

1-1 By: Ellis S.B. No. 1936  
1-2 (In the Senate - Filed April 29, 2003; April 30, 2003, read  
1-3 first time and referred to Committee on Intergovernmental  
1-4 Relations; May 6, 2003, reported favorably by the following vote:  
1-5 Yeas 5, Nays 0; May 6, 2003, sent to printer.)

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

1-8 relating to the creation of the Buffalo Bayou Management District;  
1-9 providing the authority to impose taxes and issue bonds.

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

1-11 SECTION 1. CREATION OF DISTRICT. (a) The Buffalo Bayou  
1-12 Management District is a special district created under Section 59,  
1-13 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 Buffalo Bayou Management  
1-20 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 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 (d) By creating the district and in authorizing the City of  
1-37 Houston, Harris County, and other political subdivisions to  
1-38 contract with the district, the legislature has established a  
1-39 program to accomplish the public purposes set out in Section 52-a,  
1-40 Article III, Texas Constitution.

1-41 SECTION 4. BOUNDARIES. The district includes all the  
1-42 territory contained in the following described area:

1-43  
1-44 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
1-45 and field notes of the district form a closure. A mistake in the  
1-46 field notes or in copying the field notes in the legislative process  
1-47 does not in any way affect the district's:

1-48 (1) organization, existence, or validity;

1-49 (2) right to issue any type of bond for a purpose for  
1-50 which the district is created or to pay the principal of and  
1-51 interest on a bond;

1-52 (3) right to impose or collect an assessment or tax; or

1-53 (4) legality or operation.

1-54 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1-55 (a) The district is created to serve a public use and benefit.

1-56 (b) All land and other property included in the district  
1-57 will benefit from the improvements and services to be provided by  
1-58 the district under powers conferred by Sections 52 and 52-a,  
1-59 Article III, and Section 59, Article XVI, Texas Constitution, and  
1-60 other powers granted under this Act.

1-61 (c) The creation of the district is in the public interest  
1-62 and is essential to:

1-63 (1) further the public purposes of development and  
1-64 diversification of the economy of the state;

2-1 (2) eliminate unemployment and underemployment; and  
2-2 (3) develop or expand transportation and commerce.

2-3 (d) The district will:

2-4 (1) promote the health, safety, and general welfare of  
2-5 residents, employers, employees, visitors, and consumers in the  
2-6 district, and of the public;

2-7 (2) provide needed funding to preserve, maintain, and  
2-8 enhance the economic health and vitality of the district as a  
2-9 community and business center; and

2-10 (3) promote the health, safety, welfare, and enjoyment  
2-11 of the public by providing pedestrian ways and by landscaping and  
2-12 developing certain areas in the district, which are necessary for  
2-13 the restoration, preservation, and enhancement of scenic beauty.

2-14 (e) Pedestrian ways along or across a street, whether at  
2-15 grade or above or below the surface, and street lighting, street  
2-16 landscaping, and street art objects are parts of and necessary  
2-17 components of a street and are considered to be a street or road  
2-18 improvement.

2-19 (f) The district will not act as the agent or  
2-20 instrumentality of any private interest even though the district  
2-21 will benefit many private interests as well as the public.

2-22 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as  
2-23 otherwise provided by this Act, Chapter 375, Local Government Code,  
2-24 applies to the district.

2-25 (b) Chapter 311, Government Code (Code Construction Act),  
2-26 applies to this Act.

2-27 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally  
2-28 construed in conformity with the findings and purposes stated in  
2-29 this Act.

2-30 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) The  
2-31 district is governed by a board of 11 voting directors appointed  
2-32 under Section 10 and nonvoting directors as provided by Section 11.

2-33 (b) Voting directors serve staggered terms of four years,  
2-34 with six directors' terms expiring June 1 of an odd-numbered year  
2-35 and five directors' terms expiring June 1 of the following  
2-36 odd-numbered year.

2-37 (c) The board may increase or decrease the number of  
2-38 directors on the board by resolution if the board finds that it is  
2-39 in the best interest of the district. The board may not consist of  
2-40 fewer than five or more than 15 directors.

