

1-1 By: Estes S.B. No. 1828  
1-2 (In the Senate - Filed March 31, 2005; April 4, 2005, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 27, 2005, reported adversely, with favorable  
1-5 Committee Substitute by the following vote: Yeas 5, Nays 0;  
1-6 April 27, 2005, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1828 By: Wentworth

1-8 A BILL TO BE ENTITLED  
1-9 AN ACT

1-10 relating to the creation of the Smiley Road Water Control and  
1-11 Improvement District; providing authority to impose a tax and issue  
1-12 bonds.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. Subtitle I, Title 6, Special District Local Laws  
1-15 Code, is amended by adding Chapter 9001 to read as follows:

1-16 CHAPTER 9001. SMILEY ROAD WATER CONTROL AND IMPROVEMENT DISTRICT  
1-17 SUBCHAPTER A. GENERAL PROVISIONS

1-18 Sec. 9001.001. DEFINITIONS. In this chapter:

1-19 (1) "Board" means the board of directors of the  
1-20 district.

1-21 (2) "Director" means a member of the board.

1-22 (3) "District" means the Smiley Road Water Control and  
1-23 Improvement District.

1-24 Sec. 9001.002. NATURE OF DISTRICT. The district is a water  
1-25 control and improvement district in Denton County created under and  
1-26 essential to accomplish the purposes of Section 52, Article III,  
1-27 and Section 59, Article XVI, Texas Constitution. The district is  
1-28 created to serve a public use and benefit.

1-29 Sec. 9001.003. CONFIRMATION ELECTION REQUIRED. If the  
1-30 creation of the district is not confirmed at a confirmation  
1-31 election held under Section 9001.023 before September 1, 2007:

1-32 (1) the district is dissolved September 1, 2007,  
1-33 except that:

1-34 (A) any debts incurred shall be paid;

1-35 (B) any assets that remain after the payment of  
1-36 debts shall be transferred to Denton County; and

1-37 (C) the organization of the district shall be  
1-38 maintained until all debts are paid and remaining assets are  
1-39 transferred; and

1-40 (2) this chapter expires September 1, 2010.

1-41 Sec. 9001.004. INITIAL DISTRICT TERRITORY. (a) The  
1-42 district is initially composed of the territory described by  
1-43 Section 2 of the Act creating this chapter.

1-44 (b) The boundaries and field notes contained in Section 2 of  
1-45 the Act creating this chapter form a closure. A mistake made in the  
1-46 field notes or in copying the field notes in the legislative process  
1-47 does not affect:

1-48 (1) the organization, existence, or validity of the  
1-49 district;

1-50 (2) the right of the district to impose ad valorem  
1-51 taxes; or

1-52 (3) the legality or operation of the district or the  
1-53 board.

1-54 Sec. 9001.005. APPLICABILITY OF OTHER LAW. Except as  
1-55 otherwise provided by this chapter, Chapters 49 and 51, Water Code,  
1-56 apply to the district.

1-57 [Sections 9001.006-9001.020 reserved for expansion]

1-58 SUBCHAPTER A1. TEMPORARY PROVISIONS

1-59 Sec. 9001.021. TEMPORARY DIRECTORS. (a) The temporary  
1-60 board consists of:

1-61 (1) Brett Blakey;

1-62 (2) Michael Cummings;

1-63 (3) Shane Jordan;

2-1 (4) Mike Miller; and

2-2 (5) Mike Mollo.

2-3 (b) If a temporary director fails to qualify for office, the  
2-4 Texas Commission on Environmental Quality shall appoint a person to  
2-5 fill the vacancy.

2-6 (c) Temporary directors serve until the earlier of:

2-7 (1) the date directors are elected under Section  
2-8 9001.023; or

2-9 (2) the date this chapter expires under Section  
2-10 9001.003.

2-11 Sec. 9001.022. ORGANIZATIONAL MEETING OF TEMPORARY  
2-12 DIRECTORS. As soon as practicable after all the temporary  
2-13 directors have qualified under Section 49.055, Water Code, the  
2-14 temporary directors shall meet and elect officers from their  
2-15 membership.

2-16 Sec. 9001.023. CONFIRMATION AND INITIAL DIRECTORS'  
2-17 ELECTION. Before September 1, 2007, the temporary directors shall  
2-18 hold an election to confirm the creation of the district and to  
2-19 elect five directors as provided by Section 49.102, Water Code.

2-20 Sec. 9001.024. INITIAL ELECTED DIRECTORS; TERMS. The  
2-21 directors elected under Section 9001.023 shall draw lots to  
2-22 determine which two shall serve until the first regularly scheduled  
2-23 election of directors under Section 9001.052 and which three shall  
2-24 serve until the second regularly scheduled election of directors.

