

By: Phillips

H.B. No. 4118

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Kimberlin Ranch Municipal Utility District No. 2 of Grayson 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 8265 to read as follows:

CHAPTER 8265. KIMBERLIN RANCH MUNICIPAL UTILITY DISTRICT NO. 2 OF  
GRAYSON COUNTY

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8265.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Kimberlin Ranch Municipal Utility District No. 2 of Grayson County.

Sec. 8265.002. NATURE OF DISTRICT. The district is a municipal utility district in Grayson County created under and essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8265.003. CONFIRMATION ELECTION REQUIRED. If the creation of the district is not confirmed at a confirmation election held under Section 8265.023 before September 1, 2011:

(1) the district is dissolved September 1, 2011, except that the district shall:

- 1                   (A) pay any debts incurred;  
2                   (B) transfer to Grayson County any assets that  
3 remain after the payment of debts; and  
4                   (C) maintain the organization of the district  
5 until all debts are paid and remaining assets are transferred; and  
6                   (2) this chapter expires September 1, 2014.

7           Sec. 8265.004. INITIAL DISTRICT TERRITORY. (a) The  
8 district is initially composed of the territory described by  
9 Section 2 of the Act creating this chapter.

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

14                   (1) the organization, existence, or validity of the  
15 district;

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

17                   (3) the validity of the district's bonds, notes, or  
18 indebtedness; or

19                   (4) the legality or operation of the district or the  
20 board.

21           [Sections 8265.005-8265.020 reserved for expansion]

22                   SUBCHAPTER A-1. TEMPORARY PROVISIONS

23           Sec. 8265.021. TEMPORARY DIRECTORS. (a) On or after  
24 September 1, 2007, a person who owns land in the district may submit  
25 a petition to the Texas Commission on Environmental Quality  
26 requesting that the commission appoint as temporary directors the  
27 five persons named in the petition.

1       (b) The commission shall appoint as temporary directors the  
2 five persons named in the first petition received by the commission  
3 under Subsection (a).

4       (c) If a temporary director fails to qualify for office, the  
5 commission shall appoint a person to fill the vacancy.

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

7           (1) the date directors are elected under Section  
8 8265.023; or

9           (2) the date this chapter expires under Section  
10 8265.003.

11       Sec. 8265.022. ORGANIZATIONAL MEETING OF TEMPORARY  
12 DIRECTORS. As soon as practicable after all the temporary  
13 directors have qualified under Section 49.055, Water Code, the  
14 temporary directors shall meet at a location in the district  
15 agreeable to a majority of the directors. At the meeting, the  
16 temporary directors shall elect officers from among the temporary  
17 directors and conduct any other district business.

18       Sec. 8265.023. CONFIRMATION AND INITIAL DIRECTORS'  
19 ELECTION; ANNEXATION BY CITY. (a) The temporary directors shall  
20 hold an election to confirm the creation of the district and to  
21 elect five directors as provided by Section 49.102, Water Code.

22       (b) The temporary directors may not hold the election until  
23 the City of Gunter has annexed into its corporate limits all  
24 territory described by Section 2 of the Act creating this chapter.

25       Sec. 8265.024. INITIAL ELECTED DIRECTORS; TERMS. The  
26 directors elected under Section 8265.023 shall draw lots to  
27 determine which two shall serve until the first regularly scheduled

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

3 Sec. 8265.025. EXPIRATION OF SUBCHAPTER. This subchapter  
4 expires September 1, 2014.

5 [Sections 8265.026-8265.050 reserved for expansion]

6 SUBCHAPTER B. BOARD OF DIRECTORS

7 Sec. 8265.051. GOVERNING BODY; TERMS. (a) The district is  
8 governed by a board of five directors.

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

10 [Sections 8265.052-8265.100 reserved for expansion]

11 SUBCHAPTER C. POWERS AND DUTIES

12 Sec. 8265.101. MUNICIPAL UTILITY DISTRICT POWERS AND  
13 DUTIES. The district has the powers and duties provided by the  
14 general law of this state, including Chapters 49 and 54, Water Code,  
15 applicable to municipal utility districts created under Section 59,  
16 Article XVI, Texas Constitution.

