

By: Metcalf

H.B. No. 4611

A BILL TO BE ENTITLED

AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subtitle _____, Title _____, Special District Local Laws Code, is amended by adding Chapter _____ to read as follows:

CHAPTER . MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 206

SUBCHAPTER A. GENERAL PROVISIONS

Sec. .001. 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. .002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. .003. CONFIRMATION AND DIRECTORS' 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. .004. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section .003
4 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. .005. 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 municipal utility district as provided by
12 general law and Section 59, Article XVI, Texas Constitution; and

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

17 Sec. .006. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act enacting this chapter.

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

24 (1) organization, existence, or validity;

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

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. .051. GOVERNING BODY; TERMS. (a) The district is
5 governed by a board of five elected directors.

6 (b) Except as provided by Section .052, directors serve
7 staggered four-year terms.

8 Sec. .052. TEMPORARY DIRECTORS. (a) The temporary
9 board consists of:

10 (1) _____ ;

11 (2) _____ ;

12 (3) _____ ;

13 (4) _____ ; and

14 (5) _____ .

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

16 (1) the date permanent directors are elected under
17 Section .003; or

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

20 (c) If permanent directors have not been elected under
21 Section .003 and the terms of the temporary directors have
22 expired, successor temporary directors shall be appointed or
23 reappointed as provided by Subsection (d) to serve terms that
24 expire on the earlier of:

25 (1) the date permanent directors are elected under
26 Section .003; or

27 (2) the fourth anniversary of the date of the

1 appointment or reappointment.

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

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. .101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. .102. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES.
14 The district has the powers and duties provided by the general law
15 of this state, including Chapters 49 and 54, Water Code, applicable
16 to municipal utility districts created under Section 59, Article
17 XVI, Texas Constitution.

18 Sec. .103. AUTHORITY FOR ROAD PROJECTS. Under Section
19 52, Article III, Texas Constitution, the district may design,
20 acquire, construct, finance, issue bonds for, improve, operate,
21 maintain, and convey to this state, a county, or a municipality for
22 operation and maintenance macadamized, graveled, or paved roads, or
23 improvements, including storm drainage, in aid of those roads.

24 Sec. .104. ROAD STANDARDS AND REQUIREMENTS. (a) A road
25 project must meet all applicable construction standards, zoning and
26 subdivision requirements, and regulations of each municipality in
27 whose corporate limits or extraterritorial jurisdiction the road

1 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. .105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
11 OR RESOLUTION. (a) The district shall comply with all applicable
12 requirements of any ordinance or resolution that is adopted under
13 Section 54.016 or 54.0165, Water Code, and that consents to the
14 creation of the district or to the inclusion of land in the
15 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. .106. EFFECT OF ANNEXATION OR INCLUSION WITHIN THE
23 CORPORATE BOUNDARIES OF THE CITY OF CONROE. Notwithstanding
24 Section 54.016(f)(2), Water Code, an allocation agreement between
25 the City of Conroe and the district that provides for the allocation
26 of the taxes or revenues of the district and the city following the
27 date of inclusion of all the district's territory in the corporate

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

5 Sec. .107. LIMITATION ON USE OF EMINENT DOMAIN. The
6 district may not exercise the power of eminent domain outside the
7 district without the written consent of the City of Conroe.

8 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

9 Sec. .151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
10 district may issue, without an election, bonds and other
11 obligations secured by:

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

13 (2) contract payments described by Section .153.

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. .152. OPERATION AND MAINTENANCE TAX. (a) If
23 authorized at an election held under Section .151, the district
24 may impose an operation and maintenance tax on taxable property in
25 the district in accordance with Section 49.107, Water Code.

26 (b) The board shall determine the tax rate. The rate may not
27 exceed the rate approved at the election.

1 Sec. .153. CONTRACT TAXES. (a) In accordance with
2 Section 49.108, Water Code, the district may impose a tax other than
3 an operation and maintenance tax and use the revenue derived from
4 the tax to make payments under a contract after the provisions of
5 the contract have been approved by a majority of the district voters
6 voting in an election held for that purpose.

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

10 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

11 Sec. .201. AUTHORITY TO ISSUE BONDS AND OTHER
12 OBLIGATIONS. The district may issue bonds or other obligations
13 payable wholly or partly from ad valorem taxes, impact fees,
14 revenue, contract payments, tax increment payments, grants, or
15 other district money, or any combination of those sources, to pay
16 for any authorized district purpose.

17 Sec. .202. TAXES FOR BONDS. At the time the district
18 issues bonds payable wholly or partly from ad valorem taxes, the
19 board shall provide for the annual imposition of a continuing
20 direct ad valorem tax, without limit as to rate or amount, while all
21 or part of the bonds are outstanding as required and in the manner
22 provided by Sections 54.601 and 54.602, Water Code.

23 Sec. .203. BONDS FOR ROAD PROJECTS. At the time of
24 issuance, the total principal amount of bonds or other obligations
25 issued or incurred to finance road projects and payable from ad
26 valorem taxes may not exceed one-fourth of the assessed value of the
27 real property in the district.

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

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

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

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

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

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

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

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

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

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

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

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

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

22 Thence, South 56° 37' 50" West, continuing along said common
23 line, 2,407.87 feet to a 5/8-inch iron rod with cap stamped "COTTON
24 SURVEYING" found marking the south corner of said 92.8344 acre
25 tract and the west corner of said 186.0 acre tract, said point lying
26 on the northeast right-of-way line of F.M. 3083 (called 120' wide)
27 as described in Volume 283, Page 451 of the Montgomery County Deed

1 Records (M.C.D.R.), and File Number 9045106, M.C.O.P.R.R.P.;

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

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

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

20 Thence, North 31° 23' 20" West, along a westerly line of said
21 92.8344 acre tract and the easterly lines of said 9.66 acre tract
22 and that certain called 3.956 acre tract described in the deed to
23 Conroe Reload Center by an instrument of record under File Number
24 9658151, M.C.O.P.R.R.P. 804.67 feet to the northwest corner of said
25 92.8344 acre tract, from which a 5/8-inch iron rod bears South 15°
26 41' 14" East, 0.85 feet, said point lying on the south line of that
27 certain called 1.0 acre tract described in the deed to Agustin

1 Ventura Gonzales by an instrument of record under Document Number
2 2011076381, M.C.O.P.R.R.P.;

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

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

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

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

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

1 SECTION 4. (a) Section .107, Special District Local
2 Laws Code, as added by Section 1 of this Act, takes effect only if
3 this Act receives a two-thirds vote of all the members elected to
4 each house.

5 (b) If this Act does not receive a two-thirds vote of all the
6 members elected to each house, Subchapter C, Chapter , Special
7 District Local Laws Code, as added by Section 1 of this Act, is
8 amended by adding Section .107 to read as follows:

9 Sec. .107. NO EMINENT DOMAIN POWER. The district may not
10 exercise the power of eminent domain.

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

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