

1-1 By: Bohac (Senate Sponsor - Whitmire) H.B. No. 3629
1-2 (In the Senate - Received from the House May 24, 2003;
1-3 May 24, 2003, read first time and referred to Committee on Natural
1-4 Resources; May 26, 2003, reported favorably by the following vote:
1-5 Yeas 7, Nays 0; May 26, 2003, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the creation of the Spring Branch Area Community
1-9 Improvement District; providing the authority to issue bonds.

1-10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-11 SECTION 1. CREATION OF DISTRICT. (a) The Spring Branch
1-12 Area Community Improvement District is a special district created
1-13 under Section 59, Article XVI, Texas Constitution.

1-14 (b) The board by resolution may change the name of the
1-15 district.

1-16 SECTION 2. DEFINITIONS. In this Act:

1-17 (1) "Board" means the board of directors of the
1-18 district.

1-19 (2) "District" means the Spring Branch Area Community
1-20 Improvement District.

1-21 SECTION 3. DECLARATION OF INTENT. (a) The creation of the
1-22 district is essential to accomplish the purposes of Sections 52 and
1-23 52-a, Article III, and Section 59, Article XVI, Texas Constitution,
1-24 and to accomplish other public purposes stated in this Act.

1-25 (b) The creation of the district is necessary to promote,
1-26 develop, encourage, and maintain employment, commerce,
1-27 transportation, housing, tourism, recreation, the arts,
1-28 entertainment, economic development, safety, and the public
1-29 welfare in the area of the district.

1-30 (c) This Act and the creation of the district may not be
1-31 interpreted to relieve Harris County or the City of Houston from
1-32 providing the level of services provided as of the effective date of
1-33 this Act to the area in the district. The district is created to
1-34 supplement and not to supplant the county or city services provided
1-35 in the area in the district.

1-36 SECTION 4. BOUNDARIES. The district includes all the
1-37 territory contained in the following described area:

1-38 POINT OF BEGINNING, the southwest corner of the intersection
1-39 of the West Sam Houston Parkway right-of-way and the Interstate
1-40 Highway 10 right-of-way; thence north along the west boundary of
1-41 the West Sam Houston Parkway right-of-way to the north boundary of
1-42 Clay Road right-of-way; thence east along the north boundary of
1-43 Clay Road right-of-way continuing along the north boundary of W.
1-44 43rd Street right-of-way to the east boundary of Hempstead Highway
1-45 right-of-way; thence southeast along the north boundary of
1-46 Hempstead Highway right-of-way to the east boundary of the Loop 610
1-47 right-of-way; thence south along the east boundary of Loop 610
1-48 right-of-way to the south boundary of Old Katy Road right-of-way;
1-49 thence west along the south boundary of Old Katy Road right-of-way
1-50 to the west boundary of North Post Oak Road right-of-way; thence
1-51 south along the west boundary of North Post Oak Road right-of-way to
1-52 the south boundary of Interstate Highway 10 right-of-way; thence
1-53 west along the south boundary of Interstate Highway 10 right-of-way
1-54 to the POINT OF BEGINNING.

1-55 SAVE AND EXCEPT any land located within the boundaries of the
1-56 City of Spring Valley and City of Hilshire Village.

1-57 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries
1-58 and field notes of the district form a closure. A mistake in the
1-59 field notes or in copying the field notes in the legislative process
1-60 does not in any way affect the district's:

1-61 (1) organization, existence, or validity;

1-62 (2) right to issue any type of bond for a purpose for
1-63 which the district is created or to pay the principal of and
1-64 interest on a bond;

- 2-1 (3) right to impose or collect an assessment or tax; or
- 2-2 (4) legality or operation.

2-3 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The

2-4 district is created to serve a public use and benefit.

2-5 (b) All land and other property included in the district

2-6 will benefit from the improvements and services to be provided by

2-7 the district under powers conferred by Sections 52 and 52-a,

2-8 Article III, and Section 59, Article XVI, Texas Constitution, and

2-9 other powers granted under this Act.

2-10 (c) The creation of the district is in the public interest

2-11 and is essential to:

2-12 (1) further the public purposes of development and

2-13 diversification of the economy of the state;

2-14 (2) eliminate unemployment and underemployment; and

2-15 (3) develop or expand transportation and commerce.

