

1-1 By: Eissler (Senate Sponsor - Staples) H.B. No. 3562  
1-2 (In the Senate - Received from the House May 12, 2003;  
1-3 May 13, 2003, read first time and referred to Committee on  
1-4 Intergovernmental Relations; May 22, 2003, reported adversely,  
1-5 with favorable Committee Substitute by the following vote: Yeas 5,  
1-6 Nays 0; May 22, 2003, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR H.B. No. 3562 By: Brimer

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of the Southwest Montgomery County  
1-11 Improvement District; providing authority to impose taxes and issue  
1-12 bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. CREATION OF DISTRICT. (a) The Southwest  
1-15 Montgomery County Improvement District is created as a special  
1-16 district in Montgomery County under Section 59, Article XVI, Texas  
1-17 Constitution.

1-18 (b) The board by resolution may change the name of the  
1-19 district.

1-20 SECTION 2. DEFINITIONS. In this Act:

1-21 (1) "Board" means the board of directors of the  
1-22 district.

1-23 (2) "Commission" means the Texas Commission on  
1-24 Environmental Quality.

1-25 (3) "District" means the Southwest Montgomery County  
1-26 Improvement District.

1-27 (4) "Planned community" means a planned community of  
1-28 15,000 or more acres of land originally established under the  
1-29 federal Urban Growth and New Community Development Act of 1970 (42  
1-30 U.S.C. Section 4501 et seq.) that is subject to restrictive  
1-31 covenants containing ad valorem based assessments.

1-32 SECTION 3. DECLARATION OF INTENT. (a) The creation of the  
1-33 district is essential to accomplish the purposes of Section 52,  
1-34 Article III, and Section 59, Article XVI, Texas Constitution, and  
1-35 other public purposes stated in this Act.

1-36 (b) The creation of the district is necessary to promote,  
1-37 develop, encourage, and maintain employment, commerce, economic  
1-38 development, and the public welfare in the southwest portion of  
1-39 Montgomery County.

1-40 (c) The creation of the district and this legislation may  
1-41 not be interpreted to relieve Montgomery County or any other  
1-42 political subdivision from providing the level of services  
1-43 provided, as of the effective date of this Act, to the area in the  
1-44 district. The district is created to supplement and not to supplant  
1-45 services provided in the area in the district.

1-46 SECTION 4. BOUNDARIES. The district includes all of the  
1-47 territory contained in Montgomery County Election Precincts  
1-48 Numbers 13, 18, 28, 29, 30, 34, 65, 66, 74, and 76, as those  
1-49 precincts existed on January 1, 2003, except for:

1-50 (1) territory within the corporate limits of the  
1-51 following municipalities as of January 1, 2003: Conroe, Houston,  
1-52 Magnolia, Stagecoach, and Shenandoah;

1-53 (2) territory that is a part of the Town Center  
1-54 Improvement District as of January 1, 2003; and

1-55 (3) the following described territory:

1-56 Tract 1

1-57 Being a 56.4012 acre tract of land situated in Montgomery  
1-58 County, Texas in the James Brown Survey, A-78, being Block 14, of  
1-59 the M.H. Gossett Subdivision and being the same tract of land  
1-60 conveyed to Alvin A. Klein by C.L. McQueen, et ux, as recorded in  
1-61 Volume 414, Page 479, of the Montgomery County Deed Records  
1-62 (M.C.D.R.), called 58.9 acres; save and except that portion of said  
1-63 Block 14 conveyed to the State of Texas by Deed recorded in Volume  
1-64 885, Page 766, of the M.C.D.R., and being more particularly  
1-65 described by metes and bounds as follows with all control referred

2-1 to the 1927 Texas State Plane Coordinate System, Lambert  
2-2 Projection, South Central Zone:

2-3 BEGINNING at a 3/8" iron rod found for the southeast corner of  
2-4 this tract, also being a point on the west line of F.M. 2978, also  
2-5 being the northeast corner of the Beatrice D. Krus 16.5 acres as  
2-6 recorded in FN. 8743121, of the M.C.R.P.R., having Texas State  
2-7 Plane Coordinates of X = 3,076,521.94 (E), Y = 872,171.00 (N) and  
2-8 bears South 68 degrees 17 minutes 02 seconds West, 2500.07 feet from  
2-9 the southeast corner of the Ezra Read Survey, A-458, also being the  
2-10 southwest corner of the Dickinson Garrett Survey, A-226, also being  
2-11 a point on the north line of the James Brown Survey, A-78;

2-12 THENCE South 88 degrees 05 minutes 02 seconds West, a  
2-13 distance of 2742.15 feet along the common line between this tract  
2-14 and said Krus tract, and the James D. Lowe 7.1 acre tract as  
2-15 recorded in Volume 485, Page 244, and the J.C. Lowe 13.0 acre tract  
2-16 as recorded in Volume 49, page 74, of the M.C.D.R. to a 5/8" iron rod  
2-17 set for the southwest corner of this tract, also being the northwest  
2-18 corner of said J.C. Lowe tract, also being a point on the east line  
2-19 of the P.A. Hodge 4.96 acre tract, as recorded in F.N. 9019932 of  
2-20 the M.C.R.P.R.;

2-21 THENCE North 02 degrees 02 minutes 29 seconds West, a  
2-22 distance of 825.90 feet along the common line between this tract and  
2-23 said Hodge tract, the D.J. Grigg 4.96 acre tract as recorded in  
2-24 Volume 451, Page 479, and the E.K. Grigg 4.96 acre tract, as  
2-25 recorded in Volume 451, Page 479, of the M.C.D.R. to a 5/8" iron rod  
2-26 set for the northwest corner of this tract, also being the northeast  
2-27 corner of said E.K. Grigg tract, also being a point on the south  
2-28 line of Block 25, of the M.H. Gossett Subdivision, also being a  
2-29 point on the common line between the James Brown Survey, A-78, and  
2-30 the Ezra Read Survey, A-458;

