

By: Creighton

S.B. No. 2464

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 163; 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 8091 to read as follows:

CHAPTER 8091. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 163

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8091.0101. 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. 163.

Sec. 8091.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8091.0103. 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. 8091.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 8091.0103 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. 8091.0105. 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. 8091.0106. 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. 8091.0201. GOVERNING BODY; TERMS. (a) The district is
4 governed by a board of five elected directors.

5 (b) Except as provided by Section 8091.0202, directors
6 serve staggered four-year terms.

7 Sec. 8091.0202. 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 8091.0103; 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 8091.0103 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 8091.0103; 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. 8091.0301. 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. 8091.0302. 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. 8091.0303. 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. 8091.0304. 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. 8091.0305. 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. 8091.0306. 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 8091.0103 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 8091.0103.

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 8091.0104 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. 8091.0401. 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 8091.0403.

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. 8091.0402. OPERATION AND MAINTENANCE TAX. (a) If
21 authorized at an election held under Section 8091.0401, 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. 8091.0403. 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. 8091.0501. 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. 8091.0502. 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. 8091.0503. 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. 163 initially includes all the territory contained in the
2 following area:

3 A description of a 1229 acre tract of land, located in the
4 Alfonso Steel Survey, Abstract 477, the T. & N.O. Railroad Company,
5 Section 4 Survey, Abstract 741, and the John Bricker Survey,
6 Abstract 98, in Montgomery County, Texas; out of the 273.466 acre
7 tract of land referenced as Tract III, Parcel 1, out of the 195.961
8 acre tract of land referenced as Tract 2, Parcel 2, out the 90.860
9 acre tract referenced as Tract 2, Parcel 3, and out of that 648.855
10 acre tract describes as Tract I as described in the deed recorded
11 under Document Number 2018042236 of the Official Public Records of
12 Montgomery County, Texas and more particularly described as
13 follows:

14 BEGINNING at the northeast corner of said Tract I, and the
15 northeast corner of T. & N.O. Railroad Company, Section 4 Survey;

16 THENCE South 00° 06' 00" West - 4845.80', along the east line
17 of said Tract I, and the east line of said T. & N.O. Railroad
18 Company, Section 4 Survey, to the southeast corner of said Tract I,
19 and the southeast corner of said T. & N.O. Railroad Company, Section
20 4 Survey;

21 THENCE North 89° 57' 02" West - 5148.33', along the south line
22 of said tract I and the south line of said T. & N.O. Railroad
23 Company, Section 4 Survey, to the southwest corner of said Tract I,
24 and the southwest corner of said T. & N.O. RR. CO. Section 4 Survey,
25 in the east line of aforesaid Tract 2, Parcel 2, and the east line of
26 aforesaid John Bricker Survey;

27 THENCE South 30° 09' 50" East - 826.43', along the east line of

1 aforesaid Tract 2, Parcel 2, and along the east line of said John
2 Bricker Survey, to a southeast corner of said Tract 2, Parcel 2, and
3 a southeast corner of the John Bricker Survey, lying in the north
4 right-of-way line of State Highway 242;

5 THENCE South 30° 34' 35" East - 220.69', continuing along said
6 northeast line of said John Bricker Survey to a point for corner in
7 the south right-of-way line of said State Highway 242, in the north
8 line of said Tract 2, Parcel 3;

9 THENCE South 30° 15' 03" East - 688.49', along the northeast
10 line of said Tract 2, Parcel 3, and along the northeast line of said
11 John Bricker Survey, to the east corner of said Tract 2, Parcel 3,
12 and the southeast corner of said John Bricker Survey;

13 THENCE South 59° 13' 35" West - 3060.96', along the southeast
14 line of said Tract 2, Parcel 3 and the southeast line of said John
15 Bricker Survey, to the intersection of said southeast lines, and
16 the east right-of-way line of FM 1314 (Conroe Porter Road), being
17 the south corner of said Tract 2, Parcel 3;

18 THENCE North 24° 51' 16" West - 778.41', along said east
19 right-of-way line, and the west line of Tract 2, Parcel 3 to a point
20 for corner;

