

By: Creighton

S.B. No. 946

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 145; 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 8498 to read as follows:

CHAPTER 8498. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 145

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8498.001. 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. 145.

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

Sec. 8498.003. 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.

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 Sec. 8498.106. DIVISION OF DISTRICT. (a) The district may
15 be divided into two or more new districts only if the district:

16 (1) has no outstanding bonded debt; and

17 (2) is not imposing ad valorem taxes.

18 (b) This chapter applies to any new district created by the
19 division of the district, and a new district has all the powers and
20 duties of the district.

21 (c) Any new district created by the division of the district
22 may not, at the time the new district is created, contain any land
23 outside the area described by Section 2 of the Act creating this
24 chapter.

25 (d) The board, on its own motion or on receipt of a petition
26 signed by the owner or owners of a majority of the assessed value of
27 the real property in the district, may adopt an order dividing the

1 district.

2 (e) The board may adopt an order dividing the district
3 before or after the date the board holds an election under Section
4 8498.003 to confirm the creation of the district and before or after
5 an election under Section 8498.151 to authorize the issuance of
6 bonds.

7 (f) An order dividing the district must:

8 (1) name each new district;

9 (2) include the metes and bounds description of the
10 territory of each new district;

11 (3) appoint temporary directors for each new district;

12 and

13 (4) provide for the division of assets and liabilities
14 between or among the new districts.

15 (g) On or before the 30th day after the date of adoption of
16 an order dividing the district, the district shall file the order
17 with the commission and record the order in the real property
18 records of each county in which the district is located.

19 (h) Any new district created by the division of the district
20 shall hold a confirmation and directors' election as required by
21 Section 8498.003.

22 (i) Any new district created by the division of the district
23 must hold an election as required by this chapter to obtain voter
24 approval before the district may impose a maintenance tax or issue
25 bonds payable wholly or partly from ad valorem taxes.

26 (j) If the creation of the new district is confirmed, the
27 new district shall provide the election date and results to the

1 commission.

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

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

7 (2) contract payments described by Section 8498.153.

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

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

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

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

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

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

4 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

5 Sec. 8498.201. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, contract payments, grants, or other district money, or any
9 combination of those sources, to pay for any authorized district
10 purpose.

11 Sec. 8498.202. TAXES FOR BONDS. At the time the district
12 issues bonds payable wholly or partly from ad valorem taxes, the
13 board shall provide for the annual imposition of a continuing
14 direct ad valorem tax, without limit as to rate or amount, while all
15 or part of the bonds are outstanding as required and in the manner
16 provided by Sections 54.601 and 54.602, Water Code.

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

22 SECTION 2. The Montgomery County Municipal Utility District
23 No. 145 initially includes all the territory contained in the
24 following area:

25 BEING 265.772 ACRES OF LAND IN THE THOMAS P. DAVY SURVEY, A-162 AND
26 THE BENNETT BLAKE SURVEY, A-4 MONTGOMERY COUNTY, TEXAS, SAID
27 265.772 ACRES BEING OUT OF THE WILLIS-WAUKEGAN, LTD. 583.12 ACRE

1 TRACT OF LAND, DEED OF WHICH IS RECORDED UNDER COUNTY CLERKS' FILE
2 NUMBER 2004-095061, MONTGOMERY COUNTY REAL PROPERTY RECORDS, SAID
3 265.772 ACRES BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

4 BEGINNING at the West corner of the above mentioned 583.12
5 acre tract of land and the South corner of the Duane T. Corley,
6 Trustee 200.00 acre tract of land, deed of which is recorded under
7 County Clerks' File Number 2004-094357, Montgomery County Real
8 Property Records, for the West corner of the herein described tract
9 of land;

10 THENCE N. 57° 34' 10" E., along the Northwest line of said
11 583.12 acre tract of land and the Southeast line of the above
12 mentioned 200.00 acre tract of land for a distance of 2,401.60 feet
13 to the West corner of the Foroutan Amini and Michele Rodgers-Amini
14 74.119 acre tract of land, deed of which is recorded under County
15 Clerks' File Number 2009-010950, Montgomery County Real Property
16 Records, for the North corner of the herein described tract of land;

