

By: Williams
(Toth)

S.B. No. 624

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 137; 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 8421 to read as follows:

CHAPTER 8421. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 137

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8421.001. 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. 137.

Sec. 8421.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8421.003. 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. 8421.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8421.003
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. 8421.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) 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. 8421.006. 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. 8421.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8421.052, directors serve
6 staggered four-year terms.

7 Sec. 8421.052. TEMPORARY DIRECTORS. (a) The temporary
8 board consists of:

9 (1) Deborah Hamilton Arterburn;

10 (2) Christina Eliasha Cole;

11 (3) Jared Sean Fargo;

12 (4) Aimee Ordeneaux Raley; and

13 (5) Robert Wempe.

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

15 (1) the date permanent directors are elected under
16 Section 8421.003; 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 8421.003 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 8421.003; 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. 8421.101. 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. 8421.102. 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. 8421.103. 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. 8421.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
24 road project must meet all applicable construction standards,
25 zoning and subdivision requirements, and regulations of each
26 municipality in whose corporate limits or extraterritorial
27 jurisdiction the road 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. 8421.105. 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. 8421.151. ELECTIONS REGARDING TAXES OR BONDS.

17 (a) The 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 8421.153.

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. 8421.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8421.151, 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. 8421.153. 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. 8421.201. 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. 8421.202. 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. 8421.203. 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. 137 initially includes all the territory contained in the
10 following area:

11 A METES AND BOUNDS description of a 500.9 acre tract of land
12 situated in the Joseph Miller Survey, Abstract No. 27 and the James
13 Brown Survey, Abstract No. 78 of Montgomery County, Texas; being
14 all of Tracts 1 through 7 conveyed to Venton L. Doughtie, Jr., by
15 Deed, as filed for record under Volume 724, Page 836 of the
16 Montgomery County Deed Records; said 500.9 acre tract being more
17 particularly described as follows with all bearings being based on
18 the Texas Coordinate System, Central Zone, NAD 83:

19 BEGINNING at the northwest corner of said Tract 7 in the south
20 line of a called 20 acre tract conveyed to J.J. Hubenak and wife,
21 Shirley Fay Hubenak by Warranty Deed with Vendor's Lien as file for
22 record under Volume 597, Page 165 of the Montgomery County Deed
23 Records and being the northeast corner of a called 16.92 acre tract
24 conveyed to Gale Philip Clee by General Warranty Deed as filed for
25 record under Volume 677, Page 914 of the Montgomery County Deed
26 Records;

27 THENCE, North 87°57'51" East, 1375.35 feet along the north

1 line of said Tract 7 to a found 1/2-inch iron rod in asphalt for the
2 northeast corner of said Tract 7;

3 THENCE, South 01°02'09" East, 570.46 feet along the east line
4 of said Tract 7 and the west right-of-way of Dry Creek Road to a set
5 5/8-inch iron rod (with cap stamped "Cotton Surveying") in the
6 south right of Standard Road (width varies) as filed for record
7 under Clerk's File No. 8534576 of the Montgomery County Official
8 Public Records of Real Property;

9 THENCE, in a northeast direction, along the south
10 right-of-way of said Standard Road, with the arc of a curve to the
11 right, having a radius of 3037.94 feet, a central angle of
12 04°48'54", an arc length of 255.30 feet, and a chord bearing North
13 87°29'06" East,, 255.23 feet to a set 5/8-inch iron rod (with cap
14 stamped "Cotton Surveying");

15 THENCE, North 89°53'33" East, 1694.22 feet continuing along
16 the south right-of-way of said Standard Road to a set 5/8-inch iron
17 rod (with cap stamped "Cotton Surveying"), from which a found
18 5/8-inch iron rod bears North 05°27'48" East, 2.82 feet;

19 THENCE, in a northeast direction, with the arc of a curve to
20 the left, having a radius of 882.88 feet, a central angle of
21 06°42'29", an arc length of 103.37 feet, and a chord bearing North
22 86°32'18" East, 103.31 feet to a found 5/8-inch iron rod for the
23 northwest corner of a called 1.022 acre tract conveyed to Randy Dale
24 Ware by Warranty Deed as filed for record under Clerk's File No.
25 2010098867 of the Montgomery County Official Public Records of Real
26 Property and being the northwest corner of Springwood Estates,
27 Section 1 (unrecorded);

