

By: Lindsay

S.B. No. 1035

A BILL TO BE ENTITLED

AN ACT

relating to the general powers and authority of the West Harris County Regional Water Authority.

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

SECTION 1. Subsection (b), Section 1.03, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, is amended to read as follows:

(b) In addition to the territory described by Subsection (a) of this section, the authority includes [~~include~~] all territory in Fort Bend County of any district or municipality the territory of which includes, on the effective date of this Act, any of the territory described by Subsection (a) of this section, regardless of whether the territory contains noncontiguous parcels of land.

SECTION 2. Section 1.05, Chapter 414, Acts of the 77th Legislature, Regular Session, 2001, is amended by adding Subsection (e) to read as follows:

(e) The territory contained in the following areas is excluded from the authority:

TRACT 1

Being a 0.768 acre (33,462 square feet) tract or parcel of land out of the Thomas Nellis Survey, Abstract 605, Harris County, Texas, being a part of that certain 32.5575 acre tract conveyed to Michael Block, Trustee in deed recorded in the Harris County Official Public Records of Real Property, Film Code 193-06-0326, File Number

1 F569725 and being more particularly described by metes and bounds
2 as follows with all bearings and coordinates referenced to the
3 Texas Coordinate System, South Central Zone:

4 BEGINNING at a 5/8-inch iron rod (X=3,083,662.36, Y=759,980.76) set
5 at the intersect of the northeasterly line of a Humble Pipeline
6 Company tract as recorded in Volume 1140, Page 63 of the Harris
7 County Deed Records and the south right-of-way of F.M. 529 (Spencer
8 Road - 60 feet wide) and being North 87°16'53" East, 40.20 feet from
9 a 5/8-inch iron rod found for northwest corner of said 32.5575 acre
10 tract;

11 THENCE, North 87°16'53" East, 233.40 feet along the south
12 right-of-way line of said F.M. 529 to a 5/8-inch iron rod set for
13 corner;

14 THENCE, at a right angle to said right-of-way, South 02°43'07" East
15 217.00 feet to a 5/8-inch iron rod set for corner;

16 THENCE, along a line that is parallel with and 217.00 feet south of
17 said F.M. 529 right-of-way, South 87°16'53" West, 75.00 feet to a
18 5/8-inch iron rod set in the northeasterly line of a 50 foot Humble
19 Pipeline Company Easement as recorded in Volume 3271, Page 220 of
20 the Harris County Deed Records;

21 THENCE, North 38°50'48" West, 268.66 feet along said northeasterly
22 line to the POINT OF BEGINNING, containing a computed area of 0.768
23 acre (33,462 square feet) of land.

24 TRACT 2

25 Being a 0.4982 acre (21,700 square feet) tract or parcel of land out
26 of that certain 66 acre Southern Pacific Company tract recorded in
27 Volume 6580, Page 451 of the Harris County Deed Records, said tract

1 being located in the T. Nellis Survey, Abstract No. 605, Harris
2 County, Texas and being more particularly described by metes and
3 bounds as follows with all bearings and coordinates referenced to
4 the Texas Coordinate System, South Central Zone:

5 BEGINNING at a 3/4-inch iron pipe (X=3,081,499.03, Y=759,878.02)
6 found at the intersection of the West line of said T. Nellis Survey
7 with the South right-of-way line of F.M. Highway 529 (Spencer Road -
8 60 feet wide);

9 THENCE North 87 degrees 16 minutes 58 seconds East, 100.00 feet
10 along the said South right-of-way line to a 5/8-inch iron pipe rod
11 set for corner;

12 THENCE South 02 degrees 33 minutes 55 seconds East, 217.00 feet to a
13 5/8-inch iron rod set for corner;

14 THENCE South 87 degrees 16 minutes 58 seconds West, 100.00 feet to a
15 5/8-inch iron rod set in the West line of said T. Nellis Survey;

16 THENCE North 02 degrees 33 minutes 55 seconds West, 217.00 feet
17 along the said survey line to the POINT OF BEGINNING and containing
18 a computed area of 0.4982 acre (21,700 square feet) of land.

