

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

April 20, 2021

The Honorable Dan Patrick
Lieutenant Governor of Texas
Capitol Station
PO Box 12068
Austin, Texas 78711

Re: Responsibility of the Texas Commission on Environmental Quality (TCEQ) Pursuant to Article XVI, Section 59(d), Texas Constitution

Senate Bill (SB) 2159, as Filed by Senator Brandon Creighton - Relating to the creation of the Montgomery County Municipal Utility District No. 206; granting a limited power of eminent domain; providing authority to issue bonds.

Dear Governor Patrick:

The following comments are provided pursuant to the Constitutional requirements referenced above. Under those requirements, the TCEQ must submit, to the Governor, Lieutenant Governor and Speaker of the House of Representatives, the TCEQ's recommendations on specific legislation affecting water districts. We recommend that these comments be considered in the evaluation of the proposed legislation.

Sincerely,

A handwritten signature in cursive script that reads "Cari-Michel La Caille".

Cari-Michel La Caille, Director
Water Supply Division

cc: Honorable Paul Bettencourt, Chairman, Senate Local Government Committee
Senator Brandon Creighton, Texas Senate

Enclosure

**SB 2159, as Filed by Senator Brandon Creighton
Texas Commission on Environmental Quality's Comments**

The Legislative Budget Board, in cooperation with the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ), has determined that:

This bill creates Montgomery County Municipal Utility District No. 206 (District) with the powers and duties of a standard municipal utility district under Water Code Chapters 49 and 54.

Comments on Powers/Duties Different from Similar Types of Districts: The District must receive consent to the creation of the District from each municipality in whose corporate limits or extraterritorial jurisdiction the District is located prior to holding a confirmation election. The bill requires the TCEQ to appoint the five initial temporary directors upon receipt of a petition from the owners of a majority of the assessed value of the real property in the District. The bill grants the District authority for road projects. The bill specifies that at the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of the assessed value of real property in the District. The District may not exercise the power of eminent domain outside the District without the written consent of the City of Conroe; however, if the bill does not receive a two-thirds vote of all members elected to each house, the District may not exercise the power of eminent domain.

Overlapping Services: TCEQ does not have mapping information for water and/or wastewater providers because this function was transferred from the TCEQ to the Public Utility Commission on September 1, 2014. As a result, TCEQ is unaware of possible overlapping service providers.

TCEQ's Supervision: As with general law districts, the TCEQ will have general supervisory authority, including bond review authority and review of financial reports.

LETTER OF TRANSMITTAL
TEXAS SENATE
STATE OF TEXAS

SB 2159

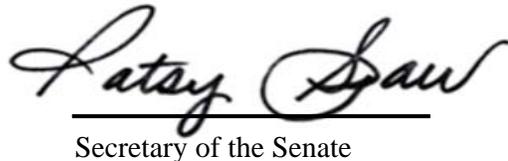
Bill Number

TO: The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Commission on Environmental Quality copies of a bill relating to a conservation and reclamation district and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Commission on Environmental Quality, under Section 59(d), Article XVI, Constitution of the State of Texas.

3/24/2021

Date transmitted to
Governor's Office



Lacey Daw

Secretary of the Senate

TO: Texas Commission on Environmental Quality
SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of a bill relating to conservation and reclamation district and a copy of the notice of intention to introduce the bill.

March 26, 2021

Date transmitted to
Texas Commission on Environmental Quality



Greg Abbott

Governor

TO: The Honorable President of the Senate
The Honorable Speaker of the House of Representatives
The Honorable Governor of Texas
SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are recommendations of the Texas Commission on Environmental Quality in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.



Cari Michela Little

Texas Commission on Environmental Quality

By: Creighton

S.B. No. 2159

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 206; granting a limited power of eminent domain; providing authority to issue bonds.

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 7928A to read as follows:

CHAPTER 7928A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 206

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7928A.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. 206.

Sec. 7928A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7928A.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. 7928A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
2 temporary directors may not hold an election under Section
3 7928A.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. 7928A.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. 7928A.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. 7928A.0201. GOVERNING BODY; TERMS. (a) The district
4 is governed by a board of five elected directors.

5 (b) Except as provided by Section 7928A.0202, directors
6 serve staggered four-year terms.

