

By: Bell of Montgomery

H.B. No. 3209

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Waller County Municipal Utility  
3 District No. 35; granting a limited power of eminent domain;  
4 providing authority to issue bonds; providing authority to impose  
5 assessments, fees, and taxes.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

7 SECTION 1. Subtitle F, Title 6, Special District Local Laws  
8 Code, is amended by adding Chapter 8071 to read as follows:

9 CHAPTER 8071. WALLER COUNTY MUNICIPAL UTILITY DISTRICT NO. 35

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 8071.0101. DEFINITIONS. In this chapter:

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

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

15 (3) "Director" means a board member.

16 (4) "District" means the Waller County Municipal  
17 Utility District No. 35.

18 Sec. 8071.0102. NATURE OF DISTRICT. The district is a  
19 municipal utility district created under Section 59, Article XVI,  
20 Texas Constitution.

21 Sec. 8071.0103. CONFIRMATION AND DIRECTOR ELECTION  
22 REQUIRED. The temporary directors shall hold an election to  
23 confirm the creation of the district and to elect five permanent  
24 directors as provided by Section 49.102, Water Code.

1       Sec. 8071.0104. CONSENT OF MUNICIPALITY REQUIRED. The  
2 temporary directors may not hold an election under Section  
3 8071.0103 until each municipality in whose corporate limits or  
4 extraterritorial jurisdiction the district is located has  
5 consented by ordinance or resolution to the creation of the  
6 district and to the inclusion of land in the district.

7       Sec. 8071.0105. FINDINGS OF PUBLIC PURPOSE AND BENEFIT.

8       (a) The district is created to serve a public purpose and benefit.

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

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

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

16       Sec. 8071.0106. INITIAL DISTRICT TERRITORY. (a) The  
17 district is initially composed of the territory described by  
18 Section 2 of the Act enacting this chapter.

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

23       (1) organization, existence, or validity;

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

27       (3) right to impose a tax; or

1           (4) legality or operation.

2                   SUBCHAPTER B. BOARD OF DIRECTORS

3           Sec. 8071.0201. GOVERNING BODY; TERMS. (a) The district is  
4 governed by a board of five elected directors.

5           (b) Except as provided by Section 8071.0202, directors  
6 serve staggered four-year terms.

7           Sec. 8071.0202. TEMPORARY DIRECTORS. (a) On or after the  
8 effective date of the Act enacting this chapter, the owner or owners  
9 of a majority of the assessed value of the real property in the  
10 district may submit a petition to the commission requesting that  
11 the commission appoint as temporary directors the five persons  
12 named in the petition. The commission shall appoint as temporary  
13 directors the five persons named in the petition.

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

15                   (1) the date permanent directors are elected under  
16 Section 8071.0103; or

17                   (2) the fourth anniversary of the effective date of  
18 the Act enacting this chapter.

19           (c) If permanent directors have not been elected under  
20 Section 8071.0103 and the terms of the temporary directors have  
21 expired, successor temporary directors shall be appointed or  
22 reappointed as provided by Subsection (d) to serve terms that  
23 expire on the earlier of:

24                   (1) the date permanent directors are elected under  
25 Section 8071.0103; or

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

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

8                   SUBCHAPTER C. POWERS AND DUTIES

9       Sec. 8071.0301. GENERAL POWERS AND DUTIES. The district  
10 has the powers and duties necessary to accomplish the purposes for  
11 which the district is created.

12       Sec. 8071.0302. 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. 8071.0303. AUTHORITY FOR ROAD PROJECTS. Under Section  
18 52, Article III, Texas Constitution, the district may design,  
19 acquire, construct, finance, issue bonds for, improve, operate,  
20 maintain, and convey to this state, a county, or a municipality for  
21 operation and maintenance macadamized, graveled, or paved roads, or  
22 improvements, including storm drainage, in aid of those roads.

23       Sec. 8071.0304. ROAD STANDARDS AND REQUIREMENTS. (a) A  
24 road project must meet all applicable construction standards,  
25 zoning and subdivision requirements, and regulations of each  
26 municipality in whose corporate limits or extraterritorial  
27 jurisdiction the road project is located.

