

By: Gallegos

S.B. No. 1764

A BILL TO BE ENTITLED

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
3830 to read as follows:

CHAPTER 3830. AIRLINE IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3830.001. DEFINITIONS. In this chapter:

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

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

Sec. 3830.002. AIRLINE IMPROVEMENT DISTRICT. The Airline
Improvement District is a special district created under Section
59, Article XVI, Texas Constitution.

Sec. 3830.003. 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. 3830.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
13 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. 3830.005. 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 3830.006;

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;
5 or

6 (4) legality or operation.

7 Sec. 3830.006. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING
8 BODY OF MUNICIPALITY. (a) If territory in the City of Houston's
9 limit or extraterritorial jurisdiction is included in the district,
10 the city's governing body may remove that territory from the
11 district if the district does not have any bonded indebtedness.

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

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

20 Sec. 3830.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
21 DISTRICTS LAW. Except as otherwise provided by this chapter,
22 Chapter 375, Local Government Code, applies to the district.

23 Sec. 3830.008. LIBERAL CONSTRUCTION OF CHAPTER. This
24 chapter shall be liberally construed in conformity with the
25 findings and purposes stated in this chapter.

26 [Sections 3830.009-3830.050 reserved for expansion]

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 3830.051. BOARD OF DIRECTORS; TERMS. (a) The
3 district is governed by a board of nine voting directors who serve
4 staggered terms of four years, with four or five directors' terms
5 expiring June 1 of each odd-numbered year.

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

7 (c) The board by resolution may change the number of voting
8 directors on the board, but only if the board determines that the
9 change is in the best interest of the district, subject to Section
10 375.061, Local Government Code.

11 Sec. 3830.052. APPOINTMENT AND REMOVAL OF DIRECTORS.
12 Sections 375.064 and 375.065, Local Government Code, govern the
13 appointment and removal of voting directors, except that for
14 purposes of this chapter references in those sections to the
15 governing body of the municipality mean the commissioners court of
16 Harris County.

17 Sec. 3830.053. NONVOTING DIRECTORS. The board may appoint
18 nonvoting directors to serve at the pleasure of the voting
19 directors.

20 Sec. 3830.054. QUORUM. (a) Section 375.071, Local
21 Government Code, does not apply to the district.

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

23 (c) Except as provided by Section 3830.152, a concurrence of
24 a majority of a quorum is required for any official district action.

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

27 Sec. 3830.055. INITIAL VOTING DIRECTORS. (a) The initial

1 board consists of the following voting directors:

| 2 | <u>Pos. No.</u> | <u>Name of Director</u> |
|----|-----------------|-----------------------------|
| 3 | <u>1</u> | <u>Pete Calderon</u> |
| 4 | <u>2</u> | <u>Edie Knox</u> |
| 5 | <u>3</u> | <u>Randy Sim</u> |
| 6 | <u>4</u> | <u>John Martin</u> |
| 7 | <u>5</u> | <u>Glen Nitsch</u> |
| 8 | <u>6</u> | <u>Zera Presley</u> |
| 9 | <u>7</u> | <u> </u> |
| 10 | <u>8</u> | <u>Charles Warren</u> |
| 11 | <u>9</u> | <u>David Ybarra</u> |

12 (b) Of the initial voting directors, the terms of directors
13 appointed for positions 1 through 4 expire June 1, 2007, and the
14 terms of directors appointed for positions 5 through 9 expire June
15 1, 2009.

16 (c) Section 3830.052 does not apply to this section.

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

18 [Sections 3830.056-3830.100 reserved for expansion]

19 SUBCHAPTER C. POWERS AND DUTIES

20 Sec. 3830.101. EXERCISE OF POWERS OF DEVELOPMENT
21 CORPORATION. The district may exercise the powers of a corporation
22 created under Section 4B, Development Corporation Act of 1979
23 (Article 5190.6, Vernon's Texas Civil Statutes).

24 Sec. 3830.102. NONPROFIT CORPORATION. (a) The board by
25 resolution may authorize the creation of a nonprofit corporation to
26 assist and act for the district in implementing a project or
27 providing a service authorized by this chapter.

