

By: King of Parker

H.B. No. 2912

Substitute the following for H.B. No. 2912:

By: Bell

C.S.H.B. No. 2912

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the New Fairview Municipal Utility District No. 1; granting a limited power of eminent domain; providing authority to issue bonds; providing authority to impose assessments, fees, and taxes.

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 7987 to read as follows:

CHAPTER 7987. NEW FAIRVIEW MUNICIPAL UTILITY DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 7987.001. DEFINITIONS. In this chapter:

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

(2) "Commission" means the Texas Commission on Environmental Quality.

(3) "Director" means a board member.

(4) "District" means the New Fairview Municipal Utility District No. 1.

Sec. 7987.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 7987.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

1 Sec. 7987.004. CONSENT OF MUNICIPALITY AND DEVELOPMENT
2 AGREEMENT REQUIRED. The temporary directors may not hold an
3 election under Section 7987.003 until each municipality in whose
4 corporate limits or extraterritorial jurisdiction the district is
5 located has:

6 (1) consented by ordinance or resolution to the
7 creation of the district and to the inclusion of land in the
8 district; and

9 (2) entered into a development agreement under Section
10 212.172, Local Government Code, with an owner of the land described
11 by Section 2 of the Act enacting this chapter.

12 Sec. 7987.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
13 The district is created to serve a public purpose and benefit.

14 (b) The district is created to accomplish the purposes of:

15 (1) a municipal utility district as provided by
16 general law and Section 59, Article XVI, Texas Constitution; and

17 (2) Section 52, Article III, Texas Constitution, that
18 relate to the construction, acquisition, improvement, operation,
19 or maintenance of macadamized, graveled, or paved roads, or
20 improvements, including storm drainage, in aid of those roads.

21 Sec. 7987.006. INITIAL DISTRICT TERRITORY. (a) The
22 district is initially composed of the territory described by
23 Section 2 of the Act enacting this chapter.

24 (b) The boundaries and field notes contained in Section 2 of
25 the Act enacting this chapter form a closure. A mistake made in the
26 field notes or in copying the field notes in the legislative process
27 does not affect the district's:

1 (1) organization, existence, or validity;

2 (2) right to issue any type of bond for the purposes
3 for which the district is created or to pay the principal of and
4 interest on a bond;

5 (3) right to impose a tax; or

6 (4) legality or operation.

7 SUBCHAPTER B. BOARD OF DIRECTORS

8 Sec. 7987.051. GOVERNING BODY; TERMS. (a) The district is
9 governed by a board of five elected directors.

10 (b) Except as provided by Section 7987.052, directors serve
11 staggered four-year terms.

12 Sec. 7987.052. TEMPORARY DIRECTORS. (a) On or after
13 September 1, 2017, the owner or owners of a majority of the assessed
14 value of the real property in the district may submit a petition to
15 the commission requesting that the commission appoint as temporary
16 directors the five persons named in the petition. The commission
17 shall appoint as temporary directors the five persons named in the
18 petition.

19 (b) Temporary directors serve until the earlier of:

20 (1) the date permanent directors are elected under
21 Section 7987.003; or

22 (2) September 1, 2021.

23 (c) If permanent directors have not been elected under
24 Section 7987.003 and the terms of the temporary directors have
25 expired, successor temporary directors shall be appointed or
26 reappointed as provided by Subsection (d) to serve terms that
27 expire on the earlier of:

1 (1) the date permanent directors are elected under
2 Section 7987.003; or

3 (2) the fourth anniversary of the date of the
4 appointment or reappointment.

5 (d) If Subsection (c) applies, the owner or owners of a
6 majority of the assessed value of the real property in the district
7 may submit a petition to the commission requesting that the
8 commission appoint as successor temporary directors the five
9 persons named in the petition. The commission shall appoint as
10 successor temporary directors the five persons named in the
11 petition.

12 SUBCHAPTER C. POWERS AND DUTIES

13 Sec. 7987.101. GENERAL POWERS AND DUTIES. The district has
14 the powers and duties necessary to accomplish the purposes for
15 which the district is created.

