

By: Creighton

S.B. No. 2293

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Montgomery County Improvement District No. 1; providing authority to issue bonds; providing authority to impose assessments, fees, or taxes.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3955 to read as follows:

CHAPTER 3955. MONTGOMERY COUNTY IMPROVEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3955.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "County" means Montgomery County.

(3) "Director" means a board member.

(4) "District" means the Montgomery County Improvement District No. 1.

Sec. 3955.002. CREATION AND NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3955.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter. By creating the district and in authorizing the county and other political subdivisions to contract with the district, the

1 legislature has established a program to accomplish the public
2 purposes set out in Section 52-a, Article III, Texas Constitution.

3 (b) The creation of the district is necessary to promote,
4 develop, encourage, and maintain employment, commerce,
5 transportation, housing, tourism, recreation, the arts,
6 entertainment, economic development, safety, and the public
7 welfare in the district.

8 (c) This chapter and the creation of the district may not be
9 interpreted to relieve the county from providing the level of
10 services provided as of the effective date of the Act enacting this
11 chapter to the area in the district. The district is created to
12 supplement and not to supplant county services provided in the
13 district.

14 Sec. 3955.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
15 The district is created to serve a public use and benefit.

16 (b) All land and other property included in the district
17 will benefit from the improvements and services to be provided by
18 the district under powers conferred by Sections 52 and 52-a,
19 Article III, and Section 59, Article XVI, Texas Constitution, and
20 other powers granted under this chapter.

21 (c) The creation of the district is in the public interest
22 and is essential to further the public purposes of:

23 (1) developing and diversifying the economy of the
24 state;

25 (2) eliminating unemployment and underemployment; and

26 (3) developing or expanding transportation and
27 commerce.

1 (d) The district will:

2 (1) promote the health, safety, and general welfare of
3 residents, employers, potential employees, employees, visitors,
4 and consumers in the district, and of the public;

5 (2) provide needed funding for the district to
6 preserve, maintain, and enhance the economic health and vitality of
7 the district territory as a community and business center;

8 (3) promote the health, safety, welfare, and enjoyment
9 of the public by providing pedestrian ways and by landscaping and
10 developing certain areas in the district, which are necessary for
11 the restoration, preservation, and enhancement of scenic beauty;
12 and

13 (4) provide for water, wastewater, drainage, road,
14 rail, and recreational facilities for the district.

15 (e) Pedestrian ways along or across a street, whether at
16 grade or above or below the surface, and street lighting, street
17 landscaping, parking, and street art objects are parts of and
18 necessary components of a street and are considered to be a street
19 or road improvement.

20 (f) The district will not act as the agent or
21 instrumentality of any private interest even though the district
22 will benefit many private interests as well as the public.

23 Sec. 3955.005. INITIAL DISTRICT TERRITORY. (a) The
24 district is initially composed of the territory described by
25 Section 2 of the Act enacting this chapter.

26 (b) The boundaries and field notes contained in Section 2 of
27 the Act enacting this chapter form a closure. A mistake 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 bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds;

(3) right to impose or collect an assessment or tax; or

(4) legality or operation.

Sec. 3955.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3955.007. CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3955.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 directors.

(c) Section 49.052, Water Code, does not apply to the directors.

Sec. 3955.052. APPOINTMENT OF VOTING DIRECTORS. The Texas Commission on Environmental Quality shall appoint voting directors

from persons recommended by the board.

Sec. 3955.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3955.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

(1) a board position vacant for any reason, including death, resignation, or disqualification;

(2) a director who is abstaining from participation in a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3955.055. COMPENSATION. A director is entitled to receive fees of office and reimbursement for actual expenses as provided by Section 49.060, Water Code. Sections 375.069 and 375.070, Local Government Code, do not apply to the board.

Sec. 3955.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1.</u>	<u>Tony Comer</u>
<u>2.</u>	<u>Nichole Comer</u>
<u>3.</u>	<u>Vicky Cutroneo</u>
<u>4.</u>	<u>Ryan Quigley</u>
<u>5.</u>	<u>Jerry Hayley</u>

(b) Of the initial directors, the terms of directors appointed for positions one through three expire June 1, 2019, and the terms of directors appointed for positions four and five expire

June 1, 2021.

(c) Section 3955.052 does not apply to this section.

(d) This section expires September 1, 2021.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3955.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3955.102. IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using any money available to the district, or contract with a governmental or private entity to provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service authorized under this chapter or Chapter 375, Local Government Code.

Sec. 3955.103. DEVELOPMENT CORPORATION POWERS. The district, using money available to the district, may exercise the powers given to a development corporation under Chapter 505, Local Government Code, including the power to own, operate, acquire, construct, lease, improve, or maintain a project under that chapter.

