

By: Metcalf

H.B. No. 1074

Substitute the following for H.B. No. 1074:

By: Fallon

C.S.H.B. No. 1074

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Montgomery County Municipal Utility
3 District No. 145; granting a limited power of eminent domain;
4 providing authority to issue bonds; providing authority to impose
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws
8 Code, is amended by adding Chapter 8498 to read as follows:

9 CHAPTER 8498. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 145

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8498.001. DEFINITIONS. In this chapter:

12 (1) "Board" means the district's board of directors.

13 (2) "Commission" means the Texas Commission on
14 Environmental Quality.

15 (3) "Director" means a board member.

16 (4) "District" means the Montgomery County Municipal
17 Utility District No. 145.

18 Sec. 8498.002. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 8498.003. CONFIRMATION AND DIRECTORS' ELECTION
22 REQUIRED. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five permanent
24 directors as provided by Section 49.102, Water Code.

1 Sec. 8498.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 8498.003
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. 8498.005. 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. 8498.006. 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. 8498.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8498.052, directors serve
6 staggered four-year terms.

7 Sec. 8498.052. TEMPORARY DIRECTORS. (a) On or after
8 September 1, 2015, the owner or owners of a majority of the assessed
9 value of the real property in the district may submit a petition to
10 the commission requesting that the commission appoint as temporary
11 directors the five persons named in the petition. The commission
12 shall appoint as temporary directors the five persons named in the
13 petition.

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

15 (1) the date permanent directors are elected under
16 Section 8498.003; or

17 (2) September 1, 2019.

18 (c) If permanent directors have not been elected under
19 Section 8498.003 and the terms of the temporary directors have
20 expired, successor temporary directors shall be appointed or
21 reappointed as provided by Subsection (d) to serve terms that
22 expire on the earlier of:

23 (1) the date permanent directors are elected under
24 Section 8498.003; or

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

27 (d) If Subsection (c) applies, the owner or owners of a

1 majority of the assessed value of the real property in the district
2 may submit a petition to the commission requesting that the
3 commission appoint as successor temporary directors the five
4 persons named in the petition. The commission shall appoint as
5 successor temporary directors the five persons named in the
6 petition.

7 SUBCHAPTER C. POWERS AND DUTIES

8 Sec. 8498.101. GENERAL POWERS AND DUTIES. The district has
9 the powers and duties necessary to accomplish the purposes for
10 which the district is created.

11 Sec. 8498.102. MUNICIPAL UTILITY DISTRICT POWERS AND
12 DUTIES. The district has the powers and duties provided by the
13 general law of this state, including Chapters 49 and 54, Water Code,
14 applicable to municipal utility districts created under Section 59,
15 Article XVI, Texas Constitution.

16 Sec. 8498.103. AUTHORITY FOR ROAD PROJECTS. Under Section
17 52, Article III, Texas Constitution, the district may design,
18 acquire, construct, finance, issue bonds for, improve, operate,
19 maintain, and convey to this state, a county, or a municipality for
20 operation and maintenance macadamized, graveled, or paved roads, or
21 improvements, including storm drainage, in aid of those roads.

22 Sec. 8498.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
23 project must meet all applicable construction standards, zoning and
24 subdivision requirements, and regulations of each municipality in
25 whose corporate limits or extraterritorial jurisdiction the road
26 project is located.

27 (b) If a road project is not located in the corporate limits

1 or extraterritorial jurisdiction of a municipality, the road
2 project must meet all applicable construction standards,
3 subdivision requirements, and regulations of each county in which
4 the road project is located.

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

8 Sec. 8498.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
9 OR RESOLUTION. The district shall comply with all applicable
10 requirements of any ordinance or resolution that is adopted under
11 Section 54.016 or 54.0165, Water Code, and that consents to the
12 creation of the district or to the inclusion of land in the
13 district.

14 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

15 Sec. 8498.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
16 district may issue, without an election, bonds and other
17 obligations secured by:

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

19 (2) contract payments described by Section 8498.153.

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

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

1 Sec. 8498.152. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized at an election held under Section 8498.151, the district
3 may impose an operation and maintenance tax on taxable property in
4 the district in accordance with Section 49.107, Water Code.

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

7 Sec. 8498.153. CONTRACT TAXES. (a) In accordance with
8 Section 49.108, Water Code, the district may impose a tax other than
9 an operation and maintenance tax and use the revenue derived from
10 the tax to make payments under a contract after the provisions of
11 the contract have been approved by a majority of the district voters
12 voting at an election held for that purpose.