16 Sec. 7987.102. MUNICIPAL UTILITY DISTRICT POWERS AND
17 DUTIES. The district has the powers and duties provided by the
18 general law of this state, including Chapters 49 and 54, Water Code,
19 applicable to municipal utility districts created under Section 59,
20 Article XVI, Texas Constitution.

21 Sec. 7987.103. AUTHORITY FOR ROAD PROJECTS. Under Section
22 52, Article III, Texas Constitution, the district may design,
23 acquire, construct, finance, issue bonds for, improve, operate,
24 maintain, and convey to this state, a county, or a municipality for
25 operation and maintenance macadamized, graveled, or paved roads, or
26 improvements, including storm drainage, in aid of those roads.

27 Sec. 7987.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road

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

5 (b) If a road project is not located in the corporate limits
6 or extraterritorial jurisdiction of a municipality, the road
7 project must meet all applicable construction standards,
8 subdivision requirements, and regulations of each county in which
9 the road project is located.

10 (c) If the state will maintain and operate the road, the
11 Texas Transportation Commission must approve the plans and
12 specifications of the road project.

13 Sec. 7987.105. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
14 OR RESOLUTION. The district shall comply with all applicable
15 requirements of any ordinance or resolution that is adopted under
16 Section 54.016 or 54.0165, Water Code, and that consents to the
17 creation of the district or to the inclusion of land in the
18 district.

19 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

20 Sec. 7987.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
21 district may issue, without an election, bonds and other
22 obligations secured by:

23 (1) revenue other than ad valorem taxes; or

24 (2) contract payments described by Section 7987.153.

25 (b) The district must hold an election in the manner
26 provided by Chapters 49 and 54, Water Code, to obtain voter approval
27 before the district may impose an ad valorem tax or issue bonds

1 payable from ad valorem taxes.

2 (c) The district may not issue bonds payable from ad valorem
3 taxes to finance a road project unless the issuance is approved by a
4 vote of a two-thirds majority of the district voters voting at an
5 election held for that purpose.

6 Sec. 7987.152. OPERATION AND MAINTENANCE TAX. (a) If
7 authorized at an election held under Section 7987.151, the district
8 may impose an operation and maintenance tax on taxable property in
9 the district in accordance with Section 49.107, Water Code.

10 (b) The board shall determine the tax rate. The rate may not
11 exceed the rate approved at the election.

12 Sec. 7987.153. CONTRACT TAXES. (a) In accordance with
13 Section 49.108, Water Code, the district may impose a tax other than
14 an operation and maintenance tax and use the revenue derived from
15 the tax to make payments under a contract after the provisions of
16 the contract have been approved by a majority of the district voters
17 voting at an election held for that purpose.

18 (b) A contract approved by the district voters may contain a
19 provision stating that the contract may be modified or amended by
20 the board without further voter approval.

21 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

22 Sec. 7987.201. AUTHORITY TO ISSUE BONDS AND OTHER
23 OBLIGATIONS. The district may issue bonds or other obligations
24 payable wholly or partly from ad valorem taxes, impact fees,
25 revenue, contract payments, grants, or other district money, or any
26 combination of those sources, to pay for any authorized district
27 purpose.

1 Sec. 7987.202. TAXES FOR BONDS. At the time the district
2 issues bonds payable wholly or partly from ad valorem taxes, the
3 board shall provide for the annual imposition of a continuing
4 direct ad valorem tax, without limit as to rate or amount, while all
5 or part of the bonds are outstanding as required and in the manner
6 provided by Sections 54.601 and 54.602, Water Code.

7 Sec. 7987.203. BONDS FOR ROAD PROJECTS. At the time of
8 issuance, the total principal amount of bonds or other obligations
9 issued or incurred to finance road projects and payable from ad
10 valorem taxes may not exceed one-fourth of the assessed value of the
11 real property in the district.

