

By: Bohac

H.B. No. 3629

Substitute the following for H.B. No. 3629:

By: Van Arsdale

C.S.H.B. No. 3629

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the creation of the Spring Branch Area Community
3 Improvement District; providing the authority to issue bonds.

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

5 SECTION 1. CREATION OF DISTRICT. (a) The Spring Branch
6 Area Community Improvement District is a special district created
7 under Section 59, Article XVI, Texas Constitution.

8 (b) The board by resolution may change the name of the
9 district.

10 SECTION 2. DEFINITIONS. In this Act:

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

13 (2) "District" means the Spring Branch Area Community
14 Improvement District.

15 SECTION 3. DECLARATION OF INTENT. (a) The creation of the
16 district is essential to accomplish the purposes of Sections 52 and
17 52-a, Article III, and Section 59, Article XVI, Texas Constitution,
18 and to accomplish other public purposes stated in this Act.

19 (b) The creation of the district is necessary to promote,
20 develop, encourage, and maintain employment, commerce,
21 transportation, housing, tourism, recreation, the arts,
22 entertainment, economic development, safety, and the public
23 welfare in the area of the district.

24 (c) This Act and the creation of the district may not be

1 interpreted to relieve Harris County or the City of Houston from
2 providing the level of services provided as of the effective date of
3 this Act to the area in the district. The district is created to
4 supplement and not to supplant the county or city services provided
5 in the area in the district.

6 SECTION 4. BOUNDARIES. The district includes all the
7 territory contained in the following described area:

8 POINT OF BEGINNING, the southwest corner of the intersection
9 of the West Sam Houston Parkway right-of-way and the Interstate
10 Highway 10 right-of-way; thence north along the west boundary of
11 the West Sam Houston Parkway right-of-way to the north boundary of
12 Clay Road right-of-way; thence east along the north boundary of
13 Clay Road right-of-way continuing along the north boundary of W.
14 43rd Street right-of-way to the east boundary of Hempstead Highway
15 right-of-way; thence southeast along the north boundary of
16 Hempstead Highway right-of-way to the east boundary of the Loop 610
17 right-of-way; thence south along the east boundary of Loop 610
18 right-of-way to the south boundary of Old Katy Road right-of-way;
19 thence west along the south boundary of Old Katy Road right-of-way
20 to the west boundary of North Post Oak Road right-of-way; thence
21 south along the west boundary of North Post Oak Road right-of-way to
22 the south boundary of Interstate Highway 10 right-of-way; thence
23 west along the south boundary of Interstate Highway 10 right-of-way
24 to the POINT OF BEGINNING.

25 SAVE AND EXCEPT any land located within the boundaries of the
26 City of Spring Valley and City of Hilshire Village.

27 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries

1 and field notes of the district form a closure. A mistake in the
2 field notes or in copying the field notes in the legislative process
3 does not in any way affect the district's:

4 (1) organization, existence, or validity;

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

8 (3) right to impose or collect an assessment or tax; or

9 (4) legality or operation.

10 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The
11 district is created to serve a public use and benefit.

12 (b) All land and other property included in the district
13 will benefit from the improvements and services to be provided by
14 the district under powers conferred by Sections 52 and 52-a,
15 Article III, and Section 59, Article XVI, Texas Constitution, and
16 other powers granted under this Act.

17 (c) The creation of the district is in the public interest
18 and is essential to:

19 (1) further the public purposes of development and
20 diversification of the economy of the state;

21 (2) eliminate unemployment and underemployment; and

22 (3) develop or expand transportation and commerce.

23 (d) The district will:

24 (1) promote the health, safety, and general welfare of
25 residents, employers, employees, visitors, and consumers in the
26 district, and of the public;

27 (2) provide needed funding to preserve, maintain, and

1 enhance the economic health and vitality of the district as a
2 community and business center; and

3 (3) promote the health, safety, welfare, and enjoyment
4 of the public by providing pedestrian ways and by landscaping and
5 developing certain areas in the district, which are necessary for
6 the restoration, preservation, and enhancement of scenic beauty.

