

1-1 By: Metcalf (Senate Sponsor - Kolkhorst) H.B. No. 5374  
1-2 (In the Senate - Received from the House May 10, 2023;  
1-3 May 10, 2023, read first time and referred to Committee on Local  
1-4 Government; May 15, 2023, reported favorably by the following  
1-5 vote: Yeas 7, Nays 0; May 15, 2023, sent to printer.)

1-6 COMMITTEE VOTE

1-7	Yea	Nay	Absent	PNV
1-8	X			
1-9	X			
1-10			X	
1-11			X	
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	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. 226; 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 7956A to read as follows:

1-26 CHAPTER 7956A. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO.

1-27 226

1-28 SUBCHAPTER A. GENERAL PROVISIONS

1-29 Sec. 7956A.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. 226.

1-36 Sec. 7956A.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. 7956A.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. 7956A.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
1-44 temporary directors may not hold an election under Section  
1-45 7956A.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 as required by  
1-49 applicable law.

1-50 Sec. 7956A.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

1-51 (a) The district is created to serve a public purpose and benefit.

1-52 (b) The district is created to accomplish the purposes of:

1-53 (1) a municipal utility district as provided by  
1-54 general law and Section 59, Article XVI, Texas Constitution; and

1-55 (2) Section 52, Article III, Texas Constitution, that  
1-56 relate to the construction, acquisition, improvement, operation,  
1-57 or maintenance of macadamized, graveled, or paved roads, or  
1-58 improvements, including storm drainage, in aid of those roads.

1-59 Sec. 7956A.0106. INITIAL DISTRICT TERRITORY. (a) The  
1-60 district is initially composed of the territory described by  
1-61 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. 7956A.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 7956A.0202, directors serve staggered four-year terms.

Sec. 7956A.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.

(b) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 7956A.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 7956A.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 7956A.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. 7956A.0301. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 7956A.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. 7956A.0303. AUTHORITY FOR ROAD PROJECTS. 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. 7956A.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. 7956A.0305. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE OR RESOLUTION. 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.

Sec. 7956A.0306. DIVISION OF DISTRICT. (a) The board, on its own motion or on receipt of a petition signed by the owner or owners of a majority of the assessed value of the real property in the district, may adopt an order dividing the district.

(b) An order dividing a district may create one or more new districts and may provide for the continuation of the district.

(c) An order dividing the district must:

(1) name any new district;

(2) include the metes and bounds description of the territory of each of the districts;

(3) appoint temporary directors for any new district; and

(4) provide for the division of assets and liabilities between the districts.

(d) The board may adopt an order dividing the district before or after the date the board holds an election to confirm the district's creation.

(e) The district may be divided only if the district:

(1) has never issued any bonds; and

(2) is not imposing ad valorem taxes.

(f) A new district created by the division of the district may not, at the time the new district is created, contain any land outside the area described by Section 2 of the Act enacting this chapter.

(g) On or before the 30th day after the date of adoption of an order dividing the district, the district shall file the order with the commission and record the order in the real property records of each county in which the district is located.

(h) This chapter applies to any new district created by division of the district, and a new district has all the powers and duties of the district.

(i) A new district created by the division of the district shall hold a confirmation and directors' election.

(j) If the creation of the new district is confirmed, the new district shall provide the election date and results to the commission.

(k) A new district created by the division of the district must hold an election as required by this chapter to obtain voter approval before the district may impose a maintenance tax or issue bonds payable wholly or partly from ad valorem taxes.

(l) The district may continue to rely on confirmation, directors', bond, or tax elections held prior to the division of the district.

(m) Municipal consent to the creation of the district and to the inclusion of land in the district acts as municipal consent to the creation of any new district created by the division of the district and to the inclusion of land in the new district.

#### SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 7956A.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 7956A.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. 7956A.0402. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7956A.0401, the district may impose an operation and 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. 7956A.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. 7956A.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, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Sec. 7956A.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. 7956A.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 the assessed value of the real property in the district.

