

By: Creighton

H.B. No. 3868

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 135; 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 8423 to read as follows:

CHAPTER 8423. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 135

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8423.001. 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. 135.

Sec. 8423.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8423.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 8423.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8423.003
3 until each municipality in whose corporate limits or
4 extraterritorial jurisdiction the district is located has
5 consented by ordinance or resolution to the creation of the
6 district and to the inclusion of land in the district.

7 Sec. 8423.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
8 The district is created to serve a public purpose and benefit.

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

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

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

16 Sec. 8423.006. INITIAL DISTRICT TERRITORY. (a) The
17 district is initially composed of the territory described by
18 Section 2 of the Act enacting this chapter.

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

23 (1) organization, existence, or validity;

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

27 (3) right to impose a tax; or

1 (4) legality or operation.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. 8423.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8423.052, directors serve
6 staggered four-year terms.

7 Sec. 8423.052. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8423.003; or

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

19 (c) If permanent directors have not been elected under
20 Section 8423.003 and the terms of the temporary directors have
21 expired, successor temporary directors shall be appointed or
22 reappointed as provided by Subsection (d) to serve terms that
23 expire on the earlier of:

24 (1) the date permanent directors are elected under
25 Section 8423.003; or

26 (2) the fourth anniversary of the date of the
27 appointment or reappointment.

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

8 SUBCHAPTER C. POWERS AND DUTIES

9 Sec. 8423.101. GENERAL POWERS AND DUTIES. The district has
10 the powers and duties necessary to accomplish the purposes for
11 which the district is created.

12 Sec. 8423.102. MUNICIPAL UTILITY DISTRICT POWERS AND
13 DUTIES. The district has the powers and duties provided by the
14 general law of this state, including Chapters 49 and 54, Water Code,
15 applicable to municipal utility districts created under Section 59,
16 Article XVI, Texas Constitution.

17 Sec. 8423.103. AUTHORITY FOR ROAD PROJECTS. Under Section
18 52, Article III, Texas Constitution, the district may design,
19 acquire, construct, finance, issue bonds for, improve, operate,
20 maintain, and convey to this state, a county, or a municipality for
21 operation and maintenance macadamized, graveled, or paved roads, or
22 improvements, including storm drainage, in aid of those roads.

23 Sec. 8423.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
24 project must meet all applicable construction standards, zoning and
25 subdivision requirements, and regulations of each municipality in
26 whose corporate limits or extraterritorial jurisdiction the road
27 project is located.

1 (b) If a road project is not located in the corporate limits
2 or extraterritorial jurisdiction of a municipality, the road
3 project must meet all applicable construction standards, zoning and
4 subdivision requirements, and regulations of each county in which
5 the road project is located.

6 (c) If the state will maintain and operate the road, the
7 Texas Transportation Commission must approve the plans and
8 specifications of the road project.

9 Sec. 8423.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
10 OR RESOLUTION. The district shall comply with all applicable
11 requirements of any ordinance or resolution that is adopted under
12 Section 54.016 or 54.0165, Water Code, and that consents to the
13 creation of the district or to the inclusion of land in the
14 district.

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8423.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
17 district may issue, without an election, bonds and other
18 obligations secured by:

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

20 (2) contract payments described by Section 8423.153.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8423.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8423.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 8423.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

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

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 8423.201. AUTHORITY TO ISSUE BONDS AND OTHER
19 OBLIGATIONS. The district may issue bonds or other obligations
20 payable wholly or partly from ad valorem taxes, impact fees,
21 revenue, contract payments, grants, or other district money, or any
22 combination of those sources, to pay for any authorized district
23 purpose.

24 Sec. 8423.202. TAXES FOR BONDS. At the time the district
25 issues bonds payable wholly or partly from ad valorem taxes, the
26 board shall provide for the annual imposition of a continuing
27 direct ad valorem tax, without limit as to rate or amount, while all

1 or part of the bonds are outstanding as required and in the manner
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 8423.203. BONDS FOR ROAD PROJECTS. At the time of
4 issuance, the total principal amount of bonds or other obligations
5 issued or incurred to finance road projects and payable from ad
6 valorem taxes may not exceed one-fourth of the assessed value of the
7 real property in the district.

