By:  Metcalf (Senate Sponsor - Nichols) H.B. No. 4505

(In the Senate - Received from the House May 6, 2019; May 6, 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 Montgomery County Municipal Utility District No. 178; 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 8086 to read as follows:

CHAPTER 8086. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 178

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8086.0101.  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. 178.

Sec. 8086.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8086.0103.  CONFIRMATION AND DIRECTOR 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. 8086.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8086.0103 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. 8086.0105.  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. 8086.0106.  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;

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8086.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8086.0202, directors serve staggered four-year terms.

Sec. 8086.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Juan Trejo, III;

(2)  Scott Carson;

(3)  Darrin Warr;

(4)  Will De la Rosa; and

(5)  Cody Bark.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8086.0103; or

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

(c)  If permanent directors have not been elected under Section 8086.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1)  the date permanent directors are elected under Section 8086.0103; or

(2)  the fourth anniversary of the date of the appointment or reappointment.

(d)  If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8086.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8086.0302.  MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 8086.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 8086.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

(b)  If a road project is not located in the corporate limits or extraterritorial jurisdiction of a municipality, the road project must meet all applicable construction standards, subdivision requirements, and regulations of each county in which the road project is located.

(c)  If the state will maintain and operate the road, the Texas Transportation Commission must approve the plans and specifications of the road project.

Sec. 8086.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 8086.0306.  DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1)  has never issued any bonds; and

(2)  is not imposing ad valorem taxes.

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

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

(d)  The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e)  The board may adopt an order dividing the district before or after the date the board holds an election under Section 8086.0103 to confirm the creation of the district.

(f)  An order dividing the district shall:

(1)  name each new district;

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

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

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

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

(h)  Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section 8086.0103.

(i)  If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

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

(k)  Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8086.0104 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8086.0401.  ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by:

(1)  revenue other than ad valorem taxes; or

(2)  contract payments described by Section 8086.0403.

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

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

Sec. 8086.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8086.0401, 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. 8086.0403.  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. 8086.0501.  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. 8086.0502.  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. 8086.0503.  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. 178 initially includes all the territory contained in the following area:

Being 133.0 acres of land in the F. K. Henderson Survey, Abstract 248, Montgomery County, Texas, and being a portion of the 116.9 acre tract ("First Tract") and a portion of the 139.78 acre tract ("Second Tract") described in the deed from Otway Taylor, et al., to Geo. B. Darden recorded in Volume 258, Page 84 of the Official Public Records of Real Property of Montgomery County, Texas, also described in deed from Geo. B. Darden conveying 50% interest in the above referenced tracts to W. T. Moran recorded in Volume 285, Page 598 of the Official Public Records of Real Property of Montgomery County, Texas, and being a portion of the 34 acre tract described in deed from Geo. B. Darden conveying 50% interest in said 34 acre tract to W. T. Moran recorded in Volume 285, Page 598 of the Official Public Records of Real Property of Montgomery County, Texas, and being more particularly described by metes and bounds as follows with bearings based on the Texas Coordinate System of 1983, Central Zone:

BEGINNING at a 1-inch pinched top pipe found for the most southerly corner of the called 4.4 acre tract described in the deed to Bessie Ingrum, et al., recorded in Volume 613, Page 166 of the Official Public Records of Real Property of Montgomery County, Texas, and being on the existing east right-of-way line of Interstate Highway 45 (width varies) described in Volume 495, Page 593 of the Montgomery County Deed Records and being a southwesterly corner of the herein described tract;

THENCE North 72° 02' 04" East - 775.42 feet, with the southerly line of said called 4.4 acre tract to a 5-inch metal post at a barbed wire fence corner found for the most easterly corner of said called 4.4 acre tract;

THENCE North 18° 13' 40" West - 258.57 feet, with the easterly line of said called 4.4 acre tract to a 3/4-inch pinched top pipe found for the most northerly corner of said called 4.4 acre tract and being the most easterly corner of the called 20.478 acre tract described in deed to O. G. Williams recorded under Volume 613, Page 166 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE North 18° 04' 15" West - 1902.34 feet, with the easterly line of said called 20.478 acre tract to a 5-inch metal post at a barbed wire fence corner found for the most northerly corner of said called 20.478 acre tract, being the northwest corner of the herein described tract and being on the southeasterly line of the 184 acre tract described in deed to W. T. Moran recorded in Volume 225, Page 324 of the Montgomery County Deed Records, and from which point a 1-inch pinched top pipe found on the existing east right-of-way line of said Interstate Highway 45 bears South 72° 30' 01" West - 239.16 feet;

