

By: Wong

H.B. No. 3493

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Southampton Neighborhood Services District; providing authority to issue a bond or similar obligation.

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

SECTION 1. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3839 to read as follows:

CHAPTER 3839. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3839.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Southampton Neighborhood Services District.

Sec. 3839.002. SOUTHAMPTON NEIGHBORHOOD SERVICES DISTRICT.

The Southampton Neighborhood Services District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3839.003. 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

1 contract with the district, the legislature has established a  
2 program to accomplish the public purposes set out in Section 52-a,  
3 Article III, Texas Constitution.

4 (b) The creation of the district is necessary to provide  
5 enhanced and supplemental services to promote and maintain the  
6 Southampton Neighborhood of Houston as a safe, clean,  
7 pedestrian-friendly, and aesthetically pleasing residential  
8 neighborhood with sustainable high property values.

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

15 Sec. 3839.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
16 The district is created to serve a public use and benefit.

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

22 (c) The district will:

23 (1) promote the health, safety, and general welfare of  
24 district residents and of the public;

25 (2) provide enhanced and supplemental services to  
26 preserve, maintain, and enhance the vitality of the district as a  
27 residential neighborhood; and

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

5           (d) Pedestrian ways along or across a street, whether at  
6 grade or above or below the surface, and street lighting, street  
7 landscaping, parking, and street art objects are parts of and  
8 necessary components of a street and are considered to be a street  
9 or road improvement.

10           (e) The district will not act as the agent or  
11 instrumentality of any private interest even though the district  
12 will benefit many private interests as well as the public.

13           Sec. 3839.005. DISTRICT TERRITORY. (a) The district is  
14 composed of the territory described by Section 2 of the Act enacting  
15 this chapter, as that territory may have been modified under:

16                   (1) Subchapter J, Chapter 49, Water Code; or

17                   (2) other law.

18           (b) The boundaries and field notes of the district contained  
19 in Section 2 of the Act enacting this chapter form a closure. A  
20 mistake in the field notes or in copying the field notes in the  
21 legislative process does not in any way affect the district's:

22                   (1) organization, existence, or validity;

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

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

27                   (4) legality or operation.

1       Sec. 3839.006. APPLICABILITY OF MUNICIPAL MANAGEMENT  
2 DISTRICTS LAW. Except as otherwise provided by this chapter,  
3 Chapter 375, Local Government Code, applies to the district.

4       Sec. 3839.007. LIBERAL CONSTRUCTION OF CHAPTER. This  
5 chapter shall be liberally construed in conformity with the  
6 findings and purposes stated in this chapter.

7       [Sections 3839.008-3839.050 reserved for expansion]

8                   SUBCHAPTER B. BOARD OF DIRECTORS

9       Sec. 3839.051. BOARD OF DIRECTORS; TERMS. (a) The district  
10 is governed by a board of 18 voting directors who serve staggered  
11 terms of two years, with nine directors' terms expiring December 31  
12 of each year.

13       (b) The board by resolution may change the number of voting  
14 directors on the board, but only if the board determines that the  
15 change is in the best interest of the district. The board may not  
16 consist of fewer than five or more than 21 directors.

17       Sec. 3839.052. APPOINTMENT OF DIRECTORS. The mayor and  
18 members of the governing body of the City of Houston shall appoint  
19 directors from persons recommended by the board. A person is  
20 appointed if a majority of the members of the governing body,  
21 including the mayor, vote to appoint that person.

22       Sec. 3839.053. NONVOTING DIRECTORS. (a) The following  
23 persons serve as nonvoting directors:

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

26                   (A) parks and recreation;

27                   (B) planning and development; and

1           (C) public works;

2           (2) the City of Houston's chief of police; and

3           (3) each City of Houston councilmember whose council  
4 district is wholly or partly in the district.

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

12           Sec. 3839.054. QUORUM. Nonvoting directors and vacant  
13 director positions are not counted for the purposes of establishing  
14 a board quorum.

