

1-1 By: Metcalf (Senate Sponsor - Creighton) H.B. No. 4641
 1-2 (In the Senate - Received from the House May 17, 2021;
 1-3 May 17, 2021, read first time and referred to Committee on Local
 1-4 Government; May 21, 2021, reported favorably by the following
 1-5 vote: Yeas 6, Nays 0; May 21, 2021, sent to printer.)

1-6 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-7 Bettencourt	X			
1-8 Menéndez	X			
1-9 Eckhardt	X			
1-10 Gutierrez	X			
1-11 Hall			X	
1-12 Nichols			X	
1-13 Paxton	X			
1-14 Springer	X			
1-15 Zaffirini			X	

1-17 A BILL TO BE ENTITLED
 1-18 AN ACT

1-19 relating to the creation of the Montgomery County Municipal Utility
 1-20 District No. 209; granting a limited power of eminent domain;
 1-21 providing authority to issue bonds; providing authority to impose
 1-22 assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws
 1-25 Code, is amended by adding Chapter 7941A to read as follows:

1-26 CHAPTER 7941A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT
 1-27 NO. 209

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 7941A.0101. DEFINITIONS. In this chapter:

1-30 (1) "Board" means the district's board of directors.

1-31 (2) "Commission" means the Texas Commission on
 1-32 Environmental Quality.

1-33 (3) "Director" means a board member.

1-34 (4) "District" means the Montgomery County Municipal
 1-35 Utility District No. 209.

1-36 Sec. 7941A.0102. NATURE OF DISTRICT. The district is a
 1-37 municipal utility district created under Section 59, Article XVI,
 1-38 Texas Constitution.

1-39 Sec. 7941A.0103. CONFIRMATION AND DIRECTOR ELECTION
 1-40 REQUIRED. The temporary directors shall hold an election to
 1-41 confirm the creation of the district and to elect five permanent
 1-42 directors as provided by Section 49.102, Water Code.

1-43 Sec. 7941A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
 1-44 temporary directors may not hold an election under Section
 1-45 7941A.0103 until each municipality in whose corporate limits or
 1-46 extraterritorial jurisdiction the district is located has
 1-47 consented by ordinance or resolution to the creation of the
 1-48 district and to the inclusion of land in the district.

1-49 Sec. 7941A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-50 (a) The district is created to serve a public purpose and benefit.

1-51 (b) The district is created to accomplish the purposes of:

1-52 (1) a municipal utility district as provided by
 1-53 general law and Section 59, Article XVI, Texas Constitution; and

1-54 (2) Section 52, Article III, Texas Constitution, that
 1-55 relate to the construction, acquisition, improvement, operation,
 1-56 or maintenance of macadamized, graveled, or paved roads, or
 1-57 improvements, including storm drainage, in aid of those roads.

1-58 Sec. 7941A.0106. INITIAL DISTRICT TERRITORY. (a) The
 1-59 district is initially composed of the territory described by
 1-60 Section 2 of the Act enacting this chapter.

1-61 (b) The boundaries and field notes contained in Section 2 of
 1-62 the Act enacting this chapter form a closure. A mistake made in the
 1-63 field notes or in copying the field notes in the legislative process

2-1 does not affect the district's:

2-2 (1) organization, existence, or validity;

2-3 (2) right to issue any type of bond for the purposes
2-4 for which the district is created or to pay the principal of and
2-5 interest on a bond;

2-6 (3) right to impose a tax; or

2-7 (4) legality or operation.

2-8 SUBCHAPTER B. BOARD OF DIRECTORS

2-9 Sec. 7941A.0201. GOVERNING BODY; TERMS. (a) The district
2-10 is governed by a board of five elected directors.

2-11 (b) Except as provided by Section 7941A.0202, directors
2-12 serve staggered four-year terms.

2-13 Sec. 7941A.0202. TEMPORARY DIRECTORS. (a) On or after the
2-14 effective date of the Act enacting this chapter, the owner or owners
2-15 of a majority of the assessed value of the real property in the
2-16 district may submit a petition to the commission requesting that
2-17 the commission appoint as temporary directors the five persons
2-18 named in the petition. The commission shall appoint as temporary
2-19 directors the five persons named in the petition.

2-20 (b) Temporary directors serve until the earlier of:

2-21 (1) the date permanent directors are elected under
2-22 Section 7941A.0103; or

2-23 (2) the fourth anniversary of the effective date of
2-24 the Act enacting this chapter.

2-25 (c) If permanent directors have not been elected under
2-26 Section 7941A.0103 and the terms of the temporary directors have
2-27 expired, successor temporary directors shall be appointed or
2-28 reappointed as provided by Subsection (d) to serve terms that
2-29 expire on the earlier of:

2-30 (1) the date permanent directors are elected under
2-31 Section 7941A.0103; or

2-32 (2) the fourth anniversary of the date of the
2-33 appointment or reappointment.

