

1-1 By: Gallegos S.B. No. 1764  
1-2 (In the Senate - Filed March 11, 2005; March 30, 2005, read  
1-3 first time and referred to Subcommittee on Emerging Technologies  
1-4 and Economic Development; April 11, 2005, reported favorably to  
1-5 Committee on Business and Commerce; April 25, 2005, reported  
1-6 adversely, with favorable Committee Substitute from Committee on  
1-7 Business and Commerce by the following vote: Yeas 6, Nays 0;  
1-8 April 25, 2005, sent to printer.)

1-9 COMMITTEE SUBSTITUTE FOR S.B. No. 1764 By: Brimer

1-10 A BILL TO BE ENTITLED  
1-11 AN ACT

1-12 relating to the creation of the Airline Improvement District;  
1-13 providing authority to impose a tax and issue a bond or similar  
1-14 obligation.

1-15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-16 SECTION 1. AIRLINE IMPROVEMENT DISTRICT. Subtitle C, Title  
1-17 4, Special District Local Laws Code, is amended by adding Chapter  
1-18 3847 to read as follows:

1-19 CHAPTER 3847. AIRLINE IMPROVEMENT DISTRICT

1-20 SUBCHAPTER A. GENERAL PROVISIONS

1-21 Sec. 3847.001. DEFINITIONS. In this chapter:

1-22 (1) "Board" means the board of directors of the  
1-23 district.

1-24 (2) "District" means the Airline Improvement  
1-25 District.

1-26 Sec. 3847.002. AIRLINE IMPROVEMENT DISTRICT. The Airline  
1-27 Improvement District is a special district created under Section  
1-28 59, Article XVI, Texas Constitution.

1-29 Sec. 3847.003. PURPOSE; DECLARATION OF INTENT. (a) The  
1-30 creation of the district is essential to accomplish the purposes of  
1-31 Sections 52 and 52-a, Article III, and Section 59, Article XVI,  
1-32 Texas Constitution, and other public purposes stated in this  
1-33 chapter.

1-34 (b) The creation of the district is necessary to promote,  
1-35 develop, encourage, and maintain employment, commerce,  
1-36 transportation, housing, tourism, recreation, the arts,  
1-37 entertainment, economic development, safety, and the public  
1-38 welfare in the district.

1-39 (c) This chapter and the creation of the district may not be  
1-40 interpreted to relieve Harris County from providing the level of  
1-41 services provided as of the effective date of this Act, to the area  
1-42 in the district or to release the county from the obligations of the  
1-43 county to provide services to that area. The district is created to  
1-44 supplement and not to supplant the county services provided in the  
1-45 area in the district.

1-46 Sec. 3847.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1-47 (a) The district is created to serve a public use and benefit.

1-48 (b) All land and other property included in the district  
1-49 will benefit from the improvements and services to be provided by  
1-50 the district under powers conferred by Sections 52 and 52-a,  
1-51 Article III, and Section 59, Article XVI, Texas Constitution, and  
1-52 other powers granted under this chapter.

1-53 (c) The creation of the district is in the public interest  
1-54 and is essential to:

1-55 (1) further the public purposes of developing and  
1-56 diversifying the economy of the state;

1-57 (2) eliminate unemployment and underemployment; and

1-58 (3) develop or expand transportation and commerce.

1-59 (d) The district will:

1-60 (1) promote the health, safety, and general welfare of  
1-61 residents, employers, potential employees, employees, visitors,  
1-62 and consumers in the district, and of the public;

1-63 (2) provide needed funding for the district to

2-1 preserve, maintain, and enhance the economic health and vitality of  
2-2 the district territory as a community and business center; and

2-3 (3) promote the health, safety, welfare, and enjoyment  
2-4 of the public by providing pedestrian ways and by landscaping and  
2-5 developing certain areas in the district, which are necessary for  
2-6 the restoration, preservation, and enhancement of scenic beauty.

2-7 (e) Pedestrian ways along or across a street, whether at  
2-8 grade or above or below the surface, and street lighting, street  
2-9 landscaping, and street art objects are parts of and necessary  
2-10 components of a street and are considered to be a street or road  
2-11 improvement.

