

By: Bell of Montgomery

H.B. No. 4710

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 180; 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 8083 to read as follows:

CHAPTER 8083. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 180

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8083.0101. 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. 180.

Sec. 8083.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8083.0103. 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. 8083.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8083.0103 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. 8083.0105. 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. 8083.0106. 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. 8083.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8083.0202, directors
6 serve staggered four-year terms.

7 Sec. 8083.0202. 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 8083.0103; 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 8083.0103 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 8083.0103; 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. 8083.0301. 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. 8083.0302. 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. 8083.0303. 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. 8083.0304. 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. 8083.0305. 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. 8083.0306. 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 8083.0103 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 8083.0103.

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 8083.0104 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. 8083.0401. 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 8083.0403.

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. 8083.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8083.0401, 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. 8083.0403. 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. 8083.0501. 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. 8083.0502. 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. 8083.0503. 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. 180 initially includes all the territory contained in the
2 following area:

3 TRACT 1:

4 Being 303.862 acres of land situated in the Lorenzo Jones
5 Survey, A-294, and the Joseph B. Artoff Survey, A-56, Montgomery
6 County, Texas, and being out of a residual of a certain 1731.823
7 acres of land as described in deed recorded under County Clerk's
8 File No. 2007-032747 of the Real Property Records of Montgomery
9 County, Texas, said 303.862 acres of land being more particularly
10 described by metes and bounds as follows:

11 BEGINNING at a 5/8 inch iron rod with survey cap (Moyer) found
12 in the east line of F.M. 1486, a 100 foot right-of-way, for the
13 northwest corner of a certain 73.082 acres of land as described in
14 deed recorded under County Clerk's File No. 2008-033746 of the Real
15 Property Records of Montgomery County, Texas, same being the
16 southwest corner and POINT OF BEGINNING of the herein described
17 tract;

18 THENCE North 02 degrees 35 minutes 18 seconds West, along the
19 east line of said F.M. 1486 and the west boundary line of the herein
20 described tract, a distance of 1424.40 feet to a 5/8 inch iron rod
21 with survey cap (Moyer) set for the northwest corner of the herein
22 described tract;

23 THENCE North 87 degrees 31 minutes 51 seconds East, severing
24 the said residual of 1731.823 acres of land along the north boundary
25 line of the herein described tract, a distance of 9,294.00 feet to a
26 5/8 inch iron rod with survey cap (Moyer) set for the northeast
27 corner of the herein described tract;

1 THENCE South 02 degrees 28 minutes 09 seconds East, severing
2 the said 1731.823 acres of land along the east boundary line of the
3 herein described tract, a distance of 1424.40 feet to a 5/8 inch
4 iron rod with survey cap (Moyer) set for the southeast corner of the
5 herein described tract;

6 THENCE South 87 degrees 31 minutes 51 seconds West, severing
7 the said 1731.823 acres of land along the south boundary line of the
8 herein described tract, passing at 787.06 feet, a 5/8 inch iron rod
9 with survey cap (Moyer) found for reference and the northeast
10 corner of a certain 300.000 acres of land as described in deed
11 recorded under County Clerk's File No. 2007-058588 of the Real
12 Property Records of Montgomery County, Texas, passing at 6,862.31
13 feet a 5/8 inch iron rod with survey cap (Moyer) found for reference
14 and the northwest corner of the said 300.000 acres of land common to
15 the northeast corner of the said 73.082 acres of land continuing in
16 all a distance of 9291.04 feet to the POINT OF BEGINNING and
17 containing 303.862 acres of land.

18 TRACT 2:

19 Being 362.014 acres of land situated in the Joseph M.
20 Robinson Survey, A-450; the Lorenzo Jones Survey, A-294; and the
21 Joseph B. Artoff Survey, A-56, Montgomery County, Texas, and being
22 out of a residual of a certain 1731.823 acres of land as described
23 in deed recorded under County Clerk's File No. 2007-032747 of the
24 Real Property Records of Montgomery County, Texas, said 362.014
25 acres of land being more particularly described by metes and bounds
26 as follows:

27 BEGINNING at a 5/8 inch iron rod with survey cap (Moyer) set

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1 in the east line of F.M. 1486 for the southwest corner of a certain
2 640.75 acres of land as described in deed recorded under County
3 Clerk's File No. 9726626 of the Real Property Records of Montgomery
4 County, Texas, and the northwest corner of the herein described
5 tract from which a masonry nail found for reference and the
6 northwest corner of the said 1731.823 acres of land bears South 87
7 degrees 31 minutes 52 seconds West, a distance of 50.00 feet;

