this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed the Senate on March 27, 2013: Yeas 30, Nays 0; passed the House on May 20, 2013: Yeas 147, Nays 0, two present not voting.

Approved June 14, 2013.
Effective June 14, 2013.

CHAPTER 754

S.B. No. 623

AN ACT
relating to the creation of the Montgomery County Municipal Utility District No. 138; 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 8422 to read as follows:

CHAPTER 8422. MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT NO. 138

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8422.001. 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. 138.

Sec. 8422.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8422.003. 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.

Sec. 8422.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8422.003 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.

Sec. 8422.005. 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.

Sec. 8422.006. 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:
SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8422.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five elected directors.
(b) Except as provided by Section 8422.052, directors serve staggered four-year terms.

Sec. 8422.052. 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 8422.003; 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 8422.003 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 8422.003; 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. 8422.101. GENERAL POWERS AND DUTIES. The district has the powers and duties necessary to accomplish the purposes for which the district is created.

Sec. 8422.102. 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.

Sec. 8422.103. 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.

Sec. 8422.104. 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, zoning and 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. 8422.105. 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.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

Sec. 8422.151. 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 8422.153.

(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.

Sec. 8422.152. OPERATION AND MAINTENANCE TAX. (a) If authorized at an election held under Section 8422.151, 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. 8422.153. 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. 8422.201. 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. 8422.202. 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.

Sec. 8422.203. 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.

SECTION 2. The Montgomery County Municipal Utility District No. 138 initially includes all the territory contained in the following area:

TRACT 1

Being all that certain tract or parcel of land containing 60.2044 acres of land situated in the Henry Applewhite Survey, A–50, Conroe, Montgomery County, Texas, out of and a part of a Called 120 acre tract described in Volume 188, Page 416, MCDR, said 60.2044 acres being more particularly described by metes and bounds as follows, to wit:

BEGINNING at an Axle found for the Southeast corner of a certain 35.213 acres of land cited Tract III conveyed by partition deed to James W. Peoples, et ux described and recorded 1917
under Clerk's File No. 9307782 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRPMCT), same 35.213 acres out of and a part of a Called 120 acre tract conveyed in deed to Surcy Peoples, et al described and recorded in Volume 188, Page 416 of Montgomery County Deed Records (MCDR) said 120 acre South line located on the recognized Abstract division line between the Henry Applewhite Survey, A-50 and the Daniel F. Whillden Survey, found recognized by local surveyors as the Southeast corner of the Applewhite Survey and the Northeast corner of said Whillden Survey and the Northeast corner of a certain 15.950 acre parcel conveyed to Marcus Koenig et al described and recorded under C.F. No. 2001-069688, OPRPMCT, the Northwest corner of The Woodlands Windsor Lakes Section 5, subdivision map or plat thereof recorded in Cabinet 'U', Sheet 19 of Montgomery County Map Records (MCMR), the Southwest corner of the Residue of a 56.9509 acre parcel described in deed to John D. Hagerman et al recorded under C.F. No. 2002-061022 and from whence a 1/2" iron rod found under asphalt pavement along Peoples Road, for the Southwest corner of said Called 120 acres and the South line of a certain 31.108 acre tract cited as Tract II (C.F. No. 9307782) bears N 89°55'36" W a distance of 4383.61 feet (Deed Call West 1511 Varas 188 / 416 MCDR) aforementioned tracts or parcels of land situated in the Henry Applewhite Survey, A-50, Conroe, Montgomery County, Texas;

THENCE N 89°55'36" W (Deed Call N.89°55'34"W. C.F. No. 9307782 & Deed Call West 188 / 416 MCDR) departing said 35.213 acre Southeast corner and along the South line of same, the South line of aforementioned Called 120 acres and the North line of said Koenig 15.950 acre tract for a distance of 2175.79 feet to a 1/2" iron rod found for the Southwest corner of said James W. Peoples, et ux 35.213 acres, the Southeast corner of said James W. Peoples, et ux 31.108 acre tract, same located on the Northeast corner of Koenig Road (60 Ft. Road Easement 599 / 427 MCDR) for a Point on the South line of the herein described tract;