2-25 Sec. 9001.025. EXPIRATION OF SUBCHAPTER. This subchapter  
2-26 expires September 1, 2010.

2-27 [Sections 9001.026-9001.050 reserved for expansion]

2-28 SUBCHAPTER B. BOARD OF DIRECTORS

2-29 Sec. 9001.051. DIRECTORS; TERMS. (a) The district is  
2-30 governed by a board of five directors.

2-31 (b) Directors serve staggered four-year terms.

2-32 Sec. 9001.052. ELECTION OF DIRECTORS. On the uniform  
2-33 election date in May of each even-numbered year, the appropriate  
2-34 number of directors shall be elected.

2-35 [Sections 9001.053-9001.100 reserved for expansion]

2-36 SUBCHAPTER C. POWERS AND DUTIES

2-37 Sec. 9001.101. GENERAL POWERS. (a) The district has:

2-38 (1) all of the rights, powers, privileges, authority,  
2-39 functions, and duties provided by the general law of this state,  
2-40 including Chapters 49 and 51, Water Code, applicable to water  
2-41 control and improvement districts created under Section 59, Article  
2-42 XVI, Texas Constitution; and

2-43 (2) subject to Section 9001.105, the rights,  
2-44 authority, privileges, and functions of a road district operating  
2-45 under Section 52(b)(3), Article III, Texas Constitution, Chapter  
2-46 257, Transportation Code, and other general laws of this state  
2-47 relating to road districts.

2-48 (b) The district may provide water, sanitary sewer,  
2-49 drainage, and, subject to Section 9001.105, road services to each  
2-50 part of the district not receiving those services on the effective  
2-51 date of the Act creating this chapter.

2-52 Sec. 9001.102. AUTHORITY TO CONTRACT WITH OWNERS OF REAL  
2-53 PROPERTY IN DISTRICT. The district may enter into a contract with  
2-54 an owner of real property in the district for the construction,  
2-55 acquisition, financing, ownership, maintenance, and operation of a  
2-56 work or project described by Section 9001.101(b).

2-57 Sec. 9001.103. CONTRACTS WITH CITY OF CELINA. The district  
2-58 shall use its best efforts to acquire water, sewer, and other powers  
2-59 permitted by law and, if successful, to enter into a contract with  
2-60 the City of Celina to provide water, sewer, and other services to  
2-61 the city.

2-62 Sec. 9001.104. PROHIBITION ON DIVISION OF DISTRICT. The  
2-63 district may not divide into two or more districts in the manner  
2-64 specified by Section 53.029, Water Code.

2-65 Sec. 9001.105. VOTER APPROVED ROAD DISTRICT POWERS.

2-66 (a) If a majority of the voters of the district vote in favor of  
2-67 the district's assumption of road district powers in the manner  
2-68 provided by Section 53.029, Water Code, at an election held for that  
2-69 purpose, the district shall assume the rights, authority,

3-1 privileges, and functions of a road district as described by  
 3-2 Section 9001.101(a)(2).

3-3 (b) If the voters approve road district powers under  
 3-4 Subsection (a), the district may provide for, or provide aid for,  
 3-5 the construction, acquisition, financing, maintenance, and  
 3-6 operation of macadamized, graveled, or paved roads. Road district  
 3-7 powers under this section do not include any powers related to the  
 3-8 construction, acquisition, financing, maintenance, or operation of  
 3-9 a turnpike or toll road.

3-10 (c) If the district assumes road district powers under this  
 3-11 section, the roads constructed or acquired by the district must  
 3-12 meet county standards. Construction plans and specifications for  
 3-13 all roads must be submitted to Denton County for approval.

3-14 (d) Section 49.182, Water Code, does not apply to a project  
 3-15 undertaken by the district under this section.

3-16 Sec. 9001.106. ADDITION OF LAND TO DISTRICT. The district  
 3-17 may add land to the district in the manner provided by Section  
 3-18 49.301, Water Code, if the owner of the land submits a petition to  
 3-19 the district for the addition of the land to the district and the  
 3-20 land is adjacent to the territory of the district or is separated  
 3-21 from the district only by public land or a right-of-way.

3-22 [Sections 9001.107-9001.150 reserved for expansion]

3-23 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

3-24 Sec. 9001.151. AD VALOREM PLAN OF TAXATION. The district  
 3-25 shall use the ad valorem plan of taxation, subject to voter approval  
 3-26 at an election held in the district for that purpose.

3-27 Sec. 9001.152. AD VALOREM TAX FOR ROAD PROJECTS. The  
 3-28 district may impose an ad valorem tax to pay the principal of or  
 3-29 interest on bonds issued under Section 9001.201(b) to finance  
 3-30 projects under Section 9001.105.

