

By: Metcalf

H.B. No. 4140

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 148; 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 7921 to read as follows:

CHAPTER 7921. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 148

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7921.001. 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. 148.

Sec. 7921.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7921.003. 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. 7921.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7921.003 until each municipality in whose corporate limits 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. 7921.005. 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. 7921.006. 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;

(3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 7921.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7921.052, directors serve  
6 staggered four-year terms.

7           Sec. 7921.052. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Timothy P. Williamson;

10                  (2) Keith Schoonover;

11                  (3) Jim C. Platt;

12                  (4) Christopher DiPaolo; and

13                  (5) Joe Mattingly.

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

15                   (1) the date permanent directors are elected under  
16 Section 7921.003; 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 7921.003 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 7921.003; 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. 7921.101. 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. 7921.102. 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. 7921.103. 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. 7921.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road  
24 project must meet all applicable construction standards, zoning and  
25 subdivision requirements, and regulations of each municipality in  
26 whose corporate limits or extraterritorial jurisdiction the road  
27 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,  
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. 7921.105. 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. 7921.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The  
17 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 7921.153.

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

election held for that purpose.

Sec. 7921.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7921.151, 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. 7921.153. 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. 7921.201. 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. 7921.202. 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 direct ad valorem tax, without limit as to rate or amount, while all

or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7921.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Montgomery County Municipal Utility District No. 148 initially includes all the territory contained in the following area:

All that certain 82.91 acres of land, in the A. M. Folks Survey, A-215, and the John Dorsey, A-174, Montgomery County, Texas, being a portion of the 93.0689 acre residue tract of the 164.9807 acre Partition tract described in the deed to Jonathan Thornberry recorded under Montgomery County Clerk's File Number 9361507 of the Official Public Records of Real Property of Montgomery County, Texas, being more particularly described by metes and bounds as follows with bearings based on the Texas Coordinate System of 1983, Central Zone:

BEGINNING at a 5/8 inch iron rod found for the northeast corner of said 93.0689 acre tract, common to the northwest corner of the 56.904 acre tract described in deed to Long Street, L.L.C. from Henry T. Brooks recorded under Montgomery County Clerk's File Number 2012095116, of the Official Public Records of Real Property of Montgomery County, Texas, in the south line of the 538.209 acre tract described in the deed to Land Barons XX-Conroe recorded in Volume 808, Page 578 of the Montgomery County Deed Records;

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1 THENCE South 17° 45' 51" East - 1520.62 feet, with an east line of  
2 said 93.0689 acre tract, common to the east line of said 56.904 acre  
3 tract and the west line of the 15.000 acre tract described in the  
4 deed from Henry T. Brooks and Billie F. Brooks to Proformance, Inc.  
5 recorded under Montgomery County Clerk's File Number 2002133498, of  
6 the Official Public Records of Real Property of Montgomery County,  
7 Texas, to the most easterly southeast corner of the herein  
8 described tract, common to the northeast corner of the 10.00 acre  
9 tract described in the deed from Jerel J. Hill to Living Word  
10 Assembly of God of Conroe, Inc. recorded under Montgomery County  
11 Clerk's File Number 9514320, of the Official Public Records of Real  
12 Property of Montgomery County, Texas, from which a found 1/2 inch  
13 iron rod bears North 46 15' 19" East - 0.84 feet;

14 THENCE South 72° 14' 30" West - 399.89 feet, with the north line of  
15 said 10.00 acre tract to a 5/8 inch iron rod found for an angle  
16 corner of the herein described tract, common to the northwest  
17 corner of said 10.00 acre tract, from which a found 1/2 inch iron  
18 rod bears North 87° 12' 00" East - 1.51 feet;

19 THENCE South 17° 45' 30" East - 1090.57 feet, with the west line of  
20 said 10.00 acre tract to the most southerly southeast corner of the  
21 herein described tract, common to the southwest corner of said  
22 10.00 acre tract, in the north right-of-way line of Loop 336 (150'  
23 R.O.W.), from which a found 1/2 inch iron rod bears  
24 North 79° 11' 13" East - 1.63 feet;

25 THENCE South 71° 45' 56" West - 380.09 feet, with the north  
26 right-of-way line of said Loop 336, to a 5/8 inch iron rod found for  
27 the Point of Curvature of a curve to the left;



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1 THENCE in a southwesterly direction, continuing with said north  
2 right-of-way line, along said curve to the left, having a central  
3 angle of  $12^{\circ} 56' 20''$ , a chord bearing and distance of South  $65^{\circ} 17'$   
4  $46''$  West - 663.62 feet, a radius of 2944.90 feet, an arc distance of  
5 665.04 feet to a 5/8 inch iron rod found for the most southerly  
6 southwest corner of the herein described tract, common to the  
7 southwest corner of said 93.0689 acre tract and the southeast  
8 corner of the 29.197 acre tract described as Tract V in the deed  
9 from Conroe Parks Foundation, Inc. to Al Stewart, Trustee recorded  
10 under Montgomery County Clerk's File Number 2005-061027, of the  
11 Official Public Records of Real Property of Montgomery County,  
12 Texas;

13 THENCE North  $17^{\circ} 43' 38''$  West - 984.39 feet, with a west line of  
14 said 93.0689 acre tract, common to the east line of said 29.197 acre  
15 tract, to an angle corner of the herein described tract, common to  
16 an angle corner of said 93.0689 acre tract and the northeast corner  
17 of said 29.197 acre tract;

