

By: Metcalf

H.B. No. 2077

Substitute the following for H.B. No. 2077:

By: Button

C.S.H.B. No. 2077

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

1 chapter. By creating the district and in authorizing the city and
2 other political subdivisions to contract with the district, the
3 legislature has established a program to accomplish the public
4 purposes set out in Section 52-a, Article III, Texas Constitution.

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

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

16 Sec. 3964.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

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

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

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

27 (d) The creation of the district is in the public interest

1 and is essential to:

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

4 (2) eliminate unemployment and underemployment;

5 (3) develop or expand transportation and commerce; and

6 (4) provide quality residential housing.

7 (e) The district will:

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

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

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

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

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

26 (g) The district will not act as the agent or
27 instrumentality of any private interest even though the district

1 will benefit many private interests as well as the public.

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

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

10 (1) organization, existence, or validity;

11 (2) right to contract;

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

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

17 (5) legality or operation.

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

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

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

27 Sec. 3964.0109. CONSENT OF MUNICIPALITY REQUIRED. The

1 board may not hold an election to authorize the issuance of bonds
2 until the governing body of the city by ordinance or resolution
3 consents to the creation of the district and to the inclusion of
4 land in the district. The city's consent must be granted in the
5 manner provided by Section 54.016, Water Code, for including land
6 within the corporate limits or extraterritorial jurisdiction of a
7 city.

8 SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

20 (1) at least 18 years of age;
21 (2) an owner of property in the district;
22 (3) an owner of stock, whether beneficial or
23 otherwise, of a corporate owner of property in the district;

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

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

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

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

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

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

19 (b) The initial directors shall determine by lot which three
20 positions expire June 1, 2022, and which two positions expire June
21 1, 2020.

22 (c) This section expires September 1, 2023.

23 SUBCHAPTER C. POWERS AND DUTIES

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

27 Sec. 3964.0302. IMPROVEMENT PROJECTS AND SERVICES. The

1 district may provide, design, construct, acquire, improve,
2 relocate, operate, maintain, or finance an improvement project or
3 service using money available to the district for the purpose, or
4 contract with a governmental or private entity to provide, design,
5 construct, acquire, improve, relocate, operate, maintain, or
6 finance an improvement project or service authorized under this
7 chapter or Chapter 375, Local Government Code.

8 Sec. 3964.0303. LOCATION OF IMPROVEMENT PROJECT. A
9 district improvement project may be located inside or outside of
10 the district.

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

13 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

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

23 SUBCHAPTER E. TAXES AND BONDS

24 Sec. 3964.0501. OPERATION AND MAINTENANCE TAX. The
25 district may impose an operation and maintenance tax on taxable
26 property in the district for any district purpose in the manner
27 provided by Section 49.107, Water Code, if authorized by a majority

1 of the district voters voting at an election under that section,
2 including for:

- 3 (1) maintaining and operating the district;
4 (2) constructing or acquiring improvements; or
5 (3) providing a service.

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

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

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

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

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

19 SUBCHAPTER F. SPECIAL BOND PROVISIONS

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

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

26 Sec. 3964.0603. WRITTEN AGREEMENT REGARDING SPECIAL
27 APPRAISALS. Before the district may issue bonds, the district and

1 any person to whom the board intends that proceeds of the bonds be
2 distributed, including the developer, another owner of land in the
3 district, and any entity acting as a lender to the developer or
4 other landowner for the purpose of a project relating to the
5 district, must enter into a written agreement that:

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

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

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

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

20 (1) the district submits to the commission:

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

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

27 (i) each ending balance for debt service in

1 the analysis is not less than 25 percent of the following year's
2 debt service requirement;

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

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

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

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

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

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

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

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

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

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

14 A METES & BOUNDS description of a certain 191.97 acre
15 (8,362,413 square feet) tract of land situated in the Mary Corner
16 Survey, Abstract No. 9, James Smith Survey, Abstract No. 37, and
17 the James W. Singleton Survey, Abstract No. 496 in Montgomery
18 County, Texas, being all of a called 49.840 acre tract conveyed to
19 Muse 128, L.P. by General Warranty Deed recorded in Clerk's File
20 No. 2018026027, Montgomery County Official Public Records of Real
21 Property, being all of a called 14.6529 acre tract conveyed to Muse
22 128, L.P. by General Warranty Deed recorded in Clerk's File
23 No. 2018040787, Montgomery County Official Public Records of Real
24 Property, and being all of a called 127.440 acre tract conveyed to
25 Muse 128, L.P. by General Warranty Deed recorded in Clerk's File
26 No. 2018011371, Montgomery County Official Public Records of Real
27 Property; said 191.97 acre (8,362,413 square feet) tract of land

