

By: Metcalf

H.B. No. 5651

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Water Control and Improvement District No. 7; 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 I, Title 6, Special District Local Laws Code, is amended by adding Chapter 9094 to read as follows:

CHAPTER 9094. MONTGOMERY COUNTY WATER CONTROL AND IMPROVEMENT

DISTRICT NO. 7

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9094.0101. 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 Water Control and Improvement District No. 7.

Sec. 9094.0102. NATURE OF DISTRICT. The district is a water control and improvement district created under Section 59, Article XVI, Texas Constitution.

Sec. 9094.0103. 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. 9094.0104. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 9094.0103 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. 9094.0105. 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 water control and improvement district as provided by general law and Section 59, Article XVI, Texas Constitution, including the collection, transportation, processing, disposal, and control of domestic, industrial, or communal waste and the gathering, conducting, diverting, and control of local stormwater or other harmful excesses of water; 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. 9094.0106. 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. 9094.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 9094.0202, directors serve staggered four-year terms.

Sec. 9094.0202. 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 9094.0103; 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 9094.0103 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 9094.0103; 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. 9094.0301. GENERAL POWERS AND DUTIES. The district
has the powers and duties necessary to accomplish the purposes for
which the district is created.

Sec. 9094.0302. WATER CONTROL AND IMPROVEMENT DISTRICT
POWERS AND DUTIES. The district has the powers and duties provided
by the general law of this state, including Chapters 49 and 51,
Water Code, applicable to water control and improvement districts
created under Section 59, Article XVI, Texas Constitution, and
specifically including the powers and duties authorized under
Subchapter H, Chapter 51, Water Code.

Sec. 9094.0303. AUTHORITY FOR ROAD PROJECTS. Under Section
52, Article III, Texas Constitution, the district may design,
acquire, construct, finance, issue bonds for, improve, operate,

1 maintain, and convey to this state, a county, or a municipality for
2 operation and maintenance macadamized, graveled, or paved roads, or
3 improvements, including storm drainage, in aid of those roads.

4 Sec. 9094.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A
5 road project must meet all applicable construction standards,
6 zoning and subdivision requirements, and regulations of each
7 municipality in whose corporate limits or extraterritorial
8 jurisdiction the road project is located.

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

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

17 Sec. 9094.0305. COMPLIANCE WITH MUNICIPAL CONSENT
18 ORDINANCE OR RESOLUTION. The district shall comply with all
19 applicable requirements of any ordinance or resolution that is
20 adopted under Section 42.042 or 42.0425, Local Government Code, and
21 consents to the creation of the district or to the inclusion of land
22 in the district.

23 Sec. 9094.0306. LIMITATION ON USE OF EMINENT DOMAIN. The
24 district may not exercise the power of eminent domain outside the
25 district boundaries to acquire a site or easement for:

26 (1) a recreational facility, as defined by Section
27 49.462, Water Code; or

1 (2) a road project authorized by Section 9094.0303.

2 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3 Sec. 9094.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)

4 The district may issue, without an election, bonds and other
5 obligations secured by:

6 (1) revenue other than ad valorem taxes; or

7 (2) contract payments described by Section 9094.0403.

8 (b) The district must hold an election in the manner
9 provided by Chapters 49 and 51, Water Code, to obtain voter approval
10 before the district may impose an ad valorem tax or issue bonds
11 payable from ad valorem taxes.

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

16 Sec. 9094.0402. OPERATION AND MAINTENANCE TAX. (a) If
17 authorized at an election held under Section 9094.0401, the
18 district may impose an operation and maintenance tax on taxable
19 property in the district in accordance with Section 49.107, Water
20 Code.

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

23 Sec. 9094.0403. CONTRACT TAXES. (a) In accordance with
24 Section 49.108, Water Code, the district may impose a tax other than
25 an operation and maintenance tax and use the revenue derived from
26 the tax to make payments under a contract after the provisions of
27 the contract have been approved by a majority of the district voters

1 voting at an election held for that purpose.

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

5 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

6 Sec. 9094.0501. AUTHORITY TO ISSUE BONDS AND OTHER
7 OBLIGATIONS. The district may issue bonds or other obligations
8 payable wholly or partly from ad valorem taxes, impact fees,
9 revenue, contract payments, grants, or other district money, or any
10 combination of those sources, to pay for any authorized district
11 purpose.

12 Sec. 9094.0502. TAXES FOR BONDS. At the time the district
13 issues bonds payable wholly or partly from ad valorem taxes, the
14 board shall provide for the annual imposition of a continuing
15 direct ad valorem tax, without limit as to rate or amount, while all
16 or part of the bonds are outstanding as required and in the manner
17 provided by Chapter 51, Water Code.