1 THENCE, South 02°00'53" East, along the west line of said
2 Springwood Estates, Section 1, at 766.49 feet passing a found
3 5/8-inch iron rod for the northwest corner of a called 2.003 acre
4 tract conveyed to Michael G. Meek and wife Diana Meek as filed for
5 record under Volume 1113, Page 176 of Montgomery County Deed
6 Records, at 934.83 feet passing a 1 1/2-inch iron pipe for the
7 northwest corner of a tract containing all of Lot 7 and a part of
8 Lot 8 conveyed to Robert Barton and wife Amy L. Barton by Warranty
9 Deed with Vendor's Lien as filed for record under Clerk's File No.
10 9515955 of the Montgomery County Official Public Records of Real
11 Property, at 1137.52 feet passing a found 1 1/2-inch iron pipe, at
12 1137.89 feet. 0.13 feet right passing a found 5/8-inch iron rod, at
13 1508.84 feet passing a found 5/8-inch iron rod for the northwest
14 corner of a called 2.1501 acre tract conveyed to Donald R. Midkiff
15 and wife Shirley Midkiff by Warranty Deed as filed for record under
16 Volume 1115, Page 125 of the Montgomery County Deed Records,
17 continuing for a total distance of 1688.79 feet to a found concrete
18 monument for the southwest corner of said 2.1501 acre tract, the
19 southwest corner of said Springwood Estates, Section 1, in the north
20 line of Lot 26 of Springwood Estates, Section 2 conveyed to Shelly
21 Huckaby by Warranty Deed as filed for record under Clerk's File No.
22 2006-023346 of the Montgomery County Official Public Records of
23 Real Property;

24 THENCE, South 87°37'23" West, along the north line of said
25 Springwood Estates, Section 2, at 100.09 feet passing a found
26 5/8-inch iron rod for the northwest corner of said Lot 26 and the
27 northeast corner of a called 1.8499 acre tract conveyed to Bradley

1 A. Johnson by Warranty Deed as filed for record under Clerk's File
2 No. 9634196 of the Montgomery County Official Public Records of
3 Real Property, at 394.78 feet, 0.30 feet left passing a found
4 5/8-inch iron rod and continuing for a total distance of 588.38 feet
5 to a set 5/8-inch iron rod (with cap stamped "Cotton Surveying")
6 from which a found nail (bent) bears North 25°40' West, 2.87 feet and
7 a found Axle for the northwest corner of said Tract 4 bears South
8 87°37'23" West, 602.52 feet;

9 THENCE, South 03°18'25" East, along the west line of said
10 Springwood Estates Section 2, at 143.55 feet passing a found
11 5/8-inch iron rod for the northwest corner of a called 2.8114 acre
12 tract conveyed to Michael W. Allen and wife Kathy Allen by General
13 Warranty Deed with Vendor's Lien as filed for record under Clerk's
14 File No. 2001-101668 of the Montgomery County Official Public
15 Records of Real Property, at 617.85 feet, 0.62 feet left passing a
16 found 5/8-inch iron rod, at 818.78 feet passing a found 5/8-inch
17 iron rod for the northwest corner of a called 3.4 acre tract
18 conveyed to Donald Midkiff and wife Shirley Midkiff by Warranty
19 Deed as file for record under Clerk's File No. 99011347 of the
20 Montgomery County Official Public Records of Real Property, at
21 1058.51 feet, 0.28 feet left passing a found 5/8-inch iron rod, at
22 1499.73 feet passing a found 5/8-inch iron rod for the northwest
23 corner of a called 1.0500 acre tract conveyed to Montgomery County,
24 Texas by Warranty Deed as file for record under Clerk's File No.
25 9569816 of the Montgomery County Official Public Records of Real
26 Property, and continuing for a total distance of 2035.72 feet to a
27 point in the centerline of Spring Creek;

