

By: Creighton

S.B. No. 2457

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 175; 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 8050 to read as follows:

CHAPTER 8050. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 175

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8050.0101. 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. 175.

Sec. 8050.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8050.0103. 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. 8050.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8050.0103 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. 8050.0105. 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. 8050.0106. 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. 8050.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8050.0202, directors
6 serve staggered four-year terms.

7 Sec. 8050.0202. 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 8050.0103; 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 8050.0103 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 8050.0103; 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. 8050.0301. 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. 8050.0302. 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. 8050.0303. 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. 8050.0304. 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. 8050.0305. 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. 8050.0306. 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) Any 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 8050.0103 to confirm the creation of the district.

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 or among 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) Any new district created by the division of the district
19 shall hold a confirmation and directors' election as required by
20 Section 8050.0103.

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 8050.0104 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. 8050.0401. 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 8050.0403.

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. 8050.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8050.0401, 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. 8050.0403. 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. 8050.0501. 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. 8050.0502. 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. 8050.0503. 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. 175 initially includes all the territory contained in the
2 following area:

3 A TRACT OF LAND SITUATED IN THE STATE OF TEXAS, IN MONTGOMERY
4 COUNTY, TEXAS AND CONTAINING 857.061 ACRES OF LAND NOW OR FORMERLY
5 OWNED BY GEORGE P. MITCHELL AND BEING ALL OR PART OF THE FOLLOWING
6 SURVEYS: WILLIAM LOWE SURVEY A-325 AND MATTHEW MORSE SURVEY A-337.
7 SAID TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY METES AND
8 BOUNDS AS FOLLOWS: BEARING ORIENTATION IS BASED ON THE TEXAS STATE
9 PLANE COORDINATE SYSTEM, CENTRAL ZONE.

10 BEGINNING AT A FENCE CORNER BEING THE SOUTHWEST CORNER OF THE
11 TRACT HEREIN BEING DESCRIBED AND BEING AT ITS INTERSECTION WITH THE
12 EAST RIGHT-OF-WAY OF STATE HIGHWAY NO. 149 (100' R.O.W.) AND BEING
13 ALSO ON THE SOUTH BOUNDARY OF THE WILLIAM LOWE SURVEY A-325, BEING A
14 COMMON BOUNDARY WITH THE NORTH BOUNDARY OF THE WILLIAM McNINN NUNER
15 SURVEY A-401. SAID POINT OF BEGINNING HAVING A TEXAS STATE PLANE
16 COORDINATE VALUE OF X=3,462,817.99, Y=363,395.89.

17 THENCE N02° 59' 17"W, 3,465.49 FEET ALONG THE WEST BOUNDARY OF
18 THIS TRACT AS FENCED AND OCCUPIED AND ALONG THE EAST RIGHT-OF-WAY OF
19 SAID STATE HIGHWAY NO. 149 TO A FENCE CORNER AND POINT FOR CORNER
20 FOR THIS TRACT. SAID CORNER BEING COMMON WITH THE SOUTHWEST CORNER
21 OF "177 LAKE ESTATES SUBDIVISION."

22 THENCE N87° 05' 50"E, 2,735.87 FEET ALONG A NORTH BOUNDARY OF
23 THIS TRACT AS FENCED AND OCCUPIED, BEING ALSO THE SOUTH BOUNDARY OF
24 SAID "177 LAKE ESTATES SUBDIVISION" AND BEING ALSO THE NORTH
25 BOUNDARY OF SAID WILLIAM LOWE SURVEY TO A POINT FOR CORNER MARKED BY
26 A 4" BOILER PIPE (FOUND) AT FENCE CORNER.

27 THENCE N03° 28' 09"W, 2,738.46 FEET ALONG A WEST BOUNDARY OF

1 THIS TRACT AS FENCED AND OCCUPIED, BEING COMMON WITH THE EAST
2 BOUNDARY OF SAID "177 LAKE ESTATES SUBDIVISION" AND BEING ALSO A
3 WEST BOUNDARY OF THE MATTHEW MORSE SURVEY TO A POINT FOR CORNER
4 BEING THE NORTHWEST CORNER OF THIS TRACT AND BEING AT ITS
5 INTERSECTION WITH THE SOUTH RIGHT-OF-WAY KEENAN CUT OFF ROAD, AND
6 MARKED BY A 4" BOILER PIPE (FOUND).

7 THENCE, N86° 45' 31"E, 4,030.41 FEET ALONG A NORTH BOUNDARY OF
8 THIS TRACT, SAME BEING THE NORTH BOUNDARY OF SAID MATTHEW MORSE
9 SURVEY AND THE SOUTH RIGHT-OF-WAY OF KEENAN ROAD TO A POINT FOR
10 CORNER AND FENCE CORNER. SAID CORNER BEING ALSO THE NORTHWEST
11 CORNER OF THE T.J. NICHOLS SURVEY.