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

16 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

17 Sec. 8498.201. AUTHORITY TO ISSUE BONDS AND OTHER
18 OBLIGATIONS. The district may issue bonds or other obligations
19 payable wholly or partly from ad valorem taxes, impact fees,
20 revenue, contract payments, grants, or other district money, or any
21 combination of those sources, to pay for any authorized district
22 purpose.

23 Sec. 8498.202. TAXES FOR BONDS. At the time the district
24 issues bonds payable wholly or partly from ad valorem taxes, the
25 board shall provide for the annual imposition of a continuing
26 direct ad valorem tax, without limit as to rate or amount, while all
27 or part of the bonds are outstanding as required and in the manner

1 provided by Sections 54.601 and 54.602, Water Code.

2 Sec. 8498.203. BONDS FOR ROAD PROJECTS. At the time of
3 issuance, the total principal amount of bonds or other obligations
4 issued or incurred to finance road projects and payable from ad
5 valorem taxes may not exceed one-fourth of the assessed value of the
6 real property in the district.

7 SECTION 2. The Montgomery County Municipal Utility District
8 No. 145 initially includes all the territory contained in the
9 following area:

10 BEING 265.772 ACRES OF LAND IN THE THOMAS P. DAVY SURVEY, A-162 AND
11 THE BENNETT BLAKE SURVEY, A-4 MONTGOMERY COUNTY, TEXAS, SAID
12 265.772 ACRES BEING OUT OF THE WILLIS-WAUKEGAN, LTD. 583.12 ACRE
13 TRACT OF LAND, DEED OF WHICH IS RECORDED UNDER COUNTY CLERKS' FILE
14 NUMBER 2004-095061, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID
15 265.772 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

16 BEGINNING at the West corner of the above mentioned 583.12
17 acre tract of land and the South corner of the Duane T. Corley,
18 Trustee 200.00 acre tract of land, deed of which is recorded under
19 County Clerks' File Number 2004-094357, Montgomery County Real
20 Property Records, for the West corner of the herein described tract
21 of land;

22 THENCE N. 57° 34' 10" E., along the Northwest line of said
23 583.12 acre tract of land and the Southeast line of the above
24 mentioned 200.00 acre tract of land for a distance of 2,401.60 feet
25 to the West corner of the Foroutan Amini and Michele Rodgers-Amini
26 74.119 acre tract of land, deed of which is recorded under County
27 Clerks' File Number 2009-010950, Montgomery County Real Property

1 Records, for the North corner of the herein described tract of land;
2 THENCE S. 32° 25' 50" E., leaving said Northwest and Southeast
3 line, along the Southwest line of the above mentioned 74.119 acre
4 tract of land and across said 583.12 acre tract of land for a
5 distance of 920.00 feet to the South corner of said 74.119 acre
6 tract of land for an inside corner of the herein described tract of
7 land;

8 THENCE N. 57° 34' 10" E., continuing across said 583.12 acre
9 tract of land and along the Southeast line of said 74.119 acre tract
10 of land for a distance of 3,490.97 feet to the West line of
11 Willis-Waukegan Road at the East corner of said 74.119 acre tract of
12 land for the North corner of the herein described tract of land;

13 THENCE S. 32° 26' 09" E., leaving the above mentioned
14 Southeast line for a distance of 194.13 feet to a corner of the
15 herein described tract of land;

16 THENCE along the East line of said 583.12 acre tract of land
17 and the West line of the above mentioned Willis-Waukegan Road the
18 following calls to a corner of the herein described tract of land;

- 19 1) S. 25° 13' 00" E., for a distance of 275.54 feet;
20 2) S. 23° 20' 51" E., for a distance of 236.97 feet;
21 3) S. 18° 07' 26" E., for a distance of 153.41 feet to the
22 North corner of the Raul Rodriguez 55.955 acre tract of land, deed
23 of which is recorded under County Clerks' File Number 2009-008448,
24 Montgomery County Real Property Records;

25 THENCE S. 66° 39' 09" W., leaving said East and West line,
26 across said 583.12 acre tract of land and along the North line of
27 the above mentioned Rodriguez tract of land, for a distance of

1 1,185.46 feet to the beginning of a curve to the left for a corner of
2 the herein described tract of land;

3 THENCE in a Southwesterly direction, continuing across said
4 583.12 acre tract of land and along said Rodriguez North line and
5 said curve to the left having a radius of 270.00 feet, a central
6 angle of 09° 06' 30", for an arc length of 42.92 feet, chord bears S.
7 61° 47' 43" W., 42.88 feet to the end of curve for a corner of the
8 herein described tract of land;

