

By: Toth

H.B. No. 4595

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Water Control and Improvement District No. 205; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9082 to read as follows:

CHAPTER 9082. MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 205

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9082.0101. 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 Water Control and Improvement District No. 205.

Sec. 9082.0102. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9082.0103. CONFIRMATION AND DIRECTOR ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent

1 directors as provided by Section 49.102, Water Code.

2 Sec. 9082.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 9082.0103 until each municipality in whose corporate limits or
5 extraterritorial jurisdiction the district is located has
6 consented by ordinance or resolution to the creation of the
7 district and to the inclusion of land in the district.

8 Sec. 9082.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
9 The district is created to serve a public purpose and benefit.

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

11 (1) a water control and improvement district as
12 provided by general law and Section 59, Article XVI, Texas
13 Constitution, including the collection, transportation,
14 processing, disposal, and control of domestic, industrial, or
15 communal waste and the gathering, conducting, diverting, and
16 control of local storm water or other harmful excesses of water; and

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

21 Sec. 9082.0106. INITIAL DISTRICT TERRITORY. (a) The
22 district is initially composed of the territory described by
23 Section 2 of the Act enacting this chapter.

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

1 (1) organization, existence, or validity;

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

5 (3) right to impose a tax; or

6 (4) legality or operation.

7 SUBCHAPTER B. BOARD OF DIRECTORS

8 Sec. 9082.0201. GOVERNING BODY; TERMS. (a) The district is
9 governed by a board of five elected directors.

10 (b) Except as provided by Section 9082.0202, directors
11 serve staggered four-year terms.

12 Sec. 9082.0202. TEMPORARY DIRECTORS. (a) The temporary
13 board consists of:

14 (1) Harris Allen Reynolds III;

15 (2) Elliott Brayshaw;

16 (3) Cindy Fields;

17 (4) Alene Efaw; and

18 (5) Robert Wanninger.

19 (b) Temporary directors serve until the earlier of:

20 (1) the date permanent directors are elected under
21 Section 9082.0103; or

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

24 (c) If permanent directors have not been elected under
25 Section 9082.0103 and the terms of the temporary directors have
26 expired, successor temporary directors shall be appointed or
27 reappointed as provided by Subsection (d) to serve terms that

1 expire on the earlier of:

2 (1) the date permanent directors are elected under
3 Section 9082.0103; or

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

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

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 9082.0301. GENERAL POWERS AND DUTIES. The district has
15 the powers and duties necessary to accomplish the purposes for
16 which the district is created.

17 Sec. 9082.0302. WATER CONTROL AND IMPROVEMENT DISTRICT
18 POWERS AND DUTIES. The district has the powers and duties provided
19 by the general law of this state, including Chapters 49 and 51,
20 Water Code, applicable to water control and improvement districts
21 created under Section 59, Article XVI, Texas Constitution,
22 specifically including the powers and duties authorized under
23 Subchapter H, Chapter 51, Water Code.

24 Sec. 9082.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
25 52, Article III, Texas Constitution, the district may design,
26 acquire, construct, finance, issue bonds for, improve, operate,
27 maintain, and convey to this state, a county, or a municipality for

1 operation and maintenance macadamized, graveled, or paved roads, or
2 improvements, including storm drainage, in aid of those roads.

3 Sec. 9082.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
4 road project must meet all applicable construction standards,
5 zoning and subdivision requirements, and regulations of each
6 municipality in whose corporate limits or extraterritorial
7 jurisdiction the road project is located.

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

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

16 Sec. 9082.0305. COMPLIANCE WITH MUNICIPAL CONSENT
17 ORDINANCE OR RESOLUTION. The district shall comply with all
18 applicable requirements of any ordinance or resolution that is
19 adopted under Section 42.042 or 42.0425, Local Government Code, and
20 that consents to the creation of the district or to the inclusion of
21 land in the district.

22 Sec. 9082.0306. LIMITATION ON USE OF EMINENT DOMAIN. The
23 district may not exercise the power of eminent domain outside the
24 district boundaries to acquire a site or easement for:

25 (1) a recreational facility, as defined by Section
26 49.462, Water Code; or

27 (2) a road project authorized by Section 9082.0303.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 9082.0401. 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 9082.0403.

(b) The district must hold an election in the manner provided by Chapters 49 and 51, 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. 9082.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 9082.0401, 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. 9082.0403. 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.

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

4 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

5 Sec. 9082.0501. AUTHORITY TO ISSUE BONDS AND OTHER
6 OBLIGATIONS. The district may issue bonds or other obligations
7 payable wholly or partly from ad valorem taxes, impact fees,
8 revenue, contract payments, grants, or other district money, or any
9 combination of those sources, to pay for any authorized district
10 purpose.

