

1-1 By: Lindsay S.B. No. 1726  
1-2 (In the Senate - Filed March 14, 2003; March 20, 2003, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; April 3, 2003, reported favorably by the following  
1-5 vote: Yeas 5, Nays 0; April 3, 2003, sent to printer.)

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

1-8 relating to the creation of the Cy-Fair Community Improvement  
1-9 District; providing authority to impose a tax and issue bonds.

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

1-11 SECTION 1. CREATION OF DISTRICT. (a) A special district  
1-12 to be known as the "Cy-Fair Community Improvement District" is a  
1-13 governmental agency and a political subdivision of the state.

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

1-16 (c) The creation of the district is essential to accomplish  
1-17 the purposes of Section 52, Article III; Section 59, Article XVI;  
1-18 and Section 52-a, Article III, Texas Constitution, and other public  
1-19 purposes stated in this Act.

1-20 SECTION 2. DECLARATION OF INTENT. (a) The creation of the  
1-21 district is necessary to promote, develop, encourage, and maintain  
1-22 employment, commerce, transportation, housing, tourism,  
1-23 recreation, arts, entertainment, economic development, safety, and  
1-24 the public welfare in the Cy-Fair community of Harris County.

1-25 (b) The creation of the district and this legislation are  
1-26 not to be interpreted to relieve the county from providing the level  
1-27 of services, as of the effective date of this Act, to the area in the  
1-28 district or to release the county from the obligations the county  
1-29 has to provide services to that area. The district is created to  
1-30 supplement and not supplant the county services provided in the  
1-31 area in the district.

1-32 (c) By creating the district and in authorizing the  
1-33 municipality, county, and other political subdivisions to contract  
1-34 with the district, the legislature has established a program to  
1-35 accomplish the public purposes set out in Section 52-a, Article  
1-36 III, Texas Constitution.

1-37 SECTION 3. DEFINITIONS. In this Act:

1-38 (1) "Board" means the board of directors of the  
1-39 district.

1-40 (2) "County" means Harris County, Texas.

1-41 (3) "District" means the Cy-Fair Community  
1-42 Improvement District.

1-43 (4) "Municipality" means the City of Houston, Texas,  
1-44 or the City of Jersey Village, Texas.

1-45 SECTION 4. BOUNDARIES. The district includes all the  
1-46 territory contained in the following described area:

1-47 All land included within the boundaries of Cypress Fairbanks  
1-48 Independent School District; SAVE AND EXCEPT any land within the  
1-49 boundaries of either of the municipalities as of the effective date  
1-50 of this Act; and further SAVE AND EXCEPT any land currently within a  
1-51 municipality and all tracts or parcels of land, rights-of-way,  
1-52 facilities, and improvements owned by a public utility as defined  
1-53 by Section 11.004, Utilities Code.

1-54 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
1-55 and field notes of the district form a closure. If a mistake is made  
1-56 in the field notes or in copying the field notes in the legislative  
1-57 process, the mistake does not in any way affect the:

1-58 (1) organization, existence, and validity of the  
1-59 district;

1-60 (2) right of the district to issue any type of bonds or  
1-61 refunding bonds for the purposes for which the district is created  
1-62 or to pay the principal of and interest on the bonds;

1-63 (3) right of the district to impose and collect  
1-64 assessments or taxes; or

2-1 (4) legality or operation of the district or its  
2-2 governing body.

2-3 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

2-4 (a) All the land and other property included in the district will  
2-5 be benefited by the improvements and services to be provided by the  
2-6 district under powers conferred by Section 52, Article III; Section  
2-7 59, Article XVI; and Section 52-a, Article III, Texas Constitution,  
2-8 and other powers granted under this Act, and the district is created  
2-9 to serve a public use and benefit.

2-10 (b) The creation of the district is in the public interest  
2-11 and is essential to:

2-12 (1) further the public purposes of the development and  
2-13 diversification of the economy of the state; and

2-14 (2) eliminate unemployment and underemployment and  
2-15 develop or expand transportation and commerce.