2-16 (d) The district will:

2-17 (1) promote the health, safety, and general welfare of

2-18 residents, employers, employees, visitors, and consumers in the

2-19 district, and of the public;

2-20 (2) provide needed funding to preserve, maintain, and

2-21 enhance the economic health and vitality of the district as a

2-22 community and business center; and

2-23 (3) promote the health, safety, welfare, and enjoyment

2-24 of the public by providing pedestrian ways and by landscaping and

2-25 developing certain areas in the district, which are necessary for

2-26 the restoration, preservation, and enhancement of scenic beauty.

2-27 (e) Pedestrian ways along or across a street, whether at

2-28 grade or above or below the surface, and street lighting, street

2-29 landscaping, and street art objects are parts of and necessary

2-30 components of a street and are considered to be a street or road

2-31 improvement.

2-32 (f) The district will not act as the agent or

2-33 instrumentality of any private interest even though the district

2-34 will benefit many private interests as well as the public.

2-35 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as

2-36 otherwise provided by this Act, Chapter 375, Local Government Code,

2-37 applies to the district.

2-38 (b) Chapter 311, Government Code (Code Construction Act),

2-39 applies to this Act.

2-40 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally

2-41 construed in conformity with the findings and purposes stated in

2-42 this Act.

2-43 SECTION 9. NOTICE AND APPROVAL OF PROPERTY OWNERS. (a) Not

2-44 later than the 30th day before the date of the first board meeting,

2-45 written notice must be mailed by certified mail, return receipt

2-46 requested, to each property owner in the district who could be

2-47 subject to assessment by the district at the address of the property

2-48 owner as reflected on the most recent certified tax appraisal roll

2-49 for Harris County.

2-50 (b) The notice under Subsection (a) of this section must

2-51 include:

2-52 (1) a description and definition of the Spring Branch

2-53 Area Community Improvement District;

2-54 (2) the purpose of the district;

2-55 (3) a statement that the district, by action of the

2-56 board, may charge an assessment for improvements to be made in the

2-57 district;

2-58 (4) the time, date, and location of the first board

2-59 meeting; and

2-60 (5) a method by which the property owner may respond

2-61 indicating approval or disapproval of the creation of the district.

2-62 (c) If the majority of the property owners responding before

2-63 the time of the first board meeting indicate disapproval of the

2-64 creation of the district, the board may not take any action, except

2-65 that the board may schedule another meeting and repeat the process

2-66 provided by this section.

2-67 SECTION 10. BOARD OF DIRECTORS IN GENERAL. (a) The

2-68 district is governed by a board of 13 directors appointed under

2-69 Section 12 of this Act.

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

3-5 SECTION 11. QUALIFICATIONS. (a) To be qualified to serve
3-6 as a director, a person must be at least 18 years old and:

3-7 (1) an owner of property subject to assessment by the
3-8 district;

3-9 (2) an owner of a beneficial interest in a trust that
3-10 owns property subject to assessment by the district; or

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

3-13 (b) Section 375.063, Local Government Code, does not apply
3-14 to the district.

3-15 SECTION 12. APPOINTMENT OF DIRECTORS. The mayor and
3-16 members of the governing body of the City of Houston shall appoint
3-17 directors from persons recommended by the board. A person is
3-18 appointed if a majority of the members of the governing body,
3-19 including the mayor, vote to appoint that person.

3-20 SECTION 13. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a)
3-21 Except as provided by this section:

3-22 (1) a director may participate in all board votes and
3-23 decisions; and

3-24 (2) Chapter 171, Local Government Code, governs
3-25 conflicts of interest for directors.

3-26 (b) Section 171.004, Local Government Code, does not apply
3-27 to the district. A director who has a substantial interest in a
3-28 business or charitable entity that will receive a pecuniary benefit
3-29 from a board action shall file a one-time affidavit declaring the
3-30 interest. An additional affidavit is not required if the
3-31 director's interest changes. After the affidavit is filed with the
3-32 board secretary, the director may participate in a discussion or
3-33 vote on that action if:

3-34 (1) a majority of the directors have a similar
3-35 interest in the same entity; or

3-36 (2) all other similar business or charitable entities
3-37 in the district will receive a similar pecuniary benefit.

3-38 (c) A director who is also an officer or employee of a public
3-39 entity may not participate in the discussion of or vote on a matter
3-40 regarding a contract with that same public entity.