18 Sec. 9094.0503. BONDS FOR ROAD PROJECTS. At the time of
19 issuance, the total principal amount of bonds or other obligations
20 issued or incurred to finance road projects and payable from ad
21 valorem taxes may not exceed one-fourth of the assessed value of the
22 real property in the district.

23 Sec. 9094.0504. BONDS FOR RECREATIONAL FACILITIES. (a)
24 The district may develop recreational facilities and issue bonds
25 for recreational facilities as provided by Chapter 49, Water Code,
26 regardless of whether the district's territory overlaps with the
27 territory of a political subdivision that is authorized to develop

recreational facilities and issue bonds for recreational facilities under Chapter 49, Water Code.

(b) The authority of the district to develop recreational facilities and issue bonds for recreational facilities under this section does not limit the authority of another political subdivision whose territory the territory of the district may overlap, wholly or partly, to develop recreational facilities and issue bonds for recreational facilities under Chapter 49, Water Code.

SECTION 2. The Montgomery County Water Control and Improvement District No. 7 initially includes all the territory contained in the following area:

BEING 480.79 acres of land in the Samuel Lindley Survey, Abstract Number 23, the William Hulon Survey, Abstract Number 262, the John Tong Survey, Abstract Number 39, and the George Lonis Survey, Abstract Number 313 in Montgomery County, Texas, being a portion of the called 811.345 acre tract described under "Schedule 1", a portion of the called 71.884 acre tract described under "Schedule 2", all of the 4.15 acre tract described under "Schedule 4" and all of the called 4.15 acre tract described under "Schedule 5" in the deed from William McComb Dunwoody to Esperanza Ranch LLC, recorded under Document Number 2024075466 of the Official Public Records of Montgomery County, Texas, said 480.79-acre tract being more particularly described by metes and bounds as follows with bearings based on the Texas Coordinate System of 1983, Central Zone:

BEGINNING at an axle found for the north corner of a called

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1 2.872-acre tract described in the deed from Cynthia Ann Uhlenhop,
2 et al. to Willis Conservation Partners LLC recorded under Document
3 No. 2021144058 of the Official Public Records of Montgomery County,
4 Texas, in the southerly line of said called 71.884-acre tract;

5 THENCE North 63° 15' 50" East - 6,378.60 feet to a 5/8-inch
6 iron rod with cap stamped "IDS" set for the beginning of a curve to
7 the right, in the westerly right-of-way line of the International &
8 Great Northern Railroad right-of-way (150'-wide at this section) as
9 recorded under Volume 5, Page 108 of the Deed Records of Montgomery
10 County, Texas;

11 THENCE with the westerly right-of-way line of said railroad,
12 the following courses, and distances:

13 in a southerly direction, with said curve to the right,
14 having a radius of 2,074.19 feet, a central angle of 48° 47' 22", a
15 chord bearing and distance of South 07° 51' 36" East - 1,713.37 feet,
16 and an arc distance of 1,766.25 feet, to a 5/8-inch iron rod with
17 cap stamped "IDS" set for the end of curve;

18 South 16° 32' 05" West - 1,140.45 feet to a 5/8-inch iron rod
19 with cap stamped "IDS" set in a branch for an angle corner of the
20 herein described tract, in the northerly line of a called
21 24.4558-acre tract described in the deed from Charlie Richard Sump
22 to Grey Turner recorded under Document Number 2008080381 of the
23 Official Public Records of Montgomery County, Texas;

24 THENCE, with the meanders of said branch, the following
25 courses, and distances:

26 South 78° 56' 01" West - 16.37 feet to an angle corner of the
27 herein described tract;

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1 North 79° 21' 47" West - 13.09 feet to an angle corner of the
2 herein described tract;
3 North 50° 54' 23" West - 13.06 feet to an angle corner of the
4 herein described tract;
5 North 76° 07' 54" West - 16.22 feet to an angle corner of the
6 herein described tract;
7 North 66° 31' 55" West - 44.39 feet to an angle corner of the
8 herein described tract;
9 South 56° 30' 04" West - 15.70 feet to an angle corner of the
10 herein described tract;
11 South 25° 28' 20" West - 18.10 feet to an angle corner of the
12 herein described tract;
13 South 57° 37' 15" West - 15.60 feet to an angle corner of the
14 herein described tract;
15 North 47° 48' 54" West - 14.83 feet to an angle corner of the
16 herein described tract;
17 North 01° 52' 39" West - 10.35 feet to an angle corner of the
18 herein described tract;
19 North 14° 34' 17" West - 14.83 feet to an angle corner of the
20 herein described tract;
21 North 38° 04' 42" West - 30.67 feet to an angle corner of the
22 herein described tract;
23 North 77° 25' 52" West - 52.76 feet to an angle corner of the
24 herein described tract;
25 North 45° 12' 15" West - 4.96 feet to an angle corner of the
26 herein described tract;
27 South 79° 16' 54" West - 25.85 feet to an angle corner of the

