

By: Metcalf

H.B. No. 2380

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 173; 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 8077 to read as follows:

CHAPTER 8077. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 173

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8077.0101. 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. 173.

Sec. 8077.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8077.0103. 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.

1       Sec. 8077.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8077.0103 until each municipality in whose corporate limits or  
4 extraterritorial jurisdiction the district is located has  
5 consented by ordinance or resolution to the creation of the  
6 district and to the inclusion of land in the district.

7       Sec. 8077.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8       (a) The district is created to serve a public purpose and benefit.

9       (b) The district is created to accomplish the purposes of:

10           (1) a municipal utility district as provided by  
11 general law and Section 59, Article XVI, Texas Constitution; and

12           (2) Section 52, Article III, Texas Constitution, that  
13 relate to the construction, acquisition, improvement, operation,  
14 or maintenance of macadamized, graveled, or paved roads, or  
15 improvements, including storm drainage, in aid of those roads.

16       Sec. 8077.0106. INITIAL DISTRICT TERRITORY. (a) The  
17 district is initially composed of the territory described by  
18 Section 2 of the Act enacting this chapter.

19       (b) The boundaries and field notes contained in Section 2 of  
20 the Act enacting this chapter form a closure. A mistake made in the  
21 field notes or in copying the field notes in the legislative process  
22 does not affect the district's:

23           (1) organization, existence, or validity;

24           (2) right to issue any type of bond for the purposes  
25 for which the district is created or to pay the principal of and  
26 interest on a bond;

27           (3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 8077.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8077.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8077.0202. TEMPORARY DIRECTORS. (a) The temporary  
8 board consists of:

9                   (1) Will Holstein;

10                  (2) Adam Flaaten;

11                  (3) Juan Galvan;

12                  (4) Lisa Nickel; and

13                  (5) Justin Hausman.

14           (b) Temporary directors serve until the earlier of:

15                   (1) the date permanent directors are elected under  
16 Section 8077.0103; or

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

19           (c) If permanent directors have not been elected under  
20 Section 8077.0103 and the terms of the temporary directors have  
21 expired, successor temporary directors shall be appointed or  
22 reappointed as provided by Subsection (d) to serve terms that  
23 expire on the earlier of:

24                   (1) the date permanent directors are elected under  
25 Section 8077.0103; or

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

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

8                   SUBCHAPTER C. POWERS AND DUTIES

9       Sec. 8077.0301. GENERAL POWERS AND DUTIES. The district  
10 has the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12       Sec. 8077.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
13 DUTIES. The district has the powers and duties provided by the  
14 general law of this state, including Chapters 49 and 54, Water Code,  
15 applicable to municipal utility districts created under Section 59,  
16 Article XVI, Texas Constitution.

17       Sec. 8077.0303. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23       Sec. 8077.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road project is located.

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

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

9       Sec. 8077.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10 ORDINANCE OR RESOLUTION. The district shall comply with all  
11 applicable requirements of any ordinance or resolution that is  
12 adopted under Section 54.016 or 54.0165, Water Code, and that  
13 consents to the creation of the district or to the inclusion of land  
14 in the district.

15       Sec. 8077.0306. DIVISION OF DISTRICT. (a) The district may  
16 be divided into two or more new districts only if the district:

17               (1) has no outstanding bonded debt; and

18               (2) is not imposing ad valorem taxes.

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

22       (c) Any new district created by the division of the district  
23 may, at the time the new district is created, contain only:

24               (1) land within the area described by Section 2 of the  
25 Act enacting this chapter; or

26               (2) any land adjacent to the area described by Section  
27 2 of the Act enacting this chapter if that adjacent land is:

1                   (A) not within the extraterritorial jurisdiction  
2 of a city; or

3                   (B) within the extraterritorial jurisdiction of  
4 a city and that adjacent land has been approved for inclusion in the  
5 district under the consent ordinance or resolution adopted by a  
6 city under Section 8077.0104.

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

11           (e) The board may adopt an order dividing the district  
12 before or after the date the board holds an election under Section  
13 8077.0103 to confirm the district's creation.

14           (f) An order dividing the district must:

15                   (1) name each new district;

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

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

19 and

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

22           (g) On or before the 30th day after the date of adoption of  
23 an order dividing the district, the district shall file the order  
24 with the Texas Commission on Environmental Quality and record the  
25 order in the real property records of each county in which the  
26 district is located.

27           (h) Any new district created by the division of the district

1 shall hold a confirmation and directors' election as required by  
2 Section 8077.0103.