3-31 Sec. 9001.153. UTILITY EXEMPTION FROM IMPACT FEES AND  
 3-32 ASSESSMENTS. The district may not impose an impact fee or  
 3-33 assessment on the property, equipment, rights-of-way, facilities,  
 3-34 or improvements of:

3-35 (1) an electric utility as defined by Section 31.002,  
 3-36 Utilities Code;

3-37 (2) a gas utility as defined by Section 101.003 or  
 3-38 121.001, Utilities Code;

3-39 (3) a telecommunications provider as defined by  
 3-40 Section 51.002, Utilities Code; or

3-41 (4) a cable operator as defined by 47 U.S.C. Section  
 3-42 522.

3-43 [Sections 9001.154-9001.200 reserved for expansion]

3-44 SUBCHAPTER E. BONDS

3-45 Sec. 9001.201. AUTHORITY TO ISSUE BONDS. (a) The district  
 3-46 may issue bonds as provided by Chapter 49 or 51, Water Code, or  
 3-47 Section 53.029, Water Code, the general laws of this state, or this  
 3-48 section.

3-49 (b) Except as provided by Subsection (c) and Section  
 3-50 9001.202, the district may issue bonds, notes, or other obligations  
 3-51 as provided by Section 53.029, Water Code, to finance, or assist in  
 3-52 the financing of, projects under Section 9001.105.

3-53 (c) The district may not issue bonds under Subsection (b)  
 3-54 unless the issuance is authorized by two-thirds of the district's  
 3-55 voters voting at an election called for that purpose.

3-56 (d) Section 49.181, Water Code, does not apply to a bond  
 3-57 issued by the district under Section 53.029, Water Code.

3-58 Sec. 9001.202. LIMIT ON BONDS AND OTHER OBLIGATIONS.  
 3-59 (a) Bonds, notes, or other obligations issued or incurred by the  
 3-60 district under Section 53.029, Water Code, may not exceed  
 3-61 one-fourth of the assessed value of the real property in the  
 3-62 district.

3-63 (b) The district may not issue bonds until a development  
 3-64 agreement between the City of Celina and the district has been  
 3-65 signed.

3-66 Sec. 9001.203. USE OF BOND PROCEEDS. The district may use  
 3-67 proceeds from the sale of bonds to acquire improvements or  
 3-68 facilities:

3-69 (1) from a private water supply corporation to provide

4-1 water or sanitary sewer services to territory in the district; or  
4-2 (2) to provide services described by Section  
4-3 9001.101(b).

4-4 SECTION 2. The Smiley Road Water Control and Improvement  
4-5 District initially includes all the territory contained in the  
4-6 following described area:

4-7 All that certain tract or parcel of land lying and being  
4-8 situated in Denton County, Texas, a part of the ROBERT COWAN SURVEY,  
4-9 ABSTRACT NO. 211, and being comprised of the following:

4-10 1) All of an 85.17 acre tract described in a Deed to  
4-11 Celina West 637, Ltd., recorded in Volume 5140, Page 827 of  
4-12 the Real Property Records of Denton County

4-13 2) All of an 101.42 acre tract described in a Deed to  
4-14 Celina West 637, Ltd., recorded in Volume 5140, Page 821 of  
4-15 the Real Property Records of Denton County,

4-16 3) All of a tract said to contain 252.905 acres as  
4-17 described under the caption "Second Tract" in a Deed to  
4-18 Celina West 637, Ltd., recorded in Volume 5120 page 2232 of  
4-19 the Real Property Records of Denton County.

4-20 4) All of an 150.69 acre tract described in a Deed to  
4-21 Celina West 637, Ltd. Recorded in Volume 5167, Page 2788 of  
4-22 the Real Property Records of Denton County, and

4-23 5) All of a tract said to contain 35.426 acres as  
4-24 described in a deed to Underwood Financial, L.P., et al,  
4-25 recorded under Clerk's File No. 04-0029789, said tract or  
4-26 parcel of land is herein described as follows; to wit:

4-27 BEGINNING at point at the intersection of Carey Road (a  
4-28 county road running in an easterly and westerly direction) with  
4-29 Smiley Road (a county road running in a northerly and southerly  
4-30 direction) for the southwest corner of the premises herein  
4-31 described;

4-32 THENCE along Smiley Road North 00 degrees 30 minutes 10  
4-33 seconds East, a distance of 2127.78 for the northwest corner of said  
4-34 85.17 acre tract and an angle point of this tract;

4-35 THENCE continuing along Smiley road North 00 degrees 47  
4-36 minutes 09 seconds East 891.20 to a point in said road at the  
4-37 northwest corner of said called 35.426 acre tract for the most  
4-38 westerly northwest corner hereof;