15           Sec. 3839.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

16           (a) Except as provided by this section:

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

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

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

1 vote on 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 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 Sec. 3839.056. INITIAL VOTING DIRECTORS. (a) The initial  
14 board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Anne Clutterbuck</u>
<u>2</u>	<u>Les Randall</u>
<u>3</u>	<u>Hugh Rice Kelly</u>
<u>4</u>	<u>Sarah Darneille</u>
<u>5</u>	<u>Larry Foust</u>
<u>6</u>	<u>Patrick Pacheco</u>
<u>7</u>	<u>Janet Peters</u>
<u>8</u>	<u>Ed Shoemake</u>
<u>9</u>	<u>Peggy Vineyard</u>
<u>10</u>	<u>Ed Kagi</u>
<u>11</u>	<u>Chip Gill</u>
<u>12</u>	<u>Jeff Ross</u>

1	<u>13</u>	<u>Amy Anton</u>
2	<u>14</u>	<u>Erik Eriksson</u>
3	<u>15</u>	<u>Karen Gomsoulin</u>
4	<u>16</u>	<u>Louisa Hernandez</u>
5	<u>17</u>	<u>Chip Knapp</u>
6	<u>18</u>	<u>Will Luedke</u>

7 (b) Of the initial voting directors, the terms of directors  
8 appointed for positions 1 through 9 expire December 31, 2006, and  
9 the terms of directors appointed for positions 10 through 18 expire  
10 December 31, 2005.

11 (c) Section 3839.052 does not apply to this section.

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

13 [Sections 3839.057-3839.100 reserved for expansion]

14 SUBCHAPTER C. POWERS AND DUTIES

15 Sec. 3839.101. NONPROFIT CORPORATION. (a) The board by  
16 resolution may authorize the creation of a nonprofit corporation to  
17 assist and act for the district in implementing a project or  
18 providing a service authorized by this chapter.

19 (b) The nonprofit corporation:

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

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

25 (c) The board shall appoint the board of directors of the  
26 nonprofit corporation. The board of directors of the nonprofit  
27 corporation shall serve in the same manner as the board of directors

1 of a local government corporation created under Chapter 431,  
2 Transportation Code.

3 Sec. 3839.102. AGREEMENTS; GRANTS. (a) The district may  
4 make an agreement with or accept a gift, grant, or loan from any  
5 person.

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

9 Sec. 3839.103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.  
10 To protect the public interest, the district may contract with a  
11 qualified party, including Harris County, the City of Houston, or a  
12 nonprofit corporation, to provide supplemental law enforcement  
13 services in the district for a fee.

14 Sec. 3839.104. APPROVAL BY CITY OF HOUSTON. (a) Except as  
15 provided by Subsection (b), the district must obtain the approval  
16 of the City of Houston's governing body for:

17 (1) the issuance of a bond for each improvement  
18 project;

19 (2) the plans and specifications of the improvement  
20 project financed by the bond; and

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

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



1 issued by the City of Houston.

2 Sec. 3839.105. 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 (4), or (6), Internal Revenue Code of 1986; and

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

8 Sec. 3839.106. NO EMINENT DOMAIN. The district may not  
9 exercise the power of eminent domain.

10 [Sections 3839.107–3839.150 reserved for expansion]

11 SUBCHAPTER D. FINANCIAL PROVISIONS

12 Sec. 3839.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
13 board by resolution shall establish the number of directors'  
14 signatures and the procedure required for a disbursement or  
15 transfer of the district's money.

16 Sec. 3839.152. PETITION REQUIRED FOR FINANCING SERVICES AND  
17 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
18 service or improvement project with assessments under this chapter  
19 unless a written petition requesting that service or improvement  
20 has been filed with the board.

21 (b) A petition filed under Subsection (a) must be signed by  
22 the owners of a majority of the assessed value of real property in  
23 the district subject to assessment according to the most recent  
24 certified tax appraisal roll for Harris County.

25 Sec. 3839.153. METHOD OF NOTICE FOR HEARING. The district  
26 may mail the notice required by Section 375.115(c), Local  
27 Government Code, by certified United States mail or an equivalent

1 service that can provide a record of mailing or other delivery.

2 Sec. 3839.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)

3 The board by resolution may impose and collect an assessment for any  
4 purpose authorized by this chapter.

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

10 (1) are a first and prior lien against the property  
11 assessed;

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

15 (3) are the personal liability of and a charge against  
16 the owners of the property even if the owners are not named in the  
17 assessment proceedings.

18 (c) The lien is effective from the date of the board's  
19 resolution imposing the assessment until the date the assessment is  
20 paid. The board may enforce the lien in the same manner that the  
21 board may enforce an ad valorem tax lien against real property,  
22 except that the board may not foreclose on a residential homestead.

