

By: Nichols

S.B. No. 2028

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 151; 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 7918 to read as follows:

CHAPTER 7918. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.

151

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7918.001. 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. 151.

Sec. 7918.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7918.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 7918.004. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section 7918.003
4 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 7918.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) The district is created to serve a public purpose and benefit.

10 (b) The district is created to accomplish the purposes of:

11 (1) a municipal utility district as provided by
12 general law and Section 59, Article XVI, Texas Constitution; and

13 (2) Section 52, Article III, Texas Constitution, that
14 relate to the construction, acquisition, improvement, operation,
15 or maintenance of macadamized, graveled, or paved roads, or
16 improvements, including storm drainage, in aid of those roads.

17 Sec. 7918.006. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

20 (b) The boundaries and field notes contained in Section 2 of
21 the Act enacting this chapter form a closure. A mistake made in the
22 field notes or in copying the field notes in the legislative process
23 does not affect the district's:

24 (1) organization, existence, or validity;

25 (2) right to issue any type of bond for the purposes
26 for which the district is created or to pay the principal of and
27 interest on a bond;

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 7918.051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 7918.052, directors serve
7 staggered four-year terms.

8 Sec. 7918.052. TEMPORARY DIRECTORS. (a) On or after the
9 effective date of the Act enacting this chapter, the owner or owners
10 of a majority of the assessed value of the real property in the
11 district may submit a petition to the commission requesting that
12 the commission appoint as temporary directors the five persons
13 named in the petition. The commission shall appoint as temporary
14 directors the five persons named in the petition.

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

16 (1) the date permanent directors are elected under
17 Section 7918.003; or

18 (2) the fourth anniversary of the effective date of
19 the Act enacting this chapter.

20 (c) If permanent directors have not been elected under
21 Section 7918.003 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section 7918.003; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

2 (d) If Subsection (c) applies, the owner or owners of a
3 majority of the assessed value of the real property in the district
4 may submit a petition to the commission requesting that the
5 commission appoint as successor temporary directors the five
6 persons named in the petition. The commission shall appoint as
7 successor temporary directors the five persons named in the
8 petition.

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 7918.101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 7918.102. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 7918.103. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. 7918.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

2 (b) If a road project is not located in the corporate limits
3 or extraterritorial jurisdiction of a municipality, the road
4 project must meet all applicable construction standards,
5 subdivision requirements, and regulations of each county in which
6 the road project is located.

7 (c) If the state will maintain and operate the road, the
8 Texas Transportation Commission must approve the plans and
9 specifications of the road project.

10 Sec. 7918.105. CERTAIN NAVIGATION IMPROVEMENTS. (a) The
11 district is created for the following purposes and has the power to
12 purchase, construct, acquire, own, operate, maintain, improve, or
13 extend, inside or outside the district, a canal or other waterway,
14 bulkhead, dock, or improvement in aid of such canals, waterways,
15 bulkheads, or docks.

16 (b) Notwithstanding any other law, the powers provided by
17 Subsection (a) are subject to the applicable rules, regulations,
18 and approval of the San Jacinto River Authority.

19 (c) In the event the district adopts a rule or regulation
20 relating to boating or navigation, the rule or regulation must be
21 consistent with the applicable rules or regulations of the San
22 Jacinto River Authority.

23 Sec. 7918.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
24 OR RESOLUTION. The district shall comply with all applicable
25 requirements of any ordinance or resolution that is adopted under
26 Section 54.016 or 54.0165, Water Code, and that consents to the
27 creation of the district or to the inclusion of land in the

1 district.

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 7918.151. ELECTIONS REGARDING TAXES OR BONDS.

4 (a) The 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 7918.153.

