

By: Ellis

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 _____

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

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

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

26 (b) All land and other property included in the district
27 will benefit from the improvements and services to be provided by

1 the district under powers conferred by Sections 52 and 52-a,
2 Article III, and Section 59, Article XVI, Texas Constitution, and
3 other powers granted under this Act.

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

6 (1) further the public purposes of development and
7 diversification of the economy of the state;

8 (2) eliminate unemployment and underemployment; and

9 (3) develop or expand transportation and commerce.

10 (d) The district will:

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

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

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

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

26 (f) The district will not act as the agent or
27 instrumentality of any private interest even though the district

1 will benefit many private interests as well as the public.

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

5 (b) Chapter 311, Government Code (Code Construction Act),
6 applies to this Act.

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

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

14 (b) Voting directors serve staggered terms of four years,
15 with six directors' terms expiring June 1 of an odd-numbered year
16 and five directors' terms expiring June 1 of the following
17 odd-numbered year.

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

22 SECTION 10. APPOINTMENT OF DIRECTORS. The mayor and
23 members of the governing body of the City of Houston shall appoint
24 voting directors from persons recommended by the board. A person is
25 appointed if a majority of the members of the governing body,
26 including the mayor, vote to appoint that person.

27 SECTION 11. NONVOTING DIRECTORS. (a) The following

1 persons shall serve as nonvoting directors:

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

4 (A) parks and recreation;

5 (B) planning and development;

6 (C) public works; and

7 (D) civic center; and

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

9 (b) If a department described by Subsection (a) of this
10 section is consolidated, renamed, or changed, the board may appoint
11 a director of the consolidated, renamed, or changed department as a
12 nonvoting director. If a department described by Subsection (a) of
13 this section is abolished, the board may appoint a representative
14 of another department that performs duties comparable to those
15 performed by the abolished department.

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

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

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

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

24 (b) Section 171.004, Local Government Code, does not apply
25 to the district. A director who has a substantial interest in a
26 business or charitable entity that will receive a pecuniary benefit
27 from a board action shall file a one-time affidavit declaring the

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

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

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

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

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

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

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

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

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

1 (b) The implementation of a project is a governmental
2 function or service for the purposes of Chapter 791, Government
3 Code.

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

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

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

17 (c) The nonprofit corporation:

18 (1) has the powers of and is considered for purposes of
19 this Act to be a local government corporation created under Chapter
20 431, Transportation Code; and

21 (2) may implement any project and provide any service
22 authorized by this Act.

23 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
24 IMPROVEMENTS. The board may not finance a service or improvement
25 project with assessments under this Act unless a written petition
26 requesting that improvement or service has been filed with the
27 board. The petition must be signed by:

1 (1) the owners of a majority of the assessed value of
2 real property in the district subject to assessment as determined
3 by the most recent certified tax appraisal roll for Harris County;
4 or

5 (2) at least 25 owners of real property in the
6 district, if more than 25 persons own real property in the district
7 as determined by the most recent certified tax appraisal roll for
8 Harris County.

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

14 (b) The board may submit multiple purposes in a single
15 proposition at an election.

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

18 SECTION 19. MAINTENANCE TAX. (a) If authorized at an
19 election held in accordance with Section 18 of this Act, the
20 district may impose an annual ad valorem tax on taxable property in
21 the district for the:

22 (1) maintenance and operation of the district and the
23 improvements constructed or acquired by the district; or

24 (2) provision of a service.

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

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

1 Act.

2 (b) An assessment, a reassessment, or an assessment
3 resulting from an addition to or correction of the assessment roll
4 by the district, penalties and interest on an assessment or
5 reassessment, an expense of collection, and reasonable attorney's
6 fees incurred by the district:

7 (1) are a first and prior lien against the property
8 assessed;

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

12 (3) are the personal liability of and charge against
13 the owners of the property even if the owners are not named in the
14 assessment proceedings.

15 (c) The lien is effective from the date of the resolution of
16 the board imposing the assessment until the date the assessment is
17 paid. The board may enforce the lien in the same manner that the
18 board may enforce an ad valorem tax lien against real property.

19 (d) The board may make corrections to or deletions from the
20 assessment roll without providing notice and holding a hearing in
21 the manner required for additional assessments, if the corrections
22 or deletions do not increase the amount of assessment of any parcel
23 of land.

24 SECTION 21. UTILITIES. The district may not impose an
25 impact fee or assessment on the property, including the equipment,
26 rights-of-way, facilities, or improvements, of an electric utility
27 or a power generation company as defined by Section 31.002,

1 Utilities Code, or a gas utility as defined by Section 101.003 or
2 121.001, Utilities Code, or of a person that provides to the public
3 cable television or advanced telecommunications services.

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

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

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

18 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board
19 by resolution shall establish the number of directors' signatures
20 and the procedure required for a disbursement or transfer of the
21 district's money.

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

25 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
26 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
27 that has debt. If the vote is in favor of dissolution, the district

1 shall remain in existence solely for the limited purpose of
2 discharging its debts. The dissolution is effective when all debts
3 have been discharged.

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

6 SECTION 27. TAX AND ASSESSMENT ABATEMENTS. The district
7 may grant in the manner authorized by Chapter 312, Tax Code, an
8 abatement for a tax or assessment owed to the district.

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

11 (1) enjoys tax-exempt status under Section 501(c)(3),
12 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.
13 Section 501(c)), as amended; and

14 (2) perform services or provide activities consistent
15 with the furtherance of the purposes of the district.

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

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

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

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

25 SECTION 30. ECONOMIC DEVELOPMENT PROGRAMS. The district
26 may establish and provide for the administration of one or more
27 programs, including programs for making loans and grants of public

1 money and providing personnel and services of the district, to
2 promote state or local economic development and to stimulate
3 business and commercial activity in the district. The district has
4 all of the powers and authority of a municipality under Chapter 380,
5 Local Government Code.

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

	Pos. No.	Name of Director
9	1	_____
10	2	_____
11	3	_____
12	4	_____
13	5	_____
14	6	_____
15	7	_____
16	8	_____
17	9	_____
18	10	_____
19	11	_____

20 (b) Of the initial directors, the terms of directors
21 appointed for positions 1 through 6 expire June 1, 2007, and the
22 terms of directors appointed for positions 7 through 11 expire June
23 1, 2005.

24 (c) Section 10 of this Act does not apply to this section.

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

26 SECTION 32. LEGISLATIVE FINDINGS. The legislature finds
27 that:

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

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

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

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

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