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

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

9       Sec. 8071.0305. COMPLIANCE WITH MUNICIPAL CONSENT  
10 ORDINANCE OR RESOLUTION. The district shall comply with all  
11 applicable requirements of any ordinance or resolution that is  
12 adopted under Section 54.016 or 54.0165, Water Code, and that  
13 consents to the creation of the district or to the inclusion of land  
14 in the district.

15               SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16       Sec. 8071.0401. ELECTIONS REGARDING TAXES OR BONDS. (a)  
17 The district may issue, without an election, bonds and other  
18 obligations secured by:

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

20               (2) contract payments described by Section 8071.0403.

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

25       (c) The district may not issue bonds payable from ad valorem  
26 taxes to finance a road project unless the issuance is approved by a  
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8071.0402. OPERATION AND MAINTENANCE TAX. (a) If  
3 authorized at an election held under Section 8071.0401, the  
4 district may impose an operation and maintenance tax on taxable  
5 property in the district in accordance with Section 49.107, Water  
6 Code.

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

9 Sec. 8071.0403. CONTRACT TAXES. (a) In accordance with  
10 Section 49.108, Water Code, the district may impose a tax other than  
11 an operation and maintenance tax and use the revenue derived from  
12 the tax to make payments under a contract after the provisions of  
13 the contract have been approved by a majority of the district voters  
14 voting at an election held for that purpose.

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

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8071.0501. AUTHORITY TO ISSUE BONDS AND OTHER  
20 OBLIGATIONS. The district may issue bonds or other obligations  
21 payable wholly or partly from ad valorem taxes, impact fees,  
22 revenue, contract payments, grants, or other district money, or any  
23 combination of those sources, to pay for any authorized district  
24 purpose.

25 Sec. 8071.0502. TAXES FOR BONDS. At the time the district  
26 issues bonds payable wholly or partly from ad valorem taxes, the  
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all  
2 or part of the bonds are outstanding as required and in the manner  
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8071.0503. BONDS FOR ROAD PROJECTS. At the time of  
5 issuance, the total principal amount of bonds or other obligations  
6 issued or incurred to finance road projects and payable from ad  
7 valorem taxes may not exceed one-fourth of the assessed value of the  
8 real property in the district.

9 SECTION 2. The Waller County Municipal Utility District No.  
10 35 initially includes all the territory contained in the following  
11 area:

12 A metes & bounds description of a 696.27 acre tract of land in  
13 the Fred Eule Survey, Abstract 375, the H. & T. C. Railroad Company  
14 Survey Section 129, Abstract 204, and the W. I. Williamson Survey,  
15 Abstract 410, Waller County, Texas, being comprised of a portion of  
16 that certain called 1,263.584 acre tract recorded in Volume 449,  
17 Page 312, Deed Records, Waller County, Texas, and a portion of that  
18 certain called 0.673 acre tract recorded in Volume 449, Page 508,  
19 Deed Records, Waller County, Texas, with all bearings based upon  
20 the Texas Coordinate System of 1983, South Central Zone, based upon  
21 GPS observations.

22 Beginning at the southwest corner of said H. & T. C. Railroad  
23 Company Survey Section 129, Abstract 204, same being the southeast  
24 corner of said Fred Eule Survey, Abstract 375, for an angle point in  
25 the south line and the Point of Beginning of the herein described  
26 tract, said point also being the northwest corner of the adjoining  
27 J. W. McCutcheon Survey, Abstract 308, and the northeast corner of

1 the adjoining H. & T. C. Railroad Company Survey Section 121,  
2 Abstract 201, and being an angle point in the north line of the  
3 adjoining residue of a called 1,277.0358 acre tract recorded in  
4 Volume 313, Page 416, Deed Records, Waller County, Texas;

5 Thence South 87 degrees 59 minutes 38 seconds West along the  
6 south line of the herein described tract and the south line of said  
7 Fred Eule Survey, Abstract 375, same being the north line of said  
8 adjoining H. & T. C. Railroad Company Survey Section 121, Abstract  
9 201, 2,621.09 feet to the southwest corner of the herein described  
10 tract and said called 1,263.584 acre tract, same being the  
11 southeast corner of an adjoining called 162.614 acre tract recorded  
12 under County Clerk's File Number 1700518, Official Records, Waller  
13 County, Texas;

