

By: Janek

S.B. No. 1884

A BILL TO BE ENTITLED

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AN ACT

relating to the assumption of road utility district authority by the Sienna Plantation Levee Improvement District of Fort Bend County, Texas, including the authority to impose taxes and issue bonds.

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

SECTION 1. AUTHORITY. The Sienna Plantation Levee Improvement District of Fort Bend County, Texas, is granted road utility district authority under Section 52(b)(3), Article III, Texas Constitution, and Chapter 441, Transportation Code, including the authority to repair and maintain streets and roadways in the district. In addition, the district has the powers of a metropolitan rapid transit authority under Section 451.065, Transportation Code, provided, however, that Section 451.065(d), Transportation Code, shall not apply to the district.

SECTION 2. DEFINITIONS. In this Act:

(1) "Board" means the board of directors of the Sienna Plantation Levee Improvement District of Fort Bend County, Texas.

(2) "City" means the City of Missouri City, Texas.

(3) "District" means the Sienna Plantation Levee Improvement District of Fort Bend County, Texas.

SECTION 3. FINDING OF BENEFIT. The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to

1 be accomplished by the district under the powers conferred by
2 Section 52, Article III, Texas Constitution, and that the district
3 is created to serve a public use and benefit.

4 SECTION 4. EXEMPTION FROM CERTAIN LAW. Subchapters B, C, D,
5 G, H, K, and L, Chapter 441, Transportation Code, are not applicable
6 to the district.

7 SECTION 5. POWERS. Without limitation of the powers of the
8 district existing before the effective date of this Act, the
9 district has all of the rights, powers, privileges, authority,
10 duties, and functions conferred by the general law of this state,
11 including Chapter 441, Transportation Code, applicable to road
12 utility districts created under Section 52, Article III, Texas
13 Constitution, including the authority to impose taxes, to the
14 extent those provisions can be made applicable. If any provision of
15 general law relating to road utility districts is in conflict with
16 or inconsistent with this Act or Chapter 49 or 57, Water Code, this
17 Act and Chapters 49 and 57, Water Code, prevail. This Act prevails
18 over any provision of general law that is in conflict with or
19 inconsistent with this Act, including any provision of Chapter 49
20 or 57, Water Code.

21 SECTION 6. PROJECTS. (a) The district may construct,
22 acquire, improve, maintain, and operate macadamized, graveled, or
23 paved roads and turnpikes or improvements in aid of those roads or
24 turnpikes, within the boundaries of the district, to the extent
25 authorized by Section 52, Article III, Texas Constitution.

26 (b) The works, facilities, or improvements may include
27 drainage or landscaping improvements and lights, signs, or signals

1 that are incidental to the roads and turnpikes and their
2 construction, maintenance, or operation.

3 (c) A project authorized by this section must meet all
4 applicable construction standards, zoning and subdivision
5 requirements, and regulatory ordinances of the city in which it is
6 located.

7 (d) On completion of any project authorized by this Act, the
8 district, with the consent of the city, may convey that project to
9 the city if the conveyance is free of all indebtedness of the
10 district. If the city becomes the owner of a project, the city is
11 responsible for all future maintenance, operation, and upkeep of
12 the project, and the district has no further responsibility for the
13 project or its maintenance, operation, or upkeep.

14 SECTION 7. JOINT PROJECT. (a) A district contract with a
15 state agency, a political subdivision, or a corporation created
16 under Chapter 431, Transportation Code, may:

17 (1) provide for joint payment of the costs of a
18 project; and

19 (2) require the state agency, political subdivision,
20 or corporation to design, construct, or improve a project as
21 provided by the contract, including the landscaping of the project.

22 (b) The district may issue bonds to pay all or part of the
23 costs of the project and any other payments required under the
24 contract.

25 SECTION 8. BONDS. The district may issue bonds, notes, and
26 other obligations secured by revenues or contract payments from any
27 lawful source other than ad valorem taxation without an election.

1 The district may issue bonds, notes, and other obligations secured
2 in whole or in part by ad valorem taxation, and levy ad valorem
3 taxes for the payment thereof, only if the issuance is approved by a
4 two-thirds majority of the voters of the district voting at an
5 election called and held for that purpose.

6 SECTION 9. MAINTENANCE TAX. The district may impose a
7 maintenance tax in an amount not to exceed 25 cents on each \$100 of
8 assessed valuation of property in the district to be used for any
9 authorized purpose of the district if the authority to impose the
10 tax is approved by a majority of the voters of the district voting
11 at an election on that proposition.

12 SECTION 10. DISTRICT CONTRACTS. (a) The district may make
13 contracts in the same manner as a road utility district under
14 Subchapter E, Chapter 441, Transportation Code.

15 (b) The competitive bidding requirements of Section 49.273,
16 Water Code, apply to the district. Subchapter E, Chapter 441,
17 Transportation Code, does not apply to the district.

18 SECTION 11. NONPROFIT CORPORATION. (a) The board by
19 resolution may authorize the creation of a nonprofit corporation to
20 assist and act on behalf of the district in implementing a project
21 or providing a service authorized by this Act.

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

27 (c) A nonprofit corporation created under this section has

1 the powers of and is considered for purposes of this Act to be a
2 local government corporation created under Chapter 431,
3 Transportation Code.

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

7 SECTION 12. SUIT AND JUDGMENT. (a) The district, through
8 its board and in the name of the district, may sue and be sued in a
9 state court. Process in a suit may be served on the presiding
10 officer of the board.

11 (b) A state court shall take judicial notice of the creation
12 of the board.

13 (c) A state court that renders a money judgment against the
14 district may require the board to pay the judgment from money in the
15 district depository that is not dedicated to the payment of the
16 district indebtedness. If the voters of the district have
17 specifically authorized the levy of taxes for the payment of
18 judgments, the court may issue a writ of mandamus to compel the
19 district to levy the tax to pay the judgment at once or in
20 installments. A court may not require the board to pay a judgment
21 rendered on a breach of contract claim if the contractor has been
22 paid, either by the district or a third party, the bid price of the
23 contract plus any change orders actually approved by the board in
24 writing.

25 SECTION 13. FINDINGS RELATED TO PROCEDURAL REQUIREMENTS.
26 (a) The proper and legal notice of the intention to introduce this
27 Act, setting forth the general substance of this Act, has been

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

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

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

15 SECTION 14. 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.