2-16 (c) The district will:

2-17 (1) promote the health, safety, and general welfare of  
2-18 residents, employers, employees, visitors, consumers in the  
2-19 district, and the general public;

2-20 (2) provide needed money for the Cy-Fair community to  
2-21 preserve, maintain, and enhance the economic health and vitality of  
2-22 the district as a community and business center; and

2-23 (3) further promote the health, safety, welfare, and  
2-24 enjoyment of the public by providing pedestrian ways and by  
2-25 landscaping and developing certain areas in the district, which are  
2-26 necessary for the restoration, preservation, and enhancement of  
2-27 scenic and aesthetic beauty.

2-28 (d) Pedestrian ways along or across a street, whether at  
2-29 grade or above or below the surface, and street lighting, street  
2-30 landscaping, and street art objects are parts of and necessary  
2-31 components of a street and are considered to be a street or road  
2-32 improvement.

2-33 (e) The district will not act as the agent or  
2-34 instrumentality of any private interest even though many private  
2-35 interests will be benefited by the district, as will the general  
2-36 public.

2-37 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as  
2-38 otherwise provided by this Act, Chapter 375, Local Government Code,  
2-39 applies to the district and its governing body and employees.

2-40 (b) Chapter 311, Government Code, applies to this Act.

2-41 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally  
2-42 construed in conformity with the findings and purposes stated in  
2-43 this Act.

2-44 SECTION 9. BOARD OF DIRECTORS. (a) The district is  
2-45 governed by a board of 11 directors who serve staggered terms of  
2-46 four years, with six members' terms expiring May 1 of an  
2-47 odd-numbered year and five members' terms expiring May 1 of the  
2-48 following odd-numbered year. The board may increase or decrease  
2-49 the number of directors on the board by resolution, provided that it  
2-50 is in the best interest of the district to do so and that the board  
2-51 consists of not fewer than nine and not more than 30 directors. A  
2-52 decrease in the number of directors of the board does not affect the  
2-53 term of a member on the board serving at the time of the decrease.

2-54 (b) The imposition of a tax, assessment, or impact fee  
2-55 requires a vote of a majority of the directors serving.

2-56 SECTION 10. APPOINTMENT OF DIRECTORS; VACANCY. The county  
2-57 judge and members of the governing body of the county shall appoint  
2-58 directors from persons recommended by the board who meet the  
2-59 qualifications of Subchapter D, Chapter 375, Local Government Code.  
2-60 A vacancy in the office of director because of the death,  
2-61 resignation, or removal of a director shall be filled by the  
2-62 remaining members of the board by appointing a qualified person for  
2-63 the unexpired term.

2-64 SECTION 11. POWERS OF DISTRICT. The district has:

2-65 (1) all powers necessary or required to accomplish the  
2-66 purposes for which the district was created;

2-67 (2) the rights, powers, privileges, authority, and  
2-68 functions of a district created under Chapter 375, Local Government  
2-69 Code;

3-1 (3) the powers given to a corporation under Section  
3-2 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's  
3-3 Texas Civil Statutes), including the power to own, operate,  
3-4 acquire, construct, lease, improve, and maintain projects as  
3-5 provided by that Act;

3-6 (4) the power to impose ad valorem taxes, assessments,  
3-7 or impact fees in accordance with Chapter 375, Local Government  
3-8 Code, to provide improvements and services for a project or  
3-9 activity the district is authorized to acquire, construct, improve,  
3-10 or provide under this Act;

3-11 (5) the power to correct, add to, or delete  
3-12 assessments from its assessment rolls; provided, however, that any  
3-13 additional or increased assessment may occur only following notice  
3-14 and hearing as required in Subchapter F, Chapter 375, Local  
3-15 Government Code; and

3-16 (6) the power to impose a limited sales and use tax and  
3-17 apply the proceeds from the tax to provide improvements and  
3-18 services for a project or activity the district may acquire,  
3-19 construct, improve, or provide under this Act.