2-41 SECTION 10. APPOINTMENT OF DIRECTORS. The mayor and  
2-42 members of the governing body of the City of Houston shall appoint  
2-43 voting directors from persons recommended by the board. A person is  
2-44 appointed if a majority of the members of the governing body,  
2-45 including the mayor, vote to appoint that person.

2-46 SECTION 11. NONVOTING DIRECTORS. (a) The following  
2-47 persons shall serve as nonvoting directors:

2-48 (1) the directors of the following departments of the  
2-49 City of Houston or a person designated by that director:

- 2-50 (A) parks and recreation;
- 2-51 (B) planning and development;
- 2-52 (C) public works; and
- 2-53 (D) civic center; and

2-54 (2) the City of Houston's chief of police.

2-55 (b) If a department described by Subsection (a) is  
2-56 consolidated, renamed, or changed, the board may appoint a director  
2-57 of the consolidated, renamed, or changed department as a nonvoting  
2-58 director. If a department described by Subsection (a) is  
2-59 abolished, the board may appoint a representative of another  
2-60 department that performs duties comparable to those performed by  
2-61 the abolished department.

2-62 (c) Nonvoting directors are not counted for the purposes of  
2-63 establishing a quorum of the board.

2-64 SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

2-65 (a) Except as provided by this section:

2-66 (1) a voting director may participate in all board  
2-67 votes and decisions; and

2-68 (2) Chapter 171, Local Government Code, governs  
2-69 conflicts of interest for voting directors.

3-1 (b) Section 171.004, Local Government Code, does not apply  
3-2 to the district. A director who has a substantial interest in a  
3-3 business or charitable entity that will receive a pecuniary benefit  
3-4 from a board action shall file a one-time affidavit declaring the  
3-5 interest. An additional affidavit is not required if the  
3-6 director's interest changes. After the affidavit is filed with the  
3-7 board secretary, the director may participate in a discussion or  
3-8 vote on that action if:

3-9 (1) a majority of the directors have a similar  
3-10 interest in the same entity; or

3-11 (2) all other similar business or charitable entities  
3-12 in the district will receive a similar pecuniary benefit.

3-13 (c) A director who is also an officer or employee of a public  
3-14 entity may not participate in the discussion of or vote on a matter  
3-15 regarding a contract with that same public entity.

3-16 (d) For purposes of this section, a director has a  
3-17 substantial interest in a charitable entity in the same manner that  
3-18 a person would have a substantial interest in a business entity  
3-19 under Section 171.002, Local Government Code.

3-20 SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district  
3-21 may exercise the powers given to:

3-22 (1) a corporation created under Section 4B,  
3-23 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas  
3-24 Civil Statutes), including the power to own, operate, acquire,  
3-25 construct, lease, improve, and maintain projects described by that  
3-26 section; and

3-27 (2) a housing finance corporation created under  
3-28 Chapter 394, Local Government Code, to provide housing or  
3-29 residential development projects in the district.

3-30 SECTION 14. AGREEMENTS; GRANTS. (a) The district may make  
3-31 an agreement with or accept a gift, grant, or loan from any person.

3-32 (b) The implementation of a project is a governmental  
3-33 function or service for the purposes of Chapter 791, Government  
3-34 Code.

3-35 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the  
3-36 public interest, the district may contract with Harris County or  
3-37 the City of Houston to provide law enforcement services in the  
3-38 district for a fee.

3-39 SECTION 16. NONPROFIT CORPORATION. (a) The board by  
3-40 resolution may authorize the creation of a nonprofit corporation to  
3-41 assist and act on behalf of the district in implementing a project  
3-42 or providing a service authorized by this Act.

3-43 (b) The board shall appoint the board of directors of a  
3-44 nonprofit corporation. The board of directors of the nonprofit  
3-45 corporation shall serve in the same manner as the board of directors  
3-46 of a local government corporation created under Chapter 431,  
3-47 Transportation Code.

3-48 (c) The nonprofit corporation:

3-49 (1) has the powers of and is considered for purposes of  
3-50 this Act to be a local government corporation created under Chapter  
3-51 431, Transportation Code; and

3-52 (2) may implement any project and provide any service  
3-53 authorized by this Act.

