

By: Denny

H.B. No. 3490

Substitute the following for H.B. No. 3490:

By: Puente

C.S.H.B. No. 3490

A BILL TO BE ENTITLED

AN ACT

relating to the creation of The Lakes Fresh Water Supply District of Denton County; providing authority to impose a tax and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8125 to read as follows:

CHAPTER 8125. THE LAKES FRESH WATER SUPPLY

DISTRICT OF DENTON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8125.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a member of the board.

(3) "District" means The Lakes Fresh Water Supply District of Denton County.

Sec. 8125.002. NATURE OF DISTRICT. The district is a fresh water supply district in Denton County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution. The district is created to serve a public use and benefit.

Sec. 8125.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8125.023 before September 1, 2007:

1 (1) the district is dissolved September 1, 2007,
2 except that:

3 (A) any debts incurred shall be paid;

4 (B) any assets that remain after the payment of
5 debts shall be transferred to Denton County; and

6 (C) the organization of the district shall be
7 maintained until all debts are paid and remaining assets are
8 transferred; and

9 (2) this chapter expires September 1, 2010.

10 Sec. 8125.004. INITIAL DISTRICT TERRITORY. (a) The
11 district is initially composed of the territory described by
12 Section 2 of the Act creating this chapter.

13 (b) The boundaries and field notes contained in Section 2 of
14 the Act creating this chapter form a closure. A mistake made in the
15 field notes or in copying the field notes in the legislative process
16 does not affect:

17 (1) the organization, existence, or validity of the
18 district;

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

20 (3) the legality or operation of the board.

21 [Sections 8125.005-8125.020 reserved for expansion]

22 SUBCHAPTER A1. TEMPORARY PROVISIONS

23 Sec. 8125.021. TEMPORARY DIRECTORS. (a) The temporary
24 board consists of:

25 (1) Andrea Adcock;

26 (2) Chad Breaux;

27 (3) Brian Bryce, Jr.;

1 (4) Traci Pichon; and

2 (5) Crystal Taylor.

3 (b) If a temporary director fails to qualify for office, the
4 temporary directors who have qualified shall appoint a person to
5 fill the vacancy. If at any time there are fewer than three
6 qualified temporary directors, the Texas Commission on
7 Environmental Quality shall appoint the necessary number of persons
8 to fill all vacancies on the board.

9 (c) Temporary directors serve until the earlier of:

10 (1) the date directors are elected under Section
11 8125.023; or

12 (2) the date this chapter expires under Section
13 8125.003.

14 Sec. 8125.022. ORGANIZATIONAL MEETING OF TEMPORARY
15 DIRECTORS. As soon as practicable after all the temporary
16 directors have qualified under Section 49.055, Water Code, the
17 temporary directors shall convene the organizational meeting of the
18 district at a location in the district agreeable to a majority of
19 the directors. If a location cannot be agreed upon, the
20 organizational meeting shall be at the Denton County Courthouse.

21 Sec. 8125.023. CONFIRMATION AND INITIAL DIRECTORS'
22 ELECTION. The temporary directors shall hold an election to
23 confirm the creation of the district and to elect five directors as
24 provided by Section 49.102, Water Code.

25 Sec. 8125.024. INITIAL ELECTED DIRECTORS; TERMS. The
26 directors elected under Section 8125.023 shall draw lots to
27 determine which two shall serve until the first regularly scheduled

1 election of directors under Section 8125.053 and which three shall
2 serve until the second regularly scheduled election of directors.

3 Sec. 8125.025. EXPIRATION OF SUBCHAPTER. This subchapter
4 expires September 1, 2010.

5 [Sections 8125.026-8125.050 reserved for expansion]

6 SUBCHAPTER B. BOARD OF DIRECTORS

7 Sec. 8125.051. DIRECTORS; TERMS. (a) The district is
8 governed by a board of five directors.

9 (b) Directors serve staggered four-year terms.

10 Sec. 8125.052. QUALIFICATIONS. Directors must meet only
11 the qualifications for directors provided by Chapters 49 and 54,
12 Water Code.

13 Sec. 8125.053. ELECTION OF DIRECTORS. On the uniform
14 election date in May of each even-numbered year, the appropriate
15 number of directors shall be elected.

16 [Sections 8125.054-8125.100 reserved for expansion]

17 SUBCHAPTER C. POWERS AND DUTIES

18 Sec. 8125.101. MUNICIPAL UTILITY DISTRICT AND FRESH WATER
19 SUPPLY DISTRICT POWERS AND DUTIES. (a) Except as provided by
20 Subsections (b) and (c), the district has the powers and duties
21 provided by the general law of this state, including Chapters 49,
22 53, and 54, Water Code, applicable to municipal utility districts
23 and fresh water supply districts created under Section 59, Article
24 XVI, Texas Constitution.