17 Sec. 8265.102. WATER AND WASTEWATER FACILITIES AND  
18 SERVICES. (a) The district shall make available any district  
19 water or wastewater facility to each person that holds a  
20 certificate of convenience and necessity for land in the district.

21 (b) The district may not provide retail water or wastewater  
22 services.

23 Sec. 8265.103. ROAD PROJECTS. (a) To the extent authorized  
24 by Section 52, Article III, Texas Constitution, the district may  
25 construct, acquire, improve, maintain, or operate macadamized,  
26 graveled, or paved roads or turnpikes, or improvements in aid of  
27 those roads or turnpikes, inside the district.

1       (b) A road project must meet all applicable construction  
2 standards, subdivision requirements, and regulations of each  
3 municipality in whose corporate limits or extraterritorial  
4 jurisdiction the district is located.

5       Sec. 8265.104. MAINTENANCE AND REPAIR OF ROADS IN TERRITORY  
6 EXCLUDED FROM CITY. If the City of Gunter excludes district  
7 territory from the city's corporate limits, the district shall  
8 maintain, improve, operate, and repair any road located in that  
9 territory in accordance with the ordinances and rules of each  
10 political subdivision in whose jurisdiction the road is located.

11       Sec. 8265.105. DIVISION OF DISTRICT. (a) The district may  
12 be divided into two new districts only if the district:

13               (1) has no outstanding bonded debt; and

14               (2) is not imposing ad valorem taxes.

15       (b) The division procedure is prescribed by Sections 53.030  
16 through 53.041, Water Code.

17       (c) Any new district created by the division of the district  
18 has all the powers and duties of the district.

19       (d) Any new district created by the division of the district  
20 may not, at the time the new district is created, contain any land:

21               (1) outside the area described by Section 2 of the Act  
22 creating this chapter; or

23               (2) outside the corporate limits of the city of  
24 Gunter.

25       Sec. 8265.106. LIMITATION ON ANNEXATION. (a) The district  
26 may not add land to the district under Subchapter J, Chapter 49,  
27 Water Code, if the land is located outside the corporate limits of

1 the city of Gunter.

2 (b) Section 43.075, Local Government Code, does not apply to  
3 the district.

4 [Sections 8265.107-8265.150 reserved for expansion]

5 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

6 Sec. 8265.151. TAX TO REPAY BONDS. The district may impose  
7 a tax to pay the principal of or interest on bonds or other  
8 obligations issued under Section 8264.201.

9 [Sections 8265.152-8265.200 reserved for expansion]

10 SUBCHAPTER E. BONDS

11 Sec. 8265.201. AUTHORITY TO ISSUE BONDS AND OTHER  
12 OBLIGATIONS. (a) The district may issue bonds or other obligations  
13 as provided by Chapters 49 and 54, Water Code, to finance the  
14 construction, maintenance, or operation of a project under Section  
15 8265.101 or 8265.103.

16 (b) The district may not issue bonds or other obligations to  
17 finance projects authorized by Section 8265.103 unless the issuance  
18 is approved by a vote of a two-thirds majority of the district  
19 voters voting at an election held for that purpose.

20 (c) Bonds or other obligations issued or incurred to finance  
21 projects authorized by Section 8265.103 may not exceed one-fourth  
22 of the assessed value of the real property in the district.

