

By: Ellis

S.B. No. 993

A BILL TO BE ENTITLED

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AN ACT

relating to the creation of the Harris County Improvement District No. 5; 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 3834 to read as follows:

CHAPTER 3834. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3834.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Harris County Improvement District No. 5.

Sec. 3834.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5.

The Harris County Improvement District No. 5 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3834.003. 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 services provided in the  
13 area in the district.

14 Sec. 3834.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

15 (a) 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, potential employees, employees, visitors,  
3 and consumers in the 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 residential neighborhood and a  
7 commercially viable area; and

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

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

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

20           Sec. 3834.005. DISTRICT TERRITORY. The district is  
21 composed of the territory described by Section 2 of the Act enacting  
22 this chapter, as that territory may have been modified under:

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

24                   (2) other law.

25           Sec. 3834.006. APPLICABILITY OF MUNICIPAL MANAGEMENT  
26 DISTRICTS LAW. Except as otherwise provided by this chapter,  
27 Chapter 375, Local Government Code, applies to the district.

1       Sec. 3834.007. LIBERAL CONSTRUCTION OF CHAPTER. This  
2 chapter shall be liberally construed in conformity with the  
3 findings and purposes stated in this chapter.

4       [Sections 3834.008-3834.050 reserved for expansion]

5               SUBCHAPTER B. BOARD OF DIRECTORS

6       Sec. 3834.051. BOARD OF DIRECTORS; TERMS. (a) The  
7 district is governed by a board of 11 voting directors who serve  
8 staggered terms of four years, with five or six directors' terms  
9 expiring June 1 of each odd-numbered year.

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

14       Sec. 3834.052. QUALIFICATIONS. (a) Three voting  
15 directors on the board must reside in a residential area adjacent to  
16 the district and eight voting directors must represent commercial  
17 property owners or tenants in the district.

18       (b) If the total number of voting directors of the board is  
19 increased or reduced, the board must maintain the same percentage  
20 of representation of residential and commercial areas on the board.

21       Sec. 3834.053. APPOINTMENT OF DIRECTORS. The mayor and  
22 members of the governing body of the City of Houston shall appoint  
23 directors from persons recommended by the board. A person is  
24 appointed if a majority of the members of the governing body,  
25 including the mayor, vote to appoint that person.

26       Sec. 3834.054. NONVOTING DIRECTORS. (a) The following  
27 persons serve as nonvoting directors:

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

3                   (A) parks and recreation;

4                   (B) planning and development; and

5                   (C) public works; and

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

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

14           Sec. 3834.055. QUORUM. (a) Section 375.071, Local  
15 Government Code, does not apply to the district.

16                   (b) A majority of the board is a quorum.

17                   (c) Nonvoting directors and vacant director positions are  
18 not counted for the purposes of establishing a board quorum.

19           Sec. 3834.056. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

20           (a) Except as provided by this section:

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

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

25                   (b) Section 171.004, Local Government Code, does not apply  
26 to the district. A director who has a substantial interest in a  
27 business or charitable entity that will receive a pecuniary benefit

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

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

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

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

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

17 Sec. 3834.057. INITIAL VOTING DIRECTORS. (a) The initial  
18 board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Laura Jaramillo</u>
<u>2</u>	<u>Sylvia Nguyen</u>
<u>3</u>	<u>C. Fred Meyer</u>
<u>4</u>	<u>Frank Rollow</u>
<u>5</u>	<u>Charles T. Spears</u>
<u>6</u>	<u>Etan Mirwis</u>
<u>7</u>	<u>Allen Goodlow</u>
<u>8</u>	<u>Elaine Gascamp</u>

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10 David Mincborg

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(b) Of the initial voting directors, the terms of directors appointed for positions 1 through 6 expire June 1, 2009, and the terms of directors appointed for positions 7 through 11 expire June 1, 2007.

(c) Section 3834.053 does not apply to this section.