SECTION 2. Montgomery County Municipal Utility District No. 226 initially includes all the territory contained in the following area:

Being 535.7 acres of land, more or less, located in the Raleigh Rogers Survey, Abstract 33, and the Thomas Chatham Survey, A-127, Montgomery County, Texas, out of land conveyed to Homeplace Lands, LLC, as recorded under Clerk's File No. 2012125424 of the Official Public Records of Real Property, Montgomery County, Texas, (O.P.R.M.C.), being comprised of three (3) tracts as described below; said 535.7 acres, more or less, being more particularly described as follows, with all bearings referenced to the Texas Coordinate System, Central Zone, NAD83 (NA2011) Epoch 2010.00:

TRACT 1: 0.7 Acre

Being 0.7 acre of land out of the Thomas Chatham Survey, A-127 Montgomery County, Texas:

BEGINNING at the intersection of a southerly line of land as described in an instrument recorded under Clerk's File No. 2012125424 of the Official Public Records of Montgomery County, Texas (O.P.R.M.C.), and the easterly right-of-way line of FM 2854 (width varies);

THENCE NORTHWESTERLY approximately 196 feet, more or less, with and adjoining the easterly right-of-way line of said FM 2854, to the northwest corner of the herein described tract to, lying in the common Extra Territorial Jurisdiction (ETJ) line of the City of Conroe and the City of Montgomery, Texas;

THENCE NORTHEASTERLY approximately 201 feet, more or less, with and adjoining a curve to the left, also being the common ETJ line, to the northeast corner of the herein described tract, lying in a westerly line of Hilltop Ranch Section 1, as recorded in Cabinet "O", Sheet 138 of the Montgomery County Map Records (M.C.M.R.);

THENCE SOUTHERLY approximately 234 feet, more or less, with and adjoining said westerly line of Hilltop Ranch Section 1, to the



5-1 southeast corner of the herein described tract, lying in the  
5-2 easterly line of FM 2854;

5-3       THENCE WESTERLY approximately 82 feet, more or less, with and  
5-4 adjoining the easterly line of FM 2854, to the POINT OF BEGINNING,  
5-5 and containing approximately 0.7 acre of land. This document was  
5-6 prepared under 22 Texas Administrative Code §138.95, does not  
5-7 reflect the results of an on the ground survey, and is not to be used  
5-8 to convey or establish interests in real property except those  
5-9 rights and interests implied or established by the creation or  
5-10 reconfiguration of the boundary of the political subdivision for  
5-11 which it was prepared.

5-12       TRACT 2: 438 Acres

5-13       Being 438 acres of land out of the Thomas Chatham Survey,  
5-14 A-127, and the Raleigh Rogers Survey, A-33, Montgomery County,  
5-15 Texas:

5-16       BEGINNING at the southeast corner of a 17.0 acre tract, as  
5-17 recorded under Clerk's File No. 8805975 of the Official Public  
5-18 Records of Real Property Montgomery County, Texas  
5-19 (O.P.R.R.P.M.C.), also being an easterly corner of land conveyed to  
5-20 Homeplace Lands, LLC, as recorded under Clerk's File No. 2012125424  
5-21 of the Official Public Records of Montgomery County, Texas  
5-22 (O.P.R.M.C.), lying in the westerly right-of-way line of F.M. 2854  
5-23 (width varies);

5-24       THENCE SOUTHEASTERLY approximately 910 feet, more or less,  
5-25 with and adjoining said southwesterly right-of-way line of F.M.  
5-26 2854, to an easterly corner of the herein described tract, also  
5-27 being the northeast corner of Yesterday's Crossing, Section 1, as  
5-28 recorded in Cabinet "Z", Sheet 257 of the Montgomery County Map  
5-29 Records (M.C.M.R.);