3 (i) Municipal consent by a city is not required for the  
4 creation of any new district created under this section.

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

9 (k) If the voters of a new district do not confirm the  
10 creation of the new district, the assets, obligations, territory,  
11 and governance of the new district revert to that of the original  
12 district.

13 Sec. 8077.0307. LIMITATION ON USE OF EMINENT DOMAIN. The  
14 district may not exercise the power of eminent domain outside the  
15 district boundaries to acquire a site or easement for:

16 (1) a recreational facility, as defined by Section  
17 49.462, Water Code; or

18 (2) a road project authorized by Section 8077.0303.

19 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

20 Sec. 8077.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
21 The district may issue, without an election, bonds and other  
22 obligations secured by:

23 (1) revenue other than ad valorem taxes; or

24 (2) contract payments described by Section 8077.0403.

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

1 payable from ad valorem taxes.

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

6 Sec. 8077.0402. OPERATION AND MAINTENANCE TAX. (a) If  
7 authorized at an election held under Section 8077.0401, the  
8 district may impose an operation and maintenance tax on taxable  
9 property in the district in accordance with Section 49.107, Water  
10 Code.

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

13 Sec. 8077.0403. CONTRACT TAXES. (a) In accordance with  
14 Section 49.108, Water Code, the district may impose a tax other than  
15 an operation and maintenance tax and use the revenue derived from  
16 the tax to make payments under a contract after the provisions of  
17 the contract have been approved by a majority of the district voters  
18 voting at an election held for that purpose.

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

22 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

23 Sec. 8077.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
24 OBLIGATIONS. The district may issue bonds or other obligations  
25 payable wholly or partly from ad valorem taxes, impact fees,  
26 revenue, contract payments, grants, or other district money, or any  
27 combination of those sources, to pay for any authorized district



1 purpose.

2 Sec. 8077.0502. TAXES FOR BONDS. At the time the district  
3 issues bonds payable wholly or partly from ad valorem taxes, the  
4 board shall provide for the annual imposition of a continuing  
5 direct ad valorem tax, without limit as to rate or amount, while all  
6 or part of the bonds are outstanding as required and in the manner  
7 provided by Sections 54.601 and 54.602, Water Code.

8 Sec. 8077.0503. BONDS FOR ROAD PROJECTS. At the time of  
9 issuance, the total principal amount of bonds or other obligations  
10 issued or incurred to finance road projects and payable from ad  
11 valorem taxes may not exceed one-fourth of the assessed value of the  
12 real property in the district.

13 SECTION 2. The Montgomery County Municipal Utility District  
14 No. 173 initially includes all the territory contained in the  
15 following area:

16 A METES & BOUNDS description of a certain 170.1 acre (7,411,386  
17 square feet) tract of land situated in the Joseph Lindley Survey,  
18 Abstract No. 25 in Montgomery County, Texas, being all of a called  
19 169.059 acre tract conveyed to Ranch Hill Texas, LLC by Special  
20 Warranty Deed recorded in Clerk's File No. 2018049384, Montgomery  
21 County Official Public Records of Real Property; said 170.1 acre  
22 (7,411,386 square feet) tract of land being more particularly  
23 described as follows with all bearings being based on the Texas  
24 Coordinate System, Central Zone, NAD 83:

25 BEGINNING at a 1/2-inch iron rod found being the southwest corner of  
26 a called 10.00 acre tract conveyed to Robert W. Bucher by Warranty  
27 Deed recorded in Clerk's File No. 2002016103, Montgomery County

1 Official Public Records of Real Property, being in the north  
2 right-of-way of Calvary Road (based on a width of 80 feet), and  
3 being the southeast corner of said 169.059 acre tract and the herein  
4 described tract;

5 THENCE, North 77°24'58" West, 1,673.57 feet to a 1/2-inch iron pipe  
6 found being in the north right-of-way of said Calvary Road and being  
7 an angle point of the herein described tract;

8 THENCE, North 77°03'14" West, 1,096.54 feet to a point for corner  
9 being in the north right-of-way of said Calvary Road, being the  
10 southeast corner of a called 4.9839 acre tract conveyed to Clyde and  
11 Sharon Scruggs by Warranty Deed recorded in Clerk's File  
12 No. 8507804, Montgomery County Official Public Records of Real  
13 Property, being in the centerline of a creek, and being the  
14 southwest corner of the herein described tract;