19 TRACT 3

20 A tract or parcel of land containing 2,169 acres out of the Charles
21 Scarborough Survey, Abstract 718, Harris County, Texas, and being
22 all of Lot 10, Block 2, Satsuma Estates, First Section, as recorded
23 in Volume 998, Page 704 of the Harris County Deed Records, same
24 being all of that certain tract conveyed to John H. Thompson per the
25 deed recorded in the Harris County Official Public Records of Real
26 Property, File No. F949984 and Film Code No. 119-81-0436, and being
27 more particularly described by metes and bounds as follows with all

1 bearings and coordinates referenced to the Texas Coordinate System,
2 South Central Zone:
3 BEGINNING at a 5/8-inch iron rod (X=3,075,495.77, Y=760,552.13) set
4 at the northwest corner of said Lot 10 in the east right-of-way line
5 of Mayard Road (Beaumont Road - 60 feet wide);
6 THENCE, North 86°40'40" East, 540.00 feet along the line common with
7 Lot 10 and Lot 9 to a 5/8-inch iron rod set at the corner common to
8 Lots 9, 10, 5 and 6;
9 THENCE, South 02°37'17" East, 175.00 feet along the line common with
10 Lot 10 and Lot 5 to a 1/2-inch iron rod found at the corner common to
11 Lots 10, 11, 4 and 5;
12 THENCE, South 86°40'40" West, 540.00 feet along the line common with
13 Lot 10 and Lot 11 to a 5/8-inch iron rod set in the east right-of-way
14 line of said Mayard Road;
15 THENCE, North 02°37'17" West, 175.00 feet along said east
16 right-of-way line to the POINT OF BEGINNING, containing a computed
17 area of 2.169 acres of land.
18 TRACT 4
19 Being a 0.523 acre (22,759 square feet) tract or parcel of land out
20 of the Charles Scarbrough Survey, Abstract 718, Harris County,
21 Texas, said tract being a part of that certain 50.00 acre tract
22 conveyed to S/C Investments 121, Ltd., per the deed recorded in the
23 Harris County Official Public Records of Real Property
24 (H.C.O.P.R.R.P.), File Number D869891, Film Code 161-25-2007, and
25 being more particularly described by metes and bounds as follows
26 with all bearings and coordinates referenced to the Texas
27 Coordinate System, South Central Zone:

1 BEGINNING at a 3/4-inch iron pipe (X=3,073,121.64, Y=759,462.66)
2 found at the corner common to said 50.00 acre tract and a 42.2842
3 acre tract recorded in the H.C.O.P.R.R.P., File Number D568750,
4 Film code 143-42-0702, on the north right-of-way line of F.M.
5 Highway 529 (Spencer Road - 60 feet wide), said point being North
6 87°42'14" East, 2204.43 feet from the intersection of the east
7 right-of-way line of Jackrabbit Road (80 feet wide) with said north
8 right-of-way line;
9 THENCE, North 01°44'47" West, 247.05 feet along the line common to
10 said 50.00 acre and 42.2842 acre tracts to a 5/8-inch iron rod set
11 in the southerly line of a 10-foot wide Southwestern Bell Telephone
12 Company easement (to be abandoned), as recorded in Volume 1231,
13 Page 306 of the Harris County Deed Records;
14 THENCE, South 70°57'20" East, 106.97 feet along the southerly line
15 of said telephone easement to a 5/8-inch iron rod set for corner;
16 THENCE, South 01°44'47" East, 208.13 feet along a line that is
17 parallel with and 100.00 feet east of said common line to a 5/8-inch
18 iron rod set in the north right-of-way line of said F.M. Highway
19 529;
20 THENCE, South 87°42'14" West, 100.00 feet along said north
21 right-of-way line to the POINT OF BEGINNING, containing a computed
22 area of 0.523 acre (22,759 square feet) of land.