18 THENCE South  $71^{\circ} 36' 50''$  West - 361.03 feet, with a south line of  
19 said 93.0689 acre tract, common to the north line of said 29.197  
20 acre tract, to an angle corner of the herein described tract, in the  
21 centerline of Little Caney Creek;

22 THENCE with the centerline meanders of Little Caney Creek the  
23 following (29) twenty-nine courses and distances:

24 North  $03^{\circ} 03' 51''$  West - 52.47 feet to an angle corner of the  
25 herein described tract;

26 North  $66^{\circ} 24' 47''$  West - 41.80 feet to an angle corner of the  
27 herein described tract;

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1           North 12° 29' 51" West - 17.49 feet to an angle corner of the  
2 herein described tract;  
3           North 41° 05' 34" East - 45.82 feet to an angle corner of the  
4 herein described tract;  
5           North 07° 13' 07" East - 12.93 feet to an angle corner of the  
6 herein described tract;  
7           North 46° 08' 56" West - 59.04 feet to an angle corner of the  
8 herein described tract;  
9           North 02° 24' 21" West - 70.14 feet to an angle corner of the  
10 herein described tract;  
11           North 26° 18' 57" East - 34.57 feet to an angle corner of the  
12 herein described tract;  
13           North 07° 09' 40" West - 28.66 feet to an angle corner of the  
14 herein described tract;  
15           North 24° 28' 33" West - 49.25 feet to an angle corner of the  
16 herein described tract;  
17           North 16° 19' 11" East - 45.42 feet to an angle corner of the  
18 herein described tract;  
19           North 05° 22' 51" East - 48.13 feet to an angle corner of the  
20 herein described tract;  
21           North 31° 51' 20" West - 44.89 feet to an angle corner of the  
22 herein described tract;  
23           North 64° 34' 21" West - 25.73 feet to an angle corner of the  
24 herein described tract;  
25           North 05° 34' 25" West - 56.32 feet to an angle corner of the  
26 herein described tract;  
27           North 11° 31' 43" West - 39.97 feet to an angle corner of the

1 herein described tract;  
2 North 19° 20' 05" East - 55.07 feet to an angle corner of the  
3 herein described tract;  
4 North 12° 22' 13" West - 37.23 feet to an angle corner of the  
5 herein described tract;  
6 North 12° 33' 04" East - 67.16 feet to an angle corner of the  
7 herein described tract;  
8 North 00° 06' 31" West - 64.48 feet to an angle corner of the  
9 herein described tract;  
10 North 24° 26' 14" West - 13.94 feet to an angle corner of the  
11 herein described tract;  
12 North 04° 37' 44" East - 79.92 feet to an angle corner of the  
13 herein described tract;  
14 North 35° 04' 05" East - 49.14 feet to an angle corner of the  
15 herein described tract;  
16 North 05° 22' 59" West - 59.03 feet to an angle corner of the  
17 herein described tract;  
18 North 29° 08' 10" West - 87.95 feet to an angle corner of the  
19 herein described tract;  
20 North 39° 59' 31" East - 57.02 feet to an angle corner of the  
21 herein described tract;  
22 North 20° 59' 46" East - 59.93 feet to an angle corner of the  
23 herein described tract;  
24 North 21° 59' 30" East - 72.85 feet to an angle corner of the  
25 herein described tract;  
26 North 00° 15' 24" West - 9.12 feet to an angle corner of the herein  
27 described tract, in the west line of said 93.0689 acre tract, common

1 to the east line of SOUTHERN OAKS, SEC. 2, recorded under Cab. A,  
2 Sheet 30A, in the Map Records of Montgomery County, Texas;  
3 THENCE North 17° 43' 38" West - 502.80 feet, with the west line of  
4 said 93.0689 acre tract, the east line of said SOUTHERN OAKS, SEC. 2  
5 and the west line of CONROE MEMORIAL CEMETARY, recorded under Cab.  
6 T, Sheets 89-94, in the Map Records of Montgomery County, Texas, to  
7 a 5/8 inch iron rod found for the northwest corner of the herein  
8 described tract, common to the northwest corner of said 93.0689  
9 acre tract, from which a found 1/2 inch iron rod bears  
10 South 44° 25' 04" West - 1.42 feet;  
11 THENCE North 71° 33' 14" East - 1437.22 feet, with the north line of  
12 said 93.0689 acre tract, common to the south line of said 538.209  
13 acre tract to the POINT OF BEGINNING and containing 82.91 acres of  
14 land.

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

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

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

1 representatives within the required time.

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

6 SECTION 4. (a) If this Act does not receive a two-thirds  
7 vote of all the members elected to each house, Subchapter C, Chapter  
8 7921, Special District Local Laws Code, as added by Section 1 of  
9 this Act, is amended by adding Section 7921.106 to read as follows:

10 Sec. 7921.106. NO EMINENT DOMAIN POWER. The district may  
11 not exercise the power of eminent domain.

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

15 SECTION 5. This Act takes effect immediately if it receives  
16 a vote of two-thirds of all the members elected to each house, as  
17 provided by Section 39, Article III, Texas Constitution. If this  
18 Act does not receive the vote necessary for immediate effect, this  
19 Act takes effect September 1, 2015.