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. 7918.152. OPERATION AND MAINTENANCE TAX. (a) If
17 authorized at an election held under Section 7918.151, 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. 7918.153. 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. 7918.201. 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. 7918.202. 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. 7918.203. 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. 151 initially includes all the territory contained in the
24 following area:

25 All that certain tract or parcel containing 144.891 acres of
26 land in the Neal Martin Survey, A-26, Montgomery County, Texas,
27 being part of tracts 1, 2, 3 and 4 in Exhibit "A", and all of the 4.0

1 acre Exhibit "B" Tract conveyed from Edward Goethe-Barnes, et al,
2 Trustees to Goethe Inglet Family Partners, Ltd., by an instrument
3 of record in Clerks File #2001014383, Montgomery County Official
4 Public Record (MCOPR), said 144.891 acres being more particularly
5 described by metes and bounds as follows, basing bearings on the
6 Texas Coordinate System of 1983, Central Zone, to wit:

7 COMMENCING FOR REFERENCE at a 5/8" iron rod found for
8 northwest corner of a tract which was called 2.5000 acres and
9 conveyed from Goethe Inglet Family Partners, Ltd. to Shapla
10 Enterprises, Inc., by an instrument of record in Clerks File
11 #2014038035, MCOPR, lying in the east line of Longstreet Road;

12 THENCE N12°17'22"E, 50.00 feet along the east line of
13 Longstreet Road to a 5/8" iron rod set for southwest corner and
14 PLACE OF BEGINNING of the tract described herein;

15 THENCE N12°17'22"E, 2,359.12 feet along the east line of
16 Longstreet Road to a 5/8" iron rod set for interior corner;

17 THENCE N07°59'53"E, 569.41 feet continuing along the east
18 line of Longstreet Road to a 6" wood post found for a northwest
19 corner, lying in the south line of a tract which was called 2.7213
20 acres and conveyed from Goethe Inglet Family Partners, Ltd. to
21 Carol Phyllis Barnes Ingram, by an instrument of record in Clerks
22 File #2005050891, MCOPR;

23 THENCE S82°39'45"E, 558.52 feet along the south line of said
24 2.7213 acre tract to a 6" wood post found for interior corner, being
25 the southeast corner of said 2.7213 acre tract;

26 THENCE N08°08'04"E, 200.35 feet along the east line of said
27 2.7213 acre tract to a 6" wood post found for interior corner, being

1 the northeast corner of said 2.7213 acre tract;

2 THENCE N82°08'11"W, 558.96 feet along the north line of said
3 2.7213 acre tract to a 7" wood post found for corner, lying in the
4 east line of Longstreet Road;

5 THENCE N07°59'53"E, 139.81 feet continuing along the east
6 line of Longstreet Road to a 5/8" iron rod set for northwest corner,
7 lying in a north line of said Fourth Tract;

8 THENCE S78°35'54"E, 68.53 feet along the north line of said
9 Fourth Tract to a 1/2" iron rod found for interior corner, being the
10 northeast corner of said Fourth Tract, lying in the west line of
11 said Third Tract;

12 THENCE N11°33'36"E, along the common line of said Third Tract
13 and a tract of unknown ownership, at 381.30 feet pass a 5/8" iron
14 rod set for reference in the south line of Longstreet Road,
15 continuing along said common line crossing Longstreet Road for a
16 distance in all of 493.30 feet to a point for northwest corner,
17 lying in the east line of a tract which was called Lot 8, Longwood
18 Estates Section Three, Cabinet H, Sheet 42 B;

19 THENCE 123.29 feet along the common line of said Lot 8 and
20 north line of Longstreet Road in the arc of a curve to the right,
21 (Delta= 47°05'32", Radius= 150.00 feet, Chord= N70°59'48"E, 119.85
22 feet), to a 5/8" iron rod found marking the northeast corner of Lot
23 8, Longwood Estates, lying in the north line of said Third Tract and
24 south line of Lot 9, Longwood Estates;

25 THENCE S78°35'58"E, 365.38 feet along the north line of said
26 Third Tract crossing Longstreet Road to a 1/2" iron rod found for
27 interior corner,

1 THENCE N11°44'59"E, 69.53 feet crossing said Longstreet Road
2 to a 5/8" iron rod set for northwest corner, being a northwest
3 corner of said Third Tract and southwest corner of a tract which was
4 called 20 acres and conveyed from Laura Bell Paddock to Dorothy
5 Paddock Scott, by an instrument of record in Volume 223, Page 161,
6 MCOPR;

7 THENCE S78°15'01"E, 896.66 feet along the common line of said
8 20 acre tract, said Third Tract and a south line of The Estates,
9 Section One, a subdivision of record in Clerks File #2001076225,
10 MCOPR to a 5/8" iron rod found for northeast corner, being the
11 northeast corner of said Third Tract and common west corner of Lot 1
12 and Lot 2, Block 2, The Estates, Section One;

