

By: Metcalf

H.B. No. 4702

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 179; 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 8082 to read as follows:

CHAPTER 8082. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 179

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8082.0101. 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. 179.

Sec. 8082.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8082.0103. 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. 8082.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8082.0103 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. 8082.0105. 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. 8082.0106. 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. 8082.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8082.0202, directors
6 serve staggered four-year terms.

7 Sec. 8082.0202. 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 8082.0103; 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 8082.0103 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 8082.0103; 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. 8082.0301. 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. 8082.0302. 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. 8082.0303. 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. 8082.0304. 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. 8082.0305. 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. 8082.0306. CERTAIN NAVIGATION IMPROVEMENTS. (a) The
16 district is created for the following purposes and has the power to
17 purchase, construct, acquire, own, operate, maintain, improve, or
18 extend, inside or outside the district, a canal or other waterway,
19 bulkhead, dock, or improvement in aid of such canals, waterways,
20 bulkheads, or docks.

21 (b) Notwithstanding any other law, the powers provided by
22 Subsection (a) are subject to the applicable rules, regulations,
23 and approval of the San Jacinto River Authority.

24 (c) In the event the district adopts a rule or regulation
25 relating to boating or navigation, the rule or regulation must be
26 consistent with the applicable rules or regulations of the San
27 Jacinto River Authority.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8082.0401. 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 8082.0403.

(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. 8082.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8082.0401, 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. 8082.0403. 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.

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

4 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

5 Sec. 8082.0501. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, contract payments, grants, or other district money, or any
9 combination of those sources, to pay for any authorized district
10 purpose.

11 Sec. 8082.0502. TAXES FOR BONDS. At the time the district
12 issues bonds payable wholly or partly from ad valorem taxes, the
13 board shall provide for the annual imposition of a continuing
14 direct ad valorem tax, without limit as to rate or amount, while all
15 or part of the bonds are outstanding as required and in the manner
16 provided by Sections 54.601 and 54.602, Water Code.

17 Sec. 8082.0503. BONDS FOR ROAD PROJECTS. At the time of
18 issuance, the total principal amount of bonds or other obligations
19 issued or incurred to finance road projects and payable from ad
20 valorem taxes may not exceed one-fourth of the assessed value of the
21 real property in the district.

22 SECTION 2. The Montgomery County Municipal Utility District
23 No. 179 initially includes all the territory contained in the
24 following area:

25 BEING 56.7111 NET ACRES of land, situated in the John Corner
26 Survey, Abstract Number 8 in Montgomery County, Texas, consisting
27 of a 50.61 acre tract and 7.16 acre tract, described in Deed to

1 General Monitors Transnational, LLC., recorded under Clerk's File
2 Number 2007-020435 and a 2.4988 acre tract described in Deed to
3 General Monitors Transnational, LLC., recorded under Clerk's File
4 Number 2007-121045, together with a called 0.83 acre tract and a
5 called 0.04 acre tract, described in that certain Boundary Line
6 Agreement between Philip LeFevre and wife, Holly LeFevre and
7 Grandview Development, Inc., recorded under Clerk's File Number
8 2006-093056, all in the Real Property Records of Montgomery County,
9 Texas; said 56.7111 acres being more particularly described by
10 metes and bounds as follows with all bearings referenced to the
11 North line of Lonestar Parkway, a variable width right-of-way
12 recorded under Clerk's File Number 2004-134115 Real Property
13 Records as found monumented on the ground:

14 BEGINNING at an iron rod with a survey cap marked "C&R", found
15 for the Southeast corner of the herein described tract and the
16 Southwest corner of the Replat of Grandview, Section 4, the plat
17 thereof recorded in Cabinet Z, Sheet 2594 of the Map Records of
18 Montgomery County, Texas, and being located in the North line of
19 Lonestar Parkway;

20 THENCE with the following courses and distances along the
21 North line of Lonestar Parkway:

22 North 74°14'01" West, a chord distance of 345.27 feet along a
23 curve to the left, having as its elements: a central angle of
24 09°15'16", a radius of 2140.00 feet and an arc length of 345.65 feet
25 to an iron rod with a survey cap marked "C&R", found for an angle
26 point;

27 North 74°57'21" West, a distance of 105.35 feet to a 5/8 inch

1 iron rod with a survey cap marked "Glezman, RPLS 4627", set for the
2 beginning of a curve to the left;

3 North 87°15'30" West, a chord distance of 418.73 feet along a
4 curve to the left, having as its elements: a central angle of
5 11°10'36", a radius of 2150.00 feet and an arc length of 419.39 feet
6 to an iron rod with a survey cap marked "Carter Burgess", found for
7 an angle point;

8 South 80°31'57" West, a distance of 104.82 feet, to an iron
9 rod with a survey cap marked "Carter Burgess", found for the
10 beginning of a curve to the left;

11 South 80°06'43" West, a chord distance of 309.95 feet along a
12 curve to the left, having as its elements: a central angle of
13 08°18'21", a radius of 2140.00 feet and an arc length of 310.22 feet
14 to an iron rod with a survey cap marked "Carter Burgess", found for
15 an angle point;