21 THENCE, North 22° 10' 36" West - 597.39', continuing along
22 said common line, to a point for corner;

23 THENCE, North 19° 50' 32" West - 241.38', continuing along
24 said common line, to at the south end of the southeasterly cutback
25 corner, and the northwest corner of aforesaid Tract 2, Parcel 3, at
26 the intersection of the aforesaid east right of way line of FM 1314
27 (Conroe Porter Road) and the south line of State Highway 242;

1 THENCE, North 16° 50' 19" West - 538.64', continuing along
2 said east right-of-way line, to the north end of the northeasterly
3 cutback corner of the said intersection, and the south corner of
4 aforesaid Tract 2, Parcel 2, at the intersection of the aforesaid
5 east right of way line of FM 1314 (Conroe Porter Road) and the south
6 line of State Highway 242;

7 THENCE, North 23° 14' 55" West - 200.33', continuing along
8 said east right-of-way line, and the west line of aforesaid Tract 2,
9 Parcel 2 to a point for corner;

10 THENCE, North 13° 30' 38" West - 995.85', continuing along
11 said common line, to a point for corner;

12 THENCE, North 12° 01' 58" West - 2102.94', continuing along
13 said common line, to a point for corner;

14 THENCE North 12° 33' 22" West - 1.21', along the aforesaid
15 east right of way line, and aforesaid west line of Tract 2, Parcel
16 2, and the aforesaid west line of Tract III, Parcel 1, to the point
17 of beginning of curve to the left;

18 THENCE, 1212.26', continuing along said east right-of-way
19 line, and the west line of said Tract III, Parcel 1 along said curve
20 to the left, having a radius of 1959.86', a central angle of 35° 26'
21 24", and a chord bearing and distance of North 30° 16' 34" West -
22 1193.03', to the end of curve;

23 THENCE North 48° 01' 22" West - 2935.99', continuing along
24 said common line, to the intersection of said common line, and the
25 north line of the Alfonzo Steel Survey, being the northwest corner
26 of said Tract III, Parcel 1;

27 THENCE, North 58° 58' 24" East - 3695.00', along said north

1 line to the north corner of said Tract III, Parcel 1, being the most
2 northerly west corner of the 178 acre tract of land described in the
3 deed recorded under Volume 20, Page 612 of the Deed Records of
4 Montgomery County, Texas;

5 THENCE South 30° 57' 11" East - 3592.37', along the east line
6 of said Tract III Parcel 1 and the southwest line of said 178 acre
7 tract, to an interior corner of said 178 acre tract;

8 THENCE South 59° 02' 57" West - 1387.45', along the south line
9 of said Tract III, Parcel 1 and the north line of said 178 acre
10 tract, to the most southerly west corner of said 178 acre tract;

11 THENCE South 30° 43' 40" East - 411.55', along a southwest
12 line of said 178 acre tract, to the south corner of said 178 acre
13 tract, in the south line of aforesaid Alfonzo Steel Survey, common
14 to a northwest line of aforesaid T. & N.O. Railroad Company, Section
15 4 Survey;

16 THENCE North 59° 36' 50" East - 3196.12', along said northwest
17 line, the northwest line of Tract 2, Parcel 2, the northwest line of
18 aforementioned Tract I, the southeast line of said Alfonzo Steel
19 Survey, and the southeast line of said 178 acre tract, to an
20 interior corner of said T. & N.O. Railroad Company, Section 4
21 Survey, common to the east corner of said Alfonzo Steel Survey, and
22 the east corner of said 178 acre tract;

23 THENCE North 30° 28' 49" West - 375.00', along the northwest
24 line of said Tract I, northwest line of said T. & N.O. Railroad
25 Company, Section 4 Survey, the northeast line of said Alfonzo Steel
26 Survey, and the northeast line of said 178 acre tract, to the most
27 northerly northwest corner of said Tract I and T. & N.O. Railroad

1 Company, Section 4 Survey;

2 THENCE North 89° 56' 58" East - 4636.24, along the north line
3 of said Tract I and T. & N.O. Railroad Company, Section 4 Survey, to
4 the POINT OF BEGINNING and containing 1229 acres of land, more or
5 less.

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 8091, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 8091.0307 to read as follows:

1 Sec. 8091.0307. 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.