2-31 THENCE North 87 degrees 51 minutes 26 seconds East, a  
2-32 distance of 2645.34 feet along the common line between this tract  
2-33 and said Block 25, and also being the common line between the James  
2-34 Brown Survey, A-78, and the Ezra Read Survey, A-458, to a 3/4" pipe  
2-35 found for corner, also being the southeast corner of the Roy G.  
2-36 Cook, Jr. 53.9 acre tract, as recorded in File Number 8728559, of  
2-37 the Montgomery Country Real Property Records (M.C.R.P.R.), also  
2-38 being the southwest corner of the 9.4511 acre tract, called a 9.46  
2-39 acre tract in F.N. 8230682, of the M.C.R.P.R.;

2-40 THENCE North 87 degrees 46 minutes 09 seconds East, a  
2-41 distance of 436.07 feet along the common line between this tract and  
2-42 said 9.4511 acre tract to a 4" pipe found for the southeast corner  
2-43 of said 9.4511 acre tract, also being the southwest corner of the  
2-44 Mitchell and Mitchell Corp., 31.76 acre tract, as recorded in  
2-45 Volume 565, Page 217, of the M.C.D.R.;

2-46 THENCE North 86 degrees 43 minutes 19 seconds East, a  
2-47 distance of 84.95 feet along the common line between this tract and  
2-48 said Mitchell and Mitchell Corp. tract to a 3/8 iron rod found for  
2-49 the northeast corner of this tract, also being a point on the west  
2-50 right-of-way line of F.M. 2978;

2-51 THENCE South 24 degrees 45 minutes 22 seconds West, a  
2-52 distance of 940.89 feet along the common line between this tract and  
2-53 said right-of-way line of F.M. 2978 to the PLACE OF BEGINNING  
2-54 containing 2,456,837 square feet or 56.4012 acres.

#### TRACT 2

2-56 All that certain 46.5808 acre tract in the A.U. Springer  
2-57 Survey, Patent No. 222, Volume 2, Abstract No. 490, Montgomery  
2-58 County, Texas, said 46.5808 acre tract being out of the W. E. Bond  
2-59 320 acre tract described in Deed dated January 10, 1928, and  
2-60 recorded in Volume 117, Page 395, of Deed Records of Montgomery  
2-61 County, Texas, said 46.5808 acre tract being more particularly  
2-62 described by metes and bounds as follows:

2-63 BEGINNING at an axle set in concrete found in the East fenced  
2-64 line of the champion Paper and Fibre Co. tract and the South line,  
2-65 Lakewood estates Subdivision, Section Three, said point also being  
2-66 the Northwest Corner of the tract herein conveyed:

2-67 THENCE North 89 degrees 37 minutes 08 seconds East, 2781.32  
2-68 feet along the South fenced line of said Lakewood Estates  
2-69 Subdivision, Section Three, to a 3/4-inch galvanized iron pipe set

3-1 in concrete found in the West line of Lakewood Estates Subdivision,  
 3-2 Section One, said point also being the Northeast corner of the tract  
 3-3 herein conveyed;

3-4 THENCE South 00 degrees 06 minutes 28 seconds East, 495.46  
 3-5 feet along the West line of said Lakewood estates Subdivision,  
 3-6 Section One, to a 5/8 inch iron rod set in concrete in the North line  
 3-7 of F.M. Road 1488 (based on a width of 100.0 feet);

3-8 THENCE South 80 degrees 22 minutes 00 seconds West, 1164.17  
 3-9 feet along the North line of said F.M. Road 1488 to a four inch by  
 3-10 four inch concrete monument found at a point of curve;

3-11 THENCE in a southwesterly direction along a curve to the left  
 3-12 having a radius of 17,238.73 feet and a central angle of 02 degrees  
 3-13 50 minutes and continuing along the said North line of said F.M.  
 3-14 Road 1488 a distance of 852.47 feet to a 4 inch by 4 inch concrete  
 3-15 monument found at the point of tangency;

3-16 THENCE South 77 degrees 32 minutes West, 32.9 feet along the  
 3-17 North line of said F. M. Road 1488 to a 4-inch by 4-inch concrete  
 3-18 monument found for corner;

3-19 THENCE North 88 degrees 25 minutes 48 seconds West, 103.8  
 3-20 feet along the North line of said F. M. Road 1488 to a 4 inch by 4  
 3-21 inch concrete monument found for corner (at this point the  
 3-22 right-of-way is 150.0 feet wide);

3-23 THENCE South 77 degrees 32 minutes West, 675.77 feet along  
 3-24 the North line of said F.M. Road 1488 to a 5/8 inch iron rod set in  
 3-25 concrete in the East line of said Champion Paper and Fibre Co.  
 3-26 tract, said point being the Southwest corner of the tract herein  
 3-27 conveyed;

3-28 THENCE North 00 degrees 09 minutes 58 seconds West, 985.30  
 3-29 feet along the East fenced line of said Champion Paper and Fibre Co.  
 3-30 tract to the PLACE OF BEGINNING and containing 46.5808 acres.