12 SECTION 2. The New Fairview Municipal Utility District No.
13 1 initially includes all the territory contained in the following
14 area:

15 BEING A 634.507 ACRES TRACT OF LAND CALLED OUT OF THE
16 T. CARPENTER SURVEY, ABSTRACT NO. 172 AND THE W.
17 BRAMLETT SURVEY, ABSTRACT NO. 123, WISE COUNTY, TEXAS:
18 BEING ALL OF THOSE CERTAIN TRACTS OF LAND AS DESCRIBED
19 IN VOLUME 155, PAGE 580, & VOLUME 123, PAGE 290, DEED
20 RECORDS, WISE COUNTY, TEXAS, AND CONTAINING ALL OF
21 THOSE CERTAIN TRACTS OF LAND AS DESCRIBED IN CLERK FILE
22 NO. 201600522 & CLERK FILE NO. 201600523, OFFICIAL
23 RECORDS, WISE COUNTY, TEXAS: BEING FURTHER DESCRIBED
24 BY METES AND BOUNDS AS FOLLOWS:
25 BEGINNING AT A SET 1/2" IRON ROD WITH PLASTIC CAP IN THE
26 EAST LINE OF THE FORT WORTH & DENVER CITY RAILROAD
27 RIGHT OF WAY, BEING FIFTY FEET EAST OF & PERPENDICULAR

1 TO THE CENTER OF THE EXISTING RAILROAD LINE, AT THE
2 NORTHWEST CORNER OF THE THIRD TRACT (V. 123, P. 290),
3 SAME BEING THE SOUTHWEST CORNER OF A CALLED 30 ACRES
4 TRACT OF LAND DESCRIBED IN VOLUME 5, PAGE 151,
5 D.R.W.C.T., FOR THE NORTHWEST AND BEGINNING CORNER OF
6 THIS TRACT.

7 THENCE ALONG THE SOUTH & EAST LINES OF SAID 30 ACRES AS
8 FOLLOWS:

9 1) N 89°35'28" E 2484.06 FEET TO A 4" STEEL FENCE CORNER
10 POST, FOR AN ELL CORNER OF THIS TRACT.

11 2) N 01°02'34" W 533.58 FEET TO A FOUND 1" IRON PIPE AT
12 THE SOUTHEAST CORNER OF THAT CALLED 187.08 ACRES AS
13 DESCRIBED IN CLERK FILE NO. 201322567, O.R.W.C.T., FOR
14 A CORNER OF THIS TRACT.

15 3) THENCE N 00°16'14" E 349.12 FEET TO A FOUND 3/8" IRON
16 ROD AT THE SOUTHWEST CORNER OF THOSE CERTAIN TRACTS OF
17 LAND DESCRIBED IN VOLUME 1643, PAGE 644, O.R.W.C.T.,
18 FOR THE NORTHWEST CORNER OF THIS TRACT.

19 4) THENCE N 89°40'40" E AT 1203.8 FEET PASS A FOUND 1/2"
20 IRON ROD WITH PLASTIC CAP STAMPED "MANNING" AT THE
21 NORTHWEST CORNER OF THAT CALLED 34.00 ACRES TRACT OF
22 LAND DESCRIBED IN CLERK FILE NO. 201600522,
23 O.R.W.C.T., AT 2609.13 FEET PASS A FOUND 3/8" IRON ROD
24 IN THE FENCED WEST LINE OF PIONEER STREET, A GRAVEL
25 SURFACE, FOR A TOTAL DISTANCE OF 2632.66 FEET TO A
26 POINT, FOR THE NORTHEAST CORNER OF THIS TRACT.

27 5) THENCE S 00°25'18" E 3975.79 FEET WITHIN SAID

PIONEER STREET TO A POINT, AT THE NORTHEAST CORNER OF
THAT CALLED 3.673 ACRES CONVEYED TO BRAZOS ELECTRIC
POWER COOPERATIVE, INC. IN VOLUME 931, PAGE 495,
O.R.W.C.T., FOR A CORNER OF THIS TRACT.