THENCE N 89°55'39" W (Deed Call N.89°55'34"W. C.F. No. 9307782 & Deed Call West 188 / 416 MCDR) continuing along said Koenig Road North line and said 31.108 acre South line for a distance of 1771.34 feet to a 1/2" iron rod with cap scribed 'SR ESTES RPLS 5631' found for the Southwest corner of the herein described tract, same situated on the North line of a certain 3.923 acre tract conveyed in deed to Cecil A Koenig, recorded under C.F. No. 9720350, OPRPMCT;

THENCE N 00°07'33" E departing said Koenig Road and the South line of the 31.108 acre tract, severing same parcel for a distance of 614.95 feet to a 1/2" iron rod with cap scribed 'SR ESTES RPLS 5631' found for the Northwest corner of the herein described tract on the South line of a certain 32.524 acre tract cited Tract IV conveyed by Partition Deed to Surcy L. Peoples, Jr., et ux described and recorded under C.F. No. 9307782, OPRPMCT;

THENCE S 89°55'29" E (Deed Call S.89°55'34"E. C.F. No. 9307782 OPRPMCT) along the South line of aforementioned Peoples 32.524 acre Tract IV for a distance of 1770.18 feet to a 1/2" iron rod found for the Northwest corner of a certain 33.006 acre parcel cited as Tract V and described in same Partition Deed to Surcy L. Peoples, Jr., et ux as recorded under C.F. No. 9307782, OPRPMCT and the Northwest corner of said 35.213 acre tract, for an inside corner on the North line of the herein described tract;

THENCE S 89°55'29" E (Deed Call S.89°55'34"W. C.F. No. 9307782) along the South line of aforementioned Peoples 33.006 acre Tract V for a distance of 891.58 feet to a 1/2" iron rod found for an inside ell corner of said 35.213 acre tract, for an inside ell corner of the herein described tract;

THENCE N 00°00'07" E (Deed Call North, 152.73' C.F. No. 9307782) along a common inside line of aforementioned 35.213 acre and 33.006 acre parcels for a distance of 152.75 feet to a 1/2" iron rod found for the upper Northwest corner of the herein described tract;

THENCE S 89°55'34" E (Deed Call S.89°55'34"E., 1282.26' C.F. No. 9307782) along a South line of aforementioned Tract V and the North line of said 35.213 acre tract for a distance of 1283.39 feet to a 1/2" iron rod found for the Northeast corner of the herein described tract, same sited on the West boundary line of aforementioned John D. Hagerman et al 56.9509 acre tract recorded under C.F. No. 2002-051022, OPRPMCT and from whence a 1/2" iron rod found for the Northeast corner of said 120 acres, the Northeast corner of aforementioned Tract V and the recognized Northeast corner of the Applewhite Survey, A-50 bears N 00°02'47" W a distance of 594.05 feet (Deed Call N 00°05'33" W, 594.33' C.F. No. 9307782);
THENCE S 00°02’47" E (Deed Call South, 188 / 416 MCDR) along the common East line of aforesaid 35.219 acres and the Residue of said 36.9509 acre tract for a distance of 787.59 feet to the Southeast corner and POINT OF BEGINNING of the herein described tract, in all containing 50.2044 acres (2,622,504 square feet) of land, more or less.

TRACT 2

Being all that certain tract or parcel of land containing 9.0719 acres of land situated in the Henry Applewhite Survey, A–50, Conroe, Montgomery County, Texas, out of and a part of a Called 120 acre tract conveyed in Volume 188, Page 416, MCDR, said 9.0719 acres being more particularly described by metes and bounds as follows, to wit:

BEGINNING at a 1/2" iron rod found under asphalt pavement for the Southwest corner of a certain 31.108 acres of land cited Tract II, conveyed by Partition Deed to James W. Peoples, et al described and recorded under Clerk's File No. 9307782 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRPMCT), same 31.108 acres out of and a part of a Called 120 acre tract conveyed in deed to Surcy Peoples, et al described and recorded in Volume 188, Page 416 of Montgomery County Deed Records (MCDR) said 120 acre South line located on the recognized Abstract division line between the Henry Applewhite Survey, A–50 and the Daniel F. Whilliden Survey, A–640, same located within the used and occupied right-of-way of Peoples Road and from whence an axle found for the Southeast corner of said Called 120 acres, the recognized Southeast corner of the Applewhite Survey bears 89°55’36" E a distance of 4933.61 feet (Deed Call East 1511 Varas 188 / 416 MCDR) aforesaid tracts or parcels of land situated in the Henry Applewhite Survey, A–50, Conroe, Montgomery County, Texas;

