

By: Nichols

S.B. No. 1966

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 123; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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 8206 to read as follows:

CHAPTER 8206. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 123

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8206.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Montgomery County Municipal Utility District No. 123.

Sec. 8206.002. NATURE OF DISTRICT. (a) The district is a municipal utility district created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

(b) The district, to the extent authorized by Section 8206.103 and Section 52, Article III, Texas Constitution, has road powers.

Sec. 8206.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as provided by Section 49.102, Water Code.

1       Sec. 8206.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. All  
2 land and other property in the district will benefit from the  
3 improvements and services to be provided by the district.

4       Sec. 8206.005. INITIAL DISTRICT TERRITORY. (a) The  
5 district is initially composed of the territory described by  
6 Section 2 of the Act creating this chapter.

7       (b) The boundaries and field notes contained in Section 2 of  
8 the Act creating this chapter form a closure. A mistake in the  
9 field notes or in copying the field notes in the legislative process  
10 does not affect the district's:

11           (1) organization, existence, or validity;

12           (2) right to issue any type of bond for a purpose for  
13 which the district is created or to pay the principal of and  
14 interest on the bond;

15           (3) right to impose an assessment or tax; or

16           (4) legality or operation.

17       [Sections 8206.006-8206.050 reserved for expansion]

18                   SUBCHAPTER B. BOARD OF DIRECTORS

19       Sec. 8206.051. GOVERNING BODY; TERMS. (a) The district is  
20 governed by a board of five elected directors.

21       (b) Directors serve staggered four-year terms.

22       Sec. 8206.052. INITIAL DIRECTORS. (a) The initial board  
23 consists of:

24           (1) Damon Sachs;

25           (2) Emily Robinson;

26           (3) Dan McDonald;

27           (4) Matthew May; and

1           (5) Jeffrey Zinn.

2           (b) Unless the initial board agrees otherwise, the initial  
3 directors shall draw lots to determine which two shall serve until  
4 the first regularly scheduled election of directors and which three  
5 shall serve until the second regularly scheduled election of  
6 directors.

7           (c) This section expires September 1, 2014.

8           [Sections 8206.053-8206.100 reserved for expansion]

9                           SUBCHAPTER C. POWERS AND DUTIES

10          Sec. 8206.101. GENERAL POWERS AND DUTIES. The district has  
11 the powers and duties necessary to accomplish the purposes for  
12 which the district is created.

13          Sec. 8206.102. MUNICIPAL UTILITY DISTRICT POWERS AND  
14 DUTIES. The district has the powers and duties provided by the  
15 general law of this state, including Chapters 49 and 54, Water Code,  
16 applicable to municipal utility districts created under Section 59,  
17 Article XVI, Texas Constitution.

18          Sec. 8206.103. ROAD PROJECTS. (a) Under Section 52,  
19 Article III, Texas Constitution, the district may finance,  
20 construct, or acquire a road project as provided by this section.

21          (b) The district shall employ or contract with a licensed  
22 engineer to certify whether a proposed road project meets the  
23 criteria for a thoroughfare, arterial, or collector road of:

24               (1) a county in whose jurisdiction the proposed road  
25 project is located; or

26               (2) a municipality in whose corporate limits or  
27 extraterritorial jurisdiction the proposed road project is

1 located.

2 (c) The district may finance, construct, or acquire a road  
3 that is located in the district and that has been certified by the  
4 licensed engineer as a thoroughfare, arterial, or collector road,  
5 or any improvements in aid of the certified road.

6 (d) A road project must meet all applicable standards,  
7 regulations, ordinances, or orders of:

8 (1) each municipality in whose corporate limits or  
9 extraterritorial jurisdiction the road project is located; and

10 (2) each county in which the road project is located if  
11 the road project is not located in the corporate limits of a  
12 municipality.

13 (e) The district may, with the consent of the municipality  
14 or county, convey a completed road project to:

15 (1) a municipality in whose corporate limits or  
16 extraterritorial jurisdiction the road project is located; or

17 (2) a county in which the road project is located.

18 Sec. 8206.104. COMPLIANCE WITH MUNICIPAL CONSENT  
19 RESOLUTION. The district shall comply with all applicable  
20 requirements of any resolution, adopted by the governing body of a  
21 municipality under Section 54.016, Water Code, that consents to the  
22 creation of the district or to the inclusion of land in the  
23 district.

