

By: Brown of Kaufman

H.B. No. 3615

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation, administration, powers, duties,  
3 operation, and financing of the Kingsborough Municipal Utility  
4 District No. 9 of Kaufman County.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. DEFINITIONS. In this Act:

7 (1) "Board" means the board of directors of the  
8 district.

9 (2) "Commission" means the Texas Commission on  
10 Environmental Quality.

11 (3) "District" means the Kingsborough Municipal  
12 Utility District No. 9 of Kaufman County.

13 SECTION 2. CREATION. (a) A conservation and reclamation  
14 district, to be known as the Kingsborough Municipal Utility  
15 District No. 9 of Kaufman County, is created in Kaufman County,  
16 subject to approval at a confirmation election under Section 13 of  
17 this Act.

18 (b) The district is a governmental agency and a political  
19 subdivision of this state.

20 SECTION 3. AUTHORITY FOR CREATION. The district is created  
21 under and is essential to accomplish the purposes of Section 52,  
22 Article III, and Section 59, Article XVI, Texas Constitution.

23 SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The  
24 district is created to serve a public use and benefit.

1           (b) All of the land and other property included within the  
2 boundaries of the district will be benefited by the works and  
3 projects that are to be accomplished by the district under powers  
4 conferred by Section 52, Article III, and Section 59, Article XVI,  
5 Texas Constitution.

6           SECTION 5. BOUNDARIES. The boundaries of the district are  
7 as follows:

8           All that certain lot, tract or parcel of land, part of the  
9 J.D. Merchant Survey, Abstract No. 310, Kaufman County, Texas and  
10 the J.D. Merchant Survey, Abstract No. 850, Dallas County, Texas,  
11 part of that certain called 35.03 acre tract described in a deed to  
12 David Marshall by W. E. Burgess, et ux on September 9, 1960,  
13 recorded in Vol. 434 page 107 of the Deed Records of Kaufman County,  
14 Texas, part of that certain called 110 acre tract described in a  
15 deed to David Marshall by Blanche H. Bennett on September 22, 1983,  
16 recorded in Vol. 746 page 21 of the Deed Records of Kaufman County,  
17 Texas, part of that certain Tract I, called 102 acres and part of  
18 that certain Tract 2, called 99 3/4 acres described in a deed to  
19 David Marshall by Mabel Hawthorne on October 17, 1972, recorded in  
20 Vol. 568 page 401 of the Deed Records of Kaufman County, Texas, all  
21 of that certain Tract A, called 18.4252 acres conveyed to Robert  
22 Lyle Marshall, Jr., all of that certain Tract B, called 18.4252  
23 acres conveyed to David M. Marshall and all of that certain Tract D,  
24 called 18.4252 acres conveyed to Josephine Marshall Moellenberg in  
25 a Partition Deed by Robert Lyle Marshall, et all on December 27,  
26 1990, recorded in Vol. 1009 page 889 of the Deed Records of Kaufman  
27 County, Texas, all of that certain called 18.4252 acre tract

1 conveyed to Robert L. Marshall, Jr. and David M. Marshall by Lyle P.  
2 Marshall, et al on December 16, 1992, recorded in Vol. 1075 page 496  
3 of the Deed Records of Kaufman County, Texas, all of that certain  
4 called 11.304 acre tract conveyed to Texas Power & Light Company by  
5 Winnie D. Marshall on April 6, 1964, recorded in Vol. 470 page 342  
6 of the Deed Records of Kaufman County, Texas and all of that  
7 certain 0.017 acre tract conveyed to Texas Power & Light Company by  
8 Mabel Hawthorne on April 6, 1964, recorded in Vol. 470 page 340 of  
9 the Deed Records of Kaufman County, Texas and being more completely  
10 described as follows, to-wit:

11 BEGINNING at a 1/2" Iron rod set at the South corner of the  
12 above mentioned Tract D and being at the intersection of the  
13 Southeast line of the above mentioned J.D. Merchant Survey,  
14 Abstract No. 310 with the Northeast Right of Way line at Old Highway  
15 No. 40, a.k.a. Kaufman Street.