1 THENCE, along the meanders of the centerline of Spring Creek
2 the following courses and distances:
3 1. South 64°37'47" West, 45.82 feet to a point;
4 2. South 20°42'36" West, 107.16 feet to a point;
5 3. South 60°34'50" West, 52.22 feet to a point;
6 4. South 86°56'10" West, 153.14 feet to a point;
7 5. North 46°17'30" West, 172.35 feet to a point;
8 6. North 84°29'19" West, 113.48 feet to a point;
9 7. South 75°36'55" West, 69.93 feet to a point;
10 8. South 39°43'46" West, 295.96 feet to a point;
11 9. South 42°29'34" West, 121.65 feet to a point;
12 10. South 24°21'30" West, 171.48 feet to a point;
13 11. South 46°07'02" West, 374.25 feet to a point;
14 12. South 02°38'20" East, 54.32 feet to a point;
15 13. South 18°34'57" East, 145.37 feet to a point;
16 14. South 62°36'46" East, 13.16 feet to a point;
17 15. South 19°27'39" East, 47.27 feet to a point;
18 16. South 56°55'21" West, 42.55 feet to a point;
19 17. South 80°40'29" West, 27.74 feet to a point;
20 18. North 75°34'20" West, 60.34 feet to a point;
21 19. North 45°24'17" West, 92.21 feet to a point;
22 20. South 69°37'01" West, 122.47 feet to a point;
23 21. South 01°52'10" West, 80.77 feet to a point;
24 22. South 47°53'22" West, 257.25 feet to a point;
25 23. South 62°49'43" West, 107.87 feet to a point;
26 24. South 70°51'08" West, 113.74 feet to a point;
27 25. South 47°54'19" East, 39.09 feet to a point;

- 1 26. South 33°56'40" East, 40.49 feet to a point;
- 2 27. South 19°44'57" East, 215.80 feet to a point;
- 3 28. In a southwest direction, with the arc of said curve to the
- 4 right, having a radius of 112.17 feet, a central angle of 89°09'41",
- 5 an arc length of 174.55 feet, and a chord bearing South 16°35'46"
- 6 West, 157.46 feet;
- 7 29. South 78°20'54" West, 127.86 feet to a point;
- 8 30. South 62°48'04" West, 67.77 feet to a point;
- 9 31. South 43°07'36" West, 199.77 feet to a point;
- 10 32. South 11°09'17" West, 224.55 feet to a point;
- 11 33. South 16°52'24" West, 81.16 feet to a point;
- 12 34. South 16°13'30" East, 66.10 feet to a point;
- 13 35. South 03°02'55" West, 577.13 feet to a point;
- 14 36. South 02°51'05" East, 65.04 feet to a point;
- 15 37. South 11°08'15" West, 109.37 feet to a point;
- 16 38. South 38°39'44" West, 78.65 feet to a point;
- 17 39. South 47°30'41" West, 136.45 feet to a point;
- 18 40. South 39°01'15" West, 183.90 feet to a point;
- 19 41. North 77°44'05" West, 78.71 feet to a point;
- 20 42. South 60°20'13" West, 44.60 feet to a point;
- 21 43. South 30°10'19" West, 101.61 feet to a point;
- 22 44. South 05°54'03" East, 96.43 feet to a point;
- 23 45. South 03°36'26" West, 160.90 feet to a point;
- 24 46. South 19°03'19" East, 52.87 feet to a point;
- 25 47. South 15°28'22" West, 110.56 feet to a point;
- 26 48. South 26°18'48" West, 193.37 feet to a point;
- 27 49. South 25°07'04" West, 284.81 feet to a point;

1 50. South 21°59'56" West, 319.08 feet to a point;

2 51. South 42°58'11" West, 27.29 feet to a point;

3 52. South 76°04'54" West, 40.59 feet to a point;

4 53. South 60°41'21" West, 247.58 feet to a point;

5 54. South 51°14'52" West, 198.47 feet to a point;

6 THENCE, North 01°51'21" West, leaving the centerline of said
7 Spring Creek along the west line of said Tract 1, at 1111.01 feet,
8 0.30 feet right passing a found Flat Bar (leaning), at 1352.28 feet,
9 .014 right a found T-Rail, and continuing for a total distance of
10 1830.00 feet to a set 5/8-inch iron rod (with cap stamped "Cotton
11 Surveying");