24 Sec. 8206.105. RECREATIONAL FACILITIES; LIMIT ON EMINENT  
25 DOMAIN POWER. (a) In this section, "recreational facilities" and  
26 "develop and maintain" have the meanings assigned by Section  
27 49.462, Water Code.

1       (b) The district may develop and maintain recreational  
2 facilities.

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

6       [Sections 8206.106-8206.150 reserved for expansion]

7               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8       Sec. 8206.151. ELECTIONS REGARDING TAXES OR BONDS.

9       (a) The district may issue, without an election, bonds and other  
10 obligations secured by revenue or contract payments from a source  
11 other than ad valorem taxation.

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

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

20       Sec. 8206.152. OPERATION AND MAINTENANCE TAX. (a) If  
21 authorized at an election held under Section 8206.151, the district  
22 may impose an operation and maintenance tax on taxable property in  
23 the district as provided by Chapter 49.107, Water Code.

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

26       [Sections 8206.153-8206.200 reserved for expansion]

27               SUBCHAPTER E. BONDS

1       Sec. 8206.201. AUTHORITY TO ISSUE BONDS AND OTHER  
2 OBLIGATIONS. The district may issue bonds or other obligations  
3 payable wholly or partly from ad valorem taxes, impact fees,  
4 revenue, grants, or other district money, or any combination of  
5 those sources, to pay for any authorized district purpose.

6       Sec. 8206.202. BONDS FOR ROAD PROJECTS. At the time of  
7 issuance, the total principal amount of a bond, note, or other  
8 obligation issued or incurred to finance a road project may not  
9 exceed one-fourth of the assessed value of real property in the  
10 district according to the most recent certified tax appraisal roll  
11 for Montgomery County.

12       Sec. 8206.203. BONDS FOR RECREATIONAL FACILITIES. If  
13 authorized at an election under Section 8206.151, the district may  
14 issue bonds payable from ad valorem taxes to pay for the development  
15 and maintenance of recreational facilities.

16       Sec. 8206.204. TAXES FOR BONDS AND OTHER OBLIGATIONS. At  
17 the time bonds or other obligations payable wholly or partly from ad  
18 valorem taxes are issued:

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

22               (2) the district annually shall impose an ad valorem  
23 tax on all taxable property in the district in an amount sufficient  
24 to:

25                       (A) pay the interest on the bonds or other  
26 obligations as the interest becomes due;

27                       (B) create a sinking fund for the payment of the

1 principal of the bonds or other obligations when due or the  
2 redemption price at any earlier required redemption date; and

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

4 SECTION 2. The Montgomery County Municipal Utility District  
5 No. 123 initially includes all the territory contained in the  
6 following area:

7 BEING a 971.06 acre tract of land situated in the Charles E. Dugat  
8 Survey, Abstract-171, the Thomas J. Nichols Survey, Abstract-397,  
9 and the Matthew Cartwright Survey, Abstract-135 Montgomery County,  
10 Texas, and being a part of a 1056.19 acre tract recorded in Clerk's  
11 File No. 99056276, Real Property Records, Montgomery County, Texas,  
12 and a 766.50 acre tract as recorded under Clerk's File No.  
13 2001-076094, and being more particularly described as follows:

14 BEGINNING at a ½" iron rod, in the south boundary line of the said  
15 1056.19 acre tract, also being the northwesterly corner of a 24.27  
16 acre tract of land as recorded under Volume 254, Page 311, of the  
17 Deed Records of Montgomery County, Texas;

18 THENCE S 02deg35'33" E, a distance of 4193.71' to a point for corner  
19 being the southwesterly corner of a 7.14 acre tract of land as  
20 recorded under Clerk's File No. 99057597, of the Real Property  
21 Records of Montgomery County, Texas,

22 THENCE S 86deg47'39" W, a distance of 481.10' to a point for corner,  
23 THENCE N 03deg12'21" W, a distance of 774.33' to a point for corner,  
24 being the northerly northeast corner of a 96.20 acre tract of land  
25 as recorded under Clerk's File No. 99026139, Real Property Records  
26 of Montgomery County, Texas,