THENCE North 72° 30' 01" East, at a distance of 2178.53 feet pass a found 1-1/4 inch iron pipe, in all a total distance of 2996.55 feet to a 5/8-inch iron rod with cap stamped "IDS" set for an angle point in the center of the 50-feet wide Gulf States Utilities Company easement recorded in Volume 117, Page 578 of the Montgomery County Deed Records;

THENCE North 18° 25' 50" West - 150.08 feet, with the centerline of said 50-feet wide easement, to a 4-inch metal pole in concrete found for the west corner of the 6.000 acre tract described in deed to Andrew Scott Munson recorded in File Number 2002-114531 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE South 77° 55' 33" East - 628.35 feet, with the southerly line of said 6.000 acre tract to a 5/8-inch iron rod with cap stamped "IDS" set for an angle point and being the north corner of the 1.724 acre tract described in deed to Boardman Lee Munson recorded in File Number 2005-039674 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE South 13° 15' 38" West - 410.25 feet, with the westerly line of said 1.724 acre tract and subsequently the westerly line of the 2.00 acre tract described in deed to S.R.S. FAMILY, L.P. recorded in File Number 2016-072723 of the Official Public Records of Real Property of Montgomery County, Texas, to a 5/8-inch iron rod found for the southwest corner of said 2.00 acre tract and being an interior corner of the herein described tract;

THENCE South 76° 38' 05" East - 418.77 feet, with the south line of said 2.00 acre tract, to a 1/2-inch iron rod found for the southeast corner of said 2.00 acre tract and being on the westerly right-of-way line of State Highway 75 (width varies);

THENCE South 11° 56' 11" West - 641.18 feet, with the westerly right-of-way line of State Highway 75, to a 1/2-inch iron rod with cap stamped "JEFF MOON" found for the northeast corner of the 30-feet wide access easement described in deed to City of Willis recorded in Volume 949, Page 600 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE North 76° 39' 50" West - 170.90 feet, with the north line of said 30-feet wide access easement, to a 1/2-inch iron rod with cap stamped "JEFF MOON" found for the beginning of a curve to the left;

THENCE in a southwesterly direction, with the north line of said 30-feet wide easement and with said curve to the left, having a radius of 275.00 feet, a central angle of 29° 50' 00", a chord bearing and distance of South 88° 25' 13" West - 141.58 feet, and an arc distance of 143.19 feet to a 1/2-inch iron rod (bent) found for the end of said curve;

THENCE South 73° 30' 13" West - 376.45 feet, continuing with the north line of said 30-feet wide easement, to a 5/8-inch iron rod (bent) found for the northwest corner of said 30-feet wide easement and being the northeast corner of a 4.3668 acre tract described in deed to City of Willis recorded in File Number Volume 949, Page 593 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE South 73° 27' 30" West - 549.83 feet, with the north line of 4.3668 acre tract to a 5/8- inch iron rod found for the northwest corner of said 4.3668 acre tract;

THENCE South 16° 08' 36" East - 74.20 feet, with a westerly line of said 4.3668 acre tract, to the centerline of East Fork of Crystal Creek and being a northerly corner of the called 56.537 acre tract described in deed to WILLIS INDEPENDENT SCHOOL DISTRICT recorded in File Number 2009-075919 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE upstream with the centerline meanders of East Fork of Crystal Creek and the northerly lines of said 56.537 acre tract the following courses and distances:

South 70° 35' 11" West - 33.39 feet to a point;

North 80° 32' 26" West - 73.75 feet to a point;

South 71° 37' 44" West - 71.55 feet to a point;

North 37° 39' 44" West - 193.05 feet to a point;

North 75° 27' 42" West - 15.78 feet to a point;