12 THENCE, North 02°33'57" West, continuing along the west
13 boundary line of said Tract 1, at 102.90 feet, .052 feet left a
14 found axle, at 247.93 feet, 1.78 right a found concrete monument and
15 continuing for a total distance 2010.73 feet to a found concrete
16 monument for the southeast corner of said Tract 5 and the northeast
17 corner of a called 222.0856 acre tract conveyed to Derek Alan Metz
18 and Clyde Metz as filed for record under Clerk's File No.
19 2009-058942 of the Montgomery County Official Public Records of
20 Real Property;

21 THENCE, South 87°46'40" West, along the common line of said
22 Tract 5 and said 222.0856 acre tract 576.99 feet to a found concrete
23 monument for the southwest corner of said Tract 5 and the northwest
24 corner of said 222.0856 acre tract;

25 THENCE, North 03°15'31" West, along the west line of said
26 Tract 5, 1731.48 feet to a found T-Rail for the northwest corner of
27 said Tract 5 in the south line of a called 1.716 acre tract conveyed

1 to Jerry Kirkpatrick Homes, Inc. by Warranty Deed as filed for
2 record under Volume 1026, Page 729 of the Montgomery County Deed
3 Records;

4 THENCE, North 87°35'39" East, along the common line of said
5 Tract 5 and said 1.716 acres, at 26.28 feet a found 3/4-inch iron
6 rod, at 136.21 feet, 0.15 feet left a found 1/2-iron rod (bent), at
7 246.11 feet, 0.13 feet left a found 1/2-inch iron rod and continuing
8 for a total distance of 578.10 feet to a found axle for northeast
9 corner of said Tract 5 and the southeast corner of a called 0.6853
10 acre tract conveyed to Cindy Ann Schmidt by Special Warranty Deed as
11 file for record under Clerk's File No. 9445705 of the Montgomery
12 County Deed Records and being in the west line of said Tract 2;

13 THENCE, North 03°23'08" West, along the east line of said
14 0.6853 acre tract and the west line of said Tract 2, 1185.47 feet to
15 a set 5/8-inch iron rod (with cap stamped "Cotton Surveying"), from
16 which a found axle bears South 88°01' West, 1.83 feet;

17 THENCE, North 88°00'38" East, along a north line of said Tract
18 2, 686.50 feet to a found 2-inch iron pipe for the southeast corner
19 of a called 8.4715 acre tract conveyed to Lynn P. Stewart and wife
20 Refeana D. Stewart by General Warranty Deed with Vendor's Lien as
21 filed for record under Clerk's File No. 9714296 of the Montgomery
22 County Official Public Records of Reap Property;

23 THENCE, North 00°57'02" West, along the west line of said
24 Tract 2, at 25.43 feet passing a found 1/2-inch iron rod for the
25 southwest corner of said Tract 7 and a northwest corner of said
26 Tract 2, at 604.97 feet, 1.52 feet right a found 5/8-inch iron rod,
27 at 811.95 feet, 5.19 feet right a found 1/2-inch iron rod (stamped

1 "RPLS 3971 Rainke"), at 1191.18 feet, 0.52 feet left a found
2 5/8-inch iron rod, at 1776.38 feet, 0.84 feet left a found 5/8-inch
3 iron rod and continuing for a total distance of 2348.57 feet to the
4 POINT OF BEGINNING, CONTAINING 500.9 acres of land in Montgomery
5 County, Texas as shown on drawing number 2407 in the office of
6 Cotton Surveying, The Woodlands, Texas.

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

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

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

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

25 SECTION 4. (a) If this Act does not receive a two-thirds
26 vote of all the members elected to each house, Subchapter C, Chapter
27 8421, Special District Local Laws Code, as added by Section 1 of

1 this Act, is amended by adding Section 8421.106 to read as follows:

2 Sec. 8421.106. NO EMINENT DOMAIN POWER. The district may
3 not exercise the power of eminent domain.

4 (b) This section is not intended to be an expression of a
5 legislative interpretation of the requirements of Subsection (c),
6 Section 17, Article I, Texas Constitution.

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

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

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