23 SECTION 2. The Kimberlin Ranch Municipal Utility District  
24 No. 2 of Grayson County includes all the territory contained in the  
25 following area:

26 SITUATED in the County of GRAYSON, State of Texas, being a part of  
27 the ROBERT MASON SURVEY, ABSTRACT NO. 784 and the SAMUEL Q. PETTUS

1 SURVEY, ABSTRACT NO. 939, being a part of a 297.715 acre tract of  
2 land (described as 300.715 acres less 3.00 acres) conveyed by Regis  
3 J. Sutton to Jean Anna Sutton in Agreement of Regis J. Sutton and  
4 Jean Anna Sutton Partitioning Community Property dated June 3,  
5 1983, recorded in Volume 1650, Page 260, Deed Records, GRAYSON  
6 County, Texas, and being more particularly described by metes and  
7 bounds as follows to-wit:

8 BEGINNING at a found 1/2 inch rebar on the most Southerly South line  
9 of said 297.715 acre tract, the North line of a 201.711 acre tract  
10 of land conveyed by Charles C. Graham, et ux to Mario Feliciano,  
11 Trustee by Deed dated July 9, 1980, recorded in Volume 1523, Page  
12 109, Deed Records, GRAYSON County, Texas, said rebar being North 87  
13 degrees 08 minutes 06 seconds West, a distance of 626.13 feet from a  
14 found spike nail maintaining the most Southerly Southeast corner of  
15 said 297.715 acre tract, the most Northerly Northeast corner of  
16 said 201.711 acre tract, in a public road known as Wall Street Road  
17 and on an East line of said Mason Survey, the West line of the  
18 William Kinnamon Survey, Abstract No. 676;

19 THENCE North 87 degrees 08 minutes 06 seconds West, with the general  
20 line of a fence, the most Southerly South line of said 297.715 acre  
21 tract, the North line of said 201.711 acre tract, a distance of  
22 1141.44 feet to a fence post;

23 THENCE North 87 degrees 24 minutes 28 seconds West, continuing with  
24 the general line of said fence, the Southerly South line of said  
25 297.715 acre tract, the North line of said 201.77 acre tract, a  
26 distance of 2156.98 feet to a set spike nail at the base of a fence  
27 corner post for the Northwest corner of said 201.711 acre tract, the

1 most Southerly Southwest corner of said 297.715 acre tract, on the  
2 East line of a 223.5639 acre tract of land conveyed by Kent Berlin  
3 to The Berlin Family Limited Partnership by Deed dated January 10,  
4 2000, recorded in Volume 2881, Page 924, Official Public Records,  
5 GRAYSON County, Texas;

6 THENCE North 03 degrees 33 minutes 37 seconds East, with the general  
7 line of a fence, the East line of said 223.5639 acre tract, a  
8 distance of 1112.63 feet to a fence corner post maintaining the  
9 Northeast corner of said 223.5639 acre tract, an ell corner of said  
10 297.715 acre tract on a North line of said Mason Survey, the South  
11 line of said Pettus Survey;

12 THENCE North 87 degrees 19 minutes 23 seconds West, with the general  
13 line of a fence, the North line of said 223.5639 acre tract, a North  
14 line of said Mason Survey, the South line of said Pettus Survey,  
15 passing the Northwest corner of said 223.5639 acre tract, the  
16 Northeast corner of a 20 foot wide strip of land described in Second  
17 Tract in Deed from George M. Carter, et ux to Joe D. Johnson by Deed  
18 dated March 29, 1961, recorded in Volume 930, Page 211, Deed  
19 Records, GRAYSON County, Texas and continuing for a total distance  
20 of 2911.41 feet to a set spike nail at the base of a fence corner  
21 post for the Northwest corner of said Mason Survey, the most  
22 Westerly Southwest corner of said 297.715 acre tract, the Southwest  
23 corner of said Pettus Survey, on the East line of the Sarah Shoto  
24 Survey, Abstract No. 1079, the East line of a 100 acre tract of land  
25 described in First Tract in said Volume 930, Page 211;

26 THENCE North 03 degrees 27 minutes 34 seconds East, with the West  
27 line of said Pettus Survey, the East line of both said Shoto Survey



