

By: Metcalf

H.B. No. 4146

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Montgomery County Municipal Utility District No. 149; 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 7917 to read as follows:

CHAPTER 7917. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 149

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7917.001. 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. 149.

Sec. 7917.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7917.003. CONFIRMATION AND DIRECTORS' 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.

1       Sec. 7917.004. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section 7917.003  
3 until each municipality in whose corporate limits or  
4 extraterritorial jurisdiction the district is located has  
5 consented by ordinance or resolution to the creation of the  
6 district and to the inclusion of land in the district.

7       Sec. 7917.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)  
8 The district is created to serve a public purpose and benefit.

9       (b) The district is created to accomplish the purposes of:  
10       (1) a municipal utility district as provided by  
11 general law and Section 59, Article XVI, Texas Constitution; and  
12       (2) Section 52, Article III, Texas Constitution, that  
13 relate to the construction, acquisition, improvement, operation,  
14 or maintenance of macadamized, graveled, or paved roads, or  
15 improvements, including storm drainage, in aid of those roads.

16       Sec. 7917.006. INITIAL DISTRICT TERRITORY. (a) The  
17 district is initially composed of the territory described by  
18 Section 2 of the Act enacting this chapter.

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

23       (1) organization, existence, or validity;  
24       (2) right to issue any type of bond for the purposes  
25 for which the district is created or to pay the principal of and  
26 interest on a bond;  
27       (3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 7917.051. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 7917.052, directors serve  
6 staggered four-year terms.

7           Sec. 7917.052. TEMPORARY DIRECTORS. (a) On or after the  
8 effective date of the Act enacting this chapter, the owner or owners  
9 of a majority of the assessed value of the real property in the  
10 district may submit a petition to the commission requesting that  
11 the commission appoint as temporary directors the five persons  
12 named in the petition. The commission shall appoint as temporary  
13 directors the five persons named in the petition.

14           (b) Temporary directors serve until the earlier of:

15                   (1) the date permanent directors are elected under  
16 Section 7917.003; or

17                   (2) the fourth anniversary of the effective date of  
18 the Act enacting this chapter.

19           (c) If permanent directors have not been elected under  
20 Section 7917.003 and the terms of the temporary directors have  
21 expired, successor temporary directors shall be appointed or  
22 reappointed as provided by Subsection (d) to serve terms that  
23 expire on the earlier of:

24                   (1) the date permanent directors are elected under  
25 Section 7917.003; or

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

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

8                    SUBCHAPTER C. POWERS AND DUTIES

9        Sec. 7917.101. GENERAL POWERS AND DUTIES. The district has  
10 the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12        Sec. 7917.102. MUNICIPAL UTILITY DISTRICT POWERS AND  
13 DUTIES. The district has the powers and duties provided by the  
14 general law of this state, including Chapters 49 and 54, Water Code,  
15 applicable to municipal utility districts created under Section 59,  
16 Article XVI, Texas Constitution.

17        Sec. 7917.103. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23        Sec. 7917.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road  
24 project must meet all applicable construction standards, zoning and  
25 subdivision requirements, and regulations of each municipality in  
26 whose corporate limits or extraterritorial jurisdiction the road  
27 project is located.

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

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

9        Sec. 7917.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE  
10 OR RESOLUTION. The district shall comply with all applicable  
11 requirements of any ordinance or resolution that is adopted under  
12 Section 54.016 or 54.0165, Water Code, and that consents to the  
13 creation of the district or to the inclusion of land in the  
14 district.

15                SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16        Sec. 7917.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The  
17 district may issue, without an election, bonds and other  
18 obligations secured by:

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

20                (2) contract payments described by Section 7917.153.

21        (b) The district must hold an election in the manner  
22 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
23 before the district may impose an ad valorem tax or issue bonds  
24 payable from ad valorem taxes.

25        (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

election held for that purpose.

Sec. 7917.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 7917.151, 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. 7917.153. 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. 7917.201. 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. 7917.202. 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

1 or part of the bonds are outstanding as required and in the manner  
2 provided by Sections 54.601 and 54.602, Water Code.

3 Sec. 7917.203. BONDS FOR ROAD PROJECTS. At the time of  
4 issuance, the total principal amount of bonds or other obligations  
5 issued or incurred to finance road projects and payable from ad  
6 valorem taxes may not exceed one-fourth of the assessed value of the  
7 real property in the district.

