

By: Williams

S.B. No. 887

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the East Montgomery County Municipal Utility District No. 12; 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 8116 to read as follows:

CHAPTER 8116. EAST MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 12

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8116.001. 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. 12.

Sec. 8116.002. 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. 8116.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8116.023 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. 8116.004. 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. 8116.005. 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 8116.006-8116.020 reserved for expansion]

1 SUBCHAPTER A1. TEMPORARY PROVISIONS

2 Sec. 8116.021. 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 Texas Commission on Environmental Quality shall
8 appoint as temporary directors the five persons named in the first
9 petition received by the commission 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 8116.023; or

16 (2) the date this chapter expires under Section
17 8116.003.

18 Sec. 8116.022. 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. 8116.023. 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. 8116.024. INITIAL ELECTED DIRECTORS; TERMS. The
8 directors elected under Section 8116.023 shall draw lots to
9 determine which two shall serve until the first regularly scheduled
10 election of directors under Section 8116.052 and which three shall
11 serve until the second regularly scheduled election of directors.

12 Sec. 8116.025. FIRST REGULARLY SCHEDULED ELECTION OF
13 DIRECTORS. The board by order may postpone the first election under
14 Section 8116.052 following the confirmation and directors'
15 election held under Section 8116.023 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. 8116.026. EXPIRATION OF SUBCHAPTER. This subchapter
23 expires September 1, 2013.

24 [Sections 8116.027-8116.050 reserved for expansion]

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8116.051. DIRECTORS; TERMS. (a) The district is
27 governed by a board of five directors.

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

2 Sec. 8116.052. 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 8116.053-8116.100 reserved for expansion]

6 SUBCHAPTER C. POWERS AND DUTIES

7 Sec. 8116.101. 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. 8116.102. 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. 12 initially includes all the territory contained in
2 the following area:

3 Being a 567.8 acre tract of land located in the Walker County School
4 Land Survey, A-494, Montgomery County, Texas; said 567.8 acre tract
5 being out of a 1092.131 acre tract of land recorded in Clerk's File
6 Number 2004-000027 of the Official Public Records of Real Property
7 of Montgomery County, Texas; said 567.8 acre tract being more
8 particularly described by metes and bounds as follows (all bearings
9 are referenced to the west line of said 1092.131 acre tract):

10 Beginning at the southwest corner of said 1092.131 acre tract, same
11 being on the northerly right-of-way line of State Highway 242
12 (right-of-way width varies) recorded in Clerk's File Number 9050364
13 of the Official Public Records of Real Property of Montgomery
14 County, Texas, same being on the west line of said Walker County
15 School Land Survey, A-494 and the east line of the Beasley Prewitt
16 Survey, A-419;

17 Thence, with the west line of said 1092.131 acre tract, the west
18 line of said Walker County School Land Survey, A-494, and east line
19 of said Beasley Prewitt Survey, A-419, North 03 degrees 07 minutes
20 40 seconds West, a distance of 6367.46 feet to the most westerly
21 northwest corner of said 1092.131 acre tract, same being on the
22 south right-of-way line of Kensington Oaks Drive, a 40-foot wide
23 roadway easement recorded in Clerk's File No.126432 of the Deed
24 Records of Montgomery County, Texas;

25 Thence, with the north line of said 1092.131 acre tract and said
26 south right-of-way line, North 87 degrees 07 minutes 04 seconds
27 East, a distance of 934.09 feet to an exterior corner of said

1 1092.131 acre tract;

2 Thence, with an interior line of said 1092.131 acre tract, South 03
3 degrees 19 minutes 51 seconds East, a distance of 1352.63 feet to an
4 interior corner of said 1092.131 acre tract;

5 Thence, with an interior line of said call 1092.131 acre tract,
6 North 87 degrees 10 minutes 59 seconds East, a distance of 1608.00
7 feet to an interior corner of said 1092.131 acre tract;

8 Thence, crossing said 1092.131 acre tract, the following two (2)
9 courses and distances:

10 (a) South 75 degrees 31 minutes 39 seconds East, a distance
11 of 2308.27 feet;

12 (b) South 03 degrees 06 minutes 28 seconds East, a distance
13 of 3663.06 feet to the southeast line of aforesaid call 1092.131
14 acre tract;

15 Thence, with said southeast line, South 49 degrees 35 minutes 48
16 seconds West, a distance of 2260.22 to the northerly right-of-way
17 line of aforesaid State Highway 242, same being the southerly line
18 of said 1092.131 acre tract;

19 Thence, with said right-of-way line and said southerly line, the
20 following seven (7) courses:

21 (a) 246.52 feet along the arc of a curve to the left, said
22 curve having a central angle of 04 degrees 10 minutes 26 seconds, a
23 radius of 3384.04 feet and a chord that bears North 56 degrees 06
24 minutes 39 seconds West, a distance of 246.47 feet;

25 (b) North 60 degrees 18 minutes 59 seconds West, a distance
26 of 413.90 feet;

27 (c) 881.11 feet along the arc of a curve to the left, said

1 curve having a central angle of 14 degrees 52 minutes 27 seconds, a
2 radius of 3394.04 feet and a chord that bears North 72 degrees 38
3 minutes 05 seconds West, a distance of 878.63 feet;

4 (d) North 82 degrees 52 minutes 57 seconds West, a distance
5 of 414.74 feet;

6 (e) 426.04 feet along the arc of a curve to the left, said
7 curve having a central angle of 07 degrees 10 minutes 54 seconds, a
8 radius of 3399.04 feet and a chord that bears South 89 degrees 20
9 minutes 14 seconds West, a distance of 425.77 feet;

10 (f) North 89 degrees 19 minutes 13 seconds West, a distance
11 of 290.70 feet;

12 (g) South 78 degrees 54 minutes 13 seconds West, a distance
13 of 460.45 feet to the Point of Beginning and containing 567.8 acres
14 of land.

15 SECTION 3. (a) The legal notice of the intention to
16 introduce this Act, setting forth the general substance of this
17 Act, has been published as provided by law, and the notice and a
18 copy of this Act have been furnished to all persons, agencies,
19 officials, or entities to which they are required to be furnished
20 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
21 Government Code.

22 (b) The governor, one of the required recipients, has
23 submitted the notice and Act to the Texas Commission on
24 Environmental Quality.

25 (c) The Texas Commission on Environmental Quality has filed
26 its recommendations relating to this Act with the governor, the
27 lieutenant governor, and the speaker of the house of

1 representatives within the required time.

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

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