1 and 100 acre tract, passing the Northeast corner of said 100 acre  
2 tract, the Southeast corner of a 499.67 acre tract of land conveyed  
3 by Mary H. Martinek to Mary H. Martinek, Trustee of the Mary H.  
4 Martinek Revocable Living Trust by Deed dated April 11, 1997,  
5 recorded in Volume 2562, Page 196, Official Public Records, GRAYSON  
6 County, Texas and continuing with an East line of said 499.67 acre  
7 tract for a total distance of 1263.89 feet to a found 1/2 inch rebar  
8 at the base of a fence corner post, said rebar maintaining the  
9 Northwest corner of said 297.715 acre tract, the Southwest corner  
10 of a 223 acre tract of land now or formerly owned by Thelma Hunter  
11 (no Deed reference available);

12 THENCE South 87 degrees 25 minutes 47 seconds East, with the general  
13 line of a fence, the South line of said 223 acre tract, at a distance  
14 of 6798.67 feet to a found 3/8 inch rebar maintaining the Southeast  
15 corner of said 223 acre tract, the most Northerly Northeast corner  
16 of said 297.715 acre tract, in said Wall Street Road and on the East  
17 line of said Pettus Survey, the West line of said William Kinnamon  
18 Survey, the West line of a tract of land described in North Tract in  
19 Quitclaim Deed dated September 30, 1997 from Susan C. deCordova to  
20 Susan C. deCordova, Trustee of the deCordova Trust recorded in  
21 Volume 2577, Page 155, Official Public Records, GRAYSON County,  
22 Texas;

23 THENCE South 03 degrees 15 minutes 00 seconds West, with an East  
24 line of both said 297.715 acre tract and Mason Survey, the West line  
25 of both said Kinnamon Survey and North Tract, passing the Southeast  
26 corner of said Pettus Survey, the most Northerly Northeast corner  
27 of said Mason Survey and continuing for a total distance of 1680.66

1 feet to a found spike nail maintaining a Southeast corner of said  
2 297.715 acre tract, the Northeast corner of a 3.00 acre tract of  
3 land conveyed by Anna Houck Trust to AHG Trust by Deed dated January  
4 30, 2002, recorded in Volume 3194, Page 458, Official Public  
5 Records, GRAYSON County, Texas;

6 THENCE North 87 degrees 04 minutes 00 seconds West with the North  
7 line of said 3.00 acre tract, a distance of 626.13 feet to a found  
8 1/2 inch rebar maintaining its Northwest corner;

9 THENCE South 03 degrees 15 minutes 00 seconds West, with the West  
10 line of said 3.00 acre tract, at a distance of 208.71 feet passing a  
11 found 1/2 inch rebar maintaining its Southwest corner and  
12 continuing for a total distance of 711.76 feet to the PLACE OF  
13 BEGINNING and CONTAINING 288.92 acres of land, more or less.

14 TRACT 2

15 All that certain tract or parcel of land situated in the Robert  
16 Mason Survey, Abstract Number 784 County of Grayson, State of  
17 Texas, said tract being part of a called 69 1\2 acres tract as  
18 described in Deed to Marshall E. Anderson et ux, Marquerite  
19 Anderson, filed 11 January 1962, and Recorded in Volume 947 Page 387  
20 of the Deed Records of the County of Grayson, State of Texas, and  
21 being more fully described as follows:

22 Beginning for the northeast corner of the tract being described  
23 herein at a set 1\2 inch Steel Square Tubing, said tubing being the  
24 northeast corner of said Anderson tract, and the southeast corner  
25 of a called 100 acres tract as described in the First Tract, and on  
26 the west line of a called 1.56 acre tract as described in the Second  
27 tract in Deed to Joe D. Johnson, filed 30 March 1961, and Recorded