3-20 SECTION 12. EMINENT DOMAIN. The district may not exercise  
3-21 the power of eminent domain.

3-22 SECTION 13. RELATION TO OTHER LAW. If any provision of  
3-23 general law, including a law referenced in this Act, is in conflict  
3-24 with or is inconsistent with this Act, this Act prevails. Any law  
3-25 referenced in this Act that is not in conflict or inconsistent with  
3-26 this Act is adopted and incorporated by reference.

3-27 SECTION 14. REQUIREMENTS FOR FINANCING SERVICES AND  
3-28 IMPROVEMENTS. The district may not finance services and  
3-29 improvement projects using special assessments unless a written  
3-30 petition requesting those improvements or services has been filed  
3-31 with the board. The petition must be signed by:

3-32 (1) the owners of a majority of the assessed value of  
3-33 real property subject to the assessment in the district as  
3-34 determined by the most recent certified county tax appraisal roll;  
3-35 or

3-36 (2) at least 50 persons who own real property that is  
3-37 subject to the assessment in the district, if there are more than 50  
3-38 persons who own real property subject to the assessment in the  
3-39 district as determined by the most recent certified county tax  
3-40 appraisal roll.

3-41 SECTION 15. NONPROFIT CORPORATION. (a) The board by  
3-42 resolution may authorize the creation of a nonprofit corporation to  
3-43 assist and act on behalf of the district in implementing a project  
3-44 or providing a service authorized by this Act.

3-45 (b) The board shall appoint the board of directors of a  
3-46 nonprofit corporation created under this section. The board of  
3-47 directors of the nonprofit corporation shall serve in the same  
3-48 manner as, for the same term as, and on the same conditions as the  
3-49 board of directors of a local government corporation created under  
3-50 Chapter 431, Transportation Code.

3-51 (c) A nonprofit corporation created under this section has  
3-52 the powers of and is considered for purposes of this Act to be a  
3-53 local government corporation created under Chapter 431,  
3-54 Transportation Code.

3-55 (d) A nonprofit corporation created under this section may  
3-56 implement any project and provide any services authorized by this  
3-57 Act.

3-58 SECTION 16. DISBURSEMENTS OR TRANSFERS OF MONEY. The board  
3-59 by resolution shall establish the number of directors' signatures  
3-60 and the procedure required for a disbursement or transfer of the  
3-61 district's money.

3-62 SECTION 17. SALES AND USE TAX; EXCISE TAX. (a) For  
3-63 purposes of this section:

3-64 (1) "Taxable items" includes all items subject to any  
3-65 sales and use tax that could be imposed by the county if the county  
3-66 has imposed a sales and use tax.

3-67 (2) "Use" with respect to a taxable service, means the  
3-68 derivation in the district of a direct or indirect benefit from the  
3-69 service.

4-1 (b) The district may impose a sales and use tax for the  
4-2 benefit of the district if authorized by a majority of the qualified  
4-3 voters of the district voting at an election called for that  
4-4 purpose.

4-5 (c) If the district adopts a sales and use tax:

4-6 (1) a tax is imposed on the receipts from the sale at  
4-7 retail of taxable items in the district; and

4-8 (2) an excise tax is imposed on the use, storage, or  
4-9 other consumption in the district of taxable items purchased or  
4-10 rented from a retailer during the period that the tax is effective  
4-11 in the district.

4-12 (d) The rate of the excise tax is the same as the rate of the  
4-13 sales tax portion of the tax applied to the sales price of the  
4-14 taxable items and is included in the sales tax.

4-15 SECTION 18. SALES AND USE TAX ELECTION PROCEDURES.

4-16 (a) The board by order may call an election to adopt, change the  
4-17 rate of, or abolish a sales and use tax. The election may be held at  
4-18 the same time and in conjunction with a confirmation or directors  
4-19 election.

4-20 (b) The election must be held on the next uniform election  
4-21 date that falls on or after the 45th day after the date the order  
4-22 calling the election is adopted.