1 being more particularly described as follows with all bearings
2 being based on the Texas Coordinate System, Central Zone, NAD 83:

3 BEGINNING at a point being the northwest corner of a called
4 26.732 acre tract conveyed to McClanahan Storage 105, Inc. by
5 General Warranty Deed recorded in Clerk's File No. 2014050308,
6 Montgomery County Official Public Records of Real Property, being
7 the northeast corner of said called 127.440 acre tract, being in the
8 south right-of-way of State Highway 105 (width varies), and being
9 the most northerly northeast corner of the herein described tract,
10 from which a 5/8-inch iron rod found bears South 81°46'43" East,
11 3.05 feet;

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

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

27 THENCE, South 04°00'56" East, 388.46 feet to a 3/8-inch iron

1 rod found being in the east line of said called 14.6529 acre tract,
2 being in the west right-of-way of said Old Highway 105, and being
3 the most easterly corner of the herein described tract;

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

8 THENCE, South 03°57'24" East, 88.24 feet to a 1-inch iron pipe
9 found being the northeast corner of a called 4.9474 acre tract
10 conveyed to Susan Rose Korthauer by Warranty Deed recorded in
11 Clerk's File No. 2008056538, Montgomery County Official Public
12 Records of Real Property, being the southeast corner of said called
13 14.6529 acre tract, being in the west right-of-way of Northshore
14 Drive (based on a width of 60 feet), and being the most northerly
15 southeast corner of the herein described tract;

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

24 THENCE, South 86°27'31" West, 381.94 feet to a 5/8-inch iron
25 rod (with cap stamped "Manhard") set being the northwest corner of
26 said called 1.500 acre tract, being in the south line of said called
27 127.440 acre tract, being the northeast corner of said called

1 49.840 acre tract, and being an interior angle point of the herein
2 described tract;

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

8 THENCE, South 86°29'30" West, 1,301.26 feet to a 5/8-inch iron
9 rod (with cap stamped "Manhard") set being in the north line of the
10 remainder of a called 47.596 acre tract conveyed to Jan Stuart
11 Oostermeyer and Dale Grove Oostermeyer by General Warranty Deed
12 with Vendor's Lien recorded in Volume 925, Page 587, Montgomery
13 County Deed Records, being the southwest corner of said called
14 49.840 acre tract, and being the most southerly southwest corner of
15 the herein described tract;

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

24 THENCE, South 86°15'04" West, 1,095.59 feet to a 5/8-inch iron
25 rod (with cap) found being the northwest corner of a called 2.474
26 acre tract conveyed to Richard H. Hansen and Kristine M. Hansen by
27 Texas General Warranty Deed with Vendor's Lien recorded in Clerk's

1 File No. 2017046810, Montgomery County Official Public Records of
2 Real Property, being the southwest corner of said called 127.440
3 acre tract, being in the east right-of-way of McCaleb Road (width
4 varies), being the most northerly southwest corner of the herein
5 described tract, and being the beginning of a non-tangent curve to
6 the left;

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

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

20 THENCE, North 87°04'28" East, 1,599.20 feet to a 5/8-inch iron
21 rod found being the southeast corner of a called 60.63 acre tract
22 conveyed to GAM Enterprises, Inc. by Warranty Deed recorded in
23 Clerk's File No. 2011029722, Montgomery County Official Public
24 Records of Real Property, being an interior corner of said called
25 127.440 acre tract, and being an interior corner of the herein
26 described tract;

27 THENCE, North 02°58'33" West, 2,248.07 feet to a 5/8-inch iron

1 rod found being the northeast corner of a called Restricted Reserve
2 "A" of Lake Conroe Business Park Section 4 recorded in Cabinet M,
3 Sheet 163, Montgomery County Map Records, being the most northerly
4 corner of said 127.440 acre tract, being in the south right-of-way
5 of said State Highway 105, and being the most northerly corner of
6 the herein described tract;

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

12 THENCE, South 55°13'24" East, 77.29 feet to a 5/8-inch iron
13 rod (with cap stamped "Manhard") set being in the north line of said
14 127.440 acre tract, being in the south right-of-way of said State
15 Highway 105, and being an angle point of the herein described tract;

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

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

27 (b) The governor, one of the required recipients, has

1 submitted the notice and Act to the Texas Commission on
2 Environmental Quality.

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

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

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