

By: Bell of Montgomery

H.B. No. 4678

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 162; 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 8090 to read as follows:

CHAPTER 8090. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 162

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8090.0101. 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. 162.

Sec. 8090.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8090.0103. 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. 8090.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8090.0103 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. 8090.0105. 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. 8090.0106. 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. 8090.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8090.0202, directors
6 serve staggered four-year terms.

7 Sec. 8090.0202. TEMPORARY DIRECTORS. (a) On or after the
8 effective date of the Act enacting this chapter, the owner or owners
9 of a majority of the assessed value of the real property in the
10 district may submit a petition to the commission requesting that
11 the commission appoint as temporary directors the five persons
12 named in the petition. The commission shall appoint as temporary
13 directors the five persons named in the petition.

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

15 (1) the date permanent directors are elected under
16 Section 8090.0103; 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 8090.0103 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 8090.0103; 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. 8090.0301. 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. 8090.0302. 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. 8090.0303. 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. 8090.0304. 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. 8090.0305. 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. 8090.0306. DIVISION OF DISTRICT. (a) The district may
16 be divided into two or more new districts only if the district:

- 17 (1) has never issued any bonds; 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) A new district created by the division of the district
23 may not, at the time the new district is created, contain any land
24 outside the area described by Section 2 of the Act enacting this
25 chapter.

26 (d) The board, on its own motion or on receipt of a petition
27 signed by the owner or owners of a majority of the assessed value of

1 the real property in the district, may adopt an order dividing the
2 district.

3 (e) The board may adopt an order dividing the district
4 before or after the date the board holds an election under Section
5 8090.0103 to confirm the district's creation.

6 (f) An order dividing the district shall:

7 (1) name each new district;

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

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

11 and

12 (4) provide for the division of assets and liabilities
13 between the new districts.

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

18 (h) A new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 8090.0103.

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

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

1 (k) Municipal consent to the creation of the district and to
2 the inclusion of land in the district granted under Section
3 8090.0104 acts as municipal consent to the creation of any new
4 district created by the division of the district and to the
5 inclusion of land in the new district.

6 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

7 Sec. 8090.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
8 The district may issue, without an election, bonds and other
9 obligations secured by:

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

11 (2) contract payments described by Section 8090.0403.

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

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

20 Sec. 8090.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8090.0401, the
22 district may impose an operation and maintenance tax on taxable
23 property in the district in accordance with Section 49.107, Water
24 Code.

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

27 Sec. 8090.0403. CONTRACT TAXES. (a) In accordance with

1 Section 49.108, Water Code, the district may impose a tax other than
2 an operation and maintenance tax and use the revenue derived from
3 the tax to make payments under a contract after the provisions of
4 the contract have been approved by a majority of the district voters
5 voting at an election held for that purpose.

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

9 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

10 Sec. 8090.0501. AUTHORITY TO ISSUE BONDS AND OTHER
11 OBLIGATIONS. The district may issue bonds or other obligations
12 payable wholly or partly from ad valorem taxes, impact fees,
13 revenue, contract payments, grants, or other district money, or any
14 combination of those sources, to pay for any authorized district
15 purpose.

16 Sec. 8090.0502. TAXES FOR BONDS. At the time the district
17 issues bonds payable wholly or partly from ad valorem taxes, the
18 board shall provide for the annual imposition of a continuing
19 direct ad valorem tax, without limit as to rate or amount, while all
20 or part of the bonds are outstanding as required and in the manner
21 provided by Sections 54.601 and 54.602, Water Code.

22 Sec. 8090.0503. BONDS FOR ROAD PROJECTS. At the time of
23 issuance, the total principal amount of bonds or other obligations
24 issued or incurred to finance road projects and payable from ad
25 valorem taxes may not exceed one-fourth of the assessed value of the
26 real property in the district.

27 SECTION 2. The Montgomery County Municipal Utility District

1 No. 162 initially includes all the territory contained in the
2 following area:

3 A description of a 1193 acre tract of land, located in the
4 Alfonzo Steel Survey, Abstract 477, the John Bricker Survey,
5 Abstract 98, the Gowan Harris Survey, Abstract 246, and the Lemuel
6 Smith Survey, Abstract 502, in Montgomery County, Texas; out of the
7 1,835.060 acre tract of land referenced as Tract III, Parcel 2, and
8 out of the 191.470 acre tract of land referenced as Tract II, Parcel
9 1 described in the deed recorded under Document Number 2018042236
10 of the Official Public Records of Montgomery County, Texas and more
11 particularly described as follows (all bearings based on the said
12 2018042236 deed):

13 BEGINNING at the north corner of the Tract III, Parcel 2;

14 THENCE South $30^{\circ} 24' 00''$ East - 4321.40', along the northeast
15 line of said Tract III, Parcel 2, to a northeasterly corner of said
16 Tract III, Parcel 2, in the northeast line of aforesaid Alfonzo
17 Steel Survey;

18 THENCE North $58^{\circ} 58' 21''$ East - 1919.72', along the north line
19 of Tract III, Parcel 2, partially along the northwest line of said
20 Alfonzo Steel Survey, to the intersection of said north line and the
21 west right-of-way line of FM 1314 (Conroe Porter Road);

22 THENCE South $48^{\circ} 01' 22''$ East - 2965.58', along said west
23 right-of-way line, and the east line of said Tract III, Parcel 2, to
24 the beginning of a tangent curve to the right;

25 THENCE, 1150.34', along said common line, along said curve to
26 the right, having a radius of 1859.86', a central angle of $35^{\circ} 26'$
27 $17''$, and a chord bearing and distance of South $30^{\circ} 18' 14''$ East -

1 1132.09', to the end of curve;

