By:  Metcalf (Senate Sponsor - Creighton) H.B. No. 2077

(In the Senate - Received from the House May 8, 2019; May 10, 2019, read first time and referred to Committee on Intergovernmental Relations; May 17, 2019, reported favorably by the following vote: Yeas 7, Nays 0; May 17, 2019, sent to printer.)

COMMITTEE VOTE

                    Yea Nay Absent  PNV

Lucio                X

Schwertner           X

Alvarado             X

Campbell             X

Fallon               X

Menéndez             X

Nichols              X

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the City of Conroe Municipal Management District No. 3; providing authority to issue bonds and impose assessments, fees, and 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 3964 to read as follows:

CHAPTER 3964. CITY OF CONROE MUNICIPAL MANAGEMENT DISTRICT NO. 3

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3964.0101.  DEFINITIONS. In this chapter:

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

(2)  "City" means the City of Conroe, Texas.

(3)  "Commission" means the Texas Commission on Environmental Quality.

(4)  "Director" means a board member.

(5)  "District" means the City of Conroe Municipal Management District No. 3.

Sec. 3964.0102.  CREATION AND NATURE OF DISTRICT. The district is a special district created under Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 3964.0103.  PURPOSE; LEGISLATIVE FINDINGS. (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 city and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

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

Sec. 3964.0104.  FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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

(c)  The district is created to accomplish the purposes of a municipal management district as provided by general law and Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution.

(d)  The creation of the district is in the public interest and is essential to:

(1)  further the public purposes of developing and diversifying the economy of the state;

(2)  eliminate unemployment and underemployment;

(3)  develop or expand transportation and commerce; and

(4)  provide quality residential housing.

(e)  The district will:

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

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

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

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

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

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

Sec. 3964.0105.  DISTRICT TERRITORY. (a) The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under other law.

(b)  The boundaries and field notes contained in Section 2 of 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 contract;

(3)  authority to borrow money or issue bonds or other obligations or to pay the principal and interest of the bonds or other obligations;

(4)  right to impose or collect an assessment, or collect other revenue; or

(5)  legality or operation.

Sec. 3964.0106.  APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. 3964.0107.  CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Sec. 3964.0108.  CONFLICTS OF LAW. This chapter prevails over any provision of Chapter 375, Local Government Code, that is in conflict or inconsistent with this chapter.

Sec. 3964.0109.  CONSENT OF MUNICIPALITY REQUIRED. The board may not hold an election to authorize the issuance of bonds until the governing body of the city by ordinance or resolution consents to the creation of the district and to the inclusion of land in the district. The city's consent must be granted in the manner provided by Section 54.016, Water Code, for including land within the corporate limits or extraterritorial jurisdiction of a city.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3964.0201.  GOVERNING BODY; TERMS. The district is governed by a board of five directors appointed by the commission who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each even-numbered year.

Sec. 3964.0202.  APPOINTMENT BY COMMISSION. (a) Before the term of a director expires, the board shall recommend to the commission a person to serve as a successor director. The commission shall appoint as director the person recommended by the board.

(b)  A person recommended by the board under Subsection (a) must be:

(1)  at least 18 years of age;

(2)  an owner of property in the district;

(3)  an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4)  an owner of a beneficial interest in a trust that owns property in the district; or

(5)  an agent, employee, or tenant of a person described by Subdivision (2), (3), or (4).

Sec. 3964.0203.  VACANCY.  If a vacancy occurs on the board, the remaining directors shall appoint a director for the remainder of the unexpired term.

Sec. 3964.0204.  COMPENSATION; EXPENSES. (a) The district may compensate each director in an amount not to exceed $150 for each board meeting. The total amount of compensation a director may receive each year may not exceed $7,200.

(b)  A director is entitled to reimbursement for necessary and reasonable expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 3964.0205.  INITIAL DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district according to the most recent certified tax appraisal rolls for the county may submit a petition to the commission requesting that the commission appoint as initial directors five persons named in the petition. The commission shall appoint as initial directors the persons named in the petition.

(b)  The initial directors shall determine by lot which three positions expire June 1, 2022, and which two positions expire June 1, 2020.