5-30       THENCE WESTERLY approximately 1,057 feet, more or less, with  
5-31 and adjoining the north line of said Yesterday's Crossing, Section  
5-32 1, to an easterly interior corner of the herein described tract,  
5-33 also being the northwest corner of said Yesterday's Crossing,  
5-34 Section 1;

5-35       THENCE SOUTHERLY approximately 3,387 feet, more or less, with  
5-36 and adjoining the westerly line of said Yesterday's Crossing,  
5-37 Section 1, and the westerly line of a tract of land conveyed to  
5-38 Douglas B. and Carolyn Lee as recorded under Clerk's File  
5-39 No. 2014125321 of the O.P.R.M.C., to the southwest corner of said  
5-40 Douglas B. and Carolyn Lee tract, also being the northwest corner of  
5-41 a 216.521 acre tract, and the southeast corner of the herein  
5-42 described tract;

5-43       THENCE SOUTH 86 degrees 42 minutes 33 seconds WEST,  
5-44 approximately 1,908 feet, more or less, to the southwest corner of  
5-45 the herein described tract, lying in the northeasterly right-of-way  
5-46 line of the BN & SF Railroad;

5-47       THENCE NORTHWESTERLY approximately 3,799 feet, more or less,  
5-48 with and adjoining said northeasterly right-of-way line of the BN &  
5-49 SF Railroad to intersection of the common Extra Territorial  
5-50 Jurisdiction line of the City of Conroe and City of Montgomery,  
5-51 Texas;

5-52       THENCE NORTHERLY approximately 2,555 feet, more or less, with  
5-53 and adjoining said common ETJ line, to a corner in the common ETJ  
5-54 line;

5-55       THENCE EASTERLY approximately 2,377 feet, more or less, with  
5-56 and adjoining said common ETJ line to a west line of a 22.178 acre  
5-57 tract, as recorded under Clerk's File No. 2018119879 of the  
5-58 O.P.R.M.C.;

5-59       THENCE SOUTHERLY approximately 76 feet, more or less, with  
5-60 and adjoining said westerly line of the 22.178 acre tract, to a  
5-61 northerly corner of the herein described tract;

5-62       THENCE EASTERLY approximately 1,078 feet, more or less, with  
5-63 and adjoining the southerly line of said 22.178 acre tract to the  
5-64 northeast corner of the herein described tract, also being the  
5-65 northwest corner of a 5.45 acre tract as described under Clerk's  
5-66 File No. 8805975 of the O.P.R.R.P.M.C.;

5-67       THENCE SOUTHERLY approximately 1,170 feet, more or less, with  
5-68 and adjoining the westerly line of said 5.45 acre tract, and the  
5-69 westerly line of said 17.0 acre tract, to the southwest corner of

6-1 said 17.0 acre tract, and easterly interior corner of the herein  
6-2 described tract;

6-3       THENCE EASTERLY approximately 1,424 feet, more or less, with  
6-4 and adjoining the southerly line of said 17.0 acre tract, to the  
6-5 POINT OF BEGINNING, and containing approximately 438 acres of land.  
6-6 This document was prepared under 22 Texas Administrative Code  
6-7 §138.95, does not reflect the results of an on the ground survey,  
6-8 and is not to be used to convey or establish interests in real  
6-9 property except those rights and interests implied or established  
6-10 by the creation or reconfiguration of the boundary of the political  
6-11 subdivision for which it was prepared.

