

1-1 By: Brown of Kaufman (Senate Sponsor - Deuell) H.B. No. 3618
1-2 (In the Senate - Received from the House May 24, 2003;
1-3 May 24, 2003, read first time and referred to Committee on Natural
1-4 Resources; May 26, 2003, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation, administration, powers, duties,
1-9 operation, and financing of the Kingsborough Municipal Utility
1-10 District No. 5 of Kaufman County.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. DEFINITIONS. In this Act:

1-13 (1) "Board" means the board of directors of the
1-14 district.

1-15 (2) "Commission" means the Texas Commission on
1-16 Environmental Quality.

1-17 (3) "District" means the Kingsborough Municipal
1-18 Utility District No. 5 of Kaufman County.

1-19 SECTION 2. CREATION. (a) A conservation and reclamation
1-20 district, to be known as the Kingsborough Municipal Utility
1-21 District No. 5 of Kaufman County, is created in Kaufman County,
1-22 subject to approval at a confirmation election under Section 13 of
1-23 this Act.

1-24 (b) The district is a governmental agency and a political
1-25 subdivision of this state.

1-26 SECTION 3. AUTHORITY FOR CREATION. The district is created
1-27 under and is essential to accomplish the purposes of Section 52,
1-28 Article III, and Section 59, Article XVI, Texas Constitution.

1-29 SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The
1-30 district is created to serve a public use and benefit.

1-31 (b) All of the land and other property included within the
1-32 boundaries of the district will be benefited by the works and
1-33 projects that are to be accomplished by the district under powers
1-34 conferred by Section 52, Article III, and Section 59, Article XVI,
1-35 Texas Constitution.

1-36 SECTION 5. BOUNDARIES. The boundaries of the district are
1-37 as follows:

1-38 BEING all that certain lot, tract or parcel of land located in
1-39 the J. G. Moore Survey, Abstract No. 309, Kaufman County, Texas, and
1-40 being a portion of that certain tract of land described as Tract K31
1-41 in the deed to West Foundation, according to the deed filed for
1-42 record in Volume 720, Page 860 of the Deed Records of Kaufman
1-43 County, Texas, and being more particularly described by metes and
1-44 bounds as follows:

1-45 BEGINNING at a 5/8 inch iron rod found for the South corner of
1-46 said Tract K31, said iron rod being in County Road No. 269 (an
1-47 undefined width public roadway);

1-48 THENCE North 45 deg. 52 min. 38 sec. West, along the Southwest
1-49 boundary line of said Tract K31, and generally along said County
1-50 Road No. 269, a distance of 2640.00 feet, said point being the
1-51 beginning of a non-tangent curve to the right having a radius of
1-52 2640.00 feet;

1-53 THENCE departing the Southwest boundary line of said Tract
1-54 K31, through a central angle of 90 deg. 07 min. 01 sec., an arc
1-55 length of 4152.29 feet, said non-tangent curve also having a long
1-56 chord which bears North 89 deg. 10 min. 52 sec. East, a distance of
1-57 3737.33 feet, to the Southeast boundary line of said Tract K31;

1-58 THENCE South 44 deg. 14 min. 23 sec. West, along the Southeast
1-59 boundary line of said Tract K31, a distance of 2640.00 feet, to the
1-60 POINT OF BEGINNING and containing 125.839 acres (5,481,550 square
1-61 feet) of land.

1-62 SECTION 6. FINDINGS RELATING TO BOUNDARIES. The
1-63 legislature finds that the boundaries and field notes of the
1-64 district form a closure. If a mistake is made in the field notes or
1-65 in copying the field notes in the legislative process, the mistake

2-1 does not affect in any way:

- 2-2 (1) the organization, existence, or validity of the
- 2-3 district;
- 2-4 (2) the right of the district to impose taxes; or
- 2-5 (3) the legality or operation of the district or the
- 2-6 board.

2-7 SECTION 7. GENERAL POWERS. (a) Except as provided by
2-8 Subsection (b) of this section, the district has all of the rights,
2-9 powers, privileges, authority, functions, and duties provided by
2-10 the general law of this state, including Chapters 49 and 54, Water
2-11 Code, applicable to municipal utility districts created under
2-12 Section 59, Article XVI, Texas Constitution. This Act prevails
2-13 over any provision of general law that is in conflict or
2-14 inconsistent with this Act.

2-15 (b) The district may not provide retail water service to an
2-16 area designated by ordinance or resolution of the governing body of
2-17 a municipality as within the water service area, extraterritorial
2-18 jurisdiction, or corporate limits of that municipality if the
2-19 municipality:

- 2-20 (1) has a population of less than 5,000; and
- 2-21 (2) has not given its express written consent.

2-22 SECTION 8. ADDITIONAL POWERS. (a) The district has the
2-23 additional rights, powers, privileges, authority, and functions
2-24 provided by this section.

2-25 (b) To the extent authorized by Section 52, Article III,
2-26 Texas Constitution, the district may provide for the construction,
2-27 maintenance, and operation inside or outside the boundaries of the
2-28 district of:

- 2-29 (1) paved roads and turnpikes; or
- 2-30 (2) works, facilities, or improvements related to the
- 2-31 roads and turnpikes.

2-32 SECTION 9. BONDS. (a) The district may issue bonds as
2-33 provided by Chapters 49 and 54, Water Code, and the general laws of
2-34 this state.