(d) This section expires September 1, 2009.

[Sections 3834.058-3834.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3834.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes); and

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

Sec. 3834.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

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

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

3           (c) The board shall appoint the board of directors of the  
4 nonprofit corporation. The board of directors of the nonprofit  
5 corporation shall serve in the same manner as, for the same term as,  
6 and on the same conditions as the board of directors of a local  
7 government corporation created under Chapter 431, Transportation  
8 Code.

9           Sec. 3834.103. AGREEMENTS; GRANTS. (a) The district may  
10 make an agreement with or accept a gift, grant, or loan from any  
11 person.

12           (b) The implementation of a project is a governmental  
13 function or service for the purposes of Chapter 791, Government  
14 Code.

15           Sec. 3834.104. AUTHORITY TO CONTRACT FOR LAW  
16 ENFORCEMENT. To protect the public interest, the district may  
17 contract with Harris County or the City of Houston for the county or  
18 the city to provide law enforcement services in the district for a  
19 fee.

20           Sec. 3834.105. APPROVAL BY CITY OF HOUSTON. (a) Except as  
21 provided by Subsection (b), the district must obtain the approval  
22 of the City of Houston's governing body for:

23           (1) the issuance of a bond for each improvement  
24 project;

25           (2) the plans and specifications of the improvement  
26 project financed by the bond; and

27           (3) the plans and specifications of any district



1 improvement project related to the use of land owned by the City of  
2 Houston, an easement granted by the City of Houston, or a  
3 right-of-way of a street, road, or highway.

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

9 Sec. 3834.106. 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 (4), or (6), Internal Revenue Code of 1986; and

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

15 Sec. 3834.107. REMOVAL OF DANGEROUS BUILDINGS. (a) The  
16 district may cooperate with the City of Houston to have the City of  
17 Houston demolish and remove dangerous buildings in or outside the  
18 district as provided by this section.

19 (b) The district may cooperate with the City of Houston to  
20 demolish and remove dangerous buildings outside the district if:

21 (1) the district makes a determination that demolition  
22 and removal would benefit the district; and

23 (2) the City of Houston agrees.

24 (c) The district may borrow money to finance the demolition  
25 and removal of dangerous buildings under this section without  
26 complying with Section 3834.152.

27 (d) The City of Houston may reimburse the district for all

1 costs financed by the district from:

2 (1) the proceeds of foreclosure on any demolition lien  
3 on the property; or

4 (2) any other money the city collects or appropriates  
5 for the costs.

6 Sec. 3834.108. NOTICE. Notice required by Chapter 375,  
7 Local Government Code, may be sent by first class U.S. Mail rather  
8 than certified mail, return receipt requested, if the board of  
9 directors determines that first class mail is preferable and  
10 provides adequate notice. If the board determines that first class  
11 mail is preferable, the board must publish notice in a newspaper of  
12 general circulation in the district at least 20 days before the  
13 event of which the district is giving notice.

14 Sec. 3834.109. NO EMINENT DOMAIN. The district may not  
15 exercise the power of eminent domain.

16 [Sections 3834.110-3834.150 reserved for expansion]

17 SUBCHAPTER D. FINANCIAL PROVISIONS

18 Sec. 3834.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
19 board by resolution shall establish the number of directors'  
20 signatures and the procedure required for a disbursement or  
21 transfer of the district's money.

22 Sec. 3834.152. PETITION REQUIRED FOR FINANCING SERVICES AND  
23 IMPROVEMENTS. (a) The board may not finance a service or  
24 improvement project with assessments under this chapter unless a  
25 written petition requesting that service or improvement has been  
26 filed with the board.

27 (b) A petition requesting a project financed by assessment

1 must be signed by:

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

5 (2) at least 50 owners of real property in the district  
6 that will be subject to the assessment, if more than 50 persons own  
7 real property subject to the assessment in the district according  
8 to the most recent certified tax appraisal roll for Harris County.