3-54 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND  
3-55 IMPROVEMENTS. The board may not finance a service or improvement  
3-56 project with assessments under this Act unless a written petition  
3-57 requesting that improvement or service has been filed with the  
3-58 board. The petition must be signed by:

3-59 (1) the owners of a majority of the assessed value of  
3-60 real property in the district subject to assessment as determined  
3-61 by the most recent certified tax appraisal roll for Harris County;  
3-62 or

3-63 (2) at least 25 owners of real property in the  
3-64 district, if more than 25 persons own real property in the district  
3-65 as determined by the most recent certified tax appraisal roll for  
3-66 Harris County.

3-67 SECTION 18. ELECTIONS. (a) The district shall hold an  
3-68 election in the manner provided by Subchapter L, Chapter 375, Local  
3-69 Government Code, to obtain voter approval before the district

4-1 imposes a maintenance tax or issues bonds payable from ad valorem  
4-2 taxes.

4-3 (b) The board may submit multiple purposes in a single  
4-4 proposition at an election.

4-5 (c) Section 375.243, Local Government Code, does not apply  
4-6 to the district.

4-7 SECTION 19. MAINTENANCE TAX. (a) If authorized at an  
4-8 election held in accordance with Section 18, the district may  
4-9 impose an annual ad valorem tax on taxable property in the district  
4-10 for the:

4-11 (1) maintenance and operation of the district and the  
4-12 improvements constructed or acquired by the district; or

4-13 (2) provision of a service.

4-14 (b) The board shall determine the tax rate.

4-15 SECTION 20. ASSESSMENTS. (a) The board by resolution may  
4-16 impose and collect an assessment for any purpose authorized by this  
4-17 Act.

4-18 (b) An assessment, a reassessment, or an assessment  
4-19 resulting from an addition to or correction of the assessment roll  
4-20 by the district, penalties and interest on an assessment or  
4-21 reassessment, an expense of collection, and reasonable attorney's  
4-22 fees incurred by the district:

4-23 (1) are a first and prior lien against the property  
4-24 assessed;

4-25 (2) are superior to any other lien or claim other than  
4-26 a lien or claim for county, school district, or municipal ad valorem  
4-27 taxes; and

4-28 (3) are the personal liability of and charge against  
4-29 the owners of the property even if the owners are not named in the  
4-30 assessment proceedings.

4-31 (c) The lien is effective from the date of the resolution of  
4-32 the board imposing the assessment until the date the assessment is  
4-33 paid. The board may enforce the lien in the same manner that the  
4-34 board may enforce an ad valorem tax lien against real property.

4-35 (d) The board may make corrections to or deletions from the  
4-36 assessment roll without providing notice and holding a hearing in  
4-37 the manner required for additional assessments, if the corrections  
4-38 or deletions do not increase the amount of assessment of any parcel  
4-39 of land.

4-40 SECTION 21. UTILITIES. The district may not impose an  
4-41 impact fee or assessment on the property, including the equipment,  
4-42 rights-of-way, facilities, or improvements, of an electric utility  
4-43 or a power generation company as defined by Section 31.002,  
4-44 Utilities Code, or a gas utility as defined by Section 101.003 or  
4-45 121.001, Utilities Code, or of a person that provides to the public  
4-46 cable television or advanced telecommunications services.

4-47 SECTION 22. BONDS. (a) The district may issue bonds or  
4-48 other obligations payable in whole or in part from ad valorem taxes,  
4-49 assessments, impact fees, revenue, grants, or other money of the  
4-50 district, or any combination of those sources of money, to pay for  
4-51 any authorized purpose of the district.

4-52 (b) In exercising the district's borrowing power, the  
4-53 district may issue a bond or other obligation in the form of a bond,  
4-54 note, certificate of participation or other instrument evidencing a  
4-55 proportionate interest in payments to be made by the district, or  
4-56 other type of obligation.

4-57 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
4-58 OBLIGATIONS. Except as provided by Section 375.263, Local  
4-59 Government Code, the City of Houston is not required to pay a bond,  
4-60 note, or other obligation of the district.

4-61 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board  
4-62 by resolution shall establish the number of directors' signatures  
4-63 and the procedure required for a disbursement or transfer of the  
4-64 district's money.

4-65 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,  
4-66 Local Government Code, applies to the district only for a contract  
4-67 that has a value of more than \$25,000.