11 Sec. 9082.0502. TAXES FOR BONDS. At the time the district
12 issues bonds payable wholly or partly from ad valorem taxes, the
13 board shall provide for the annual imposition of a continuing
14 direct ad valorem tax, without limit as to rate or amount, while all
15 or part of the bonds are outstanding as required and in the manner
16 provided by Chapter 51, Water Code.

17 Sec. 9082.0503. BONDS FOR ROAD PROJECTS. At the time of
18 issuance, the total principal amount of bonds or other obligations
19 issued or incurred to finance road projects and payable from ad
20 valorem taxes may not exceed one-fourth of the assessed value of the
21 real property in the district.

22 Sec. 9082.0504. BONDS FOR RECREATIONAL FACILITIES. (a) The
23 district may develop recreational facilities and issue bonds for
24 recreational facilities as provided by Chapter 49, Water Code,
25 regardless of whether the district's territory overlaps with the
26 territory of a political subdivision that is authorized to develop
27 recreational facilities and issue bonds for recreational

1 facilities under Chapter 49, Water Code.

2 (b) The authority of the district to develop recreational
3 facilities and issue bonds for recreational facilities under this
4 section does not limit the authority of another political
5 subdivision whose territory the territory of the district may
6 overlap, wholly or partly, to develop recreational facilities and
7 issue bonds for recreational facilities under Chapter 49, Water
8 Code.

9 SECTION 2. The Montgomery County Water Control and
10 Improvement District No. 205 initially includes all the territory
11 contained in the following area:

12 A METES & BOUNDS description of a certain 964.58 acre tract of
13 land situated in the Montgomery County School Land Survey, Abstract
14 No. 350 & 351, the T. F. Johnson Survey, Abstract No. 299 and the
15 Timothy O'Neil Survey, Abstract No. 406 in Montgomery County,
16 Texas, being comprised of a called 364.70 acre tract of land (Tract
17 1) and a called 336.60 acre tract of land (Tract 2), SAVE AND EXCEPT
18 a called 45.98 acre tract of land (Tract 3); PLUS a called 315.26
19 acre tract of land (Tract 4).

20 TRACT 1: 364.70 Acres

21 364.70 acres, more or less, of land, of which 286.5 acres,
22 more or less, lies in the Montgomery County School Land Survey,
23 Abstract No. 350, 69.2 acres, more or less, lies in the Montgomery
24 County School Land Survey, Abstract No. 350, 6.5 acres, more or
25 less, lies in the T. F. Johnson Survey, Abstract No. 299, and 2.5
26 acres, more or less, lies in the Timothy O'Neil Survey, Abstract
27 No. 406, and being the same land as conveyed to Winnie Helen

1 Hilliard by partition deed dated July 20, 1957, recorded in Volume
2 434, Page 441 of the Deed Records of Montgomery County, Texas; said
3 364.70 acres, more or less, of land being more particularly
4 described as follows:

5 BEGINNING at the Southwest corner of the S. Richardson
6 Survey, Abstract No. 460 and the Northwest corner of the T. F.
7 Johnson Survey, the Eastern Southeast corner of the Montgomery
8 County School Land Survey, Abstract No. 350, a Northeast intra
9 corner of the Montgomery County School Land Survey, Abstract
10 No. 351, and being Corner No. 1 hereof;

11 THENCE, S 00°30' W, 199.3 feet to Corner No. 2 hereof at the
12 Southwest corner of the Bahr Capital Interests, Ltd land;

13 THENCE, East, 746.4 feet to Corner No. 3 hereof and the
14 Second Corner of Tract 2 hereof;

15 THENCE, S 51°30' W, 2738 feet to Corner No. 4 hereof and
16 Corner No. 1 of said Tract Two hereof, also being in the Northern
17 boundary line of a 660 acre tract as conveyed to Winnifred Bender
18 Beaman by said partition deed recorded in Volume 434, Page 441 of
19 said Deed Records, and also being the Southeast corner of the Doris
20 Eugenia Vaughan tract as described in said partition deed;

21 THENCE, N 38°35' W, 6268.4 feet to Corner No. 5 hereof and the
22 Northeast corner of said Doris Eugenia Vaughan tract in the center
23 of the Scott-Herrin Road;

24 THENCE, N 47°30' E, 800.4 feet with said Road [Deed (Volume
25 434, Page 441) call of N 46°40' E, 759.2 feet] to Corner No. 6
26 hereof;

27 THENCE, N 70°06' E, 1110.0 feet continuing with said road

1 [Deed (Volume 434, Page 441) call of N 68°55' E, 1110 feet] to its
2 intersection with the old Bender Tram Line for Corner No. 7 hereof;

3 THENCE, S 57°27' E, with said old Tram, 4397 feet [Deed
4 (Volume 434, Page 441) call of S 57°12' E, 4397 feet] to Corner No. 8
5 hereof in the West boundary line of the S. Richardson Survey;

6 THENCE, S 01°12'39" W, 1549.45 feet [Deed (Clerk's File
7 No. 2004-021196) call South 01°13' W, 1549.6 feet] along the West
8 line of the S. Richardson Survey to the PLACE OF BEGINNING AND
9 CONTAINING within these bounds 364.70 acres, more or less, of land.