13 THENCE S11°17'46"W, 657.88 feet along the common line of said
14 Third Tract and The Estates, Section One to a 5/8" iron rod found
15 for angle point, being the southwest corner of The Estates, Section
16 One and northwest corner of the Residue of a tract which was called
17 106.394 acres and conveyed from the U.S. Land Corp to Carlson Bros.
18 Corp, by an instrument of record in the Clerks File #2005010043,
19 MCOPR;

20 THENCE S11°41'18"W, 1,162.18 feet along the common line of
21 said Third Tract and said 106.394 acre tract to a 1" flat bar found
22 for interior corner, being the northwest corner of said First Tract
23 and southwest corner of said 106.394 acre tract, from which a 5/8"
24 iron rod found bears: N08°23'14"E, 5.13 feet;

25 THENCE S77°52'09"E, 888.41 feet continuing along the common
26 line of said First Tract and said 106.394 acre tract to a x-tie
27 fence corner found for a northeast corner of said First Tract and

1 interior corner of said 106.394 acre tract;

2 THENCE S14°38'09"W, 5.30 feet continuing along said common
3 line to a 5/8" iron rod found for angle point, being a southwest
4 corner of said 106.394 acre tract and northwest corner of a tract
5 which was called 4.999 acres and conveyed from Drew Spencer, et al
6 to L.P. Carlson, Sr., by an instrument of record in Clerks File
7 #2004022798, MCOPR;

8 THENCE S11°47'13"W, 881.49 feet along the common line of said
9 First Tract and said 4.999 acre tract to a 1/2" iron rod found for
10 most northerly southeast corner, being the southwest corner of said
11 4.999 acre tract and most northerly corner of a tract which was
12 called 26.15 acres and conveyed to the San Jacinto River Authority
13 by Award of Special Commissioners, Condemnation Proceedings, Case
14 No. 5058, Montgomery County Clerk;

15 THENCE S46°13'47"W, 109.20 feet along the common line of the
16 residue of said First Tract and said 26.15 acre tract to a 1/2" iron
17 rod found for angle point;

18 THENCE N86°35'41"W, 70.93 feet continuing along said common
19 line to a 1/2" iron rod found for angle point;

20 THENCE S63°45'48"W, 197.94 feet continuing along said common
21 line to a 1/2" iron rod found for angle point;

22 THENCE S49°48'09"W, 190.96 feet continuing along said common
23 line to a 1/2" iron rod found for angle point;

24 THENCE S75°04'12"W, 110.80 feet continuing along said common
25 line to a 1/2" iron rod found for angle point;

26 THENCE N87°35'24"W, 114.08 feet continuing along said common
27 line to a 1/2" iron rod found for angle point;

1 THENCE S20°42'33"W, 269.75 feet continuing along said common
2 line to a 5/8" iron rod set for angle point;

3 THENCE S51°53'06"W, 132.88 feet continuing along said common
4 line to a 5/8" iron rod set for angle point;

5 THENCE S68°37'09"W, 188.83 feet continuing along said common
6 line to a 5/8" iron rod set for angle point;

7 THENCE S73°00'22"W, 263.76 feet continuing along said common
8 line to a 5/8" iron rod set for angle point;

9 THENCE N67°43'26"W, 124.06 feet continuing along said common
10 line to a 1/2" iron rod found for angle point;

11 THENCE S60°30'30"W, 43.65 feet continuing along said common
12 line to a 1/2" iron rod found for angle point;

13 THENCE departing said common line, S88°32'20"W, 651.14 feet
14 crossing said Second Tract to a 5/8" iron rod set for angle point;

15 THENCE N76°59'49"W, 365.35 crossing said Second Tract to the
16 PLACE OF BEGINNING, containing 144.891 acres of land, more or less.
17 Save & Except 0.777 acre of land lying in Longstreet Road, leaving a
18 net acreage of 144.114 acres.

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

26 (b) The governor, one of the required recipients, has
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

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

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

10 SECTION 4. (a) If this Act does not receive a two-thirds
11 vote of all the members elected to each house, Subchapter C, Chapter
12 7918, Special District Local Laws Code, as added by Section 1 of
13 this Act, is amended by adding Section 7918.107 to read as follows:

14 Sec. 7918.107. NO EMINENT DOMAIN POWER. The district may
15 not exercise the power of eminent domain.

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

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