87R10943 ANG-F

By:  Creighton S.B. No. 2172

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 200; 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 7930A to read as follows:

CHAPTER 7930A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 200

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7930A.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. 200.

Sec. 7930A.0102.  NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7930A.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.

Sec. 7930A.0104.  CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7930A.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 7930A.0105.  FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

(b)  The district is created to accomplish the purposes of:

(1)  a municipal utility district as provided by general law and Section 59, Article XVI, Texas Constitution; and

(2)  Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7930A.0106.  INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

(b)  The boundaries and field notes contained in Section 2 of the Act enacting this chapter form a closure. A mistake made in the field notes or in copying the field notes in the legislative process does not affect the district's:

(1)  organization, existence, or validity;

(2)  right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3)  right to impose a tax; or

(4)  legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7930A.0201.  GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b)  Except as provided by Section 7930A.0202, directors serve staggered four-year terms.

Sec. 7930A.0202.  TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1)  Austin Keith;

(2)  Bradley McFarland;

(3)  Justin Gage;

(4)  Mitchell Buckley; and

(5)  Maria Norris.

(b)  Temporary directors serve until the earlier of:

(1)  the date permanent directors are elected under Section 7930A.0103; or

(2)  the fourth anniversary of the effective date of the Act enacting this chapter.

(c)  If permanent directors have not been elected under Section 7930A.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:

(1)  the date permanent directors are elected under Section 7930A.0103; or

(2)  the fourth anniversary of the date of the appointment or reappointment.

(d)  If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 7930A.0301.  GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7930A.0302.  MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.

Sec. 7930A.0303.  AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7930A.0304.  ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 7930A.0305.  COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

Sec. 7930A.0306.  DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

(1)  has no outstanding bond debt; and

(2)  is not imposing ad valorem taxes.

(b)  This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

(c)  A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

(d)  The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(e)  The board may adopt an order dividing the district before or after the date the board holds an election under Section 7930A.0103 to confirm the district's creation.

(f)  An order dividing the district shall:

(1)  name each new district;

(2)  include the metes and bounds description of the territory of each new district;

(3)  appoint temporary directors for each new district; and

(4)  provide for the division of assets and liabilities between the new districts.

(g)  On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h)  A new district created by the division of the district shall hold a confirmation and directors' election as required by Section 7930A.0103.

(i)  If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

(j)  A new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(k)  Municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 7930A.0104 acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7930A.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 7930A.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. 7930A.0402.  OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7930A.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. 7930A.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.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7930A.0501.  AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7930A.0502.  TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7930A.0503.  BONDS FOR ROAD PROJECTS. 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 the real property in the district.

SECTION 2.  The Montgomery County Municipal Utility District No. 200 initially includes all the territory contained in the following area:

Being 451.3 acres of land located in the Jacob Eyler Survey, Abstract Number 192 and the John Pevehouse Survey, Abstract Number 424, Montgomery County, Texas, out of the 873.46 acre tract described in the deed to Magnolia JV LLC by an instrument of record in Document Number 2020094531 of the Official Public Records of said Montgomery County, Texas (M.C.O.P.R.), said 451.3 acre tract being more particularly described by metes and bounds as follows (all bearings referenced to said Document Number 2020094531, M.C.O.P.R.);

Beginning at the southwest corner of that certain called 11.750 acre tract described as "Tract 6" in the deed to High Meadow 44 Joint Venture by an instrument of record in Document Number 2021000858, M.C.O.P.R., in the west line of said 873.46 acre tract and the west line of said Jacob Eyler Survey, common to the east line of Lot 28, Block 3 of Shady Oak Estates, a subdivision of record in Cabinet R, Sheet 191 of the Map Records of said Montgomery County, Texas (M.C.M.R.) and the east line of the George Stansbury Survey, Abstract Number 516, Montgomery County, Texas;

Thence, North 87° 07' 19" East, departing the west line of said 873.46 acre tract and the west line of said Jacob Eyler Survey, common to the east line of said Shady Oak Estates and the east line of said George Stansbury Survey, along the south line of said 11.750 acre tract, 629.64 feet to the common south corner of said 11.750 acre tract and that certain called 11.370 acre tract described as "Tract 5" in the deed to High Meadow 44 Joint Venture by an instrument of record in Document Number 2021000858, M.C.O.P.R.;