2-34 (d) If Subsection (c) applies, the owner or owners of a
2-35 majority of the assessed value of the real property in the district
2-36 may submit a petition to the commission requesting that the
2-37 commission appoint as successor temporary directors the five
2-38 persons named in the petition. The commission shall appoint as
2-39 successor temporary directors the five persons named in the
2-40 petition.

2-41 SUBCHAPTER C. POWERS AND DUTIES

2-42 Sec. 7941A.0301. GENERAL POWERS AND DUTIES. The district
2-43 has the powers and duties necessary to accomplish the purposes for
2-44 which the district is created.

2-45 Sec. 7941A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
2-46 DUTIES. The district has the powers and duties provided by the
2-47 general law of this state, including Chapters 49 and 54, Water Code,
2-48 applicable to municipal utility districts created under Section 59,
2-49 Article XVI, Texas Constitution.

2-50 Sec. 7941A.0303. AUTHORITY FOR ROAD PROJECTS. Under
2-51 Section 52, Article III, Texas Constitution, the district may
2-52 design, acquire, construct, finance, issue bonds for, improve,
2-53 operate, maintain, and convey to this state, a county, or a
2-54 municipality for operation and maintenance macadamized, graveled,
2-55 or paved roads, or improvements, including storm drainage, in aid
2-56 of those roads.

2-57 Sec. 7941A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
2-58 road project must meet all applicable construction standards,
2-59 zoning and subdivision requirements, and regulations of each
2-60 municipality in whose corporate limits or extraterritorial
2-61 jurisdiction the road project is located.

2-62 (b) If a road project is not located in the corporate limits
2-63 or extraterritorial jurisdiction of a municipality, the road
2-64 project must meet all applicable construction standards,
2-65 subdivision requirements, and regulations of each county in which
2-66 the road project is located.

2-67 (c) If the state will maintain and operate the road, the
2-68 Texas Transportation Commission must approve the plans and
2-69 specifications of the road project.

3-1 Sec. 7941A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
3-2 ORDINANCE OR RESOLUTION. The district shall comply with all
3-3 applicable requirements of any ordinance or resolution that is
3-4 adopted under Section 54.016 or 54.0165, Water Code, and that
3-5 consents to the creation of the district or to the inclusion of land
3-6 in the district.

3-7 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-8 Sec. 7941A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
3-9 The district may issue, without an election, bonds and other
3-10 obligations secured by:

3-11 (1) revenue other than ad valorem taxes; or
3-12 (2) contract payments described by Section
3-13 7941A.0403.

3-14 (b) The district must hold an election in the manner
3-15 provided by Chapters 49 and 54, Water Code, to obtain voter approval
3-16 before the district may impose an ad valorem tax or issue bonds
3-17 payable from ad valorem taxes.

3-18 (c) The district may not issue bonds payable from ad valorem
3-19 taxes to finance a road project unless the issuance is approved by a
3-20 vote of a two-thirds majority of the district voters voting at an
3-21 election held for that purpose.

3-22 Sec. 7941A.0402. OPERATION AND MAINTENANCE TAX. (a) If
3-23 authorized at an election held under Section 7941A.0401, the
3-24 district may impose an operation and maintenance tax on taxable
3-25 property in the district in accordance with Section 49.107, Water
3-26 Code.

3-27 (b) The board shall determine the tax rate. The rate may not
3-28 exceed the rate approved at the election.

3-29 Sec. 7941A.0403. CONTRACT TAXES. (a) In accordance with
3-30 Section 49.108, Water Code, the district may impose a tax other than
3-31 an operation and maintenance tax and use the revenue derived from
3-32 the tax to make payments under a contract after the provisions of
3-33 the contract have been approved by a majority of the district voters
3-34 voting at an election held for that purpose.

3-35 (b) A contract approved by the district voters may contain a
3-36 provision stating that the contract may be modified or amended by
3-37 the board without further voter approval.

3-38 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

3-39 Sec. 7941A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
3-40 OBLIGATIONS. The district may issue bonds or other obligations
3-41 payable wholly or partly from ad valorem taxes, impact fees,
3-42 revenue, contract payments, grants, or other district money, or any
3-43 combination of those sources, to pay for any authorized district
3-44 purpose.

3-45 Sec. 7941A.0502. TAXES FOR BONDS. At the time the district
3-46 issues bonds payable wholly or partly from ad valorem taxes, the
3-47 board shall provide for the annual imposition of a continuing
3-48 direct ad valorem tax, without limit as to rate or amount, while all
3-49 or part of the bonds are outstanding as required and in the manner
3-50 provided by Sections 54.601 and 54.602, Water Code.

3-51 Sec. 7941A.0503. BONDS FOR ROAD PROJECTS. At the time of
3-52 issuance, the total principal amount of bonds or other obligations
3-53 issued or incurred to finance road projects and payable from ad
3-54 valorem taxes may not exceed one-fourth of the assessed value of the
3-55 real property in the district.