2-12 (f) The district will not act as the agent or  
2-13 instrumentality of any private interest even though the district  
2-14 will benefit many private interests as well as the public.

2-15 Sec. 3847.005. DISTRICT TERRITORY. (a) The district is  
2-16 composed of the territory described by Section 2 of the Act enacting  
2-17 this chapter, as that territory may have been modified under:

2-18 (1) Section 3847.006;

2-19 (2) Subchapter J, Chapter 49, Water Code; or

2-20 (3) other law.

2-21 (b) The boundaries and field notes of the district contained  
2-22 in Section 2 of the Act enacting this chapter form a closure. A  
2-23 mistake in the field notes or in copying the field notes in the  
2-24 legislative process does not in any way affect the district's:

2-25 (1) organization, existence, or validity;

2-26 (2) right to issue any type of bond for a purpose for  
2-27 which the district is created or to pay the principal of and  
2-28 interest on the bond;

2-29 (3) right to impose or collect an assessment or tax; or

2-30 (4) legality or operation.

2-31 Sec. 3847.006. ANNEXATION OF CERTAIN TERRITORY BY GOVERNING  
2-32 BODY OF MUNICIPALITY. (a) If territory in the City of Houston's  
2-33 limit or extraterritorial jurisdiction is included in the district,  
2-34 the city's governing body may remove that territory from the  
2-35 district if the district does not have any bonded indebtedness.

2-36 (b) To remove the territory, the governing body of the City  
2-37 of Houston must notify the board secretary in writing that the  
2-38 territory is excluded from the district's territory.

2-39 (c) If a municipality annexes territory that is in its  
2-40 extraterritorial jurisdiction and included in the district, the  
2-41 governing body of the municipality shall notify the board secretary  
2-42 in writing that the annexed territory is excluded from the  
2-43 district's territory.

2-44 Sec. 3847.007. APPLICABILITY OF MUNICIPAL MANAGEMENT  
2-45 DISTRICTS LAW. Except as otherwise provided by this chapter,  
2-46 Chapter 375, Local Government Code, applies to the district.

2-47 Sec. 3847.008. LIBERAL CONSTRUCTION OF CHAPTER. This  
2-48 chapter shall be liberally construed in conformity with the  
2-49 findings and purposes stated in this chapter.

2-50 [Sections 3847.009-3847.050 reserved for expansion]

2-51 SUBCHAPTER B. BOARD OF DIRECTORS

2-52 Sec. 3847.051. BOARD OF DIRECTORS; TERMS. (a) The  
2-53 district is governed by a board of nine voting directors who serve  
2-54 staggered terms of four years, with four or five directors' terms  
2-55 expiring June 1 of each odd-numbered year.

2-56 (b) Two voting directors must reside in the district.

2-57 (c) The board by resolution may change the number of voting  
2-58 directors on the board, but only if the board determines that the  
2-59 change is in the best interest of the district, subject to Section  
2-60 375.061, Local Government Code.

2-61 Sec. 3847.052. APPOINTMENT AND REMOVAL OF DIRECTORS.  
2-62 Sections 375.064 and 375.065, Local Government Code, govern the  
2-63 appointment and removal of voting directors, except that for  
2-64 purposes of this chapter references in those sections to the  
2-65 governing body of the municipality mean the commissioners court of  
2-66 Harris County.

2-67 Sec. 3847.053. NONVOTING DIRECTORS. The board may appoint  
2-68 nonvoting directors to serve at the pleasure of the voting  
2-69 directors.

3-1 Sec. 3847.054. QUORUM. (a) Section 375.071, Local  
3-2 Government Code, does not apply to the district.

3-3 (b) One-half of the board constitutes a quorum.

3-4 (c) Except as provided by Section 3847.152, a concurrence of  
3-5 a majority of a quorum is required for any official district action.

3-6 (d) Nonvoting directors are not counted for the purposes of  
3-7 establishing a board quorum.

3-8 Sec. 3847.055. INITIAL VOTING DIRECTORS. (a) The initial  
3-9 board consists of the following voting directors:

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

3-20 (b) Of the initial voting directors, the terms of directors  
3-21 appointed for positions 1 through 4 expire June 1, 2007, and the  
3-22 terms of directors appointed for positions 5 through 9 expire June  
3-23 1, 2009.