(c)  This section expires September 1, 2023.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3964.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 3964.0302.  IMPROVEMENT PROJECTS AND SERVICES. The district may provide, design, construct, acquire, improve, relocate, operate, maintain, or finance an improvement project or service using money available to the district for the purpose, 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. 3964.0303.  LOCATION OF IMPROVEMENT PROJECT. A district improvement project may be located inside or outside of the district.

Sec. 3964.0304.  NO EMINENT DOMAIN. The district may not exercise the power of eminent domain.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 3964.0401.  DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3964.0402.  MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, or finance an improvement project or service authorized by this chapter or Chapter 375, Local Government Code, using any money available to the district for that purpose.

SUBCHAPTER E. TAXES AND BONDS

Sec. 3964.0501.  OPERATION AND MAINTENANCE TAX. The district may impose an operation and maintenance tax on taxable property in the district for any district purpose in the manner provided by Section 49.107, Water Code, if authorized by a majority of the district voters voting at an election under that section, including for:

(1)  maintaining and operating the district;

(2)  constructing or acquiring improvements; or

(3)  providing a service.

Sec. 3964.0502.  TAXES FOR BONDS AND OTHER OBLIGATIONS. At the time bonds or other obligations payable wholly or partly from ad valorem taxes are issued:

(1)  the board shall impose a continuing direct annual ad valorem tax for each year that all or part of the bonds are outstanding; and

(2)  the board annually shall impose an ad valorem tax on all taxable property in the district in an amount sufficient to:

(A)  pay the interest on the bonds or other obligations as the interest becomes due; and

(B)  create a sinking fund for the payment of the principal of the bonds or other obligations when due or the redemption price at any earlier required redemption date.

SUBCHAPTER F. SPECIAL BOND PROVISIONS

Sec. 3964.0601.  APPLICABILITY. This subchapter applies only to bonds payable wholly or partly from revenue derived from assessments on real property in the district.

Sec. 3964.0602.  CONFLICT OF LAWS. In the event of a conflict between this subchapter and any other law, this subchapter prevails.

Sec. 3964.0603.  WRITTEN AGREEMENT REGARDING SPECIAL APPRAISALS. Before the district may issue bonds, the district and any person to whom the board intends that proceeds of the bonds be distributed, including the developer, another owner of land in the district, and any entity acting as a lender to the developer or other landowner for the purpose of a project relating to the district, must enter into a written agreement that:

(1)  waives for the term of the agreement the right to a special appraisal with respect to taxation by the district under Subchapters B, C, D, E, F, and H, Chapter 23, Tax Code; and

(2)  remains in effect for 30 years and is binding on the parties, on entities related to or affiliated with the parties, and on their successors and assignees.

Sec. 3964.0604.  REQUIREMENTS FOR ADVERTISING BOND ISSUE. The district may not advertise for an issuance of bonds until the completion of at least 25 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds.

Sec. 3964.0605.  REQUIREMENTS FOR BOND ISSUE. The district may not issue bonds until:

(1)  the district submits to the commission:

(A)  an engineer's report describing the project for which the bonds will provide funding, including data, profiles, maps, plans, and specifications related to the project; and

(B)  a cash flow analysis to determine the projected rate of assessment, which includes the following assumptions:

(i)  each ending balance for debt service in the analysis is not less than 25 percent of the following year's debt service requirement;

(ii)  interest income is only shown on the ending balance for debt service for the first two years; and

(iii)  the projected rate of assessment is level or decreasing for the life of the bonds issued by the district;

(2)  the completion of at least 75 percent of the projected value of the improvements, including houses and other buildings, that are liable for district assessments and necessary to support the district bonds; and

(3)  the district has obtained an independent market study from a firm recognized in the area of real estate market analysis supporting the development projects for the real property that is liable for district assessments and necessary to support the district bonds.

