

By: Gallegos

S.B. No. 1764

A BILL TO BE ENTITLED

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

AN ACT

relating to the creation of the Airline Improvement 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. AIRLINE IMPROVEMENT DISTRICT. Subtitle C, Title
4, Special District Local Laws Code, is amended by adding Chapter
3847 to read as follows:

CHAPTER 3847. AIRLINE IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3847.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Airline Improvement
District.

Sec. 3847.002. AIRLINE IMPROVEMENT DISTRICT. The Airline
Improvement District is a special district created under Section
59, Article XVI, Texas Constitution.

Sec. 3847.003. 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.

(b) The creation of the district is necessary to promote,

1 develop, encourage, and maintain employment, commerce,
2 transportation, housing, tourism, recreation, the arts,
3 entertainment, economic development, safety, and the public
4 welfare in the district.

5 (c) This chapter and the creation of the district may not be
6 interpreted to relieve Harris County from providing the level of
7 services provided as of the effective date of this Act to the area
8 in the district or to release the county from the obligations of the
9 county to provide services to that area. The district is created to
10 supplement and not to supplant the county services provided in the
11 area in the district.

12 Sec. 3847.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

13 (a) The district is created to serve a public use and benefit.

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

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

21 (1) further the public purposes of developing and
22 diversifying the economy of the state;

23 (2) eliminate unemployment and underemployment; and

24 (3) develop or expand transportation and commerce.

25 (d) The district will:

26 (1) promote the health, safety, and general welfare of
27 residents, employers, potential employees, employees, visitors,

1 and consumers in the district, and of the public;

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

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

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

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

17 Sec. 3847.005. DISTRICT TERRITORY. (a) The district is
18 composed of the territory described by Section 2 of the Act enacting
19 this chapter, as that territory may have been modified under:

20 (1) Section 3847.006;

21 (2) Subchapter J, Chapter 49, Water Code; or

22 (3) other law.

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

27 (1) organization, existence, or validity;

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

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

5 (4) legality or operation.

6 Sec. 3847.006. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING
7 BODY OF MUNICIPALITY. (a) If territory in the City of Houston's
8 limit or extraterritorial jurisdiction is included in the district,
9 the city's governing body may remove that territory from the
10 district if the district does not have any bonded indebtedness.

11 (b) To remove the territory, the governing body of the City
12 of Houston must notify the board secretary in writing that the
13 territory is excluded from the district's territory.

14 (c) If a municipality annexes territory that is in its
15 extraterritorial jurisdiction and included in the district, the
16 governing body of the municipality shall notify the board secretary
17 in writing that the annexed territory is excluded from the
18 district's territory.

19 Sec. 3847.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
20 DISTRICTS LAW. Except as otherwise provided by this chapter,
21 Chapter 375, Local Government Code, applies to the district.

22 Sec. 3847.008. LIBERAL CONSTRUCTION OF CHAPTER. This
23 chapter shall be liberally construed in conformity with the
24 findings and purposes stated in this chapter.

25 [Sections 3847.009-3847.050 reserved for expansion]

26 SUBCHAPTER B. BOARD OF DIRECTORS

27 Sec. 3847.051. BOARD OF DIRECTORS; TERMS. (a) The

1 district is governed by a board of nine voting directors who serve
2 staggered terms of four years, with four or five directors' terms
3 expiring June 1 of each odd-numbered year.

4 (b) Two voting directors must reside in the district.

5 (c) The board by resolution may change the number of voting
6 directors on the board, but only if the board determines that the
7 change is in the best interest of the district, subject to Section
8 375.061, Local Government Code.

9 Sec. 3847.052. APPOINTMENT AND REMOVAL OF DIRECTORS.

10 Sections 375.064 and 375.065, Local Government Code, govern the
11 appointment and removal of voting directors, except that for
12 purposes of this chapter references in those sections to the
13 governing body of the municipality mean the commissioners court of
14 Harris County.

15 Sec. 3847.053. NONVOTING DIRECTORS. The board may appoint
16 nonvoting directors to serve at the pleasure of the voting
17 directors.

18 Sec. 3847.054. QUORUM. (a) Section 375.071, Local
19 Government Code, does not apply to the district.

20 (b) One-half of the board constitutes a quorum.

21 (c) Except as provided by Section 3847.152, a concurrence
22 of a majority of a quorum is required for any official district
23 action.

24 (d) Nonvoting directors are not counted for the purposes of
25 establishing a board quorum.

