

CHAPTER 289

S.B. No. 1373

AN ACT

relating to the creation, administration, powers, including taxing powers, duties, operations, financing, and dissolution of the Town Center Improvement District of Montgomery County, Texas, and the power of certain entities to contract with the district.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) Notwithstanding the general law relating to consent by political subdivisions to the creation of conservation and reclamation districts and the inclusion of land in those districts, there is hereby created and established within Montgomery County, Texas, in the form and manner hereinafter set forth, a special district, to be known as the Town Center Improvement District of Montgomery County, Texas, which shall be a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The district is a unit of government for purposes of the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(c) The name of the district may be changed by resolution of the board of directors of the district at any time.

(d) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and to the accomplishment of the several other public purposes stated in this Act.

(e) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the Town Center area of Montgomery County. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve Montgomery County or any other governmental agency, political subdivision, or municipality from providing the present level of services to the area included within the district or to release the obligations each entity has or may hereafter have to provide services to that area. The district is created to supplement and not supplant such services in the area included within the district.

SECTION 2. DEFINITIONS. In this Act:

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

(2) "District" means the Town Center Improvement District of Montgomery County, Texas.

(3) "Improvement project" means any program or project, whether individual, intermittent, or continuing and whether located or conducted within or without the district, for the construction, acquisition, lease, rental, installment purchase, improvement, rehabilitation, repair, relocation, operation, or maintenance of any works, improvements, or facilities or the provision, support, enhancement, improvement, extension, or expansion of services, whether provided to, for, by, or on behalf of the district, necessary for the accomplishment of the public purposes of the district, including:

(A) landscaping; lighting, banners, and signs; streets or sidewalks; hike and bike paths and trails, pedestrian walkways, skywalks, crosswalks, or tunnels; highway right-of-way or transit corridor beautification and improvements; drainage or storm water detention improvements; solid waste, water, sewer, or power facilities and services, including but not limited to electrical, gas, steam, and chilled water facilities; parks, lakes, gardens, recreational facilities, open space, scenic areas, and related exhibits and preserves; fountains, plazas, and pedestrian malls; public art and sculpture and related exhibits and facilities; educational and cultural exhibits and facilities; exhibits, displays, attractions, and facilities for special

events, holidays, and seasonal or cultural celebrations; off-street parking facilities, bus terminals, heliports, mass-transit, and roadway-borne or water-borne transportation and people-mover systems; and any other public improvements, facilities, or services similar to the foregoing;

(B) the removal, razing, demolition, or clearing of land or improvements in connection with any improvement project;

(C) the acquisition of real or personal property or any interest therein in connection with an authorized improvement project provided that the district shall not have the power of eminent domain; and

(D) any special or supplemental services for the improvement and promotion of the district or adjacent areas or for the protection of public health and safety within or adjacent to the district, including but not limited to advertising, promotion, tourism, health and sanitation, public safety, security, fire protection and emergency medical services, business recruitment, development, elimination of traffic congestion, and recreational, educational, and cultural improvements, enhancements, and services.

SECTION 3. BOUNDARIES. The district shall include all of the territory contained within the following described area:

Being a 802.95 acre tract of land situated in Montgomery County, Texas in the Walker County School Land Survey, A-599, John Taylor Survey, A-547, and the Montgomery County School Land Survey, A-350, and being more particularly described by metes and bounds as follows with all control referred to the Texas State Plan Coordinate System, Lambert Projection, South Central Zone:

BEGINNING at a point for corner in the south right-of-way line of Woodlands Parkway, as recorded in Volume 823, Page 224, of the Montgomery County Deed Records, located in the west right-of-way line of Interstate Highway No. 45 having a Texas State Plane Coordinate Value of $X = 3,121,407.94$, $Y = 861,543.52$ and being $S 41^{\circ}54'27'' E$, 7,443.73 from the northwest corner of said Walker County School Land Survey, A-599;

THENCE along the south right-of-way line of said Woodlands Parkway as follows:

N $70^{\circ}36'26'' W$, 91.17 feet to a point,
 S $85^{\circ}51'45'' W$, 577.61 feet to a point,
 S $85^{\circ}48'56'' W$, 525.94 feet to a point,
 S $82^{\circ}44'32'' W$, 186.58 feet to a point,
 S $83^{\circ}46'10'' W$, 810.17 feet to a point,
 S $84^{\circ}39'07'' W$, 195.75 feet to a point,
 S $81^{\circ}43'27'' W$, 874.67 feet to a point,
 S $82^{\circ}50'02'' W$, 630.85 feet to a point,
 S $86^{\circ}32'35'' W$, 308.58 feet to a point,
 S $86^{\circ}22'47'' W$, 1,194.19 feet to a point,
 S $84^{\circ}28'14'' W$, 600.33 feet to a point,

And S $74^{\circ}28'07'' W$, 745.32 feet to a point for corner at its intersection with the east right-of-way line of Grogan's Mill Road;

THENCE S $32^{\circ}48'58'' W$, 187.55 feet to a point for corner;

THENCE N $79^{\circ}8'19'' W$, 210.00 feet to a point for corner;

THENCE N $22^{\circ}12'11'' W$, 78.06 feet to a point for corner;

THENCE N $17^{\circ}55'38'' E$, 654.45 feet to a point for corner;

THENCE N $40^{\circ}07'24'' E$, 529.39 feet to a point for corner;

THENCE N $27^{\circ}32'47'' E$, 1,121.03 feet to a point for corner;

THENCE N $21^{\circ}50'09'' E$, 150.75 feet to a point for corner;

THENCE N $27^{\circ}32'47'' E$, 43.97 feet to a point for corner;

THENCE N $62^{\circ}27'13'' W$, 584.03 feet to a point for corner;

THENCE N 27°32'47" E, 382.16 feet to a point for corner;
THENCE northwesterly along a curve to the right an arc distance of 21.26 feet based on a radius of 270.00 feet, a central angle of 04°30'45" and having a chord which bears N 64°42'35" W a chord distance of 21.26 feet to a point of tangency;
THENCE N 62°27'13" W, 352.65 feet to a point of curvature;
THENCE along a curve to the right an arc distance of 194.65 feet based on a radius of 720.00 feet, a central angle of 15°29'24" and having a chord which bears N 54°42'31" W a chord distance of 194.06 feet to a point of tangency;
THENCE N 46°57'49" W, 154.37 feet to a point for corner;
THENCE N 43°02'11" E, 50.00 feet to a point of curvature;
THENCE along a curve to the left an arc distance of 200.28 feet based on a radius of 425.00 feet, a central angle of 27°00'00" and having a chord which bears N 29°32'11" E a chord distance of 198.43 feet to a point of tangency;
THENCE N 16°02'11" E, 295.95 feet to a point of curvature;
THENCE along a curve to the left an arc distance of 212.31 feet based on a radius of 1,450.00 feet, a central angle of 08°23'21" and having a chord which bears N 11°50'30" E a chord distance of 212.12 feet to a point of tangency;
THENCE N 07°38'50" E, 130.20 feet to a point for corner;
THENCE N 51°11'04" W, 374.66 feet to a point for corner;
THENCE N 48°00'30" W, 634.11 feet to a point for corner;
THENCE N 59°17'39" W, 62.45 feet to a point for corner;
THENCE N 18°23'46" W, 93.02 feet to a point for corner;
THENCE N 17°52'41" E, 59.29 feet to a point for corner;
THENCE N 45°34'13" E, 97.61 feet to a point for corner;
THENCE N 17°37'12" E, 183.70 feet to a point for corner;
THENCE N 14°17'46" W, 108.32 feet to a point for corner;
THENCE N 19°18'14" E, 72.16 feet to a point for corner;
THENCE N 33°37'34" E, 104.17 feet to a point for corner;
THENCE S 75°57'49" E, 12.49 feet to a point of curvature;
THENCE along a curve to the right an arc distance of 974.72 feet based on a radius of 2,080.00 feet, a central angle of 26°50'59" and having a chord which bears S 62°32'20" E a chord distance of 965.83 feet to a point of tangency;
THENCE S 49°06'50" E, 142.10 feet to a point for corner;
THENCE N 36°40'50" E, 828.08 feet to a point for corner;
THENCE S 49°08'52" E, 346.64 feet to a point for corner;
THENCE N 87°31'24" E, 536.99 feet to a point for corner;
THENCE S 02°29'55" E, 115.53 feet to a point for corner;
THENCE S 02°25'00" E, 590.05 feet to a point for corner;
THENCE S 47°18'01" E, 244.25 feet to a point for corner;
THENCE S 84°41'11" E, 194.52 feet to a point for corner;
THENCE N 89°00'34" E, 555.28 feet to a point for corner;
THENCE N 80°47'31" E, 300.00 feet to a point for corner;
THENCE N 11°02'00" W, 190.00 feet to a point for corner;
THENCE N 02°08'49" W, 975.00 feet to a point for corner;
THENCE N 87°51'11" E, 580.00 feet to a point for corner;
THENCE S 02°08'49" E, 126.11 feet to a point for corner;
THENCE N 87°51'11" E, 440.00 feet to a point for corner;
THENCE N 02°08'49" W, 486.11 feet to a point for corner;