4-23 (c) Notice of the election shall be given and the election  
4-24 shall be held and conducted in the manner prescribed for bond  
4-25 elections under Subchapter D, Chapter 49, Water Code.

4-26 (d) In an election to adopt the tax, the ballot shall be  
4-27 prepared to permit voting for or against the proposition: "The  
4-28 adoption of a local sales and use tax in the Cy-Fair Community  
4-29 Improvement District at the rate of (proposed tax rate)."

4-30 (e) In an election to change the rate of the tax, the ballot  
4-31 shall be prepared to permit voting for or against the proposition:  
4-32 "The (increase or decrease, as applicable) in the rate of the local  
4-33 sales and use tax imposed in the Cy-Fair Community Improvement  
4-34 District from (tax rate on election date) percent to (proposed tax  
4-35 rate) percent."

4-36 (f) In an election to abolish the tax, the ballot shall be  
4-37 prepared to permit voting for or against the proposition: "The  
4-38 abolition of the local sales and use tax in the Cy-Fair Community  
4-39 Improvement District."

4-40 SECTION 19. IMPOSITION, COMPUTATION, ADMINISTRATION, AND  
4-41 GOVERNANCE OF SALES AND USE TAX. (a) Chapter 323, Tax Code, to the  
4-42 extent not inconsistent with this Act, governs the imposition,  
4-43 application, collection, and administration of a sales and use tax  
4-44 under this Act, except that Sections 323.401-323.406 and 323.505,  
4-45 Tax Code, do not apply. Subtitles A and B, Title 2, Tax Code, and  
4-46 Chapter 151, Tax Code, govern the administration and enforcement of  
4-47 the taxes under this Act.

4-48 (b) The provisions of Sections 323.101(d) and (e), Tax Code,  
4-49 apply to a sales and use tax authorized by this Act.

4-50 (c) Chapter 323, Tax Code, does not apply to the use and  
4-51 allocation of revenues under this Act.

4-52 (d) In applying Chapter 323, Tax Code, the district's name  
4-53 shall be substituted for references in that chapter to "the county"  
4-54 and the board is substituted for references in that chapter to  
4-55 "commissioners court."

4-56 (e) The adoption of a tax rate or change in the tax rate  
4-57 takes effect after the expiration of the first complete calendar  
4-58 quarter occurring after the date on which the comptroller of public  
4-59 accounts receives a notice of the results of the election.

4-60 (f) The district may impose the sales and use tax under this  
4-61 Act in increments of one-eighth of one percent, with a minimum tax  
4-62 of one-half percent and a maximum tax of one percent.

4-63 (g) The board by order may abolish the local sales and use  
4-64 tax without an election.

4-65 SECTION 20. USE OF SALES AND USE TAX. Revenue from a sales  
4-66 and use tax imposed under this Act may be used only for the purposes  
4-67 for which the district was created.

4-68 SECTION 21. SUBMISSION OF ANNEXATION INFORMATION. Not  
4-69 later than the 10th day after the date on which the district annexes

5-1 or excludes territory, the board shall send to the comptroller of  
5-2 public accounts a certified copy of any resolution, order, or  
5-3 ordinance relating to the annexation or exclusion.

5-4 SECTION 22. BONDS. (a) The district may issue bonds or  
5-5 other obligations secured by or payable in whole or in part from ad  
5-6 valorem taxes, assessments, impact fees, sales and use taxes,  
5-7 revenues, grants, or other money of the district, or any  
5-8 combination of those sources of money, to pay for any authorized  
5-9 purpose of the district.

5-10 (b) In exercising the district's borrowing power, the  
5-11 district may issue a bond or other obligation in the form of a bond,  
5-12 note, certificate of participation, or other instrument evidencing  
5-13 a proportionate interest in payments to be made by the district, or  
5-14 other type of obligation.

5-15 (c) Except as provided by Subsection (d) of this section,  
5-16 the district must obtain the approval of the applicable  
5-17 municipality prior to the issuance of bonds for an improvement  
5-18 within the applicable municipality's extraterritorial  
5-19 jurisdiction.

