

By: Bohac

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;

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 necessary to promote, develop, encourage, and maintain
17 employment, commerce, transportation, housing, tourism,
18 recreation, the arts, entertainment, economic development, safety,
19 and the public welfare in the area of the district.

20 (b) The creation of the district and this legislation may
21 not be interpreted to relieve Harris County or the City of Houston
22 from providing the level of services, as of the effective date of
23 this Act, each entity has to provide to the area in the district.
24 The district is created to supplement and not supplant the county or

1 city services provided in the area in the district.

2 (c) The creation of the district is essential to accomplish
3 the purposes of Sections 52 and 52-a, Article III, and Section 59,
4 Article XVI, Texas Constitution, and other public purposes stated
5 in this Act.

6 SECTION 4. BOUNDARIES. (a) 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. If a mistake is made
2 in the field notes or in copying the field notes in the legislative
3 process, the mistake 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. All the land
12 and other property included in the district will be benefited by the
13 improvements and services to be provided by the district under
14 powers conferred by Sections 52 and 52-a, Article III, and Section
15 59, Article XVI, Texas Constitution, and other powers granted under
16 this chapter.

17 (b) 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; and

21 (2) eliminate unemployment and underemployment and
22 develop or expand transportation and commerce.

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

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

13 (e) The district will not act as the agent or
14 instrumentality of any private interest even though many private
15 interests will be benefited by the district, as well as the general
16 public.

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

20 (b) Chapter 311, Government Code (Code Construction Act),
21 applies to this Act.

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

25 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The district
26 is governed by a board of eleven directors appointed under Section
27 10.

1 (b) Directors serve staggered terms of four years, with six
2 directors' terms expiring June 1 of an odd-numbered year and five
3 directors' terms expiring June 1 of the following odd-numbered
4 year.

5 (c) To be qualified to serve as a director, a person must be
6 at least 18 years old and:

7 (1) an owner of property subject to assessment by the
8 district;

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

11 (3) an agent, employee, or tenant nominated by a
12 person covered by Subdivision (1) or (2).

13 SECTION 10. APPOINTMENT OF DIRECTORS. (a) The governing
14 body of the City of Houston shall only appoint voting directors from
15 persons recommended by the board. A person is appointed if the
16 governing body votes to appoint that person. Vacancies shall be
17 filled as provided in Chapter 375, Local Government Code, for the
18 balance of the unexpired term.

19 SECTION 11. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a)
20 Except as provided by this section:

21 (1) a director appointed under Section 10 may
22 participate in all board votes and decisions; and

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

25 (b) Section 171.004, Local Government Code, does not apply
26 to the district. A director who has a substantial interest in a
27 business or charitable entity that will receive a pecuniary benefit

1 from a board action shall file a one-time affidavit declaring the
2 interest. An additional affidavit is not required if the
3 director's interest changes. After the affidavit is filed with the
4 board secretary, the director may participate in a discussion or
5 vote on that action if:

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

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

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

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

17 SECTION 12. ELECTRONIC TRANSMISSIONS. (a) The district
18 may acquire, operate, or charge fees for the use of the district
19 conduits for:

20 (1) another person's:

21 (A) telecommunications network;

22 (B) fiber-optic cable;

23 (C) electronic transmission line; or

24 (2) any other type of transmission line or supporting
25 facility.

26 (b) The district may not require a person to use a district
27 conduit.

1 SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district
2 may exercise the powers given to:

3 (1) a corporation created under Section 4B,
4 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
5 Civil Statutes); and

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

9 SECTION 14. AGREEMENTS; GRANTS. (a) The district may make
10 an agreement with or accept a gift, grant, or loan from any person.

11 (b) The implementation of a project is a governmental
12 function or service for the purposes of Chapter 791, Government
13 Code.

14 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the
15 public interest, the district may contract to provide law
16 enforcement services in the district for a fee.

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

21 (b) The board shall appoint the board of directors of a
22 nonprofit corporation created under this section. The board of
23 directors of the nonprofit corporation shall serve in the same
24 manner as the board of directors of a local government corporation
25 created under Chapter 431, Transportation Code.

26 (c) A nonprofit corporation created under this section has
27 the powers of and is considered for purposes of this Act to be a

1 local government corporation created under Chapter 431,
2 Transportation Code.

3 (d) A nonprofit corporation created under this section may
4 implement any project and provide any service authorized by this
5 Act.

