

By: Bell of Montgomery

H.B. No. 5391

Substitute the following for H.B. No. 5391:

By: Burns

C.S.H.B. No. 5391

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 218; 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 8025A to read as follows:

CHAPTER 8025A. MONTGOMERY COUNTY MUNICIPAL UTILITY

DISTRICT NO. 218

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8025A.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. 218.

Sec. 8025A.0102. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8025A.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. 8025A.0104. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8025A.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 as required by applicable law.

Sec. 8025A.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:

(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. 8025A.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. 8025A.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8025A.0202, directors serve staggered four-year terms.

Sec. 8025A.0202. TEMPORARY DIRECTORS. (a) The temporary board consists of:

(1) Timothy Jones;

(2) Chris Howard;

(3) Jennifer Cleveland;

(4) Nikki Williams; and

(5) Jake Trice.

(b) Temporary directors serve until the earlier of:

(1) the date permanent directors are elected under Section 8025A.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 8025A.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 8025A.0103; or

1 (2) the fourth anniversary of the date of the
2 appointment or reappointment.

3 (d) If Subsection (c) applies, the owner or owners of a
4 majority of the assessed value of the real property in the district
5 may submit a petition to the commission requesting that the
6 commission appoint as successor temporary directors the five
7 persons named in the petition. The commission shall appoint as
8 successor temporary directors the five persons named in the
9 petition.

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 8025A.0301. GENERAL POWERS AND DUTIES. The district
12 has the powers and duties necessary to accomplish the purposes for
13 which the district is created.

14 Sec. 8025A.0302. MUNICIPAL UTILITY DISTRICT POWERS AND
15 DUTIES. The district has the powers and duties provided by the
16 general law of this state, including Chapters 49 and 54, Water Code,
17 applicable to municipal utility districts created under Section 59,
18 Article XVI, Texas Constitution.

19 Sec. 8025A.0303. AUTHORITY FOR ROAD PROJECTS. Under
20 Section 52, Article III, Texas Constitution, the district may
21 design, acquire, construct, finance, issue bonds for, improve,
22 operate, maintain, and convey to this state, a county, or a
23 municipality for operation and maintenance macadamized, graveled,
24 or paved roads, or improvements, including storm drainage, in aid
25 of those roads.

26 Sec. 8025A.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
27 road project must meet all applicable construction standards,

1 zoning and subdivision requirements, and regulations of each
2 municipality in whose corporate limits or extraterritorial
3 jurisdiction the road project is located.

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

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

12 Sec. 8025A.0305. COMPLIANCE WITH MUNICIPAL CONSENT
13 ORDINANCE OR RESOLUTION. The district shall comply with all
14 applicable requirements of any ordinance or resolution that is
15 adopted under Section 54.016 or 54.0165, Water Code, and that
16 consents to the creation of the district or to the inclusion of land
17 in the district.

18 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

19 Sec. 8025A.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)
20 The district may issue, without an election, bonds and other
21 obligations secured by:

22 (1) revenue other than ad valorem taxes; or
23 (2) contract payments described by Section
24 8025A.0403.

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

1 payable from ad valorem taxes.

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

6 Sec. 8025A.0402. OPERATION AND MAINTENANCE TAX. (a) If
7 authorized at an election held under Section 8025A.0401, the
8 district may impose an operation and maintenance tax on taxable
9 property in the district in accordance with Section 49.107, Water
10 Code.

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

13 Sec. 8025A.0403. CONTRACT TAXES. (a) In accordance with
14 Section 49.108, Water Code, the district may impose a tax other than
15 an operation and maintenance tax and use the revenue derived from
16 the tax to make payments under a contract after the provisions of
17 the contract have been approved by a majority of the district voters
18 voting at an election held for that purpose.

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

22 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

23 Sec. 8025A.0501. AUTHORITY TO ISSUE BONDS AND OTHER
24 OBLIGATIONS. The district may issue bonds or other obligations
25 payable wholly or partly from ad valorem taxes, impact fees,
26 revenue, contract payments, grants, or other district money, or any
27 combination of those sources, to pay for any authorized district

1 purpose.