THENCE N 87°51'11" E, 32.96 feet to a point of curvature;
 THENCE along a curve to the right an arc distance of 528.31 feet based on a radius of 5,045.00 feet, a central angle of 06°00'00" and having a chord which bears S 898'49" E a chord distance of 528.07 feet to a point of tangency;
 THENCE S 86°08'49" E, 99.85 feet to a point for corner;
 THENCE N 48°51'11" E, 14.14 feet to a point for corner;
 THENCE N 03°51'11" E, 39.31 feet to a point of curvature;
 THENCE along a curve to the right an arc distance of 372.34 feet based on a radius of 1,255.00 feet, a central angle of 16°59'56" and having a chord which bears N 12°21'09" E a chord distance of 370.98 feet to a point of tangency;
 THENCE N 20°51'07" E 416.95 feet to a point for corner;
 THENCE N 24°08'53" W, 35.36 feet to a point for corner;
 THENCE N 69°08'53" W, 10.41 feet to a point for corner;
 THENCE N 20°51'07" E, 110.00 feet to a point for corner;
 THENCE S 69°08'53" E, 5.41 feet to a point for corner;
 THENCE N 65°51'07" E, 35.36 feet to a point for corner;
 THENCE S 69°08'53" E, 115.00 feet to a point for corner;
 THENCE S 24°08'53" E, 35.36 feet to a point for corner;
 THENCE S 69°08'53" E, 73.98 feet to a point of curvature;
 THENCE along a curve to the left an arc distance of 379.33 feet based on a radius of 945.00 feet, a central angle of 22°59'56" and having a chord which bears S 80°38'51" E a chord distance of 376.79 feet to a point of tangency;
 THENCE N 87°51'11" E, 478.87 feet to a point of curvature;
 THENCE along a curve to the left an arc distance of 135.57 feet based on a radius of 1,945.00 feet, a central angle of 03°59'37" and having a chord which bears N 85°51'22" E a chord distance of 135.54 feet to a point of tangency;
 THENCE N 83°51'34" E, 330.58 feet to a point for corner;
 THENCE S 06°08'26" E, 251.66 feet to a point for corner;
 THENCE S 06°19'08" E, 104.20 feet to a point for corner;
 THENCE S 05°34'08" E, 335.41 feet to a point for corner;
 THENCE S 06°29'11" E, 327.06 feet to a point for corner;
 THENCE S 07°44'55" E, 239.82 feet to a point for corner;
 THENCE S 88°21'10" W, 186.42 feet to a point for corner;
 THENCE S 02°08'52" E, 436.57 feet to a point for corner;
 THENCE N 87°22'38" E, 220.97 feet to a point for corner;
 THENCE S 06°37'09" E, 662.44 feet to a point for corner;
 THENCE S 06°47'16" E, 337.68 feet to a point for corner;
 THENCE S 06°39'37" E, 500.77 feet to a point for corner;
 THENCE S 06°46'14" E, 576.28 feet to a point for corner;
 THENCE S 08°56'30" E, 493.48 feet to a point for corner;
 THENCE S 08°42'03" E, 450.64 feet to a point for corner;
 THENCE S 08°48'51" E, 498.47 feet to a point for corner;
 THENCE S 08°49'00" E, 368.85 feet to a point for corner;
 THENCE S 20°16'52" E, 209.35 feet to a point for corner;
 THENCE S 04°53'48" E, 289.23 feet to a point for corner;
 THENCE S 78°41'39" W, 528.50 feet to a point for corner;
 THENCE N 11°21'21" W, 49.94 feet to the POINT OF BEGINNING and containing 802.95 acres of land.