16 South 76°06'31" West, a distance of 43.83 feet to a 5/8 inch
17 iron rod with survey cap, set for the Southwest corner of the herein
18 described tract and the Southeast corner of the LeFevre
19 Development, Inc., called 33.527 acre tract as described in Deed
20 recorded under Clerk's File Number 2008-096315 Real Property
21 Records;

22 THENCE North 13°56'40" West, a distance of 631.37 feet,
23 leaving the North line of Lonestar Parkway, along the East line of
24 the called 33.527 acre tract, to a 5/8 inch iron rod with survey
25 cap, set for an angle point;

26 THENCE North 03°32'31" West, a distance of 568.53 feet to a
27 5/8 inch iron rod, found for an angle point at the Northeast corner

1 of the called 33.527 acre tract at the Southeast corner of Buffalo
2 Crossing, a subdivision with the plat thereof recorded in Cabinet
3 Z, Sheet 1462 of the Montgomery County Map Records;

4 THENCE North 27°56'22" East, a distance of 659.88 feet along
5 the Southeast line of Buffalo Crossing and the Northwesterly line
6 of the called 50.61 acre tract and the called 7.16 acre tract, to an
7 iron rod with a survey cap marked "Town & Country", found for an
8 angle point at the Northwest corner of the called 7.16 acre tract
9 and the Southwest corner of the called 2.4988 acre tract;

10 THENCE North 00°12'04" West, a distance of 100.04 feet along
11 the East line of Buffalo Crossing, passing at 70.92 feet, a "PK"
12 nail in a wood bulkhead; in all, a distance of 100.04 feet to the
13 Northwest corner of the herein described tract, in the South line of
14 Reserve "F" of the Amending Plat Of Waterstone On Lake Conroe,
15 Section 1, the plat thereof recorded in Cabinet Z, Sheet 1356 of the
16 Map Records;

17 THENCE South 89°47'03" East, a distance of 372.87 feet along
18 the South line of Reserve "F" of the Amending Plat Of Waterstone On
19 Lake Conroe, Section 1 and the North line of the called 2.4988 acre
20 tract, to an angle point;

21 THENCE North 75°17'26" East, a distance of 457.41 feet along
22 the South line of Reserve "F" of the Amending Plat Of Waterstone On
23 Lake Conroe, Section 1 and the North line of the called 2.4988 acre
24 tract, to an angle point;

25 THENCE North 83°09'49" East, a distance of 294.06 feet along
26 the South line of Reserve "F" of the Amending Plat Of Waterstone On
27 Lake Conroe, Section 1 and the North line of the called 2.4988 acre

1 tract, to an angle point;

2 THENCE South 54°29'34" East, a distance of 181.92 feet along
3 the South line of Reserve "F" of the Amending Plat Of Waterstone On
4 Lake Conroe, Section 1 and passing the East corner the called 2.4988
5 acre tract, along the North line of the called 0.83 acre tract
6 Boundary Line Agreement and the Southwesterly line of the
7 Waterstone On Lake Conroe, Inc. called 155.2494 acre tract as
8 recorded under Clerk's File Number 2007-109227 Real Property
9 Records, to an angle point;

10 THENCE North 69°37'08" East, a distance of 50.61 feet along
11 the North line of the called 0.83 acre tract Boundary Line Agreement
12 to an angle point;

13 THENCE South 38°05'40" East, a distance of 110.95 feet along
14 the North line of the called 0.83 acre tract Boundary Line Agreement
15 to the Northeast corner of the herein described tract at the
16 Northwest corner of Grandview Section 2, the plat thereof recorded
17 in Cabinet Z, Sheet 280 of the Map Records;

18 THENCE along the West line of Grandview Section 2 and the
19 aforesaid Boundary Line Agreement, with the following bearings and
20 distance:

21 South 87°14'15" West, passing at a distance of 17.12 feet, a
22 "PK" nail with washer marker "Glezman Surveying", set for reference
23 in a wood bulkhead; a total distance of 114.00 feet to an angle
24 point;

25 South 23°44'52" West, a distance of 294.00 feet to an
26 angle point;

27 South 05°20'19" West, a distance of 91.97 feet to an

1 angle point;
2 South 05°20'56" West, a distance of 84.97 feet to an
3 angle point;
4 South 14°28'08" West, a distance of 171.11 feet to an
5 angle point;
6 South 26°24'26" East, a distance of 90.34 feet to an
7 angle point;
8 South 05°57'54" East, a distance of 127.78 feet to an
9 angle point;
10 South 11°05'43" West, a distance of 147.63 feet to an
11 angle point;
12 South 40°13'26" East, a distance of 64.64 feet to an
13 angle point;
14 South 40°13'26" East, a distance of 49.21 feet to an
15 angle point;
16 South 25°23'41" East, a distance of 207.16 feet to an
17 angle point;
18 South 03°53'33" East, a distance of 376.46 feet to a 5/8 inch
19 iron rod with survey cap, set at the Northwest corner of the Replat
20 of Grandview Section 4, the plat thereof recorded in Cabinet Z,
21 Sheet 2594 of the Map Records;
22 THENCE South 21°39'21" West, a distance of 300.00 feet along
23 the West line of the Replat of Grandview Section 4, back to the
24 Point of Beginning and containing 60.293 gross acres of land, based
25 on the survey and plat prepared by Glezman Surveying Inc., dated
26 July 3, 2014.
27 SAVE AND EXCEPT the following described tract or parcel of