3-31 TRACT 3

3-32 Being a 9.451 acre tract of land, situated In the Ezra Read  
 3-33 Survey, Abstract Number 458, Montgomery County, Texas, and being  
 3-34 that same tract called 9.46 acres as described in Deed recorded  
 3-35 under Clerk's File Number 8230682 of the Montgomery County Real  
 3-36 Property Records (M.C.R.P.R.) and being more particularly  
 3-37 described by metes and bounds as follows with all control referred  
 3-38 to the 1927 Texas State Plane Coordinate System, Lambert  
 3-39 Projection, South Central Zone;

3-40 BEGINNING at a concrete monument found for the most easterly  
 3-41 corner of this tract, also being a point on the northwest  
 3-42 right-of-way line of F.M. 2978, also being an exterior corner of the  
 3-43 Roy G. Cook, Jr. 53.9 acre tract, as recorded in Clerk's File Number  
 3-44 8728559, of the M.C.R.P.R., having Texas State Plane Coordinates of  
 3-45 X = 3,077,293.03 (E), Y = 873, 840.73 (N) and bears North 62 degrees  
 3-46 55 minutes 54 seconds West, 1647.17 feet from the southeast corner  
 3-47 of the Ezra Read Survey, A-458, also being the southwest corner of  
 3-48 the Dickinson Garrett Survey, A-226, also being a point on the north  
 3-49 line of the James Brown Survey, A-78;

3-50 THENCE South 24 degrees 45 minutes 45 seconds West, a  
 3-51 distance of 96.69 feet along the common line between this tract and  
 3-52 said right-of-way line of F.M. 2978 to a 5/8" iron rod w/aluminum  
 3-53 cap set for corner, also being the northeast corner of the Mitchell  
 3-54 and Mitchell Corp. 31.76 acre tract, as recorded in Volume 565, Page  
 3-55 217, of the Montgomery County Deed Records (M.C.D.R.);

3-56 THENCE South 88 degrees 07 minutes 17 seconds West, a  
 3-57 distance of 445.12 feet along the common line between this tract and  
 3-58 said Mitchell tract to a 5/8" iron rod with aluminum cap set for  
 3-59 corner at a fence corner, also being the northwest corner of said  
 3-60 Mitchell tract;

3-61 THENCE South 01 degree 52 minutes 27 seconds East, a distance  
 3-62 of 718.16 feet along the common line between this tract and said  
 3-63 Mitchell tract to a 4" pipe found for the most southerly southeast  
 3-64 corner of this tract, also being the southwest corner of said  
 3-65 Mitchell tract, also being a point on the north line of a 56.4012  
 3-66 acre, called 58.9 acres, as recorded in Volume 414, Page 479, of the  
 3-67 M.C.D.R.;

3-68 THENCE South 87 degrees 46 minutes 09 seconds West, a  
 3-69 distance of 436.07 feet along the common line between this tract and

4-1 said 56.4012 acre tract to a 3/4" pipe found for the southwest  
4-2 corner of this tract, also being an exterior corner of said Cook  
4-3 tract;

4-4 THENCE along the common line between this tract and said Cook  
4-5 tract for the following calls:

4-6 North 01 degree 50 minutes 42 seconds West, a distance of 719.29  
4-7 feet to a 3/4" pipe found for corner;

4-8 North 87 degrees 22 minutes 05 seconds East, a distance of 114.93  
4-9 feet to a 3/4" pipe found for corner;

4-10 North 01 degree 50 minutes 37 seconds West, a distance of 124.85  
4-11 feet to a 3/4" pipe found for corner;

4-12 North 87 degrees 59 minutes 49 seconds East, a distance of 725.79  
4-13 feet to a 3/4" pipe found for corner;

4-14 South 66 degrees 16 minutes 26 seconds East, a distance of 92.47  
4-15 feet to the PLACE OF BEGINNING containing 411689 square feet or  
4-16 9.4511 acres.

TRACT 4

4-17 All that tract or parcel of land lying and being situated in  
4-18 Montgomery County, Texas, out of the Ezra Read Survey, A-458, being  
4-19 part of a 53.9 acre tract as recorded in F.N. 8728559 of the  
4-20 Montgomery County Real Property Records (M.C.R.P.R.), and also  
4-21 being all of a 2.91 acre tract recorded in Volume 795, Page 720 of  
4-22 the Montgomery County Deed Records (M.C.D.R.), Save and Except  
4-23 therefrom that certain 0.047 acre tract recorded in Volume 880,  
4-24 Page 52 and 0.033 acre tract recorded in Volume 880, page 49, of the  
4-25 M.C.D.R., and being more particularly described by metes and bounds  
4-26 as follows with all control referred to the 1927 Texas State Plane  
4-27 Coordinate System, Lambert Projections, South Central Zone:

4-28 BEGINNING at a concrete monument for the southeast corner of  
4-29 this tract, also being a point on the west right-of-way line of F.M.  
4-30 2978, also being the northeast corner of a 9.4511 acre tract, having  
4-31 a Texas State Plane Coordinate Value of X=3,077,293.03 (E),  
4-32 Y=873,840.73 (N) and bears North 64 degrees 21 minutes 39 seconds  
4-33 West, 1,721.01 feet from the southeast corner of the Ezra Read  
4-34 Survey, A-458, also being the southwest corner of the Dickinson  
4-35 Garrett Survey, A-226, also being a point on the north line of the  
4-36 James Brown Survey, A-78;

4-37 THENCE along the common line between this tract and said  
4-38 9.4511 acre tract for the following calls:

4-39 North 66 degrees 16 minutes 26 seconds West, a distance of 92.47  
4-40 feet to a 3/4" pipe found for corner;

4-41 South 87 degrees 59 minutes 49 seconds West, a distance of 725.79  
4-42 feet to a 3/4" pipe found for corner;

