

1-1 By: King of Parker (Senate Sponsor - Estes) H.B. No. 2912
1-2 (In the Senate - Received from the House May 5, 2017;
1-3 May 11, 2017, read first time and referred to Committee on
1-4 Intergovernmental Relations; May 17, 2017, reported adversely,
1-5 with favorable Committee Substitute by the following vote: Yeas 5,
1-6 Nays 0, 1 present not voting; May 17, 2017, sent to printer.)

1-7 COMMITTEE VOTE

1-8	Yea	Nay	Absent	PNV
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13				X
1-14	X			
1-15	X			

1-16 COMMITTEE SUBSTITUTE FOR H.B. No. 2912 By: Campbell

1-17 A BILL TO BE ENTITLED
1-18 AN ACT

1-19 relating to the creation of the New Fairview Municipal Utility
1-20 District No. 1; granting a limited power of eminent domain;
1-21 providing authority to issue bonds; providing authority to impose
1-22 assessments, fees, and taxes.

1-23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-24 SECTION 1. Subtitle F, Title 6, Special District Local Laws
1-25 Code, is amended by adding Chapter 7987 to read as follows:

1-26 CHAPTER 7987. NEW FAIRVIEW MUNICIPAL UTILITY DISTRICT NO. 1

1-27 SUBCHAPTER A. GENERAL PROVISIONS

1-28 Sec. 7987.001. DEFINITIONS. In this chapter:

1-29 (1) "Board" means the district's board of directors.

1-30 (2) "Commission" means the Texas Commission on
1-31 Environmental Quality.

1-32 (3) "Director" means a board member.

1-33 (4) "District" means the New Fairview Municipal
1-34 Utility District No. 1.

1-35 Sec. 7987.002. NATURE OF DISTRICT. The district is a
1-36 municipal utility district created under Section 59, Article XVI,
1-37 Texas Constitution.

1-38 Sec. 7987.003. CONFIRMATION AND DIRECTORS' ELECTION
1-39 REQUIRED. The temporary directors shall hold an election to
1-40 confirm the creation of the district and to elect five permanent
1-41 directors as provided by Section 49.102, Water Code.

1-42 Sec. 7987.004. CONSENT OF MUNICIPALITY AND DEVELOPMENT
1-43 AGREEMENT REQUIRED. (a) The temporary directors may not hold an
1-44 election under Section 7987.003, undertake an improvement project,
1-45 impose taxes or fees, or issue bonds or otherwise borrow money until
1-46 each municipality in whose corporate limits or extraterritorial
1-47 jurisdiction the district is located has:

1-48 (1) consented by ordinance or resolution to the
1-49 creation of the district and to the inclusion of land in the
1-50 district; and

1-51 (2) entered into a development agreement under Section
1-52 212.172, Local Government Code, with an owner or owners of a
1-53 majority of the land described by Section 2 of the Act enacting this
1-54 chapter.

1-55 (b) If a development agreement described by Subsection
1-56 (a) (2) has not been executed before March 1, 2019:

1-57 (1) the temporary directors may not call a
1-58 confirmation election under Section 7987.003;

1-59 (2) the district is dissolved; and

1-60 (3) this chapter expires March 1, 2020.

1-61 Sec. 7987.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
1-62 The district is created to serve a public purpose and benefit.

1-63 (b) The district is created to accomplish the purposes of:

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

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

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

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

(1) organization, existence, or validity;

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

(3) right to impose a tax; or

(4) legality or operation.

Sec. 7987.007. AMENDMENT OF CHAPTER. The legislature may not amend this chapter without the consent of the city given by ordinance or resolution.

Sec. 7987.008. CITY CONSENT TO CREATION OF DISTRICT. The city's consent to the creation of the district is not subject to the limitations on the conditions or other restrictions the city may place on its consent under Section 42.042, Local Government Code.

SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

(b) Temporary directors serve until the earlier of:

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

(2) September 1, 2021.