7 Sec. 7928A.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 7928A.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 7928A.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 7928A.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. 7928A.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. 7928A.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. 7928A.0303. AUTHORITY FOR ROAD PROJECTS. Under
18 Section 52, Article III, Texas Constitution, the district may
19 design, acquire, construct, finance, issue bonds for, improve,
20 operate, maintain, and convey to this state, a county, or a
21 municipality for operation and maintenance macadamized, graveled,
22 or paved roads, or improvements, including storm drainage, in aid
23 of those roads.

24 Sec. 7928A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
25 road project must meet all applicable construction standards,
26 zoning and subdivision requirements, and regulations of each
27 municipality in whose corporate limits or extraterritorial

1 jurisdiction the road project is located.

2 (b) If a road project is not located in the corporate limits
3 or extraterritorial jurisdiction of a municipality, the road
4 project must meet all applicable construction standards,
5 subdivision requirements, and regulations of each county in which
6 the road project is located.

7 (c) If the state will maintain and operate the road, the
8 Texas Transportation Commission must approve the plans and
9 specifications of the road project.

10 Sec. 7928A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
11 ORDINANCE OR RESOLUTION. (a) The district shall comply with all
12 applicable requirements of any ordinance or resolution that is
13 adopted under Section 54.016 or 54.0165, Water Code, and that
14 consents to the creation of the district or to the inclusion of land
15 in the district.

16 (b) In addition to all the rights and remedies provided by
17 other law, if the district violates the terms of an ordinance or
18 resolution described by Subsection (a), the municipality is
19 entitled to injunctive relief or a writ of mandamus issued by a
20 court requiring the district and the district's officials to
21 observe and comply with the terms of the ordinance or resolution.

22 Sec. 7928A.0306. EFFECT OF ANNEXATION BY CITY OF CONROE.
23 Notwithstanding Section 54.016(f)(2), Water Code, an allocation
24 agreement between the City of Conroe and the district that provides
25 for the allocation of the taxes or revenues of the district and the
26 city following the date of inclusion of all the district's
27 territory in the corporate limits of the city may provide that the

1 total annual ad valorem taxes collected by the city and the district
2 from taxable property in the district may exceed the city's ad
3 valorem tax on that property.

4 Sec. 7928A.0307. LIMITATION ON USE OF EMINENT DOMAIN. The
5 district may not exercise the power of eminent domain outside the
6 district without the written consent of the City of Conroe.

7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

8 Sec. 7928A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
9 The district may issue, without an election, bonds and other
10 obligations secured by:

11 (1) revenue other than ad valorem taxes; or

12 (2) contract payments described by Section
13 7928A.0403.

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

18 (c) The district may not issue bonds payable from ad valorem
19 taxes to finance a road project unless the issuance is approved by a
20 vote of a two-thirds majority of the district voters voting at an
21 election held for that purpose.

22 Sec. 7928A.0402. OPERATION AND MAINTENANCE TAX. (a) If
23 authorized at an election held under Section 7928A.0401, the
24 district may impose an operation and maintenance tax on taxable
25 property in the district in accordance with Section 49.107, Water
26 Code.

27 (b) The board shall determine the tax rate. The rate may not

1 exceed the rate approved at the election.

2 Sec. 7928A.0403. CONTRACT TAXES. (a) In accordance with
3 Section 49.108, Water Code, the district may impose a tax other than
4 an operation and maintenance tax and use the revenue derived from
5 the tax to make payments under a contract after the provisions of
6 the contract have been approved by a majority of the district voters
7 voting at an election held for that purpose.

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

11 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

12 Sec. 7928A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
13 OBLIGATIONS. The district may issue bonds or other obligations
14 payable wholly or partly from ad valorem taxes, impact fees,
15 revenue, contract payments, tax increment payments, grants, or
16 other district money, or any combination of those sources, to pay
17 for any authorized district purpose.

18 Sec. 7928A.0502. TAXES FOR BONDS. At the time the district
19 issues bonds payable wholly or partly from ad valorem taxes, the
20 board shall provide for the annual imposition of a continuing
21 direct ad valorem tax, without limit as to rate or amount, while all
22 or part of the bonds are outstanding as required and in the manner
23 provided by Sections 54.601 and 54.602, Water Code.