Sec. 3955.104. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered to be a local

government corporation created under Subchapter D, Chapter 431, Transportation Code; and

(2) may implement any project and provide any service authorized by this chapter.

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, except that a board member is not required to reside in the district.

Sec. 3955.105. PUBLIC FACILITY CORPORATIONS. As provided by Chapter 303, Local Government Code, the board by resolution may authorize the creation of a public facility corporation in the district to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, or placement in service of public facilities in an orderly, planned manner and at the lowest possible borrowing costs.

Sec. 3955.106. AGREEMENTS; GRANTS. (a) As provided by Chapter 375, Local Government Code, the district may make an agreement with or accept a gift, grant, or loan from any person.

(b) The implementation of a project is a governmental function or service for the purposes of Chapter 791, Government Code.

Sec. 3955.107. LAW ENFORCEMENT SERVICES. To protect the public interest, the district may contract with a qualified party, including the county, to provide law enforcement services in the district for a fee.

1 Sec. 3955.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
2 district may join and pay dues to a charitable or nonprofit
3 organization that performs a service or provides an activity
4 consistent with the furtherance of a district purpose.

5 Sec. 3955.109. ECONOMIC DEVELOPMENT. (a) The district may
6 engage in activities that accomplish the economic development
7 purposes of the district.

8 (b) The district may establish and provide for the
9 administration of one or more programs to promote state or local
10 economic development and to stimulate business and commercial
11 activity in the district, including programs to:

12 (1) make loans and grants of public money; and

13 (2) provide district personnel and services.

14 (c) The district may create economic development programs
15 and exercise the economic development powers provided to
16 municipalities by:

17 (1) Chapter 380, Local Government Code; and

18 (2) Subchapter A, Chapter 1509, Government Code.

19 Sec. 3955.110. PARKING FACILITIES. (a) The district may
20 acquire, lease as lessor or lessee, construct, develop, own,
21 operate, and maintain parking facilities or a system of parking
22 facilities, including lots, garages, parking terminals, or other
23 structures or accommodations for parking motor vehicles off the
24 streets and related appurtenances.

25 (b) The district's parking facilities serve the public
26 purposes of the district and are owned, used, and held for a public
27 purpose even if leased or operated by a private entity for a term of

1 years.

2 (c) The district's parking facilities are parts of and
3 necessary components of a street and are considered to be a street
4 or road improvement.

5 (d) The development and operation of the district's parking
6 facilities may be considered an economic development program.

7 Sec. 3955.111. ROAD UTILITY DISTRICT POWERS. The district
8 has the powers provided by the general laws relating to road utility
9 districts created under Section 52(b), Article III, Texas
10 Constitution and Chapter 441, Transportation Code.

11 Sec. 3955.112. STRATEGIC PARTNERSHIP AGREEMENT. The
12 district may negotiate and enter into a written strategic
13 partnership agreement under Section 43.0751, Local Government
14 Code, with a municipality in whose extraterritorial jurisdiction
15 the district is located.

16 Sec. 3955.113. ANNEXATION OR EXCLUSION OF LAND. (a) The
17 district may annex land as provided by Subchapter J, Chapter 49,
18 Water Code.

19 (b) The district may exclude land as provided by Subchapter
20 J, Chapter 49, Water Code. Section 375.044(b), Local Government
21 Code, does not apply to the district.

22 Sec. 3955.114. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

24 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

25 Sec. 3955.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
26 board by resolution shall establish the number of directors'
27 signatures and the procedure required for a disbursement or

1 transfer of district money.

2 Sec. 3955.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
3 The district may acquire, construct, finance, operate, or maintain
4 any improvement or service authorized under this chapter or Chapter
5 375, Local Government Code, using any money available to the
6 district.

7 Sec. 3955.153. PETITION REQUIRED FOR FINANCING SERVICES AND
8 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
9 service or improvement project with assessments under this chapter
10 unless a written petition requesting that service or improvement
11 has been filed with the board.

12 (b) A petition filed under Subsection (a) must be signed by
13 the owners of a majority of the assessed value of real property in
14 the district subject to assessment according to the most recent
15 certified tax appraisal roll for the county.

16 Sec. 3955.154. METHOD OF NOTICE FOR HEARING. The district
17 may mail the notice required by Section 375.115(c), Local
18 Government Code, by certified or first-class United States mail.
19 The board shall determine the method of notice.

20 Sec. 3955.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
21 The board by resolution may impose and collect an assessment for any
22 purpose authorized by this chapter in all or any part of the
23 district.

