

By: Williams

S.B. No. 889

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the East Montgomery County Municipal Utility District No. 13; 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 8117 to read as follows:

CHAPTER 8117. EAST MONTGOMERY COUNTY MUNICIPAL UTILITY DISTRICT

NO. 13

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8117.001. 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. 13.

Sec. 8117.002. 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. 8117.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8117.023 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. 8117.004. 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. 8117.005. 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 8117.006-8117.020 reserved for expansion]

1                   SUBCHAPTER A1. TEMPORARY PROVISIONS

2                   Sec. 8117.021. 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 8117.023; or

16                   (2) the date this chapter expires under Section  
17 8117.003.

18                  Sec. 8117.022. 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. 8117.023. 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. 8117.024. INITIAL ELECTED DIRECTORS; TERMS. The  
8 directors elected under Section 8117.023 shall draw lots to  
9 determine which two shall serve until the first regularly scheduled  
10 election of directors under Section 8117.052 and which three shall  
11 serve until the second regularly scheduled election of directors.

12 Sec. 8117.025. FIRST REGULARLY SCHEDULED ELECTION OF  
13 DIRECTORS. The board by order may postpone the first election under  
14 Section 8117.052 following the confirmation and directors'  
15 election held under Section 8117.023 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. 8117.026. EXPIRATION OF SUBCHAPTER. This subchapter  
23 expires September 1, 2013.

24 [Sections 8117.027-8117.050 reserved for expansion]

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 8117.051. DIRECTORS; TERMS. (a) The district is  
27 governed by a board of five directors.

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

2       Sec. 8117.052. 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 8117.053-8117.100 reserved for expansion]

6                   SUBCHAPTER C. POWERS AND DUTIES

7       Sec. 8117.101. 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. 8117.102. 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. 13 initially includes all the territory contained in  
2 the following area:

3 Being a 524.3 acre tract of land located in the Walker County School  
4 Land Survey, A-494, Montgomery County, Texas; said 524.3 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 524.3 acre tract being more  
8 particularly described by metes and bounds as follows (all bearings  
9 are referenced to the southeast line of said 1092.131 acre tract):

10 Beginning at the northeast corner of said 1092.131 acre tract;  
11 Thence, with the northeast line of said 1092.131 acre tract, South  
12 32 degrees 25 minutes 49 seconds East, a distance of 3701.27 feet to  
13 most easterly corner of said 1092.131 acre tract;  
14 Thence, with the southeast line of said 1092.131 acre tract, South  
15 49 degrees 35 minutes 48 seconds West, a distance of 6042.07 feet;  
16 Thence, leaving said southeast line and crossing said 1092.131 acre  
17 tract, the following two (2) courses and distances:

18 (a) North 03 degrees 06 minutes 28 seconds West, a distance  
19 of 3663.06 feet;

20 (b) North 75 degrees 31 minutes 39 seconds West, a distance  
21 of 2308.27 feet to an interior corner of said 1092.131 acre tract;  
22 Thence, with an interior line of said 1092.131 acre tract, North 03  
23 degrees 12 minutes 37 seconds West, a distance of 1354.45 feet to an  
24 exterior corner of said 1092.131 acre tract;

25 Thence, with the northerly line of said 1092.131 acre tract, the  
26 following three (3) courses and distances:

27 (a) South 88 degrees 53 minutes 52 seconds East, a distance

1 of 1532.28 feet;

2 (b) North 87 degrees 04 minutes 26 seconds East, a distance  
3 of 987.95 feet;

4 (c) North 61 degrees 12 minutes 43 seconds East, a distance  
5 of 2974.58 feet to the Point of Beginning and containing 524.3 acres  
6 of land.

7 SECTION 3. (a) The legal notice of the intention to  
8 introduce this Act, setting forth the general substance of this  
9 Act, has been published as provided by law, and the notice and a  
10 copy of this Act have been furnished to all persons, agencies,  
11 officials, or entities to which they are required to be furnished  
12 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
13 Government Code.

14 (b) The governor, one of the required recipients, has  
15 submitted the notice and Act to the Texas Commission on  
16 Environmental Quality.

17 (c) The Texas Commission on Environmental Quality has filed  
18 its recommendations relating to this Act with the governor, the  
19 lieutenant governor, and the speaker of the house of  
20 representatives within the required time.

21 (d) All requirements of the constitution and laws of this  
22 state and the rules and procedures of the legislature with respect  
23 to the notice, introduction, and passage of this Act are fulfilled  
24 and accomplished.

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