25 (b) Sections 53.029(b), 53.030-53.034, and 53.040-53.043,
26 Water Code, do not apply to the district.

27 (c) If a provision of Chapter 53, Water Code, is in conflict

1 or inconsistent with this chapter or Chapter 54, Water Code, this
2 chapter and Chapter 54, Water Code, prevail.

3 Sec. 8125.102. ROAD PROJECTS. (a) The district may
4 construct, acquire, improve, maintain, or operate macadamized,
5 graveled, or paved roads or turnpikes, or improvements in aid of
6 those roads or turnpikes, inside or outside the district.

7 (b) A project authorized by this section must meet only the
8 construction standards adopted by the North Central Texas Council
9 of Governments, or its successor agency.

10 Sec. 8125.103. ROAD CONTRACTS. The district may contract
11 for a road project in the same manner as provided by Subchapter I,
12 Chapter 49, Water Code.

13 Sec. 8125.104. WATER CONTROL AND STORAGE PROJECTS. (a) The
14 district may construct, acquire, improve, enlarge, extend, repair,
15 or maintain dams, levees, walls, dikes, embankments, canals,
16 reservoirs, lakes, or other improvements as necessary to control,
17 store, or preserve water in the district for any useful purpose.

18 (b) The district may overflow and inundate district lands
19 and other district property in the district.

20 (c) A project authorized by this section is subject to all
21 applicable permitting and regulatory requirements.

22 Sec. 8125.105. CERTIFICATE OF CONVENIENCE AND NECESSITY.

23 (a) The district may pay out of bond proceeds or other available
24 district money all expenses, including legal, engineering, and
25 other fees, related to obtaining a new certificate of convenience
26 and necessity under Chapter 13, Water Code, authorizing the
27 district to provide retail water or sewer service inside or outside

1 the district.

2 (b) The district may pay out of bond proceeds or other
3 available district money all expenses, including the purchase
4 price, related to acquiring certificate of convenience and
5 necessity rights from another retail public utility to allow the
6 district to provide retail water or sewer service in the district.

7 Sec. 8125.106. CONTRACT WITH POLITICAL SUBDIVISION FOR
8 WATER OR SEWER SERVICES. (a) The district may enter into a
9 contract to allow a political subdivision to provide retail water
10 or sewer service in the district. The contract may contain terms
11 the board considers desirable, fair, and advantageous to the
12 district.

13 (b) The contract may provide that the district will
14 construct or acquire and convey or lease to the political
15 subdivision a water supply or treatment system, a water
16 distribution system, or a sanitary sewage collection or treatment
17 system, as necessary to provide water or sewer service in the
18 district.

19 (c) The district may use bond proceeds or other available
20 district money to pay for its obligations and for services and
21 facilities provided under the contract.

22 (d) If the contract requires the district to make payments
23 from taxes other than operation and maintenance taxes, the contract
24 is subject to Section 49.108, Water Code.

25 [Sections 8125.107-8125.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 8125.151. OPERATION AND MAINTENANCE TAX. (a) The

1 district may impose a tax for any district operation and
2 maintenance purpose in the manner provided by Section 49.107, Water
3 Code.

4 (b) Section 49.107(f), Water Code, does not apply to
5 reimbursements for projects constructed or acquired under Section
6 8125.102.

7 Sec. 8125.152. TAX TO REPAY BONDS. The district may impose
8 a tax to pay the principal of and interest on bonds issued under
9 Section 8125.201.

10 Sec. 8125.153. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
11 ASSESSMENTS. The district may not impose an impact fee or
12 assessment on the property, including the equipment,
13 rights-of-way, facilities, or improvements, of:

14 (1) an electric utility or a power generation company
15 as defined by Section 31.002, Utilities Code;

16 (2) a gas utility as defined by Section 101.003 or
17 121.001, Utilities Code;

18 (3) a telecommunications provider as defined by
19 Section 51.002, Utilities Code;

20 (4) a cable operator as defined by 47 U.S.C. Section
21 522; or

22 (5) a person who provides to the public advanced
23 telecommunications services.

24 [Sections 8125.154-8125.200 reserved for expansion]

25 SUBCHAPTER E. BONDS

26 Sec. 8125.201. AUTHORITY TO ISSUE BONDS AND OTHER
27 OBLIGATIONS; TAX. (a) The district may issue bonds or other

1 obligations as provided by Chapters 49, 53, and 54, Water Code, and
2 to finance:

3 (1) the construction, maintenance, or operation of
4 projects under Section 8125.102 or 8125.104; or

5 (2) the district's contractual obligations under
6 Section 8125.106.

