

By: Creighton

S.B. No. 2015

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 152; 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 7932 to read as follows:

CHAPTER 7932. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 152

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7932.001. 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. 152.

Sec. 7932.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7932.003. 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. 7932.004. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section 7932.003  
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. 7932.005. 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. 7932.006. 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. 7932.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7932.052, directors serve  
6 staggered four-year terms.

7           Sec. 7932.052. TEMPORARY DIRECTORS. (a) On or after the  
8 effective date of the Act enacting this chapter, the owner or owners  
9 of a majority of the assessed value of the real property in the  
10 district may submit a petition to the commission requesting that  
11 the commission appoint as temporary directors the five persons  
12 named in the petition. The commission shall appoint as temporary  
13 directors the five persons named in the petition.

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

15                   (1) the date permanent directors are elected under  
16 Section 7932.003; 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 7932.003 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 7932.003; 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. 7932.101. 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. 7932.102. 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. 7932.103. 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. 7932.104. 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. 7932.105. 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. 7932.151. 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 7932.153.

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

1 election held for that purpose.

2 Sec. 7932.152. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 7932.151, the district  
4 may impose an operation and maintenance tax on taxable property in  
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 7932.153. CONTRACT TAXES. (a) In accordance with  
9 Section 49.108, Water Code, the district may impose a tax other than  
10 an operation and maintenance tax and use the revenue derived from  
11 the tax to make payments under a contract after the provisions of  
12 the contract have been approved by a majority of the district voters  
13 voting at an election held for that purpose.

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

17 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

18 Sec. 7932.201. AUTHORITY TO ISSUE BONDS AND OTHER  
19 OBLIGATIONS. The district may issue bonds or other obligations  
20 payable wholly or partly from ad valorem taxes, impact fees,  
21 revenue, contract payments, grants, or other district money, or any  
22 combination of those sources, to pay for any authorized district  
23 purpose.

24 Sec. 7932.202. TAXES FOR BONDS. At the time the district  
25 issues bonds payable wholly or partly from ad valorem taxes, the  
26 board shall provide for the annual imposition of a continuing  
27 direct ad valorem tax, without limit as to rate or amount, while all

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

3 Sec. 7932.203. BONDS FOR ROAD PROJECTS. At the time of  
4 issuance, the total principal amount of bonds or other obligations  
5 issued or incurred to finance road projects and payable from ad  
6 valorem taxes may not exceed one-fourth of the assessed value of the  
7 real property in the district.

8 SECTION 2. The Montgomery County Municipal Utility District  
9 No. 152 initially includes all the territory contained in the  
10 following area:

11 A METES & BOUNDS description of a certain 695.3 acre tract of  
12 land situated in the Montgomery County School Land Survey, Abstract  
13 No. 351, the T. F. Johnson Survey, Abstract No. 299 and the Timothy  
14 O'Neil Survey, Abstract No. 406 in Montgomery County, Texas, being  
15 comprised of a called 364.7 acre tract of land (First Tract) and a  
16 called 330.6 acre tract of land (Second Tract) conveyed to Bell  
17 Endeavors, Ltd. From Helen Hilliard Brame by Special Warranty Deed  
18 recorded in Clerk's File No. 2004-021196 of the Montgomery County  
19 Official Public Records of Real Property; said 695.3 acre tract  
20 being more particularly described in Two (2) Tracts as follows with  
21 all bearings being based on a call of South 51°30' West, along the  
22 common lines of the First and Second Tracts;

23 TRACT 1: 364.7 acres, more or less, of land, of which 286.5  
24 acres, more or less, lies in the Montgomery County School Land  
25 Survey, Abstract No. 350, 69.2 acres, more or less, lies in the  
26 Montgomery County School Land Survey, Abstract No. 351, 6.5 acres,  
27 more or less, lies in the T. F. Johnson Survey, Abstract No. 299,

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1 and 2.5 acres, more or less, lies in the Timothy O'Neil Survey,  
2 Abstract No. 406, and being the same land as conveyed to Winnie  
3 Helen Hilliard by partition deed dated July 20, 1957, recorded in  
4 Volume 434, Page 441 of the Deed Records of Montgomery County,  
5 Texas; said 364.7 acres, more or less, of land being more  
6 particularly described as follows:

7 BEGINNING at the Southwest corner of the S. Richardson  
8 Survey, Abstract No. 460 and the Northwest corner of the T. F.  
9 Johnson Survey, the Eastern Southeast corner of the Montgomery  
10 County School Land Survey, Abstract No. 350, a Northeast intra  
11 corner of the Montgomery County School Land Survey, Abstract  
12 No. 351, and being Corner No. 1 hereof;