5-20 (d) If the district obtains the applicable municipality's  
5-21 approval of a capital improvements budget, the district may finance  
5-22 the capital improvements and issue bonds specified in the budget  
5-23 without further municipal approval.

5-24 SECTION 23. ASSESSMENTS. (a) The board may impose and  
5-25 collect an assessment for any purpose authorized by this Act.

5-26 (b) Assessments, reassessments, or assessments resulting  
5-27 from an addition to or correction of the assessment roll by the  
5-28 district, penalties and interest on an assessment or reassessment,  
5-29 expenses of collection, and reasonable attorney's fees incurred by  
5-30 the district:

5-31 (1) are a first and prior lien against the property  
5-32 assessed;

5-33 (2) are superior to any other lien or claim other than  
5-34 a lien or claim for county, school district, or municipal ad valorem  
5-35 taxes; and

5-36 (3) are the personal liability of and charge against  
5-37 the owners of the property even if the owners are not named in the  
5-38 assessment proceedings.

5-39 (c) The lien is effective from the date of the resolution of  
5-40 the board imposing the assessment until the date the assessment is  
5-41 paid. The board may enforce the lien in the same manner, including  
5-42 penalties and interest, that the board may enforce an ad valorem tax  
5-43 lien against real property.

5-44 SECTION 24. PROPERTY EXEMPTED FROM TAX, FEE, OR ASSESSMENT.

5-45 (a) The district may not impose a tax, impact fee, or assessment on  
5-46 a residential property, multi-unit residential property, or  
5-47 condominium.

5-48 (b) The district may not impose an impact fee or assessment  
5-49 on the property, equipment, or facilities of a public utility as  
5-50 defined by Section 11.004, Utilities Code.

5-51 SECTION 25. ELECTIONS. (a) In addition to the elections  
5-52 the district must hold under Subchapter L, Chapter 375, Local  
5-53 Government Code, the district shall hold an election in the manner  
5-54 provided by that subchapter to obtain voter approval before the  
5-55 district imposes a maintenance tax or issues bonds payable from ad  
5-56 valorem taxes or assessments.

5-57 (b) The board may submit multiple purposes in a single  
5-58 proposition at an election.

5-59 SECTION 26. MAINTENANCE TAX. (a) If authorized at an  
5-60 election held in accordance with Section 25 of this Act, the  
5-61 district may impose and collect an annual ad valorem tax on taxable  
5-62 property in the district for the maintenance and operation of the  
5-63 district, for the construction and acquisition of improvements, or  
5-64 for the provision of services.

5-65 (b) The board shall determine the tax rate.

5-66 SECTION 27. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING

5-67 BODY OF MUNICIPALITY. (a) The governing body of a municipality  
5-68 that annexes for any purpose all or part of the territory of the  
5-69 district may adopt an ordinance excluding that territory from the

6-1 district.

6-2 (b) On adoption of an ordinance under Subsection (a) of this  
6-3 section, the district shall continue to levy and collect taxes and  
6-4 assessments each year on the excluded territory at the same rate or  
6-5 amount levied on territory in the district to meet its debt service  
6-6 obligations with respect to the excluded territory's pro rata share  
6-7 of the indebtedness of the district at the time the territory was  
6-8 excluded. The taxes and assessments collected under this  
6-9 subsection shall be applied exclusively to the payment of the  
6-10 excluded territory's pro rata share of the indebtedness; provided,  
6-11 however, that the district's sales taxes shall no longer be levied  
6-12 within the excluded territory if the municipality undertakes in  
6-13 writing to remit to the district monthly the excluded territory's  
6-14 pro rata share of the indebtedness of the district to which sales  
6-15 taxes of the district are pledged at the time the territory was  
6-16 excluded, so long as such payment is timely made.

6-17 SECTION 28. LAW ENFORCEMENT. To protect the public  
6-18 interest, the district may contract with the municipality or the  
6-19 county for the provision of law enforcement services in the  
6-20 district for a fee.

