

By: Metcalf

H.B. No. 4128

Substitute the following for H.B. No. 4128:

By: Martinez Fischer

C.S.H.B. No. 4128

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Montgomery County Municipal Utility
3 District No. 147; 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 7907 to read as follows:

9 CHAPTER 7907. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 147

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 7907.001. 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. 147.

18 Sec. 7907.002. NATURE OF DISTRICT. The district is a
19 municipal utility district created under Section 59, Article XVI,
20 Texas Constitution.

21 Sec. 7907.003. 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. 7907.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7907.003
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. 7907.005. 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. 7907.006. 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. 7907.051. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 7907.052, directors serve
6 staggered four-year terms.

7 Sec. 7907.052. 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 7907.003; or

17 (2) September 1, 2019.

18 (c) If permanent directors have not been elected under
19 Section 7907.003 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 7907.003; 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. 7907.101. 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. 7907.102. 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. 7907.103. 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. 7907.104. 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. 7907.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
9 OR RESOLUTION. (a) 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 (b) Section 54.016(f), Water Code, does not apply to the
15 district.

16 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

17 Sec. 7907.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
18 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 7907.153.

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. 7907.152. OPERATION AND MAINTENANCE TAX. (a) If
4 authorized at an election held under Section 7907.151, 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. 7907.153. 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. 7907.201. 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. 7907.202. 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. 7907.203. 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. 147 initially includes all the territory contained in the
11 following area:

12 TRACT ONE:

13 BEING 75.060 ACRES OF LAND IN THE ROBERT MARSH SURVEY, A-355,
14 THE JAMES EDWARDS SURVEY, A-189, MONTGOMERY COUNTY, TEXAS, SAID
15 75.060 ACRES BEING OUT OF THE RODRIGUEZ FAMILY TRUST 210.3078 ACRE
16 TRACT OF LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE
17 NUMBER 2013-098325, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID
18 75.060 ACRES BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

19 BEGINNING at a 5/8" iron rod set for the Northwest corner of
20 the herein described tract, same being the Northeast corner of a
21 0.1653 acre tract of land described by deed recorded in Volume 1087,
22 Page 346, Montgomery County Deed Records, said corner being N. 75°
23 03' 44" E., along the North line of the 210.3078 acre tract, the
24 South line of the Conroe Venture Ltd; 410.539 acre tract, (Conroe
25 Tract 4) deed of which is recorded under County Clerk's File Number
26 9149317, Montgomery County Real Property Records a distance of
27 746.31 feet from a 3/4" iron pipe found for the Southwest corner of

1 the 410.3078 acre tract;

2 THENCE N. 75° 03' 44" E., along the above mentioned lines for a
3 distance of 3,439.09 feet to a 5/8" iron rod found with a plastic
4 cap stamped COC for the Northeast corner of the herein described
5 tract, the West corner of the City of Conroe 1.820 acre tract of
6 land deed of which is recorded under County Clerk's File Number
7 2012-000764, Montgomery County Real Property Records;

8 THENCE S. 19° 07' 00" E., along the Southwest line of the said
9 1.820 acre tract for a distance of 796.87 feet to a 5/8" iron rod
10 found with a plastic cap stamped COC for the South corner of the
11 1.820 acre tad, in the North line of La Salle Crossing, (60' Cab. C,
12 Sht. 1, M.C.M.R.) and being the Southeast corner of the herein
13 described tract;

14 THENCE S. 71°07' 56" W., along the North line of La Salle
15 Crossing for a distance of 25.10 feet to a 5/8" iron rod set for the
16 beginning of a curve to the right;

17 THENCE in a Southwesterly direction continuing with said
18 North line, along said curve to the right having a radius of 270.00
19 feet, a central angle of 14° 28' 21", for an arc length of 68.20
20 feet, chord bears S. 78° 00' 30" W., 68.02 feet to a 5/8" iron rod set
21 for the end of curve;