SECTION 4. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If any mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district or the right, power, or authority of the district to enter into any type of contract for the purposes for which the district is created or the right of the district to levy, assess, and collect taxes, fees, or charges, as herein provided, and in no other manner affects the legality or operations of the district or its board.

SECTION 5. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works, projects, improvements, and services that are to be accomplished by the district under powers conferred by Article III, Section 52, and Article XVI, Section 59, of the Texas Constitution and other powers granted under this Act and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of the economic development and diversification of the state, the elimination of unemployment and underemployment, and the stimulation and development of transportation and commerce; that it is in the public interest; and that it will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district and of the general public. The present and prospective traffic congestion in the district and the safety of pedestrians and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The district will provide needed funding for the Town Center area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business and commerce center. The district will further promote the health, safety, welfare, education, convenience, and enjoyment of the public by improving, landscaping, and developing certain areas within and adjacent to the district and providing public services and facilities within and adjacent to the district which are necessary for the restoration, preservation, enhancement, and enjoyment of scenic and aesthetic beauty. Each and all of the improvement projects authorized by this Act are hereby found and declared to be essential to carrying out a public purpose. The district will not act as the agent or instrumentality of any private interests, even though many private interests will be benefited by the district as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes set forth herein.

SECTION 6. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred on municipal management districts by Subchapter E, Chapter 375, Local Government Code, and by the general laws of the state on conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, and on road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including those conferred by Chapter 54, Water Code, and Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, powers, privileges, authority, and functions contained in this Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law which supplements the power and authority of the district, to the extent not in conflict or inconsistent with this Act, is adopted and incorporated by reference.

SECTION 7. ADDITIONAL SPECIFIC POWERS AND DUTIES. In addition to the general powers set forth in Section 6 of this Act, the board may, subject to the provisions and limitations hereinafter set forth:

(1) levy, assess, and apply the proceeds from a limited sales and use tax for the district's purposes, provided that, during each interval of three calendar years following the commencement of collection of such tax, the board shall, consistent with the district's authorized powers and purposes and in its sound discretion, endeavor to apply an annual average of not less than 10 percent of the net proceeds of such tax collections, after deduction of the general and administrative costs and expenses of the district and the costs and expenses of levying, assessing, and collecting such taxes, toward mitigation of the impact of development within

the district on adjacent areas, including without limitation effects on public utilities and services, public transportation and traffic movement, and scenic and aesthetic beauty;

(2) borrow money for the corporate purposes of the district;

(3) add or exclude territory in the manner provided by Subchapter H, Chapter 54, Water Code;

(4) contract with any person or entity for the accomplishment of any of the district's purposes including without limitation contracts for the payment, repayment, or reimbursement, out of tax proceeds or any other specified source of funds, of any costs and reasonable carrying costs incurred by that person for or on behalf of the district, including all or part of the costs of any improvement project;

(5) make application for and contract with any person or entity to receive, administer, and perform the district's duties and obligations under any federal, state, local, or private gift, grant, loan, conveyance, transfer, bequest, donation, or other financial assistance arrangement relating to the investigation, planning, analysis, study, design, acquisition, construction, improvement, completion, implementation, or operation by the district or others of a proposed or existing improvement project;