4-43 South 01 degrees 50 minutes 37 seconds East, a distance of 124.85  
4-44 feet to a 3/4" pipe found for corner;

4-45 South 87 degrees 22 minutes 05 seconds West, a distance of 114.93  
4-46 feet to a 3/4" pipe found for the southwest corner of this tract,  
4-47 also being a point on the east line of the remainder of said 53.9  
4-48 acre tract;

4-49 THENCE North 01 degrees 50 minutes 42 seconds West, a  
4-50 distance of 736.35 feet along the common line between this tract and  
4-51 said remainder to a 5/8" iron rod with aluminum cap set for the  
4-52 northwest corner of this tract, also being a point in the south line  
4-53 of the formerly R. A. West tract;

4-54 THENCE North 87 degrees 57 minutes 55 seconds East, a  
4-55 distance of 779.68 feet along the common line between this tract and  
4-56 said West tract to a 1/2" iron rod found for corner;

4-57 THENCE North 87 degrees 58 minutes 23 seconds East, a  
4-58 distance of 538.54 feet along the common line between this tract and  
4-59 said West tract to a fence post for the northeast corner of this  
4-60 tract, also being a point on the west right-of-way line of said F.M.  
4-61 2978;

4-62 THENCE along the common line between this tract and said F.M.  
4-63 2978 for the following calls:

4-64 South 37 degrees 40 minutes 01 seconds West, a distance of 223.51  
4-65 feet to a fence corner;

4-66 South 25 degrees 51 minutes 33 seconds West, a distance of 541.80  
4-67 feet to the PLACE OF BEGINNING containing 696,122 square feet or  
4-68 15.9808 acres.  
4-69

## SAVE AND EXCEPT:

5-1  
5-2 All that tract or parcel of land lying and being situated in  
5-3 Montgomery County, Texas, out of the Ezra Read Survey, A-458,  
5-4 through a 53.9 acre tract as recorded in F.N. 8728559 of the  
5-5 Montgomery County Real Property Records (M.C.R.P.R.), and being  
5-6 more particularly described by metes and bounds as follows with all  
5-7 control referred to the 1927 Texas State Plane Coordinate System,  
5-8 Lambert Projection, South Central Zone:

5-9 BEGINNING at a fence corner for the northeast corner of this  
5-10 tract, also being a point on the west right-of-way line F.M. 2978,  
5-11 having a Texas State Plane Coordinate Value of X=3,077,665.95 (E),  
5-12 Y=874,505.20 (N) and bears North 39 degrees 54 minutes 37 seconds  
5-13 West, 1,837.11 feet from the southeast corner of the Ezra Read  
5-14 Survey, A-458, also being the north line of the James Brown Survey,  
5-15 A-78;

5-16 THENCE South 37 degrees 40 minutes 01 seconds West, a  
5-17 distance of 38.99 feet along the common line between this tract and  
5-18 said right-of-way line of F.M. 2978 to a point for corner,

5-19 THENCE leaving said right-of-way line for the following  
5-20 calls:

5-21 South 87 degrees 58 minutes 23 seconds West, a distance of 513.64  
5-22 feet to a point for corner;

5-23 South 87 degrees 57 minutes 55 seconds West, a distance of 779.78  
5-24 feet to a point for the southwest corner of this tract;

5-25 North 01 degree 50 minutes 42 seconds West, a distance of 30.00 feet  
5-26 to a point for the northwest corner of this tract, also being a  
5-27 point in the north line of said 53.9 tract;

5-28 THENCE North 87 degrees 57 minutes 55 seconds East, a  
5-29 distance of 779.69 feet along the common line between this tract and  
5-30 said north line of said 53.9 acre tract to a point for corner;

5-31 THENCE North 87 degrees 58 minutes 23 seconds East, a  
5-32 distance of 538.54 feet to the PLACE OF BEGINNING containing 39,175  
5-33 square feet or 0.8993 acres.

5-34 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
5-35 and field notes of the district form a closure. A mistake in the  
5-36 field notes or in copying the field notes in the legislative process  
5-37 does not in any way affect the district's:

- 5-38 (1) organization, existence, or validity;  
5-39 (2) right to enter any type of contract for a purpose  
5-40 for which the district is created;  
5-41 (3) right to impose or collect an assessment or tax; or  
5-42 (4) legality or operation.

5-43 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The  
5-44 district is created to serve a public use and benefit.

5-45 (b) All land and other property in the district will benefit  
5-46 from the improvements and services to be provided by the district  
5-47 under powers conferred by Section 52, Article III, and Section 59,  
5-48 Article XVI, Texas Constitution, and other powers granted under  
5-49 this Act.

5-50 (c) The creation of the district is in the public interest  
5-51 and is essential to:

- 5-52 (1) further the public purposes of development and  
5-53 diversification of the economy of the state;  
5-54 (2) eliminate unemployment and underemployment; and  
5-55 (3) develop or expand transportation and commerce.

5-56 (d) The present and prospective traffic congestion in the  
5-57 district and the safety of pedestrians and the limited availability  
5-58 of funds require the promotion and development of public  
5-59 transportation and pedestrian facilities and systems, and the  
5-60 district will serve the public purpose of securing expanded and  
5-61 improved transportation and pedestrian facilities and systems.

- 5-62 (e) The district will:  
5-63 (1) promote the health, safety, and general welfare of  
5-64 residents and employers in the district;  
5-65 (2) secure expanded and improved transportation and  
5-66 pedestrian facilities and systems;  
5-67 (3) provide needed funding to preserve, maintain, and  
5-68 enhance the economic health and vitality of the district as a  
5-69 community and commerce center; and

(4) promote the health, safety, welfare, education, convenience, and enjoyment of the public by improving, landscaping, and developing certain areas and by providing public services and facilities in and adjacent to the district, which are necessary for the restoration, preservation, enjoyment, and enhancement of scenic beauty.