9 Sec. 3834.153. MAINTENANCE TAX. (a) If authorized at an  
10 election held in accordance with Section 3834.157, the district may  
11 impose an annual ad valorem tax on taxable property in the district  
12 to:

- 13 (1) administer the district;  
14 (2) maintain and operate the district;  
15 (3) construct or acquire improvements; or  
16 (4) provide a service.

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

18 Sec. 3834.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
19 The board by resolution may impose and collect an assessment for any  
20 purpose authorized by this chapter.

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 a 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 board's  
8 resolution 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 a correction to or deletion from the  
12 assessment roll that does not increase the amount of assessment of  
13 any parcel of land without providing notice and holding a hearing in  
14 the manner required for additional assessments.

15           Sec. 3834.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND  
16 ASSESSMENTS. The district may not impose an impact fee or  
17 assessment on the property, including the equipment,  
18 rights-of-way, facilities, or improvements, of:

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

21           (2) a gas utility as defined by Section 101.003 or  
22 121.001, Utilities Code;

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

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

27           Sec. 3834.156. BONDS AND OTHER OBLIGATIONS. (a) The

1 district may issue bonds or other obligations payable wholly or  
2 partly from assessments, impact fees, revenue, grants, or other  
3 money of the district, or any combination of those sources of money,  
4 to pay for any authorized purpose of the district.

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

10 Sec. 3834.157. TAX AND BOND ELECTIONS. (a) The district  
11 shall hold an election in the manner provided by Subchapter L,  
12 Chapter 375, Local Government Code, to obtain voter approval before  
13 the district imposes a maintenance tax or issues bonds payable from  
14 ad valorem taxes.

15 (b) The board may not include more than one purpose in a  
16 single proposition at an election.

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

19 Sec. 3834.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
20 OBLIGATIONS. Except as provided by Section 375.263, Local  
21 Government Code, a municipality is not required to pay a bond, note,  
22 or other obligation of the district.

23 Sec. 3834.159. COMPETITIVE BIDDING. Section 375.221, Local  
24 Government Code, applies to the district only for a contract that  
25 has a value greater than \$25,000.

26 [Sections 3834.160-3834.200 reserved for expansion]

1                                    SUBCHAPTER E. DISSOLUTION

2                    Sec. 3834.201. 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 Harris  
11 County Improvement District No. 5 includes all territory contained  
12 in the following described area:

13                    Beginning at point approximately 600 feet from the  
14 intersection of the south right-of-way line of Murphy Road and the  
15 south right-of-way line of Highway 59;

16                    Thence in a northeasterly direction along the southeast  
17 right-of-way line of Highway 59 approximately 10,900 feet to the  
18 south right-of-way line of Bissonnet Street;

19                    Thence in an easterly direction along the south right-of-way  
20 line of Bissonnet Street a distance of approximately 3,500 feet to  
21 the east right-of-way line of South Gessner Boulevard;

22                    Thence in a southerly direction along the east right-of-way  
23 line of South Gessner Boulevard a distance of approximately 1,100  
24 feet to the north right-of-way line of Braeswood Bayou;

25                    Thence in an easterly direction along the north right-of-way  
26 line of Braeswood Bayou a distance of approximately 9,500 feet to  
27 the east right-of-way line of Hillcroft Avenue;

1           Thence in a southerly direction along the east right-of-way  
2 line of Hillcroft Avenue a distance of approximately 3,800 feet to  
3 the south right-of-way line of Willowbend Drive;

4           Thence in a westerly direction along the south right-of-way  
5 line of Willowbend Drive a distance of approximately 1,500 feet to  
6 east line of Harris County Flood Control Ditch D-139-03;

7           Thence in a southerly direction along the east line of Harris  
8 County Flood Control Ditch 139-03 continuing south along the east  
9 line of Harris County Flood Control Ditch 140-05-02 continuing  
10 further south along the east line of Harris County Flood Control  
11 Ditch 140-05-01 a total distance of approximately 9,500 feet to the  
12 north right-of-way line of Highway 90A;

