

By: Metcalf

H.B. No. 4641

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 209; 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 7941A to read as follows:

CHAPTER 7941A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 209

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7941A.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. 209.

Sec. 7941A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7941A.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. 7941A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
3 temporary directors may not hold an election under Section  
4 7941A.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. 7941A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

9 (a) 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. 7941A.0106. 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. 7941A.0201. GOVERNING BODY; TERMS. (a) The district  
5 is governed by a board of five elected directors.

6           (b) Except as provided by Section 7941A.0202, directors  
7 serve staggered four-year terms.

8           Sec. 7941A.0202. TEMPORARY DIRECTORS. (a) On or after the  
9 effective date of the Act enacting this chapter, the owner or owners  
10 of a majority of the assessed value of the real property in the  
11 district may submit a petition to the commission requesting that  
12 the commission appoint as temporary directors the five persons  
13 named in the petition. The commission shall appoint as temporary  
14 directors the five persons named in the petition.

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

16                   (1) the date permanent directors are elected under  
17 Section 7941A.0103; 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 7941A.0103 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 7941A.0103; 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. 7941A.0301. GENERAL POWERS AND DUTIES. The district  
11 has the powers and duties necessary to accomplish the purposes for  
12 which the district is created.

13 Sec. 7941A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND  
14 DUTIES. The district has the powers and duties provided by the  
15 general law of this state, including Chapters 49 and 54, Water Code,  
16 applicable to municipal utility districts created under Section 59,  
17 Article XVI, Texas Constitution.

18 Sec. 7941A.0303. AUTHORITY FOR ROAD PROJECTS. Under  
19 Section 52, Article III, Texas Constitution, the district may  
20 design, acquire, construct, finance, issue bonds for, improve,  
21 operate, maintain, and convey to this state, a county, or a  
22 municipality for operation and maintenance macadamized, graveled,  
23 or paved roads, or improvements, including storm drainage, in aid  
24 of those roads.

25 Sec. 7941A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
26 road project must meet all applicable construction standards,  
27 zoning and subdivision requirements, and regulations of each

1 municipality in whose corporate limits or extraterritorial  
2 jurisdiction the road project is located.

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

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

11 Sec. 7941A.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
12 ORDINANCE OR RESOLUTION. The district shall comply with all  
13 applicable requirements of any ordinance or resolution that is  
14 adopted under Section 54.016 or 54.0165, Water Code, and that  
15 consents to the creation of the district or to the inclusion of land  
16 in the district.

17 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

18 Sec. 7941A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
19 The district may issue, without an election, bonds and other  
20 obligations secured by:

21 (1) revenue other than ad valorem taxes; or  
22 (2) contract payments described by Section  
23 7941A.0403.

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

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

5       Sec. 7941A.0402. OPERATION AND MAINTENANCE TAX. (a) If  
6 authorized at an election held under Section 7941A.0401, the  
7 district may impose an operation and maintenance tax on taxable  
8 property in the district in accordance with Section 49.107, Water  
9 Code.

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

12       Sec. 7941A.0403. CONTRACT TAXES. (a) In accordance with  
13 Section 49.108, Water Code, the district may impose a tax other than  
14 an operation and maintenance tax and use the revenue derived from  
15 the tax to make payments under a contract after the provisions of  
16 the contract have been approved by a majority of the district voters  
17 voting at an election held for that purpose.

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

21               SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

22       Sec. 7941A.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
23 OBLIGATIONS. The district may issue bonds or other obligations  
24 payable wholly or partly from ad valorem taxes, impact fees,  
25 revenue, contract payments, grants, or other district money, or any  
26 combination of those sources, to pay for any authorized district  
27 purpose.

1       Sec. 7941A.0502. TAXES FOR BONDS. At the time the district  
2 issues bonds payable wholly or partly from ad valorem taxes, the  
3 board shall provide for the annual imposition of a continuing  
4 direct ad valorem tax, without limit as to rate or amount, while all  
5 or part of the bonds are outstanding as required and in the manner  
6 provided by Sections 54.601 and 54.602, Water Code.