Thence, North 87° 09' 19" East, along a south line of said 11.370 acre tract, 638.01 feet to a point for corner;

Thence, North 48° 41' 30" East, continuing along a south line of said 11.370 acre tract, 365.93 feet to the common south corner of said 11.370 acre tract and that certain called 10.000 acre tract described as "Tract 3" in the deed to High Meadow 44 Joint Venture by an instrument of record in Document Number 2021000858, M.C.O.P.R.;

Thence, North 53° 53' 54" East, along a south line of said 10.000 acre tract, 918.73 feet to a point for corner;

Thence, North 87° 31' 51" East, continuing along a south line of said 10.000 acre tract, 221.08 feet to the common south corner of said 10.000 acre tract and that certain called 16.000 acre tract described as "Tract 2" in the deed to Frey, Inc. by an instrument of record in Document Number 2021000585, M.C.O.P.R.;

Thence, South 38° 13' 10" East, along a south line of said 16.000 acre tract, 352.41 feet to a point for corner;

Thence, North 87° 31' 51" East, continuing along a south line of said 16.000 acre tract, 469.69 feet to a point for corner;

Thence, North 33° 42' 49" East, continuing along a south line of said 16.000 acre tract, 240.31 feet to a point for corner;

Thence, North 87° 51' 34" East, continuing along a south line of said 16.000 acre tract and the south line of that certain called 15.000 acre tract described as "Tract 1" in the deed to Frey, Inc. by an instrument of record in Document Number 2021000585, M.C.O.P.R., 1,148.54 feet to a point for corner;

Thence, South 33° 46' 08" East, continuing along a south line of said 15.000 acre tract, 476.71 feet to a point for corner;

Thence, North 86° 50' 28" East, continuing along a south line of said 15.000 acre tract, 382.67 feet to a point for corner in an east line of the aforementioned 873.46 acre tract and the aforementioned Jacob Eyler Survey, common to the west line of that certain called 2.298 acre tract described in the deed to Jay R. Hill by an instrument of record in File Number 2003-086908 of the Official Public Records of Real Property of said Montgomery County, Texas (M.C.O.P.R.R.P.) and the aforementioned John Pevehouse Survey;

Thence, South 03° 09' 32" East, along an east line of said 873.46 acre tract and an east line of said Jacob Eyler Survey, common to the west line of said 2.298 acre tract, the west line of that certain called 26.386 acre tract described in the deed to Badger Energy, Inc. by an instrument of record in File Number 9621262, M.C.O.P.R.R.P., the west line of that certain called 17.804 acre tract described in the deed to Juan Rueda and wife, Catherine Rueda by an instrument of record in Document Number 2020013498, M.C.O.P.R., the west line of that certain called 20.08 acre tract described in the deed to 4148 Riley, LLC by an instrument of record in File Number 2007-084116, M.C.O.P.R.R.P., and the west line of said John Pevehouse Survey, 1,796.69 feet to the southwest corner of said 20.08 acre tract, common to an easterly corner of said 873.46 acre tract;

Thence, North 86° 52' 38" East, departing said common survey line, along an east line of said 873.46 acre tract, common to the south line of said 20.08 acre tract, 1,696.86 feet to an east corner of said 873.46 acre tract, common to the southeast corner of said 20.08 acre tract, in the west right-of-way line of Farm to Market (F.M.) 149 (width varies);

Thence, South 18° 46' 31" East, along an east line of said 873.46 acre tract, common to said west right-of-way line, 462.31 feet to an east corner of said 873.46 acre tract common to the northeast corner of that certain called 14.000 acre tract described in the deed to Pinehurst 149 Resources, LLC by an instrument of record in File Number 2008-016519, M.C.O.P.R.R.P.;

Thence, South 86° 55' 15" West, departing said west right-of-way line, along an east line of said 873.46 acre tract, common to the north line of said 14.000 acre tract, 1,821.31 feet to an east corner of said 873.46 acre tract, common to the northwest corner of said 14.000 acre tract, in an east line of the aforementioned Jacob Eyler Survey, common to the west line of the aforementioned John Pevehouse Survey;