1 herein described tract;
2 South 89° 04' 32" West - 14.57 feet to an angle corner of the
3 herein described tract;
4 North 75° 57' 36" West - 22.40 feet to an angle corner of the
5 herein described tract;
6 North 87° 58' 13" West - 8.64 feet to an angle corner of the
7 herein described tract;
8 North 75° 30' 21" West - 51.28 feet to an angle corner of the
9 herein described tract;
10 South 81° 28' 13" West - 21.81 feet to an angle corner of the
11 herein described tract;
12 North 77° 18' 46" West - 17.85 feet to an angle corner of the
13 herein described tract;
14 North 40° 59' 22" West - 22.21 feet to an angle corner of the
15 herein described tract;
16 South 76° 12' 26" West - 6.62 feet to an angle corner of the
17 herein described tract;
18 South 21° 51' 39" West - 19.71 feet to an angle corner of the
19 herein described tract;
20 South 51° 10' 57" West - 10.38 feet to an angle corner of the
21 herein described tract;
22 North 85° 39' 49" West - 10.10 feet to an angle corner of the
23 herein described tract;
24 North 54° 08' 34" West - 23.60 feet to an angle corner of the
25 herein described tract;
26 North 79° 52' 02" West - 16.42 feet to an angle corner of the
27 herein described tract;

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1 North 59° 14' 01" West - 43.81 feet to an angle corner of the
2 herein described tract;

3 North 63° 43' 51" West - 55.52 feet to an angle corner of the
4 herein described tract;

5 North 47° 36' 10" West - 63.00 feet to an angle corner of the
6 herein described tract;

7 North 71° 47' 51" West - 67.00 feet to a 5/8-inch iron rod
8 found for the northwest corner of said called 24.4558-acre tract
9 and an angle corner of the herein described tract;

10 THENCE South 17° 01' 54" West - 1421.65 feet, with the
11 westerly line of said 24.4558-acre tract, to a bent 5/8-inch iron
12 rod found for the most westerly southwest corner of said
13 called-24.4558-acre tract and an angle corner of the herein
14 described tract;

15 THENCE South 29° 23' 58" East - 98.52 feet, continuing with
16 the southwesterly line of said 24.4558-acre tract, to an angle iron
17 found for the most southerly southwest corner of said called
18 24.4558 acre-tract, and an angle corner for the herein described
19 tract, from which a found 5/8-inch iron rod bears South 59° 17' 45"
20 East - 5.94 feet;

21 THENCE South 59° 39' 58" East - 621.72 feet, with the
22 southernly line of said called 24.4558-acre tract, to a 5/8-inch
23 iron rod with cap stamped "IDS" set for an angle corner of the
24 herein described tract, in the westerly right-of-way line of the
25 International & Great Northern Railroad right-of-way (200'-wide at
26 this section) as recorded under Volume X, Page 517 of the Deed
27 Records of Montgomery County, Texas;

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1 THENCE South $16^{\circ} 32' 05''$ West - 1,553.26 feet, with the
2 westerly right-of-way line of said railroad, to a 5/8-inch iron rod
3 with cap stamped "IDS" set for the beginning of a curve to the left;

4 THENCE, in a southerly direction, with said curve to the
5 left, having a radius of 5829.58 feet, a central angle of $07^{\circ} 52'$
6 $09''$, a chord bearing and distance of South $13^{\circ} 54' 59''$ West - 800.02
7 feet, and an arc distance of 800.65 feet, to a 5/8-inch iron rod
8 with cap stamped "IDS" set for the most easterly southeast corner of
9 the herein described tract, in the north line of a called 0.945 acre
10 tract described in the deed from Dorthy Meaux to James Mitchell
11 recorded under Document Number 2020072625 of the Official Public
12 Records of Montgomery County, Texas, from which a found 1/2-inch
13 iron rod bears North $60^{\circ} 11' 06''$ East - 65.61 feet;

14 THENCE South $60^{\circ} 12' 26''$ West - 348.09 feet, with the
15 northwesterly line of said called 0.945-acre tract, to a 5/8-inch
16 iron rod with cap stamped IDS set for an angle corner of the herein
17 described tract;

18 THENCE South $26^{\circ} 16' 27''$ East - 34.52 feet to a "MAG" nail with
19 shiner engraved "IDS" set for the most southerly southeast corner
20 of the herein described tract, in the centerline of Coaltown Road, a
21 public, black top road with an apparent right-of-way of 60 feet, no
22 recordings found;