7 (e) Pedestrian ways along or across a street, whether at
8 grade or above or below the surface, and street lighting, street
9 landscaping, and street art objects are parts of and necessary
10 components of a street and are considered to be a street or road
11 improvement.

12 (f) The district will not act as the agent or
13 instrumentality of any private interest even though the district
14 will benefit many private interests as well as the public.

15 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as
16 otherwise provided by this Act, Chapter 375, Local Government Code,
17 applies to the district.

18 (b) Chapter 311, Government Code (Code Construction Act),
19 applies to this Act.

20 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally
21 construed in conformity with the findings and purposes stated in
22 this Act.

23 SECTION 9. NOTICE AND APPROVAL OF PROPERTY OWNERS. (a) Not
24 later than the 30th day before the date of the first board meeting,
25 written notice must be mailed by certified mail, return receipt
26 requested, to each property owner in the district who could be
27 subject to assessment by the district at the address of the property

1 owner as reflected on the most recent certified tax appraisal roll
2 for Harris County.

3 (b) The notice under Subsection (a) of this section must
4 include:

5 (1) a description and definition of the Spring Branch
6 Area Community Improvement District;

7 (2) the purpose of the district;

8 (3) a statement that the district, by action of the
9 board, may charge an assessment for improvements to be made in the
10 district;

11 (4) the time, date, and location of the first board
12 meeting; and

13 (5) a method by which the property owner may respond
14 indicating approval or disapproval of the creation of the district.

15 (c) If the majority of the property owners responding before
16 the time of the first board meeting indicate disapproval of the
17 creation of the district, the board may not take any action, except
18 that the board may schedule another meeting and repeat the process
19 provided by this section.

20 SECTION 10. BOARD OF DIRECTORS IN GENERAL. (a) The
21 district is governed by a board of 13 directors appointed under
22 Section 12 of this Act.

23 (b) Directors serve staggered terms of four years, with
24 seven directors' terms expiring June 1 of an odd-numbered year and
25 six directors' terms expiring June 1 of the following odd-numbered
26 year.

27 SECTION 11. QUALIFICATIONS. (a) To be qualified to serve

1 as a director, a person must be at least 18 years old and:

2 (1) an owner of property subject to assessment by the
3 district;

4 (2) an owner of a beneficial interest in a trust that
5 owns property subject to assessment by the district; or

6 (3) an agent, employee, or tenant nominated by a
7 person described in Subdivision (1) or (2).

8 (b) Section 375.063, Local Government Code, does not apply
9 to the district.

10 SECTION 12. APPOINTMENT OF DIRECTORS. The mayor and
11 members of the governing body of the City of Houston shall appoint
12 directors from persons recommended by the board. A person is
13 appointed if a majority of the members of the governing body,
14 including the mayor, vote to appoint that person.

15 SECTION 13. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a)
16 Except as provided by this section:

17 (1) a director may participate in all board votes and
18 decisions; and

19 (2) Chapter 171, Local Government Code, governs
20 conflicts of interest for directors.

21 (b) Section 171.004, Local Government Code, does not apply
22 to the district. A director who has a substantial interest in a
23 business or charitable entity that will receive a pecuniary benefit
24 from a board action shall file a one-time affidavit declaring the
25 interest. An additional affidavit is not required if the
26 director's interest changes. After the affidavit is filed with the
27 board secretary, the director may participate in a discussion or

1 vote on that action if:

2 (1) a majority of the directors have a similar
3 interest in the same entity; or

4 (2) all other similar business or charitable entities
5 in the district will receive a similar pecuniary benefit.

6 (c) A director who is also an officer or employee of a public
7 entity may not participate in the discussion of or vote on a matter
8 regarding a contract with that same public entity.