Thence, South 03° 09' 32" East, along an east line of said 873.46 acre tract and an east line of said Jacob Eyler Survey, common to the west line of said 14.000 acre tract, the west line of that certain called 14.551 acre tract described in the deed to Lutheran Foundation of Texas by an instrument of record in Document Number 2014099068, M.C.O.P.R., the west line of that certain called 12.000 acre tract described in the deed to Azmi H. Attia and spouse Reem Y. Alfar by an instrument of record in Document Number 2012015331, M.C.O.P.R., and the west line of the John Pevehouse Survey, 1,248.67 feet to an east corner of said 873.46 acre tract, common to the southwest corner of said 12.000 acre tract and a north corner of that certain called 346.305 acre tract described in the deed to LGI Homes Texas, LLC by an instrument of record in Document Number 2021016135, M.C.O.P.R.;

Thence, along the north lines of said 346.305 acre tract the following six (6) courses:

1.  South 69° 08' 48" West, 963.40 feet to a point for corner, the beginning of a non-tangent curve;

2.  1,535.32 feet along the arc of a non-tangent curve to the left, having a radius of 3750.00 feet, a central angle of 23° 27' 29", and a chord which bears North 46° 44' 26" West, 1524.62 feet to a point for corner;

3.  North 58° 28' 10" West, 894.06 feet to a point for corner, the beginning of a non-tangent curve;

4.  745.41 feet along the arc of a non-tangent curve to the left, having a radius of 3,000.00 feet, a central angle of 14° 14' 10", and a chord which bears South 24° 24' 45" West, 743.49 feet to a point for corner;

5.  South 17° 17' 40" West, 519.94 feet to a point for corner, the beginning of a tangent curve;

6.  2,483.29 feet along the arc of a tangent curve to the right, having a radius of 2,000.00 feet, a central angle of 71° 08' 28", and a chord which bears South 52° 51' 53" West, 2,326.82 feet to the northwest corner of said 346.593 acre tract in the west line of the aforementioned 873.46 acre tract, the west line of the aforementioned Jacob Eyler Survey, common to the east line of that certain called 1,444.85 acre tract described as "Tract Two" in the deed to Bam Houston Real Estate Investment, L.P. by an instrument of record in Document Number 2017108674, M.C.O.P.R. and the east line of the William Stansbury Survey, Abstract 508, Montgomery County, Texas;

Thence, North 02° 44' 25" West, along a west line of said 873.46 acre tract and a west line of said Jacob Eyler Survey, common to the east line of said 1,444.85 acre tract and said William Stansbury Survey, Abstract Number 508, 120.11 feet to a west corner of said 873.46 acre tract, common to the northeast corner of said 1,444.85 acre tract, the northeast corner of said William Stansbury Survey, Abstract Number 508, the southeast corner of Convenient Country Estates Phase Two, a subdivision of record in Cabinet H, Sheet 79B of the Map Records of said Montgomery County, Texas, and the southeast corner of the William Stansbury Survey, Abstract Number 531, Montgomery County, Texas;

Thence, North 02° 52' 16" West, along a west line of said 873.46 acre tract and a west line of said Jacob Eyler Survey, common to the east line of said Convenient Country Estates Phase Two, the east line of said William Stansbury Survey, Abstract Number 531, and the east line of the Thomas Stansbury Survey, Abstract Number 507, Montgomery County, Texas, 1,723.48 feet to a west corner of said 873.46 acre tract, common to the northeast corner of said Convenient Country Estates Phase Two and the southeast corner of Irongate Subdivision (unrecorded);

Thence, North 02° 53' 24" West, along a west line of said 873.46 acre tract and a west line of said Jacob Eyler Survey, common to the east line of said Irongate Subdivision, the east line of said Thomas Stansbury Survey, and the east line of the Warren Stansbury Survey, Abstract Number 517, Montgomery County, Texas, 1,727.79 feet to a west corner of said 873.46 acre tract, common to the northeast corner of said Irongate Subdivision and the southeast corner of the aforementioned Shady Oak Estates;

Thence, North 02° 52' 41" West, along a west line of said 873.46 acre tract and a west line of said Jacob Eyler Survey, common to the east line of said Shady Oak Estates, the east line of said Warren Stansbury Survey and the aforementioned George Stansbury Survey, 860.12 feet to the POINT OF BEGINNING and containing 451.3 acres of land.

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

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

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

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

SECTION 4.  (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7930A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7930A.0307 to read as follows:

Sec. 7930A.0307.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

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