

By: Creighton

S.B. No. 1261

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 157; 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 7985 to read as follows:

CHAPTER 7985. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 157

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7985.001. 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. 157.

Sec. 7985.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7985.003. 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.

Sec. 7985.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7985.003 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 7985.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

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

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

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

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

Sec. 7985.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

(2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and 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. 7985.051. GOVERNING BODY; TERMS. (a) The district is  
5 governed by a board of five elected directors.

6           (b) Except as provided by Section 7985.052, directors serve  
7 staggered four-year terms.

8           Sec. 7985.052. 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 7985.003; or

18                   (2) September 1, 2021.

19           (c) If permanent directors have not been elected under  
20 Section 7985.003 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 7985.003; 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. 7985.101. 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. 7985.102. 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. 7985.103. 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. 7985.104. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road 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. 7985.105. 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. 7985.151. ELECTIONS REGARDING TAXES OR BONDS.

17        (a) The 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 7985.153.

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

election held for that purpose.

Sec. 7985.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7985.151, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code.

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

Sec. 7985.153. CONTRACT TAXES. (a) In accordance with Section 49.108, Water Code, the district may impose a tax other than an operation and maintenance tax and use the revenue derived from the tax to make payments under a contract after the provisions of the contract have been approved by a majority of the district voters voting at an election held for that purpose.

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

#### SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7985.201. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7985.202. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all

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

Sec. 7985.203. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of the real property in the district.

SECTION 2. The Montgomery County Municipal Utility District No. 157 initially includes all the territory contained in the following area:

Tract One

Being 10.28 acres of land located in the S.S. Prosser, Jr. & W.T. Williams Survey, Abstract 839, Montgomery County, Texas, more particularly being a portion of that certain called 92.37 acre tract (referred to as Tract 4) conveyed to Pilot Land Acquisitions, LLC by an instrument of record in Document Number 2016040394 of the Official Public Records of said Montgomery County, (M.C.O.P.R.), said 10.28 acre tract being more particularly described by metes and bounds as follows (Bearings based on Texas Coordinate System, Central Zone, NAD83 (NA2011) Epoch 2010.00);

COMMENCING for reference at a 5/8-inch iron rod with cap stamped "LJA ENG" found for the northwest corner of said 92.32 acre tract, on the westerly line of said S.S. Prosser, Jr. & W.T. Williams Survey, on the easterly line of the John Bricker Survey, Abstract 98 of said Montgomery County and on the southerly right-of-way line of SH 242 (width varies), from which a found TxDOT aluminum disk bears South 87° 16' 44" West, 6.37 feet;

1       Thence, South 33° 27' 38" East along the common westerly line  
2 of said S.S. Prosser, Jr. & W.T. Williams Survey and the easterly  
3 line of said John Bricker Survey and the westerly line of said 92.32  
4 acre tract, 1,347.33 feet to the POINT OF BEGINNING of the herein  
5 described tract;

6       Thence, South 50° 25' 47" East, departing said common survey  
7 line and the westerly line of said 92.32 acre tract, 1,769.32 feet  
8 to a point for corner;

9       Thence, South 39° 19' 53" West, 65.00 feet to a point for  
10 corner;

11       Thence, South 55° 39' 41" West, 454.35 feet to a point for  
12 corner on said common survey line and the westerly line of said  
13 92.37 acre tract;

14       Thence, North 33° 27' 38" West, along said common survey line  
15 and the westerly line of said 92.37 acre tract, 1,718.48 feet to the  
16 POINT OF BEGINNING and containing 10.28 acres of land.

17       Tract Two

18       Being 8.24 acres of land located in the Benjamin B. Foster  
19 Survey, Abstract 785, Montgomery County, Texas, more particularly  
20 being a portion of that certain called 772.7 acre tract (described  
21 as Tract 3) conveyed to Pilot Land Acquisitions, LLC by an  
22 instrument of record in Document Number 2016040394 of the Official  
23 Public Records of said Montgomery County, (M.C.O.P.R.), said 8.24  
24 acre tract being more particularly described by metes and bounds as  
25 follows (Bearings based on Texas Coordinate System, Central Zone,  
26 NAD83 (NA2011) Epoch 2010.00);

27       COMMENCING for reference at the northeast corner of said



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1 772.7 acre tract and the northwest corner of that certain called  
2 35.3982 acre tract conveyed to Lizbeth Camarena by an instrument of  
3 record under File Number 2007-096820, M.C.O.P.R.R.P., said point  
4 being on the common survey line of said Benjamin B. Foster Survey  
5 and the T. & N. O. R.R. Co. Survey, Abstract 575 and on the southerly  
6 right-of-way line of SH 242 (width varies) of record in File Number,  
7 9334641, of the Official Public Records of Real Property of  
8 Montgomery County, Texas (M.C.O.P.R.R.P.), from which point a found  
9 5/8-inch iron rod with aluminum cap bears South 06° 07' 13" East,  
10 0.73 feet and a found 5/8-inch iron rod with cap bears South 30° 00'  
11 06" East, 0.92 feet;