23 THENCE, with the approximate centerline of said Coaltown
24 Road, the following courses and distances:

25 North $80^{\circ} 49' 29''$ West - 108.43 feet to an angle corner of the
26 herein described tract;

27 North $73^{\circ} 16' 14''$ West - 138.89 feet to an angle corner of the

1 herein described tract;
2 North 64° 25' 14" West - 100.89 feet to an angle corner of the
3 herein described tract;
4 North 53° 04' 58" West - 29.93 feet to an angle corner of the
5 herein described tract;
6 North 54° 58' 17" West - 23.99 feet to an angle corner of the
7 herein described tract;
8 North 52° 11' 03" West - 48.04 feet to an angle corner of the
9 herein described tract;
10 North 50° 38' 46" West - 325.17 feet to an angle corner of the
11 herein described tract;
12 North 49° 25' 44" West - 76.77 feet to an angle corner of the
13 herein described tract;
14 North 47° 56' 19" West - 40.79 feet to an angle corner of the
15 herein described tract;
16 North 47° 34' 53" West - 526.27 feet to an angle corner of the
17 herein described tract;
18 North 47° 17' 06" West - 525.44 feet to an angle corner of the
19 herein described tract;
20 North 58° 40' 14" West - 444.46 feet to an angle corner of the
21 herein described tract;
22 North 81° 45' 14" West - 138.89 feet to an angle corner of the
23 herein described tract;
24 South 71° 29' 36" West - 247.21 feet to an angle corner of the
25 herein described tract;
26 North 77° 00' 14" West - 256.26 feet to an angle corner of the
27 herein described tract;

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1 North 35° 04' 24" West - 727.84 feet to an angle corner of the
2 herein described tract;

3 North 27° 44' 24" West - 538.94 feet to an angle corner of the
4 herein described tract;

5 THENCE North 44° 29' 33" West - 549.77 feet to a "MAG" nail
6 with shiner engraved "IDS" set for an angle corner of the herein
7 described tract;

8 THENCE North 12° 09' 57" East, at 25.89 feet pass a 1/2-inch
9 iron rod with cap stamped "TPS 10083400" found for the southeast
10 corner of a called 0.945-acre tract described in the deed from BJD
11 LLC - Series B to Sonia Catillo P. recorded under Document Number
12 2016062853 of the Official Public Records of Montgomery County,
13 Texas, a total distance of 268.54 feet to bent axle found for the
14 northeast corner of said called 0.945 acre tract and an angle corner
15 of the herein described tract;

16 THENCE North 77° 49' 22" West - 442.92 feet to a 5/8-inch iron
17 rod with cap stamped "IDS" set for the west corner of a called
18 0.322-acre tract described in the deed from Lee Anna Grigsby to A.
19 T. Dalnoki and Wife Jo Ann Dalnoki recorded under Document Number
20 8947528 of the Official Public Records of Montgomery County, Texas,
21 in the apparent northerly right-of-way line of said Coaltown Road;

22 THENCE North 52° 25' 33" West - 63.51 feet, with said
23 northerly right-of-way line, to a 5/8-inch iron rod with cap
24 stamped "IDS" set for an angle corner of the herein described tract;

25 THENCE North 77° 35' 20" West - 331.13 feet, continuing with
26 the northerly right-of-way line of said Coaltown Road, to a
27 5/8-inch iron rod found for the southeast corner of a called

1 9.21-acre tract described as "Tract 2" in the deed to Samuel D. Page
2 recorded under Document Number 20212031648 of the Official Public
3 Records of Montgomery County, Texas;

4 THENCE North 12° 11' 45" East, at 471.32 feet pass a 5/8-inch
5 iron rod found for the northeast corner of said called 9.21-acre
6 tract and the southeast corner of the said called 2.872-acre tract,
7 a total distance of 644.37 feet to the POINT OF BEGINNING of the
8 herein described tract and containing 480.79 acres of land.

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

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

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

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

27 SECTION 4. (a) Section 9094.0306, Special District Local

1 Laws Code, as added by Section 1 of this Act, takes effect only if
2 this Act receives a two-thirds vote of all the members elected to
3 each house.

4 (b) If this Act does not receive a two-thirds vote of all the
5 members elected to each house, Subchapter C, Chapter 9094, Special
6 District Local Laws Code, as added by Section 1 of this Act, is
7 amended by adding Section 9094.0306 to read as follows:

8 Sec. 9094.0306. NO EMINENT DOMAIN POWER. The district may
9 not exercise the power of eminent domain.

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

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2025.