

By: Bettencourt, et al.
(Metcalf)

S.B. No. 2056

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.

1 Sec. 7921.004. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section 7921.003
3 until each municipality in whose corporate limits the district is
4 located has consented by ordinance or resolution to the creation of
5 the district and to the inclusion of land in the district.

6 Sec. 7921.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

15 Sec. 7921.006. INITIAL DISTRICT TERRITORY. (a) The
16 district is initially composed of the territory described by
17 Section 2 of the Act enacting this chapter.

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

22 (1) organization, existence, or validity;

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

26 (3) right to impose a tax; or

27 (4) legality or operation.

1 SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

8 (1) Timothy P. Williamson;

9 (2) Keith Schoonover;

10 (3) Jim C. Platt;

11 (4) Christopher DiPaolo; and

12 (5) Joe Mattingly.

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

14 (1) the date permanent directors are elected under
15 Section 7921.003; or

16 (2) the fourth anniversary of the effective date of
17 the Act enacting this chapter.

18 (c) If permanent directors have not been elected under
19 Section 7921.003 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 7921.003; 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. 7921.101. 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. 7921.102. 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. 7921.103. 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. 7921.104. ROAD STANDARDS AND REQUIREMENTS. (a) A
23 road project must meet all applicable construction standards,
24 zoning and subdivision requirements, and regulations of each
25 municipality in whose corporate limits or extraterritorial
26 jurisdiction the road 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. 7921.105. 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 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

15 Sec. 7921.151. ELECTIONS REGARDING TAXES OR BONDS.

16 (a) The district may issue, without an election, bonds and other
17 obligations secured by:

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

19 (2) contract payments described by Section 7921.153.

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

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

1 Sec. 7921.152. OPERATION AND MAINTENANCE TAX. (a) If
2 authorized at an election held under Section 7921.151, the district
3 may impose an operation and maintenance tax on taxable property in
4 the district in accordance with Section 49.107, Water Code.

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

7 Sec. 7921.153. CONTRACT TAXES. (a) In accordance with
8 Section 49.108, Water Code, the district may impose a tax other than
9 an operation and maintenance tax and use the revenue derived from
10 the tax to make payments under a contract after the provisions of
11 the contract have been approved by a majority of the district voters
12 voting at an election held for that purpose.

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

16 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

17 Sec. 7921.201. AUTHORITY TO ISSUE BONDS AND OTHER
18 OBLIGATIONS. The district may issue bonds or other obligations
19 payable wholly or partly from ad valorem taxes, impact fees,
20 revenue, contract payments, grants, or other district money, or any
21 combination of those sources, to pay for any authorized district
22 purpose.

23 Sec. 7921.202. TAXES FOR BONDS. At the time the district
24 issues bonds payable wholly or partly from ad valorem taxes, the
25 board shall provide for the annual imposition of a continuing
26 direct ad valorem tax, without limit as to rate or amount, while all
27 or part of the bonds are outstanding as required and in the manner

1 provided by Sections 54.601 and 54.602, Water Code.

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

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

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

19 BEGINNING at a 5/8 inch iron rod found for the northeast corner of
20 said 93.0689 acre tract, common to the northwest corner of the
21 56.904 acre tract described in deed to Long Street, L.L.C. from
22 Henry T. Brooks recorded under Montgomery County Clerk's File
23 Number 2012095116, of the Official Public Records of Real Property
24 of Montgomery County, Texas, in the south line of the 538.209 acre
25 tract described in the deed to Land Barons XX-Conroe recorded in
26 Volume 808, Page 578 of the Montgomery County Deed Records;

27 THENCE South 17° 45' 51" East - 1520.62 feet, with an east line of

1 said 93.0689 acre tract, common to the east line of said 56.904 acre
2 tract and the west line of the 15.000 acre tract described in the
3 deed from Henry T. Brooks and Billie F. Brooks to Proformance, Inc.
4 recorded under Montgomery County Clerk's File Number 2002133498, of
5 the Official Public Records of Real Property of Montgomery County,
6 Texas, to the most easterly southeast corner of the herein
7 described tract, common to the northeast corner of the 10.00 acre
8 tract described in the deed from Jerel J. Hill to Living Word
9 Assembly of God of Conroe, Inc. recorded under Montgomery County
10 Clerk's File Number 9514320, of the Official Public Records of Real
11 Property of Montgomery County, Texas, from which a found 1/2 inch
12 iron rod bears North 46 15' 19" East - 0.84 feet;
13 THENCE South 72° 14' 30" West - 399.89 feet, with the north line of
14 said 10.00 acre tract to a 5/8 inch iron rod found for an angle
15 corner of the herein described tract, common to the northwest
16 corner of said 10.00 acre tract, from which a found 1/2 inch iron
17 rod bears North 87° 12' 00" East - 1.51 feet;
18 THENCE South 17° 45' 30" East - 1090.57 feet, with the west line of
19 said 10.00 acre tract to the most southerly southeast corner of the
20 herein described tract, common to the southwest corner of said
21 10.00 acre tract, in the north right-of-way line of Loop 336 (150'
22 R.O.W.), from which a found 1/2 inch iron rod bears
23 North 79° 11' 13" East - 1.63 feet;
24 THENCE South 71° 45' 56" West - 380.09 feet, with the north
25 right-of-way line of said Loop 336, to a 5/8 inch iron rod found for
26 the Point of Curvature of a curve to the left;
27 THENCE in a southwesterly direction, continuing with said north

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

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

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

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

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

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

27 North $12^{\circ} 29' 51''$ West - 17.49 feet to an angle corner of the

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

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

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

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 7921, Special District Local Laws Code, as added by Section 1 of
8 this Act, is amended by adding Section 7921.106 to read as follows:

9 Sec. 7921.106. 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.