22 THENCE S. 85° 32' 49" W., continuing along said North line for
23 a distance of 49.93 feet to a 5/8" iron rod found for the beginning
24 of a curve to the left;

25 THENCE in a Southwesterly direction continuing with said
26 North line, along said curve to the left having a radius of 330.00
27 feet, a central angle of 18° 20' 28" for an arc length of 105.64

1 feet, chord bears S. 76° 09' 01" W., 105.19 feet to a 5/8" iron rod
2 found for the end of curve;

3 THENCE S. 67° 01' 40" W., along the North line of La Salle
4 Crossing for a distance of 1,311.05 feet to a 5/8" iron rod found
5 for the beginning of a curve to the right;

6 THENCE in a Northwesterly direction continuing with said
7 North line, along said curve to the right having a radius of 340.00
8 feet, a central angle of 46° 19' 02", an arc length of 274.85 feet,
9 chord bears N. 89° 48' 50" W., 267.43 feet to a 5/8" iron rod set for
10 the end of curve;

11 THENCE N. 66° 39' 20" W., continuing along said North line for
12 a distance of 259.28 feet to a 5/8" iron rod set for the most
13 Northerly comer of La Salle Crossing;

14 THENCE S. 23° 20' 40" W., along the most Westerly line of La
15 Salle Crossing, passing at 60.00 feet its most Westerly corner,
16 same being the North corner of Lot 1, Block 1, La Salle Crossing,
17 and continuing along the Northwest line of Block 1 for a distance of
18 538.30 feet to a 5/8" iron rod set for corner, same being a corner of
19 the Montgomery County M.U.D. No. 42 391.0643 acre tract of land
20 deed of which is recorded in Volume 1142, Page 663, Montgomery
21 County Deed Records;

22 THENCE S. 45° 15' 00" W., continuing along the Northwest line
23 of Block 1 for a distance of 483.21 feet to the most Southerly
24 corner of the herein described tract;

25 THENCE N. 55° 51' 51" W., crossing said 210.3078 acre tract
26 for a distance of 722.37 feet;

27 THENCE N. 47° 07' 24" W., continuing across said 210.3078 acre

1 tract for a distance of 497.42 feet

2 THENCE N. 14° 51' 19" W., at 311.58 feet passing the East comer
3 of a 0.1653 acre tract and then along it's Northeast line for a
4 distance of 431.19 feet to the POINT OF BEGINNING and containing in
5 all 75.060 acres of land.

6 TRACT TWO:

7 BEING 55.369 ACRES OF LAND IN THE ROBERT MARSH SURVEY, A-355,
8 THE JAMES EDWARDS SURVEY, A -189, MONTGOMERY COUNTY, TEXAS SAID
9 55.369 ACRES BEING OUT OF THE WESLIE R. MARKS 210.3078 ACRE TRACT OF
10 LAND DEED OF WHICH IS RECORDED UNDER COUNTY CLERK'S FILE NUMBER
11 9223195, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID 55.369 ACRES
12 BEING DESCRIBED MORE PARTICULARLY AS FOLLOWS:

13 BEGINNING at a 3/4 " iron pipe found for the most Northerly
14 corner of the said 210.3078 acre tract, in a South line of the
15 Conroe Venture Ltd; 410.539 acre tract of land, (Conroe Tract 4)
16 deed of which is recorded under County Clerk's File Number 9149317,
17 Montgomery County Real Property Records;

18 THENCE S. 74° 17' 38" E., along the Northeast line of the said
19 210.3078 acre tract, a South line of the said 410.539 acre tract,
20 and called to be the North line of the marsh and the South line of
21 the James Edwards Survey, A-190 for a distance of 985.33 feet to a
22 5/8" iron rod found for the Northeast corner of the herein described
23 tract, the Northwest corner of the Pierre G. Mulacek and wife Suzee
24 6.00 acre tract of land deed of which is recorded under County
25 Clerk's File Number 9554950, Montgomery County Real Properly
26 Records, from whence a 1/2" iron rod found for the East corner of
27 the 210.3078 acre tract bears S. 74° 17' 38" E., 333.73 feet;