16 THENCE N 50 deg. 21 min. 16 sec. W, with the Northeast Right  
17 of Way line of Old Highway No. 40, a distance of 830.33 ft. to a 1/2"  
18 Iron rod set at an angle corner in same and being in the line between  
19 Dallas County and Kaufman County, Texas.

20 THENCE N 0 deg. 00 min. 12 sec. W, continuing with said Right  
21 of Way line and with said County line, a distance of 12.99 ft. to a  
22 1/2" Iron rod set for corner.

23 THENCE N 50 deg. 21 min. 16 sec. W, continuing with the  
24 Northeast Right of Way line of Old Highway No. 40, a distance of  
25 1532.11 ft. to a 1/2" Iron rod found at the West corner of the above  
26 mentioned Tract A and being at the South corner of the Jack Proctor  
27 14.000 acre tract, recorded in Vol. 83094 page 4165 of the Deed

1 Records of Dallas County, Texas.

2           THENCE N 46 deg. 14 min. 58 sec. E, with the Northwest line of  
3 said Tract A, passing the North corner of same, continuing a total  
4 distance of 1632.55 ft. to a 3/8" Iron rod found at an angle corner  
5 in the West or Northwest line of the above mentioned 99 3/4 acre  
6 tract and being in the line between Dallas County and Kaufman  
7 County, Texas.

8           THENCE, N 0 deg. 38 min. 43 sec. E, with the North or  
9 Northwest line of said 99 3/4 acre tract and with said County line,  
10 a distance of 1101.02 ft. to a 3/8" Iron rod found at the Northeast  
11 corner of the Veterans Land Board of Texas 10.647 acre tract,  
12 recorded in Vol. 82098 page 2393 of the Deed Records of Dallas  
13 County, Texas and being at the South corner of the Marvin C. Kennedy  
14 8.372 acre tract, recorded in Vol. 83175 page 3558 of the Deed  
15 Records of Dallas County, Texas.

16           THENCE, N 0 deg. 24 min. 27 sec. E, continuing with said  
17 County Line, a distance of 1992.69 ft. to a point for corner at the  
18 intersection of same with the centerline of East Bluff Road, from  
19 which a 3/8" Iron rod found in the Southeast line of said road bears  
20 S 0 deg. 24 min. 27 sec. W-23.93 ft.

21           THENCE N 46 deg. 15 min. 30 sec E, with the centerline of East  
22 Bluff Road, a distance of 390.76 ft. to a 1/2" Iron rod set at the  
23 intersection of same with the South Right of Way line of U.S.  
24 Highway No. 175.

25           THENCE N 71 deg. 36 min. 42 sec. E, with the South Right of Way  
26 line of U.S. Highway No. 175, a distance of 50.80 ft. to a Concrete  
27 Monument found at an angle corner in same.

1           THENCE N 76 deg. 37 min. 31 sec. E, continuing with said Right  
2 of Way line, a distance of 89.06 ft. to a Concrete Monument found at  
3 an angle corner in same.

4           THENCE S 80 deg. 10 min. 05 sec. E, continuing with said Right  
5 of Way line, a distance of 234.89 ft. to a Concrete Monument found  
6 at an angle corner in same.

7           THENCE S 75 deg. 31 min. 17. sec. E, continuing with said  
8 Right of Way line, a distance of 920.20 ft. to a Concrete Monument  
9 found at an angle corner in same.

10          THENCE S 78 deg. 30 min. 28 sec. E, continuing with said Right  
11 of Way line, a distance of 800.72 ft. to a Concrete Monument found  
12 at an angle corner in same.

13          THENCE S 81 deg. 31 min. 03 sec. E, continuing with the South  
14 Right of Way line of U.S. Highway No. 175, a distance of 399.84 ft to  
15 a 1/2" Iron rod found at the North corner of the Rock Church, Inc.  
16 6.0062 acre tract, recorded in Vol. 725 page 486 of the Deed Records  
17 of Kaufman County, Texas.