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.

SECTION 7. APPLICATION OF OTHER LAW. (a) Except as otherwise provided by this Act, Chapter 375, Local Government Code, applies to the district.

(b) Chapter 311, Government Code (Code Construction Act), applies to this Act.

SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally construed in conformity with the findings and purposes stated in this Act.

SECTION 9. BOARD OF DIRECTORS. (a) Except as provided by Section 14 of this Act, the district is governed by a board of 11 directors who serve staggered terms of four years.

(b) Except as provided by Section 14 of this Act, six directors are elected by the voters of the district at large. Five directors are appointed as follows:

(1) one director appointed by the governing body of the City of Magnolia;

(2) one director appointed by the governing body of the City of Stagecoach;

(3) one director appointed by the governing body of the City of Conroe;

(4) one director appointed by the governing body of the Magnolia Independent School District; and

(5) one director appointed by the Montgomery County Commissioners Court.

(c) To be eligible to serve as a director, a person must be at least 18 years old, a resident of the district, and:

(1) an owner of real property in the district;

(2) an owner, whether beneficial or otherwise, of at least 10 percent of the outstanding stock of a corporate owner of real property in the district or of a corporate lessee of real property in the district with a lease term of five years or more measured from the date of appointment or election, excluding options;

(3) an owner of at least 10 percent of the beneficial interest in a trust that:

(A) owns real property in the district; or

(B) leases real property in the district under an original lease term of five years or more measured from the date of appointment or election, excluding options;

(4) a lessee of real property in the district under an original lease term of five years or more, excluding options;

(5) an owner of at least 10 percent of the outstanding interest in a general or limited partnership that:

(A) owns real property in the district; or

(B) leases real property in the district under an original lease term of five years or more measured from the date of appointment or election, excluding options; or

(6) an agent, employee, officer, or director of any individual, corporation, trust, or partnership that owns or leases real property described by Subdivision (1), (2), (3), (4), or (5) of this subsection who is designated by the owner or lessee to serve as a director.

(d) A person may not be appointed as a director under Subsection (b) of this section if the appointment would cause more than three members of the board to be an agent, employee, officer, or director of the same individual, corporation, trust, or partnership that owns or leases property in the district.

SECTION 10. VACANCY. (a) A vacancy in an appointed position is filled for the remainder of the unexpired term by the entity that made the original appointment. A vacancy in an elected

7-1 position is filled by the remaining members of the board for the  
7-2 unexpired term.

7-3 (b) If six or more vacancies occur at the same time, on  
7-4 petition of a property owner of the district, the Montgomery County  
7-5 Commissioners Court shall make appointments to fill the vacancies.

7-6 (c) Section 375.066, Local Government Code, does not apply  
7-7 to the district.

7-8 SECTION 11. ELECTION DATE FOR DIRECTORS. The election of a  
7-9 director is held on the uniform election date in September of the  
7-10 year in which an elected director's term expires.

7-11 SECTION 12. BOND NOT REQUIRED. A director is not required  
7-12 to execute a bond as required by Section 375.067, Local Government  
7-13 Code.

7-14 SECTION 13. REMOVAL OF DIRECTOR. The board may remove a  
7-15 director for misconduct or failure to carry out the director's  
7-16 duties by vote of not less than 75 percent of the remaining  
7-17 directors.

7-18 SECTION 14. INITIAL DIRECTORS. (a) Not later than the 30th  
7-19 day after the effective date of this Act, the entities described in  
7-20 Section 9(b) of this Act shall make the initial appointments to the  
7-21 positions described in that section. The Montgomery County  
7-22 Commissioners Court shall make the initial appointment of the six  
7-23 elected directors and designate whether the director serves for a  
7-24 term expiring October 1, 2005, or October 1, 2007.

7-25 (b) The initial directors serve terms as follows:

7-26 (1) the director appointed under Section 9(b)(5) of  
7-27 this Act and three of the elected directors appointed by the  
7-28 Montgomery County Commissioners Court under Subsection (a) of this  
7-29 section serve for terms expiring on October 1, 2007;

7-30 (2) the directors appointed under Sections 9(b)(1),  
7-31 (2), and (4) of this Act serve for terms expiring on October 1,  
7-32 2006; and

7-33 (3) the director appointed under Section 9(b)(3) of  
7-34 this Act and three of the elected directors appointed by the  
7-35 commissioners court under Subsection (a) of this section serve for  
7-36 terms expiring on October 1, 2005.

7-37 (c) This section expires January 1, 2008.

7-38 SECTION 15. CONFIRMATION ELECTION. (a) After holding any  
7-39 hearings on whether to exclude territory from the district, the  
7-40 board shall order an election on the confirmation of the district.  
7-41 The election shall be held on the first uniform election date that  
7-42 occurs 45 or more days after the date the election is ordered.

7-43 (b) The election shall be called and held in the same manner  
7-44 as provided by general law for a municipal utility district.

7-45 (c) If less than a majority of the votes cast at the  
7-46 election favor confirmation of the district, another confirmation  
7-47 election may not be held sooner than 180 days after the date of a  
7-48 previous confirmation election.

7-49 (d) Until confirmed at an election, the district may not  
7-50 impose taxes, fees, or assessments, but may carry out other  
7-51 district business as determined by the board.

7-52 SECTION 16. BORROWING MONEY BEFORE CONFIRMATION ELECTION.