Sec. 3964.0606.  REQUIREMENTS FOR COLLECTION OF REVENUE TO PAY BONDS. The district may not collect an assessment to be used for the payment of bonds until:

(1)  the completion of at least 95 percent of the underground water, wastewater, and drainage facilities financed from bond proceeds that are necessary to serve the projected build-out, as certified by the district's engineer;

(2)  the district or other appropriate party has secured the groundwater, surface water, and water discharge permits that are necessary to secure capacity to support the projected build-out;

(3)  the completion of at least 95 percent of lift station, water plant, and sewage treatment plant capacity sufficient to serve the connections constructed in the project for a period of not less than 18 months, as certified by the district's engineer; and

(4)  the completion of at least 95 percent of the streets and roads that are necessary to provide access to the areas served by utilities and financed by the proceeds of bonds issued by the district, as certified by the district's engineer and constructed in accordance with municipal or county standards.

SECTION 2.  The City of Conroe Municipal Management District No. 3 initially includes all the territory contained in the following area:

A METES & BOUNDS description of a certain 191.97 acre (8,362,413 square feet) tract of land situated in the Mary Corner Survey, Abstract No. 9, James Smith Survey, Abstract No. 37, and the James W. Singleton Survey, Abstract No. 496 in Montgomery County, Texas, being all of a called 49.840 acre tract conveyed to Muse 128, L.P. by General Warranty Deed recorded in Clerk's File No. 2018026027, Montgomery County Official Public Records of Real Property, being all of a called 14.6529 acre tract conveyed to Muse 128, L.P. by General Warranty Deed recorded in Clerk's File No. 2018040787, Montgomery County Official Public Records of Real Property, and being all of a called 127.440 acre tract conveyed to Muse 128, L.P. by General Warranty Deed recorded in Clerk's File No. 2018011371, Montgomery County Official Public Records of Real Property; said 191.97 acre (8,362,413 square feet) tract of land being more particularly described as follows with all bearings being based on the Texas Coordinate System, Central Zone, NAD 83:

BEGINNING at a point being the northwest corner of a called 26.732 acre tract conveyed to McClanahan Storage 105, Inc. by General Warranty Deed recorded in Clerk's File No. 2014050308, Montgomery County Official Public Records of Real Property, being the northeast corner of said called 127.440 acre tract, being in the south right-of-way of State Highway 105 (width varies), and being the most northerly northeast corner of the herein described tract, from which a 5/8-inch iron rod found bears South 81°46'43" East, 3.05 feet;

THENCE, South 04°06'28" East, 2,445.72 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being the southwest corner of a called 1.433 acre tract conveyed to McClanahan Development, LLC by Warranty Deed recorded in Clerk's File No. 2017069964, Montgomery County Official Public Records of Real Property, being in the east line of said called 127.440 acre tract, and being an interior corner of the herein described tract;

THENCE, North 86°29'21" East, 1,353.75 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being the southeast corner of a called Unrestricted Reserve "H" of Poplar Business Park Section 1 recorded in Cabinet Z, Sheet 2679, Montgomery County Map Records, being the northeast corner of said called 14.6529 acre tract, being in the west right-of-way of Old Highway 105 (based on a width of 60 feet), and being the most easterly northeast corner of the herein described tract;

THENCE, South 04°00'56" East, 388.46 feet to a 3/8-inch iron rod found being in the east line of said called 14.6529 acre tract, being in the west right-of-way of said Old Highway 105, and being the most easterly corner of the herein described tract;

THENCE, North 79°51'51" West, 16.98 feet to a 1-inch iron pipe found being in the east line of said called 14.6529 acre tract, being in the west right-of-way of said Old Highway 105, and being an interior angle point of the herein described tract;

THENCE, South 03°57'24" East, 88.24 feet to a 1-inch iron pipe found being the northeast corner of a called 4.9474 acre tract conveyed to Susan Rose Korthauer by Warranty Deed recorded in Clerk's File No. 2008056538, Montgomery County Official Public Records of Real Property, being the southeast corner of said called 14.6529 acre tract, being in the west right-of-way of Northshore Drive (based on a width of 60 feet), and being the most northerly southeast corner of the herein described tract;

THENCE, South 86°29'21" West, 1,336.43 feet to a 1-inch iron pipe found being in the north line of a called 1.500 acre tract conveyed to Brittany Lee Brandt by General Warranty Deed with Vendor's Lien in Favor of Third Party recorded in Clerk's File No. 2011024870, Montgomery County Official Public Records of Real Property, being the southwest corner of said called 14.6529 acre tract, being the southeast corner of said called 127.440 acre tract, and being an angle point of the herein described tract;

