By:  Bell of Montgomery H.B. No. 4687

     (Senate Sponsor - Creighton)

(In the Senate - Received from the House May 6, 2019; May 6, 2019, read first time and referred to Committee on Intergovernmental Relations; May 15, 2019, reported favorably by the following vote: Yeas 7, Nays 0; May 15, 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. 174; 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 8066 to read as follows:

CHAPTER 8066. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 174

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8066.0101.  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. 174.

Sec. 8066.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8066.0103.  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. 8066.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8066.0103 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. 8066.0105.  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. 8066.0106.  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. 8066.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 8066.0202, directors serve staggered four-year terms.

Sec. 8066.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Lynnette Tujague;

(2)  Andy Mersmann;

(3)  Julia Russell;

(4)  Monica Pena; and

(5)  Madeline Berry.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 8066.0103; 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 8066.0103 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 8066.0103; 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. 8066.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8066.0302.  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. 8066.0303.  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. 8066.0304.  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. 8066.0305.  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.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8066.0401.  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 8066.0403.

(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. 8066.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8066.0401, 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. 8066.0403.  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. 8066.0501.  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. 8066.0502.  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. 8066.0503.  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. 174 initially includes all the territory contained in the following area:

Being a tract containing 148.435 acres of land situated in the W.T. Dunlavy Survey, Abstract No. 168, the W. Hillhouse Survey, Abstract No. 260 and the J. Pierpont Survey, Abstract No. 426, in Montgomery County, Texas. Said 148.435 acres being a call 149.849 acre tract of land recorded in the name of Stacy Elizabeth Smith Dudevszky under Montgomery County Clerk's File (M.C.C.F.) No. 2005083316, LESS AND EXCEPT a call 1.420 acre tract of land recorded in the name of State of Texas under M.C.C.F. No. 2010040292. Said 148.435 acres being more particularly described by metes and bounds as follows (bearings are referenced to the Texas Coordinate System of 1983, Central Zone, based on GPS observations):

BEGINNING at a TXDOT disc found at the southwest corner of the herein described tract and northwest corner of said 1.420 acre tract, same being on the north Right-of-Way line of F.M. 1774 (width varies) and the east line of a call 12.15 acre tract of land recorded in the name of James Lamar O'Neal in Volume 745, Page 775 of the Montgomery County Deed Records (M.C.D.R.);

THENCE, with said east line and the east line of a call 12.15 acre tract of land recorded in the name of Edgar Leon O'Neal in Volume 745, Page 783 of the M.C.D.R., North 01 degrees 28 minutes 01 seconds West, a distance of 1,583.43 feet to a 1/2 inch square iron rod found;

THENCE, with the upper south line of said Edgar Leon O'Neal 12.15 acre tract, North 87 degrees 53 minutes 08 seconds East, a distance of 132.46 feet to an iron bolt found;

THENCE, with aforesaid east line, the east line of those two (2) call 5.756 acre tracts of land recorded in the names of Leon Charles O'Neal and Norman Leslie O'Neal under M.C.C.F. No. 2003039490, and the east line of a call 2.2817 acre tract of land recorded in the name of Alice Law Johnson under M.C.C.F. No. 98102399, North 01 degrees 56 minutes 32 seconds West, a distance of 1,355.78 feet to a 1 inch iron pipe (bent) found on the common line between aforesaid Pierpont and Hillhouse Surveys and being at the northeast corner of said 2.2817 acre tract;

THENCE, North 03 degrees 15 minutes 53 seconds West, a distance of 454.86 feet to a 5/8 inch iron rod found at the southwest corner of a call 7.505 acre tract of land recorded in the name of Rondle L. Hartley and Pat A. Hartley under M.C.C.F. No. 2000012801;

THENCE, with the south line of said 7.505 acre tract and a call 7.500 acre tract of land recorded in the name of Edmond R. Shanks and Amanda D. Shanks under M.C.C.F. No. 2000012802, North 87 degrees 16 minutes 27 seconds East, a distance of 1,315.32 feet to a 1/2 inch iron rod found at the southeast corner of said 7.500 acre tract;

