

By: Creighton

S.B. No. 1005

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 144; 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 7953 to read as follows:

CHAPTER 7953. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 144

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7953.001. 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. 144.

Sec. 7953.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7953.003. 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. 7953.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7953.003
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. 7953.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8 (a) 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. 7953.006. 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 Sec. 7953.007. ELIGIBILITY FOR INCLUSION IN TAX INCREMENT
3 REINVESTMENT ZONE. (a) The district is eligible to be included in
4 a tax increment reinvestment zone created under Chapter 311, Tax
5 Code.

6 (b) If the City of Conroe has created or creates a tax
7 increment reinvestment zone described by Subsection (a) that
8 includes all or part of the territory of the district, the City of
9 Conroe and the board of directors of the zone or a developer of
10 property within the tax increment reinvestment zone that receives
11 or will receive money from the tax increment fund, by contract with
12 the district, may grant money to the district from the tax increment
13 fund to be used for a permissible purpose of the district,
14 including:

15 (1) the right to pledge the money as security for a
16 bond or other obligation issued by the district; and

17 (2) any permissible purpose of a corporation under
18 Section 380.002(b), Local Government Code.

19 SUBCHAPTER B. BOARD OF DIRECTORS

20 Sec. 7953.051. GOVERNING BODY; TERMS. (a) The district is
21 governed by a board of five elected directors.

22 (b) Except as provided by Section 7953.052, directors serve
23 staggered four-year terms.

24 Sec. 7953.052. TEMPORARY DIRECTORS. (a) On or after the
25 effective date of the Act enacting this chapter, the owner or owners
26 of a majority of the assessed value of the real property in the
27 district may submit a petition to the commission requesting that

1 the commission appoint as temporary directors the five persons
2 named in the petition. The commission shall appoint as temporary
3 directors the five persons named in the petition.

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

5 (1) the date permanent directors are elected under
6 Section 7953.003; or

7 (2) the fourth anniversary of the effective date of
8 the Act enacting this chapter.

9 (c) If permanent directors have not been elected under
10 Section 7953.003 and the terms of the temporary directors have
11 expired, successor temporary directors shall be appointed or
12 reappointed as provided by Subsection (d) to serve terms that
13 expire on the earlier of:

14 (1) the date permanent directors are elected under
15 Section 7953.003; or

16 (2) the fourth anniversary of the date of the
17 appointment or reappointment.

18 (d) If Subsection (c) applies, the owner or owners of a
19 majority of the assessed value of the real property in the district
20 may submit a petition to the commission requesting that the
21 commission appoint as successor temporary directors the five
22 persons named in the petition. The commission shall appoint as
23 successor temporary directors the five persons named in the
24 petition.

25 SUBCHAPTER C. POWERS AND DUTIES

26 Sec. 7953.101. GENERAL POWERS AND DUTIES. The district has
27 the powers and duties necessary to accomplish the purposes for

1 which the district is created.

2 Sec. 7953.102. MUNICIPAL UTILITY DISTRICT POWERS AND
3 DUTIES. The district has the powers and duties provided by the
4 general law of this state, including Chapters 49 and 54, Water Code,
5 applicable to municipal utility districts created under Section 59,
6 Article XVI, Texas Constitution.

7 Sec. 7953.103. AUTHORITY FOR ROAD PROJECTS. Under Section
8 52, Article III, Texas Constitution, the district may design,
9 acquire, construct, finance, issue bonds for, improve, operate,
10 maintain, and convey to this state, a county, or a municipality for
11 operation and maintenance macadamized, graveled, or paved roads, or
12 improvements, including storm drainage, in aid of those roads.

13 Sec. 7953.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
14 road project must meet all applicable construction standards,
15 zoning and subdivision requirements, and regulations of each
16 municipality in whose corporate limits or extraterritorial
17 jurisdiction the road project is located.

18 (b) If a road project is not located in the corporate limits
19 or extraterritorial jurisdiction of a municipality, the road
20 project must meet all applicable construction standards,
21 subdivision requirements, and regulations of each county in which
22 the road project is located.

23 (c) If the state will maintain and operate the road, the
24 Texas Transportation Commission must approve the plans and
25 specifications of the road project.