7       Sec. 7941A.0503. BONDS FOR ROAD PROJECTS. At the time of  
8 issuance, the total principal amount of bonds or other obligations  
9 issued or incurred to finance road projects and payable from ad  
10 valorem taxes may not exceed one-fourth of the assessed value of the  
11 real property in the district.

12       SECTION 2. The Montgomery County Municipal Utility District  
13 No. 209 initially includes all the territory contained in the  
14 following area:

15 BEING a 50.726 acre tract of land situated in the Fred Kessler  
16 Survey, Abstract No. 300, Montgomery County, Texas, and being that  
17 same called 50.865 net acre tract described in deed recorded under  
18 County Clerk's File No. 8864549 of the Real Property Records of  
19 Montgomery County, Texas, said 50.726 acre tract being more  
20 particularly described as follows:

21 BEGINNING at a 1/2 inch iron rod found in the southerly right-of-way  
22 line of F.M. 1097 for the northeasterly corner of the herein  
23 described tract and northwesterly corner of a 31.778 acre tract  
24 described in deed to Donald E. Huber recorded under County Clerk's  
25 File no. 9126524;

26 THENCE departing F.M. 1097 with Huber's westerly line South 00° 02'  
27 34" East a distance of 1712.06 feet to a 1/2 inch iron rod found for

1 the southwesterly corner of a 31.83 acre tract described in deed to  
2 Dennis R. Mathews recorded under County Clerk's File  
3 No. 2002-098019 of the Official Public Records of Montgomery  
4 County, Texas, and northwesterly corner of the remainder of a 32.25  
5 acre tract described in deed to David and Gail Moran recorded under  
6 County Clerk's File No. 2002-075123;

7 THENCE South  $00^{\circ} 10' 34''$  West a distance of 890.10 feet to a 1/2 inch  
8 iron rod found for Moran's southwesterly corner, in the northerly  
9 line of a 1469.99 Bentwater Joint Venture tract described under  
10 County Clerk's File No. 8716883;

11 THENCE South  $89^{\circ} 45' 35''$  West a distance of 858.54 feet to a 1/2 inch  
12 iron rod found for the southeasterly corner of an 85.226 acre tract  
13 described in deed to John Chaney recorded under County Clerk's File  
14 No. 9951695;

15 THENCE North  $00^{\circ} 24' 32''$  East a distance of 2622.39 feet to a 5/8  
16 inch iron rod found in the southerly right-of-way line of F.M. 1097;

17 THENCE with the southerly right-of-way line of F.M. 1097 the  
18 following courses:

19 Southeasterly with a curve to the right having a radius of 1869.86  
20 feet, through a central angle of  $00^{\circ} 25' 03''$ , an arc length of 13.63  
21 feet (chord bearing S  $83^{\circ} 46' 34''$  E 13.63');

22 South  $83^{\circ} 34' 00''$  East a distance of 195.60 feet;

23 Southeasterly with a curve to the left having a radius of 1949.86  
24 feet, through a central angle of  $09^{\circ} 39' 00''$ , an arc length of 328.40  
25 feet (chord bearing S  $88^{\circ} 23' 30''$  E 328.02');

26 South  $86^{\circ} 47' 00''$  East a distance of 192.70 feet;

27 Northeasterly with a curve to the left having a radius of 5689.58



1 feet, through a central angle of 01° 08' 24", an arc length of 113.20  
2 feet (chord bearing N 87° 21' 12" 113.20') to the POINT OF BEGINNING.  
3 CONTAINING a computed area of 50.726 acres of land within this Field  
4 Note Description.

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

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

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

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

23 SECTION 4. (a) If this Act does not receive a two-thirds  
24 vote of all the members elected to each house, Subchapter C, Chapter  
25 7941A, Special District Local Laws Code, as added by Section 1 of  
26 this Act, is amended by adding Section 7941A.0306 to read as  
27 follows:

1        Sec. 7941A.0306. 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.