6 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
7 IMPROVEMENTS. The board may not finance a service or improvement
8 project under this Act unless a written petition requesting that
9 improvement or service has been filed with the board. The petition
10 must be signed by:

11 (1) the owners of a majority of the assessed value of
12 real property in the district that will be subject to the assessment
13 as determined by the most recent certified tax appraisal roll for
14 Harris County; or

15 (2) at least 50 persons who own real property in the
16 district that will be subject to the assessment, if there are more
17 than 50 persons who own real property in the district that will be
18 subject to the assessment as determined by the most recent
19 certified tax appraisal roll for Harris County.

20 SECTION 18. ASSESSMENTS. (a) The board may impose and
21 collect an assessment for any purpose authorized by this Act.

22 (b) Assessments, including assessments resulting from an
23 addition to or correction of the assessment roll by the district,
24 reassessments, penalties and interest on an assessment or
25 reassessment, expenses of collection, and reasonable attorney's
26 fees incurred by the district:

27 (1) are a first and prior lien against the property

1 assessed;

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

5 (3) are the personal liability of and charge against
6 the owners of the property even if the owners are not named in the
7 assessment proceedings.

8 (c) The lien is effective from the date of the resolution of
9 the board imposing the assessment until the date the assessment is
10 paid. The board may enforce the lien in the same manner that the
11 board may enforce an ad valorem tax lien against real property.

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

20 SECTION 20. RESIDENTIAL PROPERTY. The board may not impose
21 an impact fee, assessment, tax, or other requirement for payment,
22 construction, alteration, or dedication under this Act on
23 single-family detached residential property, duplexes, triplexes,
24 and quadraplexes.

25 SECTION 21. BONDS. (a) The district may issue bonds or
26 other obligations payable in whole or in part from assessments,
27 impact fees, revenue, grants, or other money of the district, or any

1 combination of those sources of money, to pay for any authorized
2 purpose of the district.

3 (b) The board may not issue bonds for a service or
4 improvement project under this Act unless a written petition
5 requesting that improvement or service has been filed with the
6 board. The petition must be signed by the owners of a majority of
7 the assessed value of real property in the district that will be
8 subject to the assessment as determined by the most recent
9 certified tax appraisal roll for Harris County.

10 (c) In exercising the district's borrowing power, the
11 district may issue a bond or other obligation in the form of a bond,
12 note, certificate of participation or other instrument evidencing a
13 proportionate interest in payments to be made by the district, or
14 other type of obligation.

15 SECTION 22. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
16 by resolution shall establish the number of directors' signatures
17 and the procedure required for a disbursement or transfer of the
18 district's money.

19 SECTION 23. COMPETITIVE BIDDING LIMIT. Section 375.221,
20 Local Government Code, applies to the district only for a contract
21 that has a value greater than \$25,000.

22 SECTION 24. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
23 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
24 that has debt. If the vote is in favor of dissolution, the district
25 shall remain in existence solely for the limited purpose of
26 discharging its debts. The dissolution is effective when all debts
27 have been discharged.

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

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

5	Pos. No.	Name of Director
6	1	Ronald Height
7	2	Glenn Smith
8	3	Catherine Barchfeld-Alexander
9	4	Kun C. Youn
10	5	Jim Jard
11	6	Patricia A. Maddox
12	7	Al Hartman
13	8	Pat Currie
14	9	Frank Liu
15	10	R. C. "Dick" Duffy
16	11	Donald Daum

17 (b) Of the initial directors, the terms of directors
18 appointed for positions 1 through 6 expire June 1, 2005, and the
19 terms of directors appointed for positions 7 through 11 expire June
20 1, 2007.

21 (c) Section 10 does not apply to this section.

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

23 SECTION 26. LEGISLATIVE FINDINGS. The legislature finds
24 that:

25 (1) proper and legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished by
3 the constitution and laws of this state, including the governor,
4 who has submitted the notice and Act to the Texas Commission on
5 Environmental Quality;

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

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

14 (4) all requirements of the constitution and laws of
15 this State and the rules and procedures of the legislature with
16 respect to the notice, introduction, and passage of this Act have
17 been fulfilled and accomplished.

18 SECTION 27. EFFECTIVE DATE. This Act takes effect
19 immediately if it receives a vote of two-thirds of all the members
20 elected to each house, as provided by Section 39, Article III, Texas
21 Constitution. If this Act does not receive the vote necessary for
22 immediate effect, this Act takes effect September 1, 2003.