6-21 SECTION 29. CONTRACTS. (a) The municipality, the county,  
6-22 or another political subdivision of the state, without further  
6-23 authorization, may contract with the district to implement a  
6-24 project of the district or assist the district in providing the  
6-25 services authorized under this Act. A contract under this  
6-26 subsection may:

- 6-27 (1) be for a period on which the parties agree;
- 6-28 (2) include terms on which the parties agree;
- 6-29 (3) be payable from taxes or any other sources of  
6-30 revenue that may be available for that purpose; or
- 6-31 (4) provide that taxes or other revenue collected at a  
6-32 district project or from a person using or purchasing a commodity or  
6-33 service at a district project may be paid or rebated to the district  
6-34 under the terms of the contract.

6-35 (b) The district may enter into a contract, lease, or other  
6-36 agreement with or make or accept grants and loans to or from:

- 6-37 (1) the United States;
- 6-38 (2) the state or a state agency;
- 6-39 (3) a county, a municipality, or another political  
6-40 subdivision of the state;
- 6-41 (4) a public or private corporation, including a  
6-42 nonprofit corporation created by the board under this Act; or
- 6-43 (5) any other person.

6-44 SECTION 30. GENERAL AUTHORITY. The district may perform  
6-45 all acts necessary for the full exercise of the powers vested in the  
6-46 district on terms and for the period the board determines  
6-47 advisable.

6-48 SECTION 31. INITIAL DIRECTORS. (a) The initial board  
6-49 consists of the following persons:

| 6-50 | Pos. No. | Name of Director |
|------|----------|------------------|
| 6-51 | 1        | Mike Bubela      |
| 6-52 | 2        | Lynda F. Burke   |
| 6-53 | 3        | Jimmy Martin     |
| 6-54 | 4        | Alan Quintaro    |
| 6-55 | 5        | Terry E. Payne   |
| 6-56 | 6        | Rick Berry       |
| 6-57 | 7        | Fred F. Caldwell |
| 6-58 | 8        | Carl Linseisen   |
| 6-59 | 9        | Wayne C. Meyer   |
| 6-60 | 10       | Gail Schubot     |
| 6-61 | 11       | Diane K. Troyer  |

6-62 (b) Of the initial directors, the terms of directors  
6-63 appointed for positions 1 through 5 expire on May 1, 2005, and the  
6-64 terms of directors appointed for positions 6 through 11 expire on  
6-65 May 1, 2007.

6-66 (c) This section expires May 2, 2007.

6-67 SECTION 32. The legislature finds that:

6-68 (1) proper and legal notice of the intention to  
6-69 introduce this Act, setting forth the general substance of this

7-1 Act, has been published as provided by law, and the notice and a  
7-2 copy of this Act have been furnished to all persons, agencies,  
7-3 officials, or entities to which they are required to be furnished by  
7-4 the constitution and laws of this state, including the governor,  
7-5 who has submitted the notice and Act to the Texas Commission on  
7-6 Environmental Quality;

7-7 (2) the Texas Commission on Environmental Quality has  
7-8 filed its recommendations relating to this Act with the governor,  
7-9 lieutenant governor, and speaker of the house of representatives  
7-10 within the required time;

7-11 (3) the general law relating to consent by political  
7-12 subdivisions to the creation of districts with conservation,  
7-13 reclamation, and road powers and the inclusion of land in those  
7-14 districts has been complied with; and

7-15 (4) all requirements of the constitution and laws of  
7-16 this state and the rules and procedures of the legislature with  
7-17 respect to the notice, introduction, and passage of this Act have  
7-18 been fulfilled and accomplished.

7-19 SECTION 33. This Act takes effect immediately if it  
7-20 receives a vote of two-thirds of all the members elected to each  
7-21 house, as provided by Section 39, Article III, Texas Constitution.  
7-22 If this Act does not receive the vote necessary for immediate  
7-23 effect, this Act takes effect September 1, 2003.

7-24

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