23 TRACT 5

24 Being a 0.466 acre (20,306 square feet) tract or parcel of land out
25 of the Charles Scarbrough Survey, Abstract 718, Harris County,
26 Texas, said tract being a part of that certain 12.125 acre tract
27 conveyed to J. Charles Whitfield, per the deed recorded in the

1 Harris County Official Public Records of Real Property (H. C. O. P.
2 R. R. P.), File Number E866668, Film Code 147-12-0335, and being
3 more particularly described by metes and bounds as follows with all
4 bearings and coordinates referenced to the Texas Coordinate System,
5 South Central Zone:
6 BEGINNING, at a 5/8-inch iron rod (X=3,071,743.36, Y=759,407.40)
7 set at the corner common to said 12.125 acre tract and a 42.2842
8 acre tract recorded in the H. C. O. P. R. R. P., File Number D568750,
9 Film Code 143-42-0702, on the north right-of-way line of F.M.
10 Highway 529 (Spencer Road - 60 feet wide), said point being North
11 87°42'14" East, 824.93 feet from the intersection of the east
12 right-of-way line of Jackrabbit Road (80 feet wide) with said north
13 right-of-way line;
14 THENCE, South 87°42'14" West, 90.00 feet along the north
15 right-of-way line of said F.M. Highway 529 to a 5/8-inch iron rode
16 set for corner;
17 THENCE, North 01°58'48" West, 213.33 feet along a line that is
18 parallel with and 90.00 west of the east line of said 12.125 acre
19 tract to a 5/8-inch iron rod set in the southerly line of a 60 foot
20 wide Mobil (Magnolia) Pipeline Easement, recorded in Volume 578,
21 Page 228 of the Harris County Deed Records;
22 THENCE, North 72°26'21" East, 93.43 feet along the southerly line of
23 said pipeline easement to a 5/8-inch iron rod set in the line common
24 to said 12.125 acre and 42.2842 acre tracts;
25 THENCE, South 01°58'48" East, 237.93 feet along said common line to
26 the POINT OF BEGINNING, containing a computed area of 0.466 acre
27 (20,306) of land.

1 TRACT 6

2 Being 0.4427 acres of land located in the Michael McCormick Survey,
3 Abstract No. 553, Harris County, Texas, said 0.4427 acre tract
4 being out of Reserve "A" of Hearthstone Place, Section Two, a
5 subdivision per map or plat thereof recorded in Volume No. 329, Page
6 No. 46 of the Map Records of Harris County, Texas, and being more
7 particularly described by metes and bounds as follows:

8 BEGINNING at a point being the intersection of the east
9 right-of-way line of Addicks-Satsuma Road, as established by said
10 map or plat, with the north line of a 60-foot Magnolia Pipeline
11 Company Easement as recorded in Volume no. 578, Page No. 288, Volume
12 No. 588, Page No. 253, and Volume No. 4222, Page No. 148 of the
13 Harris County Deed Records;

14 THENCE, North 02°16'26" West, along the said east right-of-way line,
15 a distance of 100.00 feet to the northwest corner of the herein
16 described tract;

17 THENCE, North 72°20'26" East a distance of 200.00 feet to the
18 northeast corner of the herein described tract;

19 THENCE, South 02°16'26" East a distance of 100.00 feet to a point
20 lying in the north line of the said 60 foot Magnolia Pipeline
21 Company Easement and being the southeast corner of the herein
22 described tract;

23 THENCE, South 72°20'26" West, along a north line of the said 60 foot
24 Magnolia Pipeline Company Easement, a distance of 200.00 feet to
25 the PLACE OF BEGINNING, containing 0.4427 acres of land.

