

By: Edwards

H.B. No. 44

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the South Central Management District;
providing authority to impose a tax and issue a bond or similar
obligation.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws
Code, is amended by adding Chapter 3851 to read as follows:

CHAPTER 3851. SOUTH CENTRAL MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3851.001. DEFINITIONS. In this chapter:

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

(2) "District" means the South Central Management
District.

Sec. 3851.002. SOUTH CENTRAL MANAGEMENT DISTRICT. The
South Central Management District is a special district created
under Section 59, Article XVI, Texas Constitution.

Sec. 3851.003. PURPOSE; DECLARATION OF INTENT. (a) The
creation of the district is essential to accomplish the purposes of
Sections 52 and 52-a, Article III, and Section 59, Article XVI,
Texas Constitution, and other public purposes stated in this
chapter. By creating the district and in authorizing the City of
Houston, Harris County, and other political subdivisions to
contract with the district, the legislature has established a

1 program to accomplish the public purposes set out in Section 52-a,
2 Article III, Texas Constitution.

3 (b) The creation of the district is necessary to promote,
4 develop, encourage, and maintain employment, commerce,
5 transportation, housing, tourism, recreation, the arts,
6 entertainment, economic development, safety, and the public
7 welfare in the district and adjacent areas.

8 (c) This chapter and the creation of the district may not be
9 interpreted to relieve Harris County or the City of Houston from
10 providing the level of services provided as of the effective date of
11 this Act, to the area in the district. The district is created to
12 supplement and not to supplant the county or municipal services
13 provided in the area in the district.

14 Sec. 3851.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
15 The district is created to serve a public use and benefit.

16 (b) All land and other property included in the district
17 will benefit from the improvements and services to be provided by
18 the district under powers conferred by Sections 52 and 52-a,
19 Article III, and Section 59, Article XVI, Texas Constitution, and
20 other powers granted under this chapter.

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

23 (1) further the public purposes of developing and
24 diversifying the economy of the state;

25 (2) eliminate unemployment and underemployment; and

26 (3) develop or expand transportation and commerce.

27 (d) The district will:

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

4 (2) provide needed funding for the district to
5 preserve, maintain, and enhance the economic health and vitality of
6 the district territory as a community and business center; and

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

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

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

19 Sec. 3851.005. PARKING. A parking improvement is
20 considered to be a street or road improvement.

21 Sec. 3851.006. DISTRICT TERRITORY. (a) The district is
22 composed of the territory described by Section 2 of the Act enacting
23 this chapter, as that territory may have been modified under:

- 24 (1) Subchapter J, Chapter 49, Water Code; or
25 (2) other law.

26 (b) The boundaries and field notes of the district contained
27 in Section 2 of the Act enacting this chapter form a closure. A

1 mistake in the field notes or in copying the field notes in the
2 legislative process does not in any way affect the district's:

3 (1) organization, existence, or validity;

4 (2) right to issue any type of bond for a purpose for
5 which the district is created or to pay the principal of and
6 interest on the bond;

7 (3) right to impose or collect an assessment or tax; or

8 (4) legality or operation.

9 Sec. 3851.007. 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 a
13 municipality under Chapter 311, Tax Code;

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

16 (3) an enterprise zone created by a municipality under
17 Chapter 2303, Government Code.

18 Sec. 3851.008. APPLICABILITY OF MUNICIPAL MANAGEMENT
19 DISTRICTS LAW. Except as otherwise provided by this chapter,
20 Chapter 375, Local Government Code, applies to the district.

21 Sec. 3851.009. LIBERAL CONSTRUCTION OF CHAPTER. This
22 chapter shall be liberally construed in conformity with the
23 findings and purposes stated in this chapter.

24 [Sections 3851.010-3851.050 reserved for expansion]

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 3851.051. BOARD OF DIRECTORS; TERMS. (a) The
27 district is governed by a board of nine voting directors who serve

1 staggered terms of four years, with four or five directors' terms
2 expiring June 1 of each odd-numbered year.

