

By: Williams
(Creighton)

S.B. No. 724

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 133; 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 8457 to read as follows:

CHAPTER 8457. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 133

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8457.001. 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. 133.

Sec. 8457.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8457.003. 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.

Sec. 8457.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8457.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 8457.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

(a) The district is created to serve a public purpose and benefit.

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

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

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

Sec. 8457.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and 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. 8457.051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8457.052, directors serve
7 staggered four-year terms.

8 Sec. 8457.052. 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 8457.003; 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 8457.003 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 8457.003; 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. 8457.101. 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. 8457.102. 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. 8457.103. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. 8457.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

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

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

10 Sec. 8457.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
11 OR RESOLUTION. The district shall comply with all applicable
12 requirements of any ordinance or resolution that is adopted under
13 Section 54.016 or 54.0165, Water Code, and that consents to the
14 creation of the district or to the inclusion of land in the
15 district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 8457.151. ELECTIONS REGARDING TAXES OR BONDS.

18 (a) The 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 8457.153.

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

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

Sec. 8457.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8457.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 8457.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8457.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 8457.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8457.203. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Montgomery County Municipal Utility District
10 No. 133 initially includes all the territory contained in the
11 following area:

12 BEING 342.842 acres of land located in the Elijah Collard
13 Survey, Abstract Number 7 and the Martin P. Clark Survey, Abstract
14 Number 148, Montgomery County, Texas being all of the Foster
15 Collard Tract Area 1, all of the Foster Collard Tract Area 2, all of
16 the Foster Collard Tract Area 3 and a part of the Foster Clark Tract
17 described in the Development Agreement of record under File Number
18 2010019564 in the Official Public Records of Montgomery County,
19 Texas (M.C.O.P.R.), said 342.842 acres being more particularly
20 described by metes and bounds (in three parts) as follows, all
21 bearings are referenced to the Silver City Colored Subdivision, a
22 subdivision of record in Volume 5, Page 7 of the Map Records of
23 Montgomery County, Texas (M.C.M.R.):

24 TRACT ONE - 20.64 ACRES

25 BEGINNING at the northwest corner of said Foster Collard
26 Tract Area 1, same being the northwest corner of the herein
27 described tract;

1 Thence, South 75° 00' 00" East, along the north line of said
2 Foster Collard Tract Area 1, 2,064.36 feet to a point for the
3 northeast corner of the herein described tract, same being the
4 northeast corner of said Foster Collard Tract Area 1 on the west
5 line of Longmire Road;

6 Thence, South 10° 40' 00" West, along said west line, 433.33
7 feet to a point for the southeast corner of the herein described
8 tract, same being the southeast corner of said Foster Collard Tract
9 Area 1 on the north line of League Line Road;

10 Thence, North 75° 00' 00" West, along said north line,
11 2,097.10 feet to a point for the southwest corner of the herein
12 described tract, same being the southwest corner of said Foster
13 Collard Tract Area 1;

14 Thence, North 15° 00' 00" East, along the west line of said
15 Foster Collard Tract Area 1, 432.09 feet to the POINT OF BEGINNING
16 and containing 20.640 acres of land.

17 TRACT TWO - 297.286 ACRES

18 BEGINNING at the northwest corner of the aforementioned
19 Foster Collard Tract Area 2, same being the northwest corner of the
20 herein described tract on the east line of Longmire Road;

21 Thence, South 75° 00' 00" East, along the north line of said
22 Foster Collard Tract Area 2, 2,145.72 feet to a point for the
23 northeast corner of said Foster Collard Tract Area 2 on the west
24 line of the aforementioned Foster Clark Tract, same being the
25 common survey line between the aforementioned Collard and Clark
26 Surveys;

27 Thence, North 15° 00' 00" East, along said west line and said

common line, 4,616.66 feet to a point for the northwest corner of the herein described tract;

Thence, over and across said Foster Clark Tract the following for (4) courses;

1) South $76^{\circ} 33' 47''$ East, 842.01 feet to a point for corner, the beginning of a non-tangent curve to the right;

2) Along the arc of said curve to the right having a radius of 500.00 feet, a central angle of $31^{\circ} 45' 29''$, an arc length of 277.14 feet and a chord that bears South $61^{\circ} 27' 52''$ East, 273.61 feet to a point for corner at the end of said curve;