13 THENCE, S 00°30' W, 199.3 feet to Corner No. 2 hereof at the  
14 Southwest corner of the Blanche Bender tract of land;

15 THENCE, East, 746.4 feet to Corner No. 3 hereof and the  
16 Second Corner of Tract 2 hereof;

17 THENCE, S 51°30' W, 2738 feet to Corner No. 4 hereof and  
18 Corner No. 1 of said Tract Two hereof, also being in the Northern  
19 boundary line of a 660 acre tract as conveyed to Winnifred Bender  
20 Beaman by said partition deed recorded in Volume 434, Page 441 of  
21 said Deed Records, and also being the Southeast corner of the Doris  
22 Eugenia Vaughan tract as described in said partition deed;

23 THENCE, N 38°35' W, 6268.4 feet to Corner No. 5 hereof and the  
24 Northeast corner of said Doris Eugenia Vaughan tract in the center  
25 of the Scott-Herrin Road;

26 THENCE, N 47°30' E, 800.4 feet with said Road [Deed (Volume  
27 434, Page 441) call of N 46°40' E, 759.2 feet] to Corner No. 6



1 hereof;

2           THENCE, N 70°06' E, 1110.0 feet continuing with said road  
3 [Deed (Volume 434, Page 441) call of N 68°55' E, 1110 feet] to its  
4 intersection with the old Bender Tram Line for Corner No. 7 hereof;

5           THENCE, S 57°27' E, with said old Tram, 4397 feet [Deed  
6 (Volume 434, Page 441) call of S 57°12' E, 4397 feet] to Corner No. 8  
7 hereof in the West boundary line of the S. Richardson Survey;

8           THENCE, S 01°12'39" W, 1549.45 feet [Deed (Clerk's File  
9 No. 2004-021196) call South 01°13' W, 1549.6 feet] along the West  
10 line of the S. Richardson Survey to the PLACE OF BEGINNING AND  
11 CONTAINING within these bounds 364.7 acres, more or less, of land.

12           TRACT 2: 330.6 acres, more or less, of land, of which 110.5  
13 acres, more or less, lies in the Montgomery County School Land  
14 Survey, Abstract No. 351, and 220.1 acres, more or less, lies in the  
15 T. F. Johnson Survey, Abstract No. 299, and being the same land as  
16 conveyed to Winnie Helen Hilliard by deed dated August 3, 1967,  
17 recorded in Volume 646, Page 935 of the Montgomery County Deed  
18 Records; said 330.6 acres, more or less, of land being more  
19 particularly described as follows:

20           BEGINNING at Corner No. 4 of the Tract 1 herein, and Corner  
21 No. 1 hereof;

22           THENCE, N 51°30' E, 2738.0 feet to a point for corner in the  
23 Southern boundary line of said Blanche Bender tract for Corner  
24 No. 2;

25           THENCE, East, 1009.6 feet with the Southern boundary line of  
26 said Blanche Bender tract to Corner No. 3 hereof on the Western edge  
27 of the Old Bender Tram Line;

1           THENCE, S 28°02' E, with said old Tram and/or road, 4024 feet  
2 [Deed (Volume 434, Page 441) call of S 28°50' E, 3966.4 feet] to  
3 Corner No. 4 hereof, on the Western side of said road, and being a  
4 most Eastern corner of the Doris E. Vaughan 330 acres as described  
5 in a deed recorded in Volume 646, Page 933 of said Deed Records;

6           THENCE, S 52°43' W, 2797.2 feet, [Deed (Volume 434, Page 441)  
7 call of S 53° W, 2797.2 feet] to Corner No. 5 hereof and being a  
8 re-entrant corner of the Doris E. Vaughan 330 acre tract;

9           THENCE, S 38°30'25" W, 4526.14 feet [Deed (Clerk's File  
10 No. 2004-021196) call N 38°30' W, 4525.7 feet] to the PLACE OF  
11 BEGINNING AND CONTAINING within these bounds 330.6 acres, more or  
12 less, of land for a total of 695.3 acres in Montgomery County,  
13 Texas.

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 7932, Special District Local Laws Code, as added by Section 1 of  
8 this Act, is amended by adding Section 7932.106 to read as follows:

9           Sec. 7932.106. 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 immediately if it receives  
15 a vote of two-thirds of all the members elected to each house, as  
16 provided by Section 39, Article III, Texas Constitution. If this  
17 Act does not receive the vote necessary for immediate effect, this  
18 Act takes effect September 1, 2015.