4-68 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH  
4-69 OUTSTANDING DEBT. (a) The board may vote to dissolve a district

5-1 that has debt. If the vote is in favor of dissolution, the district  
5-2 shall remain in existence solely for the limited purpose of  
5-3 discharging its debts. The dissolution is effective when all debts  
5-4 have been discharged.

5-5 (b) Section 375.264, Local Government Code, does not apply  
5-6 to the district.

5-7 SECTION 27. TAX AND ASSESSMENT ABATEMENTS. The district  
5-8 may grant in the manner authorized by Chapter 312, Tax Code, an  
5-9 abatement for a tax or assessment owed to the district.

5-10 SECTION 28. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
5-11 district may join and pay dues to an organization that:

5-12 (1) enjoys tax-exempt status under Section 501(c)(3),  
5-13 501(c)(4), or 501(c)(6), Internal Revenue Code of 1986 (26 U.S.C.  
5-14 Section 501(c)), as amended; and

5-15 (2) perform services or provide activities consistent  
5-16 with the furtherance of the purposes of the district.

5-17 SECTION 29. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
5-18 All or any part of the area of the district is eligible to be  
5-19 included in:

5-20 (1) a tax increment reinvestment zone created by the  
5-21 City of Houston under Chapter 311, Tax Code;

5-22 (2) a tax abatement reinvestment zone created by the  
5-23 City of Houston under Chapter 312, Tax Code; or

5-24 (3) an enterprise zone created by the City of Houston  
5-25 under Chapter 2303, Government Code.

5-26 SECTION 30. ECONOMIC DEVELOPMENT PROGRAMS. The district  
5-27 may establish and provide for the administration of one or more  
5-28 programs, including programs for making loans and grants of public  
5-29 money and providing personnel and services of the district, to  
5-30 promote state or local economic development and to stimulate  
5-31 business and commercial activity in the district. The district has  
5-32 all of the powers and authority of a municipality under Chapter 380,  
5-33 Local Government Code.

5-34 SECTION 31. INITIAL DIRECTORS. (a) The initial board  
5-35 consists of the following persons:

5-36	Pos. No.	Name of Director
5-37	1	_____
5-38	2	_____
5-39	3	_____
5-40	4	_____
5-41	5	_____
5-42	6	_____
5-43	7	_____
5-44	8	_____
5-45	9	_____
5-46	10	_____
5-47	11	_____

5-48 (b) Of the initial directors, the terms of directors  
5-49 appointed for positions 1 through 6 expire June 1, 2007, and the  
5-50 terms of directors appointed for positions 7 through 11 expire June  
5-51 1, 2005.

5-52 (c) Section 10 does not apply to this section.

5-53 (d) This section expires September 1, 2007.

5-54 SECTION 32. LEGISLATIVE FINDINGS. The legislature finds  
5-55 that:

5-56 (1) proper and legal notice of the intention to  
5-57 introduce this Act, setting forth the general substance of this  
5-58 Act, has been published as provided by law, and the notice and a  
5-59 copy of this Act have been furnished to all persons, agencies,  
5-60 officials, or entities to which they are required to be furnished by  
5-61 the constitution and laws of this state, including the governor,  
5-62 who has submitted the notice and Act to the Texas Commission on  
5-63 Environmental Quality;

5-64 (2) the Texas Commission on Environmental Quality has  
5-65 filed its recommendations relating to this Act with the governor,  
5-66 lieutenant governor, and speaker of the house of representatives  
5-67 within the required time;

5-68 (3) the general law relating to consent by political  
5-69 subdivisions to the creation of districts with conservation,

6-1 reclamation, and road powers and the inclusion of land in those  
6-2 districts has been complied with; and

6-3 (4) all requirements of the constitution and laws of  
6-4 this state and the rules and procedures of the legislature with  
6-5 respect to the notice, introduction, and passage of this Act have  
6-6 been fulfilled and accomplished.

6-7 SECTION 33. EFFECTIVE DATE. This Act takes effect  
6-8 immediately if it receives a vote of two-thirds of all the members  
6-9 elected to each house, as provided by Section 39, Article III, Texas  
6-10 Constitution. If this Act does not receive the vote necessary for  
6-11 immediate effect, this Act takes effect September 1, 2003.

6-12

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