9 (d) For purposes of this section, a director has a
10 substantial interest in a charitable entity in the same manner that
11 a person would have a substantial interest in a business entity
12 under Section 171.002, Local Government Code.

13 SECTION 14. ELECTRONIC TRANSMISSIONS. (a) The district
14 may acquire, operate, or charge fees for the use of the district
15 conduits for:

16 (1) another person's:

17 (A) telecommunications network;

18 (B) fiber-optic cable; or

19 (C) electronic transmission line; or

20 (2) any other type of transmission line or supporting
21 facility.

22 (b) The district may not require a person to use a district
23 conduit.

24 SECTION 15. ADDITIONAL POWERS OF DISTRICT. The district
25 may exercise the powers given to:

26 (1) a corporation created under Section 4B,
27 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas

1 Civil Statutes); and

2 (2) a housing finance corporation created under
3 Chapter 394, Local Government Code, to provide housing or
4 residential development projects in the district.

5 SECTION 16. AGREEMENTS; GRANTS. (a) The district may make
6 an agreement with or accept a gift, grant, or loan from any person.

7 (b) The implementation of a project is a governmental
8 function or service for the purposes of Chapter 791, Government
9 Code.

10 SECTION 17. LAW ENFORCEMENT SERVICES. To protect the
11 public interest, the district may contract to provide law
12 enforcement services in the district for a fee.

13 SECTION 18. NONPROFIT CORPORATION. (a) The board by
14 resolution may authorize the creation of a nonprofit corporation to
15 assist and act on behalf of the district in implementing a project
16 or providing a service authorized by this Act.

17 (b) The board shall appoint the board of directors of a
18 nonprofit corporation. The board of directors of the nonprofit
19 corporation shall serve in the same manner as the board of directors
20 of a local government corporation created under Chapter 431,
21 Transportation Code.

22 (c) The nonprofit corporation:

23 (1) has the powers of and is considered for purposes of
24 this Act to be a local government corporation created under Chapter
25 431, Transportation Code; and

26 (2) may implement any project and provide any service
27 authorized by this Act.

1 SECTION 19. REQUIREMENTS FOR FINANCING SERVICES AND
2 IMPROVEMENTS. The board may not finance a service or improvement
3 project with assessments under this Act unless a written petition
4 requesting that improvement or service has been filed with the
5 board. The petition must be signed by:

6 (1) the owners of a majority of the assessed value of
7 real property in the district subject to assessment as determined
8 by the most recent certified tax appraisal roll for Harris County;
9 and

10 (2) at least 30 other owners of real property in the
11 district that is subject to assessment, if more than 30 persons own
12 real property in the district that is subject to assessment and did
13 not sign the petition as part of the majority under Subdivision (1).

14 SECTION 20. ASSESSMENTS. (a) The board by resolution may
15 impose and collect an assessment for any purpose authorized by this
16 Act.

17 (b) An assessment, a reassessment, or an assessment
18 resulting from an addition to or correction of the assessment roll
19 by the district, penalties and interest on an assessment or
20 reassessment, an expense of collection, and reasonable attorney's
21 fees incurred by the district:

22 (1) are a first and prior lien against the property
23 assessed;

24 (2) are superior to any other lien or claim other than
25 a lien or claim for county, school district, or municipal ad valorem
26 taxes; and

27 (3) are the personal liability of and charge against

1 the owners of the property even if the owners are not named in the
2 assessment proceedings.

3 (c) The lien is effective from the date of the resolution of
4 the board imposing the assessment until the date the assessment is
5 paid. The board may enforce the lien in the same manner that the
6 board may enforce an ad valorem tax lien against real property.

7 SECTION 21. RESIDENTIAL PROPERTY. The district may not
8 impose an assessment, an impact fee, or any other requirement on
9 single-family detached residential property or on a residential
10 duplex, triplex, or fourplex.