(6) make, adopt, revise, repeal, amend, promulgate, and enforce by ordinary civil remedies reasonable rules and regulations for the administration and operation of the district, the use, enjoyment, availability, protection, security, and maintenance of the district's properties and facilities, and providing for public safety and security within the district;

(7) establish, revise, repeal, enforce, collect, and apply the proceeds from user fees, concessions, admissions, rentals, or other similar fees or charges for the enjoyment, sale, rental, or other use of the district's facilities, services, properties, or improvement projects; however, because the district is created in an area that is devoted primarily to commercial and business activity, the district may not impose an impact fee or assessment on a single family residential property or a residential duplex, triplex, quadruplex, or condominium;

(8) provide or secure the payment or repayment of the costs and expenses of the establishment, administration, and operation of the district and the district's costs or share of the costs of any improvement project, or district contractual obligation or indebtedness, by or through a lease, installment purchase contract, or other agreement with any person or the levy and assessment of taxes, user fees, concessions, rentals, or other revenues or resources of the district; and

(9) undertake separately or jointly with other persons or entities and pay all or part of the cost of improvement projects, including improvement projects for improving, enhancing, and supporting public safety and security, fire protection and emergency medical services, and law enforcement within and adjacent to the district and improvement projects that confer a general benefit on the entire district and the areas adjacent thereto or a special benefit on a definable part of the district, which may be the entire district or any part thereof; however, the district shall not be authorized to employ peace officers.

SECTION 8. BOARD OF DIRECTORS. (a) The district is governed by a board of eight directors who shall serve for staggered terms of four years.

(b)(1) Except as provided by Subdivisions (2) and (3) of this subsection, to be qualified to serve as a director, a person must be at least 18 years old and be:

(A) a resident of the district;

(B) an individual owner of real property in the district;

(C) an individual owner of stock, whether beneficial or otherwise, of a corporate owner of real property in the district;

(D) an individual owner of a beneficial interest in a trust that owns real property in the district; or

(E) an agent, employee, officer, or director of any owner of real property described by Paragraph (B), (C), or (D) of this subdivision.

(2) To be eligible for appointment under Paragraph (F) or (G) of Subdivision (1) of Subsection (c) of this section, a person must be a resident of the city making the appointment

and may not be a person described by Paragraph (B), (C), (D), or (E) of Subdivision (1) of this subsection.

(3) To be eligible for appointment under Paragraph (H) of Subdivision (1) of Subsection (c) of this section, a person must be a member of the Woodlands Community Association and may not be a person described by Paragraph (B), (C), (D), or (E) of Subdivision (1) of this subsection.

(4) A person or entity that owns an interest in a general or limited partnership owning real property in the district or who has a lease of real property in the district with a remaining term of 10 years or more, excluding options, is considered to be an owner of real property for purposes of this subsection.

(c)(1) On the effective date of this Act, the following persons shall constitute the initial board and shall serve as provided in this Act:

- (A) Vicki D. Armstrong;
- (B) Roger L. Galatas;
- (C) R. A. Kutsche;
- (D) Michael H. Richmond;
- (E) Bruce M. Withers, Jr.;
- (F) one individual appointed by the city council of the City of Oak Ridge North;
- (G) one individual appointed by the city council of the City of Shenandoah; and
- (H) one individual appointed by the board of directors of the Woodlands Community Association.

(2) If one or more of the initial directors listed in this subsection fails to qualify for office within 90 days after the effective date of this Act, the remaining directors shall appoint qualified persons to fill the vacancies for the unexpired terms.

(d) Of the initial directors, four shall serve until the first Saturday in May, 1994, or until their successors have been elected or appointed and have qualified, and four shall serve until the first Saturday in May, 1996, or until their successors have been elected or appointed and have qualified. The board shall determine the terms of the initial directors by mutual agreement or by lot.