6-12       TRACT 3: 97 Acres

6-13       Being 97 acres of land out of the Raleigh Rogers Survey, A-33,  
6-14 Montgomery County, Texas:

6-15       BEGINNING at the most easterly southeast corner of the herein  
6-16 described tract, lying in the southwesterly right-of-way line of  
6-17 the BN & SF Railroad, from which the northwest corner of a 216.521  
6-18 acre tract, as defined under Clerk's File No. 2012125424 of the  
6-19 O.P.R.M.C., also being the southwest corner of land conveyed to  
6-20 Douglas B. & Carolyn Lee as recorded under Clerk's File  
6-21 No. 2014125321 of the O.P.R.M.C., bears NORTH 86 degrees 42 minutes  
6-22 33 seconds EAST, 2,038.61 feet;

6-23       THENCE WESTERLY approximately 1,425 feet, more or less, to a  
6-24 southerly interior corner of the herein described tract;

6-25       THENCE SOUTHERLY approximately 1,071 feet, more or less, to a  
6-26 southerly corner of the herein described tract, also being a  
6-27 northerly corner of land as described in a warranty deed to Earle T.  
6-28 McCants and Edward W. McCants as recorded under Clerk's File  
6-29 No. 99002183 of the Official Public Records of Real Property  
6-30 Montgomery County, Texas (O.P.R.R.P.M.C.);

6-31       THENCE WESTERLY approximately 940 feet, more or less, with  
6-32 and adjoining the northerly line of said Earle T. McCants and Edward  
6-33 W. McCants tract, to the southwest corner of the herein described  
6-34 tract, lying in the common Extra Territorial Jurisdiction of the  
6-35 City of Conroe and the City of Montgomery, Texas;

6-36       THENCE NORTHERLY approximately 3,811 feet, more or less, to  
6-37 the north corner of the herein described tract, lying in said  
6-38 southwesterly right-of-way line of the BN & SF Railroad:

6-39       THENCE SOUTHEASTERLY approximately 3,599 feet, more or less,  
6-40 with and adjoining said southwesterly line of the BN & SF Railroad  
6-41 right-of-way, to the POINT OF BEGINNING, and containing  
6-42 approximately 97 acres of land. This document was prepared under 22  
6-43 Texas Administrative Code §138.95, does not reflect the results of  
6-44 an on the ground survey, and is not to be used to convey or establish  
6-45 interests in real property except those rights and interests  
6-46 implied or established by the creation or reconfiguration of the  
6-47 boundary of the political subdivision for which it was prepared.

6-48       SECTION 3. (a) The legal notice of the intention to  
6-49 introduce this Act, setting forth the general substance of this  
6-50 Act, has been published as provided by law, and the notice and a  
6-51 copy of this Act have been furnished to all persons, agencies,  
6-52 officials, or entities to which they are required to be furnished  
6-53 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
6-54 Government Code.

6-55       (b) The governor, one of the required recipients, has  
6-56 submitted the notice and Act to the Texas Commission on  
6-57 Environmental Quality.

6-58       (c) The Texas Commission on Environmental Quality has filed  
6-59 its recommendations relating to this Act with the governor, the  
6-60 lieutenant governor, and the speaker of the house of  
6-61 representatives within the required time.

6-62       (d) All requirements of the constitution and laws of this  
6-63 state and the rules and procedures of the legislature with respect  
6-64 to the notice, introduction, and passage of this Act are fulfilled  
6-65 and accomplished.

6-66       SECTION 4. (a) If this Act does not receive a two-thirds  
6-67 vote of all the members elected to each house, Subchapter C, Chapter  
6-68 7956A, Special District Local Laws Code, as added by Section 1 of  
6-69 this Act, is amended by adding Section 7956A.0307 to read as

7-1 follows:

7-2 Sec. 7956A.0307. NO EMINENT DOMAIN POWER. The district may  
7-3 not exercise the power of eminent domain.

7-4 (b) This section is not intended to be an expression of a  
7-5 legislative interpretation of the requirements of Section 17(c),  
7-6 Article I, Texas Constitution.

7-7 SECTION 5. This Act takes effect immediately if it receives  
7-8 a vote of two-thirds of all the members elected to each house, as  
7-9 provided by Section 39, Article III, Texas Constitution. If this  
7-10 Act does not receive the vote necessary for immediate effect, this  
7-11 Act takes effect September 1, 2023.

7-12 \* \* \* \* \*