3-24 (c) Section 3847.052 does not apply to this section.

3-25 (d) This section expires September 1, 2009.

3-26 [Sections 3847.056-3847.100 reserved for expansion]

3-27 SUBCHAPTER C. POWERS AND DUTIES

3-28 Sec. 3847.101. EXERCISE OF POWERS OF DEVELOPMENT  
3-29 CORPORATION. The district may exercise the powers of a corporation  
3-30 created under Section 4B, Development Corporation Act of 1979  
3-31 (Article 5190.6, Vernon's Texas Civil Statutes).

3-32 Sec. 3847.102. NONPROFIT CORPORATION. (a) The board by  
3-33 resolution may authorize the creation of a nonprofit corporation to  
3-34 assist and act for the district in implementing a project or  
3-35 providing a service authorized by this chapter.

3-36 (b) The nonprofit corporation:

3-37 (1) has each power of and is considered for purposes of  
3-38 this chapter to be a local government corporation created under  
3-39 Chapter 431, Transportation Code; and

3-40 (2) may implement any project and provide any service  
3-41 authorized by this chapter.

3-42 (c) The board shall appoint the board of directors of the  
3-43 nonprofit corporation. The board of directors of the nonprofit  
3-44 corporation shall serve in the same manner as, for the same term as,  
3-45 and on the same conditions as the board of directors of a local  
3-46 government corporation created under Chapter 431, Transportation  
3-47 Code.

3-48 Sec. 3847.103. CONTRACT WITH POLITICAL SUBDIVISION. Harris  
3-49 County, the City of Houston, or another political subdivision of  
3-50 this state, without further authorization, may contract with the  
3-51 district to implement a project of the district or assist the  
3-52 district in providing a service authorized under this chapter. A  
3-53 contract under this section may:

3-54 (1) be for a period on which the parties agree;

3-55 (2) include terms on which the parties agree;

3-56 (3) be payable from taxes or any other source of  
3-57 revenue that may be available for that project or service; and

3-58 (4) provide terms under which taxes or other revenue  
3-59 collected at a district project or from a person using or purchasing  
3-60 a commodity or service at a district project may be paid or rebated  
3-61 to the district.

3-62 Sec. 3847.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.  
3-63 To protect the public interest, the district may contract with  
3-64 Harris County or the City of Houston for the county or the city to  
3-65 provide law enforcement services in the district for a fee.

3-66 Sec. 3847.105. APPROVAL BY CITY OF HOUSTON. (a) Except as  
3-67 provided by Subsection (b), the district must obtain the approval  
3-68 of the City of Houston's governing body:

3-69 (1) for the issuance of a bond for each improvement

4-1 project;  
4-2 (2) of the plans and specifications of the improvement  
4-3 project financed by the bond; and  
4-4 (3) of the plans and specifications of any district  
4-5 improvement project related to the use of land owned by Harris  
4-6 County, an easement granted by Harris County, or a right-of-way of a  
4-7 street, road, or highway.

4-8 (b) If the district obtains the approval of the City of  
4-9 Houston's governing body of a capital improvements budget for a  
4-10 period not to exceed five years, the district may finance the  
4-11 capital improvements and issue bonds specified in the budget  
4-12 without further approval from the City of Houston.

4-13 Sec. 3847.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
4-14 district may join and pay dues to an organization that:

4-15 (1) enjoys tax-exempt status under Section 501(c)(3),  
4-16 (4), or (6), Internal Revenue Code of 1986; and

4-17 (2) performs a service or provides an activity  
4-18 consistent with the furtherance of a district purpose.

4-19 Sec. 3847.107. NO EMINENT DOMAIN. The district may not  
4-20 exercise the power of eminent domain.

4-21 [Sections 3847.108-3847.150 reserved for expansion]

4-22 SUBCHAPTER D. FINANCIAL PROVISIONS

4-23 Sec. 3847.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
4-24 board by resolution shall establish the number of directors'  
4-25 signatures and the procedure required for a disbursement or  
4-26 transfer of the district's money.