18          THENCE S 44 deg. 54 min. 11 sec. W, with the Northwest line of  
19 said 6.0062 acre tract, a distance of 547.56 ft. to a 1/2" Iron rod  
20 set at the West corner of same, in the Southwest line of the above  
21 mentioned 35.03 acre tract and being in the Northwest line of the  
22 above mentioned 110 acre tract.

23          THENCE S 45 deg. 00 min. 00 sec. E, with the Northeast line of  
24 said 110 acre tract, a distance of 1492.92 ft. to a 1/2" Iron rod set  
25 at the intersection of same with the West Right of Way line of Farm  
26 to Market Road No. 1389 and being at the South corner of the Jack D.  
27 Russell 0.029 acre Tract One, recorded in Vol. 1938 page 626 of the

1 Deed Records of Kaufman County, Texas.

2       THENCE S 20 deg. 49 min. 23 sec. W, with the West Right of Way  
3 line of Farm to Market Road No. 1389, a distance of 1928.31 ft. to a  
4 1/2" Iron rod set at the P.C. of a curve to the right, the radius  
5 point of which bears N 69 deg. 10 min. 37 sec. W-2619.70 ft.

6       THENCE, continuing with said Right of Way line and with said  
7 curve to the right, the angle of which is 6 deg. 26 min. 59 sec., the  
8 radius is 2619.70 ft. and the tangent is 147.60 ft., a distance of  
9 294.90 ft to a 1/2" Iron rod set at the P.T. of said curve to the  
10 right.

11       THENCE S 27 deg. 16 min. 29 sec. W, continuing with the West  
12 Right of Way line of Farm Market Road No. 1389, a distance of 167.63  
13 ft. to a 1/2" Iron rod set at the intersection of same with the  
14 Southeast line of the above mentioned J.D. Merchant survey,  
15 Abstract No. 310 and being in the Southeast line of the above  
16 mentioned 99 3/4 acre tract.

17       THENCE S 45 deg. 13 min. 47 sec. W, with the Southeast line of  
18 said 99 3/4 acre tract and with the Southeast line of said J.D.  
19 Merchant Survey, Abstract No. 310, a distance of 1421.52 ft. to a  
20 1/2" Iron rod set at the South corner of said 99 3/4 acre tract and  
21 being at the East corner of the above mentioned Tract D.

22       THENCE S 44 deg. 37 min. 07 sec. W, continuing with the  
23 Southeast line of said J.D. Merchant Survey, Abstract No. 310 and  
24 with the Southeast line of said Tract D, a distance of 1258.56 ft.  
25 to the point of beginning, containing 353.295 acres of land, of  
26 which 0.188 of an acre is within the above mentioned East Bluff Road  
27 and of which 20.239 acres is within the above mentioned Texas Power

1 & Light tracts.

2 All that certain lot, tract or parcel of land, part of the  
3 J.D. Merchant Survey, Abstract No. 310, Kaufman County, Texas, part  
4 of that certain Tract 1, called 102 acres and part of that certain  
5 Tract 2, called 99 3/4 acres described in a deed to David Marshall  
6 be Mabel Hawthorne on October 17, 1972, recorded in Vol. 568 page  
7 401 of the Deed Records of Kaufman County, Texas, all of that  
8 certain called 11.304 acre tract conveyed to the Texas Power & Light  
9 Company by Winnie D. Marshall on April 6, 1964, recorded in Vol. 470  
10 page 342 of the Deed Records of Kaufman County, Texas and all of  
11 that certain called 9.017 acre tract conveyed to Texas Power & Light  
12 Company by Mabel Hawthorne on April 6, 1964, recorded in Vol. 470  
13 page 340 of the Deed Records of Kaufman County, Texas and being more  
14 completely described as follows, to-wit:

15 BEGINNING at a 1/2" Iron rod set at the South corner of the  
16 above mentioned 9.017 acre tract, in the Southeast corner of the  
17 above mentioned J.D. Merchant Survey, Abstract No. 310 and being in  
18 the Southeast line of the above mentioned 99 3/4 acre tract, said  
19 beginning point being N 45 deg. 13 min. 47 sec. E-448.29 ft. from  
20 the South corner of said 99 3/4 acre tract.