7-53 (a) Before the election confirming the district and the election  
7-54 imposing a limited sales and use tax, the board may borrow money to  
7-55 hire employees, obtain office space, pay fees and costs of holding  
7-56 elections, and pay other costs and expenses reasonably necessary to  
7-57 prepare for commencement of operation.

7-58 (b) Funds borrowed for a purpose described by Subsection (a)  
7-59 of this section are repayable by the district only if the elections  
7-60 result in the confirmation of the district and imposition of a  
7-61 limited sales and use tax. The district shall repay those funds not  
7-62 later than the fifth anniversary of the date the funds were  
7-63 borrowed.

7-64 (c) The maximum amount the district may borrow under this  
7-65 section is \$75,000.

7-66 SECTION 17. IMPACT AREAS. (a) In this section, "impact  
7-67 area" means an area defined by board resolution that is in the  
7-68 district or within two miles of the district and located in  
7-69 Montgomery County.

8-1 (b) The board may, after allowing for the general and  
 8-2 administrative costs of operating the district, apply proceeds from  
 8-3 the limited sales and use tax to mitigate the net negative effects  
 8-4 of development in the district on an impact area, including effects  
 8-5 on public utilities and services, public transportation and traffic  
 8-6 movement, and scenic beauty.

8-7 (c) The district may allocate direct expenditures for the  
 8-8 district or the impact area to each area for which the expenditure  
 8-9 was made. The district may allocate expenditures for the general  
 8-10 welfare, promotion, or benefit of the district and impact area  
 8-11 between the district and the impact area in the amount, as  
 8-12 determined by the board, that is proportionate to the benefit  
 8-13 conferred on each area.

8-14 SECTION 18. IMPROVEMENT PROJECTS. (a) The board may  
 8-15 authorize any program or project necessary for the accomplishment  
 8-16 of the public purposes of the district, whether located or  
 8-17 conducted inside or outside of the district or provided by or on  
 8-18 behalf of the district, for the:

8-19 (1) planning, design, construction, acquisition,  
 8-20 lease, rental, installment purchase, improvement, provision of  
 8-21 furnishings or other equipment, rehabilitation, repair,  
 8-22 reconstruction, relocation, use, management, operation, or  
 8-23 maintenance of any works, improvements, or facilities; or

8-24 (2) provision, support, enhancement, improvement,  
 8-25 extension, or expansion of services.

8-26 (b) A project authorized under this section may include:

8-27 (1) landscaping, lighting, banners, signs, streets or  
 8-28 sidewalks, hike and bike paths and trails, pedestrian walkways,  
 8-29 skywalks, crosswalks or tunnels, and highway right-of-way or  
 8-30 transit corridor beautification and improvements;

8-31 (2) drainage or storm water detention improvements and  
 8-32 solid waste, water, sewer, telecommunications infrastructure, or  
 8-33 power facilities and services, including electrical, gas, steam,  
 8-34 and chilled water facilities;

8-35 (3) parks, lakes, gardens, recreational facilities,  
 8-36 open space, scenic areas, and related exhibits and preserves,  
 8-37 fountains, plazas, and pedestrian malls, public art and sculpture  
 8-38 and related exhibits and facilities, and educational and cultural  
 8-39 exhibits and facilities;

8-40 (4) conferences, conventions, or exhibitions,  
 8-41 manufacturer, consumer, or trade shows, civic, community, or  
 8-42 institutional events, exhibits, displays, attractions and  
 8-43 facilities for special events, holidays, and seasonal or cultural  
 8-44 celebrations;

8-45 (5) off-street parking facilities, bus terminals,  
 8-46 heliports, mass-transit, and roadway-borne or water-borne  
 8-47 transportation and people-mover systems; and

8-48 (6) any other public improvements, facilities, or  
 8-49 services similar to the projects described in this subsection.

8-50 (c) In connection with any improvement project the board  
 8-51 may:

8-52 (1) remove, raze, demolish, or clear land or  
 8-53 improvements;

8-54 (2) acquire any interest in real or personal property  
 8-55 except that the district may not acquire the property through  
 8-56 eminent domain; and

8-57 (3) provide any special or supplemental services for  
 8-58 the improvement and promotion of the district or adjacent areas or  
 8-59 for the protection of public health and safety in or adjacent to the  
 8-60 district, including advertising, promotion, tourism, health and  
 8-61 sanitation, public safety, security, fire protection and emergency  
 8-62 medical services, business recruitment, development, elimination  
 8-63 of traffic congestion, and recreational, educational, and cultural  
 8-64 improvements, enhancements, and services.

8-65 (d) The board may undertake separately or jointly with other  
 8-66 persons and pay all or part of the cost of improvement projects,  
 8-67 including projects:

8-68 (1) for improving, enhancing, and supporting public  
 8-69 safety and security, fire protection and emergency medical



9-1 services, and law enforcement within and adjacent to the district;  
9-2 and

9-3 (2) that confer a general benefit on the entire  
9-4 district and adjacent areas or a special benefit on a definable part  
9-5 of the district.

9-6 (e) For a program or project located in the territory of a  
9-7 planned community, the district may not acquire property by any  
9-8 means, including through eminent domain, or otherwise use the  
9-9 property without the written consent of:

9-10 (1) the owner of the property; or

9-11 (2) the entity that dedicated the property to public  
9-12 use, if the property is dedicated for public use.

9-13 SECTION 19. PAYMENT OF EXPENSES. The board may provide or  
9-14 secure the payment or repayment of the costs and expenses of the  
9-15 establishment, administration, and operation of the district,  
9-16 including the costs of an improvement project or a contractual  
9-17 obligation or indebtedness, through:

9-18 (1) a lease, installment purchase contract, or other  
9-19 agreement with any person; or

9-20 (2) the imposition of taxes, user fees, concessions,  
9-21 rentals, or other revenues or resources of the district.