10 TRACT 2: 336.60 Acres

11 336.60 acres, more or less, of land, of which 110.5 acres,
12 more or less, lies in the Montgomery County School Land Survey,
13 Abstract No. 351, and 220.1 acres, more or less, lies in the T. F.
14 Johnson Survey, Abstract No. 299, and being the same land as
15 conveyed to Winnie Helen Hilliard by deed dated August 3, 1967,
16 recorded in Volume 646, Page 935 of the Montgomery County Deed
17 Records; said 336.60 acres, more or less, of land being more
18 particularly described as follows:

19 BEGINNING at Corner No. 4 of the Tract 1 herein, and Corner
20 No. 1 hereof;

21 THENCE, N 51°30' E, 2738.0 feet to a point for corner in the
22 Southern boundary line of said Blanche Bender tract for Corner
23 No. 2;

24 THENCE, East, 1009.6 feet with the Southern boundary line of
25 said Blanche Bender tract to Corner No. 3 hereof on the Western edge
26 of the Old Bender Tram Line;

27 THENCE, S 28°02' E, with said old Tram and/or road, 4024 feet

1 [Deed (Volume 434, Page 441) call of S 28°50' E, 3966.4 feet] to
2 Corner No. 4 hereof, on the Western side of said road, and being a
3 most Eastern corner of the Doris E. Vaughan 330 acres as described
4 in a deed recorded in Volume 646, Page 933 of said Deed Records;

5 THENCE, S 52°43' W, 2797.2 feet, [Deed (Volume 434, Page 441)
6 call of S 53° W, 2797.2 feet] to Corner No. 5 hereof and being a
7 re-entrant corner of the Doris E. Vaughan 330 acre tract;

8 THENCE, S 38°30'25" W, 4526.14 feet [Deed (Clerk's File
9 No. 2004-021196) call N 38°30' W, 4525.7 feet] to the PLACE OF
10 BEGINNING AND CONTAINING within these bounds 336.60 acres, more or
11 less, of land.

12 TRACT 3: 45.98 Acres

13 45.98 acres, more or less, of land situated in the Montgomery
14 County School Land Survey, Abstract Number 350, Montgomery County,
15 Texas; being the same 45.98 acre tract conveyed to Conroe
16 Independent School District by Agreed Final Judgement (Cause
17 No. 15-06-06177) dated January 19, 2017 and filed for record under
18 Clerk's File No. 2017011000 of the Montgomery County Official
19 Public Records of Real Property; said 45.98 acres being more
20 particularly described as follows with all bearings based on the
21 Texas Coordinate System of 1983, Central Zone:

22 BEGINNING, at a found 5/8-inch iron rod (with cap stamped
23 "Costello Inc") in the southwest line of said 364.70 acres, for the
24 north corner of a called 1.5371 acre tract conveyed to Montgomery
25 County Municipal Utility District No. 105 by Special Warranty Deed
26 dated December 18, 2013 and filed for record under Clerk's File
27 No. 2014010067 of the Montgomery County Official Public Records of

1 Real Property and an east corner of the remainder of a called
2 692.342 acre tract conveyed to Toll Houston TX, LLC by Special
3 Warranty Deed dated October 19, 2012 and filed for record under
4 Clerk's File No. 2012103106 of the Montgomery County Official
5 Public Records of Real Property;

6 THENCE, North 41°42'31" West, 1865.72 feet along the
7 northeast line of said 692.342 acres and the southwest line of said
8 364.70 acres to a set 3/4-inch iron rod (with cap stamped "Cotton
9 Surveying") from which a found 5/8-inch iron rod (with cap stamped
10 "VTSM 4070") in the southeast right-of-way of Riley Fuzzel Road
11 (width varies) bears North 41°42' 31" West, 667.13 feet;

12 THENCE, North 54°48'40" East, 1157.39 feet, departing the
13 northeast line of said 692.342 acres and the southwest line of said
14 364.70 acres to a set 3/4-inch iron rod (with cap stamped "Cotton
15 Surveying");