2-35 (b) The district may issue bonds, notes, or other
2-36 obligations of the district to finance construction, maintenance,
2-37 and operation under Section 8 of this Act and may impose a tax to pay
2-38 the principal of or interest on bonds issued under this subsection.

2-39 (c) The district may not issue bonds under Subsection (b) of
2-40 this section unless the issuance is approved by a vote of a
2-41 two-thirds majority of the qualified voters of the district voting
2-42 at an election called for that purpose. Bonds, notes, or other
2-43 obligations issued or incurred under Subsection (b) of this section
2-44 may not exceed one-fourth of the assessed value of the real property
2-45 in the district.

2-46 (d) Sections 49.181 and 49.182, Water Code, do not apply to
2-47 projects undertaken by the district under Section 8(b) of this Act
2-48 or to bonds issued by the district under Subsection (b) of this
2-49 section.

2-50 SECTION 10. EMINENT DOMAIN. The district may exercise the
2-51 right of eminent domain, as provided by Section 49.222, Water Code,
2-52 only within the boundaries of the district.

2-53 SECTION 11. BOARD OF DIRECTORS. (a) The district is
2-54 governed by a board of five directors.

2-55 (b) Temporary directors serve until initial directors are
2-56 elected under Section 13 of this Act.

2-57 (c) Initial directors serve until permanent directors are
2-58 elected under Section 14 of this Act.

2-59 (d) Permanent directors serve staggered four-year terms.

2-60 (e) Each director must qualify to serve as director in the
2-61 manner provided by Section 49.055, Water Code.

2-62 SECTION 12. APPOINTMENT OF TEMPORARY DIRECTORS. (a) On or
2-63 after the effective date of this Act, a person who owns land in the
2-64 district may submit a petition to the commission requesting that
2-65 the commission appoint as temporary directors the five persons
2-66 named in the petition.

2-67 (b) Subject to Subsection (e) of this section, the
2-68 commission shall appoint as temporary directors the five persons
2-69 named in the first petition received by the commission.

3-1 (c) If a temporary director fails to qualify for office, the
3-2 commission shall appoint a person to fill the vacancy.

3-3 (d) As soon as practicable after all of the temporary
3-4 directors have qualified, the temporary directors shall meet and
3-5 elect officers from among their membership.

3-6 (e) The commission may appoint temporary directors for a
3-7 district that is located wholly or in part within an area designated
3-8 by ordinance or resolution of the governing body of a municipality
3-9 with a population of less than 5,000 as the water service area,
3-10 extraterritorial jurisdiction, or corporate limits of that
3-11 municipality only if the municipality has given its express written
3-12 consent to the creation of the district. The municipality may give
3-13 its consent only on the execution of a written agreement between the
3-14 developer of the district and a school district affiliated with the
3-15 municipality providing that the district will:

3-16 (1) fund the construction of buildings and
3-17 improvements for the school district; and

3-18 (2) establish an educational fund for the school
3-19 district of an amount based on an annually determined transaction
3-20 fee on the sale and resale of any home within the district
3-21 boundaries for the duration of the existence of the district.

3-22 SECTION 13. CONFIRMATION AND INITIAL DIRECTORS ELECTION.

3-23 (a) Subject to Subsection (b) of this section, the temporary board
3-24 of directors shall call and hold an election to confirm
3-25 establishment of the district and to elect five initial directors
3-26 in the manner provided by Chapter 49, Water Code.

3-27 (b) The temporary board of directors may call and hold an
3-28 election to confirm establishment of a district that is located
3-29 wholly or in part within an area designated by ordinance or
3-30 resolution of the governing body of a municipality with a
3-31 population of less than 5,000 as the water service area,
3-32 extraterritorial jurisdiction, or corporate limits of that
3-33 municipality only if the municipality has given its express written
3-34 consent to the creation of the district. The municipality may give
3-35 its consent only on the execution of a written agreement between the
3-36 developer of the district and a school district affiliated with the
3-37 municipality providing that the district will:

3-38 (1) fund the construction of buildings and
3-39 improvements for the school district; and

3-40 (2) establish an educational fund for the school
3-41 district of an amount based on an annually determined transaction
3-42 fee on the sale and resale of any home within the district
3-43 boundaries for the duration of the existence of the district.

3-44 SECTION 14. ELECTION OF DIRECTORS. The board shall call and
3-45 hold elections to elect permanent directors in the manner provided
3-46 by Chapter 49, Water Code.

3-47 SECTION 15. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.

3-48 (a) The legal notice of the intention to introduce this Act,
3-49 setting forth the general substance of this Act, has been published
3-50 as provided by law, and the notice and a copy of this Act have been
3-51 furnished to all persons, agencies, officials, or entities to which
3-52 they are required to be furnished under Section 59, Article XVI,
3-53 Texas Constitution, and Chapter 313, Government Code.

3-54 (b) The governor has submitted the notice and Act to the
3-55 commission.

3-56 (c) The commission has filed its recommendations relating
3-57 to this Act with the governor, lieutenant governor, and speaker of
3-58 the house of representatives within the required time.

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

3-63 SECTION 16. EFFECTIVE DATE; EXPIRATION DATE. (a) This Act
3-64 takes effect September 1, 2003.

3-65 (b) If the creation of the district is not confirmed at a
3-66 confirmation election held under Section 13 of this Act before
3-67 September 1, 2005, this Act expires on that date.

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