1 land:

2 Being 3.5819 acres (156,029 square feet) of land, situated in
3 the John Corner Survey, Abstract Number 8 in Montgomery County,
4 Texas and being out of the Consolidated Ventures, Inc. 60.293 acre
5 tract as recorded under Clerk's File Number 2015056092 Real
6 Property Records of Montgomery County, Texas; said 3.5819 acres
7 being more particularly described by metes and bounds as follows
8 with all bearings referenced to the North line of Lonestar Parkway,
9 a variable width right-of-way recorded under Clerk's File Number
10 2004-134115 Real Property Records, as found monumented on the
11 ground:

12 BEGINNING at an iron rod with a survey cap marked "C&R", found
13 at the Southeast corner of the herein described tract and Southeast
14 corner of the 60.293 acre tract, at the Southwest corner of the
15 Replat of Grandview, Section 4, the plat thereof recorded in
16 Cabinet Z, Sheet 2594 of the Map Records of Montgomery County, Texas
17 and being the North line of Lonestar Parkway;

18 THENCE with the following courses and distances along the
19 North line of Lonestar Parkway:

20 North 74°14'01" West, a chord distance of 345.27 feet along a
21 curve to the left, having as its elements: a central angle of
22 09°15'15", a radius of 2140.00 feet and an arc length of 345.65 feet
23 to an iron rod with a survey cap marked "C&R", found for an angle
24 point;

25 North 74°57'21" West, a distance of 105.35 feet to a 5/8 inch
26 iron rod with a survey cap marked "Glezman, RPLS 4627", set for the
27 beginning of a curve to the left;

1 North 81°55'50" West, a chord distance of 19.54 feet along a
2 curve to the left, having as its elements: a central angle of
3 00°31'15", a radius of 2150.00 feet and an arc length of 19.54 feet
4 to an iron rod with a survey cap marked "Glezman RPLS 4627", set for
5 the Southwest corner of the herein described tract;

6 THENCE North 15°17'07" East, a distance of 325.00 feet,
7 severing the 60.293 acre tract to a 5/8 inch iron rod with survey
8 cap, set for the Northwest corner of the herein described tract;

9 THENCE South 74°42'53" East, a distance of 493.95 feet,
10 severing the 60.293 acre tract, to an iron rod with survey cap, set
11 for the Northeast corner of the herein described tract and being in
12 the East line of the 60.293 acre tract and the West line of
13 Grandview Section 2, the plat thereof recorded in Cabinet Z, Sheet
14 280 of the Map Records of Montgomery County, Texas;

15 THENCE South 03°53'33" East, a distance of 28.43 feet along
16 the East line of the 60.293 acre tract and West line of Grandview
17 Section 2, to a 5/8 inch iron rod with survey cap, set for an angle
18 point and being the Northwest corner of the aforementioned Replat
19 of Grandview, Section 4;

20 THENCE South 21°39'21" West, a distance of 300.00 feet along
21 the West line of the Replat of Grandview, Section 4, back to the
22 Point of beginning and containing 3.5819 acres of land based on the
23 survey and plat prepared by Glezman Surveying, Inc., dated March 7,
24 2017.

25 Resulting in 56.7111 net acres of land.

26 SECTION 3. (a) The legal notice of the intention to
27 introduce this Act, setting forth the general substance of this

1 Act, has been published as provided by law, and the notice and a
2 copy of this Act have been furnished to all persons, agencies,
3 officials, or entities to which they are required to be furnished
4 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5 Government Code.

6 (b) The governor, one of the required recipients, has
7 submitted the notice and Act to the Texas Commission on
8 Environmental Quality.

9 (c) The Texas Commission on Environmental Quality has filed
10 its recommendations relating to this Act with the governor, the
11 lieutenant governor, and the speaker of the house of
12 representatives within the required time.

13 (d) All requirements of the constitution and laws of this
14 state and the rules and procedures of the legislature with respect
15 to the notice, introduction, and passage of this Act are fulfilled
16 and accomplished.

17 SECTION 4. (a) If this Act does not receive a two-thirds
18 vote of all the members elected to each house, Subchapter C, Chapter
19 8082, Special District Local Laws Code, as added by Section 1 of
20 this Act, is amended by adding Section 8082.0307 to read as follows:

21 Sec. 8082.0307. NO EMINENT DOMAIN POWER. The district may
22 not exercise the power of eminent domain.

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

26 SECTION 5. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

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1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2019.