14 Thence North 01 degree 56 minutes 12 seconds West along the  
15 west line of the herein described tract, same being the east line of  
16 said adjoining called 162.614 acre tract, 2,657.26 feet to an angle  
17 point, said point being the northeast corner of said adjoining  
18 called 162.614 acre tract, same being the southeast corner of an  
19 adjoining called 4.00 acre tract recorded in Volume 1101, Page 526,  
20 Official Records, Waller County, Texas;

21 Thence North 01 degree 59 minutes 04 seconds West along the  
22 west line of the herein described tract, same being the east line of  
23 said adjoining called 4.00 acre tract, the east line of an adjoining  
24 called 5.00 acre tract recorded in Volume 419, Page 367, Deed  
25 Records, Waller County, Texas, the east line of an adjoining called  
26 5.00 acre tract recorded in Volume 396, Page 104, Deed Records,  
27 Waller County, Texas, the east line of an adjoining called 6.000



1 acre tract recorded in Volume 1361, Page 796, Official Records,  
2 Waller County, Texas, and the east line of an adjoining called 10.00  
3 acre tract recorded in Volume 1020, Page 776, Official Records,  
4 Waller County, Texas, 2,624.91 feet to the lower northwest corner  
5 of the herein described tract and said called 1,263.584 acre tract,  
6 said point being in the north line of said Fred Eule Survey,  
7 Abstract 375, same being the south line of the adjoining H. & T. C.  
8 Railroad Company Survey Section 119, Abstract 200, as located in  
9 Beckendorff Road, said point being the southeast corner of an  
10 adjoining tract recorded in Volume 0995, Page 461, Official  
11 Records, Waller County, Texas, same being the southwest corner of  
12 an adjoining called 19.0983 acre tract recorded in Volume 1181,  
13 Page 588, Official Records, Waller County, Texas;

14       Thence North 88 degrees 01 minute 40 seconds East along the  
15 lower north line of the herein described tract and said called  
16 1,263.584 acre tract, and the north line of said Fred Eule Survey,  
17 Abstract 375, same being the south line of said adjoining H. & T. C.  
18 Railroad Company Survey Section 119, Abstract 200, as located in  
19 Beckendorff Road, and along the south line of said adjoining called  
20 19.0983 acre tract, the south line of an adjoining called 19.098  
21 acre tract recorded in Volume 686, Page 894, Official Records,  
22 Waller County, Texas, and the south line of an adjoining called  
23 19.0984 acre tract recorded in Volume 657, Page 415, Official  
24 Records, Waller County, Texas, 2,585.25 feet to a reentry corner to  
25 the herein described tract and said called 1,263.584 acre tract,  
26 said point being the southeast corner of said adjoining H. & T. C.  
27 Railroad Company Survey Section 119, Abstract 200, the southwest

1 corner of said W. I. Williamson Survey, Abstract 410, the northwest  
2 corner of said H. & T. C. Railroad Company Survey Section 129,  
3 Abstract 204, and the northeast corner of said Fred Eule Survey,  
4 Abstract 375;

5       Thence North 02 degrees 16 minutes 26 seconds West along the  
6 upper west line of the herein described tract and said called  
7 1,263.584 acre tract, and the west line of said W. I. Williamson  
8 Survey, Abstract 410, same being the east line of said adjoining H.  
9 & T. C. Railroad Company Survey Section 119, Abstract 200, and being  
10 along the east line of said adjoining called 19.0984 acre tract, the  
11 east line of an adjoining called 35.3053 acre tract recorded in  
12 Volume 994, Page 833, Official Records, Waller County, Texas, the  
13 east line of an adjoining called 31.987 acre tract recorded in  
14 Volume 757, Page 834, Official Records, Waller County, Texas, and  
15 the east line of an adjoining called 50 acre tract recorded in  
16 Volume 314, Page 159, Deed Records, Waller County, Texas, 2,654.17  
17 feet to the upper northwest corner of the herein described tract and  
18 the northwest corner of the aforementioned called 0.673 acre tract,  
19 said point being the northwest corner of said W. I. Williamson  
20 Survey, Abstract 410, same being the southwest corner of the  
21 adjoining W. C. Pitts Survey, Abstract 411, and the southwest  
22 corner of an adjoining called 0.652 acre tract recorded in Volume  
23 1094, Page 575, Official Records, Waller County, Texas;

24       Thence North 88 degrees 01 minute 17 seconds East along the  
25 north line of the herein described tract, the north line of said  
26 called 0.673 acre tract, and the north line of said W. I. Williamson  
27 Survey, Abstract 410, same being the south line of said adjoining W.

