

By: Bell of Montgomery

H.B. No. 4687

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.

1       Sec. 8066.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8066.0103 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. 8066.0105. 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. 8066.0106. 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. 8066.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

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

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

9                   (1) Lynnette Tujague;

10                   (2) Andy Mersmann;

11                   (3) Julia Russell;

12                   (4) Monica Pena; and

13                   (5) Madeline Berry.

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

15                   (1) the date permanent directors are elected under  
16 Section 8066.0103; 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 8066.0103 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 8066.0103; 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. 8066.0301. 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. 8066.0302. 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. 8066.0303. 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. 8066.0304. 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. 8066.0305. 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               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16       Sec. 8066.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
17 The district may issue, without an election, bonds and other  
18 obligations secured by:

- 19               (1) revenue other than ad valorem taxes; or  
20               (2) contract payments described by Section 8066.0403.

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

25       (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8066.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 8066.0401, the  
4 district may impose an operation and maintenance tax on taxable  
5 property in the district in accordance with Section 49.107, Water  
6 Code.

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

9 Sec. 8066.0403. CONTRACT TAXES. (a) In accordance with  
10 Section 49.108, Water Code, the district may impose a tax other than  
11 an operation and maintenance tax and use the revenue derived from  
12 the tax to make payments under a contract after the provisions of  
13 the contract have been approved by a majority of the district voters  
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8066.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
20 OBLIGATIONS. The district may issue bonds or other obligations  
21 payable wholly or partly from ad valorem taxes, impact fees,  
22 revenue, contract payments, grants, or other district money, or any  
23 combination of those sources, to pay for any authorized district  
24 purpose.

25 Sec. 8066.0502. TAXES FOR BONDS. At the time the district  
26 issues bonds payable wholly or partly from ad valorem taxes, the  
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all  
2 or part of the bonds are outstanding as required and in the manner  
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8066.0503. BONDS FOR ROAD PROJECTS. At the time of  
5 issuance, the total principal amount of bonds or other obligations  
6 issued or incurred to finance road projects and payable from ad  
7 valorem taxes may not exceed one-fourth of the assessed value of the  
8 real property in the district.

9 SECTION 2. The Montgomery County Municipal Utility District  
10 No. 174 initially includes all the territory contained in the  
11 following area:

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

24 BEGINNING at a TXDOT disc found at the southwest corner of the  
25 herein described tract and northwest corner of said 1.420 acre  
26 tract, same being on the north Right-of-Way line of F.M. 1774 (width  
27 varies) and the east line of a call 12.15 acre tract of land

1 recorded in the name of James Lamar O'Neal in Volume 745, Page 775  
2 of the Montgomery County Deed Records (M.C.D.R.);

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

8       THENCE, with the upper south line of said Edgar Leon O'Neal  
9 12.15 acre tract, North 87 degrees 53 minutes 08 seconds East, a  
10 distance of 132.46 feet to an iron bolt found;

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

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

25       THENCE, with the south line of said 7.505 acre tract and a  
26 call 7.500 acre tract of land recorded in the name of Edmond R.  
27 Shanks and Amanda D. Shanks under M.C.C.F. No. 2000012802, North 87

1 degrees 16 minutes 27 seconds East, a distance of 1,315.32 feet to a  
2 1/2 inch iron rod found at the southeast corner of said 7.500 acre  
3 tract;

4       THENCE, with the east line of said 7.500 acre tract, North 03  
5 degrees 14 minutes 39 seconds West, a distance of 496.57 feet to a  
6 point at a fence corner post found at the northeast corner of said  
7 7.500 acre tract, the southwest corner of a call 3.0445 acre tract  
8 of land recorded in the name of Magnolia Castland, Inc. under  
9 M.C.C.F. No. 99019783, and being at the centerline terminus of  
10 Sandra Dee Lane, a 60 foot road easement;

11       THENCE, with the south line of said 3.0445 acre tract, North  
12 87 degrees 14 minutes 28 seconds East, at a distance of 30 feet  
13 passing the east line of said Sandra Dee Lane, and continuing for a  
14 total distance of 437.37 feet to a 1/2 inch iron rod found at the  
15 southeast corner of said 3.0445 acre tract and being on the west  
16 line of a call 12.4782 acre tract of land recorded in the name of  
17 Charles W. Tatom and Barbara D. Tatom under M.C.C.F. No. 9805419;

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

23       THENCE, continuing with the west line of said 3.0690 acre  
24 tract, South 03 degrees 06 minutes 29 seconds East, a distance of  
25 457.74 feet to a 3/4 inch iron rod found at the northwest corner of a  
26 call 17.845 acre tract of land recorded in the name of Diane M Daleo  
27 under M.C.C.F. No. 2011008721 and being on the common line between

1 aforesaid Pierpont and Dunlavy Surveys;

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

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

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

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

1 degrees 45 minutes 48 seconds East, a distance of 243.20 feet;

2       THENCE, with said north R.O.W. line and the north line of said  
3 1.420 acre tract, the following two (2) courses:

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

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

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

18       (b) The governor, one of the required recipients, has  
19 submitted the notice and Act to the Texas Commission on  
20 Environmental Quality.

21       (c) The Texas Commission on Environmental Quality has filed  
22 its recommendations relating to this Act with the governor, the  
23 lieutenant governor, and the speaker of the house of  
24 representatives within the required time.

25       (d) All requirements of the constitution and laws of this  
26 state and the rules and procedures of the legislature with respect  
27 to the notice, introduction, and passage of this Act are fulfilled

1 and accomplished.

2 SECTION 4. (a) If this Act does not receive a two-thirds  
3 vote of all the members elected to each house, Subchapter C, Chapter  
4 8066, Special District Local Laws Code, as added by Section 1 of  
5 this Act, is amended by adding Section 8066.0306 to read as follows:

6 Sec. 8066.0306. NO EMINENT DOMAIN POWER. The district may  
7 not exercise the power of eminent domain.

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

11 SECTION 5. 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.