

By: Creighton

S.B. No. 1118

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Blaketree Municipal Utility District No. 2 of Montgomery County; 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 7972 to read as follows:

CHAPTER 7972. BLAKETREE MUNICIPAL UTILITY DISTRICT NO. 2 OF MONTGOMERY COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7972.001. 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 Blaketree Municipal Utility District No. 2 of Montgomery County.

Sec. 7972.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7972.003. 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. 7972.004. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section 7972.003
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. 7972.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
9 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. 7972.006. 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. 7972.051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section 7972.052, directors serve
7 staggered four-year terms.

8 Sec. 7972.052. TEMPORARY DIRECTORS. (a) On or after
9 September 1, 2017, the owner or owners of a majority of the assessed
10 value of the real property in the district may submit a petition to
11 the commission requesting that the commission appoint as temporary
12 directors the five persons named in the petition. The commission
13 shall appoint as temporary directors the five persons named in the
14 petition.

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

16 (1) the date permanent directors are elected under
17 Section 7972.003; or

18 (2) September 1, 2021.

19 (c) If permanent directors have not been elected under
20 Section 7972.003 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 7972.003; 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. 7972.101. 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. 7972.102. 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. 7972.103. 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. 7972.104. 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. 7972.105. 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 Sec. 7972.106. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

17 (1) has no outstanding bonded debt; and

18 (2) is not imposing ad valorem taxes.

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

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

26 (d) The board, on its own motion or on receipt of a petition
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the
2 district.

3 (e) The board may adopt an order dividing the district
4 before or after the date the board holds an election under Section
5 7972.003 to confirm the creation of the district.

6 (f) An order dividing the district shall:

7 (1) name each new district;

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

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

11 and

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

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

18 (h) Any new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 7972.003.

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

25 (j) Municipal consent to the creation of the district and to
26 the inclusion of land in the district granted under Section
27 7972.004 acts as municipal consent to the creation of any new

1 district created by the division of the district and to the
2 inclusion of land in the new district.

3 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4 Sec. 7972.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
5 district may issue, without an election, bonds and other
6 obligations secured by:

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

8 (2) contract payments described by Section 7972.153.

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

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

17 Sec. 7972.152. OPERATION AND MAINTENANCE TAX. (a) If
18 authorized at an election held under Section 7972.151, the district
19 may impose an operation and maintenance tax on taxable property in
20 the district in accordance with Section 49.107, Water Code.

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

23 Sec. 7972.153. CONTRACT TAXES. (a) In accordance with
24 Section 49.108, Water Code, the district may impose a tax other than
25 an operation and maintenance tax and use the revenue derived from
26 the tax to make payments under a contract after the provisions of
27 the contract have been approved by a majority of the district voters

1 voting at an election held for that purpose.

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

5 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

6 Sec. 7972.201. AUTHORITY TO ISSUE BONDS AND OTHER
7 OBLIGATIONS. The district may issue bonds or other obligations
8 payable wholly or partly from ad valorem taxes, impact fees,
9 revenue, contract payments, grants, or other district money, or any
10 combination of those sources, to pay for any authorized district
11 purpose.

12 Sec. 7972.202. TAXES FOR BONDS. At the time the district
13 issues bonds payable wholly or partly from ad valorem taxes, the
14 board shall provide for the annual imposition of a continuing
15 direct ad valorem tax, without limit as to rate or amount, while all
16 or part of the bonds are outstanding as required and in the manner
17 provided by Sections 54.601 and 54.602, Water Code.

18 Sec. 7972.203. BONDS FOR ROAD PROJECTS. At the time of
19 issuance, the total principal amount of bonds or other obligations
20 issued or incurred to finance road projects and payable from ad
21 valorem taxes may not exceed one-fourth of the assessed value of the
22 real property in the district.

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

26 A METES AND BOUNDS description of a certain 452.0 acre tract out of
27 the Noah Griffith Survey, Abstract No. 16, in Montgomery County,

1 Texas, being all of the remainder of a called 469.383 acre tract
2 (Parcel B) conveyed by Special Warranty Deed to Montgomery Land
3 Partners, LP, recorded in Document No. 201302469 of the Official
4 Public Records of Montgomery County (OPRMC); Said 452.0 acre tract
5 being more particularly described by metes and bounds as follows
6 with all bearings being based on the most southerly north line of
7 the Final Plat of Bluejack National Phase 1A having a record bearing
8 of South 88°24'00" West, recorded in Cabinet Z, Sheets 3074-3088,
9 File No. 2014-102281 of the Map Records of Montgomery County;

10 BEGINNING at a point-for-corner marking the northeast corner of
11 said 469.383 acre remainder tract being in the south right-of-way
12 of Moon Camp Road and the west right-of-way of Farm to Market
13 Highway 1486;

14 THENCE along said west right-of-way, being common with the easterly
15 lines of said 469.383 acre remainder tract, the following seven (7)
16 courses and distances:

17 1. South 03°45'09" East, 1051.73 feet to a point-for-corner
18 and the beginning of a curve to the right;

19 2. Along said curve to the right, having a radius of 1392.48
20 feet, an arc length of 886.26 feet, a delta angle of 36°28'00", a
21 chord bearing of South 14°28'51" West, and a chord length of 871.38
22 feet, to a point-for-corner marking a point of tangency;

23 3. South 32°42'51" West, 1622.60 feet to a point-for-corner;

24 4. North 57°17'09" West, 10.00 feet to a point-for-corner;

25 5. South 32°42'51" West, 539.35 feet to a point-for-corner
26 and the beginning of a curve to the left;

27 6. Along said curve to the left, having a radius of 1482.48

1 feet, an arc length of 910.29 feet, a delta angle of 35°10'53" a
2 chord bearing of South 15°07'24" West, and a chord length of 896.06
3 feet, to a point-for-corner marking a point of tangency;

4 7. South 02°28'07" East, 1569.03 feet to a point-for-corner
5 marking the southeast corner of said 469.383 acre remainder tract
6 being common with the most easterly northeast corner of
7 aforementioned Final Plat of Bluejack National Phase 1A and being
8 in the west right-of-way of Farm to Market Highway 1486;

9 THENCE along the common lines of said 469.383 acre remainder tract
10 and said Final Plat of Bluejack National Phase 1A the following
11 three (3) courses and distances;

- 12 1. South 87°09'29" West, 100.00 feet to a point-for-corner;
13 2. North 02°28'41" West, 15.33 feet to a point-for-corner;
14 3. South 88°24'00" West, 3329.69 feet to a point-for-corner
15 marking the southwest corner of said 469.383 acre remainder tract;

16 THENCE along the common lines of said 469.383 acre remainder tract
17 and a called 4.945 acre tract conveyed by Special Warranty Deed to
18 The Bluejack Company, LLC recorded in Document No. 2016004704 of
19 the OPRMC the following three (3) courses and distances:

- 20 1. North 04°32'32" West, 4187.74 feet to a point-for-corner;
21 2. North 35°33'45" West, 115.14 feet to a point-for-corner
22 marking the beginning of a curve to the left;

23 3. Along said curve to the left, having a radius of 50.00
24 feet, an arc length of 45.78 feet, a delta angle of 52°27'52", a
25 chord bearing of North 67°22'48" West, and a chord length of 44.20
26 feet, to a point-for-corner marking a point of tangency and a
27 northwesterly corner of said 469.383 acre remainder tract;

1 THENCE North $03^{\circ}36'45''$ West, along a northwesterly line of said
2 469.383 acre remainder tract, 76.30 feet to a point-for-corner
3 marking the most westerly northwest corner of said 469.383 acre
4 remainder tract;

5 THENCE North $87^{\circ}16'11''$ East, along a north line of said 469.383 acre
6 remainder tract, 4097.69 feet to a point-for-corner marking an
7 interior corner of said 469.383 acre remainder tract;

8 THENCE North $02^{\circ}40'00''$ West, along the most easterly west line of
9 said 469.383 acre remainder tract, 1590.96 feet to a
10 point-for-corner marking a north corner of said 469.383 acre tract
11 and being in aforementioned south right-of-way of Moon Camp Road;

12 THENCE along said south right-of-way of Moon Camp Road the
13 following eleven (11) courses and distances:

- 14 1. South $69^{\circ}50'32''$ East, 4.92 feet to a point-for-corner;
- 15 2. South $84^{\circ}21'10''$ East, 56.74 feet to a point-for-corner;
- 16 3. South $76^{\circ}21'23''$ East, 36.53 feet to a point-for-corner;
- 17 4. South $80^{\circ}18'36''$ East, 198.79 feet to a point-for-corner;
- 18 5. South $89^{\circ}14'26''$ East, 215.50 feet to a point-for-corner;
- 19 6. North $86^{\circ}14'44''$ East, 129.06 feet to a point-for-corner;
- 20 7. North $76^{\circ}08'26''$ East, 6.64 feet to a point-for-corner;
- 21 8. North $80^{\circ}26'42''$ East, 8.20 feet to a point-for-corner;
- 22 9. North $86^{\circ}14'58''$ East, 20.60 feet to a point-for-corner;
- 23 10. North $78^{\circ}56'24''$ East, 79.34 feet to a point-for-corner;
- 24 11. North $80^{\circ}26'42''$ East, 604.86 feet to the POINT OF
25 BEGINNING, CONTAINING 452.0 acres of land.

26 SECTION 3. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

6 (b) The governor, one of the required recipients, has
7 submitted the notice and Act to the Texas Commission on
8 Environmental Quality.

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

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

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 7972, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 7972.107 to read as follows:

21 Sec. 7972.107. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect September 1, 2017.