8 SECTION 2. The Montgomery County Municipal Utility District  
9 No. 149 initially includes all the territory contained in the  
10 following area:

11 TRACT 1

12 BEING 50.571 acres of land situated in the James Smith  
13 Survey, Abstract Number 37 in Montgomery County, Texas and being  
14 out of and a part of that certain 53.29 acres as described in Deed to  
15 Jerry Thurmon and recorded under Clerk's File Number 9651718 of the  
16 Official Public Records of Real Property of Montgomery County,  
17 Texas; said 50.571 acres being more particularly described by metes  
18 and bounds as follows with all bearings referenced to the West line  
19 of that certain 44.964 acre tract as described in Deed recorded  
20 under Clerk's File Number 9802099 of the Official Public Records of  
21 Real Property in Montgomery County, Texas;

22 BEGINNING at a 1/2 inch iron rod, found for the Southeast  
23 corner of the herein described tract and the Southeast corner of the  
24 53.29 acre tract and being the Southwest corner of the 44.964 acre  
25 tract in the North line of the Griggs Corporation 145,502 acres as  
26 described in Volume 718, Page 812 of the Deed Records of Montgomery  
27 County, Texas, and further located in the South line of the James

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1 Smith Survey, Abstract Number 37 and the North line of the John  
2 Stafford Survey, Abstract Number 527 of Montgomery County, Texas;

3       THENCE: South 86 deg. 51 min. 59 sec. West, a distance of  
4 262.53 feet along the common line of the John Stafford Survey and  
5 the James Smith Survey, along the North line of the 145,502 acre  
6 tract, to a 5/8 inch iron rod, found for the most Southerly  
7 Southwest corner of the herein described tract and the Southeast  
8 corner of that certain 10.00 acre tract as described in Deed  
9 recorded under Clerk's File Number 9007684 of the Official Public  
10 Records of Real Property of Montgomery County, Texas;

11       THENCE: North 00 deg. 11 min. 22 sec. West, a distance of  
12 466.42 feet along the East line of the 10.00 acre tract to a 5/8 inch  
13 iron rod, set for an interior corner of the herein described tract  
14 and the Northeast corner of the 10.00 acre tract;

15       THENCE: South 87 deg. 37 min. 42 sec. West, a distance of  
16 933.50 feet along the North line of the 10.00 acre tract to a 5/8  
17 inch iron rod, found for the most Westerly Southwest corner of the  
18 herein described tract and the Northwest corner of the 10.00 acre  
19 tract in the West line of the James Smith Survey and the East line of  
20 the John T. Vince Survey, Abstract Number 41 and being located in  
21 the East line of Lot 22 of Crestwood Farms, a subdivision recorded  
22 in Volume 5, Page 353, of the Map Records of Montgomery County,  
23 Texas;

24       THENCE: North 00 deg. 06 min. 32 sec. West, along the common  
25 line of the James Smith Survey and the John T. Vince Survey, passing  
26 at 151.11 feet, a railroad tie fence corner post for the Northeast  
27 corner of Lot 22 and the Southeast corner of Lot 21, Crestwood Farms



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Subdivision; in all, a distance of 705.54 feet to a concrete monument and railroad tie fence corner, found for the Northeast corner of Lot 21 and the Southeast corner of Lot 20 of Crestwood Farms Subdivision, for an angle point in the West line of the herein described tract;

THENCE: North 00 deg. 14 min. 29 sec. West, a distance of 556.92 feet along the East line of Lot 20 and the common line of the James Smith Survey and the John T. Vince Survey, to a concrete monument found at an old fence post for the Northeast corner of Lot 20 of Crestwood Farms Subdivision and the Southeast corner of Lot 8 in Block 10C of a revision to Lake Conroe Forest Subdivision, the map or plat thereof recorded in Volume 5, Page 493 of the Map Records of Montgomery County, Texas, for an angle point in the West line of the herein described tract;

THENCE: North 00 deg. 37 min. 02 sec. West, continuing along the common line of the James Smith Survey; and the John T. Vince Survey a distance of 199.25 feet to a 5/8 inch iron rod, found for the Northeast corner of Lot 8 and the Southeast corner of Lot 7 in Block 10C of the revision to Lake Conroe Forest, for an angle point in the West line of the herein described tract;

THENCE: North 01 deg. 47 min. 42 sec. West, continuing along the common line of the James Smith Survey and the John T. Vince Survey to a point for reference for the Northeast corner of said Lot 7 in Block 10C and the most Southerly corner of Lot 7 in Block 7 of Lake Conroe Forest based on the map recorded in Volume 6, Page 17 of the Map Records of Montgomery County, Texas, for an angle point in the West line of the herein described tract;

1           THENCE: North 00 deg. 32 min. 03 sec. West, continuing along  
2 the common line of the James Smith Survey and the John T. Vince  
3 Survey a distance of 150.51 feet to a 5/8 inch iron rod, set for the  
4 Northwest corner of the herein described tract and the Southwest  
5 corner of that certain 46.053 acres as described in Deed recorded  
6 under Clerk's File Number 9532205 of the Official Public Records of  
7 Real Property of Montgomery County, Texas;

8           THENCE: North 89 deg. 27 min. 57 sec. East, a distance of  
9 1224.42 feet along the South line of the 46.053 acre tract to a 5/8  
10 inch iron rod, set for the Northeast corner of the herein described  
11 tract;

12           THENCE: South 00 deg. 26 min. 41 sec. West, severing the  
13 aforesaid 53.29 acre tract and passing at 420.53 feet, a 1/2 inch  
14 iron rod, found for an interior corner of the 53.29 acre tract and  
15 the Northwest corner of the aforementioned 44.964 acre tract;  
16 continuing along the common line of the 53.29 acre tract and the  
17 44.964 acre tract, in all, a distance of 2163.48 feet, back to the  
18 POINT OF BEGINNING and containing 50.571 acres of land, more or  
19 less.