17 THENCE S. 32° 25' 50" E., leaving said Northwest and Southeast
18 line, along the Southwest line of the above mentioned 74.119 acre
19 tract of land and across said 583.12 acre tract of land for a
20 distance of 920.00 feet to the South corner of said 74.119 acre
21 tract of land for an inside corner of the herein described tract of
22 land;

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

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

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

7 1) S. 25° 13' 00" E., for a distance of 275.54 feet;

8 2) S. 23° 20' 51" E., for a distance of 236.97 feet;

9 3) S. 18° 07' 26" E., for a distance of 153.41 feet to the
10 North corner of the Raul Rodriguez 55.955 acre tract of land, deed
11 of which is recorded under County Clerks' File Number 2009-008448,
12 Montgomery County Real Property Records;

13 THENCE S. 66° 39' 09" W., leaving said East and West line,
14 across said 583.12 acre tract of land and along the North line of
15 the above mentioned Rodriguez tract of land, for a distance of
16 1,185.46 feet to the beginning of a curve to the left for a corner of
17 the herein described tract of land;

18 THENCE in a Southwesterly direction, continuing across said
19 583.12 acre tract of land and along said Rodriguez North line and
20 said curve to the left having a radius of 270.00 feet, a central
21 angle of 09° 06' 30", for an arc length of 42.92 feet, chord bears S.
22 61° 47' 43" W., 42.88 feet to the end of curve for a corner of the
23 herein described tract of land;

24 THENCE S. 57° 21' 09" W., continuing across said 583.12 acre
25 tract of land and along said Rodriguez North line for a distance of
26 1,457.60 feet to the West corner of said 55.955 acre tract of land
27 for an inside corner of the herein described tract of land;

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

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

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

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

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

23 1) S. 81° 41' 54" E., for a distance of 65.14 feet;

24 2) S. 13° 37' 01" E., for a distance of 27.17 feet;

25 3) S. 18° 13' 47" W, for a distance of 16.81 feet;

26 4) S. 33° 00' 05" W, for a distance of 78.46 feet;

27 5) S. 18° 02' 43" W, for a distance of 31.61 feet;

1 6) S. 03° 01' 00" W, for a distance of 33.62 feet;

2 7) S. 55° 16' 32" E., for a distance of 12.71 feet;

3 8) N. 83° 10' 28" E., for a distance of 24.02 feet;

4 9) N. 69° 31' 40" E., for a distance of 50.14 feet;

5 10) 73° 39' 10" E., for a distance of 10.05 feet to the
6 Southeast corner of said 73.07 acre tract of land on the West line
7 of the Richard Koch 104.129 acre tract of land, deed of which is
8 recorded under County Clerks' File Number 2009-006656, Montgomery
9 County Real Property Records, for a corner of the herein described
10 tract of land;

11 THENCE S. 03° 52' 35" W., continuing across said 583.12 acre
12 tract of land and along the West line of the above mentioned 104.129
13 acre tract of land for a distance of 759.90 feet to the Northwest
14 line of the Maurice Hoffman 25.770 acre tract of land, deed of which
15 is recorded under County Clerks' File Number 9325516, Montgomery
16 County Real Property Records on the Southeast line of said 583.12
17 acre tract of land for the Southeasterly corner of the herein
18 described tract of land;

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

23 THENCE N. 32° 26' 50" W., along the Southwest line of said
24 583.12 acre tract of land for a distance of 5,019.25 feet to the
25 POINT OF BEGINNING and containing in all 265.772 acres of land.

26 This description is based upon an exhibit as prepared by
27 Jeffrey Moon and Associates, Inc., dated October 17, 2014. Bearings

1 are based upon the West line of the 583.12 acre tract of land.

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

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

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

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

20 SECTION 4. (a) If this Act does not receive a two-thirds
21 vote of all the members elected to each house, Subchapter C, Chapter
22 8498, Special District Local Laws Code, as added by Section 1 of
23 this Act, is amended by adding Section 8498.107 to read as follows:

24 Sec. 8498.107. NO EMINENT DOMAIN POWER. The district may
25 not exercise the power of eminent domain.

26 (b) This section is not intended to be an expression of a
27 legislative interpretation of the requirements of Section 17(c),

S.B. No. 946

1 Article I, Texas Constitution.

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