4-27 Sec. 3847.152. BOARD VOTE REQUIRED TO AUTHORIZE TAXES,  
4-28 ASSESSMENTS, IMPACT FEES, OR BONDS. (a) A majority vote of the  
4-29 directors serving is required to authorize the imposition of a tax,  
4-30 assessment, or impact fee.

4-31 (b) The written consent of at least two-thirds of all voting  
4-32 directors is required to authorize the issuance of a bond.

4-33 Sec. 3847.153. MAINTENANCE TAX. (a) If authorized at an  
4-34 election held in accordance with Section 3847.157, the district may  
4-35 impose an annual ad valorem tax on taxable property in the district  
4-36 to:

4-37 (1) maintain and operate the district;

4-38 (2) construct or acquire improvements; or

4-39 (3) provide a service.

4-40 (b) The board shall determine the tax rate.

4-41 Sec. 3847.154. SALES AND USE TAX. (a) The district may  
4-42 impose a sales and use tax if authorized by a majority of the voters  
4-43 of the district voting at an election called for that purpose.  
4-44 Revenue from the tax may be used for any purpose for which ad  
4-45 valorem tax revenue of the district may be used.

4-46 (b) The district may not adopt a sales and use tax if as a  
4-47 result of the adoption of the tax the combined rate of all sales and  
4-48 use taxes imposed by the district and other political subdivisions  
4-49 of this state having territory in the district would exceed two  
4-50 percent at any location in the district.

4-51 (c) If the voters of the district approve the adoption of  
4-52 the tax at an election held on the same election date on which  
4-53 another political subdivision adopts a sales and use tax or  
4-54 approves an increase in the rate of its sales and use tax and as a  
4-55 result the combined rate of all sales and use taxes imposed by the  
4-56 district and other political subdivisions of this state having  
4-57 territory in the district would exceed two percent at any location  
4-58 in the district, the election to adopt a sales and use tax under  
4-59 this chapter has no effect.

4-60 Sec. 3847.155. ASSESSMENTS; LIENS FOR ASSESSMENTS.  
4-61 (a) The board by resolution may impose and collect an assessment  
4-62 for any purpose authorized by this chapter.

4-63 (b) An assessment, a reassessment, or an assessment  
4-64 resulting from an addition to or correction of the assessment roll  
4-65 by the district, penalties and interest on an assessment or  
4-66 reassessment, an expense of collection, and reasonable attorney's  
4-67 fees incurred by the district:

4-68 (1) are a first and prior lien against the property  
4-69 assessed;

5-1 (2) are superior to any other lien or claim other than  
5-2 a lien or claim for county, school district, or municipal ad valorem  
5-3 taxes; and

5-4 (3) are the personal liability of and a charge against  
5-5 the owners of the property even if the owners are not named in the  
5-6 assessment proceedings.

5-7 (c) The lien is effective from the date of the board's  
5-8 resolution imposing the assessment until the date the assessment is  
5-9 paid. The board may enforce the lien in the same manner that the  
5-10 board may enforce an ad valorem tax lien against real property.

5-11 Sec. 3847.156. PROPERTY EXEMPT FROM IMPACT FEES AND  
5-12 ASSESSMENTS. (a) The district may not impose an impact fee or  
5-13 assessment under Chapter 375, Local Government Code, on a  
5-14 residential property, including a multiunit residential property,  
5-15 or a condominium.

5-16 (b) The district may not impose an impact fee or assessment  
5-17 on the property, including the equipment, rights-of-way,  
5-18 facilities, or improvements, of:

5-19 (1) an electric utility as defined by Section 31.002,  
5-20 Utilities Code; or

5-21 (2) a telecommunications provider as defined by  
5-22 Section 51.002, Utilities Code.

5-23 Sec. 3847.157. ELECTIONS REGARDING TAXES OR BONDS. (a) In  
5-24 addition to the elections required under Subchapter L, Chapter 375,  
5-25 Local Government Code, the district must hold an election in the  
5-26 manner provided by that subchapter to obtain voter approval before  
5-27 the district may:

5-28 (1) impose a maintenance tax; or

5-29 (2) issue a bond payable from ad valorem taxes or  
5-30 assessments.

5-31 (b) The board may include more than one purpose in a single  
5-32 proposition at an election.

