

House Bill 4611
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 7928A to read as follows:

CHAPTER 7928A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 206

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7928A.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. 206.

Sec. 7928A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7928A.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 directors as provided by Section 49.102, Water Code.

Sec. 7928A.0104. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 7928A.0103 until each municipality in whose corporate limits or extraterritorial jurisdiction the district is located has consented by ordinance or resolution to the creation of the district and to the inclusion of land in the district.

Sec. 7928A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a) The district is created to serve a public purpose and benefit.

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

SENATE VERSION (CS)

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

(2) Section 52, Article III, Texas Constitution, that relate to the construction, acquisition, improvement, operation, or maintenance of macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads. Sec. 7928A.0106. INITIAL DISTRICT TERRITORY. (a)

The district is initially composed of the territory described by Section 2 of the Act enacting this chapter.

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

(1) organization, existence, or validity;

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

(3) right to impose a tax; or

(4) legality or operation.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 7928A.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 7928A.0202, directors serve staggered four-year terms.

Sec. 7928A.0202. TEMPORARY DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as temporary directors the five persons named in the petition. The commission shall appoint as temporary directors the five persons named in the petition.

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(b) Temporary directors serve until the earlier of:
(1) the date permanent directors are elected under Section 7928A.0103; or
(2) the fourth anniversary of the effective date of the Act enacting this chapter.
(c) If permanent directors have not been elected under Section 7928A.0103 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (d) to serve terms that expire on the earlier of:
(1) the date permanent directors are elected under Section 7928A.0103; or
(2) the fourth anniversary of the date of the appointment or reappointment.
(d) If Subsection (c) applies, the owner or owners of a majority of the assessed value of the real property in the district may submit a petition to the commission requesting that the commission appoint as successor temporary directors the five persons named in the petition. The commission shall appoint as successor temporary directors the five persons named in the petition.
SUBCHAPTER C. POWERS AND DUTIES
Sec. 7928A.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.
Sec. 7928A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND DUTIES. The district has the powers and duties provided by the general law of this state, including Chapters 49 and 54, Water Code, applicable to municipal utility districts created under Section 59, Article XVI, Texas Constitution.
Sec. 7928A.0303. AUTHORITY FOR ROAD PROJECTS.

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Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7928A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

Sec. 7928A.0305. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. (a) The district shall comply with all applicable requirements of any ordinance or resolution that is adopted under Section 54.016 or 54.0165, Water Code, and that consents to the creation of the district or to the inclusion of land in the district.

(b) In addition to all the rights and remedies provided by other law, if the district violates the terms of an ordinance or resolution described by Subsection (a), the municipality is entitled to injunctive relief or a writ of mandamus issued by a court requiring the district and the district's officials to observe and comply with the terms of the ordinance or

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resolution.

Sec. 7928A.0306. EFFECT OF ANNEXATION BY CITY OF CONROE. Notwithstanding Section 54.016(f)(2), Water Code, an allocation agreement between the City of Conroe and the district that provides for the allocation of the taxes or revenues of the district and the city following the date of inclusion of all the district's territory in the corporate limits of the city may provide that the total annual ad valorem taxes collected by the city and the district from taxable property in the district may exceed the city's ad valorem tax on that property.

Sec. 7928A.0307. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district without the written consent of the City of Conroe.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7928A.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 7928A.0403.

(b) The district must hold an election in the manner provided by Chapters 49 and 54, 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. 7928A.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7928A.0401, the district may impose an operation and

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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. 7928A.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.

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 7928A.0501. AUTHORITY TO ISSUE BONDS AND OTHER OBLIGATIONS. The district may issue bonds or other obligations payable wholly or partly from ad valorem taxes, impact fees, revenue, contract payments, tax increment payments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7928A.0502. TAXES FOR BONDS. At the time the district issues bonds payable wholly or partly from ad valorem taxes, the board shall provide for the annual imposition of a continuing direct ad valorem tax, without limit as to rate or amount, while all or part of the bonds are outstanding as required and in the manner provided by Sections 54.601 and 54.602, Water Code.

Sec. 7928A.0503. BONDS FOR ROAD PROJECTS. At the time of issuance, the total principal amount of bonds or other obligations issued or incurred to finance road projects and payable from ad valorem taxes may not exceed one-fourth of

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the assessed value of the real property in the district.

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

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

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

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

1. South 64° 54' 08" East, 438.00 feet to a 4" x 4" concrete TXDOT monument found for corner;
2. South 67° 53' 50" East, 100.00 feet to a to a 4" x 4" concrete TXDOT monument found for corner;
3. South 64° 56' 38" East, 999.89 feet to a 5/8-inch iron rod found for corner;
4. South 62° 10' 50" East, 200.00 feet to a bent 1/2-inch iron

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the assessed value of the real property in the district.

SECTION 2. Same as House version.

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rod found for corner;

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

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

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

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

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

Thence, South 56° 37' 50" West, continuing along said common line, 2,407.87 feet to a 5/8-inch iron rod with cap stamped "COTTON SURVEYING" found marking the south corner of said 92.8344 acre tract and the west corner of said 186.0 acre tract, said point lying on the northeast right-of-way line of F.M. 3083 (called 120' wide) as described in Volume 283, Page 451 of the Montgomery County Deed Records (M.C.D.R.), and File Number 9045106, M.C.O.P.R.R.P.;

Thence, North 33° 15' 24" West, 1,220.07 feet to a point for corner, from which a brass disk in concrete stamped "TXDOT" bears North 09° 24' 11" West, 1.26 feet, the

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beginning of a non-tangent curve;

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

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

Thence, North 31° 23' 20" West, along a westerly line of said 92.8344 acre tract and the easterly lines of said 9.66 acre tract and that certain called 3.956 acre tract described in the deed to Conroe Reload Center by an instrument of record under File Number 9658151, M.C.O.P.R.R.P. 804.67 feet to the northwest corner of said 92.8344 acre tract, from which a 5/8-inch iron rod bears South 15° 41' 14" East, 0.85 feet, said point lying on the south line of that certain called 1.0 acre tract described in the deed to Agustin Ventura Gonzales by an instrument of record under Document Number 2011076381, M.C.O.P.R.R.P.;

Thence, North 56° 46' 10" East, along the north line of said 92.8344 acre tract and the south lines of said 1.0 acre tract, that certain called 5.650 acre tract described in the deed to Texas Outdoor Power Sales, Inc. by an instrument of record under Document Number 2019075494, M.C.O.P.R., and the

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aforementioned 1.694 acre tract, 610.16 feet to the POINT OF BEGINNING and containing 92.833 acres of land.

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

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

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

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

SECTION 4. (a) Section 7928A.0307, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7928A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section

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SECTION 3. Same as House version.

SECTION 4.

(a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7928A, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section

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7928A.0307 to read as follows:

Sec. 7928A.0307. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

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

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7928A.0306 to read as follows:

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SECTION 5. Same as House version.

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