3 (b) The board by resolution may change the number of voting
4 directors on the board, but only if the board determines that the
5 change is in the best interest of the district. The board may not
6 consist of fewer than five or more than 15 voting directors.

7 Sec. 3851.052. APPOINTMENT OF DIRECTORS. The mayor and
8 members of the governing body of the City of Houston shall appoint
9 voting directors from persons recommended by the board. A person is
10 appointed if a majority of the members of the governing body,
11 including the mayor, vote to appoint that person.

12 Sec. 3851.053. NONVOTING DIRECTORS. (a) The following
13 persons serve as nonvoting directors:

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

16 (A) parks and recreation;

17 (B) planning and development;

18 (C) public works; and

19 (D) civic center; and

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

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

1 Sec. 3851.054. QUORUM. For purposes of determining whether
2 a quorum of the board is present, the following are not counted:

3 (1) a board position vacant for any reason, including
4 death, resignation, or disqualification;

5 (2) a director who is abstaining from participation in
6 a vote because of a conflict of interest; or

7 (3) a nonvoting director.

8 [Sections 3851.055-3851.100 reserved for expansion]

9 SUBCHAPTER C. POWERS AND DUTIES

10 Sec. 3851.101. EXERCISE OF POWERS OF DEVELOPMENT
11 CORPORATION. The district may exercise the powers of a corporation
12 created under Section 4B, Development Corporation Act of 1979
13 (Article 5190.6, Vernon's Texas Civil Statutes), including the
14 power to own, operate, acquire, construct, lease, improve, and
15 maintain projects described by that section.

16 Sec. 3851.102. NONPROFIT CORPORATION. (a) The board by
17 resolution may authorize the creation of a nonprofit corporation to
18 assist and act for the district in implementing a project or
19 providing a service authorized by this chapter.

20 (b) The nonprofit corporation:

21 (1) has each power of and is considered for purposes of
22 this chapter to be a local government corporation created under
23 Chapter 431, Transportation Code; and

24 (2) may implement any project and provide any service
25 authorized by this chapter.

26 (c) The board shall appoint the board of directors of the
27 nonprofit corporation. The board of directors of the nonprofit

1 corporation shall serve in the same manner as the board of directors
2 of a local government corporation created under Chapter 431,
3 Transportation Code, except that a board member is not required to
4 reside in the district.

5 Sec. 3851.103. AGREEMENTS; GRANTS. (a) The district may
6 make an agreement with or accept a gift, grant, or loan from any
7 person.

8 (b) The implementation of a project is a governmental
9 function or service for the purposes of Chapter 791, Government
10 Code.

11 Sec. 3851.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
12 To protect the public interest, the district may contract with a law
13 enforcement services provider, including Harris County or the City
14 of Houston, to provide law enforcement services in the district for
15 a fee.

16 Sec. 3851.105. APPROVAL BY CITY OF HOUSTON. (a) Except as
17 provided by Subsection (c), the district must obtain the approval
18 of the City of Houston's governing body for:

19 (1) the issuance of bonds for an improvement project;
20 (2) the plans and specifications of an improvement
21 project financed by the bonds; and

22 (3) the plans and specifications of an improvement
23 project related to the use of land owned by the City of Houston, an
24 easement granted by the City of Houston, or a right-of-way of a
25 street, road, or highway.

26 (b) The approval obtained under Subsection (a) for the
27 issuance of bonds must be a resolution by the City of Houston. The

1 approval obtained under Subsection (a) for plans and specifications
2 must be a permit issued by the City of Houston.

3 (c) If the district obtains the approval of the City of
4 Houston's governing body of a capital improvements budget for a
5 period not to exceed five years, the district may finance the
6 capital improvements and issue bonds specified in the budget
7 without further approval from the City of Houston.

8 Sec. 3851.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
9 district may join and pay dues to an organization that:

10 (1) enjoys tax-exempt status under Section 501(c)(3),
11 (4), or (6), Internal Revenue Code of 1986; and

12 (2) performs a service or provides an activity
13 consistent with the furtherance of a district purpose.

