

By: Bell

H.B. No. 1492

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 140; 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 8425 to read as follows:

CHAPTER 8425. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 140

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8425.001. 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. 140.

Sec. 8425.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8425.003. CONFIRMATION AND DIRECTORS' 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. 8425.004. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section 8425.003
4 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.

8 Sec. 8425.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
9 The district is created to serve a public purpose and benefit.

10 (b) The district is created to accomplish the purposes of:

11 (1) a municipal utility district as provided by
12 general law and Section 59, Article XVI, Texas Constitution; and

13 (2) Section 52, Article III, Texas Constitution, that
14 relate to the construction, acquisition, improvement, operation,
15 or maintenance of macadamized, graveled, or paved roads, or
16 improvements, including storm drainage, in aid of those roads.

17 Sec. 8425.006. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

20 (b) The boundaries and field notes contained in Section 2 of
21 the Act enacting 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 a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 8425.051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8425.052, directors serve
7 staggered four-year terms.

8 Sec. 8425.052. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 8425.003; or

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

20 (c) If permanent directors have not been elected under
21 Section 8425.003 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 8425.003; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

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

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 8425.101. 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. 8425.102. 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. 8425.103. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
19 OR RESOLUTION. The district shall comply with all applicable
20 requirements of any ordinance or resolution that is adopted under
21 Section 54.016 or 54.0165, Water Code, and that consents to the
22 creation of the district or to the inclusion of land in the
23 district.

24 Sec. 8425.104. AUTHORITY FOR ROAD PROJECTS. Under Section
25 52, Article III, Texas Constitution, the district may design,
26 acquire, construct, finance, issue bonds for, improve, operate,
27 maintain, and convey to this state, a county, or a municipality for

1 operation and maintenance macadamized, graveled, or paved roads, or
2 improvements, including storm drainage, in aid of those roads.

3 Sec. 8425.105. ROAD STANDARDS AND REQUIREMENTS. (a) A road
4 project must meet all applicable construction standards, zoning and
5 subdivision requirements, and regulations of each municipality in
6 whose corporate limits or extraterritorial jurisdiction the road
7 project is located.

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

13 (c) If the state will maintain and operate the road, the
14 Texas Transportation Commission must approve the plans and
15 specifications of the road project.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8425.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 district may issue, without an election, bonds and other
19 obligations secured by:

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

21 (2) contract payments described by Section 8425.153.

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

26 (c) The district may not issue bonds payable from ad valorem
27 taxes to finance a road project unless the issuance is approved by a

1 vote of a two-thirds majority of the district voters voting at an
2 election held for that purpose.

3 Sec. 8425.152. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8425.151, the district
5 may impose an operation and maintenance tax on taxable property in
6 the district in accordance with Section 49.107, Water Code.

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

9 Sec. 8425.153. CONTRACT TAXES. (a) In accordance with
10 Section 49.108, Water Code, the district may impose a tax other than
11 an operation and maintenance tax and use the revenue derived from
12 the tax to make payments under a contract after the provisions of
13 the contract have been approved by a majority of the district voters
14 voting at an election held for that purpose.

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

18 Sec. 8425.154. DIVISION OF DISTRICT. (a) The district may
19 be divided into two or more new districts only if:

- 20 (1) the district has no outstanding bonded debt;
21 (2) the district is not imposing ad valorem taxes; and
22 (3) the requirement of Subsection (i) is satisfied.

23 (b) This chapter applies to any new district created by the
24 division of the district, and a new district has all the powers and
25 duties of the district.

26 (c) Any new district created by the division of the district
27 may not, at the time the new district is created, contain any land

1 outside the area described by Section 2 of the Act creating this
2 chapter.

3 (d) The board, on its own motion or on receipt of a petition
4 signed by the owner or owners of a majority of the assessed value of
5 the real property in the district, may adopt an order dividing the
6 district.

7 (e) The board may adopt an order dividing the district
8 before or after the date the board holds an election under Section
9 8425.151 to authorize the district's bonds.

10 (f) An order dividing the district shall:

11 (1) name each new district;

12 (2) include the metes and bounds description of the
13 territory of each new district;

14 (3) appoint temporary directors for each new district;

15 and

16 (4) provide for the division of assets and liabilities
17 between or among the new districts.

18 (g) On or before the 30th day after the date of adoption of
19 an order dividing the district, the district shall file the order
20 with the Texas Commission on Environmental Quality and record the
21 order in the real property records of each county in which the
22 district is located.