15 THENCE, along the centerline of said creek the following  
16 seventy-three (73) courses and distances:

- 17 1. North 16°00'53" East, 51.75 feet to a point for corner;
- 18 2. North 76°46'26" East, 69.85 feet to a point for corner;
- 19 3. North 78°52'59" East, 48.13 feet to a point for corner;
- 20 4. North 51°38'11" East, 50.85 feet to a point for corner;
- 21 5. North 11°33'41" East, 37.07 feet to a point for corner;
- 22 6. North 52°12'40" East, 28.54 feet to a point for corner;
- 23 7. North 51°50'02" West, 24.97 feet to a point for corner;
- 24 8. North 88°11'32" East, 35.50 feet to a point for corner;
- 25 9. North 29°32'26" East, 110.78 feet to a point for corner;
- 26 10. North 75°15'58" East, 68.34 feet to a point for corner;
- 27 11. South 51°48'30" East, 50.53 feet to a point for corner;

- 1 12. North 79°13'23" East, 40.81 feet to a point for corner;
- 2 13. North 04°40'00" West, 136.22 feet to a point for corner;
- 3 14. North 32°07'37" East, 60.12 feet to a point for corner;
- 4 15. North 46°36'30" East, 57.30 feet to a point for corner;
- 5 16. North 21°11'07" West, 54.47 feet to a point for corner;
- 6 17. North 02°52'33" East, 76.04 feet to a point for corner;
- 7 18. North 30°36'40" East, 45.00 feet to a point for corner;
- 8 19. South 46°17'54" East, 52.83 feet to a point for corner;
- 9 20. North 67°43'12" East, 31.12 feet to a point for corner;
- 10 21. North 27°10'54" East, 22.94 feet to a point for corner;
- 11 22. North 76°09'31" East, 96.44 feet to a point for corner;
- 12 23. North 18°14'48" East, 65.58 feet to a point for corner;
- 13 24. North 75°18'54" East, 80.12 feet to a point for corner;
- 14 25. North 17°19'16" East, 64.17 feet to a point for corner;
- 15 26. North 31°12'56" East, 40.21 feet to a point for corner;
- 16 27. South 56°34'55" East, 74.19 feet to a point for corner;
- 17 28. North 58°03'36" East, 43.72 feet to a point for corner;
- 18 29. North 15°16'42" East, 34.96 feet to a point for corner;
- 19 30. North 26°46'27" West, 101.00 feet to a point for corner;
- 20 31. North 77°07'08" West, 45.13 feet to a point for corner;
- 21 32. South 23°52'02" West, 33.69 feet to a point for corner;
- 22 33. North 34°55'39" West, 30.58 feet to a point for corner;
- 23 34. North 04°43'54" East, 139.56 feet to a point for corner;
- 24 35. North 49°52'03" East, 80.12 feet to a point for corner;
- 25 36. North 36°59'46" West, 32.71 feet to a point for corner;
- 26 37. South 83°09'49" West, 89.05 feet to a point for corner;
- 27 38. North 01°08'58" West, 51.10 feet to a point for corner;

- 1 39. South 89°33'42" East, 70.61 feet to a point for corner;
- 2 40. North 18°08'04" West, 82.98 feet to a point for corner;
- 3 41. North 65°47'07" East, 72.32 feet to a point for corner;
- 4 42. North 21°45'28" West, 108.76 feet to a point for corner;
- 5 43. North 46°54'26" West, 27.86 feet to a point for corner;
- 6 44. South 36°24'46" West, 124.21 feet to a point for corner;
- 7 45. South 68°31'55" West, 89.46 feet to a point for corner;
- 8 46. North 30°02'30" West, 27.92 feet to a point for corner;
- 9 47. North 28°45'23" East, 259.17 feet to a point for corner;
- 10 48. North 87°35'41" West, 34.55 feet to a point for corner;
- 11 49. North 06°02'38" West, 64.31 feet to a point for corner;
- 12 50. North 25°43'30" East, 160.41 feet to a point for corner;
- 13 51. North 59°50'48" East, 35.64 feet to a point for corner;
- 14 52. South 66°51'12" East, 139.24 feet to a point for corner;
- 15 53. North 08°39'49" West, 81.92 feet to a point for corner;
- 16 54. North 37°22'23" East, 22.36 feet to a point for corner;
- 17 55. North 84°25'14" East, 89.59 feet to a point for corner;
- 18 56. North 62°53'36" East, 76.60 feet to a point for corner;
- 19 57. North 38°15'50" East, 91.56 feet to a point for corner;
- 20 58. North 18°02'10" West, 49.23 feet to a point for corner;
- 21 59. South 79°22'47" West, 69.62 feet to a point for corner;
- 22 60. North 33°01'08" West, 74.41 feet to a point for corner;
- 23 61. North 08°50'51" East, 48.23 feet to a point for corner;
- 24 62. North 51°01'41" East, 112.70 feet to a point for corner;
- 25 63. North 11°32'20" West, 26.25 feet to a point for corner;
- 26 64. North 75°58'54" West, 40.13 feet to a point for corner;
- 27 65. North 17°13'17" West, 48.25 feet to a point for corner;

