

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 6. WATER AND WASTEWATER

SUBTITLE F. MUNICIPAL UTILITY DISTRICTS

CHAPTER 8355. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 128

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8355.001. DEFINITIONS. In this chapter:

(1) "Board" means the district's board of directors.

(2) "Director" means a board member.

(3) "District" means the Montgomery County Municipal Utility District No. 128.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.003. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8355.003 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.005. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.006. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2(a) of the Act creating this chapter.

(b) The boundaries and field notes contained in Section 2(a) of the Act creating 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8355.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.

(b) Except as provided by Section 8355.052, directors serve staggered four-year terms.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.052. TEMPORARY DIRECTORS. (a) The temporary board consists of:

- (1) H. Daniel Wright;
- (2) Justin Hood;
- (3) Sherry Barker;
- (4) Noe Carrasco; and
- (5) Rusty Wilson.

(b) If a temporary director fails to qualify for office, the temporary directors who have qualified shall appoint a person to fill the vacancy.

(c) Temporary directors serve until the earlier of:

- (1) the date permanent directors are elected under Section 8355.003; or
- (2) September 1, 2013.

(d) If permanent directors have not been elected under Section 8355.003 and the terms of the temporary directors have expired, successor temporary directors shall be appointed or reappointed as provided by Subsection (e) to serve terms that expire on the earlier of:

- (1) the date permanent directors are elected under Section 8355.003; or
- (2) the fourth anniversary of the date of the appointment or reappointment.

(e) If Subsection (d) 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 Texas Commission on Environmental Quality 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 8355.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for

which the district is created.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.102. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.103. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.105. DIVISION OF DISTRICT. (a) The district may be divided into two or more new districts only if the district:

- (1) has no outstanding bonded debt; and
- (2) is not imposing ad valorem taxes.

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

(c) Any new district created by the division of the district may not, at the time the new district is created:

(1) contain any land outside the area described by Section 2(a) of the Act creating this chapter; or

(2) contain less than 200 or more than 600 acres of land without the prior consent of any municipality in whose extraterritorial jurisdiction the district is located.

(d) 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.

(e) The board may adopt an order dividing the district before or after the date the board holds an election under Section [8355.003](#) to confirm the district's creation.

(f) An order dividing the district shall:

(1) name each new district;

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

(3) appoint temporary directors for each new district;

and

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

(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 Texas Commission on Environmental Quality and record the order in the real property records of each county in which the district is located.

(h) Any new district created by the division of the district shall hold a confirmation and directors' election as required by Section [8355.003](#). A new district that is not confirmed is subject

to dissolution under general law.

(i) Except as provided by Subsection (c), municipal consent to the creation of the district and to the inclusion of land in the district granted under Section 8355.004 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.

(j) Any 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.106. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.107. EFFECT OF ANNEXATION. (a) A municipality within whose extraterritorial jurisdiction the land in the district lies may annex all of the district into its corporate limits under the terms of an agreement entered into before the effective date of the Act creating this chapter between the municipality and the owners of the land being annexed, and, in that instance, the district may not be dissolved, except as provided by Subsection (b).

(b) The district may be dissolved and its debts and obligations assumed by the municipality in accordance with Chapter 43, Local Government Code, including Sections 43.075 and 43.0715, on:

(1) annexation of all of the territory of the district by the municipality; and

(2) completion of the construction of the water,

sanitary sewer, and drainage improvements and roads required to serve at least 95 percent of the land in the district.

(c) Notwithstanding Section 54.016(f)(2), Water Code, a contract between the municipality and the district that provides for the allocation of the taxes or revenues between the district and the municipality following the date of inclusion of all the district's territory in the corporate limits of the municipality may provide that the total annual ad valorem taxes collected by the municipality and the district from taxable property in the district may exceed the municipality's ad valorem tax on the property.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.108. LIMITATION ON USE OF EMINENT DOMAIN. The district may not exercise the power of eminent domain outside the district to acquire a site or easement for:

(1) a road project authorized by Section 8355.103; or

(2) a recreational facility as defined by Section 49.462, Water Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8355.151. 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 8355.153.

(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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8355.151, 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.153. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

Sec. 8355.201. 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, including revenue received by the district under Chapter 311, Tax Code, and Chapter 380, Local Government Code, assessments, grants, or other district money, or any combination of those sources, to pay for any authorized district purpose.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. 2504), Sec. 1, eff. September 1, 2009.

Sec. 8355.202. 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 or part of the bonds are outstanding as required and in the manner provided by Sections [54.601](#) and [54.602](#), Water Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. [2504](#)), Sec. 1, eff. September 1, 2009.

Sec. 8355.203. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 867 (S.B. [2504](#)), Sec. 1, eff. September 1, 2009.