(e) A vacancy in the office of director shall be filled by appointment by a majority vote of the remaining directors. The board may remove a director for misconduct or failure to carry out his duties by unanimous vote of all of the remaining directors.

(f) As soon as practicable after a director is elected or appointed, such person shall execute a bond for \$10,000 payable to the district and conditioned on the faithful performance of his duties. All bonds of the directors shall be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(g) After directors have been appointed or elected and have qualified by executing a bond and taking the proper oath, they shall organize or reorganize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are necessary.

(h) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described in Article XVI, Section 40, of the Texas Constitution.

(i) A director is not entitled to compensation for service on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(j) Except as provided in Subsection (e) of this section, five directors constitute a quorum for the consideration of matters pertaining to the purposes of the district, and a concurrence of a majority of a quorum of directors shall be required for any official action of the district.

(k) A person who qualifies to serve on the board under Subsection (b) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provisions to the contrary.

SECTION 9. CONFIRMATION AND DIRECTORS ELECTIONS. (a) As soon as practicable after all initial directors have qualified for office, the initial directors shall file the statement and take the oath of office required of appointed officials and meet in an organizational session. If the board does not determine to call hearings to exclude territory from the district, the board at the organizational meeting shall call a confirmation election to be held on the next lawfully available uniform election date occurring not less than 45 days after the date of such organizational meeting.

(b) The confirmation election shall be called and held to confirm the establishment of the district in the manner provided by general law applicable to municipal utility districts. In the event a majority of the votes cast at a confirmation election is against the creation of the district, the board shall not call another confirmation election for six months after the date the former confirmation election is held. Prior to a successful confirmation election, the district may not borrow money or levy or assess taxes; however, the district shall have the power to carry on such other business as the board may determine.

(c) An election to authorize or to discontinue the levy and assessment of taxes may be held at the same time and in conjunction with a confirmation or directors election.

(d) An election for directors shall be held on the first Saturday in May in each even-numbered year in the manner provided by general law applicable to municipal utility districts, and the appropriate number of directors shall be elected for four-year terms.

SECTION 10. OPEN MEETINGS AND RECORDS. The district is a political subdivision for purposes of the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes), and the open records law, Chapter 424, Acts of the 63rd Legislature, Regular Session, 1973 (Article 6252-17a, Vernon's Texas Civil Statutes), and shall solely for the purposes thereof be considered a municipal utility district.

SECTION 11. LIMITED SALES AND USE TAX. (a) The words and phrases used in this section and defined by Chapters 151 and 321, Tax Code, have the meanings assigned by Chapters 151 and 321, Tax Code.

(b) Except as otherwise provided in this section, Subtitles A and B, Title 2, and Chapter 151, Tax Code, apply to the taxes and to the administration and enforcement of the taxes imposed by this district pursuant to this Act in the same manner that those laws apply to state taxes.

(c) The district may adopt or repeal the limited sales and use tax authorized by this section at an election in which a majority of the qualified voters of the district voting in such election approve the adoption or the abolition of the tax, as applicable.

(d) The provisions of Subchapters C, D, E, and F, Chapter 323, Tax Code, relating to county sales and use taxes shall apply to the application, collection, and administration of a sales and use tax imposed under this Act, to the extent not inconsistent with the provisions of this Act, and with the same effect as if references therein to a county or a commissioners court referred to the district or its board; provided that Sections 323.401 through 323.404 and Section 323.505, Tax Code, do not apply.

(e) A tax imposed under this Act or the repeal or reduction of a tax under this Act takes effect on October 1 after the expiration of the first complete calendar quarter occurring after the date on which the comptroller receives the notice required by Subsection (b), Section 323.405, Tax Code, or Subsection (i) of this section.

(f) On adoption of the tax authorized by this Act, there is imposed a tax on the receipts from the sale at retail of taxable items within the district at the rate of one percent, as well as an excise tax on the use, storage, or other consumption within the district of taxable items purchased, leased, or rented from a retailer during the period that the tax is effective within the district. The rate of the excise tax is the same as the rate of the sales tax portion of the tax and is applied to the sales price of the taxable item. With respect to a taxable service, "use" means the derivation in the district of direct or indirect benefit from the service.