THENCE N 00°09’09” E (Deed Call North 188 / 416 MCDR) along the West line of said 31.108 acre tract, the West line of said Called 120 acre Peoples tract and at a distance of 666.91 feet passing a PK nail in asphalt pavement for the Southwest corner of a certain 0.8665 acre parcel described in deed to James W. Peoples recorded under C.F. No. 9157919, OPRPMCT and from whence a Texas Forest Service brass spike found in asphalt pavement bears N 00°08’55” W a distance of 1.68 feet, continuing for a total distance of 1684.14 feet to a PK nail found in asphalt pavement for the Northwest corner of the herein described tract, same being the Northwest corner of a certain 2.09 acre tract described in deed to James W. Peoples and recorded in Vol. 786, Pg. 47, MCDR and the Northwest corner of a 2.09 acre tract described in deed to Surcy L. Peoples, Jr. recorded in Vol. 806, Pg. 248 and from whence a 60D nail found for the Northwest corner of same parcel bears N 00°09’09” E a distance of 295.27 feet;

THENCE S 89°56’29” E (Deed Call S.89°56’47” E., 309.55’ 786 / 47 MCDR) departing said Called 120 acre West line, along the North line of said James W. Peoples 2.09 acre tract, the South line of said Surcy L. Peoples, Jr. 2.09 acre parcel for a distance of 309.54 feet to a 1-1/4" iron pipe found in the West line of a certain 32.524 acre tract cited Tract IV conveyed by Partition Deed to Surcy L. Peoples, Jr., et ux described and recorded under C.F. No. 9307782, OPRPMCT, for the upper Northeast corner of the herein described tract;

THENCE S 00°07’32” W (Deed Call S.00°07’10”W. C.F. No. 9307782) along the West line of said Peoples 32.524 acre parcel for a distance of 469.27 feet to a 1/2" iron rod found for the Southwest corner of said tract and an inside ell corner of aforementioned James W. Peoples, et ux 31.108 acres, for an ell corner of the herein described tract;

THENCE S 89°55’29” E (Deed Call S.89°55’34”W. C.F. No. 9307782) along the South line of said Peoples 32.524 acre parcel, the North line of said James W. Peoples, et ux 31.108 acres for a distance of 96.43 feet to a 1/2" iron rod with cap scribed ‘SR ESTES RPLS 5631’ found for the lower Northeast corner of the herein described tract and from whence a 1/2" iron rod found for the Northeast corner of said 31.108 acre parcel bears S 89°55’29” E a distance of 1770.18 feet;

THENCE S 00°07’33” W departing said 31.108 acre tract North line and severing same parcel for a distance of 614.95 feet to a 1/2" iron rod with cap scribed ‘SR ESTES RPLS 5631’ found for the Southeast corner of the herein described tract, same situated on the North line of a certain 3,923 acre tract conveyed in deed to Cecil A Koenig, recorded under C.F. No. 9720350, OPRPMCT and located on the North line of Koenig Road (60 Ft. Road Easement 599 / 427 MCDR);
THENCE N 89°55'36" W along the North line of said Koenig Road for a distance of 406.48 feet to the Southwest corner and POINT OF BEGINNING of the herein described tract, in all containing 9.0719 acres (395,173 square feet) of land, more or less.

TRACT 3

Being all that certain tract or parcel of land containing 32.9958 acres of land situated in the Henry Applewhite Survey, A-50, Conroe, Montgomery County, Texas, out of and a part of a Called 120 acre tract described in Volume 188, Page 416, MCDR, said 32.9958 acres being more particularly described by metes and bounds as follows, to wit:

COMMENCING at an Axle found for the Southeast corner of a certain 35.213 acres of land cited Tract III conveyed by partition deed to James W. Peoples, et al described and recorded under Clerk’s File No. 9307782 of the Official Public Records of Real Property of Montgomery County, Texas (OPRRPMCT), same 35.213 acres out of and a part of a Called 120 acre tract conveyed in deed to Surcy Peoples, et al described and recorded in Volume 188, Page 416 of Montgomery County Deed Records (MCDR) said 120 acre South line located on the recognized Abstract division line between the Henry Applewhite Survey, A-50 and the Daniel F. Whillden Survey, A-640, same Axle recognized by local surveyors as the Southeast corner of the Applewhite Survey and the Northeast corner of said Whillden Survey and the Northeast corner of a certain 15.550 acres conveyed to Marcus Koenig et al described and recorded under C.F. No. 2001-003633, OPRRPMCT, the Northwest corner of The Woodlands Windsor Lakes Section 5, subdivision map or plat thereof recorded in Cabinet 'U', Sheet 19 of Montgomery County Map Records (MCMR), the Southwest corner of the Residue of a 56.9609 acre parcel described in deed to John D. Hagerman et al recorded under C.F. No. 2002-061022 and from whence a 1/2" iron rod found under asphalt pavement along Peoples Road, for the Southwest corner of said Called 120 acres and the Southwest corner of a certain 31.108 acre tract cited as Tract 11 (C.F. No. 9307782) bears N 89°55'36" W a distance of 4,353.61 feet (Deed Call West 188 / 416 MCDR) aforementioned tracts or parcels of land situated in the Henry Applewhite Survey, A-50, Conroe, Montgomery County, Texas;

THENCE N 00°00'07" W (Deed Call South, 152.73' C.F. No. 9307782 OPRRPMCT) along an inside boundary line of aforementioned Peoples 35.213 acre parcel, for a distance of 152.75 feet to a 1/2" iron rod found for an inside ell corner of the herein described tract;

THENCE N 89°55'29" W (Deed Call N.89°55'34'TW., 891.90' C.F. No. 9307782 OPRRPMCT) continuing along an inside boundary line of said Tract V, an inside line of aforesaid Peoples 35.213 acre parcel for a distance of 891.58 feet to a 1/2" iron rod found for an inside ell corner of the herein described tract;

THENCE N 00°01'04" E (Deed Call N.00°05'33"W., 755.70' C.F. No. 9307782 OPRRPMCT) along the East line of aforesaid Tract IV and the West boundary line of said Tract V, for a distance of 755.34 feet to the South occupied margin of an unimproved road cited as Johnson–Martin Road (no right-of-way width or dedication found of record) an angle iron fence post corner found for the occupied Northwest corner of the herein described tract same being an inside Southerly boundary line of a portion of the Jones State Forest, a 216.10 acre parcel cited as the First Tract, conveyed in a deed to the State of Texas / Texas A&M University as 1920.
recorded in Volume 118, Page 375 MCDR and from whence a 1/2" iron rod found bears N 00°01'04" E a distance of 0.19 feet;

THENCE S 89°42'01" E (Deed Call S.89°55'34"E, C.F. No. 9307782 OPRPMCT Deed Call S.87°14'59"E. / 575 MCDR) along a South boundary line of aforesaid 216.10 acre First Tract for a distance of 2,174.29 feet to a 1/2" iron rod found for the Northeast corner of the herein described tract same sited on the South right-of-way line of Schoettle Road (35 Ft. R.O.W.) as recorded in Cabinet Y, Sheet 56 of Montgomery County Map Records (MCMR)

same point being the Northwest corner of a certain 3.9944 acre tract conveyed in a deed to Kenneth Earl Guinn and Evelyn Eugenia Martin recorded under C.F. No. 2002-051022, OPRPMCT;

THENCE S 00°02'46" E (Deed Call S 00°05'33" E, C.F. No. 9307782 Deed Call S 00°07'12" E, C.F. No. 2002-051022 OPRPMCT Deed Call South, 188 / 416 MCDR) along the common East line of aforesaid Surcy Peoples, Jr., et al. Tract V and the West boundary of aforesaid 3.9944 acre tract for a distance of 594.05 feet to the Southeast corner and POINT OF BEGINNING of the herein described tract, in all containing 32.9958 acres (1,437,299 square feet) of land, more or less.