14 Sec. 3851.107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER
15 POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) The district may
16 establish and provide for the administration of one or more
17 programs to promote state or local economic development and to
18 stimulate business and commercial activity in the district,
19 including programs to:

20 (1) make loans and grants of public money; and

21 (2) provide district personnel and services.

22 (b) The district has all of the powers of a municipality
23 under Chapter 380, Local Government Code.

24 Sec. 3851.108. NO EMINENT DOMAIN. The district may not
25 exercise the power of eminent domain.

26 [Sections 3851.109–3851.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3851.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Sec. 3851.152. MONEY USED FOR IMPROVEMENTS OR SERVICES. The district may acquire, construct, finance, operate, or maintain any improvement or service authorized under this chapter or Chapter 375, Local Government Code, using any money available to the district.

Sec. 3851.153. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition requesting a project financed by assessment must be signed by:

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

(2) at least 50 owners of real property in the district, if more than 50 persons own real property in the district according to the most recent certified tax appraisal roll for Harris County.

Sec. 3851.154. METHOD OF NOTICE FOR HEARING. (a) The district may mail the notice required by Section 375.115(c), Local Government Code, by certified or first class United States mail.

1 The board shall determine the type of notice required based on
2 whether adequate notice is provided by the method.

3 (b) If the district uses first class mail to provide the
4 notice, the district must also publish the notice in a newspaper of
5 general circulation in the district not later than the 20th day
6 before the date of the event for which notice was provided.

7 Sec. 3851.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
8 The board by resolution may impose and collect an assessment for any
9 purpose authorized by this chapter.

10 (b) An assessment, a reassessment, or an assessment
11 resulting from an addition to or correction of the assessment roll
12 by the district, penalties and interest on an assessment or
13 reassessment, an expense of collection, and reasonable attorney's
14 fees incurred by the district:

15 (1) are a first and prior lien against the property
16 assessed;

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

20 (3) are the personal liability of and a charge against
21 the owners of the property even if the owners are not named in the
22 assessment proceedings.

23 (c) The lien is effective from the date of the board's
24 resolution imposing the assessment until the date the assessment is
25 paid. The board may enforce the lien in the same manner that the
26 board may enforce an ad valorem tax lien against real property.

27 (d) The board may make a correction to or deletion from the

1 assessment roll that does not increase the amount of assessment of
2 any parcel of land without providing notice and holding a hearing in
3 the manner required for additional assessments.

4 Sec. 3851.156. LIMITATION ON AMOUNT OF CERTAIN ASSESSMENTS.

5 An assessment based on the taxable value of real property may not
6 exceed 12 cents per \$100 of assessed valuation of taxable property
7 in the district, according to the most recent certified tax
8 appraisal roll for Harris County.

9 Sec. 3851.157. PUBLIC IMPROVEMENT DISTRICT ASSESSMENTS. An

10 assessment levied in the district for a public improvement district
11 under Chapter 372, Local Government Code, may be used only under the
12 terms for which the assessment was levied. Money raised by an
13 assessment in the public improvement district under that chapter
14 must be used in the public improvement district, and may not be
15 transferred for use outside the area for which the assessment was
16 originally levied.

17 Sec. 3851.158. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
18 ASSESSMENTS. The district may not impose an impact fee or
19 assessment on the property, including the equipment,
20 rights-of-way, facilities, or improvements, of:

21 (1) an electric utility or a power generation company
22 as defined by Section 31.002, Utilities Code;

23 (2) a gas utility as defined by Section 101.003 or
24 121.001, Utilities Code;

25 (3) a telecommunications provider as defined by
26 Section 51.002, Utilities Code; or

27 (4) a person who provides to the public cable

1 television or advanced telecommunications services.