21 THENCE N 0 deg. 02 min. 34 sec. E, with the West line of said  
22 9.017 acre tract, a distance of 339.44 ft. to a 1/2" Iron rod set at  
23 an angle corner in same.

24 THENCE N 13 deg. 36 min. 23 sec. W, continuing with the West  
25 line of said 9.017 acre tract, passing the North corner of same,  
26 continuing with the West line of the above mentioned 11.304 acre  
27 tract, a total distance of 3486.19 ft. to a 1/2" Iron rod set at the

1 North corner of said 11.304 acre tract.

2       THENCE S 45 deg. 00 min. 00. sec. E, with the Northeast line  
3 of said 11.304 acre tract, a distance of 479.93 ft. to a 1/2" Iron  
4 rod set at the Northeast corner of same.

5       THENCE S 13 deg. 36 min 23 sec. E, with the East line of said  
6 11.304 acre tract, passing the South corner of same, continuing  
7 with the East line of said 9.017 acre tract, a total distance of  
8 3106.44 ft. to a 1/2" Iron rod set at an angle corner of same.

9       THENCE S 0 deg. 02 min 34 sec. W, continuing with the East  
10 line of said 9.017 acre tract, a distance of 120.99 ft. to a 3/8"  
11 Iron rod set at the Southeast corner of same and being in the  
12 Southeast line of the above mentioned J.D. Merchant Survey,  
13 Abstract No. 310.

14       THENCE S 45 deg. 13 min. 47 sec. W, with the Southeast line of  
15 said J.D. Merchant Survey, Abstract No. 310, a distance of 352.41  
16 ft. to the point of beginning, containing 20.239 acres of land.

17       SECTION 6. FINDINGS RELATING TO BOUNDARIES.       The  
18 legislature finds that the boundaries and field notes of the  
19 district form a closure. If a mistake is made in the field notes or  
20 in copying the field notes in the legislative process, the mistake  
21 does not affect in any way:

22               (1) the organization, existence, or validity of the  
23 district;

24               (2) the right of the district to impose taxes; or

25               (3) the legality or operation of the district or the  
26 board.

27       SECTION 7. GENERAL POWERS.   (a) Except as provided by



1 Subsection (b) of this section, the district has all of the rights,  
2 powers, privileges, authority, functions, and duties provided by  
3 the general law of this state, including Chapters 49 and 54, Water  
4 Code, applicable to municipal utility districts created under  
5 Section 59, Article XVI, Texas Constitution. This Act prevails  
6 over any provision of general law that is in conflict or  
7 inconsistent with this Act.

8 (b) The district may not provide retail water service to an  
9 area designated by ordinance or resolution of the governing body of  
10 a municipality as within the water service area, extraterritorial  
11 jurisdiction, or corporate limits of that municipality if the  
12 municipality:

- 13 (1) has a population of less than 5,000; and  
14 (2) has not given its express written consent.

15 SECTION 8. ADDITIONAL POWERS. (a) The district has the  
16 additional rights, powers, privileges, authority, and functions  
17 provided by this section.

18 (b) To the extent authorized by Section 52, Article III,  
19 Texas Constitution, the district may provide for the construction,  
20 maintenance, and operation inside or outside the boundaries of the  
21 district of:

- 22 (1) paved roads and turnpikes; or  
23 (2) works, facilities, or improvements related to the  
24 roads and turnpikes.

25 SECTION 9. BONDS. (a) The district may issue bonds as  
26 provided by Chapters 49 and 54, Water Code, and the general laws of  
27 this state.

1           (b) The district may issue bonds, notes, or other  
2 obligations of the district to finance construction, maintenance,  
3 and operation under Section 8 of this Act and may impose a tax to pay  
4 the principal of or interest on bonds issued under this subsection.

5           (c) The district may not issue bonds under Subsection (b) of  
6 this section unless the issuance is approved by a vote of a  
7 two-thirds majority of the qualified voters of the district voting  
8 at an election called for that purpose. Bonds, notes, or other  
9 obligations issued or incurred under Subsection (b) of this section  
10 may not exceed one-fourth of the assessed value of the real property  
11 in the district.