9 THENCE S. 57° 21' 09" W., continuing across said 583.12 acre
10 tract of land and along said Rodriguez North line for a distance of
11 1,457.60 feet to the West corner of said 55.955 acre tract of land
12 for an inside corner of the herein described tract of land;

13 THENCE S. 32° 26' 40" E., continuing across said 583.12 acre
14 tract of land and along the Northwest line of said Rodriguez tract
15 of land for a distance of 70.00 feet to the North corner of the Raul
16 Rodriguez and Wife Bernardina Rodriguez, 73.07 acre of land, deed
17 of which is recorded under County Clerks' File Number 2011-041469,
18 Montgomery County Real Property Records, for a corner of the herein
19 described tract of land;

20 THENCE S. 57° 21' 07" W., continuing across said 583.12 acre
21 tract of land and along the North line of the above mentioned 73.07
22 acre tract of land for a distance of 1,061.01 feet to its' Northwest
23 corner for an inside corner of the herein described tract of land;

24 THENCE S. 06° 51' 06" W., continuing across said 583.12 acre
25 tract of land and along the West line of said 73.07 acre tract of
26 land for a distance of 1,521.50 feet to its' West corner for an
27 inside corner of the herein described tract of land;

1 THENCE S. 59° 33' 43" E., continuing across said 583.12 acre
2 tract of land and along the Southwest line of said 73.07 acre tract
3 of land for a distance of 1,541.82 feet to a corner of the herein
4 described tract of land;

5 THENCE continuing across said 583.12 acre tract of land and
6 along the South and West lines of said 73.07 acre tract of land the
7 following calls to a corner of the herein described tract of land;

- 8 1) S. 81° 41' 54" E., for a distance of 65.14 feet;
- 9 2) S. 13° 37' 01" E., for a distance of 27.17 feet;
- 10 3) S. 18° 13' 47" W, for a distance of 16.81 feet;
- 11 4) S. 33° 00' 05" W, for a distance of 78.46 feet;
- 12 5) S. 18° 02' 43" W, for a distance of 31.61 feet;
- 13 6) S. 03° 01' 00" W, for a distance of 33.62 feet;
- 14 7) S. 55° 16' 32" E., for a distance of 12.71 feet;
- 15 8) N. 83° 10' 28" E., for a distance of 24.02 feet;
- 16 9) N. 69° 31' 40" E., for a distance of 50.14 feet;
- 17 10) 73° 39' 10" E., for a distance of 10.05 feet to the
18 Southeast corner of said 73.07 acre tract of land on the West line
19 of the Richard Koch 104.129 acre tract of land, deed of which is
20 recorded under County Clerks' File Number 2009-006656, Montgomery
21 County Real Property Records, for a corner of the herein described
22 tract of land;

23 THENCE S. 03° 52' 35" W., continuing across said 583.12 acre
24 tract of land and along the West line of the above mentioned 104.129
25 acre tract of land for a distance of 759.90 feet to the Northwest
26 line of the Maurice Hoffman 25.770 acre tract of land, deed of which
27 is recorded under County Clerks' File Number 9325516, Montgomery

1 County Real Property Records on the Southeast line of said 583.12
2 acre tract of land for the Southeasterly corner of the herein
3 described tract of land;

4 THENCE S. 57° 37' 47" W., along the above mentioned Northwest
5 and Southeast line for a distance of 1,333.78 feet to the South
6 corner of said 583.12 acre tract of land for the Southwest corner of
7 the herein described tract of land;

8 THENCE N. 32° 26' 50" W., along the Southwest line of said
9 583.12 acre tract of land for a distance of 5,019.25 feet to the
10 POINT OF BEGINNING and containing in all 265.772 acres of land.

11 This description is based upon an exhibit as prepared by
12 Jeffrey Moon and Associates, Inc., dated October 17, 2014. Bearings
13 are based upon the West line of the 583.12 acre tract of land.

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

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

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

1 (d) All requirements of the constitution and laws of this
2 state and the rules and procedures of the legislature with respect
3 to the notice, introduction, and passage of this Act are fulfilled
4 and accomplished.

5 SECTION 4. (a) If this Act does not receive a two-thirds
6 vote of all the members elected to each house, Subchapter C, Chapter
7 8498, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 8498.106 to read as follows:

9 Sec. 8498.106. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

14 SECTION 5. This Act takes effect September 1, 2015.