27 THENCE S 86deg47'39" W, a distance of 4894.23' to a point for

1 corner, being the northwesterly corner of the said 96.20 acre  
2 tract, and being in the most easterly line of the said 1056.19 acre  
3 tract,  
4 THENCE N 03deg59'21" W, a distance of 1918.43' to a point for corner  
5 being an interior angle point of a called 4285.30 acre tract of land  
6 as recorded under Clerk's File No. 9722949, Real Property Records  
7 of Montgomery County, Texas, and being a northwesterly corner of  
8 the herein described tract;  
9 THENCE N 86deg53'08" E, a distance of 1411.97' to a point for  
10 corner,  
11 THENCE N 03deg09'10" W, a distance of 1483.04' to a point for  
12 corner,  
13 THENCE N 86deg49'54" E, a distance of 2131.87' to a point for  
14 corner,  
15 THENCE N 00deg38'33" W, a distance of 181.03' to a point for corner,  
16 being the southwesterly corner of Grand Lake Estates Section 10, a  
17 subdivision recorded under Cabinet V, Sheet 124 of the Map Records  
18 of Montgomery County, Texas,  
19 THENCE S 89deg36'19" E, a distance of 342.01' to a point for corner,  
20 THENCE S 72deg22'34" E, a distance of 63.23' to a point for corner,  
21 THENCE N 89deg17'37" E, a distance of 251.57' to a point for corner,  
22 being the southeasterly corner of Grand Lake Estates Section 10,  
23 THENCE across the called 1056.91 acre tract as follows:  
24 THENCE N 89deg17'39" E, a distance of 30.00' to a point for corner,  
25 THENCE S 05deg56'27" W, a distance of 34.48' to a point for corner,  
26 THENCE S 09deg16'49" E, a distance of 294.53' to a point for corner,  
27 THENCE N 90deg00'00" E, a distance of 521.27' to a point for corner,



1 THENCE with a curve turning to the right, with an arc length of  
2 85.98', having a radius of 160.00', a chord which bears N  
3 15deg54'21" E, a chord length of 84.95',;  
4 THENCE N 31deg17'59" E, a distance of 35.88' to a point for corner,  
5 THENCE N 58deg42'01" W, a distance of 188.79' to a point for corner,  
6 THENCE N 27deg04'02" E, a distance of 564.43' to a point for corner,  
7 THENCE N 06deg18'45" W, a distance of 960.31' to a point for corner,  
8 THENCE N 11deg17'41" E, a distance of 873.14' to a point for corner,  
9 THENCE N 04deg21'27" W, a distance of 305.84' to a point for corner,  
10 being a southeasterly corner of Grand Lake Estates, Section 7, a  
11 subdivision recorded under Cabinet P, Sheet, 71, of the Map Records  
12 of Montgomery County, Texas,  
13 THENCE across the southerly line of Grand Lake Estates Section 7 as  
14 follows:  
15 THENCE S 80deg00'00" E, a distance of 255.64' to a point for corner,  
16 THENCE N 10deg00'00" E, a distance of 75.46' to a point for corner,  
17 THENCE S 80deg00'00" E, a distance of 527.93' to a point for corner,  
18 THENCE N 13deg49'27" E, a distance of 371.17' to a point for corner,  
19 THENCE N 68deg49'52" W, a distance of 481.42' to a point for corner,  
20 THENCE N 02deg36'41" W, a distance of 463.18' to a point for corner,  
21 THENCE N 39deg43'35" E, a distance of 66.51' to a point for corner,  
22 THENCE S 60deg31'41" E, a distance of 513.34' to a point for corner,  
23 THENCE S 76deg32'37" E, a distance of 240.79' to a point for corner,  
24 THENCE N 42deg56'06" E, a distance of 514.37' to a point for corner,  
25 THENCE N 13deg05'08" W, a distance of 197.92' to a point for corner,  
26 THENCE N 83deg11'23" E, a distance of 248.21' to a point for corner,  
27 THENCE S 13deg05'08" E, a distance of 16.86' to a point for corner,