12 THENCE ALONG A COMMON BOUNDARY BETWEEN THE MATTHEW MORSE
13 SURVEY AND THE T.J. NICHOLS SURVEY AS FENCED AND OCCUPIED AS
14 FOLLOWS:

15 S03° 06' 04"E, 2,334.84 FEET TO A FENCE CORNER, AND POINT FOR CORNER.
16 AND N87° 21' 40"E, 1,301.13 FEET TO A POINT FOR CORNER MARKED BY A 4"
17 BOILER PIPE (FOUND) AT FENCE CORNER AND BEING AT ITS INTERSECTION
18 WITH THE WEST BOUNDARY OF THE JAMES HALL SURVEY.

19 THENCE ALONG THE EAST BOUNDARY OF SAID MATTHEW MORSE SURVEY
20 AS FENCED AND OCCUPIED, SAME BEING THE WEST BOUNDARY OF SAID JAMES
21 HALL SURVEY AND THE M.J. KIRBY AS FOLLOWS:

22 S02° 58' 28"E, 2,103.25 FEET TO A POINT FOR CORNER MARKED BY A 1 1/4"
23 IRON PIPE (FOUND).

24 S03° 24' 06"E, 21,203.26 FEET TO A POINT FOR CORNER MARKED BY A 1
25 1/4" IRON PIPE (FOUND).

26 AND S03° 50' 21"E, 346.32 FEET TO A POINT FOR CORNER AT ITS
27 INTERSECTION WITH THE NORTH BOUNDARY OF A 20.00 ACRE TRACT OWNED BY

1 GEORGE P. MITCHELL.

2 THENCE ALONG THE SOUTH BOUNDARY OF THIS TRACT SEVERING THE
3 MATTHEW MORSE SURVEY ALONG THE NORTH AND WEST BOUNDARY OF ABOVE
4 MENTIONED 20.00 ACRE TRACT AS FOLLOWS:

5 S89° 31' 14"W, 1,727.72 FEET TO A POINT FOR CORNER MARKED BY A 5/8"
6 IRON ROD WITH ALUMINUM CAP (FOUND).

7 AND S00° 28' 46"E, 500.00 FEET TO A POINT FOR CORNER ON THE SOUTH
8 LINE OF SAID MATTHEW MORSE SURVEY BEING COMMON WITH THE NORTH
9 BOUNDARY OF THE DANIEL ROPER SURVEY.

10 THENCE S89° 31' 14"W, 2,144.18 FEET ALONG THE ABOVE MENTIONED
11 COMMON SURVEY LINE TO A POINT FOR CORNER.

12 THENCE SEVERING SAID MATTHEW MORSE SURVEY AND THE WILLIAM
13 LOWE SURVEY AS FOLLOWS:

14 N02° 59' 17"W, 913.97 FEET TO A POINT FOR CORNER MARKED BY A 5/8"
15 IRON ROD WITH ALUMINUM CAP (FOUND).

16 S89° 31' 14"W, 1,868.81 FEET TO A POINT FOR CORNER ON THE CENTERLINE
17 OF THE TEXAS EASTERN PIPELINE RIGHT-OF-WAY RECORDED IN VOLUME 336,
18 PAGE 429 OF THE DEED RECORDS OF MONTGOMERY COUNTY, TEXAS (50 FEET
19 WIDE PIPELINE RIGHT-OF-WAY).

20 AND S44° 01' 41"W, 1,280.36 FEET ALONG THE CENTERLINE OF SAID
21 PIPELINE RIGHT-OF-WAY TO A POINT FOR CORNER AT ITS INTERSECTION
22 WITH THE SOUTH BOUNDARY OF SAID WILLIAM LOWE SURVEY AND BEING COMMON
23 WITH THE NORTH BOUNDARY OF THE DANIEL ROPER SURVEY.

24 THENCE S89° 31' 14"W, 83.12 FEET ALONG THE ABOVE MENTIONED
25 COMMON SURVEY LINE TO POINT FOR CORNER MARKED BY A 4" BOILER PIPE AT
26 FENCE CORNER AND BEING ALSO THE NORTHWEST CORNER OF THE DANIEL ROPER
27 SURVEY.

1 THENCE S86° 11' 16"W, 1,285.65 FEET ALONG THE SOUTH BOUNDARY
2 OF THE WILLIAM LOWE SURVEY BEING ALSO THE NORTH BOUNDARY OF THE WM.
3 McNINN NUNER SURVEY AS FENCED AND OCCUPIED TO THE POINT OF BEGINNING
4 AND CONTAINING 857.061 ACRES OF LAND.

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

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

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

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

23 SECTION 4. (a) If this Act does not receive a two-thirds
24 vote of all the members elected to each house, Subchapter C, Chapter
25 8050, Special District Local Laws Code, as added by Section 1 of
26 this Act, is amended by adding Section 8050.0307 to read as follows:

27 Sec. 8050.0307. NO EMINENT DOMAIN POWER. The district may

1 not exercise the power of eminent domain.

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

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