1 THENCE S. 17° 24' 18" W., along the West line of the said 6.00
2 acre tract for a distance of 548.96 feet to a 5/8" iron rod found for
3 corner;

4 THENCE S. 06° 15' 16" E., continuing along said West line,
5 passing at feet a 5/8" iron rod set for reference and continuing in
6 all for a distance of 397.48 feet to the Lower Northeast corner of
7 the herein described tract, in the centerline of a creek, same being
8 the Westerly line of Willowridge Estates, Section 2, a Subdivision
9 map of which is recorded in Cabinet D, Sheet 35B, Montgomery County
10 Map Records, same being the Southeast line of the said 210.3078 acre
11 tract;

12 THENCE in a Southerly direction with said centerline, the
13 Westerly line of Willowridge Estates, Section 2, the Westerly line
14 of Willowridge Estates, Section 3, (Cab. D, Sht. 36B, M.C.M.R.) as
15 follows;

- 16 1. S. 87° 09' 06" W, 85.39 feet,
- 17 2. S. 44° 02' 00" W., 48.96 feet,
- 18 3. N. 58° 14' 36" W., 37.43 feet,
- 19 4. S. 79° 10' 59" W., 27.07 feet,
- 20 5. S. 27° 14' 07" W., 27.53 feet,
- 21 6. S. 75° 06' 44" W., 40.89 feet,
- 22 7. N. 49° 30' 04" W., 31.06 feet,
- 23 8. S. 07° 50' 39" E., 48.09 feet,
- 24 9. N. 85° 40' 09" W., 101.99 feet,
- 25 10. S. 19° 18' 28" E., 70.95 feet,
- 26 11. S. 77° 49' 55" W., 45.75 feet,
- 27 12. S. 35° 18' 07" W., 34.72 feet,

- 1 13. S. 15° 47' 47" W., 46.61 feet,
- 2 14. S. 47° 04' 22" W., 39.76 feet,
- 3 15. S. 09° 40' 20" W., 45.88 feet,
- 4 16. S. 49° 38' 16" W., 52.53 feet,
- 5 17. S. 76° 03' 48" W., 28.51 feet,
- 6 18. S. 51° 10' 04" W., 48.90 feet,
- 7 19. N. 89° 26' 07" W., 44.20 feet,
- 8 20. S. 31° 31' 38" W., 21.54 feet,
- 9 21, S. 19° 03' 26" W., 21.26 feet,
- 10 22. S. 59° 11' 37" W., 40.65 feet,
- 11 23. S. 74° 10' 41" W., 59.64 feet,
- 12 24. S. 77° 24' 10" W., 33.56 feet,
- 13 25. S. 48° 38' 25" W., 43.57 feet,
- 14 26. S. 15° 44' 03" W., 101.76 feet,
- 15 27. S. 33° 43' 48" E., 24.11 feet,
- 16 28. S. 71° 07' 40" W., 47.25 feet,
- 17 29. S. 08° 48' 43" E., 50.87 feet,
- 18 30. S. 60° 01' 49" W., 46.58 feet,
- 19 31. S. 10° 23' 18" W., 60.72 feet,
- 20 32. S. 38° 01' 09" W., 26.25 feet,
- 21 33. S. 04° 55' 35" E., 18.79 feet,
- 22 34. S. 20° 16' 28" W., 46.42 feet,
- 23 35. S. 45° 15' 26" W., 114.00 feet,
- 24 36. S. 88° 37' 11" W., 24.76 feet,
- 25 37. S. 24° 58' 26" W., 49.04 feet,
- 26 38. S. 27° 36' 23" W., 23.09 feet,
- 27 39. S. 50° 25' 58" W., 77.59 feet,

1 40. S. $01^{\circ} 31' 17''$ E., 158.07 feet to the Southeast corner of
2 the 210.3078 acre tract, the Southeast corner of the herein
3 described tract;