1 THENCE N 83deg11'23" E, a distance of 241.60' to a point for corner,  
2 THENCE N 06deg17'39" E, a distance of 63.17' to a point for corner,  
3 THENCE N 34deg26'11" E, a distance of 66.65' to a point for corner,  
4 THENCE N 01deg50'54" W, a distance of 38.31' to a point for corner,  
5 THENCE N 05deg02'40" E, a distance of 135.34' to a point for corner,  
6 THENCE N 83deg11'23" E, a distance of 46.95' to a point for corner,  
7 THENCE S 22deg45'31" E, a distance of 123.44' to a point for corner,  
8 THENCE S 46deg07'36" E, a distance of 85.93' to a point for corner,  
9 THENCE S 27deg13'26" E, a distance of 199.65' to a point for corner,  
10 THENCE S 00deg28'34" W, a distance of 117.40' to a point for corner,  
11 THENCE S 26deg34'06" W, a distance of 153.52' to a point for corner,  
12 THENCE S 09deg43'52" E, a distance of 87.19' to a point for corner,  
13 THENCE S 48deg01'24" E, a distance of 99.11' to a point for corner,  
14 THENCE N 48deg26'34" E, a distance of 58.73' to a point for corner,  
15 THENCE S 72deg47'01" E, a distance of 52.55' to a point for corner,  
16 THENCE S 05deg40'46" W, a distance of 109.61' to a point for corner,  
17 THENCE N 88deg51'58" E, a distance of 136.71' to a point for corner,  
18 THENCE N 23deg45'12" E, a distance of 373.71' to a point for corner,  
19 for the most easterly corner of Grand Lake Estates Section 7,  
20 THENCE with a curve turning to the left, with an arc length of  
21 142.52', having a radius of 330.00', a chord which bears S  
22 76deg03'33" E, a chord length of 141.42',  
23 THENCE N 88deg51'58" E, a distance of 703.56' to a point for corner  
24 being the northwesterly corner of Grand Lake Estates Section 8, as  
25 recorded under Cabinet R, Sheet 75, of the Map Records of Montgomery  
26 County, Texas,  
27 THENCE S 03deg57'41" E, along the westerly line of Grand Lake

1 Estates Section 8, a distance of 742.80' to a point for corner,  
2 THENCE along the southerly line of Grand Lake Estates Section 8 as  
3 follows:  
4 THENCE S 83deg33'48" E, a distance of 279.69' to a point for corner,  
5 THENCE S 23deg30'47" E, a distance of 390.65' to a point for corner,  
6 THENCE S 66deg33'01" E, a distance of 359.88' to a point for corner,  
7 THENCE N 81deg42'44" E, a distance of 742.77' to a point for corner,  
8 THENCE S 34deg40'50" E, a distance of 327.59' to a point for corner,  
9 THENCE N 88deg56'36" E, a distance of 2214.90' to a point for  
10 corner,  
11 THENCE S 02deg25'04" E, leaving the southerly line of Grand Lake  
12 Estates Section 8, a distance of 3330.73' to a point for corner in  
13 the northerly line of a 30.00 acre tract of land as recorded under  
14 Clerk's File No. 9736509, of the Real Property Records of  
15 Montgomery County, Texas,  
16 THENCE S 86deg48'56" W, a distance of 3747.25' to a point for  
17 corner, in the northerly line of a 29.08 acre tract of land as  
18 recorded under Clerk's File No. 9638969, of the Real Property  
19 Records of Montgomery County, Texas, and being the southwesterly  
20 corner of the said 766.50 acre tract,  
21 THENCE N 04deg09'18" W, a distance of 1473.34' to a point for  
22 corner, being the northeasterly corner of a 24.77 acre tract of land  
23 as recorded under Clerk's File No. 9672346, of the Real Property  
24 Records of Montgomery County, Texas, and being the southeasterly  
25 corner of the said 1056.19 acre tract,  
26 THENCE S 87deg18'57" W, along the southerly line of the said  
27 1056.19 acre tract, a distance of 1619.19' to a point for corner,

1 being the northwesterly corner of the said 24.77 acre tract, and  
2 being the northeasterly corner of the said 24.27 acre tract,  
3 THENCE S 87deg35'34" W, a distance of 1612.68', back to the POINT OF  
4 BEGINNING, and containing 971.06 acres of land.

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

12 (b) The governor, one of the required recipients, has  
13 submitted the notice and Act to the Texas Commission on  
14 Environmental Quality.

15 (c) The Texas Commission on Environmental Quality has filed  
16 its recommendations relating to this Act with the governor, the  
17 lieutenant governor, and the speaker of the house of  
18 representatives within the required time.

19 (d) All requirements of the constitution and laws of this  
20 state and the rules and procedures of the legislature with respect  
21 to the notice, introduction, and passage of this Act are fulfilled  
22 and accomplished.

23 SECTION 4. This Act takes effect immediately if it receives  
24 a vote of two-thirds of all the members elected to each house, as  
25 provided by Section 39, Article III, Texas Constitution. If this  
26 Act does not receive the vote necessary for immediate effect, this  
27 Act takes effect September 1, 2007.