THENCE, South 86°27'31" West, 381.94 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being the northwest corner of said called 1.500 acre tract, being in the south line of said called 127.440 acre tract, being the northeast corner of said called 49.840 acre tract, and being an interior angle point of the herein described tract;

THENCE, South 03°30'30" East, 1,667.47 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being the southeast corner of said called 49.840 acre tract, being in the northwest right-of-way of said Northshore Drive, and being the most southerly southeast corner of the herein described tract;

THENCE, South 86°29'30" West, 1,301.26 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being in the north line of the remainder of a called 47.596 acre tract conveyed to Jan Stuart Oostermeyer and Dale Grove Oostermeyer by General Warranty Deed with Vendor's Lien recorded in Volume 925, Page 587, Montgomery County Deed Records, being the southwest corner of said called 49.840 acre tract, and being the most southerly southwest corner of the herein described tract;

THENCE, North 03°41'39" West, 1,664.90 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being the northeast corner of a called 4.97 acre tract conveyed to Mark Speight and Blanca Speight by Warranty Deed with Vendor's Lien recorded in Clerk's File No. 2015112241, Montgomery County Official Public Records of Real Property, being the northwest corner of said called 49.840 acre tract, being in the south line of said called 127.440 acre tract, and being an interior angle point of the herein described tract;

THENCE, South 86°15'04" West, 1,095.59 feet to a 5/8-inch iron rod (with cap) found being the northwest corner of a called 2.474 acre tract conveyed to Richard H. Hansen and Kristine M. Hansen by Texas General Warranty Deed with Vendor's Lien recorded in Clerk's File No. 2017046810, Montgomery County Official Public Records of Real Property, being the southwest corner of said called 127.440 acre tract, being in the east right-of-way of McCaleb Road (width varies), being the most northerly southwest corner of the herein described tract, and being the beginning of a non-tangent curve to the left;

THENCE, along said non-tangent curve to the left having a radius of 4,431.68 feet, an arc length of 116.13 feet, and a long chord bearing North 02°15'40" West, 116.13 feet to a 5/8-inch iron rod (with cap) found being in the west line of said called 127.440 acre tract and being in the east right-of-way of said McCaleb Road;

THENCE, North 03°00'42" West, 1,081.87 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being in the south line of a called 2.066 acre tract conveyed to Lake South Water Supply Corporation by Warranty Deed recorded in Clerk's File No. 2005-104064, Montgomery County Official Public Records of Real Property, being the most westerly corner of said called 127.440 acre tract, being in the east right-of-way of said McCaleb Road, and being the most westerly corner of the herein described tract;

THENCE, North 87°04'28" East, 1,599.20 feet to a 5/8-inch iron rod found being the southeast corner of a called 60.63 acre tract conveyed to GAM Enterprises, Inc. by Warranty Deed recorded in Clerk's File No. 2011029722, Montgomery County Official Public Records of Real Property, being an interior corner of said called 127.440 acre tract, and being an interior corner of the herein described tract;

THENCE, North 02°58'33" West, 2,248.07 feet to a 5/8-inch iron rod found being the northeast corner of a called Restricted Reserve "A" of Lake Conroe Business Park Section 4 recorded in Cabinet M, Sheet 163, Montgomery County Map Records, being the most northerly corner of said 127.440 acre tract, being in the south right-of-way of said State Highway 105, and being the most northerly corner of the herein described tract;

THENCE, South 70°13'10" East, 493.12 feet to a Texas Department of Transportation brass disk in concrete found being in the north line of said 127.440 acre tract, being in the south right-of-way of said State Highway 105, and being an angle point of the herein described tract;

THENCE, South 55°13'24" East, 77.29 feet to a 5/8-inch iron rod (with cap stamped "Manhard") set being in the north line of said 127.440 acre tract, being in the south right-of-way of said State Highway 105, and being an angle point of the herein described tract;

THENCE South 70°16'14" East, 661.82 feet to the POINT OF BEGINNING, CONTAINING 191.97 acres (8,362,413 square feet) of land in Montgomery County, Texas filed in the office of Manhard Consulting, Ltd. in The Woodlands, Texas.

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

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

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

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

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2019.

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