12 Thence, South 02° 52' 43" East, departing the southerly  
13 right-of-way of said SH 242 and with the westerly line of said  
14 35.3982 acre tract, with the east line of said 772.7 acre tract and  
15 the common survey line of said Benjamin B. Foster Survey and the T.  
16 & N. O. R.R. Co. Survey, Abstract 575, 954.95 feet to a point for the  
17 common west corner of the T. & N. O. R.R. Co. Survey, Abstract 575  
18 and the W. C. Clark Survey, Abstract 732, from which a found  
19 3/4-inch iron rod bears North 47° 33' 10" West, 0.51 feet, a found  
20 bent 1-3/4-inch iron pipe bears North 65° 45' 37" East, 0.31 feet,  
21 and a found 2-inch bolt bears South 10° 23' 51" West, 3.08 feet;

22 Thence, South 02° 56' 30" East, continuing with the east line  
23 of said 772.7 acre tract and the westerly line of said 35.3982 acre  
24 tract, at 1,233.55 feet pass a found 1/2-inch iron rod, continuing  
25 in all a total distance of 1,251.02 feet to the POINT OF BEGINNING  
26 of the herein described tract;

27 Thence, South 02° 56' 30" East, continuing with the east line

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1 of said 772.7 acre tract and the westerly line of said 35.3982 acre  
2 tract 305.11 feet to a 2-inch bolt found for the common west corner  
3 of said 35.3982 acre tract and that certain called 31.8059 acre  
4 tract conveyed to Kennen Layne Byler by an instrument of record  
5 under File Number 9898892, M.C.O.P.R.R.P;

6 Thence, South 02° 44' 06" East, continuing with the east line  
7 of said 772.7 acre tract and with the westerly line of said 31.8059  
8 acre tract and the west line of that certain called 4.1 acre tract  
9 (described as Second Tract) conveyed to Craig L. Reddehase,  
10 Jacqueline Baldwin, and Jay Scott Reddehase by an instrument of  
11 record under File Number 2012110356, M.C.O.P.R.R.P., and the west  
12 line of that certain called 4.1 acre tract (described as Second  
13 Tract) conveyed to Jessie Ruth Clark by an instrument of record  
14 under File Number 9815647, M.C.O.P.R.R.P., 721.70 feet to the  
15 southeast corner of the aforementioned 3.034 acre tract;

16 Thence, North 73° 16' 47" West, departing the east line of  
17 said 772.7 acre tract and the common survey line of said Benjamin B.  
18 Foster Survey and the W. C. Clark Survey and the west line of said  
19 4.1 acre tract (described as Second Tract) conveyed to Jessie Ruth  
20 Clark by an instrument of record under said File Number 9815647,  
21 M.C.O.P.R.R.P., 491.26 feet to the southwest corner of said 3.034  
22 acre tract;

23 Thence, North 17° 44' 04" East, 501.39 feet to a point for  
24 corner;

25 Thence, North 25° 07' 06" West, 423.27 feet to a point for  
26 corner;

27 Thence, North 86° 59' 56" East, 447.96 feet to the POINT OF

1 BEGINNING and containing 8.24 acres of land.

2 Said Tract One (10.28) and Tract Two (8.24 acres) being a  
3 total of 18.52 acres of land.

4 SECTION 3. (a) The legal notice of the intention to  
5 introduce this Act, setting forth the general substance of this  
6 Act, has been published as provided by law, and the notice and a  
7 copy of this Act have been furnished to all persons, agencies,  
8 officials, or entities to which they are required to be furnished  
9 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
10 Government Code.

11 (b) The governor, one of the required recipients, has  
12 submitted the notice and Act to the Texas Commission on  
13 Environmental Quality.

14 (c) The Texas Commission on Environmental Quality has filed  
15 its recommendations relating to this Act with the governor, the  
16 lieutenant governor, and the speaker of the house of  
17 representatives within the required time.

18 (d) All requirements of the constitution and laws of this  
19 state and the rules and procedures of the legislature with respect  
20 to the notice, introduction, and passage of this Act are fulfilled  
21 and accomplished.

22 SECTION 4. (a) If this Act does not receive a two-thirds  
23 vote of all the members elected to each house, Subchapter C, Chapter  
24 7985, Special District Local Laws Code, as added by Section 1 of  
25 this Act, is amended by adding Section 7985.106 to read as follows:

26 Sec. 7985.106. NO EMINENT DOMAIN POWER. The district may  
27 not exercise the power of eminent domain.

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

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