3-56 SECTION 2. The Montgomery County Municipal Utility District
3-57 No. 209 initially includes all the territory contained in the
3-58 following area:

3-59 BEING a 50.726 acre tract of land situated in the Fred Kessler
3-60 Survey, Abstract No. 300, Montgomery County, Texas, and being that
3-61 same called 50.865 net acre tract described in deed recorded under
3-62 County Clerk's File No. 8864549 of the Real Property Records of
3-63 Montgomery County, Texas, said 50.726 acre tract being more
3-64 particularly described as follows:

3-65 BEGINNING at a 1/2 inch iron rod found in the southerly right-of-way
3-66 line of F.M. 1097 for the northeasterly corner of the herein
3-67 described tract and northwesterly corner of a 31.778 acre tract
3-68 described in deed to Donald E. Huber recorded under County Clerk's
3-69 File no. 9126524;

4-1 THENCE departing F.M. 1097 with Huber's westerly line South 00° 02'
4-2 34" East a distance of 1712.06 feet to a 1/2 inch iron rod found for
4-3 the southwesterly corner of a 31.83 acre tract described in deed to
4-4 Dennis R. Mathews recorded under County Clerk's File
4-5 No. 2002-098019 of the Official Public Records of Montgomery
4-6 County, Texas, and northwesterly corner of the remainder of a 32.25
4-7 acre tract described in deed to David and Gail Moran recorded under
4-8 County Clerk's File No. 2002-075123;
4-9 THENCE South 00° 10' 34" West a distance of 890.10 feet to a 1/2 inch
4-10 iron rod found for Moran's southwesterly corner, in the northerly
4-11 line of a 1469.99 Bentwater Joint Venture tract described under
4-12 County Clerk's File No. 8716883;
4-13 THENCE South 89° 45' 35" West a distance of 858.54 feet to a 1/2 inch
4-14 iron rod found for the southeasterly corner of an 85.226 acre tract
4-15 described in deed to John Chaney recorded under County Clerk's File
4-16 No. 9951695;
4-17 THENCE North 00° 24' 32" East a distance of 2622.39 feet to a 5/8
4-18 inch iron rod found in the southerly right-of-way line of F.M. 1097;
4-19 THENCE with the southerly right-of-way line of F.M. 1097 the
4-20 following courses:
4-21 Southeasterly with a curve to the right having a radius of 1869.86
4-22 feet, through a central angle of 00° 25' 03", an arc length of 13.63
4-23 feet (chord bearing S 83° 46' 34" E 13.63');
4-24 South 83° 34' 00" East a distance of 195.60 feet;
4-25 Southeasterly with a curve to the left having a radius of 1949.86
4-26 feet, through a central angle of 09° 39' 00", an arc length of 328.40
4-27 feet (chord bearing S 88° 23' 30" E 328.02');
4-28 South 86° 47' 00" East a distance of 192.70 feet;
4-29 Northeasterly with a curve to the left having a radius of 5689.58
4-30 feet, through a central angle of 01° 08' 24", an arc length of 113.20
4-31 feet (chord bearing N 87° 21' 12" E 113.20') to the POINT OF BEGINNING.
4-32 CONTAINING a computed area of 50.726 acres of land within this Field
4-33 Note Description.

4-34 SECTION 3. (a) The legal notice of the intention to
4-35 introduce this Act, setting forth the general substance of this
4-36 Act, has been published as provided by law, and the notice and a
4-37 copy of this Act have been furnished to all persons, agencies,
4-38 officials, or entities to which they are required to be furnished
4-39 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4-40 Government Code.

4-41 (b) The governor, one of the required recipients, has
4-42 submitted the notice and Act to the Texas Commission on
4-43 Environmental Quality.

4-44 (c) The Texas Commission on Environmental Quality has filed
4-45 its recommendations relating to this Act with the governor, the
4-46 lieutenant governor, and the speaker of the house of
4-47 representatives within the required time.

4-48 (d) All requirements of the constitution and laws of this
4-49 state and the rules and procedures of the legislature with respect
4-50 to the notice, introduction, and passage of this Act are fulfilled
4-51 and accomplished.

4-52 SECTION 4. (a) If this Act does not receive a two-thirds
4-53 vote of all the members elected to each house, Subchapter C, Chapter
4-54 7941A, Special District Local Laws Code, as added by Section 1 of
4-55 this Act, is amended by adding Section 7941A.0306 to read as
4-56 follows:

4-57 Sec. 7941A.0306. NO EMINENT DOMAIN POWER. The district may
4-58 not exercise the power of eminent domain.

4-59 (b) This section is not intended to be an expression of a
4-60 legislative interpretation of the requirements of Section 17(c),
4-61 Article I, Texas Constitution.

4-62 SECTION 5. This Act takes effect immediately if it receives
4-63 a vote of two-thirds of all the members elected to each house, as
4-64 provided by Section 39, Article III, Texas Constitution. If this
4-65 Act does not receive the vote necessary for immediate effect, this
4-66 Act takes effect September 1, 2021.

4-67 * * * * *