TRACT 4

Being all that certain tract or parcel of land containing 54.2960 acres of land situated in the Thomas Toby Survey, A-576, (Edward Hall Survey, A-576), Conroe, Montgomery County, Texas and being the Residue of a certain 56.9509 acre tract conveyed in Warranty Deed from Kenneth Earl Guinn and Evelyn Eugenia Martin to John D. Hagerman and wife, Linda L. Hagerman and Ronald R. Byrd and wife, Martha Byrd, described and recorded under Clerk's File No. 2002-061022 of the Official Public Records of Real Property of Montgomery County, Texas (OPRPMCT) and being the same parent tract of land resurveyed as 56.9659 acres of land by Steven Ray Estes, RPLS No. 5651 on August 22, 2006 and being that same parcel or tract of land called 58.4 acres conveyed to Ernest Guinn et ux by deed recorded in Volume 220, Page 84 of Montgomery County Deed Records (MCDR) and being further out of Block No. 6 of the R. H. John Subdivision of the 'Edward Hall Two Surveys', described and recorded in Vol. 14, Pg. 579, MCDR and Volume 1, Page 6 of Montgomery County Map Records (MCMR), aforementioned properties situated in the Thomas Toby Survey, A-576, (Edward Hall Survey, A-576) said 54.2960 acres being more particularly described by metes and bounds as follows:

BEGINNING at a 1/2" iron rod with cap found for the southeast corner of a certain 1.2925 acre parcel of land conveyed to the City of Conroe from John D. Hagerman and wife, Linda L. Hagerman, and Martha Byrd, individually and as the Independent Administratrix of the Estate of Ronald R. Byrd, Deceased, cited as Tract 1 Guinn Road Extension described and recorded under C.F. No. 2006-122795, OPRPMCT, same sited on the east line of aforementioned 56.9509 acre Hagerman et al tract, the east line of a 40 Ft. Roadway described in 14 / 579, MCDR and 1 / 6, MCMR and the west line of a certain 17.308 acre parcel conveyed to Western Rim Investors 2002-1, L.P. described and recorded under C.F. No. 2002-063325, OPRPMCT and from whence a 1/2" iron rod found for the northeast corner of said 2006-122795 acres bears N 00°32'59" W a distance of 56.00 feet, and located 4.26 feet Southeast from the occupied north line of Guinn Road (No Dedicated R.O.W. Found of Record), for the northeast corner of the herein described tract;

THENCE S 00°32'59" E (Deed Call S.00°38'10"E. C.F. No. 2002-061022 OPRPMCT) along the east line of aforementioned Hagerman et al 56.9559 acre tract and west line of said Western Rim Investors 2002-1, L.P. parcel and east line of the 40 Ft. Roadway for a distance of 1311.74 feet to a 5/8" iron rod found for the southeast corner of the 56.9559 acres and sited on the north line of a certain Residue of 3888.76 acres conveyed to Woodlands Land Development, L.P. described under C.F. No. 9747722, OPRPMCT and situated on the Abstract division line of the Thomas Toby Survey, A-576 and the James McCambridge Survey, A-576, for the southeast corner of the herein described tract;

THENCE S 89°42'01" W (Deed Call S.89°41'03"W., 1965.38' C.F. No. 2002-051022) along the south line of aforementioned Hagerman et al 56.9559 acre tract and the south line of the Thomas Toby Survey, A-576 for a distance of 1965.36 feet to an axle found for the northwest corner of The Woodlands Windsor Lakes Section 5, map or plat thereof recorded in Cabinet 'U', Sheet 19 of Montgomery County Map Records (MCMR), the northeast corner of a certain 1921
15.950 acre tract conveyed in deed to Cecil A. Koenig described and recorded in 599 / 407, MCDR, the southeast corner of the James W. Peoples 35.213 acre tract described under C.F. No. 599 / 407, OPRRPMCT; the common southwest corner of aforementioned Hagerman et al 56.9659 acres and the herein described tract, said axle recognized by cartographers and accepted by local surveyors as the Four Corners of the James McCambridge Survey, A-390, the Daniel F. Whildon Survey, A-640, the Henry Applewhite Survey, A-50 and the Thomas Toby Survey, A-576;

THENCE N 00°10'28" W (Deed Call N.00°11'26"E., 861.45' C.F. No. 2002-051022) departing said Four Corners axle and along the east line of said Peoples 35.213 acre tract and west line of said Hagerman 56.9659 acres for a distance of 861.64 feet to a 60D nail found for the lower northwest corner of the herein described tract of land, same being the southwest corner of a 3.9944 acre Out-Tract parcel described by metes and bounds to Kenneth Earl Guinn and Evelyn Eugenia Martin (herein cited as the Guinn-Martin tract) under aforementioned C.F. No. 2002-051022, same 60D nail sited on the east line of a certain 32.606 acre tract conveyed in deed to Surcy L. Peoples described under C.F. No. 9307782, OPRRPMCT;