THENCE ALONG THE NORTH, WEST, & SOUTH LINES OF SAID
BRAZOS ELECTRIC TRACT AS FOLLOWS:

6) S 89°39'22" W 400.00 FEET TO A FOUND CAPPED 3/4" IRON
ROD;

7) S 00°20'10" E 399.94 FEET TO A FOUND CAPPED 3/4" IRON
ROD;

8) N 89°39'51" E 400.01 FEET TO A POINT WITHIN SAID
PIONEER STREET, FOR A CORNER OF THIS TRACT.

9) THENCE S 00°20'12" E 358.93 FEET WITHIN SAID PIONEER
STREET TO A FOUND 3/8" IRON ROD IN THE NORTH LINE OF
THAT CALLED 80 ACRES TRACT OF LAND DESCRIBED IN VOLUME
1547, PAGE 588, O.R.W.C.T., FOR THE EASTERLY SOUTHEAST
CORNER OF THIS TRACT.

THENCE ALONG THE COMMON LINE OF SAID FIFTH TRACT (V.
123, P. 290) & SAID 80 ACRES TRACT AS FOLLOWS:

10) S 89°16'40" W 2595.51 FEET TO A FOUND 3/8" IRON ROD;

11) S 00°41'22" E 1800.91 FEET TO A POINT WITHIN PIONEER
STREET, AN ASPHALT SURFACE, AT THE SOUTHEAST CORNER OF
THAT CALLED 22.00 ACRES TRACT OF LAND DESCRIBED IN
CLERK FILE NO. 201600523, O.R.W.C.T., FOR THE
SOUTHERLY SOUTHEAST CORNER OF THIS TRACT.

12) THENCE N 89°57'00" W WITHIN SAID PIONEER STREET AT
772.70 FEET PASS A FOUND P.K. NAIL IN ASPHALT AT THE

1 SOUTHWEST CORNER OF SAID 22.00 ACRES, FOR A TOTAL
2 DISTANCE OF 2919.89 FEET TO A POINT IN THE SIMPLE CURVE
3 OF A SPIRAL CURVE, BEING THE EAST LINE OF SAID FORT
4 WORTH & DENVER CITY RAILROAD RIGHT OF WAY, FOR THE
5 SOUTHWEST CORNER OF THIS TRACT. WHENCE A FOUND PK NAIL
6 BEARS S 89°57'00" E 1.58 FEET.

7 THENCE FIFTY FEET EAST OF & PERPENDICULAR TO THE CENTER
8 OF THE EXISTING RAILROAD LINE AS FOLLOWS:

9 SC1) ALONG THE ARC OF A SIMPLE CURVE TO THE RIGHT,
10 HAVING A RADIUS OF 2873.39 FEET, AN ARC LENGTH OF
11 195.21 FEET, AND WHOSE CHORD BEARS N 01°50'09" W 195.17
12 FEET TO A SET 1/2" IRON ROD WITH PLASTIC CAP AT THE
13 CURVE TO SPIRAL, A CHORD BEARS N 02°35'55" E 376.69 FEET
14 TO THE SPIRAL TO TANGENT;

15 13) N 03°50'04" E 5090.43 FEET TO THE POINT OF
16 BEGINNING.

17 BEARINGS & DISTANCES DERIVED FROM G.P.S. OBSERVATIONS
18 PERFORMED BY CARTER SURVEYING & MAPPING, INC. AND
19 REFLECT SURFACE ADJUSTED, N.A.D. 1983, TEXAS STATE
20 PLANE COORDINATE SYSTEM, NORTH CENTRAL ZONE 4202,
21 USING TEXAS DEPARTMENT OF TRANSPORTATION SURFACE
22 ADJUSTMENT FACTOR OF 1.00012.

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. (a) If this Act does not receive a two-thirds
15 vote of all the members elected to each house, Subchapter C, Chapter
16 7987, Special District Local Laws Code, as added by Section 1 of
17 this Act, is amended by adding Section 7987.106 to read as follows:

18 Sec. 7987.106. NO EMINENT DOMAIN POWER. The district may
19 not exercise the power of eminent domain.

20 (b) This section is not intended to be an expression of a
21 legislative interpretation of the requirements of Section 17(c),
22 Article I, Texas Constitution.

23 SECTION 5. This Act takes effect September 1, 2017.