4 THENCE S. $75^{\circ} 38' 38''$ W., along the South line of the 210.3078
5 acre tract passing at 3.81 feet a $5/8''$ iron rod found for reference
6 and continuing in all for a distance of 94.94 feet to a $5/8''$ iron rod
7 found with a plastic cap stamped COC for the Southeast corner of the
8 City of Conroe 1.461 acre tract of land deed of which is recorded
9 under County Clerk's File Number 2012-000763, Montgomery County
10 Real Property Records;

11 THENCE N. $45^{\circ} 28' 08''$ W., along the East line of the said 1.461
12 acre tract for a distance of 46.96 feet to a $5/8''$ iron rod found with
13 a plastic cap stamped COC for the beginning of a curve to the right;

14 THENCE in a Northwesterly direction continuing with the above
15 mentioned East line along said curve to the right having a radius of
16 87.59 feet, a central angle of $51^{\circ} 05' 30''$, for an arc length of
17 78.11 feet, chord bears N. $03^{\circ} 53' 14''$ W., 75.54 feet to a $5/8''$ iron
18 rod set for the end of curve;

19 THENCE N. $22^{\circ} 49' 06''$ E., continuing along said East line for a
20 distance of 301.34 feet to a $5/8''$ iron rod set for the beginning of a
21 curve to the left;

22 THENCE in a Northwesterly direction continuing with the said
23 East line, along said curve to the left having a radius of 420.00
24 feet, a central angle of $66^{\circ} 27' 59''$, for an arc length of 487.22
25 feet, chord bears N. $10^{\circ} 23' 13''$ W., 460.36 feet to a $5/8''$ iron rod
26 set for the end of curve;

27 THENCE N. $43^{\circ} 35' 28''$ W., continuing along the said East line

1 for a distance of 443.44 feet to a 5/8" iron rod found with a plastic
2 cap stamped COC for the beginning of a curve to the right;

3 THENCE in a Northwesterly direction continuing with the said
4 East line along said curve to the right having a radius of 430.00
5 feet, a central angle of 24° 32' 07", for an arc length of 184.14
6 feet, chord bears N. 31° 27' 19" W., 182.73 feet to a 5/8" iron rod
7 found with a plastic cap stamped COC for the end of curve;

8 THENCE N. 19° 07' 00" W., continuing along said East line
9 passing at 61.03 feet a 5/8" iron rod found with a plastic cap
10 stamped COC for the Northeast corner of the said 1.461 acre tract,
11 the East corner of the City of Conroe 1.820 acre tract deed of which
12 is recorded under County Clerk's File Number 2012-000764,
13 Montgomery County Real Property Records and continuing in all along
14 the Easterly line of the 1.820 acre tract for a distance of 849.88
15 feet to a 5/8" iron rod set for its' North corner, the
16 Northwesterly corner of the herein described tract, in the North
17 line of the said 210.3078 acre tract, a South line of the said
18 410.539 acre tract;

19 THENCE N. 75° 03' 44" E., along the above mentioned lines for a
20 distance of 1,076.06 feet to the POINT OF BEGINNING and containing
21 in all 55.369 acres of land.

22 SECTION 3. (a) The legal notice of the intention to
23 introduce this Act, setting forth the general substance of this
24 Act, has been published as provided by law, and the notice and a
25 copy of this Act have been furnished to all persons, agencies,
26 officials, or entities to which they are required to be furnished
27 under Section 59, Article XVI, Texas Constitution, and Chapter 313,

1 Government Code.

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

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

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

13 SECTION 4. (a) If this Act does not receive a two-thirds
14 vote of all the members elected to each house, Subchapter C, Chapter
15 7907, Special District Local Laws Code, as added by Section 1 of
16 this Act, is amended by adding Section 7907.106 to read as follows:

17 Sec. 7907.106. NO EMINENT DOMAIN POWER. The district may
18 not exercise the power of eminent domain.

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

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