23 (h) Any new district created by the division of the district
24 shall hold a confirmation and directors' election as required by
25 Section 8425.003.

26 (i) If the district is located wholly or partly in the
27 corporate limits or the extraterritorial jurisdiction of a

1 municipality, the district may not divide under this subchapter
2 unless the municipality by resolution or ordinance consents to the
3 division of the district.

4 (j) Any new district created by the division of the district
5 must hold an election as required by this chapter to obtain voter
6 approval before the district may impose a maintenance tax or issue
7 bonds payable wholly or partly from ad valorem taxes.

8 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

9 Sec. 8425.201. AUTHORITY TO ISSUE BONDS AND OTHER
10 OBLIGATIONS. The district may issue bonds or other obligations
11 payable wholly or partly from ad valorem taxes, impact fees,
12 revenue, contract payments, grants, or other district money, or any
13 combination of those sources, to pay for any authorized district
14 purpose.

15 Sec. 8425.202. TAXES FOR BONDS. At the time the district
16 issues bonds payable wholly or partly from ad valorem taxes, the
17 board shall provide for the annual imposition of a continuing
18 direct ad valorem tax, without limit as to rate or amount, while all
19 or part of the bonds are outstanding as required and in the manner
20 provided by Sections 54.601 and 54.602, Water Code.

21 Sec. 8425.203. BONDS FOR ROAD PROJECTS. At the time of
22 issuance, the total principal amount of bonds or other obligations
23 issued or incurred to finance road projects and payable from ad
24 valorem taxes may not exceed one-fourth of the assessed value of the
25 real property in the district.

26 SECTION 2. The Montgomery County Municipal Utility District
27 No. 140 initially includes all the territory contained in the

1 following area:

2 BEING ALL THAT CERTAIN TRACT OR PARCEL OF LAND CONTAINING
3 1207.52 ACRES OF LAND SITUATED IN THE WILLIAM VINCE SURVEY,
4 ABSTRACT No. 581, MONTGOMERY COUNTY, TEXAS, AND SAME BEING ALL OF A
5 CALLED 906.6 ACRE TRACT AS RECORDED IN VOLUME 593, PAGE 232, DEED
6 RECORDS MONTGOMERY COUNTY, TEXAS, ALL OF A CALLED 152.5 ACRE TRACT
7 AS RECORDED IN VOLUME 1106, PAGE 729 DEED RECORDS MONTGOMERY
8 COUNTY, TEXAS AND ALL OF A CALLED 152.5 ACRE TRACT AS RECORDED IN
9 VOLUME 467, PAGE 617 DEED RECORDS MONTGOMERY COUNTY, TEXAS; SAID
10 1207.52 ACRE TRACT BEING THE SAME CALLED 1207.816 ACRE TRACT AS
11 RECORDED IN FILM CODE No. 370-00-1195 REAL PROPERTY RECORDS
12 MONTGOMERY COUNTY, TEXAS AND BEING MORE PARTICULARLY DESCRIBED BY
13 METES AND BOUNDS AS FOLLOWS, TO-WIT:

14 BEGINNING at a fence corner found for an interior corner of a
15 called 1656 acre tract as recorded in Montgomery County Clerk's
16 File No. 9521239, same being the northeast corner of said 906.6 acre
17 tract, and this herein described tract;

18 THENCE South 20 degrees 59 minutes 02 seconds East, a
19 distance of 8513.69 feet with the east line of said William Vince
20 Survey, same being the west line of the B.B.B. and C. R.R. Co.
21 Survey, Abstract No. 112, and the west line of said 1656 acre tract,
22 to a 5/8 inch iron rod found in the north margin of a 170 foot wide
23 drainage easement as recorded in Montgomery County Clerk's File No.
24 9519948 for the southeast corner of said 906.6 acre tract and this
25 herein described tract;

26 THENCE South 89 degrees 52 minutes 51 seconds West, a
27 distance of 7796.46 feet with the south line of said William Vince

1 Survey, same being the north line of the George Mason Survey,
2 Abstract No. 341 and said 170 wide drainage easement to a 5/8 inch
3 iron rod set in the east bank of the San Jacinto River (West Fork)
4 for the southwest corner of said 906.6 acre tract and this herein
5 described tract;