26 Sec. 3847.055. INITIAL VOTING DIRECTORS. (a) The initial
27 board consists of the following voting directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
1		
2	<u>1</u>	<u>Pete Calderon</u>
3	<u>2</u>	<u>Edie Knox</u>
4	<u>3</u>	<u>Randy Sim</u>
5	<u>4</u>	<u>John Martin</u>
6	<u>5</u>	<u>Glen Nitsch</u>
7	<u>6</u>	<u>Zera Presley</u>
8	<u>7</u>	<u>Mark Cross</u>
9	<u>8</u>	<u>Charles Warren</u>
10	<u>9</u>	<u>David Ybarra</u>

11 (b) Of the initial voting directors, the terms of directors
12 appointed for positions 1 through 4 expire June 1, 2007, and the
13 terms of directors appointed for positions 5 through 9 expire June
14 1, 2009.

15 (c) Section 3847.052 does not apply to this section.

16 (d) This section expires September 1, 2009.

17 [Sections 3847.056-3847.100 reserved for expansion]

18 SUBCHAPTER C. POWERS AND DUTIES

19 Sec. 3847.101. EXERCISE OF POWERS OF DEVELOPMENT
20 CORPORATION. The district may exercise the powers of a corporation
21 created under Section 4B, Development Corporation Act of 1979
22 (Article 5190.6, Vernon's Texas Civil Statutes).

23 Sec. 3847.102. NONPROFIT CORPORATION. (a) The board by
24 resolution may authorize the creation of a nonprofit corporation to
25 assist and act for the district in implementing a project or
26 providing a service authorized by this chapter.

27 (b) The nonprofit corporation:

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

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

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

12 Sec. 3847.103. CONTRACT WITH POLITICAL SUBDIVISION. Harris
13 County, the City of Houston, or another political subdivision of
14 this state, without further authorization, may contract with the
15 district to implement a project of the district or assist the
16 district in providing a service authorized under this chapter. A
17 contract under this section may:

18 (1) be for a period on which the parties agree;
19 (2) include terms on which the parties agree;
20 (3) be payable from taxes or any other source of
21 revenue that may be available for that project or service; and

22 (4) provide terms under which taxes or other revenue
23 collected at a district project or from a person using or purchasing
24 a commodity or service at a district project may be paid or rebated
25 to the district.

26 Sec. 3847.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
27 To protect the public interest, the district may contract with

1 Harris County or the City of Houston for the county or the city to
2 provide law enforcement services in the district for a fee.

3 Sec. 3847.105. APPROVAL BY CITY OF HOUSTON. (a) Except as
4 provided by Subsection (b), the district must obtain the approval
5 of the City of Houston's governing body:

6 (1) for the issuance of a bond for each improvement
7 project;

8 (2) of the plans and specifications of the improvement
9 project financed by the bond; and

10 (3) of the plans and specifications of any district
11 improvement project related to the use of land owned by Harris
12 County, an easement granted by Harris County, or a right-of-way of a
13 street, road, or highway.

14 (b) If the district obtains the approval of the City of
15 Houston's governing body of a capital improvements budget for a
16 period not to exceed five years, the district may finance the
17 capital improvements and issue bonds specified in the budget
18 without further approval from the City of Houston.

19 Sec. 3847.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
20 district may join and pay dues to an organization that:

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

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

25 Sec. 3847.107. NO EMINENT DOMAIN. The district may not
26 exercise the power of eminent domain.

27 [Sections 3847.108–3847.150 reserved for expansion]

1 SUBCHAPTER D. FINANCIAL PROVISIONS

2 Sec. 3847.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
3 board by resolution shall establish the number of directors'
4 signatures and the procedure required for a disbursement or
5 transfer of the district's money.

6 Sec. 3847.152. BOARD VOTE REQUIRED TO AUTHORIZE TAXES,
7 ASSESSMENTS, IMPACT FEES, OR BONDS. (a) A majority vote of the
8 directors serving is required to authorize the imposition of a tax,
9 assessment, or impact fee.

10 (b) The written consent of at least two-thirds of all voting
11 directors is required to authorize the issuance of a bond.

12 Sec. 3847.153. MAINTENANCE TAX. (a) If authorized at an
13 election held in accordance with Section 3847.157, the district may
14 impose an annual ad valorem tax on taxable property in the district
15 to:

- 16 (1) maintain and operate the district;
- 17 (2) construct or acquire improvements; or
- 18 (3) provide a service.

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

20 Sec. 3847.154. SALES AND USE TAX. (a) The district may
21 impose a sales and use tax if authorized by a majority of the voters
22 of the district voting at an election called for that purpose.
23 Revenue from the tax may be used for any purpose for which ad
24 valorem tax revenue of the district may be used.

25 (b) The district may not adopt a sales and use tax if as a
26 result of the adoption of the tax the combined rate of all sales and
27 use taxes imposed by the district and other political subdivisions

1 of this state having territory in the district would exceed two
2 percent at any location in the district.