9-22 SECTION 20. USE OF OPEN SPACES. (a) The board by rule may  
9-23 regulate the private use of public roadways, open spaces, parks,  
9-24 sidewalks, and similar public areas. The rules may provide for the  
9-25 safe and orderly use of public roadways, open spaces, parks,  
9-26 sidewalks, and similar public areas or facilities.

9-27 (b) To the extent a rule adopted under Subsection (a) of  
9-28 this section conflicts with a rule, order, ordinance, or  
9-29 regulation of a county or municipality with jurisdiction in the  
9-30 district's territory, the rule, order, ordinance, or regulation of  
9-31 the county or municipality controls.

9-32 SECTION 21. PERMIT FOR PUBLIC GATHERINGS; FEE. (a) The  
9-33 board may require a permit for a parade, demonstration,  
9-34 celebration, entertainment event, or similar nongovernmental  
9-35 activity in or on the public roadways, open spaces, parks,  
9-36 sidewalks, and similar public areas or facilities in the district.

9-37 (b) The board may charge a fee for the permit application  
9-38 and for public safety or security services in an amount the board  
9-39 considers necessary.

9-40 SECTION 22. PUBLIC SECURITY. The district may not employ  
9-41 peace officers, but may contract for off-duty peace officers to  
9-42 provide public safety and security services in connection with  
9-43 security needs in commercial office, retail, or industrial areas  
9-44 and in connection with a special event, holiday, or other period  
9-45 with high traffic congestion, or similar circumstance.

9-46 SECTION 23. ECONOMIC DEVELOPMENT POWERS. (a) The district  
9-47 has the same economic development powers that Chapter 380, Local  
9-48 Government Code, and Subchapter A, Chapter 1509, Government Code,  
9-49 provide a municipality with a population of more than 100,000.

9-50 (b) The district has the powers and duties of a conservation  
9-51 and reclamation district created under Section 59, Article XVI,  
9-52 Texas Constitution, under the Development Corporation Act of 1979  
9-53 (Article 5190.6, Vernon's Texas Civil Statutes).

9-54 SECTION 24. REQUIREMENTS FOR USE OF FACILITIES. The board  
9-55 may require a permit or franchise agreement with a vendor,  
9-56 concessionaire, exhibitor, or similar private or commercial entity  
9-57 for the limited use of the area or facilities of the district on  
9-58 terms the board may impose.

9-59 SECTION 25. CHANGE IN DISTRICT TERRITORY. (a) The board  
9-60 may add or exclude territory in the manner provided by Subchapter J,  
9-61 Chapter 49, and Section 54.016, Water Code, except that:

9-62 (1) a reference in those laws to a tax means an ad  
9-63 valorem tax only;

9-64 (2) Section 42.042, Local Government Code, and Section  
9-65 54.016, Water Code, apply only with respect to the consent of a  
9-66 municipality with a population of 25,000 or less and do not apply to  
9-67 the annexation of land restricted primarily to commercial or  
9-68 business use; and

9-69 (3) territory located in a planned community may not

10-1 be added to the district.

10-2 (b) Territory of the district that is annexed by a  
10-3 municipality is no longer a part of the district effective on the  
10-4 date the municipality may impose a sales and use tax in the  
10-5 territory.

10-6 (c) Territory of the district that becomes a part of a  
10-7 planned community is no longer a part of the district effective on  
10-8 the date the planned community imposes an ad valorem assessment in  
10-9 the territory.

10-10 (d) Not later than the 10th day after the date of the change  
10-11 in the territory of the district, the board shall send to the  
10-12 comptroller, by certified or registered mail, certified copies of  
10-13 all resolutions, orders, or ordinances pertaining to the change.

10-14 SECTION 26. LIMITED SALES AND USE TAX. (a) Words and  
10-15 phrases used in this section that are defined by Chapters 151 and  
10-16 321, Tax Code, have the meanings assigned by Chapters 151 and 321,  
10-17 Tax Code.

10-18 (b) Except as otherwise provided in this section, Subtitles  
10-19 A and B, Title 2, Tax Code, and Chapter 151, Tax Code, apply to the  
10-20 taxes and to the administration and enforcement of the taxes  
10-21 imposed by the district in the same manner that those laws apply to  
10-22 state taxes.

10-23 (c) The district may adopt, reduce, or repeal the limited  
10-24 sales and use tax authorized by this section at an election in which  
10-25 a majority of the voters of the district voting in the election  
10-26 approve the adoption or the abolition of the tax, as applicable.  
10-27 The board may set the tax at any rate of up to two percent in  
10-28 increments of one-eighth of one percent except that the tax may not  
10-29 be imposed at a rate that would cause the combined tax rate of all  
10-30 local sales and use taxes in any location in the district to exceed  
10-31 two percent.

10-32 (d) The provisions of Subchapters C, D, E, and F, Chapter  
10-33 323, Tax Code, relating to county sales and use taxes shall apply to  
10-34 the application, collection, and administration of a sales and use  
10-35 tax imposed under this section to the extent consistent with this  
10-36 Act, as if references in Chapter 323, Tax Code, to a county referred  
10-37 to the district and references to a commissioners court referred to  
10-38 the board. Sections 323.401-323.404 and 323.505, Tax Code, do not  
10-39 apply to a tax imposed under this section.

10-40 (e) A tax imposed under this section or the repeal or  
10-41 reduction of a tax under this section takes effect on the first day  
10-42 of the calendar quarter occurring after the date on which the  
10-43 comptroller receives the copy of the resolution as required by  
10-44 Section 323.405(b), Tax Code.