26 Sec. 7953.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
27 OR RESOLUTION. (a) The district shall comply with all applicable

1 requirements of any ordinance or resolution that is adopted under
2 Section 54.016 or 54.0165, Water Code, and that consents to the
3 creation of the district or to the inclusion of land in the
4 district.

5 (b) In addition to all the rights and remedies provided by
6 other law, if the district violates the terms of an ordinance or
7 resolution described by Subsection (a), the municipality is
8 entitled to injunctive relief or a writ of mandamus issued by a
9 court requiring the district and the district's officials to
10 observe and comply with the terms of the ordinance or resolution.

11 Sec. 7953.106. EFFECT OF ANNEXATION BY CITY OF CONROE.

12 (a) The City of Conroe may annex all or part of the district into
13 its corporate limits without annexing the entire district under the
14 terms of a development agreement between the City of Conroe and the
15 owners of the land in the district that is covered by the
16 development agreement. If a development agreement is not executed
17 or the agreement has expired, nothing in this chapter limits the
18 right of the City of Conroe to annex the district.

19 (b) If the City of Conroe annexes all or part of the district
20 into its corporate limits:

21 (1) the district is not dissolved;

22 (2) the ability of the district to issue bonds is not
23 impaired or precluded; and

24 (3) unless otherwise approved by the board and the
25 governing body of the City of Conroe, the city:

26 (A) may not take over the property or other
27 assets of the district;

1 (B) may not assume any debts, liabilities, or
2 other obligations of the district;

3 (C) is not obligated to perform any functions of
4 the district; and

5 (D) is not obligated to pay a landowner or
6 developer for expenses incurred by the landowner or developer in
7 connection with the district that would otherwise be eligible for
8 reimbursement from the proceeds of bonds issued by the district.

9 (c) Notwithstanding Section 54.016(f)(2), Water Code, an
10 allocation agreement between the City of Conroe and the district
11 that provides for the allocation of the taxes or revenues of the
12 district and the city following the date of inclusion of all the
13 district's territory in the corporate limits of the city may
14 provide that the total annual ad valorem taxes collected by the city
15 and the district from taxable property in the district may exceed
16 the city's ad valorem tax on that property.

17 Sec. 7953.107. LIMITATION ON USE OF EMINENT DOMAIN. The
18 district may not exercise the power of eminent domain outside the
19 district without the written consent of the City of Conroe.

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

21 Sec. 7953.151. ELECTIONS REGARDING TAXES OR BONDS.

22 (a) The district may issue, without an election, bonds and other
23 obligations secured by revenue other than ad valorem taxes.

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

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

5 Sec. 7953.152. OPERATION AND MAINTENANCE TAX. (a) If
6 authorized at an election held under Section 7953.151, the district
7 may impose an operation and maintenance tax on taxable property in
8 the district in accordance with Section 49.107, Water Code.

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

11 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

12 Sec. 7953.201. AUTHORITY TO ISSUE BONDS AND OTHER
13 OBLIGATIONS. The district may issue bonds or other obligations
14 payable wholly or partly from ad valorem taxes, impact fees,
15 revenue, contract payments, tax increment payments, grants, or
16 other district money, or any combination of those sources, to pay
17 for any authorized district purpose.

18 Sec. 7953.202. TAXES FOR BONDS. At the time the district
19 issues bonds payable wholly or partly from ad valorem taxes, the
20 board shall provide for the annual imposition of a continuing
21 direct ad valorem tax, without limit as to rate or amount, while all
22 or part of the bonds are outstanding as required and in the manner
23 provided by Sections 54.601 and 54.602, Water Code.

24 Sec. 7953.203. BONDS FOR ROAD PROJECTS. At the time of
25 issuance, the total principal amount of bonds or other obligations
26 issued or incurred to finance road projects and payable from ad
27 valorem taxes may not exceed one-fourth of the assessed value of the

1 real property in the district.

