

By: Williams

S.B. No. 885

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the East Montgomery County Municipal Utility District No. 10; 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 8114 to read as follows:

CHAPTER 8114. EAST MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 10

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8114.001. 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 East Montgomery County Municipal Utility District No. 10.

Sec. 8114.002. NATURE OF DISTRICT. The district is a municipal utility district in Montgomery County created under and essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution.

Sec. 8114.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8114.023 before September 1, 2010:

(1) the district is dissolved September 1, 2010,

1 except that:

2 (A) any debts incurred shall be paid;

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

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

8 (2) this chapter expires September 1, 2013.

9 Sec. 8114.004. INITIAL DISTRICT TERRITORY. (a) The  
10 district is initially composed of the territory described by  
11 Section 2 of the Act creating this chapter.

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

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

18 (2) the right of the district to impose taxes;

19 (3) the validity of the district's bonds, notes, or  
20 indebtedness; or

21 (4) the legality or operation of the district or the  
22 board.

23 Sec. 8114.005. APPLICABILITY OF OTHER LAW. Except as  
24 otherwise provided by this chapter, Chapters 49 and 54, Water Code,  
25 apply to the district.

26 [Sections 8114.006-8114.020 reserved for expansion]

1                   SUBCHAPTER A1. TEMPORARY PROVISIONS

2           Sec. 8114.021. TEMPORARY DIRECTORS. (a) On or after  
3 September 1, 2005, a person who owns land in the district may submit  
4 a petition to the Texas Commission on Environmental Quality  
5 requesting that the commission appoint as temporary directors the  
6 five persons named in the petition.

7           (b) The commission shall appoint as temporary directors the  
8 five persons named in the first petition received by the commission  
9 under Subsection (a).

10          (c) If a temporary director fails to qualify for office or  
11 if a vacancy occurs in the office of temporary director, the vacancy  
12 shall be filled as provided by Section 49.105, Water Code.

13          (d) Temporary directors serve until the earlier of:

14               (1) the date directors are elected under Section  
15 8114.023; or

16               (2) the date this chapter expires under Section  
17 8114.003.

18          Sec. 8114.022. ORGANIZATIONAL MEETING OF TEMPORARY  
19 DIRECTORS. As soon as practicable after all the temporary  
20 directors have qualified under Section 49.055, Water Code, the  
21 temporary directors shall meet at a location in the district  
22 agreeable to a majority of the directors. If a location cannot be  
23 agreed upon, the meeting shall be at the Montgomery County  
24 Courthouse. At the meeting, the temporary directors shall elect  
25 officers from among the temporary directors and conduct any other  
26 district business.

27          Sec. 8114.023. CONFIRMATION AND INITIAL DIRECTORS'

1 ELECTION. (a) The temporary directors shall hold an election to  
2 confirm the creation of the district and to elect five directors as  
3 provided by Section 49.102, Water Code.

4 (b) Section 41.001(a), Election Code, does not apply to a  
5 confirmation and initial directors' election held under this  
6 section.

7 Sec. 8114.024. INITIAL ELECTED DIRECTORS; TERMS. The  
8 directors elected under Section 8114.023 shall draw lots to  
9 determine which two shall serve until the first regularly scheduled  
10 election of directors under Section 8114.052 and which three shall  
11 serve until the second regularly scheduled election of directors.

12 Sec. 8114.025. FIRST REGULARLY SCHEDULED ELECTION OF  
13 DIRECTORS. The board by order may postpone the first election under  
14 Section 8114.052 following the confirmation and directors'  
15 election held under Section 8114.023 if:

16 (1) the election would otherwise occur not later than  
17 the 60th day after the date on which the confirmation election is  
18 held; or

19 (2) the board determines that there is not sufficient  
20 time to comply with the requirements of law and to order the  
21 election.

22 Sec. 8114.026. EXPIRATION OF SUBCHAPTER. This subchapter  
23 expires September 1, 2013.

24 [Sections 8114.027-8114.050 reserved for expansion]

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8114.051. DIRECTORS; TERMS. (a) The district is  
27 governed by a board of five directors.

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

2       Sec. 8114.052. ELECTION OF DIRECTORS. On the uniform  
3 election date in May of each even-numbered year, the appropriate  
4 number of directors shall be elected.