6 THENCE along the east bank of said San Jacinto River with the
7 following meanders:

8 THENCE North 11 degrees 49 minutes 12 seconds East, a
9 distance of 380.67 feet;

10 THENCE North 01 degrees 16 minutes 09 seconds West, a
11 distance of 394.82 feet;

12 THENCE North 23 degrees 09 minutes 19 seconds West, a
13 distance of 960.49 feet;

14 THENCE North 04 degrees 50 minutes 29 seconds West, a
15 distance of 412.43 feet to a 5/8 inch iron rod set on the east bank
16 of said San Jacinto River, for the southwest corner of a called 250
17 acre tract as recorded in Volume 969, Page 543 Deed Records
18 Montgomery County, Texas, and same the upper southwest corner of
19 this herein described tract;

20 THENCE South 88 degrees 25 minutes 24 seconds East, a
21 distance of 1039.87 feet to a 3 inch iron pipe found for the
22 southeast corner of said 250 acre tract, the southwest corner of
23 said 152.5 acre tract as recorded in Volume 467, Page 617 Deed
24 Records Montgomery County, Texas, and same being an interior corner
25 of this herein described tract;

26 THENCE North 00 degrees 50 minutes 54 seconds East, a
27 distance of 4030.78 feet to a 3 inch iron pipe found for the

1 northeast corner of said 250 acre tract, the northwest corner of
2 said 152.5 acre tract, and same being an interior corner of this
3 herein described tract;

4 THENCE South 89 degrees 51 minutes 21 seconds West, a
5 distance of 3693.92 feet to a 5/8 inch iron rod set on the east bank
6 of said San Jacinto River for the northwest corner of said 250 acre
7 tract and same being the lower northwest corner of this herein
8 described tract;

9 THENCE along the east bank of said San Jacinto River with the
10 following meanders:

11 THENCE North 21 degrees 09 minutes 03 seconds East, a
12 distance of 471.62 feet;

13 THENCE North 03 degrees 09 minutes 38 seconds East, a
14 distance of 208.42 feet;

15 THENCE North 11 degrees 23 minutes 43 seconds West, a
16 distance of 330.30 feet;

17 THENCE North 07 degrees 42 minutes 59 seconds West, a
18 distance of 240.75 feet;

19 THENCE North 24 degrees 03 minutes 52 seconds West, a
20 distance of 409.87 feet;

21 THENCE North 26 degrees 49 minutes 19 seconds West, a
22 distance of 335.54 feet to a 5/8 inch iron rod set on the east bank
23 of said San Jacinto River for the northwest corner of said 906.6
24 acre tract, same being the northwest corner of this herein
25 described tract;

26 THENCE North 89 degrees 48 minutes 05 seconds East, with the
27 north line of said William Vince Survey, same being the south line

1 of the Allen Vince Survey, Abstract No. 52, the south line of a
2 called 92.181 acre tract as recorded in Montgomery County Clerk's
3 File No. 2002-091442, the south line of a called 55.08 acre tract as
4 recorded in Montgomery County Clerk's File No. 8337280, the south
5 line of the Wiatt Anderson Survey, Abstract No. 53, the south line
6 of a called 140.68 acre tract as recorded in Montgomery County
7 Clerk's File No. 8337280, the south line of Porter Heights, Section
8 1, as recorded in Volume 5, Page 339 Map Records Montgomery County,
9 Texas, and the south line of Porter Heights, Section 2, as recorded
10 in Volume 7, Page 259 Map Records Montgomery County, Texas a
11 distance of 7920.14 feet to the PLACE OF BEGINNING and containing
12 1207.52 acres.

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

20 (b) The governor, one of the required recipients, has
21 submitted the notice and Act to the Texas Commission on
22 Environmental Quality.

23 (c) The Texas Commission on Environmental Quality has filed
24 its recommendations relating to this Act with the governor, the
25 lieutenant governor, and the speaker of the house of
26 representatives within the required time.

27 (d) All requirements of the constitution and laws of this

1 state and the rules and procedures of the legislature with respect
2 to the notice, introduction, and passage of this Act are fulfilled
3 and accomplished.

4 SECTION 4. (a) If this Act does not receive a two-thirds
5 vote of all the members elected to each house, Subchapter C, Chapter
6 8425, Special District Local Laws Code, as added by Section 1 of
7 this Act, is amended by adding Section 8425.106 to read as follows:

8 Sec. 8425.106. NO EMINENT DOMAIN POWER. The district may
9 not exercise the power of eminent domain.

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

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2013.