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

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

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

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

SUBCHAPTER C. POWERS AND DUTIES

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

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

Sec. 7987.103. AUTHORITY FOR ROAD PROJECTS. Under Section 52, Article III, Texas Constitution, the district may design, acquire, construct, finance, issue bonds for, improve, operate, maintain, and convey to this state, a county, or a municipality for

operation and maintenance macadamized, graveled, or paved roads, or improvements, including storm drainage, in aid of those roads.

Sec. 7987.104. ROAD STANDARDS AND REQUIREMENTS. (a) A road project must meet all applicable construction standards, zoning and subdivision requirements, and regulations of each municipality in whose corporate limits or extraterritorial jurisdiction the road project is located.

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

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

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

Sec. 7987.106. CITY REQUIREMENTS. An improvement project in the district must comply with applicable requirements of the city, including codes and ordinances, unless a requirement is specifically waived or superseded by a development agreement entered into under Section 7987.107 or another agreement with the city applicable to property located in the district.

Sec. 7987.107. DEVELOPMENT AND OPERATING AGREEMENT REQUIRED. After the district's board is organized, but before the district may undertake any improvement project, impose taxes or fees, or issue bonds or otherwise borrow money, the district must become a party to and assume all applicable obligations, requirements, and limitations in the development agreement entered into between the city and the owner or owners of a majority of land in the district, including any limitation imposed by the city.

SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

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

(1) revenue other than ad valorem taxes; or

(2) contract payments described by Section 7987.153.

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

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

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

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

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

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

SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

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

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

4-7 Sec. 7987.203. BONDS FOR ROAD PROJECTS. At the time of
 4-8 issuance, the total principal amount of bonds or other obligations
 4-9 issued or incurred to finance road projects and payable from ad
 4-10 valorem taxes may not exceed one-fourth of the assessed value of the
 4-11 real property in the district.

4-12 SECTION 2. The New Fairview Municipal Utility District No.
 4-13 1 initially includes all the territory contained in the following
 4-14 area:

4-15 BEING A 634.507 ACRES TRACT OF LAND CALLED OUT OF THE
 4-16 T. CARPENTER SURVEY, ABSTRACT NO. 172 AND THE W.
 4-17 BRAMLETT SURVEY, ABSTRACT NO. 123, WISE COUNTY, TEXAS:
 4-18 BEING ALL OF THOSE CERTAIN TRACTS OF LAND AS DESCRIBED
 4-19 IN VOLUME 155, PAGE 580, & VOLUME 123, PAGE 290, DEED
 4-20 RECORDS, WISE COUNTY, TEXAS, AND CONTAINING ALL OF
 4-21 THOSE CERTAIN TRACTS OF LAND AS DESCRIBED IN CLERK FILE
 4-22 NO. 201600522 & CLERK FILE NO. 201600523, OFFICIAL
 4-23 RECORDS, WISE COUNTY, TEXAS: BEING FURTHER DESCRIBED
 4-24 BY METES AND BOUNDS AS FOLLOWS:

4-25 BEGINNING AT A SET 1/2" IRON ROD WITH PLASTIC CAP IN THE
 4-26 EAST LINE OF THE FORT WORTH & DENVER CITY RAILROAD
 4-27 RIGHT OF WAY, BEING FIFTY FEET EAST OF & PERPENDICULAR
 4-28 TO THE CENTER OF THE EXISTING RAILROAD LINE, AT THE
 4-29 NORTHWEST CORNER OF THE THIRD TRACT (V. 123, P. 290),
 4-30 SAME BEING THE SOUTHWEST CORNER OF A CALLED 30 ACRES
 4-31 TRACT OF LAND DESCRIBED IN VOLUME 5, PAGE 151,
 4-32 D.R.W.C.T., FOR THE NORTHWEST AND BEGINNING CORNER OF
 4-33 THIS TRACT.

4-34 THENCE ALONG THE SOUTH & EAST LINES OF SAID 30 ACRES AS
 4-35 FOLLOWS:

4-36 1) N 89°35'28" E 2484.06 FEET TO A 4" STEEL FENCE CORNER
 4-37 POST, FOR AN ELL CORNER OF THIS TRACT.