South 79° 52' 36" West - 16.52 feet to a point;

North 21° 05' 06" West - 17.97 feet to a point;

North 36° 24' 29" East - 31.20 feet to a point;

North 75° 23' 22" West - 89.92 feet to a point;

North 72° 00' 47" West - 54.68 feet to a point;

North 26° 03' 42" East - 25.75 feet to a point;

North 61° 20' 29" East - 42.65 feet to a point;

North 15° 26' 24" West - 11.68 feet to a point;

North 53° 00' 21" West - 53.87 feet to a point;

South 58° 16' 00" West - 20.71 feet to a point;

North 79° 26' 57" West - 16.65 feet to a point;

North 48° 21' 09" West - 27.21 feet to a point;

North 18° 36' 35" West - 37.64 feet to a point;

North 15° 59' 52" West - 45.67 feet to a point;

North 30° 02' 36" West - 11.21 feet to a point;

North 72° 54' 49" West - 31.82 feet to a point;

North 86° 21' 07'' West - 28.71 feet to a point;

THENCE with westerly lines of said 56.537 acre tract and interior lines of the herein described tract the following courses and distances:

South 60° 52' 13" West - 439.62 feet to a 5/8-inch iron rod with cap stamped "M&A" found for an angle corner;

South 12° 53' 19" West - 1415.35 feet to a 5/8-inch iron rod with cap stamped "M&A" found for an angle corner;

South 22° 51' 04" East - 900.35 feet to a 5/8-inch iron rod with cap stamped "M&A" found for an angle corner;

South 15° 52' 57'' East - 478.23 feet to a 5/8-inch iron rod with cap stamped "IDS" set on the arc of a non-tangent curve to the left and being on the north right-of-way line of FM 830 (120-feet wide) recorded in Volume 563, Page 60 of the Official Public Records of Real Property of Montgomery County, Texas;

THENCE in a southwesterly direction, with the north right-of-way line of FM 830 and said curve to the left, having a radius of 2925.00 feet, a central angle of 03° 30' 20", a chord bearing and distance of South 87° 37' 26" West - 178.93 feet, and an arc distance of 178.96 feet to a TxDOT concrete monument found for the end of said curve;

THENCE South 85° 52' 16" West - 902.35 feet, continuing with the north right-of-way line of FM 830, to the south corner of a cutback line at the intersection of the north right-of-way line of FM 830 and the easterly right-of-way line of said Interstate Highway 45, from which point a TxDOT concrete monument bears South 46° 39' 14" East - 1.07 feet;

THENCE North 39° 05' 47" West - 67.43 feet, with said cutback line, to the north corner of said cutback line and the easterly right-of-way line of said Interstate Highway 45, being the beginning of a non-tangent curve to the left, from which point a TxDOT concrete monument bears South 72° 08' 45" East - 0.46 feet;

THENCE in a northwesterly direction, with the easterly right-of-way line of said Interstate Highway 45 and with said curve to the left, having a radius of 285.00 feet, a central angle of 64° 59' 58", a chord bearing and distance of North 36° 39' 22" West - 306.26 feet, and an arc distance of 323.32 feet to the end of said curve from which point a TxDOT concrete monument bears South 48° 43' 13" East - 0.51 feet;

THENCE North 69° 09' 21" West - 272.82 feet, continuing with the easterly right-of-way line of said Interstate Highway 45 to a TxDOT concrete monument found for the beginning of a curve to the right;

THENCE in a northwesterly direction, continuing with the easterly right-of-way line of said Interstate Highway 45 and with said curve to the right, having a radius of 177.00 feet, a central angle of 65° 00' 00", a chord bearing and distance of North 36° 39' 21" West - 190.20 feet, and an arc distance of 200.80 feet to a TxDOT concrete monument found for the end of said curve;

THENCE North 04° 09' 21" West - 214.21 feet, continuing with the easterly right-of-way line of said Interstate Highway 45, to the POINT OF BEGINNING and containing 133.0 acres of land.

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, the lieutenant governor, and the 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 are fulfilled and accomplished.

SECTION 4.  (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8086, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8086.0307 to read as follows:

Sec. 8086.0307.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5.  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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