20           TRACT 2

21           BEING 10.00 acres of Land in the James Smith Survey, A-37,  
22 Montgomery County, Texas, being all of two five acre tracts  
23 described as Tract 1 and Tract 2, conveyed Carol Couvillion as  
24 recorded in Volume 970, Page 29, Deed Records; More fully described  
25 in one tract as follows:

26           BEGINNING at a concrete monument for the Southwest corner of  
27 Tract 2, and Southeast corner of Crestwood Farms tracts;

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1           THENCE: N 89° 08° E, 933.4 feet to a 1/2" iron rod for the  
2 Southeast corner of Tract 1;

3           THENCE: N 01° 30° E, 467.05 feet to a 1/2" iron rod for  
4 corner;

5           THENCE: S 89° 08° W, 933.4 feet to an iron rod for corner;

6           THENCE: S 01° 30° W, 467.05 feet to the PLACE OF BEGINNING and  
7 containing 10.00 acres of land, based on the survey and plat  
8 prepared by Glezman Surveying, dated February 16, 1998.

9           TRACT 3

10          BEING 1.370 acres of land situated in the James Smith Survey,  
11 A-37, Montgomery County, Texas, and being a 60 foot wide  
12 ingress/egress easement described in deed as 1.37 acres recorded  
13 under County Clerk's File No. 99025903 of the Real Property Records  
14 of Montgomery County, Texas, and being situated in a certain 46.053  
15 acres of land as described in deed recorded under County Clerk's  
16 File No. 9532205 of the Real Property Records of Montgomery County,  
17 Texas, said 1.370 acre easement being more particularly described  
18 by metes and bounds as follows:

19          BEGINNING at a 5/8 inch iron rod found in the east boundary  
20 line of Lot 7, Block 7, Lake Conroe Forest, according to the map or  
21 plat thereof recorded in Volume 6, Page 17 of the Map Records of  
22 Montgomery County, Texas, for the southwest corner of the said  
23 46.053 acres of land common to the northwest corner of a certain  
24 50.571 acres of land as described in deed recorded under County  
25 Clerk's File No. 2010-026723 of the Real Property Records of  
26 Montgomery County, Texas, same being the southwest corner and POINT  
27 OF BEGINNING of the herein described easement;

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1           THENCE North 00 degrees 33 minutes 48 seconds West, along the  
2 east boundary line of said Lot 7 common to the west boundary line of  
3 the said 46.053 acres of land, same being the west line of the  
4 herein described easement, a distance of 934.68 feet to a 1/2 inch  
5 iron rod found for the southeast corner of Tejas Boulevard, a 60  
6 foot right-of-way, according to the map or plat thereof recorded in  
7 Volume 6, Page 17 of the Map Records of Montgomery County, Texas,  
8 and Cabinet D, Sheet 112-B of the Map Records of Montgomery County,  
9 Texas, same being an angle point of the herein described easement;

10           THENCE North 00 degrees 33 minutes 43 seconds West, along the  
11 east line of said Tejas Boulevard and continuing along the common  
12 west boundary line of the said 46.053 acres of land and the herein  
13 described easement, a distance of 60.00 feet to a point for the  
14 northwest corner of the herein described easement;

15           THENCE North 89 degrees 02 minutes 39 seconds East, along the  
16 north line of the herein described easement, a distance of 60.00  
17 feet to a point for the northeast corner of the herein described  
18 easement;

19           THENCE South 00 degrees 33 minutes 48 seconds East, along the  
20 east line of the herein described easement, a distance of 995.12  
21 feet to a point in the south boundary line of the said 46.053 acres  
22 of land common to the north boundary line of the said 50.571 acres  
23 of land for the southeast corner of the herein described easement;

24           THENCE South 89 degrees 27 minutes 57 seconds West, along  
25 said common boundary line and the south line of the herein described  
26 easement, a distance of 60.00 feet to the POINT OF BEGINNING and  
27 containing a 1.370 acre ingress/egress easement.

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

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

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

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

19           SECTION 4. (a) If this Act does not receive a two-thirds  
20 vote of all the members elected to each house, Subchapter C, Chapter  
21 7917, Special District Local Laws Code, as added by Section 1 of  
22 this Act, is amended by adding Section 7917.106 to read as follows:

23           Sec. 7917.106. NO EMINENT DOMAIN POWER. The district may  
24 not exercise the power of eminent domain.

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

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1           SECTION 5. This Act takes effect immediately if it receives  
2 a vote of two-thirds of all the members elected to each house, as  
3 provided by Section 39, Article III, Texas Constitution. If this  
4 Act does not receive the vote necessary for immediate effect, this  
5 Act takes effect September 1, 2015.