4-38 2) N 01°02'34" W 533.58 FEET TO A FOUND 1" IRON PIPE AT
 4-39 THE SOUTHEAST CORNER OF THAT CALLED 187.08 ACRES AS
 4-40 DESCRIBED IN CLERK FILE NO. 201322567, O.R.W.C.T., FOR
 4-41 A CORNER OF THIS TRACT.

4-42 3) THENCE N 00°16'14" E 349.12 FEET TO A FOUND 3/8" IRON
 4-43 ROD AT THE SOUTHWEST CORNER OF THOSE CERTAIN TRACTS OF
 4-44 LAND DESCRIBED IN VOLUME 1643, PAGE 644, O.R.W.C.T.,
 4-45 FOR THE NORTHWEST CORNER OF THIS TRACT.

4-46 4) THENCE N 89°40'40" E AT 1203.8 FEET PASS A FOUND 1/2"
 4-47 IRON ROD WITH PLASTIC CAP STAMPED "MANNING" AT THE
 4-48 NORTHWEST CORNER OF THAT CALLED 34.00 ACRES TRACT OF
 4-49 LAND DESCRIBED IN CLERK FILE NO. 201600522,
 4-50 O.R.W.C.T., AT 2609.13 FEET PASS A FOUND 3/8" IRON ROD
 4-51 IN THE FENCED WEST LINE OF PIONEER STREET, A GRAVEL
 4-52 SURFACE, FOR A TOTAL DISTANCE OF 2632.66 FEET TO A
 4-53 POINT, FOR THE NORTHEAST CORNER OF THIS TRACT.

4-54 5) THENCE S 00°25'18" E 3975.79 FEET WITHIN SAID
 4-55 PIONEER STREET TO A POINT, AT THE NORTHEAST CORNER OF
 4-56 THAT CALLED 3.673 ACRES CONVEYED TO BRAZOS ELECTRIC
 4-57 POWER COOPERATIVE, INC. IN VOLUME 931, PAGE 495,
 4-58 O.R.W.C.T., FOR A CORNER OF THIS TRACT.

4-59 THENCE ALONG THE NORTH, WEST, & SOUTH LINES OF SAID
 4-60 BRAZOS ELECTRIC TRACT AS FOLLOWS:

4-61 6) S 89°39'22" W 400.00 FEET TO A FOUND CAPPED 3/4" IRON
 4-62 ROD;

4-63 7) S 00°20'10" E 399.94 FEET TO A FOUND CAPPED 3/4" IRON
 4-64 ROD;

4-65 8) N 89°39'51" E 400.01 FEET TO A POINT WITHIN SAID
 4-66 PIONEER STREET, FOR A CORNER OF THIS TRACT.

4-67 9) THENCE S 00°20'12" E 358.93 FEET WITHIN SAID PIONEER
 4-68 STREET TO A FOUND 3/8" IRON ROD IN THE NORTH LINE OF
 4-69 THAT CALLED 80 ACRES TRACT OF LAND DESCRIBED IN VOLUME
 4-70 1547, PAGE 588, O.R.W.C.T., FOR THE EASTERLY SOUTHEAST
 4-71 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 SOUTHWEST CORNER OF SAID 22.00 ACRES, FOR A TOTAL DISTANCE OF 2919.89 FEET TO A POINT IN THE SIMPLE CURVE OF A SPIRAL CURVE, BEING THE EAST LINE OF SAID FORT WORTH & DENVER CITY RAILROAD RIGHT OF WAY, FOR THE SOUTHWEST CORNER OF THIS TRACT. WHENCE A FOUND PK NAIL BEARS S 89°57'00" E 1.58 FEET.

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

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

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

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

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

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

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

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

SECTION 4. (a) If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 7987, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 7987.108 to read as follows:

Sec. 7987.108. NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

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

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

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