(g) An election to authorize or repeal a limited sales and use tax may be called by order of the board and must be held on the next lawfully available uniform election date occurring not less than 45 days after the date on which the order calling the election was passed. Notice of the election shall be given and the election shall be held and conducted in the manner

prescribed by general law for bond elections for municipal utility districts. The ballots shall be printed to provide for voting for or against the proposition "Adoption of a one percent district sales and use tax within the district" or "Abolition of the district sales and use tax within the district," as appropriate.

(h) In the event that all or part of the territory of the district is annexed by a municipality which has adopted and is imposing a sales and use tax, the sales and use tax imposed by the district in such annexed territory shall be reduced, if required to comply with the provisions hereof, in even multiples of one-half percent, and without the necessity for an election, such that the combined rate of all sales and use taxes imposed by the county, the annexing municipality, and all other political subdivisions within the annexed territory of the district will not exceed two percent, provided that a sales and use tax previously adopted by the district for such annexed territory shall not be reduced to less than one-half percent and provided further that no reduction of the district's sales and use tax in the portions of the district not so annexed shall be required.

(i) Within 10 days after the annexation or exclusion of territory by the district or the annexation of all or part of the territory of the district by a municipality requiring a reduction of the district's sales and use tax, as provided in Subsection (h) of this section, the board shall send to the comptroller by United States certified or registered mail certified copies of all resolutions, orders, or ordinances pertaining to such events.

SECTION 12. LIMITATIONS ON INDEBTEDNESS. The district may borrow money for its corporate purposes and evidence such indebtedness by one or more contracts, promissory notes, or similar instruments provided that no such indebtedness shall be incurred by the district unless the taxes and other net revenues to be realized by the district during the one-year period following the incurrence of such indebtedness are projected by the board to be sufficient, together with funds on hand and available or projected to be on hand and available to the district from other sources, including gifts, grants, loans, conveyances, transfers, bequests, donations, or other financial assistance, to repay or discharge such indebtedness within such one-year period.

SECTION 13. CONTRACTS WITH DISTRICT. The district is authorized to contract with a city, county, other political subdivision, corporation, or other persons to carry out the purposes of this Act on such terms and conditions and for such period of time as the board may determine. A state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act without any further authorization, notwithstanding any other law or charter provision to the contrary.

SECTION 14. DISSOLUTION. (a) The board may elect by majority vote to dissolve the district at any time, and the board shall dissolve the district on written petition of the owners of 75 percent, in terms of acreage, of the real property in the district; however, the district may not be dissolved by the board if the district has any outstanding indebtedness or contractual obligations until such indebtedness or contractual obligations have been repaid or discharged.

(b) After the board elects to dissolve the district, the board shall transfer ownership of all property and assets of the district to Montgomery County, except as provided by Subsection (c) of this section.

(c) If on the date of the vote to dissolve the district more than 50 percent of the territory within the district is within the corporate limits of a municipality, the board shall transfer ownership of the district's property and assets to that municipality.

SECTION 15. NOTICE AND CONSENT. The legislature finds that the proper and 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 by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Water Commission. The legislature further finds that the Texas Water Commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. 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 have been fulfilled and accomplished.

SECTION 16. SEVERABILITY. The provisions of this Act are severable. If any word, phrase, clause, sentence, section, provision, or part of this Act is held invalid or unconstitutional, it shall not affect the validity of the remaining portions, and it is declared to be the legislative intent that this Act would have been passed as to the remaining portions regardless of the invalidity of any part.

SECTION 17. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed the Senate on April 22, 1993: Yeas 29, Nays 0; the Senate concurred in House amendments on May 13, 1993: Yeas 30, Nays 0; passed the House, with amendments, on May 11, 1993: Yeas 140, Nays 0, two present not voting.

Approved May 26, 1993.

Effective May 26, 1993.