1 66. North 35°42'48" East, 50.95 feet to a point for corner;  
2 67. South 84°04'38" East, 35.18 feet to a point for corner;  
3 68. South 05°17'32" East, 59.68 feet to a point for corner;  
4 69. North 47°45'11" East, 63.33 feet to a point for corner;  
5 70. North 09°16'24" West, 123.17 feet to a point for corner;  
6 71. South 86°42'10" West, 77.72 feet to a point for corner;  
7 72. North 52°41'46" West, 47.11 feet to a point for corner;  
8 73. North 36°16'41" East, 233.03 feet to a point for corner being  
9 the northeast corner of called Lot 1 conveyed to Adrian and Daniela  
10 Gianina Rotaru by Warranty Deed with Vendor's Lien recorded in  
11 Clerk's File No. 2017053987, Montgomery County Official Public  
12 Records of Real Property, being the southeast corner of called  
13 Tract 3 (Lot 35) conveyed to Bruce W. Tubbs and Maria Caughman by  
14 Warranty Deed with Vendor's Lien recorded in Clerk's File  
15 No. 2016082401, Montgomery County Official Public Records of Real  
16 Property, being the most westerly corner of a called 443.135 acre  
17 tract conveyed to CC Shepard Hill 443, L.P. by Special Warranty Deed  
18 with Vendor's Lien recorded in Clerk's File No. 2018025658,  
19 Montgomery County Official Public Records of Real Property, and  
20 being the northwest corner of the herein described tract;  
21 THENCE, South 77°18'54" East, at 14.59 feet passing a 1/2-inch iron  
22 rod found being in the south line of said called 443.135 acre tract,  
23 continuing for a total distance of 2,410.63 feet to a 5/8-inch iron  
24 rod with cap found being an interior angle point of said called  
25 443.135 acre tract and being the northeast corner of said 169.059  
26 acre tract and the herein described tract;  
27 THENCE, South 03°58'29" West, 1,540.88 feet to a wooden fence post

1 found being the most southerly corner of said called 443.135 acre  
2 tract, being the northwest corner of a called 131.172 acre tract  
3 conveyed to Barton J. and Melissa Halbaedier by Warranty Deed with  
4 Vendor's Lien recorded in Clerk's File No. 2004022169, Montgomery  
5 County Official Public Records of Real Property, and being an angle  
6 point of the herein described tract;

7 THENCE, South 04°00'54" West, 730.23 feet to a wooden fence post  
8 found being the southwest corner of said called 131.172 acre tract,  
9 being in the north line of said called 10.00 acre tract and being an  
10 angle point of the herein described tract;

11 THENCE, North 77°07'49" West, 578.00 feet to a 1/2-inch iron pipe  
12 found being the northwest corner of said called 10.00 acre tract and  
13 being an interior angle point of the herein described tract;

14 THENCE, South 11°31'45" West, 563.75 feet to the POINT OF BEGINNING,  
15 CONTAINING 170.1 acres (7,411,386 square feet) of land in  
16 Montgomery County, Texas filed in the office of Manhard Consulting,  
17 Ltd. in The Woodlands, Texas.

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

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

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

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

9 SECTION 4. (a) Section 8077.0307, Special District Local  
10 Laws Code, as added by Section 1 of this Act, takes effect only if  
11 this Act receives a two-thirds vote of all the members elected to  
12 each house.

13 (b) If this Act does not receive a two-thirds vote of all the  
14 members elected to each house, Subchapter C, Chapter 8077, Special  
15 District Local Laws Code, as added by Section 1 of this Act, is  
16 amended by adding Section 8077.0307 to read as follows:

17 Sec. 8077.0307. NO EMINENT DOMAIN POWER. The district may  
18 not exercise the power of eminent domain.

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

22 SECTION 5. This Act takes effect immediately if it receives  
23 a vote of two-thirds of all the members elected to each house, as  
24 provided by Section 39, Article III, Texas Constitution. If this  
25 Act does not receive the vote necessary for immediate effect, this  
26 Act takes effect September 1, 2019.