1 in Volume 930 Page 211 of said Deed Records;  
2 Thence: South 03 degrees 29 minutes 22 seconds West, with the east  
3 line of said Anderson tract, and with the west line of said Johnson  
4 Second Tract, a distance of 609.07 feet to a found 1\2 inch Steel  
5 Square Tubing for the northeast corner of a 1.25 acre tract as  
6 surveyed out for Dennis Keating dated 27 December 1999;  
7 Thence: North 86 degrees 56 minutes 26 seconds West, with the north  
8 line of said Keating tract, a distance of 124.72 feet to a found 1\2  
9 inch Steel Square Tubing for the northwest corner of said Keating  
10 tract;  
11 Thence: South 03 degrees 32 minutes 41 seconds West, with the west  
12 line of said Keating tract, a distance of 435.58 feet to a found 1\2  
13 inch Steel Square Tubing for the southwest corner of said Heating  
14 tract, and on the north Right-of-Way line of Farm-to-Market Road  
15 Number 121 as described in Deed to The State of Texas, filed 11  
16 November 1953 and Recorded in Volume 744 Page 72 of said Deed  
17 Records  
18 Thence: North 87 degrees 07 minutes 47 seconds West, with the south  
19 line of said Anderson tract, and the north ROW line of said FM 121,  
20 a distance of 1856.89 feet to a found State of Texas Concrete  
21 Right-of-Way Monument for a corner;  
22 Thence: North 73 degrees 24 minutes 31 seconds West, with the south  
23 line of said Anderson tract, and the north ROW line of FM 121, a  
24 distance of 332.15 feet to a found 1\2 inch Steel Square Tubing for  
25 the southeast corner of a 5 acre tract as described in Deed to  
26 Ronald R. Baker et ux, Joanie C. Baker, filed 06 November 1995, and  
27 Recorded in Volume 2428 Page 31 of said Deed Records;

1 Thence: North 29 degrees 08 minutes 03 seconds West, with the east  
2 line of said Baker tract, a distance of 1078.23 feet to a found 1\2  
3 inch Steel Square Tubing for the northeast corner of said Baker  
4 tract, and on the south line of a tract as described in Deed to Steve  
5 Bryant et ux, Judy Bryant, filed 02 January 2003, and Recorded in  
6 Volume 3393 Page 846 of said Deed Records;

7 Thence: South 88 degrees 17 minutes 06 seconds East, with the north  
8 line of said Anderson tract, and with the south line of said Bryant  
9 tract, a distance of 1574.07 feet to a found 1\2 inch Steel Rebar at  
10 the base of a wood fence corner post for the southeast corner of  
11 said Bryant tract, and the southwest corner of said Johnson First  
12 tract;

13 Thence: South 87 degrees 58 minutes 16 seconds East, with the north  
14 line of said Anderson tract, and the south line of said Johnson  
15 First Tract, a distance of 1313.83 feet to the POINT OF BEGINNING  
16 and containing 58.946 acres of land.

17 TRACT 3

18 All that certain tract or parcel of land situated in the Robert  
19 Mason Survey, Abstract Number 784 and the Sarah Shoto Survey,  
20 Abstract Number 1079, County of Grayson, State of Texas, said tract  
21 being all of a called 100 acres tract as described in the First  
22 Tract, and all of a called 1.56 acre tract as described in the  
23 Second tract in Deed to Joe D. Johnson, filed 30 March 1961, and  
24 Recorded in Volume 930 Page 211 of the Deed Records of the County of  
25 Grayson, State of Texas, and being more fully described as follows:  
26 Beginning for the southeast corner of the tract being described  
27 herein at a found 1\2 inch Steel Square Tubing, said tubing being

1 the southeast corner of said Johnson tract, and the southwest  
2 corner of a called 223.457 acre tract as described in Deed to Gunter  
3 223, LTD, filed 06 June 2005, and Recorded in Volume 3870 Page 800  
4 of said Deed Records, said tubing also being on the north  
5 Right-of-Way line of Farm-to-Market Road Number 121 as described in  
6 Deed to The State of Texas, filed 11 November 1953 and Recorded in  
7 Volume 744 Page 72 of said Deed Records;