8 THENCE North 87 degrees 31 minutes 52 seconds East, along the
9 south boundary line of the said 640.75 acres of land common to the
10 north boundary line of the herein described tract, a distance of
11 10,062.09 feet to a 5/8 inch iron rod with survey cap (Moyer) set
12 for the northwest corner of a certain 19.000 acres of land as
13 described in deed recorded under County Clerk's File
14 No. 2009-107508 of the Real Property Records of Montgomery County,
15 Texas, and the northeast corner of the herein described tract;

16 THENCE South 04 degrees 28 minutes 21 seconds East, along the
17 west boundary line of the said 19.000 acres of land and continuing
18 along the west boundary line of a 33.000 acre residual out of 52.000
19 acres of land as described in deed recorded under County Clerk's
20 File No. 2008-106440 of the Real Property Records of Montgomery
21 County, Texas, same being the east boundary line of the herein
22 described tract, a distance of 1857.28 feet to a 5/8 inch iron rod
23 with survey cap (Moyer) set for the southwest corner of the said
24 52.000 acres of land and an easterly interior corner of the herein
25 described tract;

26 THENCE South 74 degrees 44 minutes 59 seconds East, along the
27 southwest boundary line of the said 52.000 acres of land and a

1 southeasterly boundary line of the herein described tract, a
2 distance of 541.99 feet to a 5/8 inch iron rod with survey cap
3 (Moyer) set for an interior southerly corner of the said 52.000
4 acres of land and a southeasterly corner of the herein described
5 tract;

6 THENCE South 04 degrees 28 minutes 21 seconds East, along a
7 southerly boundary line of the said 52.000 acres of land and the
8 most easterly southeast boundary line of the herein described
9 tract, passing at 372.00 feet, a 5/8 inch iron rod with survey cap
10 (Moyer) set for reference, continuing in all, a distance of 437.87
11 feet to a 5/8 inch iron rod with survey cap (Moyer) set in a curve in
12 the northeast boundary line of a certain 98.000 acres of land as
13 described in deed recorded under County Clerk's File
14 No. 2009-031792 of the Real Property Records of Montgomery County,
15 Texas, for a southwesterly corner of the said 52.000 acres of land
16 and the southeast corner of the herein described tract;

17 THENCE in a northwesterly direction along the northeast
18 boundary line of the said 98.000 acres of land and a southeast
19 boundary line of the herein described tract along a non-tangent
20 curve to the left having as its elements: a radius of 1970.00 feet,
21 a central angle of 07 degrees 02 minutes 06 seconds, an arc length
22 of 241.88 feet, and a chord bearing of North 73 degrees 13 minutes
23 22 seconds West, a distance of 241.73 feet to a 5/8 inch iron rod
24 with survey cap (Moyer) set for the most northerly northeast corner
25 of the said 98.000 acres of land and an interior southeasterly
26 corner of the herein described tract;

27 THENCE South 53 degrees 16 minutes 44 seconds West, along a

1 northerly boundary line of the said 98.000 acres of land and a
2 southeasterly boundary line of the herein described tract, a
3 distance of 835.71 feet to a 5/8 inch iron rod with survey cap
4 (Moyer) set for a northerly angle point of the said 98.000 acres of
5 land and a southeasterly angle point of the herein described tract;

6 THENCE South 87 degrees 31 minutes 51 seconds West,
7 continuing along the north boundary line of the said 98.000 acres of
8 land and a southeast boundary line of the herein described tract, a
9 distance of 442.64 feet to a 5/8 inch iron rod with survey cap
10 (Moyer) set for the southeast corner of a certain 303.862 acres of
11 land as described in deed recorded under County Clerk's File
12 No. 2009-002342 of the Real Property Records of Montgomery County,
13 Texas, and the most southerly southeast corner of the herein
14 described tract;

15 THENCE North 02 degrees 28 minutes 09 seconds West, along the
16 east boundary line of the said 303.862 acres of land common to the
17 westerly southeast boundary line of the herein described tract, a
18 distance of 1424.40 feet to a 5/8 inch iron rod with survey cap
19 (Moyer) set for the northeast corner of the said 303.862 acres of
20 land and an interior southeasterly corner of the herein described
21 tract;

22 THENCE South 87 degrees 31 minutes 51 seconds West, along the
23 north boundary line of the said 303.862 acres of land common to the
24 south boundary line of the herein described tract, a distance of
25 9,294.00 feet to a 5/8 inch iron rod with survey cap (Moyer) set in
26 the east line of said F.M. 1486 for the northwest corner of the said
27 303.862 acres of land and the southwest corner of the herein

1 described tract;

2 THENCE North 02 degrees 35 minutes 18 seconds West, along the
3 east line of said F.M. 1486 and the west boundary line of the herein
4 described tract, a distance of 1425.04 feet to the POINT OF
5 BEGINNING and containing 362.014 acres of land.

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 8083, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 8083.0307 to read as follows:

1 Sec. 8083.0307. 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.