3) North $50^{\circ} 44' 32''$ East, 880.76 feet to a point for corner;

4) South $27^{\circ} 18' 48''$ East, 2,162.16 feet to a point for the northeast corner of the herein described tract on an east line of the aforementioned Foster Clark Tract, same being the west line of the Final Plat of Teas Lakes Section Four, a subdivision of record in Cabinet Y, Sheet 180-181, M.C.M.R.;

Thence, South $10^{\circ} 00' 00''$ West, along said east line, said west line and the west line of the Final Plat of Teas Lakes Section Three, a subdivision of record in Cabinet W, Sheet 188-189, M.C.M.R., 2,116.14 feet to a point for corner;

Thence, North $75^{\circ} 00' 00''$ West, continuing along said east line 1,797.56 feet to a point for corner;

Thence, South $10^{\circ} 00' 00''$ West, continuing along said east line 2,033.85 feet to a point for the southeast corner of the herein described tract, same being the southeast corner of the aforementioned Foster Clark Tract on the north line of League Line Road, same being the south line of said Foster Clark Tract;

1 Thence, North 75° 00' 00" West, along said north line, passing
2 the common south corner of said Foster Clark Tract and the
3 aforementioned Foster Collard Tract Area 2 at 1,641.86 feet and
4 continuing a total of 3,640.86 feet to a point for the most
5 southerly southwest corner of the herein described tract, same
6 being the most southerly southwest corner of the aforementioned
7 Foster Collard Tract Area 2 and being at the southeast end of a
8 corner cut-back line;

9 Thence, North 32° 10' 00" West, along said corner cutback
10 line, 166.00 feet to a point for the most westerly southwest corner
11 of the herein described tract, same being the most westerly
12 southwest corner of said Foster Collard Tract Area 2 on the
13 aforementioned east line of Longmire Road, same being the west line
14 of said Foster Collard Tract Area 2;

15 Thence, North 10° 40' 00" East, along said east line, 330.69
16 feet to the POINT OF BEGINNING and containing 312.286 acres of land,
17 SAVE AND EXCEPT that certain called 15.000 acre tract of land
18 conveyed to Willis Independent School District by the instrument of
19 record under File Number 2011027871, M.C.O.P.R., leaving a
20 remainder of 297.286 acres.

21 TRACT THREE - 24.916 ACRES

22 BEGINNING at the most northerly northwest corner of the
23 aforementioned Foster Collard Tract Area 3, same being the most
24 northerly northwest corner of the herein described tract on the
25 south line of League Line Road, same being the north line of said
26 Foster Collard Tract Area 3;

27 Thence, South 75° 00' 00" East, along said south line,

1 1,999.00 feet to a point for the northeast corner of the herein
2 described tract, same being the northeast corner of said Foster
3 Collard Tract Area 3 on the east line of said Foster Collard Tract
4 Area 3, same being the common line between the aforementioned
5 Collard Survey and the J. Edwards Survey, Abstract Number 190;

6 Thence, South 15° 00' 00" West, along said east line and said
7 common line, 520.44 feet to a point for the southeast corner of the
8 herein described tract, same being the southeast corner of said
9 Collard Survey;

10 Thence, North 75° 00' 00" West, along the south line of said
11 Foster Collard Tract Area 3 and said common line, 2,079.44 feet to a
12 point for the southwest corner of the herein described tract, same
13 being the southwest corner of said Foster Collard Tract Area 3 on
14 the east line of Longmire Road, same being the west line of said
15 Foster Collard Tract Area 3;

16 Thence, North 10° 40' 00" East, along said east line, 402.06
17 feet to a point for the most westerly northwest corner of the herein
18 described tract, same being the most westerly northwest corner of
19 said Foster Collard Tract Area 3 and being at the southwest end of a
20 corner cut-back line;

21 Thence, North 57° 50' 00" East, along said corner cut-back
22 line, 163.00 feet to the POINT OF BEGINNING and containing 24.916
23 acres of land.

24 Said Tract 1, Tract 2 and Tract 3 containing a total of
25 342.842 acres of land.

26 SECTION 3. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

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

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

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

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 8457, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 8457.106 to read as follows:

21 Sec. 8457.106. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2013.