

By: Williams
(Creighton)

S.B. No. 725

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 134; 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 8458 to read as follows:

CHAPTER 8458. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 134

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8458.001. 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. 134.

Sec. 8458.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8458.003. 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. 8458.004. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section 8458.003
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. 8458.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) 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. 8458.006. 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. 8458.051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 8458.052, directors serve
7 staggered four-year terms.

8 Sec. 8458.052. 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 8458.003; 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 8458.003 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 8458.003; 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. 8458.101. 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. 8458.102. 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. 8458.103. 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. 8458.104. 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. 8458.105. 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. 8458.151. 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 8458.153.

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. 8458.152. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 8458.151, 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. 8458.153. 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 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8458.201. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8458.202. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 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. 8458.203. 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. 134 initially includes all the territory contained in the
11 following area:

12 Being 314.858 acres of land located in the Martin P. Clark
13 Survey, Abstract Number 148, Montgomery County, Texas, being a part
14 of the Foster Clark Tract and all of the Foster Buchanan Tract
15 described in the Development Agreement of record under File Number
16 2010019564 in the Official Public Records of Montgomery County,
17 Texas (M.C.O.P.R.) and being all of that certain called 1.3004 acre
18 tract conveyed to Foster Timber, Ltd. by the instrument of record
19 under File Number 2010076447, M.C.O.P.R., said 314.858 acres being
20 more particularly described by metes and bounds 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 COMMENCING at the northeast corner of the Foster Collard Area
25 Tract 2 as described in said Development Agreement on the west line
26 of said Foster Clark Tract, same being the common line between said
27 Collard and Clark Surveys;

1 Thence, North 15° 00' 00" East, along said west line, 4,616.66
2 feet to the POINT OF BEGINNING of the herein described tract;

3 Thence, North 15° 00' 00" East, continuing along said west
4 line, 1,582.74 feet to a point for the northwest corner of the
5 herein described tract, same being the northwest corner of said
6 Foster Clark tract and being the most southerly west corner of the
7 J. Buchanan Survey, Abstract Number 100 and the most northerly west
8 corner of the aforementioned Clark Survey;

9 Thence, South 75° 00' 00" East, along the north line of said
10 Foster Clark Tract, same being the common line between said
11 Buchanan and Clark surveys, 5,017.27 feet to a point for corner
12 being the southwest corner of the aforementioned 1.3004 acre tract;

13 Thence, North 18° 18' 49" East, along the west line of said
14 1.3004 acre tract, 635.73 feet to a point for the northwest corner
15 of said 1.3004 acre tract on the arc of a non-tangent curve to the
16 left having a radius of 3,883.43 feet and being on the south line of
17 F.M. 830;

18 Thence, along said south line, the north line of said 1.3004
19 acre tract and the arc of said curve, passing the common north
20 corner of said 1.3004 acre tract and the aforementioned Foster
21 Buchanan Tract at 91.09 feet, continuing along the north line of
22 said Foster Buchanan Tract and said curve, through a central angle
23 of 20° 43' 54", a total arc length of 1,405.16 feet, and a chord that
24 bears South 80° 42' 30" East, 1,397.50 feet to the northeast corner
25 of said Foster Buchanan Tract at the end of said curve;

26 Thence, North 88° 59' 13" East, continuing along said south
27 line and the north line of said Foster Buchanan Tract, 149.82 feet

1 to a point for the northeast corner of the herein described tract,
2 same being the northeast corner of said Foster Buchanan Tract on the
3 common survey line between the aforementioned Buchanan Survey and
4 the F. K. Henderson Survey, Abstract Number 248, also being the
5 northwest corner of Panorama Hiwon Section Three, a subdivision of
6 record in Volume 9, Page 15, M.C.M.R.;

7 Thence, South 15° 00' 00" West, along said common survey line
8 and the west line of said Panorama Hiwon Section Three, Panorama
9 Hiwon Section Two in Volume 8, Page 31, M.C.M.R., Panorama Hiwon
10 Section One in Volume 8, Page 29, M.C.M.R. and Panorama Quail Creek
11 Section One in Volume 7, Page 329, M.C.M.R., 3,034.44 feet to a
12 point for the southeast corner of the herein described tract, same
13 being the most southerly northeast corner of the aforementioned
14 Foster Clark Tract;

15 Thence, North 75° 00' 00" West, along a southerly line of the
16 said Foster Clark Tract, 3,536.10 feet to a point for corner;

17 Thence, South 10° 00' 00" West, along an easterly line of said
18 Foster Clark Tract, 289.46 feet to a point for corner;

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

21 1) North 27° 18' 48" West, 2,162.16 feet to a point for
22 corner;

23 2) South 50° 44' 32" West, 880.76 feet to a point for corner,
24 the beginning of a non-tangent curve to the left;

25 3) Along the arc of said curve to the left having a radius of
26 500.00 feet, a central angle of 31° 45' 29", an arc length of 277.14
27 feet, and a chord that bears North 61° 27' 52" West, 273.61 feet to a

1 point for corner at the end of said curve;

2 4) North 76° 33' 47" West, 842.01 feet to the POINT OF
3 BEGINNING and containing 314.858 acres of land.

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

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

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

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

22 SECTION 4. (a) If this Act does not receive a two-thirds
23 vote of all the members elected to each house, Subchapter C, Chapter
24 8458, Special District Local Laws Code, as added by Section 1 of
25 this Act, is amended by adding Section 8458.106 to read as follows:

26 Sec. 8458.106. NO EMINENT DOMAIN POWER. The district may
27 not exercise the power of eminent domain.

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

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