2 SECTION 2. The Montgomery County Municipal Utility District
3 No. 144 initially includes all the territory contained in the
4 following area:

5 BEING a 186.839 acre tract of land (8,138,702 square feet) located
6 in the J. Hodge Survey, A- 19, Montgomery County, Texas, same said
7 tract being a portion of a called 553.735 acre partition tract
8 conveyed to Mallie Duff Hunt, et. al. and described as Exhibit "A"
9 in a Partition Deed recorded in Clerk's File Number 2003-124388 of
10 the Official Public Records of Real Property of Montgomery County,
11 Texas (OPRRPMC). Said 186.839 acre tract being more fully described
12 as follows, all bearings based on the Texas Coordinate System,
13 Central Zone (4203), NAD-83 (NA 2011) epoch 2010.00:

14 BEGINNING: At a found 3/4 inch iron pipe at the southeast corner of
15 said 553.735 acre tract of land, same being an interior corner of
16 Carriage Hills Section One Subdivision, recorded in Cabinet B,
17 Sheet 127 B of the Plat Records of Montgomery County, Texas (MCPR),
18 and on the common survey line of the C. Dugart Survey, A-170, and
19 the J. Hodge Survey, A-19;

20 THENCE: S 85°10'04" W, along and with the south line of said 553.735
21 acre tract, the above mentioned common survey line, at 1,059.15
22 feet, the northwest corner of the aforementioned C. Dugart Survey
23 A-170, and the northeast corner of the D. Thomas Survey, A-550, from
24 which a found 1/2 inch iron rod bears N 2°36'29" W, a distance of
25 8.95 feet, for the apparent lower northwest corner of said Carriage
26 Hills Section One Subdivision, and the apparent northeast corner of
27 Red Oak Ranch Section One, recorded in Cabinet I, Sheet 200-201 of

1 the Map Records of Montgomery County, Texas (MCMR), and continuing
2 along and with the south line of said 553.735 acre tract, the common
3 survey line of said J. Hodge Survey, A-19 and the D. Thomas Survey,
4 A-550, in all a total distance of 1,571.14 feet to a found 5/8 inch
5 iron rod which bears S 02°59'59" E, a distance of 0.16 feet from the
6 southwest corner of said 553.735 acre tract, same being the
7 southeast corner of a 123.052 acre tract conveyed to
8 Lawrence-Hunt-Thomas Interests, LTD. and described in a Partition
9 Deed as Exhibit "C", recorded in Clerk's File Number 2003-124388
10 (OPRRPMC).

11 THENCE:N 02°59'59" W, departing the south line of said 553.735 acre
12 tract, the common survey line, over and across said 553.735 acre
13 tract, at 10.26 feet passing the apparent north line of said Red Oak
14 Ranch Section One, in all a total distance of 4,504.60 feet to a
15 found 1/2 inch iron rod in the south line of a 60-foot wide road
16 easement recorded in Clerk's File Numbers 2003-124388 and
17 2003-131296 (OPRRPMC).

18 THENCE:N 43°19'31" E, along and with the south line of said 60-foot
19 wide road easement a distance of 2,137.34 feet to a found 1/2 inch
20 iron rod on the west line of Carriage Hills Subdivision, Sections
21 Two and Three, recorded in Cabinet B, Page 191 B (MCPR).

22 THENCE:S 03°14'10" E, along and with the west line of said Carriage
23 Hills Subdivision, Sections One, Two and Three, a distance of
24 5,930.39 feet to the POINT OF BEGINNING, and containing 186.839
25 acres of land, which includes 0.221 of an acre of land between the
26 apparent south line of this tract and the platted north lines of the
27 aforementioned Carriage Hills Subdivision Section One, and Red Oak

1 Ranch Subdivision

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) Section 7953.107, Special District Local
21 Laws Code, as added by Section 1 of this Act, takes effect only if
22 this Act receives a two-thirds vote of all the members elected to
23 each house.

24 (b) If this Act does not receive a two-thirds vote of all the
25 members elected to each house, Subchapter C, Chapter 7953, Special
26 District Local Laws Code, as added by Section 1 of this Act, is
27 amended by adding Section 7953.107 to read as follows:

1 Sec. 7953.107. NO EMINENT DOMAIN POWER. The district may
2 not exercise the power of eminent domain.

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

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