8 SECTION 2. The Montgomery County Municipal Utility District
9 No. 135 initially includes all the territory contained in the
10 following area:

11 Being 412.541 acres of land located in the Abraham Pevehouse
12 Survey, Abstract Number 423, Montgomery County, Texas, being part
13 of a called 633.7 acres of land described as Tract 1 out of Part 2,
14 Montgomery County, Texas by the document of record under File
15 Number 9509572 in the Official Public Records of Real Property of
16 Montgomery County, Texas, said 412.541 acres being more
17 particularly described by metes and bounds in two parts as follows:

18 EAST PEVEHOUSE - 214.740 ACRES
19 BEGINNING at a point on the north line of F.M. 1097;
20 Thence, North 90° 00' 00" West, 180.70 feet to a point for
21 corner;
22 Thence, North 00° 00' 00" East, 738.09 feet to a point for
23 corner;
24 Thence, North 90° 00' 00" West, 1476.19 feet to a point for
25 corner;
26 Thence, North 00° 00' 00" East, 738.09 feet to a point for
27 corner;

1 Thence, North 90° 00' 00" East, 530.98 feet to a point for
2 corner;

3 Thence, North 00° 00' 00" East, 783.96 feet to a point for
4 corner;

5 Thence, North 90° 00' 00" East, 722.81 feet to a point for
6 corner;

7 Thence, North 00° 00' 00" East, 2,001.60 feet to a point for
8 corner;

9 Thence, North 90° 00' 00" East, 2,427.82 feet to a point for
10 corner;

11 Thence, South 20° 18' 48" East, 1,379.31 feet to a point for
12 corner;

13 Thence, North 90° 00' 00" West, 971.86 feet to a point for
14 corner;

15 Thence, South 27° 55' 10" West, 801.34 feet to a point for
16 corner;

17 Thence, South 00° 00' 00" East, 2,260.14 feet to a point for
18 corner;

19 Thence, North 90° 00' 00" West, 563.51 feet to a point for
20 corner;

21 Thence, North 32° 52' 02" West, 477.93 feet to a point for
22 corner;

23 Thence, North 90° 00' 00" West, 333.60 feet to a point for
24 corner;

25 Thence, South 00° 00' 00" West, 401.43 feet to the POINT OF
26 BEGINNING and containing 214.740 acres of land.

27 WEST PEVEHOUSE - 197.801 ACRES

1 BEGINNING at a point on the north line of F.M. 1097;
2 Thence, North 90° 00' 00" West, 1,223.20 feet to a point for
3 corner;
4 Thence, North 00° 00' 00" East, 1,895.96 feet to a point for
5 corner;
6 Thence, North 90° 00' 00" West, 2,037.74 feet to a point for
7 corner;
8 Thence, North 00° 00' 00" East, 2,335.20 feet to a point for
9 corner;
10 Thence, North 90° 00' 00" East, 2,641.00 feet to a point for
11 corner;
12 Thence, South 00° 00' 00" East, 1,807.00 feet to a point for
13 corner;
14 Thence, North 90° 00' 00" East, 411.44 feet to a point for
15 corner;
16 Thence, South 00° 00' 00" East, 947.98 feet to a point for
17 corner;
18 Thence, North 90° 00' 00" East, 208.50 feet to a point for
19 corner;
20 Thence, South 00° 00' 00" East, 1,476.18 feet to the POINT OF
21 BEGINNING and containing 197.801 acres of land.

22 The EAST PEVEHOUSE and the WEST PEVEHOUSE tracts contain a
23 total of 412.541 acres.

24 SECTION 3. (a) The legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
3 Government Code.

4 (b) The governor, one of the required recipients, has
5 submitted the notice and Act to the Texas Commission on
6 Environmental Quality.

7 (c) The Texas Commission on Environmental Quality has filed
8 its recommendations relating to this Act with the governor, the
9 lieutenant governor, and the speaker of the house of
10 representatives within the required time.

11 (d) All requirements of the constitution and laws of this
12 state and the rules and procedures of the legislature with respect
13 to the notice, introduction, and passage of this Act are fulfilled
14 and accomplished.

15 SECTION 4. (a) If this Act does not receive a two-thirds
16 vote of all the members elected to each house, Subchapter C, Chapter
17 8423, Special District Local Laws Code, as added by Section 1 of
18 this Act, is amended by adding Section 8423.106 to read as follows:

19 Sec. 8423.106. NO EMINENT DOMAIN POWER. The district may
20 not exercise the power of eminent domain.

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

24 SECTION 5. Except as provided by Section 4 of this Act:

25 (1) this Act takes effect immediately if it receives a
26 vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution; and

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1 (2) if this Act does not receive the vote necessary for
2 immediate effect, this Act takes effect September 1, 2013.