24 (b) An assessment, a reassessment, or an assessment
25 resulting from an addition to or correction of the assessment roll
26 by the district, penalties and interest on an assessment or
27 reassessment, an expense of collection, and reasonable attorney's

fees incurred by the district:

(1) are a first and prior lien against the property assessed;

(2) are superior to any other lien or claim other than a lien or claim for county, school district, or municipal ad valorem taxes; and

(3) are the personal liability of and a charge against the owners of the property even if the owners are not named in the assessment proceedings.

(c) The lien is effective from the date of the board's resolution imposing the assessment until the date the assessment is paid. The board may enforce the lien in the same manner that the board may enforce an ad valorem tax lien against real property.

(d) The board may make a correction to or deletion from the assessment roll that does not increase the amount of assessment of any parcel of land without providing notice and holding a hearing in the manner required for additional assessments.

Sec. 3955.156. RESIDENTIAL PROPERTY NOT EXEMPT. Section 375.161, Local Government Code, does not apply to the district.

Sec. 3955.157. COMPETITIVE BIDDING. Subchapter I, Chapter 49, Water Code, applies to the district. Sections 375.221 and 375.223, Local Government Code, do not apply to the district.

Sec. 3955.158. TAX AND ASSESSMENT ABATEMENTS. The district may designate reinvestment zones and may grant abatements of district taxes or assessments on property in the zones.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3955.201. ELECTIONS REGARDING TAXES AND BONDS. (a)

The district may issue, without an election, bonds, notes, and other obligations secured by:

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 3955.203.

(b) The district must hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(c) Section 375.243, Local Government Code, does not apply to the district.

(d) All or any part of any facilities or improvements that may be acquired by a district by the issuance of its bonds may be submitted as a single proposition or as several propositions to be voted on at the election.

Sec. 3955.202. OPERATION AND MAINTENANCE TAX. (a) If authorized by a majority of the district voters voting at an election held in accordance with Section 3955.201, the district may impose an operation and maintenance tax on taxable property in the district in accordance with Section 49.107, Water Code, for any district purpose, including to:

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

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

(c) Section 49.107(h), Water Code, does not apply to the district.

1 Sec. 3955.203. CONTRACT TAXES. (a) In accordance with
2 Section 49.108, Water Code, the district may impose a tax other than
3 an operation and maintenance tax and use the revenue derived from
4 the tax to make payments under a contract after the provisions of
5 the contract have been approved by a majority of the district voters
6 voting at an election held for that purpose.

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

10 Sec. 3955.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
11 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms
12 determined by the board. Section 375.205, Local Government Code,
13 does not apply to a loan, line of credit, or other borrowing from a
14 bank or financial institution secured by revenue other than ad
15 valorem taxes.

16 (b) The district may issue bonds, notes, or other
17 obligations payable wholly or partly from ad valorem taxes,
18 assessments, impact fees, revenue, contract payments, grants, or
19 other district money, or any combination of those sources of money,
20 to pay for any authorized district purpose.

21 Sec. 3955.205. TAXES FOR BONDS. At the time the district
22 issues bonds payable wholly or partly from ad valorem taxes, the
23 board shall provide for the annual imposition of a continuing
24 direct annual ad valorem tax, without limit as to rate or amount,
25 for each year that all or part of the bonds are outstanding as
26 required and in the manner provided by Sections 54.601 and 54.602,
27 Water Code.

1 Sec. 3955.206. BONDS FOR RECREATIONAL FACILITIES. The
2 limitation on the outstanding principal amount of bonds, notes, and
3 other obligations provided by Section 49.4645, Water Code, does not
4 apply to the district.

5 SUBCHAPTER F. DEFINED AREAS

6 Sec. 3955.251. AUTHORITY TO ESTABLISH DEFINED AREAS OR
7 DESIGNATED PROPERTY. The district may define areas or designate
8 certain property of the district to pay for improvements,
9 facilities, or services that primarily benefit that area or
10 property and do not generally and directly benefit the district as a
11 whole.

12 Sec. 3955.252. PROCEDURE FOR ELECTION. (a) Before the
13 district may impose an ad valorem tax or issue bonds payable from ad
14 valorem taxes of the defined area or designated property, the board
15 shall hold an election in the defined area or in the designated
16 property only.

17 (b) The board may submit the issues to the voters on the same
18 ballot to be used in another election.

19 Sec. 3955.253. DECLARING RESULT AND ISSUING ORDER. (a) If
20 a majority of the voters voting at the election approve the
21 proposition or propositions, the board shall declare the results
22 and, by order, shall establish the defined area and describe it by
23 metes and bounds or designate the specific property.

24 (b) A court may not review the board's order except on the
25 ground of fraud, palpable error, or arbitrary and confiscatory
26 abuse of discretion.