2 THENCE South 12° 33' 22" East - 34.59', along aforesaid west
3 right-of-way line, the east line of Tract III, Parcel 2 and the east
4 line of Tract 2, Parcel 1, to a point for corner;

5 THENCE South 12° 31' 04" East - 2420.93', continuing along
6 said west right-of-way line, and the east line of said Tract 2,
7 Parcel 1, to a point for corner;

8 THENCE South 11° 00' 27" East - 587.98', continuing along said
9 common line, to a point which is three hundred feet north of the
10 north right-of-way line of State Highway 242 (Lazy River Road);

11 THENCE, along a line three-hundred feet (300') north of and
12 parallel with said north right-of-way line, the following
13 twenty-three (23) courses and distances:

14 South 67° 55' 52" West - 25.80' to a point for corner;

15 South 70° 12' 35" West - 881.55' to the beginning of a
16 tangent curve to the right;

17 1655.03', along said curve to the right, having a radius
18 of 2565.25', a central angle of 36° 57' 57", and a chord bearing and
19 distance of South 88° 37' 40" West - 1626.48', to the end of curve;

20 North 72° 50' 13" West - 1053.14' to a point for corner;

21 North 69° 00' 59" West - 298.93' to a point for corner;

22 North 72° 47' 05" West - 126.31' to a point for corner;

23 North 78° 40' 07" West - 99.48' to a point for corner;

24 North 72° 47' 17" West - 183.43' to a point for corner;

25 North 71° 52' 08" West - 300.26' to a point for corner;

26 North 72° 59' 03" West - 110.05' to a point for corner;

27 North 75° 32' 57" West - 99.73' to a point for corner;

1 North 73° 01' 36" West - 504.90' to a point for corner;
2 North 72° 53' 37" West - 601.51' to a point for corner;
3 North 78° 36' 15" West - 100.50' to a point for corner;
4 North 72° 53' 37" West - 299.32' to the point of
5 beginning of a curve to the left;
6 282.46', along said curve to the left, having a radius
7 of 3254.79', a central angle of 04° 58' 20", and a chord bearing and
8 distance of North 75° 22' 47" West - 282.37', to the end of curve;
9 North 75° 22' 06" West - 579.39' to a point for corner;
10 South 81° 54' 27" West - 807.27' to a point for corner;
11 South 76° 44' 39" West - 451.13' to a point for corner;
12 South 69° 22' 36" West - 435.97' to a point for corner;
13 South 66° 28' 20" West - 315.10' to a point for corner;
14 South 63° 36' 35" West - 300.37' to a point for corner;
15 South 66° 28' 20" West - 320.29' to a point for corner;
16 THENCE North 15° 49' 15" West - 1921.98' to a point for corner;
17 THENCE North 59° 25' 43" East - 1902.10' to a point for corner;
18 THENCE North 30° 26' 27" West - 2772.87' to a point for corner
19 in the north line of the aforesaid Tract III, Parcel 2;
20 THENCE North 58° 50' 47" East - 757.22', continuing along said
21 north line, to a point for corner;
22 THENCE North 30° 28' 06" West - 1535.32', continuing along
23 said north line to a point for corner;
24 THENCE North 59° 28' 54" East - 3005.35', continuing along
25 said north line to the POINT OF BEGINNING, for a gross acreage of
26 1195 acres.
27 Save and Except the following description quoted from the

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1 deed recorded under Film Code Number 2000024269 of the Real
2 Property Records of Montgomery County, Texas (bearings have been
3 rotated to aforesaid 2018042236 deed bearing):

4 ALL THAT TRACT OR PARCEL OF LAND situated in Montgomery
5 County, Texas out of the Gowan Harris Survey A-246 and being a
6 portion of the tract of land called 1,117.77 acres and designated as
7 T85M1 as described in a deed from Champion International
8 Corporation to Champion Realty Corporation (Florida) dated
9 November 8, 1985 and recorded in Montgomery County Clerk File
10 No. 8550943 of the Real Property Records of Montgomery County,
11 Texas said 1.580 acre tract being more particularly described as
12 follows;

13 BEGINNING at a set 1/2" iron pin for the North corner in the
14 division line between the Gowan Harris Survey A-246 and the Alfonso
15 Stiel Survey A-477, also the Northwest line of the 1,117.77 acre
16 tract, a set 1/2" iron pin the Southeast line of the Stiel Survey at
17 a common corner between the Harris Survey and John Bricker Survey
18 A-98, also the North corner of the 1,117.77 acre tract, lies N 59°
19 28' 47" E, 466.69 ft. from this point;

20 THENCE departing said division line with Northeast line of
21 this tract, S 30° 34' 17" E, 220.28 ft. to a set 1/2" iron pin for
22 East corner;

23 THENCE with the Southeast line of this tract, S 59° 28' 47" W,
24 312.46 ft. to a set 1/2" iron pin for South corner;

25 THENCE with the Southwest line of this tract, N 30° 34' 17" W,
26 220.28 ft. to a set 1/2" iron pin in the division line between the
27 Stiel and Harris Surveys for West corner;

1 THENCE with said division line, also the Northwest Line of
2 said 1,117.77 acre tract and the tract herein described, N 59° 28'
3 47" E, 312.46 ft. to the PLACE OF BEGINNING and containing 1.580
4 acres of land.

5 For a net acreage of 1193 acres.

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

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

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

20 (d) All requirements of the constitution and laws of this
21 state and the rules and procedures of the legislature with respect
22 to the notice, introduction, and passage of this Act are fulfilled
23 and accomplished.

24 SECTION 4. (a) If this Act does not receive a two-thirds
25 vote of all the members elected to each house, Subchapter C, Chapter
26 8090, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 8090.0307 to read as follows:

1 Sec. 8090.0307. NO EMINENT DOMAIN POWER. The district may
2 not exercise the power of eminent domain.

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

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