THENCE S 89°51'47" E (Deed Call S.89°51'47"E., 348.00' C.F. No. 2002-051022) along an inside line of said Hagerman 56.9659 acre parcel and south line of said Guinn-Martin tract for a distance of 348.00 feet to a 1/2" iron rod found for the southeast corner of same 3.9944 acre tract and an inside corner of the herein described tract;

THENCE N 00°10'28" W (Deed Call N.00°11'26"E. C.F. No. 2002-051022) along the east line of aforementioned Guinn-Martin tract and upper west line of said 56.9659 acre parcel and at a distance of 82.16 feet crossing the south line of a Called 4.00 acre tract described in 960 / 554, MCDR to Evelyn Eugenia Martin and husband, Eugene L. Martin continuing for a total distance of 165.00 feet to a 5/8" iron rod with cap found for the southwest corner of a certain 1.3774 acre tract cited as Tract 2 (Water Well Site) conveyed to the City of Conroe described under C.F. No. 2006-122796, OPRRPMCT, for an inside corner of the herein described tract;

THENCE S 89°51'47" E (Deed Call S.89°51'47"E., 200.00' C.F. No. 2006-122796) departing aforementioned 3.9944 acre east line and upper west line of the Hagerman et al 56.9659 acre parcel and along the south line of the City of Conroe 1.3774 acres for a distance of 200.00 feet to a 5/8" iron rod with cap found for the southeast corner of same 1.3774 acres, for an inside corner of the herein described tract;

THENCE N 00°10'28" W (Deed Call N.00°11'26"W., 300.00' C.F. No. 2006-122796) along the east line of aforementioned City of Conroe 1.3774 acre tract for a distance of 300.00 feet to a 5/8" iron rod with cap found for the northeast corner of same 1.3774 acres and sited on the south line of aforementioned City of Conroe 1.2925 acre Tract 1 (Guinn Road Extension) for the upper northwest corner of the herein described tract;

THENCE S 89°51'47" E (Deed Call S.89°51'47"E. C.F. No. 2006-122796) along the south line of said City of Conroe 1.2925 acre Tract 1 for a distance of 1408.79 feet to the northeast corner and POINT OF BEGINNING of the herein described tract, in all containing 54.2960 acres (22,843,138 square feet) of land, more or less.

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

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

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

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

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 8422, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 8422.106 to read as follows:

1922
Sec. 8422.106. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

SECTION 5. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2013.

Passed the Senate on April 11, 2013: Yeas 31, Nays 0; passed the House on May 20, 2013: Yeas 147, Nays 0, two present not voting.

Approved June 14, 2013.

Effective June 14, 2013.

CHAPTER 755

S.B. No. 632

AN ACT

relating to contracts between optometrists or therapeutic optometrists and health maintenance organizations or insurers.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Subchapter D, Chapter 1451, Insurance Code, is amended by adding Section 1451.155 to read as follows:

Sec. 1451.155. CONTRACTS WITH OPTOMETRISTS OR THERAPEUTIC OPTOMETRISTS. (a) In this section:

(1) “Covered product or service” means a vision care product or service for which reimbursement is available under an enrollee’s managed care plan contract or for which reimbursement is available subject to a contractual limitation, including:

(A) a deductible;
(B) a copayment;
(C) coinsurance;
(D) a waiting period;
(E) an annual or lifetime maximum limit;
(F) a frequency limitation; or
(G) an alternative benefit payment.

(2) “Vision care product or service” means a product or service provided within the scope of the practice of optometry or therapeutic optometry under Chapter 351, Occupations Code.

(b) A contract between an insurer and an optometrist or therapeutic optometrist may not limit the fee the optometrist or therapeutic optometrist may charge for a product or service that is not a covered product or service.

(c) A contract between an insurer and an optometrist or therapeutic optometrist may not require a discount on a product or service that is not a covered product or service.

SECTION 2. The change in law made by this Act applies only to a contract entered into or renewed on or after January 1, 2014. A contract entered into or renewed before January 1, 2014, is governed by the law in effect immediately before the effective date of this Act, and that law is continued in effect for that purpose.

SECTION 3. This Act takes effect September 1, 2013.

Passed the Senate on April 10, 2013: Yeas 30, Nays 1; passed the House on May 20, 2013: Yeas 137, Nays 2, three present not voting.