26 TRACT 7

27 Being a 0.498 acre (21,700 square feet) tract or parcel of land out

1 of Michael McCormick Survey, Abstract 533, Harris County, Texas,
2 said tract being of that certain 15 acre tract conveyed to Emil J.
3 Rinn and wife Nora H. Rinn per the deed recorded in Volume 2294,
4 Page 656 of the Harris County Deed Records, Harris County, Texas,
5 and being more particularly described by metes and bounds, as
6 follows with all bearings and coordinates referenced to the Texas
7 Coordinate System, South Central Zone. All distances are surface
8 and may be converted to grid by multiplying by the combined factor
9 of 0.9999075:
10 BEGINNING at a 5/8-inch iron rod (X=3,064,573.76, Y=759,044.30) set
11 at the corner common to said 15 acre tract and a 15.005 acre tract
12 conveyed to Kenton R. Pickes, Trustee and Mark S. Robinson, Trustee
13 recorded in Harris County Official Public Records of Real Property
14 (H.C.O.P.R.R.P.), File Number E721802 Film Code 138-08-0786, said
15 point being in the south right-of-way line of F.M. Highway 529
16 (Spencer Road - 80 feet wide);
17 THENCE, North 87°41'37" East, 100.00 feet along the south
18 right-of-way line to a 5/8-inch iron rod set for corner;
19 THENCE, departing said right-of-way line, South 02°11'43" East,
20 217.00 feet, along a line parallel with and 100.00 feet east of the
21 line common to said 15 acre tract and said 15.005 acre tract to a
22 5/8-inch iron rod set for corner;
23 THENCE, South 87°41'37" West, 100.00 feet along a line that is
24 parallel with and 217.00 feet south of the south right-of-way line
25 of said F.M. Highway 529 to a 5/8-inch iron rod set in said common
26 line;
27 THENCE, North 02°11'43" West, 217.00 feet along said common line to

1 the POINT OF BEGINNING, containing a computed area of 0.498 acre
2 (21,700 square feet) of land.

3 SECTION 3. Section 1.06, Chapter 414, Acts of the 77th
4 Legislature, Regular Session, 2001, is amended by amending
5 Subsection (c) and adding Subsection (f) to read as follows:

6 (c) In addition to the authority granted by Subsection (b)
7 of this section, regardless of whether the territory is contiguous
8 to the authority, the authority may annex some or all of the
9 territory located within a district or municipality if the district
10 or municipality files with the authority a petition requesting the
11 annexation signed by a majority of the governing body of the
12 district or municipality. The petition must include an accurate
13 legal description of the boundaries of the territory to be
14 included. If the authority has bonds, notes, or other obligations
15 outstanding, the authority shall require the petitioning district
16 or municipality to be obligated to pay its share of the principal of
17 and interest on the outstanding bonds, notes, or other obligations,
18 and related costs. The board may grant the petition and order the
19 territory described in the petition annexed to the authority if[+

20 [~~1~~] it is feasible, practicable, and to the
21 advantage of the authority[~~, and~~

22 [~~2~~] ~~the authority's system and other improvements are~~
23 ~~sufficient or will be sufficient to supply surface water and~~
24 ~~groundwater to the added territory without harming the territory~~
25 ~~already included in the authority].~~

26 (f) A municipality that has annexed or annexes territory of
27 the authority for limited purposes under Subchapter F, Chapter 43,

1 Local Government Code, does not have the right, for the annexed
2 territory, to:

3 (1) receive notices from the authority under Section
4 4.03(c) of this Act;

5 (2) participate in the appointment of directors under
6 Article 2 of this Act; or

7 (3) receive information about or have the opportunity
8 to fund its share of capital costs in the manner provided by the
9 authority under Section 4.04 of this Act.

10 SECTION 4. Subsection (e), Section 2.01, Chapter 414, Acts
11 of the 77th Legislature, Regular Session, 2001, is amended to read
12 as follows:

13 (e) Notwithstanding Subsection (d) of this section, to
14 serve as director of the authority representing, or to be listed on
15 a ballot as a candidate for director of the authority representing,
16 a director precinct under Section 2.02 of this Act that includes any
17 part of the City of Katy, an individual must:

18 (1) meet the qualifications provided by Subsections
19 (d)(1)-(3) of this section; and

20 (2) must have served as:

21 (A) the mayor or a member of the city council of
22 the City of Katy for any period; or

23 (B) a director of one or more districts for a
24 total of [a district for] four years or more.

25 SECTION 5. Subsections (c) and (e), Section 2.02, Chapter
26 414, Acts of the 77th Legislature, Regular Session, 2001, are
27 amended to read as follows:

1 (c) For the appointment of a director for a director
2 precinct, the board shall determine the number of votes each
3 district or municipality may cast. The number of votes for a
4 governing body of a district or municipality within the precinct is
5 equal to the number computed by dividing the total number of units
6 of water, as determined by the board, used within the precinct by
7 the district or municipality during the calendar year preceding the
8 year in which the selection of the director is done by the total
9 number of units of water used within the precinct by all districts
10 and municipalities in the precinct, multiplying that quotient by
11 100, and rounding that result to the nearest tenth. The board shall
12 exclude water pumped from or used in Fort Bend County from the
13 calculation of the number of votes in this subsection if the
14 authority did not charge a fee under Section 4.03(b) of this Act on
15 wells in Fort Bend County during the calendar year preceding the
16 year in which the selection of the director is made. The board
17 shall provide the presiding officer of each governing body of a
18 district or municipality within each director precinct written
19 notice of the number of votes computed for that governing body to
20 cast.

