

By: Metcalf

H.B. No. 4649

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 198; 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 7906A to read as follows:

CHAPTER 7906A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 198

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7906A.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. 198.

Sec. 7906A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7906A.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. 7906A.0104. CONSENT OF MUNICIPALITY REQUIRED. The
3 temporary directors may not hold an election under Section
4 7906A.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. 7906A.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. 7906A.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. 7906A.0201. GOVERNING BODY; TERMS. (a) The district
5 is governed by a board of five elected directors.

6 (b) Except as provided by Section 7906A.0202, directors
7 serve staggered four-year terms.

8 Sec. 7906A.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 7906A.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 7906A.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 7906A.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. 7906A.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. 7906A.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. 7906A.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. 7906A.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. 7906A.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. 7906A.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 7906A.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. 7906A.0402. OPERATION AND MAINTENANCE TAX. (a) If
6 authorized at an election held under Section 7906A.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. 7906A.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. 7906A.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. 7906A.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. 7906A.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. 198 initially includes all the territory contained in the
14 following area:

15 Being a 534.5 acre (23,283,437 square feet) tract situated in
16 the Walker County School Land Survey, Abstract No. 494, and the
17 William Wills Survey, Abstract No. 594, both in Montgomery County,
18 Texas, being a portion of a called 1,778.511 acre tract conveyed to
19 FM 242, Limited, by deed recorded in Clerk's File No. 2003-155376,
20 Montgomery County Official Public Records of Real Property; said
21 534.5 acre (23,283,437 square feet) tract being more particularly
22 described as follows with all bearings being based on called
23 bearings recorded under said Clerk's File No. 2003-155376,
24 Montgomery County Official Public Records of Real Property:

25 BEGINNING at the northerly northeast corner of said called
26 1,778.511 acre tract;

27 THENCE, South 03°03'02" East, along the northerly east line of

1 said called 1,778.511 acre tract, 3,692.24 feet to an angle point in
2 said northerly east line of said called 1,778.511 acre tract;

3 THENCE, South 03°09'55" East, continuing along said northerly
4 east line of said called 1,778.511 acre tract, 2,382.96 feet to an
5 interior corner of said called 1,778.511 acre tract;

6 THENCE, North 87°14'11" East, along an easterly north line of
7 said called 1,778.511 acre tract, 567.51 feet to the beginning of a
8 curve to the left, being 50 feet offset from the City of Splendora
9 Extraterritorial Jurisdiction (E.T.J.) limit as recorded in
10 Montgomery County Court Cause No. 04-12-10629-CV;

11 THENCE, along said curve to the left in a southeasterly
12 direction, 50 feet offset from said City of Splendora
13 Extraterritorial Jurisdiction (E.T.J.) limit as recorded in said
14 Montgomery County Court Cause No. 04-12-10629-CV, with a radius of
15 2,465.67 feet, a central angle of 20°24'23", an arc length of 878.17
16 feet, and a chord bearing South 24°57'41" East, 873.53 feet to the
17 south line of said called 1,778.511 acre tract, being 50 feet offset
18 from said City of Splendora Extraterritorial Jurisdiction (E.T.J.)
19 limit as recorded in said Montgomery County Court Cause
20 No. 04-12-10629-CV;

21 THENCE, along said south line of said called 1,778.511 acre
22 tract, the following six (6) courses and distances:

- 23 1. South 86°35'26" West, 892.11 feet to a point for corner;
- 24 2. South 87°00'04" West, 2,049.85 feet to a point for corner;
- 25 3. South 87°02'35" West, 1,773.11 feet to a point for corner;
- 26 4. South 86°57'43" West, 1,735.80 feet to a point for corner;
- 27 5. North 02°56'52" West, 3.66 feet to a point for corner;

1 6. South 86°58'03" West, 1,031.86 feet to a point for corner;
2 THENCE, North 40°40'17" East, over and across said called
3 1,778.511 acre tract, 9,526.68 feet to the POINT OF BEGINNING,
4 CONTAINING 534.5 acres (23,283,437 square feet) of land in
5 Montgomery County, Texas.

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

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

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

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

24 SECTION 4. (a) If this Act does not receive a two-thirds
25 vote of all the members elected to each house, Subchapter C, Chapter
26 7906A, Special District Local Laws Code, as added by Section 1 of
27 this Act, is amended by adding Section 7906A.0306 to read as

1 follows:

2 Sec. 7906A.0306. NO EMINENT DOMAIN POWER. The district may
3 not exercise the power of eminent domain.

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

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