23 (d) The board may make a correction to or deletion from the  
24 assessment roll that does not increase the amount of assessment of  
25 any parcel of land without providing notice and holding a hearing in  
26 the manner required for additional assessments.

27 (e) Section 375.161, Local Government Code, does not apply

1 to the district.

2 Sec. 3839.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND  
3 ASSESSMENTS. The district may not impose an impact fee or  
4 assessment on the property, including the equipment,  
5 rights-of-way, facilities, or improvements, of:

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

8 (2) a gas utility as defined by Section 101.003 or  
9 121.001, Utilities Code;

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

12 (4) a person who provides to the public cable  
13 television or advanced telecommunications services.

14 Sec. 3839.156. BONDS AND OTHER OBLIGATIONS. (a) The  
15 district may issue bonds or other obligations, by competitive bid  
16 or negotiated sale, payable wholly or partly from taxes,  
17 assessments, impact fees, revenue, grants, or other money of the  
18 district, or any combination of those sources of money, to pay for  
19 any authorized purpose of the district.

20 (b) In exercising the district's power to borrow, the  
21 district may issue a bond or other obligation in the form of a bond,  
22 note, certificate of participation or other instrument evidencing a  
23 proportionate interest in payments to be made by the district, or  
24 other type of obligation.

25 (c) A petition is not required to issue bonds under this  
26 section.

27 Sec. 3839.157. BOND ELECTIONS. (a) The district shall hold

1 an election in the manner provided by Subchapter L, Chapter 375,  
2 Local Government Code, to obtain voter approval before the district  
3 issues bonds.

4 (b) The board may include more than one purpose in a single  
5 proposition at an election.

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

8 Sec. 3839.158. CITY NOT REQUIRED TO PAY DISTRICT  
9 OBLIGATIONS. Except as provided by Section 375.263, Local  
10 Government Code, the City of Houston is not required to pay a bond,  
11 note, or other obligation of the district.

12 Sec. 3839.159. COMPETITIVE BIDDING. Section 375.221, Local  
13 Government Code, applies to the district only for a contract that  
14 has a value greater than \$25,000.

15 [Sections 3839.160-3839.200 reserved for expansion]

16 SUBCHAPTER E. DISSOLUTION

17 Sec. 3839.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING  
18 DEBT. (a) The board may dissolve the district regardless of  
19 whether the district has debt. Section 375.264, Local Government  
20 Code, does not apply to the district.

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

25 SECTION 2. BOUNDARIES. As of the effective date of this  
26 Act, the Southampton Neighborhood Services District includes all  
27 territory contained in the following described area: from the

1 intersection of the centerline of the right of way of Bissonnet  
2 Street and the centerline of the right of way of Greenbriar Drive,  
3 south to the intersection of the centerline of the right of way of  
4 Greenbriar Drive and the centerline of the right of way of Rice  
5 Boulevard, east to the intersection of the centerline of the right  
6 of way of Rice Boulevard and the centerline of the right of way of  
7 Ashby Street, north to the intersection of the centerline of the  
8 right of way of Ashby Street and the centerline of the right of way  
9 of Bissonnet Street, west to the intersection of the centerline of  
10 the right of way of Bissonnet Street and the centerline of the right  
11 of way of Greenbriar Drive, the point or place of beginning.

12 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds  
13 that:

14 (1) proper and legal notice of the intention to  
15 introduce this Act, setting forth the general substance of this  
16 Act, has been published as provided by law, and the notice and a  
17 copy of this Act have been furnished to all persons, agencies,  
18 officials, or entities to which they are required to be furnished by  
19 the constitution and laws of this state, including the governor,  
20 who has submitted the notice and Act to the Texas Commission on  
21 Environmental Quality;

22 (2) the Texas Commission on Environmental Quality has  
23 filed its recommendations relating to this Act with the governor,  
24 lieutenant governor, and speaker of the house of representatives  
25 within the required time;

26 (3) the general law relating to consent by political  
27 subdivisions to the creation of districts with conservation,

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

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

7 SECTION 4. EFFECTIVE DATE. This Act takes effect  
8 immediately if it receives a vote of two-thirds of all the members  
9 elected to each house, as provided by Section 39, Article III, Texas  
10 Constitution. If this Act does not receive the vote necessary for  
11 immediate effect, this Act takes effect September 1, 2005.