12           (d) Sections 49.181 and 49.182, Water Code, do not apply to  
13 projects undertaken by the district under Section 8(b) of this Act  
14 or to bonds issued by the district under Subsection (b) of this  
15 section.

16           SECTION 10. EMINENT DOMAIN. The district may exercise the  
17 right of eminent domain, as provided by Section 49.222, Water Code,  
18 only within the boundaries of the district.

19           SECTION 11. BOARD OF DIRECTORS. (a) The district is  
20 governed by a board of five directors.

21           (b) Temporary directors serve until initial directors are  
22 elected under Section 13 of this Act.

23           (c) Initial directors serve until permanent directors are  
24 elected under Section 14 of this Act.

25           (d) Permanent directors serve staggered four-year terms.

26           (e) Each director must qualify to serve as director in the  
27 manner provided by Section 49.055, Water Code.

1           SECTION 12. APPOINTMENT OF TEMPORARY DIRECTORS. (a) On or  
2 after the effective date of this Act, a person who owns land in the  
3 district may submit a petition to the commission requesting that  
4 the commission appoint as temporary directors the five persons  
5 named in the petition.

6           (b) Subject to Subsection (e) of this section, the  
7 commission shall appoint as temporary directors the five persons  
8 named in the first petition received by the commission.

9           (c) If a temporary director fails to qualify for office, the  
10 commission shall appoint a person to fill the vacancy.

11           (d) As soon as practicable after all of the temporary  
12 directors have qualified, the temporary directors shall meet and  
13 elect officers from among their membership.

14           (e) The commission may appoint temporary directors for a  
15 district that is located wholly or in part within an area designated  
16 by ordinance or resolution of the governing body of a municipality  
17 with a population of less than 5,000 as the water service area,  
18 extraterritorial jurisdiction, or corporate limits of that  
19 municipality only if the municipality has given its express written  
20 consent to the creation of the district. The municipality may give  
21 its consent only on the execution of a written agreement between the  
22 developer of the district and a school district affiliated with the  
23 municipality providing that the district will:

24                   (1) fund the construction of buildings and  
25 improvements for the school district; and

26                   (2) establish an educational fund for the school  
27 district of an amount based on an annually determined transaction

1 fee on the sale and resale of any home within the district  
2 boundaries for the duration of the existence of the district.

3 SECTION 13. CONFIRMATION AND INITIAL DIRECTORS ELECTION.

4 (a) Subject to Subsection (b) of this section, the temporary board  
5 of directors shall call and hold an election to confirm  
6 establishment of the district and to elect five initial directors  
7 in the manner provided by Chapter 49, Water Code.

8 (b) The temporary board of directors may call and hold an  
9 election to confirm establishment of a district that is located  
10 wholly or in part within an area designated by ordinance or  
11 resolution of the governing body of a municipality with a  
12 population of less than 5,000 as the water service area,  
13 extraterritorial jurisdiction, or corporate limits of that  
14 municipality only if the municipality has given its express written  
15 consent to the creation of the district. The municipality may give  
16 its consent only on the execution of a written agreement between the  
17 developer of the district and a school district affiliated with the  
18 municipality providing that the district will:

19 (1) fund the construction of buildings and  
20 improvements for the school district; and

21 (2) establish an educational fund for the school  
22 district of an amount based on an annually determined transaction  
23 fee on the sale and resale of any home within the district  
24 boundaries for the duration of the existence of the district.

25 SECTION 14. ELECTION OF DIRECTORS. The board shall call and  
26 hold elections to elect permanent directors in the manner provided  
27 by Chapter 49, Water Code.

1 SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

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

8 (b) The governor has submitted the notice and Act to the  
9 commission.

10 (c) The commission has filed its recommendations relating  
11 to this Act with the governor, lieutenant governor, and speaker of  
12 the house of representatives within the required time.

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

17 SECTION 16. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act  
18 takes effect September 1, 2003.

19 (b) If the creation of the district is not confirmed at a  
20 confirmation election held under Section 13 of this Act before  
21 September 1, 2005, this Act expires on that date.