2 Sec. 8025A.0502. TAXES FOR BONDS. At the time the district
3 issues bonds payable wholly or partly from ad valorem taxes, the
4 board shall provide for the annual imposition of a continuing
5 direct ad valorem tax, without limit as to rate or amount, while all
6 or part of the bonds are outstanding as required and in the manner
7 provided by Sections 54.601 and 54.602, Water Code.

8 Sec. 8025A.0503. BONDS FOR ROAD PROJECTS. At the time of
9 issuance, the total principal amount of bonds or other obligations
10 issued or incurred to finance road projects and payable from ad
11 valorem taxes may not exceed one-fourth of the assessed value of the
12 real property in the district.

13 SECTION 2. The Montgomery County Municipal Utility District
14 No. 218 initially includes all the territory contained in the
15 following area:

16 A METES & BOUNDS description of a certain 155.6 acre
17 (6,780,048 square feet) tract of land situated in the Archibald M.
18 Alexander Survey, Abstract No. 1, in Montgomery County, Texas,
19 being all of the called 155.6 acre tract conveyed to Magnolia Forest
20 TX, LLC, by deed recorded Clerk's File No. 2021020708, Montgomery
21 County Official Public Records, also being a portion of the
22 remainder of a called 190.65 acre tract conveyed to Randal A.
23 Hendricks, Trustee, by deed recorded in Volume 768, Page 535,
24 Montgomery County Deed Records; said 155.6 acre (6,780,048 square
25 feet) tract of land being more particularly described as follows
26 with all bearings being based on the Texas Coordinate System,
27 Central Zone, NAD 83:

1 BEGINNING at a 1/2-inch pinched iron pipe found, being an
2 interior corner of the remainder of said called 190.65 acre tract,
3 being the north corner of a called 9.5937 acre tract conveyed to
4 Matthew Christopher Doetsch and Sara-Anne Doetsch by deed recorded
5 in Clerk's File No. 2020013669, Montgomery County Official Public
6 Records, being on the southwest right-of-way line of Jackson Road
7 (based on a width of 100 feet) recorded in Volume 340, Page 175,
8 Montgomery County Deed Records, and being the easterly northeast
9 corner of the herein described tract;

10 THENCE, South 59°58'02" West, 929.16 feet to a 1-inch pinched
11 iron pipe found, being the northwest corner of said called 9.5937
12 acre tract and being an interior corner of the remainder of said
13 called 190.65 acre tract;

14 THENCE, South 25°02'43" West, 330.15 feet to a 1-inch pinched
15 iron pipe found, being an interior corner of the remainder of said
16 called 190.65 acre tract, being the southwest corner of said called
17 9.5937 acre tract, and being on the northeast line of the remainder
18 of said called 190.65 acre tract;

19 THENCE, South 64°02'02" East, at 366.28 feet passing the most
20 southerly corner of said called 9.5937 acre tract and the northwest
21 corner of a called 15.0463 acre tract conveyed to Yibiao Lu and Yi
22 Zhou by deed recorded in Clerk's File No. 2013103816, Montgomery
23 County Official Public Records, from which a 5/8- inch iron rod
24 (with cap) found bears North 34°04' East, 0.4 feet, at 1,102.42 feet
25 passing a 1/2-inch pinched iron pipe found, continuing for a total
26 distance of 1,583.62 feet to a 5/8-inch iron rod with cap found,
27 being the southeast corner of said called 15.0463 acre tract and

1 being the southwest corner of a called 10.011 acre tract conveyed to
2 Gunther Von Gynz-Rekowski and Kathrin Von Gynz-Rekowski by deed
3 recorded in Clerk's File No. 99005077, Montgomery County Official
4 Public Records of Real Property;

5 THENCE, North 76°39'11" East, at 653.42 feet passing a point
6 on the south line of said called 10.011 acre tract, from which a
7 5/8-inch iron rod found bears South 13°21' East, 1.8 feet,
8 continuing for a total distance of 742.36 feet to the southeast
9 corner of said called 10.011 acre tract, being an interior corner of
10 the remainder of said called 190.65 acre tract and being on the
11 southwest right-of-way line of said Jackson Road, from which a
12 5/8-inch iron rod found bears South 16°43' East, 1.6 feet;