13           Thence in an easterly direction along the north right-of-way  
14 line of Highway 90A a distance of approximately 4,600 feet to the  
15 east line of Harris County Flood Control Ditch C-156;

16           Thence crossing Highway 90A in a southerly direction along  
17 the east line of Harris County Flood Control Ditch C-156 a distance  
18 of approximately 3,900 feet to the south right-of-way line of West  
19 Orem Drive;

20           Thence in a westerly direction along the south right-of-way  
21 line of West Orem Drive a distance of approximately 3,200 feet to  
22 the east right-of-way line of Blue Ridge Drive;

23           Thence in a southerly direction along the east right-of-way  
24 line of Blue Ridge Drive a distance of approximately 4,300 feet to  
25 the south right-of-way line of Sam Houston Tollway (Beltway 8);

26           Thence in a northwesterly direction along the south  
27 right-of-way line of Sam Houston Tollway a distance of

1 approximately 13,800 feet to the east line of Reserve D, Block 1,  
2 Sanders Ridge Replat;

3 Thence in a southwesterly direction along east line of  
4 Reserve D, Block 1, Sanders Ridge Replat a distance of  
5 approximately 1,900 feet to the north right-of-way line of Cravens  
6 Street;

7 Thence in a northwesterly direction along the north  
8 right-of-way line of Cravens Street a distance of approximately  
9 1,100 feet to the south right-of-way line of Stafford Road;

10 Thence in a northeasterly direction along the south  
11 right-of-way line of Stafford Road a distance of approximately  
12 1,500 feet to a point;

13 Thence in a westerly direction a distance of approximately  
14 1,000 feet to the west right-of-way line of New Stafford Road;

15 Thence in a northwesterly direction along the west  
16 right-of-way line of New Stafford Road a distance of approximately  
17 300 feet to the south right-of-way line of West Airport Boulevard;

18 Thence in a westerly direction along the south right-of-way  
19 line of West Airport Boulevard a distance of approximately 2,800  
20 feet to the east line of Harris County Flood Control Ditch D-118-05;

21 Thence in a northerly direction along the east line of Harris  
22 County Flood Control Ditch D-118-05 a distance of approximately  
23 2,200 feet to the south right-of-way line of Dorrance Street;

24 Thence in a westerly direction along the south right-of-way  
25 line of Dorrance Street a distance of approximately 4,500 feet to  
26 the south right-of-way line of Highway 59 and the Point of Beginning

27 SAVE AND EXCEPT all property or lots that have been plated and



1 recorded for use solely for single family residential purposes, are  
2 designated by the Harris County Appraisal District as single-family  
3 residential or are otherwise determined to be single-family  
4 residential.

5 SECTION 3. The Harris County Improvement District No. 5 may  
6 reimburse the cost of creating the district from assessments or  
7 other revenues created by the district.

8 SECTION 4. The legislature finds that:

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

17 (2) the Texas Commission on Environmental Quality has  
18 filed its recommendations relating to this Act with the governor,  
19 lieutenant governor, and speaker of the house of representatives  
20 within the required time;

21 (3) the general law relating to consent by political  
22 subdivisions to the creation of districts with conservation,  
23 reclamation, and road powers and the inclusion of land in those  
24 districts has been complied with; and

25 (4) all requirements of the constitution and laws of  
26 this state and the rules and procedures of the legislature with  
27 respect to the notice, introduction, and passage of this Act have

1    been fulfilled and accomplished.

2           SECTION 5. This Act takes effect immediately if it receives  
3    a vote of two-thirds of all the members elected to each house, as  
4    provided by Section 39, Article III, Texas Constitution. If this  
5    Act does not receive the vote necessary for immediate effect, this  
6    Act takes effect September 1, 2005.