5-33 Sec. 3847.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
5-34 OBLIGATIONS. Except as provided by Section 375.263, Local  
5-35 Government Code, a municipality is not required to pay a bond, note,  
5-36 or other obligation of the district.

5-37 [Sections 3847.159-3847.200 reserved for expansion]

5-38 SUBCHAPTER E. DISSOLUTION

5-39 Sec. 3847.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING  
5-40 DEBT. (a) The board may dissolve the district regardless of  
5-41 whether the district has debt. Section 375.264, Local Government  
5-42 Code, does not apply to the district.

5-43 (b) If the district has debt when it is dissolved, the  
5-44 district shall remain in existence solely for the purpose of  
5-45 discharging its debts. The dissolution is effective when all debts  
5-46 have been discharged.

5-47 SECTION 2. BOUNDARIES. As of the effective date of this  
5-48 Act, the Airline Improvement District includes all territory  
5-49 contained in the following described area:

5-50 Beginning at the northeast corner of Canino and Sweetwater

5-51 Thence north along the east right-of-way line of Sweetwater a  
5-52 distance of approximately 2.7 miles to the south right-of-way line  
5-53 of West Road

5-54 Thence along the south right-of-way line of West Road  
5-55 approximately 0.2 miles to the east right-of-way line of Airline  
5-56 Drive

5-57 Thence south along the east right-of-way line of Airline  
5-58 Drive a distance of approximately 0.9 miles to Aldine Mail Route

5-59 Thence east a distance of approximately 1.5 miles to the east  
5-60 right-of-way line of Hardy Road

5-61 Thence south along the east right-of-way line of Hardy Road a  
5-62 distance of approximately 1.1 miles to the City of Houston City  
5-63 limits

5-64 Thence southwest along the north side of the City of Houston  
5-65 City limits a distance of approximately 0.5 miles

5-66 Thence south a distance of approximately 0.3 miles along the  
5-67 west side of the city limits

5-68 Thence east a distance of approximately 233 feet along the  
5-69 south side of the city limits

6-1 Thence south a distance of approximately 0.2 miles to the  
6-2 north right-of-way line of Carby Road

6-3 Thence west along the north right-of-way line of Carby Road a  
6-4 distance of approximately 0.8 miles to the west right-of-way line  
6-5 of Airline Drive

6-6 Thence south on Airline Drive a distance of approximately 0.2  
6-7 miles to Canino Road

6-8 Thence west along the north right-of-way line of Canino Road  
6-9 a distance of approximately 1.3 miles to the north right-of-way  
6-10 line of Canino Road and the Point of Beginning.

6-11 SAVE AND EXCEPT all tracts or parcels of land, rights-of-way,  
6-12 facilities, and improvements owned by an electric utility as  
6-13 defined by Section 31.002, Utilities Code.

6-14 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds  
6-15 that:

6-16 (1) proper and legal notice of the intention to  
6-17 introduce this Act, setting forth the general substance of this  
6-18 Act, has been published as provided by law, and the notice and a  
6-19 copy of this Act have been furnished to all persons, agencies,  
6-20 officials, or entities to which they are required to be furnished by  
6-21 the constitution and laws of this state, including the governor,  
6-22 who has submitted the notice and Act to the Texas Commission on  
6-23 Environmental Quality;

6-24 (2) the Texas Commission on Environmental Quality has  
6-25 filed its recommendations relating to this Act with the governor,  
6-26 lieutenant governor, and speaker of the house of representatives  
6-27 within the required time;

6-28 (3) the general law relating to consent by political  
6-29 subdivisions to the creation of districts with conservation,  
6-30 reclamation, and road powers and the inclusion of land in those  
6-31 districts has been complied with; and

6-32 (4) all requirements of the constitution and laws of  
6-33 this state and the rules and procedures of the legislature with  
6-34 respect to the notice, introduction, and passage of this Act have  
6-35 been fulfilled and accomplished.

6-36 SECTION 4. This Act takes effect immediately if it receives  
6-37 a vote of two-thirds of all the members elected to each house, as  
6-38 provided by Section 39, Article III, Texas Constitution. If this  
6-39 Act does not receive the vote necessary for immediate effect, this  
6-40 Act takes effect September 1, 2005.

6-41 \* \* \* \* \*