11 SECTION 22. UTILITIES. The district may not impose an
12 impact fee or assessment on the property, including the equipment,
13 rights-of-way, facilities, or improvements, of an electric utility
14 or a power generation company as defined by Section 31.002,
15 Utilities Code, or a gas utility as defined by Section 101.003 or
16 121.001, Utilities Code, of a telecommunications provider as
17 defined by Section 51.002, Utilities Code, or of a person that
18 provides to the public cable television or advanced
19 telecommunications services.

20 SECTION 23. BONDS. (a) The district may issue bonds or
21 other obligations payable in whole or in part from assessments,
22 impact fees, revenue, grants, or other money of the district, or any
23 combination of those sources of money, to pay for any authorized
24 purpose of the district.

25 (b) The board may not issue bonds for a service or
26 improvement project under this Act unless a written petition
27 requesting that improvement or service has been filed with the

1 board. The petition must be signed by the owners of a majority of
2 the assessed value of real property in the district that will be
3 subject to the assessment as determined by the most recent
4 certified tax appraisal roll for Harris County.

5 (c) In exercising the district's borrowing power, the
6 district may issue a bond or other obligation in the form of a bond,
7 note, certificate of participation or other instrument evidencing a
8 proportionate interest in payments to be made by the district, or
9 other type of obligation.

10 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
11 by resolution shall establish the number of directors' signatures
12 and the procedure required for a disbursement or transfer of the
13 district's money.

14 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,
15 Local Government Code, applies to the district only for a contract
16 that has a value greater than \$15,000.

17 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
18 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
19 that has debt. If the vote is in favor of dissolution, the district
20 shall remain in existence solely for the limited purpose of
21 discharging its debts. The dissolution is effective when all debts
22 have been discharged.

23 (b) Section 375.264, Local Government Code, does not apply
24 to the district.

25 SECTION 27. INITIAL DIRECTORS. (a) The initial board
26 consists of the following persons:

27 Pos. No. Name of Director

- 1 1 Ronald Height
- 2 2 Glenn Smith
- 3 3 Catherine Barchfeld-Alexander
- 4 4 Kun C. Youn
- 5 5 Jim Jard
- 6 6 Al Hartman
- 7 7 Johnny H. Baker
- 8 8 Patricia A. Maddox
- 9 9 Pat Currie
- 10 10 Frank Liu
- 11 11 Lance H. Davis
- 12 12 Larry Levine
- 13 13 Everett P. Jackson

14 (b) Of the initial directors, the terms of directors
15 appointed for positions 1 through 7 expire June 1, 2005, and the
16 terms of directors appointed for positions 8 through 13 expire June
17 1, 2007.

18 (c) Section 12 of this Act does not apply to this section.

19 (d) This section expires September 1, 2007.

20 SECTION 28. LEGISLATIVE FINDINGS. The legislature finds
21 that:

22 (1) proper and legal notice of the intention to
23 introduce this Act, setting forth the general substance of this
24 Act, has been published as provided by law, and the notice and a
25 copy of this Act have been furnished to all persons, agencies,
26 officials, or entities to which they are required to be furnished by
27 the constitution and laws of this state, including the governor,

1 who has submitted the notice and Act to the Texas Commission on
2 Environmental Quality;

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

7 (3) the general law relating to consent by political
8 subdivisions to the creation of districts with conservation,
9 reclamation, and road powers and the inclusion of land in those
10 districts has been complied with; and

11 (4) all requirements of the constitution and laws of
12 this state and the rules and procedures of the legislature with
13 respect to the notice, introduction, and passage of this Act have
14 been fulfilled and accomplished.

15 SECTION 29. EFFECTIVE DATE. This Act takes effect
16 immediately if it receives a vote of two-thirds of all the members
17 elected to each house, as provided by Section 39, Article III, Texas
18 Constitution. If this Act does not receive the vote necessary for
19 immediate effect, this Act takes effect September 1, 2003.