1 (b) The nonprofit corporation:

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

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

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

13 Sec. 3830.103. CONTRACT WITH POLITICAL SUBDIVISION. Harris
14 County, the City of Houston, or another political subdivision of
15 this state, without further authorization, may contract with the
16 district to implement a project of the district or assist the
17 district in providing a service authorized under this chapter. A
18 contract under this section may:

19 (1) be for a period on which the parties agree;

20 (2) include terms on which the parties agree;

21 (3) be payable from taxes or any other source of
22 revenue that may be available for that project or service; and

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

27 Sec. 3830.104. AUTHORITY TO CONTRACT FOR LAW

1 ENFORCEMENT. To protect the public interest, the district may
2 contract with Harris County or the City of Houston for the county or
3 the city to provide law enforcement services in the district for a
4 fee.

5 Sec. 3830.105. APPROVAL BY CITY OF HOUSTON. (a) Except as
6 provided by Subsection (b), the district must obtain the approval
7 of the City of Houston's governing body:

8 (1) for the issuance of a bond for each improvement
9 project;

10 (2) of the plans and specifications of the improvement
11 project financed by the bond; and

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

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

21 Sec. 3830.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
22 district may join and pay dues to an organization that:

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

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

27 Sec. 3830.107. NO EMINENT DOMAIN. The district may not

1 exercise the power of eminent domain.

2 [Sections 3830.108-3830.150 reserved for expansion]

3 SUBCHAPTER D. FINANCIAL PROVISIONS

4 Sec. 3830.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
5 board by resolution shall establish the number of directors'
6 signatures and the procedure required for a disbursement or
7 transfer of the district's money.

8 Sec. 3830.152. BOARD VOTE REQUIRED TO AUTHORIZE TAXES,
9 ASSESSMENTS, IMPACT FEES, OR BONDS. (a) A majority vote of the
10 directors serving is required to authorize the imposition of a tax,
11 assessment, or impact fee.

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

14 Sec. 3830.153. MAINTENANCE TAX. (a) If authorized at an
15 election held in accordance with Section 3830.157, the district may
16 impose an annual ad valorem tax on taxable property in the district
17 to:

18 (1) maintain and operate the district;

19 (2) construct or acquire improvements; or

20 (3) provide a service.

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

22 Sec. 3830.154. SALES AND USE TAX. (a) The district may
23 impose a sales and use tax if authorized by a majority of the voters
24 of the district voting at an election called for that purpose.
25 Revenue from the tax may be used for any purpose for which ad
26 valorem tax revenue of the district may be used.

27 (b) The district may not adopt a sales and use tax if as a

1 result of the adoption of the tax the combined rate of all sales and
2 use taxes imposed by the district and other political subdivisions
3 of this state having territory in the district would exceed two
4 percent at any location in the district.

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

14 Sec. 3830.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
15 The board by resolution may impose and collect an assessment for any
16 purpose authorized by this chapter.

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

22 (1) are a first and prior lien against the property
23 assessed;

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

27 (3) are the personal liability of and a charge against

1 the owners of the property even if the owners are not named in the
2 assessment proceedings.

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

7 Sec. 3830.156. PROPERTY EXEMPT FROM IMPACT FEES AND
8 ASSESSMENTS. (a) In this section, "electric utility" has the
9 meaning assigned by Section 31.002, Utilities Code.

10 (b) The district may not impose an impact fee or assessment
11 under Chapter 375, Local Government Code, on a residential
12 property, including a multiunit residential property, or a
13 condominium.

14 (c) The district may not impose an impact fee or assessment
15 on the property of an electric utility.

16 Sec. 3830.157. ELECTIONS REGARDING TAXES OR BONDS. (a) In
17 addition to the elections required under Subchapter L, Chapter 375,
18 Local Government Code, the district must hold an election in the
19 manner provided by that subchapter to obtain voter approval before
20 the district may:

- 21 (1) impose a maintenance tax; or
22 (2) issue a bond payable from ad valorem taxes or
23 assessments.

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

26 Sec. 3830.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
27 OBLIGATIONS. Except as provided by Section 375.263, Local

1 Government Code, a municipality is not required to pay a bond, note,
2 or other obligation of the district.

3 [Sections 3830.159-3830.200 reserved for expansion]

4 SUBCHAPTER E. DISSOLUTION

5 Sec. 3830.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
6 DEBT. (a) The board may dissolve the district regardless of
7 whether the district has debt. Section 375.264, Local Government
8 Code, does not apply to the district.

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

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

16 Beginning at the northeast corner of Canino and Sweetwater

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

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

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

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

27 Thence south along the east right-of-way line of Hardy Road a

1 distance of approximately 1.1 miles to the City of Houston City
2 limits

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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