3 (c) If the voters of the district approve the adoption of
4 the tax at an election held on the same election date on which
5 another political subdivision adopts a sales and use tax or
6 approves an increase in the rate of its sales and use tax and as a
7 result the combined rate of all sales and use taxes imposed by the
8 district and other political subdivisions of this state having
9 territory in the district would exceed two percent at any location
10 in the district, the election to adopt a sales and use tax under
11 this chapter has no effect.

12 Sec. 3847.155. ASSESSMENTS; LIENS FOR ASSESSMENTS.

13 (a) The board by resolution may impose and collect an assessment
14 for any purpose authorized by this chapter.

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

20 (1) are a first and prior lien against the property
21 assessed;

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

25 (3) are the personal liability of and a charge against
26 the owners of the property even if the owners are not named in the
27 assessment proceedings.

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

5 Sec. 3847.156. PROPERTY EXEMPT FROM IMPACT FEES AND
6 ASSESSMENTS. (a) The district may not impose an impact fee or
7 assessment under Chapter 375, Local Government Code, on a
8 residential property, including a multiunit residential property,
9 or a condominium.

10 (b) The district may not impose an impact fee or assessment
11 on the property, including the equipment, rights-of-way,
12 facilities, or improvements, of:

13 (1) an electric utility as defined by Section 31.002,
14 Utilities Code; or

15 (2) a telecommunications provider as defined by
16 Section 51.002, Utilities Code.

17 Sec. 3847.157. ELECTIONS REGARDING TAXES OR BONDS. (a) In
18 addition to the elections required under Subchapter L, Chapter 375,
19 Local Government Code, the district must hold an election in the
20 manner provided by that subchapter to obtain voter approval before
21 the district may:

22 (1) impose a maintenance tax; or

23 (2) issue a bond payable from ad valorem taxes or
24 assessments.

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

27 Sec. 3847.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT

1 OBLIGATIONS. Except as provided by Section 375.263, Local
2 Government Code, a municipality is not required to pay a bond, note,
3 or other obligation of the district.

4 [Sections 3847.159-3847.200 reserved for expansion]

5 SUBCHAPTER E. DISSOLUTION

6 Sec. 3847.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
7 DEBT. (a) The board may dissolve the district regardless of
8 whether the district has debt. Section 375.264, Local Government
9 Code, does not apply to the district.

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

14 SECTION 2. BOUNDARIES. As of the effective date of this
15 Act, the Airline Improvement District includes all territory
16 contained in the following described area:

17 Beginning at the northeast corner of Canino and Sweetwater

18 Thence north along the east right-of-way line of Sweetwater a
19 distance of approximately 2.7 miles to the south right-of-way line
20 of West Road

21 Thence along the south right-of-way line of West Road
22 approximately 0.2 miles to the east right-of-way line of Airline
23 Drive

24 Thence south along the east right-of-way line of Airline
25 Drive a distance of approximately 0.9 miles to Aldine Mail Route

26 Thence east a distance of approximately 1.5 miles to the east
27 right-of-way line of Hardy Road

1 Thence south along the east right-of-way line of Hardy Road a
2 distance of approximately 1.1 miles to the City of Houston City
3 limits

4 Thence southwest along the north side of the City of Houston
5 City limits a distance of approximately 0.5 miles

6 Thence south a distance of approximately 0.3 miles along the
7 west side of the city limits

8 Thence east a distance of approximately 233 feet along the
9 south side of the city limits

10 Thence south a distance of approximately 0.2 miles to the
11 north right-of-way line of Carby Road

12 Thence west along the north right-of-way line of Carby Road a
13 distance of approximately 0.8 miles to the west right-of-way line
14 of Airline Drive

15 Thence south on Airline Drive a distance of approximately 0.2
16 miles to Canino Road

17 Thence west along the north right-of-way line of Canino Road
18 a distance of approximately 1.3 miles to the north right-of-way
19 line of Canino Road and the Point of Beginning.

20 SAVE AND EXCEPT all tracts or parcels of land, rights-of-way,
21 facilities, and improvements owned by an electric utility as
22 defined by Section 31.002, Utilities Code.

23 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
24 that:

25 (1) proper and legal notice of the intention to
26 introduce this Act, setting forth the general substance of this
27 Act, has been published as provided by law, and the notice and a

1 copy of this Act have been furnished to all persons, agencies,
2 officials, or entities to which they are required to be furnished by
3 the constitution and laws of this state, including the governor,
4 who has submitted the notice and Act to the Texas Commission on
5 Environmental Quality;

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

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

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

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