5       [Sections 8114.053-8114.100 reserved for expansion]

6                   SUBCHAPTER C. POWERS AND DUTIES

7       Sec. 8114.101. UTILITIES. The district may not impose an  
8 impact fee or assessment on the property, equipment, rights-of-way,  
9 facilities, or improvements of:

10           (1) an electric utility as defined by Section 31.002,  
11 Utilities Code;

12           (2) a gas utility as defined by Section 101.003 or  
13 121.001, Utilities Code;

14           (3) a telecommunications provider as defined by  
15 Section 51.002, Utilities Code; or

16           (4) a cable operator as defined by 47 U.S.C. Section  
17 522, as amended.

18       Sec. 8114.102. COMPLIANCE WITH MUNICIPAL CONSENT  
19 ORDINANCES OR RESOLUTIONS. Subject to the limitations of Section  
20 54.016, Water Code, the district shall comply with all applicable  
21 requirements of any ordinance or resolution adopted by a  
22 municipality in the corporate limits or extraterritorial  
23 jurisdiction of which the district is located, including an  
24 ordinance or resolution adopted before September 1, 2005, that  
25 consents to the creation of the district or to the inclusion of  
26 lands within the district.

27       SECTION 2. The East Montgomery County Municipal Utility

1 District No. 10 initially includes all the territory contained in  
2 the following area:

3 Being a 400.0 acre tract of land located in the Walker County School  
4 Land Survey, A-494, Montgomery County, Texas; said 400.0 acre tract  
5 being out of a 756.08 acre tract of land recorded in Clerk's File  
6 Number 2004-069636 of the Official Public Records of Real Property  
7 of Montgomery County, Texas; said 400.0 acre tract being more  
8 particularly described by metes and bounds as follows (all bearings  
9 are referenced to the east line of said call 756.08 acre tract):

10 Beginning at the northeast corner of said 756.08 acre tract, same  
11 being in the center of F.M. 2090 (100-foot wide right-of-way), the  
12 east line of said Walker County School Land Survey, A-494, and the  
13 west line of the William Barker Survey, A-82;

14 Thence, with the east line of said 756.08 acre tract, east line of  
15 said Walker County School Land Survey, A-494, and west line of said  
16 William Barker Survey, A-82, South 02 degrees 56 minutes 23 seconds  
17 East, a distance of 4,219.26 feet;

18 Thence, crossing said 756.08 acre tract, South 87 degrees 03  
19 minutes 37 seconds West, a distance of 6,749.47 feet to the  
20 northwest line of said 756.08 acre tract and southeast line of a  
21 835.884 acre tract of land recorded in Clerk's File Number  
22 2004-000030 of the Official Public Records of Real Property of  
23 Montgomery County, Texas;

24 Thence, with the northwest line of said 756.08 acre tract and  
25 southeast line of said 835.884 acre tract, North 49 degrees 35  
26 minutes 48 seconds East, a distance of 2,817.53 feet;

27 Thence, continuing with said northwest and southeast line, North 50

1 degrees 21 minutes 44 seconds East, a distance of 2,778.01 feet to  
2 an angle point;

3 Thence, with a west line of aforesaid 756.08 acre tract and east  
4 line of aforesaid 835.884 acre tract, North 06 degrees 58 minutes 07  
5 seconds East, a distance of 1,102.87 feet to the northwest corner of  
6 said 756.08 acre tract and northeast corner of said 835.884 acre  
7 tract, same being in the center of aforesaid F.M. 2090;

8 Thence, with the north line of said 756.08 acre tract and centerline  
9 of said F.M. 2090, the following three (3) courses and distances:

10 (a) 19.09 feet along the arc of a curve to the left, said  
11 curve having a central angle of 00 degrees 34 minutes 22  
12 seconds, a radius of 1,909.86 feet and a chord that bears  
13 South 86 degrees 10 minutes 30 seconds East, a distance of  
14 19.09 feet;

15 (b) South 86 degrees 26 minutes 38 seconds East, a distance  
16 of 2,009.05 feet;

17 (c) 81.63 feet along the arc of a curve to the right, said  
18 curve having a central angle of 03 degrees 15 minutes 55  
19 seconds, a radius of 1,432.39 feet and a chord that bears  
20 South 84 degrees 48 minutes 40 seconds East, a distance of  
21 81.62 feet to the Point of Beginning and containing within  
22 these calls 400.0 acres of land.

23 SECTION 3. (a) The legal notice of the intention to  
24 introduce this Act, setting forth the general substance of this  
25 Act, has been published as provided by law, and the notice and a  
26 copy of this Act have been furnished to all persons, agencies,  
27 officials, or entities to which they are required to be furnished

1 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
2 Government Code.

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

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

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

14 SECTION 4. This Act takes effect September 1, 2005.