24 Sec. 7928A.0503. BONDS FOR ROAD PROJECTS. At the time of
25 issuance, the total principal amount of bonds or other obligations
26 issued or incurred to finance road projects and payable from ad
27 valorem taxes may not exceed one-fourth of the assessed value of the

1 real property in the district.

2 SECTION 2. The Montgomery County Municipal Utility District
3 No. 206 initially includes all the territory contained in the
4 following area:

5 Being 92.833 acres of land located in the John Toops Survey,
6 Abstract Number 563, Montgomery County, Texas, being all of that
7 certain called 92.8344 acre tract described in the deed to
8 Cliffstone Hills, LTD., by an instrument of record in Document
9 Number 2020146551 of the Official Public Records of Montgomery
10 County, Texas (M.C.O.P.R.), said 92.833 acre tract being more
11 particularly described by metes and bounds as follows (all bearings
12 referenced to the Texas Coordinate System, Central Zone, NAD83;

13 BEGINNING at a 1-inch pinched top iron pipe found marking the
14 north corner of said 92.8344 acre tract, same being the east corner
15 of that certain called 1.694 acre tract described in the deed to
16 Break-Thru Performance Engineering, Inc., by an instrument of
17 record under Document Number 2013102060, M.C.O.P.R., said point
18 lying on the southwesterly right-of-way line of Loop 336 (width
19 varies - as monumented);

20 Thence, along the northeast line of said 92.8344 acre tract
21 and the southwesterly right- of-way line of said Loop 336 the
22 following 8 (eight) courses and distances:

23 1. South 64° 54' 08" East, 438.00 feet to a 4" x 4" concrete
24 TXDOT monument found for corner;

25 2. South 67° 53' 50" East, 100.00 feet to a to a 4" x 4"
26 concrete TXDOT monument found for corner;

27 3. South 64° 56' 38" East, 999.89 feet to a 5/8-inch iron rod

1 found for corner;

2 4. South 62° 10' 50" East, 200.00 feet to a bent 1/2-inch
3 iron rod found for corner;

4 5. South 64° 40' 50" East, 197.70 feet to a point for corner,
5 from which a bent 1/2-inch iron rod bears South 26° 02' 39" West,
6 0.74 feet;

7 6. South 67° 49' 50" East, 100.26 feet to a point for corner,
8 from which a found broken 4" x 4" concrete TXDOT monument bears
9 South 29° 29' 52" West, 0.59 feet;

10 7. South 65° 04' 49" East, 299.59 feet to a 4" x 4" concrete
11 TXDOT monument found for corner;

12 8. South 67° 43' 26" East, 45.51 feet to a 5/8-inch iron rod
13 with cap stamped "COTTON SURVEYING" found marking the east corner
14 of said 92.8344 acre tract, same being the northwest corner of that
15 certain called 186.0 acre tract described in the deed to Conroe ISD,
16 by an instrument of record under File Number 2008034031, of the
17 Official Public Records of Real Property of Montgomery County,
18 Texas (M.C.O.P.R.R.P.);

19 Thence, South 25° 27' 45" West, along the southeast line of
20 said 92.8344 acre tract and the northwesterly line of said 186.0
21 acre tract, 357.62 feet to a 5/8-inch iron rod with cap stamped
22 "COTTON SURVEYING" found for corner;

23 Thence, South 56° 37' 50" West, continuing along said common
24 line, 2,407.87 feet to a 5/8-inch iron rod with cap stamped "COTTON
25 SURVEYING" found marking the south corner of said 92.8344 acre
26 tract and the west corner of said 186.0 acre tract, said point lying
27 on the northeast right-of-way line of F.M. 3083 (called 120' wide)

1 as described in Volume 283, Page 451 of the Montgomery County Deed
2 Records (M.C.D.R.), and File Number 9045106, M.C.O.P.R.R.P.;

3 Thence, North 33° 15' 24" West, 1,220.07 feet to a point for
4 corner, from which a brass disk in concrete stamped "TXDOT" bears
5 North 09° 24' 11" West, 1.26 feet, the beginning of a non-tangent
6 curve;