2 Sec. 3851.159. AD VALOREM TAX. (a) If authorized at an
3 election held in accordance with Section 3851.162, the district may
4 impose an annual ad valorem tax on taxable property in the district
5 to:

6 (1) maintain and operate the district;

7 (2) construct or acquire improvements; or

8 (3) provide a service.

9 (b) The board shall determine the tax rate. The rate may not
10 exceed the rate approved at the election.

11 Sec. 3851.160. BONDS AND OTHER OBLIGATIONS. (a) The
12 district may issue bonds or other obligations payable wholly or
13 partly from taxes, assessments, impact fees, revenue, grants, or
14 other money of the district, or any combination of those sources of
15 money, to pay for any authorized purpose of the district.

16 (b) The district may issue a bond or other obligation in the
17 form of a bond, note, certificate of participation or other
18 instrument evidencing a proportionate interest in payments to be
19 made by the district, or other type of obligation.

20 Sec. 3851.161. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
21 the time bonds or other obligations payable wholly or partly from ad
22 valorem taxes are issued:

23 (1) the board shall impose a continuing direct annual
24 ad valorem tax, without limit as to rate or amount, for each year
25 that all or part of the bonds are outstanding; and

26 (2) the district annually shall impose the continuing
27 direct ad valorem tax on all taxable property in the district in an

1 amount sufficient to:

2 (A) pay the interest on the bonds or other
3 obligations as the interest becomes due;

4 (B) create a sinking fund for the payment of the
5 principal of the bonds or other obligations when due or the
6 redemption price at any earlier required redemption date; and

7 (C) pay the expenses of imposing the taxes.

8 Sec. 3851.162. TAX AND BOND ELECTIONS. (a) The district
9 shall hold an election in the manner provided by Subchapter L,
10 Chapter 375, Local Government Code, to obtain voter approval before
11 the district imposes an ad valorem tax or issues bonds payable from
12 ad valorem taxes. The proposition for an election approving an ad
13 valorem tax must specify the maximum tax rate authorized.

14 (b) Section 375.243, Local Government Code, does not apply
15 to the district.

16 Sec. 3851.163. CITY OF HOUSTON NOT REQUIRED TO PAY DISTRICT
17 OBLIGATIONS. Except as provided by Section 375.263, Local
18 Government Code, the City of Houston is not required to pay a bond,
19 note, or other obligation of the district.

20 Sec. 3851.164. COMPETITIVE BIDDING. Section 375.221, Local
21 Government Code, applies to the district only for a contract that
22 has a value greater than \$25,000.

23 Sec. 3851.165. TAX AND ASSESSMENT ABATEMENTS. The district
24 may grant in the manner authorized by Chapter 312, Tax Code, an
25 abatement for a tax or assessment owed to the district.

26 [Sections 3851.166-3851.200 reserved for expansion]

1 SUBCHAPTER E. DISSOLUTION

2 Sec. 3851.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
3 DEBT. (a) The board may dissolve the district regardless of
4 whether the district has debt. Section 375.264, Local Government
5 Code, does not apply to the district.

6 (b) If the district has debt when it is dissolved, the
7 district shall remain in existence solely for the purpose of
8 discharging its debts. The dissolution is effective when all debts
9 have been discharged.

10 SECTION 2. As of the effective date of this Act, the South
11 Central Management District includes all territory contained in the
12 following described area: _____

13 SECTION 3. Not later than the 60th day after the effective
14 date of this Act, the mayor and members of the governing body of the
15 City of Houston shall appoint the initial board of voting directors
16 for the South Central Management District under Section 3851.052,
17 Special District Local Laws Code, as added by this Act. The
18 governing body shall stagger the initial directors' terms so that
19 four terms expire June 1, 2007, and five terms expire June 1, 2009.

20 SECTION 4. This Act takes effect immediately if it receives
21 a vote of two-thirds of all the members elected to each house, as
22 provided by Section 39, Article III, Texas Constitution. If this
23 Act does not receive the vote necessary for immediate effect, this
24 Act takes effect on the 91st day after the last day of the
25 legislative session.