10-45 (f) On adoption of the tax authorized by this section, there  
10-46 is imposed a tax at the rate approved on the receipts from the sale  
10-47 at retail of taxable items within the district, and an excise tax on  
10-48 the use, storage, or other consumption within the district of  
10-49 taxable items purchased, leased, or rented from a retailer within  
10-50 the district during the period that the tax is in effect. The rate  
10-51 of the excise tax is the same as the rate of the sales tax portion of  
10-52 the tax and is applied to the sales price of the taxable item. With  
10-53 respect to a taxable service, "use" means the derivation in the  
10-54 district of a direct or indirect benefit from the service.

10-55 (g) An election to authorize, reduce, or repeal a limited  
10-56 sales and use tax may be called by order of the board and must be  
10-57 held on the next available uniform election date that occurs 45 or  
10-58 more days after the date on which the order calling the election was  
10-59 passed. The district shall provide notice of the election and shall  
10-60 hold and conduct the election in the manner prescribed by Chapter  
10-61 54, Water Code, for bond elections for municipal utility districts.  
10-62 The ballots shall be printed to provide for voting for or against  
10-63 the appropriate one of the following propositions:

10-64 (1) "Adoption of a \_\_\_ percent district sales and use  
10-65 tax within the district";

10-66 (2) "Reduction of the district sales and use tax  
10-67 within the district from \_\_\_ percent to \_\_\_ percent"; or

10-68 (3) "Abolition of the district sales and use tax  
10-69 within the district."

11-1 (h) The district may examine and receive information  
11-2 related to the imposition, assessment, and collection of sales and  
11-3 use taxes to the same extent as if the district were a municipality.

11-4 SECTION 27. UTILITIES. The district may not impose an  
11-5 impact fee or assessment on the property, including equipment,  
11-6 rights-of-way, facilities, or improvements, of an electric utility  
11-7 or a power generation company as defined by Section 31.002,  
11-8 Utilities Code, a gas utility as defined by Section 101.003 or  
11-9 121.001, Utilities Code, a cable operator as defined by 47 U.S.C.  
11-10 Section 522, as amended, or a telecommunications provider as  
11-11 defined by Section 51.002, Utilities Code.

11-12 SECTION 28. BONDS. (a) The board may issue bonds of the  
11-13 district in the manner provided by Subchapter J, Chapter 375, Local  
11-14 Government Code, except that Sections 375.207 and 375.208, Local  
11-15 Government Code, do not apply.

11-16 (b) If the district issues bonds for the primary purpose of  
11-17 providing water, sewage, or drainage facilities, the district must  
11-18 obtain the commission's approval in the manner provided by Chapter  
11-19 49, Water Code.

11-20 (c) In addition to the sources of money described by  
11-21 Subchapter J, Chapter 375, Local Government Code, the bonds of the  
11-22 district may be secured and made payable, wholly or partly, by a  
11-23 pledge of any part of the net proceeds the district receives from a  
11-24 specified portion of the sales and use tax authorized by this Act.

11-25 SECTION 29. INTERLOCAL AGREEMENTS. (a) The district and a  
11-26 municipality, any part of which is located in the boundaries of the  
11-27 district or impact area defined as provided by Section 17 of this  
11-28 Act, may enter into an interlocal agreement to:

- 11-29 (1) accomplish an improvement project; or
- 11-30 (2) provide for a facility, service, or equipment from  
11-31 the district for the benefit of the municipality.

11-32 (b) Payment for the improvement project, facility, service,  
11-33 or equipment may be made or pledged by the municipality to the  
11-34 district out of any money the municipality collects under Chapter  
11-35 351, Tax Code, or out of any other available money.

11-36 SECTION 30. DISSOLUTION. (a) Subchapter M, Chapter 375,  
11-37 Local Government Code, governs the dissolution of the district,  
11-38 except that Section 375.263 of that subchapter does not apply to the  
11-39 district.

11-40 (b) On dissolution of the district, the board shall transfer  
11-41 ownership of all property and assets of the district to:

- 11-42 (1) Montgomery County; or
- 11-43 (2) if on the date of dissolution of the district more  
11-44 than 50 percent of the territory in the district is located in the  
11-45 corporate limits of a municipality, that municipality.

11-46 SECTION 31. ADDITIONAL LEGISLATIVE FINDINGS. The  
11-47 legislature finds that:

11-48 (1) proper and legal notice of the intention to  
11-49 introduce this Act, setting forth the general substance of this  
11-50 Act, has been published as provided by law, and the notice and a  
11-51 copy of this Act have been furnished to all persons, agencies,  
11-52 officials, or entities to which they are required to be furnished by  
11-53 the constitution and laws of this state, including the governor,  
11-54 who has submitted the notice and Act to the commission;

11-55 (2) the commission has filed its recommendations  
11-56 relating to this Act with the governor, lieutenant governor, and  
11-57 speaker of the house of representatives within the required time;  
11-58 and

11-59 (3) all requirements of the constitution and laws of  
11-60 this state and the rules and procedures of the legislature with  
11-61 respect to the notice, introduction, and passage of this Act have  
11-62 been fulfilled and accomplished.

11-63 SECTION 32. EFFECTIVE DATE. This Act takes effect  
11-64 immediately if it receives a vote of two-thirds of all the members  
11-65 elected to each house, as provided by Section 39, Article III, Texas  
11-66 Constitution. If this Act does not receive the vote necessary for  
11-67 immediate effect, this Act takes effect September 1, 2003.

11-68 \* \* \* \* \*