3-41 (d) For purposes of this section, a director has a
3-42 substantial interest in a charitable entity in the same manner that
3-43 a person would have a substantial interest in a business entity
3-44 under Section 171.002, Local Government Code.

3-45 SECTION 14. ELECTRONIC TRANSMISSIONS. (a) The district
3-46 may acquire, operate, or charge fees for the use of the district
3-47 conduits for:

3-48 (1) another person's:

3-49 (A) telecommunications network;

3-50 (B) fiber-optic cable; or

3-51 (C) electronic transmission line; or

3-52 (2) any other type of transmission line or supporting
3-53 facility.

3-54 (b) The district may not require a person to use a district
3-55 conduit.

3-56 SECTION 15. ADDITIONAL POWERS OF DISTRICT. The district
3-57 may exercise the powers given to:

3-58 (1) a corporation created under Section 4B,
3-59 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
3-60 Civil Statutes); and

3-61 (2) a housing finance corporation created under
3-62 Chapter 394, Local Government Code, to provide housing or
3-63 residential development projects in the district.

3-64 SECTION 16. AGREEMENTS; GRANTS. (a) The district may make
3-65 an agreement with or accept a gift, grant, or loan from any person.

3-66 (b) The implementation of a project is a governmental
3-67 function or service for the purposes of Chapter 791, Government
3-68 Code.

3-69 SECTION 17. LAW ENFORCEMENT SERVICES. To protect the

4-1 public interest, the district may contract to provide law
4-2 enforcement services in the district for a fee.

4-3 SECTION 18. NONPROFIT CORPORATION. (a) The board by
4-4 resolution may authorize the creation of a nonprofit corporation to
4-5 assist and act on behalf of the district in implementing a project
4-6 or providing a service authorized by this Act.

4-7 (b) The board shall appoint the board of directors of a
4-8 nonprofit corporation. The board of directors of the nonprofit
4-9 corporation shall serve in the same manner as the board of directors
4-10 of a local government corporation created under Chapter 431,
4-11 Transportation Code.

4-12 (c) The nonprofit corporation:

4-13 (1) has the powers of and is considered for purposes of
4-14 this Act to be a local government corporation created under Chapter
4-15 431, Transportation Code; and

4-16 (2) may implement any project and provide any service
4-17 authorized by this Act.

4-18 SECTION 19. REQUIREMENTS FOR FINANCING SERVICES AND
4-19 IMPROVEMENTS. The board may not finance a service or improvement
4-20 project with assessments under this Act unless a written petition
4-21 requesting that improvement or service has been filed with the
4-22 board. The petition must be signed by:

4-23 (1) the owners of a majority of the assessed value of
4-24 real property in the district subject to assessment as determined
4-25 by the most recent certified tax appraisal roll for Harris County;
4-26 and

4-27 (2) at least 30 other owners of real property in the
4-28 district that is subject to assessment, if more than 30 persons own
4-29 real property in the district that is subject to assessment and did
4-30 not sign the petition as part of the majority under Subdivision (1).

4-31 SECTION 20. ASSESSMENTS. (a) The board by resolution may
4-32 impose and collect an assessment for any purpose authorized by this
4-33 Act.

4-34 (b) An assessment, a reassessment, or an assessment
4-35 resulting from an addition to or correction of the assessment roll
4-36 by the district, penalties and interest on an assessment or
4-37 reassessment, an expense of collection, and reasonable attorney's
4-38 fees incurred by the district:

4-39 (1) are a first and prior lien against the property
4-40 assessed;

4-41 (2) are superior to any other lien or claim other than
4-42 a lien or claim for county, school district, or municipal ad valorem
4-43 taxes; and

4-44 (3) are the personal liability of and charge against
4-45 the owners of the property even if the owners are not named in the
4-46 assessment proceedings.

4-47 (c) The lien is effective from the date of the resolution of
4-48 the board imposing the assessment until the date the assessment is
4-49 paid. The board may enforce the lien in the same manner that the
4-50 board may enforce an ad valorem tax lien against real property.

4-51 SECTION 21. RESIDENTIAL PROPERTY. The district may not
4-52 impose an assessment, an impact fee, or any other requirement on
4-53 single-family detached residential property or on a residential
4-54 duplex, triplex, or fourplex.

