

By: Brown of Kaufman

H.B. No. 3618

Substitute the following for H.B. No. 3618:

By: Callegari

C.S.H.B. No. 3618

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. 5 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. 5 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. 5 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 BEING all that certain lot, tract or parcel of land located in  
9 the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and  
10 being a portion of that certain tract of land described as Tract K31  
11 in the deed to West Foundation, according to the deed filed for  
12 record in Volume 720, Page 860 of the Deed Records of Kaufman  
13 County, Texas, and being more particularly described by metes and  
14 bounds as follows:

15 BEGINNING at a 5/8 inch iron rod found for the South corner of  
16 said Tract K31, said iron rod being in County Road No. 269 (an  
17 undefined width public roadway);

18 THENCE North 45 deg. 52 min. 38 sec. West, along the Southwest  
19 boundary line of said Track K31, and generally along said County  
20 Road No. 269, a distance of 2640.00 feet, said point being the  
21 beginning of a non-tangent curve to the right having a radius of  
22 2640.00 feet;

23 THENCE departing the Southwest boundary line of said Tract  
24 K31, through a central angle of 90 deg. 07 min. 01 sec., an arc  
25 length of 4152.29 feet, said non-tangent curve also having a long  
26 chord which bears North 89 deg. 10 min. 52 sec. East, a distance of  
27 3737.33 feet, to the Southeast boundary line of said Tract K31;

1           THENCE South 44 deg. 14 min. 23 sec. West, along the Southeast  
2 boundary line of said Tract K31, a distance of 2640.00 feet, to the  
3 POINT OF BEGINNING and containing 125.839 acres (5,481,550 square  
4 feet) of land.

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

- 10                   (1) the organization, existence, or validity of the  
11 district;
- 12                   (2) the right of the district to impose taxes; or
- 13                   (3) the legality or operation of the district or the  
14 board.

15           SECTION 7. GENERAL POWERS.   (a) Except as provided by  
16 Subsection (b) of this section, the district has all of the rights,  
17 powers, privileges, authority, functions, and duties provided by  
18 the general law of this state, including Chapters 49 and 54, Water  
19 Code, applicable to municipal utility districts created under  
20 Section 59, Article XVI, Texas Constitution. This Act prevails  
21 over any provision of general law that is in conflict or  
22 inconsistent with this Act.

23                   (b) The district may not provide retail water service to an  
24 area designated by ordinance or resolution of the governing body of  
25 a municipality as within the water service area, extraterritorial  
26 jurisdiction, or corporate limits of that municipality if the  
27 municipality:

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

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

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

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

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

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

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

(d) Sections 49.181 and 49.182, Water Code, do not apply to

1 projects undertaken by the district under Section 8(b) of this Act  
2 or to bonds issued by the district under Subsection (b) of this  
3 section.

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

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

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

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

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

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

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

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

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

26 (d) As soon as practicable after all of the temporary  
27 directors have qualified, the temporary directors shall meet and

1 elect officers from among their membership.

2 (e) The commission may appoint temporary directors for a  
3 district that is located wholly or in part within an area designated  
4 by ordinance or resolution of the governing body of a municipality  
5 with a population of less than 5,000 as the water service area,  
6 extraterritorial jurisdiction, or corporate limits of that  
7 municipality only if the municipality has given its express written  
8 consent to the creation of the district. The municipality may give  
9 its consent only on the execution of a written agreement between the  
10 developer of the district and a school district affiliated with the  
11 municipality providing that the district will:

12 (1) fund the construction of buildings and  
13 improvements for the school district; and

14 (2) establish an educational fund for the school  
15 district of an amount based on an annually determined transaction  
16 fee on the sale and resale of any home within the district  
17 boundaries for the duration of the existence of the district.

18 SECTION 13. CONFIRMATION AND INITIAL DIRECTORS ELECTION.

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

23 (b) The temporary board of directors may call and hold an  
24 election to confirm establishment of a district that is located  
25 wholly or in part within an area designated by ordinance or  
26 resolution of the governing body of a municipality with a  
27 population of less than 5,000 as the water service area,

1 extraterritorial jurisdiction, or corporate limits of that  
2 municipality only if the municipality has given its express written  
3 consent to the creation of the district. The municipality may give  
4 its consent only on the execution of a written agreement between the  
5 developer of the district and a school district affiliated with the  
6 municipality providing that the district will:

7 (1) fund the construction of buildings and  
8 improvements for the school district; and

9 (2) establish an educational fund for the school  
10 district of an amount based on an annually determined transaction  
11 fee on the sale and resale of any home within the district  
12 boundaries for the duration of the existence of the district.

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

16 SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

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

23 (b) The governor has submitted the notice and Act to the  
24 commission.

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

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

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

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