21 (e) The governing body of each district or municipality in
22 the authority by resolution may [~~shall~~] nominate one candidate for
23 the position of director for the director precinct in which the
24 district or municipality is located. Each district or municipality
25 shall submit the name of its candidate to the presiding officer of
26 the authority by February 15 of each even-numbered year. If by
27 February 15 of each even-numbered year only one candidate's name is

1 submitted for the position of director for a director precinct, the
2 board may declare the unopposed candidate elected and may cancel
3 the director appointment procedures generally required by this
4 section for that position. If more than one candidate's name is
5 submitted for the position of director for a director precinct,
6 before [~~Before~~] March 15 of each even-numbered year, the board
7 shall prepare, for each director precinct, a ballot listing all the
8 candidates for that director precinct and shall provide a copy of
9 the ballot to the presiding officer of the governing body of each
10 district or municipality located within that director precinct. An
11 individual may not be listed as a candidate on the ballot of more
12 than one director precinct. If a candidate is nominated in more
13 than one director precinct, the candidate must choose to be on the
14 ballot of only one director precinct.

15 SECTION 6. Section 4.03, Chapter 414, Acts of the 77th
16 Legislature, Regular Session, 2001, is amended by amending
17 Subsections (a), (c), and (d) and adding Subsection (g) to read as
18 follows:

19 (a) The authority may establish fees, user fees, rates, and
20 charges and classifications of fee and ratepayers, as necessary to
21 enable the authority to fulfill the authority's purposes and
22 regulatory functions provided by this Act. The authority may
23 impose fees, user fees, rates, and charges on any person within the
24 authority, including a local government. If the authority imposes
25 a fee that is an impact fee, as defined by Section 395.001, Local
26 Government Code, the authority shall comply with Chapter 395, Local
27 Government Code. For purposes of this Act, an impact fee does not

1 include a fee or charge that the authority imposes that is based on
2 a portion of the costs and expenses incurred by the authority before
3 January 1, 2003, and that is charged to a person who did not pay any
4 fees to the authority before January 1, 2003.

5 (c) The board shall make reasonable efforts to send
6 districts and municipalities within the authority written notice of
7 the date, time, and location of the meeting at which the board
8 intends to adopt a proposed charge under Subsection (b), and the
9 amount of the proposed charge. The board's failure to comply with
10 this subsection does not invalidate a charge adopted by the board
11 under Subsection (b).

12 (d) For wells located in Harris County or Fort Bend County,
13 the [The] board shall exempt from the charge under Subsection (b)
14 the classes of wells that are not subject to any groundwater
15 reduction requirement imposed by the Harris-Galveston Coastal
16 Subsidence District or the Fort Bend Subsidence District, as
17 appropriate [subsidence district]. If any of those classes of
18 wells become subject to a groundwater reduction requirement imposed
19 by the Harris-Galveston Coastal Subsidence District or the Fort
20 Bend Subsidence District, as appropriate [subsidence district],
21 the authority may impose the charge under Subsection (b) on those
22 wells [classes]. For purposes of this subsection, a well is subject
23 to a groundwater reduction requirement if the Harris-Galveston
24 Coastal Subsidence District or Fort Bend Subsidence District, as
25 appropriate, has adopted or adopts a requirement or regulation that
26 the well reduce groundwater withdrawals or that the well join with
27 other wells to collectively reduce groundwater withdrawals,

1 including a groundwater reduction that is not required until a
2 future date. The board by rule may exempt any other classes of
3 wells from the charge under Subsection (b). The board may not apply
4 the charge under Subsection (b) to a well:

5 (1) with a casing diameter of less than five inches
6 that solely serves a single-family dwelling; or

7 (2) regulated under Chapter 27, Water Code.