8 Thence: North 86 degrees 52 minutes 52 seconds West, with the south  
9 line of said Johnson Seconds Tract, and with the north ROW line of  
10 said FM 121, a distance of 20.00 feet to a found 1\2 inch Steel  
11 Square Tubing for the southwest corner of said Johnson Seconds  
12 Tract, and the southeast corner of a 1.25 acre tract as surveyed out  
13 for Dennis Keating dated 27 December 1999;

14 Thence: North 03 degrees 29 minutes 02 seconds East, with the west  
15 line of said Johnson Second tract, a distance of 1044.78 feet to a  
16 set 1\2 inch Steel Square Tubing with a plastic cap marked COX 4577  
17 for the southeast corner of said Johnson First tract and the  
18 northeast corner of a tract as described in Deed to Marshall E.  
19 Anderson et ux, Marquerite Anderson, filed 11 January 1962, and  
20 Recorded in Volume 947 Page 387 of said Deed Records;

21 Thence: North 87 degrees 58 minutes 16 seconds West, with the south  
22 line of said Johnson First Tract, and with the north line of said  
23 Anderson tract, a distance of 1313.82 feet to a found 1\2 inch Steel  
24 Rebar for the southwest corner of said Johnson First Tract, and the  
25 southeast corner of a tract as described in Deed to Steve Bryant et  
26 ux, Judy Bryant, filed 02 January 2003, and Recorded in Volume 3393  
27 Page 846 of said Deed Records;

1 Thence: North 03 degrees 21 minutes 26 seconds East, with the west  
2 line of said Johnson First Tract, a distance of 3311.44 feet to a  
3 Wood Fence corner Post for the northwest corner of said Johnson  
4 First Tract;

5 Thence: South 86 degrees 54 minutes 56 seconds East, with the north  
6 line of said Johnson First Tract, a distance of 1313.67 feet to a  
7 set 1\2 inch Steel Square Tubing for the northeast corner of said  
8 Johnson First Tract, and on the west line of a called 288.92 acre  
9 tract as described in Deed to Inwood Plaza Joint Venture, filed 07  
10 January 2004, and Recorded in Volume 3594 Page 147 of said Deed  
11 Records;

12 Thence: South 03 degrees 27 minutes 34 seconds West, with the east  
13 line of said Johnson First Tract, a distance of 960.75 feet to a  
14 found 1\2 inch Steel Rebar at the base of a Wood Fence corner Post  
15 for the northwest corner of said Johnson Second Tract, and the  
16 southwest corner of said Inwood Plaza Joint Venture tract;

17 Thence: South 87 degrees 14 minutes 29 seconds East, with the north  
18 line of said Johnson Second Tract, and with the south line of said  
19 Inwood Plaza tract, a distance of 20.98 feet to a found 1\2 inch  
20 Steel Rebar at the base of a wood fence corner post for the  
21 northeast corner of said Johnson Second Tract, and the northwest  
22 corner of said Gunter 223 tract;

23 Thence: South 03 degrees 20 minutes 36 seconds West, with the east  
24 line of said Johnson Second Tract, and the west line of said Gunter  
25 223 tract, a distance of 2326.24 feet to a Wood Fence corner Post  
26 for an angle point;

27 Thence: South 03 degrees 29 minutes 00 seconds West, with the east

1 line of said Johnson Second Tract, and the west line of said Gunter  
2 223 tract, a distance of 1045.16 feet to the POINT OF BEGINNING and  
3 containing 101.005 acre of land.

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

11 (b) The governor, one of the required recipients, has  
12 submitted the notice and Act to the Texas Commission on  
13 Environmental Quality.

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

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

22 SECTION 4. This Act takes effect September 1, 2007.