4-39 THENCE South 89 degrees 02 minutes 45 seconds East 1742.21  
4-40 feet to a point in the west line of said 150.69 acre tract for the  
4-41 northeast corner of said called 35.426 acre tract and a re-entrant  
4-42 corner hereof;

4-43 THENCE along the west line of said 150.69 acre tract, North  
4-44 00 degrees 30 minutes 47 seconds East, a distance of 249.99 feet to  
4-45 a point for corner;

4-46 THENCE North 00 degrees 03 minutes 52 seconds West, a  
4-47 distance of 57.13 feet to a point at the southwest corner said  
4-48 record 252.905 acre tract;

4-49 THENCE along the west line of last named tract, North 00  
4-50 degrees 46 minutes 57 seconds East, a distance of 393.91 feet to a  
4-51 point at the southeast corner of MEADOW VISTA PHASE 2, an addition  
4-52 to Denton County according to the Plat thereof recorded in Cabinet  
4-53 Q, page 271 of the Denton County Plat Records;

4-54 THENCE North 00 degrees 36 minutes 12 seconds East, a  
4-55 distance of 2078.90 feet to a point for the most westerly northwest  
4-56 corner of said record 252.905 acre tract;

4-57 THENCE South 88 degrees 07 minutes 27 seconds East, a  
4-58 distance of 2457.17 feet to a point for corner;

4-59 THENCE North 00 degrees 15 minutes 45 seconds West, a  
4-60 distance of 862.00 feet to a point in the south line of F.M. Highway  
4-61 No. 428;

4-62 THENCE South 89 degrees 44 minutes 26 seconds East, along  
4-63 the south line of said FM. Highway No. 428, a distance of 834.25  
4-64 feet to point in the easterly radius of the Extraterritorial  
4-65 Jurisdiction of the Town of Celina;

4-66 THENCE departing said south line, and said easterly radius,  
4-67 due South, a distance of 2620.43 feet to a point;

4-68 THENCE North 90 degrees 00 minutes 00 seconds East, a  
4-69 distance of 3347.18 feet to a point in the paved surface of said

5-1 County Line Road;  
5-2 THENCE South 00 degrees 27 minutes 20 seconds West, a  
5-3 distance of 662.33 feet to a point t in the paved surface of said  
5-4 County Line Road for the southeast corner of said 101.42 acre tract  
5-5 and an ell corner hereof:

5-6 THENCE North 89 degrees 46 minutes 54 seconds West, a  
5-7 distance of 2668.49 feet to a point for the southwest corner of said  
5-8 101.42 acre tract, same being the southeast corner of said record  
5-9 252.905 acre tract;

5-10 THENCE along the south line of last named tract, North 89  
5-11 degrees 40 minutes 55 seconds West, a distance of 1999.64 feet to a  
5-12 point for the northeast corner of said 150.69 acre tract, said  
5-13 corner being a re-entrant corner hereof;

5-14 THENCE South 00 degrees 31 minutes 41 seconds West, a  
5-15 distance of 3304.39 feet to a point in Carey Road at the southeast  
5-16 corner of said 150.69 acre tract, said corner being the most  
5-17 southerly southeast corner hereof:

5-18 THENCE with the south line of said Carey Road, North 89  
5-19 degrees 43 minutes 05 seconds West, a distance of 3731.89 feet to  
5-20 the PLACE OF BEGINNING and containing 522.25 acres of land of which  
5-21 approximately 1.0 acre is subject to the 100 year flood per FEMA  
5-22 Maps and which 4.00 acres are subject to existing County Road  
5-23 rights-of-way leaving a net area of 517.25 acres of land.

5-24 SECTION 3. (a) The legal notice of the intention to  
5-25 introduce this Act, setting forth the general substance of this  
5-26 Act, has been published as provided by law, and the notice and a  
5-27 copy of this Act have been furnished to all persons, agencies,  
5-28 officials, or entities to which they are required to be furnished  
5-29 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
5-30 Government Code.

5-31 (b) The governor, one of the required recipients, has  
5-32 submitted the notice and Act to the Texas Commission on  
5-33 Environmental Quality.

5-34 (c) The Texas Commission on Environmental Quality has filed  
5-35 its recommendations relating to this Act with the governor, the  
5-36 lieutenant governor, and the speaker of the house of  
5-37 representatives within the required time.

5-38 (d) All requirements of the constitution and laws of this  
5-39 state and the rules and procedures of the legislature with respect  
5-40 to the notice, introduction, and passage of this Act are fulfilled  
5-41 and accomplished.

5-42 SECTION 4. This Act takes effect immediately if it receives  
5-43 a vote of two-thirds of all the members elected to each house, as  
5-44 provided by Section 39, Article III, Texas Constitution. If this  
5-45 Act does not receive the vote necessary for immediate effect, this  
5-46 Act takes effect September 1, 2005.

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