4-55 SECTION 22. UTILITIES. The district may not impose an
4-56 impact fee or assessment on the property, including the equipment,
4-57 rights-of-way, facilities, or improvements, of an electric utility
4-58 or a power generation company as defined by Section 31.002,
4-59 Utilities Code, or a gas utility as defined by Section 101.003 or
4-60 121.001, Utilities Code, of a telecommunications provider as
4-61 defined by Section 51.002, Utilities Code, or of a person that
4-62 provides to the public cable television or advanced
4-63 telecommunications services.

4-64 SECTION 23. BONDS. (a) The district may issue bonds or
4-65 other obligations payable in whole or in part from assessments,
4-66 impact fees, revenue, grants, or other money of the district, or any
4-67 combination of those sources of money, to pay for any authorized
4-68 purpose of the district.

4-69 (b) The board may not issue bonds for a service or

5-1 improvement project under this Act unless a written petition
5-2 requesting that improvement or service has been filed with the
5-3 board. The petition must be signed by the owners of a majority of
5-4 the assessed value of real property in the district that will be
5-5 subject to the assessment as determined by the most recent
5-6 certified tax appraisal roll for Harris County.

5-7 (c) In exercising the district's borrowing power, the
5-8 district may issue a bond or other obligation in the form of a bond,
5-9 note, certificate of participation or other instrument evidencing a
5-10 proportionate interest in payments to be made by the district, or
5-11 other type of obligation.

5-12 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
5-13 by resolution shall establish the number of directors' signatures
5-14 and the procedure required for a disbursement or transfer of the
5-15 district's money.

5-16 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,
5-17 Local Government Code, applies to the district only for a contract
5-18 that has a value greater than \$15,000.

5-19 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
5-20 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
5-21 that has debt. If the vote is in favor of dissolution, the district
5-22 shall remain in existence solely for the limited purpose of
5-23 discharging its debts. The dissolution is effective when all debts
5-24 have been discharged.

5-25 (b) Section 375.264, Local Government Code, does not apply
5-26 to the district.

5-27 SECTION 27. INITIAL DIRECTORS. (a) The initial board
5-28 consists of the following persons:

5-29	Pos. No.	Name of Director
5-30	1	Ronald Height
5-31	2	Glenn Smith
5-32	3	Catherine Barchfeld-Alexander
5-33	4	Kun C. Youn
5-34	5	Jim Jard
5-35	6	Al Hartman
5-36	7	Johnny H. Baker
5-37	8	Patricia A. Maddox
5-38	9	Pat Currie
5-39	10	Frank Liu
5-40	11	Lance H. Davis
5-41	12	Larry Levine
5-42	13	Everett P. Jackson

5-43 (b) Of the initial directors, the terms of directors
5-44 appointed for positions 1 through 7 expire June 1, 2005, and the
5-45 terms of directors appointed for positions 8 through 13 expire June
5-46 1, 2007.

5-47 (c) Section 12 of this Act does not apply to this section.

5-48 (d) This section expires September 1, 2007.

5-49 SECTION 28. LEGISLATIVE FINDINGS. The legislature finds
5-50 that:

5-51 (1) proper and legal notice of the intention to
5-52 introduce this Act, setting forth the general substance of this
5-53 Act, has been published as provided by law, and the notice and a
5-54 copy of this Act have been furnished to all persons, agencies,
5-55 officials, or entities to which they are required to be furnished by
5-56 the constitution and laws of this state, including the governor,
5-57 who has submitted the notice and Act to the Texas Commission on
5-58 Environmental Quality;

5-59 (2) the Texas Commission on Environmental Quality has
5-60 filed its recommendations relating to this Act with the governor,
5-61 lieutenant governor, and speaker of the house of representatives
5-62 within the required time;

5-63 (3) the general law relating to consent by political
5-64 subdivisions to the creation of districts with conservation,
5-65 reclamation, and road powers and the inclusion of land in those
5-66 districts has been complied with; and

5-67 (4) all requirements of the constitution and laws of
5-68 this state and the rules and procedures of the legislature with
5-69 respect to the notice, introduction, and passage of this Act have

6-1 been fulfilled and accomplished.

6-2 SECTION 29. EFFECTIVE DATE. This Act takes effect
6-3 immediately if it receives a vote of two-thirds of all the members
6-4 elected to each house, as provided by Section 39, Article III, Texas
6-5 Constitution. If this Act does not receive the vote necessary for
6-6 immediate effect, this Act takes effect September 1, 2003.

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