13 THENCE, South 43°03'37" East, 1,745.92 feet to a 5/8-inch iron
14 rod with cap found, being the southeast corner of the remainder of
15 said called 190.65 acre tract, being the northeast corner of a
16 called 15.5190 acre tract (Tract I) conveyed to Charles Saunders by
17 deed recorded in Clerk's File No. 2020142207, Montgomery County
18 Official Public Records, being the northeast corner of a called
19 0.5487 acre tract (Tract II) conveyed to Charles Saunders by deed
20 recorded in Clerk's File No. 2020142207, Montgomery County
21 Official Public Records, being on the southwest right-of-way line
22 of said Jackson Road, and being the southeast corner of the herein
23 described tract, from which a 1/2-inch iron rod (with cap) found
24 bears South 87°57' West, 5.2 feet;

25 THENCE, South 87°56'36" West, 4,133.89 feet to a 1/2-inch iron
26 rod (with cap) found, being the northwest corner of said called
27 15.5190 acre tract (Tract I), being an interior corner of the

1 remainder of a called 7,395.018 acre tract conveyed to Charles
2 Eugene Campbell, individually and as independent executor of the
3 estate of Margie Campbell, deceased and as trustee of the exempt
4 Charles Eugene Campbell Marital Trust and as trustee of the
5 non-exempt Charles Eugene Campbell Marital Trust, by deed recorded
6 in Clerk's File No. 2002-136821, Montgomery County Official Public
7 Records of Real Property, being the southwest corner of the
8 remainder of said called 190.65 acre tract, and being the southwest
9 corner of the herein described tract;

10 THENCE, North 02°18'24" West, 1,349.49 feet to a 5/8-inch iron
11 rod with cap found, being on the east line of the remainder of said
12 called 7,395.018 acre tract and being on the west line of the
13 remainder of said called 190.65 acre tract;

14 THENCE, North 03°13'24" West, at 1,040.41 feet passing the
15 southwest corner of the remainder of a called 45.000 acre tract
16 described in substitute trustee's deed to Randal A. Hendricks,
17 Trustee recorded in Clerk's File No. 8820944, Montgomery County
18 Official Public Records of Real Property, being on the east line of
19 the remainder of said called 7,395.018 acre tract and being the
20 northwest corner of the remainder of said called 190.65 acre tract,
21 from which a 1/2-inch iron rod found bears South 86°47' West, 2.8
22 feet, continuing for a total distance of 1,488.14 feet to a 5/8-inch
23 iron rod found, being on the east line of the remainder of said
24 called 7,395.018 acre tract, being the northwest corner of the
25 remainder of said called 190.65 acre tract, being the southwest
26 corner of a called 11.67 acre tract conveyed to Walter Jewell Bell,
27 Jr. by deed recorded in Volume 825, Page 383, Montgomery County Deed

1 Records, and being the northwest corner of the herein described
2 tract;

3 THENCE, North 86°15'07" East, 1,661.40 feet to the southeast
4 corner of said called 11.67 acre tract, being the northeast corner
5 of the remainder of said called 190.65 acre tract, being on the
6 southwest right-of-way line of said Jackson Road, and being the
7 northerly northeast corner of the herein described tract, from
8 which a 1/2-inch iron rod found bears North 86°15' East, 0.5 feet;

9 THENCE, South 43°03'37" East, 318.43 feet to the POINT OF
10 BEGINNING, CONTAINING 155.6 acres (6,780,048 square feet) of land
11 in Montgomery County, Texas filed in the offices of Elevation Land
12 Solutions in The Woodlands, Texas.

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

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

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

27 (d) All requirements of the constitution and laws of this

1 state and the rules and procedures of the legislature with respect
2 to the notice, introduction, and passage of this Act are fulfilled
3 and accomplished.

4 SECTION 4. (a) If this Act does not receive a two-thirds
5 vote of all the members elected to each house, Subchapter C, Chapter
6 8025A, Special District Local Laws Code, as added by Section 1 of
7 this Act, is amended by adding Section 8025A.0306 to read as
8 follows:

9 Sec. 8025A.0306. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

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

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