

By: Ellis

S.B. No. 1936

Substitute the following for S.B. No. 1936:

By: Talton

C.S.S.B. No. 1936

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Buffalo Bayou Management District;  
3 providing the authority to impose taxes and issue bonds.

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

5 SECTION 1. CREATION OF DISTRICT. (a) The Buffalo Bayou  
6 Management District is a special district created under Section 59,  
7 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 Buffalo Bayou Management  
14 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 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 (d) By creating the district and in authorizing the City of  
7 Houston, Harris County, and other political subdivisions to  
8 contract with the district, the legislature has established a  
9 program to accomplish the public purposes set out in Section 52-a,  
10 Article III, Texas Constitution.

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

13 POINT OF BEGINNING at the intersection of the west boundary line of  
14 the Houston Downtown Management District and the north boundary of  
15 Memorial Drive right-of-way, then west along the north boundary of  
16 Memorial Drive right-of-way to the north boundary of Memorial  
17 Drive's Heights North exit ramp, then northwest along the north  
18 boundary of Memorial Drive's Heights North exit ramp to the east  
19 boundary of Heights boulevard right-of-way, then west across  
20 Heights Boulevard from the east boundary of Heights Boulevard  
21 right-of-way to the west boundary of the Heights Boulevard  
22 right-of-way, then south along the west boundary of Heights  
23 boulevard right-of-way to the north boundary of Memorial Drive's  
24 Memorial West entrance ramp, then southwest along the north  
25 boundary of Memorial Drive's Memorial West entrance ramp to the  
26 northern boundary line of Memorial Drive right-of-way, then west  
27 along the northern boundary line of Memorial Drive right-of-way to

1 the west boundary line of Shepherd Drive right-of-way, then south  
2 along the west boundary line of Shepherd Drive right-of-way to the  
3 centerline of West Dallas, then east along the centerline of West  
4 Dallas to the west boundary of Montrose right-of-way, then north  
5 along the west boundary of Montrose right-of-way to the south  
6 boundary line of Allen Parkway right-of-way (inclusive of the  
7 adjacent feeder road), then east along the south boundary line of  
8 Allen Parkway right-of-way (inclusive of the adjacent feeder road)  
9 to the western boundary line of the Houston Downtown Management  
10 District, then north along the western boundary line of the Houston  
11 Downtown Management District to the POINT OF BEGINNING.

12 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
13 and field notes of the district form a closure. A mistake in the  
14 field notes or in copying the field notes in the legislative process  
15 does not in any way affect the district's:

- 16 (1) organization, existence, or validity;  
17 (2) right to issue any type of bond for a purpose for  
18 which the district is created or to pay the principal of and  
19 interest on a bond;  
20 (3) right to impose or collect an assessment or tax; or  
21 (4) legality or operation.

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

24 (b) All land and other property included in the district  
25 will benefit from the improvements and services to be provided by  
26 the district under powers conferred by Sections 52 and 52-a,  
27 Article III, and Section 59, Article XVI, Texas Constitution, and

1 other powers granted under this Act.

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

4 (1) further the public purposes of development and  
5 diversification of the economy of the state;

6 (2) eliminate unemployment and underemployment; and

7 (3) develop or expand transportation and commerce.

8 (d) The district will:

9 (1) promote the health, safety, and general welfare of  
10 residents, employers, employees, visitors, and consumers in the  
11 district, and of the public;

12 (2) provide needed funding to preserve, maintain, and  
13 enhance the economic health and vitality of the district as a  
14 community and business center; and

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

19 (e) Pedestrian ways along or across a street, whether at  
20 grade or above or below the surface, and street lighting, street  
21 landscaping, and street art objects are parts of and necessary  
22 components of a street and are considered to be a street or road  
23 improvement.

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

27 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as

1 otherwise provided by this Act, Chapter 375, Local Government Code,  
2 applies to the district.

3 (b) Chapter 311, Government Code (Code Construction Act),  
4 applies to this Act.

5 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally  
6 construed in conformity with the findings and purposes stated in  
7 this Act.

8 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The district  
9 is governed by a board of 14 voting directors appointed under  
10 Section 10 and nonvoting directors as provided by Section 11.

11 (b) Voting directors serve staggered terms of four years,  
12 with six directors' terms expiring June 1 of an odd-numbered year  
13 and eight directors' terms expiring June 1 of the following  
14 odd-numbered year.

15 (c) The board may increase or decrease the number of  
16 directors on the board by resolution if the board finds that it is  
17 in the best interest of the district. The board may not consist of  
18 fewer than five or more than 15 directors.

19 SECTION 10. APPOINTMENT OF DIRECTORS. The mayor and  
20 members of the governing body of the City of Houston shall appoint  
21 voting directors. A person is appointed if a majority of the  
22 members of the governing body, including the mayor, vote to appoint  
23 that person.

24 SECTION 11. NONVOTING DIRECTORS. (a) The following  
25 persons shall serve as nonvoting directors:

26 (1) the directors of the following departments of the  
27 City of Houston or a person designated by that director:

- (A) parks and recreation;
- (B) planning and development;
- (C) public works; and
- (D) civic center; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to those performed by the abolished department.

(c) Nonvoting directors are not counted for the purposes of establishing a quorum of the board.

SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided by this section:

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

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

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

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

15 (1) a corporation created under Section 4B,  
16 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas  
17 Civil Statutes), including the power to own, operate, acquire,  
18 construct, lease, improve, and maintain projects described by that  
19 section; and

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

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

25 (b) The implementation of a project is a governmental  
26 function or service for the purposes of Chapter 791, Government  
27 Code.

1 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the  
2 public interest, the district may contract with Harris County or  
3 the City of Houston to provide law enforcement services in the  
4 district for a fee.

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

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

14 (c) The nonprofit corporation:

15 (1) has the powers of and is considered for purposes of  
16 this Act to be a local government corporation created under Chapter  
17 431, Transportation Code; and

18 (2) may implement any project and provide any service  
19 authorized by this Act.

20 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND  
21 IMPROVEMENTS. The board may not finance a service or improvement  
22 project with assessments under this Act unless a written petition  
23 requesting that improvement or service has been filed with the  
24 board. The petition must be signed by the owners of a majority of  
25 the assessed value of real property in the district subject to  
26 assessment as determined by the most recent certified tax appraisal  
27 roll for Harris County.



1 SECTION 18. ELECTIONS. (a) The district shall hold an  
2 election in the manner provided by Subchapter L, Chapter 375, Local  
3 Government Code, to obtain voter approval before the district  
4 imposes a maintenance tax or issues bonds payable from ad valorem  
5 taxes.

6 (b) The board may not submit multiple purposes in a single  
7 proposition at an election.

8 (c) Section 375.243, Local Government Code, does not apply  
9 to the district.

10 SECTION 19. MAINTENANCE TAX. (a) If authorized at an  
11 election held in accordance with Section 18, the district may  
12 impose an annual ad valorem tax on taxable property in the district  
13 for the:

14 (1) maintenance and operation of the district and the  
15 improvements constructed or acquired by the district; or

16 (2) provision of a service.

17 (b) The board shall determine the tax rate.

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

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

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

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

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

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

11           (d) The board may make corrections to or deletions from the  
12 assessment roll without providing notice and holding a hearing in  
13 the manner required for additional assessments, if the corrections  
14 or deletions do not increase the amount of assessment of any parcel  
15 of land.

16           SECTION 21. UTILITIES. The district may not impose an  
17 impact fee or assessment on the property, including the equipment,  
18 rights-of-way, facilities, or improvements, of an electric utility  
19 or a power generation company as defined by Section 31.002,  
20 Utilities Code, or a gas utility as defined by Section 101.003 or  
21 121.001, Utilities Code, or a telecommunications provider as  
22 defined by Section 51.002, Utilities Code, or a cable operator as  
23 defined by 47 U.S.C. Section 522 and its subsequent amendments.

24           SECTION 22. BONDS. (a) The district may issue bonds or  
25 other obligations payable in whole or in part from ad valorem taxes,  
26 assessments, impact fees, revenue, grants, or other money of the  
27 district, or any combination of those sources of money, to pay for

1 any authorized purpose of the district.

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

7 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
8 OBLIGATIONS. Except as provided by Section 375.263, Local  
9 Government Code, the City of Houston is not required to pay a bond,  
10 note, or other obligation of the district.

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

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

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

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

26 SECTION 27. TAX AND ASSESSMENT ABATEMENTS. The district  
27 may grant in the manner authorized by Chapter 312, Tax Code, an

1 abatement for a tax or assessment owed to the district.

2 SECTION 28. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
3 district may join and pay dues to an organization that:

4 (1) enjoys tax-exempt status under Section 501(c)(3),  
5 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.  
6 Section 501(c)), as amended; and

7 (2) performs services or provides activities  
8 consistent with the furtherance of the purposes of the district.

9 SECTION 29. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
10 All or any part of the area of the district is eligible to be  
11 included in:

12 (1) a tax increment reinvestment zone created by the  
13 City of Houston under Chapter 311, Tax Code;

14 (2) a tax abatement reinvestment zone created by the  
15 City of Houston under Chapter 312, Tax Code; or

16 (3) an enterprise zone created by the City of Houston  
17 under Chapter 2303, Government Code.

18 SECTION 30. ECONOMIC DEVELOPMENT PROGRAMS. The district  
19 may establish and provide for the administration of one or more  
20 programs, including programs for making loans and grants of public  
21 money and providing personnel and services of the district, to  
22 promote state or local economic development and to stimulate  
23 business and commercial activity in the district. The district has  
24 all of the powers and authority of a municipality under Chapter 380,  
25 Local Government Code.

26 SECTION 31. INITIAL DIRECTORS. (a) The initial board  
27 consists of the following persons:

1	Pos. No.	Name of Director
2	1	Kay Crooker
3	2	Mike Garver
4	3	Gerald Higdon
5	4	Marcia Johnson
6	5	Susan Keeton
7	6	Mark Lee
8	7	Maria Munoz-Blanco
9	8	Kelley Parker
10	9	Max Schuette
11	10	Robert Smith, III
12	11	Terri Thomas
13	12	William Taylor
14	13	William Paul Thomas
15	14	Craig Jackson

16 (b) Of the initial directors, the terms of directors  
17 appointed for positions 1 through 6 expire June 1, 2005, and the  
18 terms of directors appointed for positions 7 through 14 expire June  
19 1, 2007.

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

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

22 SECTION 32. LEGISLATIVE FINDINGS. The legislature finds  
23 that:

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

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

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

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

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

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