8 (g) The authority may impose fees, user fees, or charges for
9 the importation of water into the authority's boundaries from a
10 source located outside the authority's boundaries other than a
11 source located in Waller County that serves a municipality within
12 the authority.

13 SECTION 7. Section 4.04, Chapter 414, Acts of the 77th
14 Legislature, Regular Session, 2001, is amended to read as follows:

15 Sec. 4.04. PURCHASE OF WATER FROM ANOTHER ENTITY. If the
16 authority purchases water from another entity for resale to local
17 governments, the authority shall use its best efforts in
18 negotiating with the entity to determine the amount of capital
19 costs included in any rates or charges paid by the authority. The
20 authority shall determine the amount of expected capital costs of
21 its own system. The authority shall provide each district or
22 municipality within its boundaries information regarding the share
23 of the capital costs to be paid by the district or municipality, as
24 determined by the authority, and shall provide each district or
25 municipality the opportunity, in a manner and by a procedure
26 determined by the authority, to fund its share of the capital costs
27 with proceeds from the sale of bonds or fees and charges collected

1 by the districts or municipalities. In complying with this
2 section, the authority may use any reasonable basis to calculate
3 from time to time the share of the capital costs of a district or
4 municipality. The authority may calculate the shares of the
5 capital costs based on the amount of water used within the authority
6 by the district or municipality during the calendar year preceding
7 the year in which the calculation is made, and the authority may
8 exclude from the calculation the amount of water used within Fort
9 Bend County if the authority did not charge a fee under Section
10 4.03(b) of this Act on wells within Fort Bend County during that
11 calendar year. A district or municipality may use any lawful source
12 of revenue, including bond funds, to make payment for any sums due
13 to the authority. The authority may adopt a procedure by which a
14 district or municipality may receive a credit from the authority.
15 The board may adopt any other procedure necessary to accomplish the
16 goals of this section. This section or any failure to comply with
17 this section does not limit or impede the authority's ability to
18 issue bonds or notes or invalidate any fees, user fees, charges,
19 rates, or special assessments imposed by the authority.

20 SECTION 8. Section 4.06, Chapter 414, Acts of the 77th
21 Legislature, Regular Session, 2001, is amended to read as follows:

22 Sec. 4.06. INTEREST AND PENALTIES. The board may require
23 the payment of interest on any late or unpaid fees, user fees,
24 rates, charges, and special assessments due the authority, but the
25 interest rate may not exceed the interest rate permitted by Section
26 2251.025, Government Code. The board may also impose penalties for
27 the failure to completely or timely make payment [~~payments~~] to the

1 authority. In addition, the board may exclude a person, or any
2 territory or well owned or controlled by a person, from the
3 authority's groundwater reduction plan for failure to make a
4 complete or timely payment to the authority.

5 SECTION 9. Subsection (i), Section 5.01, Chapter 414, Acts
6 of the 77th Legislature, Regular Session, 2001, is amended to read
7 as follows:

8 (i) Sections 49.153, 49.154, and [Section] 49.181, Water
9 Code, do [does] not apply to bonds or notes issued by the authority.
10 Commission rules regarding bonds or notes do not apply to bonds or
11 notes issued by the authority.

12 SECTION 10. The change in law made to Section 1.05, Chapter
13 414, Acts of the 77th Legislature, Regular Session, 2001, by this
14 Act, does not impair any obligation related to bonds or notes issued
15 by the West Harris County Regional Water Authority before the
16 effective date of this Act. All outstanding bonds and notes validly
17 issued by the authority remain valid, enforceable, and binding and
18 shall be paid in full, both principal and interest, in accordance
19 with their terms and from the sources pledged to the payment of the
20 bonds or notes. Any fees, assessments, or other charges owed to the
21 West Harris County Regional Water Authority on the effective date
22 of this Act by an owner of property excluded from the authority by
23 this Act remain the obligation of the owner.

24 SECTION 11. This Act takes effect immediately if it
25 receives a vote of two-thirds of all the members elected to each
26 house, as provided by Section 39, Article III, Texas Constitution.
27 If this Act does not receive the vote necessary for immediate

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1 effect, this Act takes effect September 1, 2003.