7 Thence, 215.57 feet continuing along said common line and the
8 arc of a non-tangent curve to the right, having a radius of 3,010.63
9 feet, a central angle of 04° 06' 09", and a chord which bears North
10 31° 12' 54" West, 215.52 feet to the west corner of said 92.8344 acre
11 tract, from which a 1/2-inch iron rod bears North 11° 00' 12" East,
12 1.03 feet, said point lying on the southeasterly line of that
13 certain called 9.66 acre tract described in the deed to Louisiana
14 Electrical Wholesalers, Inc. by an instrument of record under File
15 Number 9826542, M.C.O.P.R.R.P.;

16 Thence, North 58° 28' 08" East, along a westerly line of said
17 92.8344 acre tract and a south line of said 9.66 acre tract, 817.51
18 feet to 1/2-inch iron rod found marking the east corner of said 9.66
19 acre tract and an interior westerly corner of said 92.8344 acre
20 tract;

21 Thence, North 31° 23' 20" West, along a westerly line of said
22 92.8344 acre tract and the easterly lines of said 9.66 acre tract
23 and that certain called 3.956 acre tract described in the deed to
24 Conroe Reload Center by an instrument of record under File Number
25 9658151, M.C.O.P.R.R.P. 804.67 feet to the northwest corner of said
26 92.8344 acre tract, from which a 5/8-inch iron rod bears South 15°
27 41' 14" East, 0.85 feet, said point lying on the south line of that

1 certain called 1.0 acre tract described in the deed to Agustin
2 Ventura Gonzales by an instrument of record under Document Number
3 2011076381, M.C.O.P.R.R.P.;

4 Thence, North 56° 46' 10" East, along the north line of said
5 92.8344 acre tract and the south lines of said 1.0 acre tract, that
6 certain called 5.650 acre tract described in the deed to Texas
7 Outdoor Power Sales, Inc. by an instrument of record under Document
8 Number 2019075494, M.C.O.P.R., and the aforementioned 1.694 acre
9 tract, 610.16 feet to the POINT OF BEGINNING and containing 92.833
10 acres of land.

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) Section 7928A.0307, Special District Local
3 Laws Code, as added by Section 1 of this Act, takes effect only if
4 this Act receives a two-thirds vote of all the members elected to
5 each house.

6 (b) If this Act does not receive a two-thirds vote of all the
7 members elected to each house, Subchapter C, Chapter 7928A, Special
8 District Local Laws Code, as added by Section 1 of this Act, is
9 amended by adding Section 7928A.0307 to read as follows:

10 Sec. 7928A.0307. NO EMINENT DOMAIN POWER. The district may
11 not exercise the power of eminent domain.

12 (c) This section is not intended to be an expression of a
13 legislative interpretation of the requirements of Section 17(c),
14 Article I, Texas Constitution.

15 SECTION 5. This Act takes effect immediately if it receives
16 a vote of two-thirds of all the members elected to each house, as
17 provided by Section 39, Article III, Texas Constitution. If this
18 Act does not receive the vote necessary for immediate effect, this
19 Act takes effect September 1, 2021.

Product

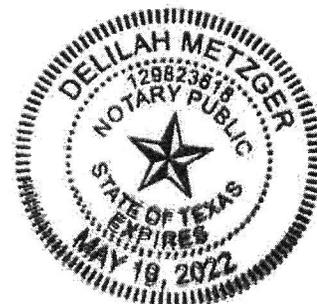
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Page

Victoria Bond A/R Clut
NEWSPAPER REPRESENTATIVE

Sworn and subscribed to before me, this 27th Day of January A.D. 2021



[Signature]
Notary Public in and for the State of Texas

NOTICE OF INTENT TO INTRODUCE A BILL

Pursuant to the Constitution and laws of the State of Texas, notice is hereby given of the intention to apply to the 87th Legislature of the State of Texas at its regular session in Austin, Texas, for the introduction of a bill, the substance of the contemplated law being as follows:

An act relating to the creation, administration, powers, duties, operation, and financing of the Montgomery County Municipal Utility District No. 206.

The Act proposes to create a municipal utility district to be known as Montgomery County Municipal Utility District No. 206, located east of I-45, north of Highway 105, and south of Loop 336, being approximately 98 acres in Montgomery County, Texas, and within the corporate limits of the City of Conroe, subject to approval at a confirmation election.

All interested persons will, therefore, take notice of the matters and facts set out in the foregoing statement of the substance of the contemplated laws as required by the Constitution and laws of the State of Texas.