THENCE, with the east line of said 7.500 acre tract, North 03 degrees 14 minutes 39 seconds West, a distance of 496.57 feet to a point at a fence corner post found at the northeast corner of said 7.500 acre tract, the southwest corner of a call 3.0445 acre tract of land recorded in the name of Magnolia Castland, Inc. under M.C.C.F. No. 99019783, and being at the centerline terminus of Sandra Dee Lane, a 60 foot road easement;

THENCE, with the south line of said 3.0445 acre tract, North 87 degrees 14 minutes 28 seconds East, at a distance of 30 feet passing the east line of said Sandra Dee Lane, and continuing for a total distance of 437.37 feet to a 1/2 inch iron rod found at the southeast corner of said 3.0445 acre tract and being on the west line of a call 12.4782 acre tract of land recorded in the name of Charles W. Tatom and Barbara D. Tatom under M.C.C.F. No. 9805419;

THENCE, with said west line and the west line of a call 3.0690 acre tract of land recorded in the name of Jessica Manwaring under M.C.C.F. No. 2017101365, South 03 degrees 19 minutes 34 seconds East, a distance of 496.83 feet to a 5/8 inch capped iron rod stamped "GBI Partners" set;

THENCE, continuing with the west line of said 3.0690 acre tract, South 03 degrees 06 minutes 29 seconds East, a distance of 457.74 feet to a 3/4 inch iron rod found at the northwest corner of a call 17.845 acre tract of land recorded in the name of Diane M Daleo under M.C.C.F. No. 2011008721 and being on the common line between aforesaid Pierpont and Dunlavy Surveys;

THENCE, with the west line of said 17.845 acre tract and a call 8.6122 acre tract of land (styled "Tract 2") recorded in the name of DMJ Kachel, LLC under M.C.C.F. No. 2016105309, South 02 degrees 08 minutes 18 seconds East, a distance of 1,117.06 feet to a point in Kachel Lake, said point being the common corner between aforesaid 149.849 acre tract, 8.6122 acre tract, and a call 35.151 acre tract of land recorded in the name of Christopher H. Osborne and Gail J. Osborne under M.C.C.F No. 2012070459;

THENCE, through and across said Kachel Lake and with a north line of said 35.151 acre tract, South 75 degrees 12 minutes 08 seconds West, a distance of 181.21 feet to a point in said Kachel Lake;

THENCE, with the west line of said 35.151 acre tract, South 02 degrees 28 minutes 35 seconds West, at a distance of 250.97 feet passing a found 1 inch iron pipe for reference, and continuing for a total distance of 1,125.43 feet to a 5/8 inch iron rod found at the southwest corner of said 35.151 acre tract and the northwest corner of Undesignated Reserve "A", Block 1 of Final Plat of Magnolia Road Investments, a subdivision recorded in M.C.C.F. No. 2018013113 (Cabinet 00Z, Sheet 4961);

THENCE, with the west line of said Undesignated Reserve "A", South 07 degrees 40 minutes 10 seconds East, a distance of 1,225.58 feet to a TXDOT disc found at the southwest corner of said Undesignated Reserve "A", the northeast corner of aforesaid 1.420 acre tract of land and being on the aforesaid north R.O.W. line of F.M. 1774, from which point a found TXDOT disc bears South 74 degrees 45 minutes 48 seconds East, a distance of 243.20 feet;

THENCE, with said north R.O.W. line and the north line of said 1.420 acre tract, the following two (2) courses:

1.)  North 74 degrees 45 minutes 48 seconds West, a distance of 733.80 feet to a TXDOT disc found;

2.)  North 75 degrees 03 minutes 25 seconds West, at a distance of 136.05 feet passing a found TXDOT disc for reference at the common line between aforesaid Dunlavy and Hillhouse Surveys, and continuing for a total distance of 1,107.06 feet to the POINT OF BEGINNING and containing 148.435 acres of land, more or less.

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 8066, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8066.0306 to read as follows:

Sec. 8066.0306.  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.

\* \* \* \* \*