7 (b) The district may not issue bonds or other obligations
8 secured in whole or in part by ad valorem taxation to finance
9 projects authorized by Section 8125.102 unless the issuance is
10 approved by a vote of a two-thirds majority of the voters of the
11 district voting at an election called for that purpose.

12 (c) Bonds or other obligations issued or incurred to finance
13 projects authorized by Section 8125.102 may not exceed one-fourth
14 of the assessed value of the real property in the district.

15 (d) Sections 49.181 and 49.182, Water Code, do not apply to
16 a project undertaken by the district under Section 8125.102 or to
17 bonds issued by the district to finance the project.

18 SECTION 2. The Lakes Fresh Water Supply District of Denton
19 County initially includes all the territory contained in the
20 following described area:

21 BEING 411.169 acres of land situated in the James Bridges
22 Survey, Abstract No. 36, Denton County, Texas, and being that same
23 tract of land conveyed by Westmar Properties, Inc., a Texas
24 corporation to Marriot Brothers Partnership, a Texas General
25 Partnership, as recorded in Volume 4803, Page 1741 and County
26 Clerk's Document No. 2001-R0026726, Deed Records, Denton County,
27 Texas, and being more particularly described as follows:

1 BEGINNING at a Texas Department of Transportation (TxDOT) wooden
2 monument found in the north line of Farm to Market Road No. 2931 (a
3 50 foot right-of-way), said point being the most southerly
4 southwest corner of said Marriot tract and the southeast corner of a
5 tract conveyed to Tommy Gene Smith, as recorded in Volume 3222, Page
6 689 of said deed records;

7 THENCE North 00 degrees 24 minutes 20 seconds East, leaving the
8 north line of said F.M. 2931 and along the common line of said
9 Marriot and Smith tracts, a distance of 357.65 feet to a 1-1/2-inch
10 iron pipe found for corner, said point being the northeast corner of
11 said Smith tract and the southeast corner of a tract conveyed to Tim
12 Robinson and Tommy Robinson as recorded in County Clerk's Document
13 No. 94-R0011755 of said deed records;

14 THENCE North 01 degree 05 minutes 06 seconds East, along the common
15 line of said Marriot and Robinson tracts a distance of 29.38 feet to
16 a 1/2-inch iron rod found for corner;

17 THENCE North 02 degrees 16 minutes 25 seconds East, continuing
18 along the common line of said Marriot and Robinson tracts a distance
19 of 869.54 feet to a 5/8-inch iron rod with cap (stamped PETITT-RPLS
20 4087) set for corner, said point being the northeast corner of said
21 Robinson tract and an ell corner of said Marriot tract;

22 THENCE North 88 degrees 43 minutes 37 seconds West, along the common
23 line of said Marriot and Robinson tracts a distance of 532.68 feet
24 to a 5/8-inch iron rod with cap set for corner;

25 THENCE North 88 degrees 33 minutes 22 seconds West, continuing
26 along the common line of said Marriot and Robinson tracts a distance
27 of 1582.21 feet to a 1/2-inch iron rod found for the most westerly

1 southwest corner of said Marriot tract, said point being in the east
2 line of a 4.56 acre tract conveyed to "1991 Weir Family Trust" as
3 recorded in Volume 4300, Page 1149 and County Clerk's Document No.
4 99-R0026520 of said deed records;

5 THENCE North 01 degree 19 minutes 47 seconds East, along the west
6 line of said Marriot tract a distance of 2455.33 feet to a fence
7 corner post found for the northwest corner of said Marriot tract,
8 said point being the northeast corner of a called 60 acre tract
9 conveyed to C.W. Sanders as recorded in Volume 1074, Page 72, and in
10 the south line of the Liberty Associates tract as recorded in County
11 Clerk's Document No. 96-R0026647 and No. 97-R0030209 of said deed
12 records;

13 THENCE South 87 degrees 39 minutes 41 seconds East, along the common
14 line of said Marriot and Liberty Associates tracts a distance of
15 721.69 feet to a 5/8-inch iron rod with cap set for corner;

16 THENCE South 89 degrees 08 minutes 36 seconds East, continuing
17 along the common line of said Marriot and Liberty Associates tracts
18 a distance of 2469.24 to a along a 5/8-inch iron rod with cap set for
19 corner, said point being the southwest corner of said Liberty
20 Associates tract and the southwest corner of a 53.35 acre tract
21 conveyed to Lee Weir, as recorded in Volume 4240, Page 1365 and in
22 County Clerk's Document No. 98-R0114389 of said deed records;