16 THENCE, North 35°11'20" West, 300.00 feet to a set 3/4-inch
17 iron rod (with cap stamped "Cotton Surveying") in the southeast
18 right-of-way of State Highway 99 (width varies) as recorded under
19 Clerk's File No. 2014081107 of the Montgomery County Official
20 Public Records of Real Property;

21 THENCE, North 54°48'40" East, 150.00 feet along the southeast
22 right-of-way of said State Highway 99 to a set 3/4-inch iron rod
23 (with cap stamped "Cotton Surveying");

24 THENCE, South 35°11'20" East, 1513.02 feet, departing the
25 southeast right-of-way of said State Highway 99 to a set 3/4-inch
26 iron rod (with cap stamped "Cotton Surveying");

27 THENCE, South 54°48'44" West, 14.30 feet to a set 3/4-inch

1 iron rod (with cap stamped "Cotton Surveying");

2 THENCE, South 38°13'15" West, 273.54 to a set 3/4-inch iron
3 rod (with cap stamped "Cotton Surveying");

4 THENCE, South 01°17'04" East, 500.95 feet to a set 3/4-inch
5 iron rod (with cap stamped "Cotton Surveying");

6 THENCE, South 17°49'25" East, 153.77 feet to a set 3/4-inch
7 iron rod (with cap stamped "Cotton Surveying");

8 THENCE, South 54°48'40" West, 493.76 feet to the PLACE OF
9 BEGINNING AND CONTAINING within these bounds 45.98 acres, more or
10 less, of land.

11 TRACT 4: 315.26 Acres

12 315.26 acres of land, more or less of land situated in the
13 Thomas F. Johnson Survey, Abstract Number 299 and the Stephen
14 Richardson Survey, Abstract Number 460, Montgomery County, Texas;
15 being all of a called 320.833 acre tract conveyed to Bahr Capital
16 Interests, LTD., Jack K. Leeka and Jack Keith Leeka, Jr. and
17 Elizabeth Leeka Albert, Co-Trustees of the Leeka Revocable Trust
18 Agreement by Warranty Deed(s) and filed for record under Clerk's
19 File No.(s) 2006-003150, 2006-003151, and 2016042187 of the
20 Montgomery County Official Public Records of Real Property; said
21 315.26 acres being more particularly described as follows with all
22 bearings based on the Texas Coordinate System of 1983, Central
23 Zone:

24 BEGINNING at a point in the west line of said 320.833 acres
25 and the east line of a called 364.7 acre tract conveyed to Winnie
26 Helen Hilliard, et al (undivided 75% interest) by General Warranty
27 Deed dated August 14, 1987 and filed for record under Clerk's File

1 No. 8737411 of the Montgomery County Official Public Records of
2 Real Property and Bell Endeavors, LTD (undivided 25% interest) by
3 Special Warranty Deed dated February 20, 2004 and filed for record
4 under Clerk's File No. 2004-021196 of the Montgomery County
5 Official Public Records of Real Property;

6 THENCE, North 01°53'31" West, 3711.28 feet along the west line
7 of said 320.833 acres and the east line of said 364.7 acres to a
8 point for the northwest corner of said 320.833 acres and the
9 northwest corner of the herein described tract;

10 THENCE, North 87°56'56" East, 3444.04 feet along the north
11 line of said 320.833 acres to point for the northeast corner of said
12 320.833 acres and the herein described tract;

13 THENCE, South 04°21'02" East, 3894.25 feet along the east line
14 of said 320.833 acres point for the southeast corner of said 320.833
15 acres and the herein described tract;

16 THENCE, South 87°53'33" West, 3611.10 feet along the south
17 line of said 320.833 acres point for the southwest corner of said
18 320.833 acres, same being the southwest corner of the herein
19 described tract;

20 THENCE, North 01°53'31" West, 183.41 feet to the PLACE OF
21 BEGINNING, CONTAINING within these bounds 315.26 acres, more or
22 less, or land.

23 SECTION 3. (a) The legal notice of the intention to
24 introduce this Act, setting forth the general substance of this
25 Act, has been published as provided by law, and the notice and a
26 copy of this Act have been furnished to all persons, agencies,
27 officials, or entities to which they are required to be furnished

1 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
2 Government Code.

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

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

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

14 SECTION 4. (a) Section 9082.0306, Special District Local
15 Laws Code, as added by Section 1 of this Act, takes effect only if
16 this Act receives a two-thirds vote of all the members elected to
17 each house.

18 (b) If this Act does not receive a two-thirds vote of all the
19 members elected to each house, Subchapter C, Chapter 9082, Special
20 District Local Laws Code, as added by Section 1 of this Act, is
21 amended by adding Section 9082.0306 to read as follows:

22 Sec. 9082.0306. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

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

27 SECTION 5. This Act takes effect immediately if it receives

H.B. No. 4595

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2021.