27 Sec. 3955.254. TAXES FOR SERVICES, IMPROVEMENTS, AND

1 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter
2 approval and adoption of the order described by Section 3955.253,
3 the district may apply separately, differently, equitably, and
4 specifically its taxing power and lien authority to the defined
5 area or designated property to provide money to construct,
6 administer, maintain, and operate services, improvements, and
7 facilities that primarily benefit the defined area or designated
8 property.

9 Sec. 3955.255. ISSUANCE OF BONDS FOR DEFINED AREA OR
10 DESIGNATED PROPERTY. After the order under Section 3955.253 is
11 adopted, the district may issue bonds to provide for any land,
12 improvements, facilities, plants, equipment, and appliances for
13 the defined area or designated property.

14 SUBCHAPTER G. SALES AND USE TAX

15 Sec. 3955.301. MEANINGS OF WORDS AND PHRASES. A word or
16 phrase used in this subchapter that is defined by Chapters 151 and
17 321, Tax Code, has the meaning assigned by Chapters 151 and 321, Tax
18 Code.

19 Sec. 3955.302. APPLICABILITY OF CERTAIN TAX CODE
20 PROVISIONS. (a) Except as otherwise provided by this subchapter,
21 Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code,
22 apply to taxes imposed under this subchapter and to the
23 administration and enforcement of those taxes in the same manner
24 that those laws apply to state taxes.

25 (b) Chapter 321, Tax Code, relating to municipal sales and
26 use taxes, applies to the application, collection, change, and
27 administration of a sales and use tax imposed under this subchapter

1 to the extent consistent with this chapter, as if references in
2 Chapter 321, Tax Code, to a municipality referred to the district
3 and references to a governing body referred to the board.

4 (c) Sections 321.106, 321.401, 321.402, 321.403, 321.404,
5 321.406, 321.409, 321.506, 321.507, and 321.508, Tax Code, do not
6 apply to a tax imposed under this subchapter.

7 Sec. 3955.303. AUTHORIZATION; ELECTION. (a) The district
8 may adopt a sales and use tax to serve the purposes of the district
9 after an election in which a majority of the voters of the district
10 voting in the election authorize the adoption of the tax.

11 (b) The board by order may call an election to authorize a
12 sales and use tax. The election may be held with any other district
13 election.

14 (c) The district shall provide notice of the election and
15 shall hold the election in the manner prescribed by Section
16 3955.201.

17 (d) The ballots shall be printed to provide for voting for
18 or against the proposition: "Authorization of a sales and use tax
19 in the Montgomery County Improvement District No. 1 at a rate not to
20 exceed ____ percent."

21 Sec. 3955.304. ABOLISHING SALES AND USE TAX. (a) Except as
22 provided by Subsection (b), the board may abolish the sales and use
23 tax without an election.

24 (b) The board may not abolish the sales and use tax if the
25 district has outstanding debt secured by the tax.

26 Sec. 3955.305. SALES AND USE TAX RATE. (a) On adoption of
27 the tax authorized by this subchapter, a tax is imposed on the

1 receipts from the sale at retail of taxable items in the district
2 and an excise tax is imposed on the use, storage, or other
3 consumption in the district of taxable items purchased, leased, or
4 rented from a retailer during the period that the tax is in effect.

5 (b) The board shall determine the rate of the tax, which may
6 be in one-eighth of one percent increments not to exceed the maximum
7 rate authorized by the district voters at the election. The board
8 may lower the tax rate to the extent the rate does not impair any
9 outstanding debt or obligations payable from the tax.

10 (c) The rate of the excise tax is the same as the rate of the
11 sales tax portion of the tax and is applied to the sales price of the
12 taxable item.

13 SUBCHAPTER H. DISSOLUTION AND MUNICIPAL ANNEXATION

14 Sec. 3955.351. MUNICIPAL ANNEXATION; DISSOLUTION. (a) The
15 district is a "water or sewer district" under Section 43.071, Local
16 Government Code.

17 (b) Section 43.075, Local Government Code, applies to the
18 district.

19 (c) Section 375.264, Local Government Code, does not apply
20 to the dissolution of the district by a municipality.

21 SECTION 2. The Montgomery County Improvement District No. 1
22 initially includes all territory contained in the following area:

23 [[[Boundaries to be determined]]]

24 SECTION 3. (a) The legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished
2 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
3 Government Code.

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

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

11 (d) The general law relating to consent by political
12 subdivisions to the creation of districts with conservation,
13 reclamation, and road powers and the inclusion of land in those
14 districts has been complied with.

15 (e) All requirements of the constitution and laws of this
16 state and the rules and procedures of the legislature with respect
17 to the notice, introduction, and passage of this Act have been
18 fulfilled and accomplished.

19 SECTION 4. 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, 2017.