23 THENCE South 88 degrees 20 minutes 08 seconds East, along the common
24 line of said Marriot and Weir tracts a distance of 2464.74 feet to a
25 5/8-inch iron rod with cap set for the northeast corner of said
26 Marriot tract, the southeast corner of said Weir tract and being in
27 the west line of said F.M. 2931;

1 THENCE South 02 degrees 22 minutes 00 seconds West, along the west
2 line of said F.M. 2931 a distance of 589.94 feet to a 5/8-inch iron
3 rod with cap set for corner;

4 THENCE South 13 degrees 40 minutes 36 seconds West, along the west
5 line of said F.M. 2931 a distance of 101.98 feet to a 5/8-inch iron
6 rod with cap set for corner;

7 THENCE South 02 degrees 22 minutes 00 seconds West, along the west
8 line of said F.M. 2931 a distance of 200.00 feet to a wooden TxDOT
9 monument found for corner;

10 THENCE South 08 degrees 56 minutes 36 seconds East, along the west
11 line of said F.M. 2931 a distance of 101.98 feet to a 5/8-inch iron
12 rod with cap set for corner;

13 THENCE South 02 degrees 22 minutes 00 seconds West, along the west
14 line of said F.M. 2931 a distance of 1630.10 feet to a 5/8-inch iron
15 rod with cap set for corner, said point being the beginning of a
16 curve to the right having a radius of 1095.92 feet and a chord that
17 bears South 11 degrees 36 minutes 50 seconds West a distance of
18 352.20 feet;

19 THENCE in a southwesterly direction along the west line of said F.M.
20 2931 and said curve to the right through a central angle of 18
21 degrees 29 minutes 37 seconds an arc distance of 353.74 feet to a
22 5/8-inch iron rod with cap set for corner;

23 THENCE South 40 degrees 59 minutes 38 seconds West, along the west
24 line of said F.M. 2931 a distance of 98.95 feet to a 5/8-inch iron
25 rod with cap set for corner;

26 THENCE South 30 degrees 51 minutes 42 seconds West, along the west
27 line of said F.M. 2931 a distance of 185.80 feet to a 5/8-inch iron

1 rod with cap set for corner;
2 THENCE South 20 degrees 43 minutes 46 seconds West, along the west
3 line of said F.M. 2931 a distance of 98.95 feet to a 5/8-inch iron
4 rod with cap set for corner, said point being the beginning of a
5 non-tangent curve to the right having a radius of 1095.92 feet and a
6 chord that bears South 66 degrees 43 minutes 17 seconds West a
7 distance of 956.04 feet;
8 THENCE in a southwesterly direction along the west line of said F.M.
9 2931 and said non-tangent curve to the right through a central angle
10 of 51 degrees 43 minutes 15 seconds an arc distance of 989.28 feet
11 to a 5/8-inch iron rod with cap set for corner;
12 THENCE North 87 degrees 25 minutes 06 seconds West, along the north
13 line of said F.M. 2931 a distance of 631.80 feet to a 5/8-inch iron
14 rod with cap set for corner, said point being the beginning of a
15 curve to the left having a radius of 5779.58 feet and a chord that
16 bears North 88 degrees 32 minutes 36 seconds West a distance of
17 226.95 feet;
18 THENCE in a northwesterly direction along the north line of said
19 F.M. 2931 and said curve to the left through a central angle of 02
20 degrees 15 minutes 00 seconds an arc distance of 226.96 feet to a
21 5/8-inch iron rod with cap set for corner;
22 THENCE North 89 degrees 40 minutes 06 seconds West, along the north
23 line of said F.M. 2931 a distance of 1523.51 feet to the POINT OF
24 BEGINNING and containing 411.169 acres of land, more or less.

25 SECTION 3. (a) The legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished
3 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
4 Government Code.

5 (b) The governor, one of the required recipients, has
6 submitted the notice and Act to the Texas Commission on
7 Environmental Quality.

8 (c) The Texas Commission on Environmental Quality has filed
9 its recommendations relating to this Act with the governor, the
10 lieutenant governor, and the speaker of the house of
11 representatives within the required time.

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

16 SECTION 4. This Act takes effect immediately if it receives
17 a vote of two-thirds of all the members elected to each house, as
18 provided by Section 39, Article III, Texas Constitution. If this
19 Act does not receive the vote necessary for immediate effect, this
20 Act takes effect September 1, 2005.