1 C. Pitts Survey, Abstract 411, the south line of said adjoining  
2 called 0.652 acre tract, and the south line of an adjoining called  
3 57.3029 acre tract recorded in Volume 619, Page 220, Official  
4 Records, Waller County, Texas, 960.90 feet to the intersection of  
5 said line with the Waller-Harris County line for the northeast  
6 corner of the herein described tract;

7       Thence South 18 degrees 54 minutes 19 seconds East along the  
8 Waller-Harris County line, 8,291.16 feet to the intersection of  
9 said line with the south line of the aforementioned H. & T. C.  
10 Railroad Company Survey Section 129, Abstract 204, for the  
11 southeast corner of the herein described tract, said point being in  
12 the south line of said called 1,263.584 acre tract, same being the  
13 north line of the aforementioned adjoining J. W. McCutcheon Survey  
14 Section 130, Abstract 308, and the north line of the aforementioned  
15 adjoining residue of a called 1,277.0358 acre tract recorded in  
16 Volume 313, Page 416, Deed Records, Waller County, Texas;

17       Thence South 87 degrees 58 minutes 25 seconds West along the  
18 south line of the herein described tract and said H. & T. C.  
19 Railroad Company Survey Section 129, Abstract 204, same being the  
20 north line of said adjoining J. W. McCutcheon Survey Section 130,  
21 Abstract 308, and the north line of said adjoining residue of a  
22 called 1,277.0358 acre tract, 3,327.01 feet to the southwest corner  
23 of said H. & T. C. Railroad Company Survey Section 129, Abstract  
24 204, same being the southeast corner of the aforementioned Fred  
25 Eule Survey, Abstract 375;

26       Thence North 02 degrees 20 minutes 57 seconds West along the  
27 west line of said H. & T. C. Railroad Company Survey Section 129,

1 Abstract 204, same being the east line of said Fred Eule Survey,  
2 Abstract 375, 53.43 feet to the southeast corner of an adjoining  
3 called 10.00 acre tract recorded in Volume 200, Page 118, Deed  
4 Records, Waller County, Texas;

5 Thence along the common line of the herein described tract  
6 and said adjoining called 10.00 acre tract with the following  
7 courses and distances:

8 North 02 degrees 20 minutes 57 seconds West, 660.00 feet;

9 South 87 degrees 29 minutes 25 seconds West, 660.00 feet;

10 South 02 degrees 20 minutes 57 seconds East, 660.00 feet;

11 North 87 degrees 29 minutes 25 seconds East, 660.00 feet to  
12 the southeast corner of said adjoining called 10.00 acre tract,  
13 said point being in the east line of said Fred Eule Survey, Abstract  
14 375, same being the west line of said H. & T. C. Railroad Company  
15 Survey Section 129, Abstract 204;

16 Thence South 02 degrees 20 minutes 57 seconds East along the  
17 east line of said Fred Eule Survey, Abstract 375, same being the  
18 west line of said H. & T. C. Railroad Company Survey Section 129,  
19 Abstract 204, 53.43 feet to the Point of Beginning and containing  
20 696.27 acres of land, more or less.

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

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

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

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

12 SECTION 4. (a) If this Act does not receive a two-thirds  
13 vote of all the members elected to each house, Subchapter C, Chapter  
14 8071, Special District Local Laws Code, as added by Section 1 of  
15 this Act, is amended by adding Section 8071.0306 to read as follows:

16 Sec. 8071.0306. NO EMINENT DOMAIN POWER. The district may  
17 not exercise the power of eminent domain.

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

21 SECTION 5. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2019.