 of 118.70 feet;
- 4 20) South 28 Degrees 23 Minutes 15 Seconds East, a distance  
5 of 122.61 feet;
- 6 21) South 32 Degrees 48 Minutes 13 Seconds East, a distance  
7 of 182.03 feet;
- 8 22) South 20 Degrees 43 Minutes 07 Seconds East, a distance  
9 of 282.19 feet;
- 10 23) South 23 Degrees 57 Minutes 25 Seconds East, a distance  
11 of 142.25 feet;
- 12 24) South 16 Degrees 46 Minutes 29 Seconds East, a distance  
13 of 33.05 feet;
- 14 25) South 27 Degrees 13 Minutes 15 Seconds East, a distance  
15 of 196.21 feet;
- 16 26) South 19 Degrees 56 Minutes 37 Seconds East, a distance  
17 of 183.86 feet;
- 18 27) South 13 Degrees 11 Minutes 52 Seconds East, a distance  
19 of 153.22 feet;
- 20 28) South 09 Degrees 41 Minutes 40 Seconds East, a distance  
21 of 260.31 feet;
- 22 29) South 06 Degrees 50 Minutes 01 Second East, a distance  
23 of 162.09 feet;
- 24 30) South 00 Degrees 28 Minutes 13 Seconds West, a distance  
25 of 132.99 feet;
- 26 31) South 00 Degrees 43 Minutes 13 Seconds West, a distance  
27 of 113.42 feet;

1           32) South 01 Degree 59 Minutes 50 Seconds West, a distance  
2 of 103.52 feet;

3           33) South 03 Degrees 45 Minutes 11 Seconds East, a distance  
4 of 161.50 feet;

5           34) South 05 Degrees 34 Minutes 20 Seconds East, a distance  
6 of 341.01 feet;

7           35) South 08 Degrees 06 Minutes 09 Seconds East, a distance  
8 of 187.31 feet;

9           36) South 06 Degrees 24 Minutes 24 Seconds East, a distance  
10 of 169.09 feet;

11          37) South 04 Degrees 10 Minutes 27 Seconds East, a distance  
12 of 161.63 feet;

13          38) South 13 Degrees 04 Minutes 38 Seconds East, a distance  
14 of 155.01 feet;

15          39) South 18 Degrees 47 Minutes 13 Seconds East, a distance  
16 of 84.80 feet to the intersection of the west bank of the West Fork  
17 of the San Jacinto River with the northerly line of a proposed 100  
18 foot wide right-of-way (R.O.W.);

19 THENCE, through and across said 2,086.441 acre tract, said 435.784  
20 acre tract and said 877.775 acre tract, respectively, and with the  
21 northerly and easterly R.O.W. lines of said proposed 100 foot wide  
22 R.O.W., the following five (5) courses:

23           1) South 77 Degrees 00 Minutes 42 Seconds West, a distance  
24 of 2,577.67 feet to the beginning of a curve to the right;

25           2) 2,777.76 feet along the arc of said curve to the right  
26 having a radius of 2,950.00 feet, a central angle of 53 Degrees 57  
27 Minutes 52 Seconds, and a chord that bears North 76 Degrees 00

1 Minutes 47 Seconds West, a distance of 2,676.27 feet;

2 3) North 49 Degrees 02 Minutes 17 Seconds West, a distance  
3 of 2,696.36 feet to the beginning of a curve to the left;

4 4) 2,143.90 feet along the arc of said curve to the left  
5 having a radius of 3,050.00 feet, a central angle of 40 Degrees 16  
6 Minutes 27 Seconds, and a chord that bears North 69 Degrees 10  
7 Minutes 30 Seconds West, a distance of 2,100.03 feet;

8 5) North 89 Degrees 18 Minutes 44 Seconds West, a distance  
9 of 116.49 feet to the intersection of the northerly line of said  
10 proposed 100 foot wide R.O.W. with the easterly R.O.W. line of  
11 proposed Townsen Road (100 foot wide) for an exterior corner of the  
12 herein described tract;

13 THENCE, continuing through and across said 877.775 acre tract and  
14 said 1,554.570 acre tract, respectively, and with the easterly  
15 R.O.W. line of said proposed Towsen Road, the following four (4)  
16 courses:

17 1) North 00 Degrees 41 Minutes 16 Seconds East, a distance  
18 of 392.57 feet to the beginning of a curve to the left;

19 2) 2,445.61 feet along the arc of said curve to the left  
20 having a radius of 3,050.00 feet, a central angle of 45 Degrees 56  
21 Minutes 31 Seconds, and a chord that bears North 22 Degrees 17  
22 Minutes 00 Seconds West, a distance of 2,380.62 feet;

23 3) North 45 Degrees 15 Minutes 15 Seconds West, a distance  
24 of 1,595.17 feet to the beginning of a curve to the right;

25 4) 783.10 feet along the arc of said curve to the right  
26 having a radius of 1,950.00 feet, a central angle of 23 Degrees 00  
27 Minutes 34 Seconds, and a chord that bears North 33 Degrees 44

1 Minutes 58 Seconds West, a distance of 777.85 feet to the northwest  
2 corner of the herein described tract;

3 THENCE, continuing through and across said 1,554.570 acre tract and  
4 with the northerly line of the herein described tract, the  
5 following five (5) courses:

6 1) North 76 Degrees 01 Minute 00 Seconds East, a distance of  
7 404.61 feet;

8 2) North 43 Degrees 22 Minutes 37 Seconds East, a distance  
9 of 243.84 feet;

10 3) North 29 Degrees 19 Minutes 18 Seconds East, a distance  
11 of 643.72 feet;

12 4) North 68 Degrees 19 Minutes 38 Seconds East, a distance  
13 of 879.85 feet;

14 5) North 56 Degrees 12 Minutes 55 Seconds East, a distance  
15 of 1,094.52 feet to the POINT OF BEGINNING and containing 1,073.141  
16 acres (46,746,003 square feet) 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. The legislature finds that:

9 (1) the Montgomery County Municipal Utility District  
10 No. 104, as created by Chapter 8244, Special District Local Laws  
11 Code, as added by this Act, is not officially created until  
12 confirmed by a majority of the voters of the district voting at an  
13 election held for that purpose;

14 (2) securing the consent of political subdivisions to  
15 the creation of the district before the introduction or passage of  
16 this Act may be impractical because of the uncertainties of the  
17 legislative process; and

18 (3) the constitutional requirement for the district's  
19 compliance with the provisions of the general laws relating to the  
20 consent of political subdivisions to the creation of the district  
21 and the inclusion of land within the district is satisfied if that  
22 consent is secured before the date and hour of canvassing the  
23 returns and declaring the results of the confirmation election.

24 SECTION 5. This Act takes effect immediately if it receives  
25 a vote of two-thirds of all the members elected to each house, as  
26 provided by Section 39, Article III, Texas Constitution. If this  
27 Act does not receive the vote necessary for immediate effect, this

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1 Act takes effect September 1, 2007.