

By: Whitmire

S.B. No. 1877

A BILL TO BE ENTITLED

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AN ACT

relating to the creation of Harris County Municipal Utility District No. 406; providing authority to impose taxes and standby fees and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter 8149 to read as follows:

CHAPTER 8149. HARRIS COUNTY MUNICIPAL UTILITY DISTRICT

NO. 406

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8149.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Houston, Texas.

(3) "District" means Harris County Municipal Utility District No. 406.

Sec. 8149.002. CREATION OF DISTRICT. Harris County Municipal Utility District No. 406 is created as a special district under Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. 8149.003. DECLARATION OF INTENT. The creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

1       Sec. 8149.004. INITIAL DISTRICT TERRITORY. (a) The  
2 district is initially composed of territory described by Section 2  
3 of the Act creating this chapter.

4       (b) The boundaries and field notes of the district form a  
5 closure. A mistake in the field notes or in copying the field notes  
6 in the legislative process does not in any way affect the  
7 district's:

8           (1) organization, existence, or validity;

9           (2) right to issue any type of bond for the purposes  
10 for which the district is created or to pay the principal of and  
11 interest on a bond;

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

13           (4) legality or operation.

14       Sec. 8149.005. APPLICABILITY OF OTHER LAW. (a) Except as  
15 otherwise provided by this chapter, Chapters 49 and 54, Water Code,  
16 apply to the district.

17       (b) Chapter 311, Government Code (Code Construction Act),  
18 applies to this chapter.

19       (c) Chapter 1471, Government Code, does not apply to the  
20 district.

21       Sec. 8149.006. CONSTRUCTION OF CHAPTER. (a) This chapter  
22 shall be liberally construed in conformity with the findings and  
23 purposes set forth in this chapter.

24       (b) If any provision of general law conflicts with this  
25 chapter, this chapter prevails.

26       (c) If any provision of general law conflicts with Chapters  
27 49 and 54, Water Code, Chapters 49 and 54, Water Code prevail.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 8149.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of five directors.

(b) Except for the initial directors, each director shall be elected and shall serve for the term of office provided for directors under Chapter 49, Water Code, and until the director's successor is elected and has qualified.

(c) Except for the initial directors, each director shall qualify to serve as director in the manner provided by Chapter 49, Water Code.

Sec. 8149.052. INITIAL DIRECTORS. (a) The initial board consists of the following persons:

- (1) \_\_\_\_\_;
- (2) \_\_\_\_\_;
- (3) \_\_\_\_\_;
- (4) \_\_\_\_\_; and
- (5) \_\_\_\_\_.

(b) Of the initial directors, the terms of the first three directors named in Subsection (a) expire on the uniform election date in May 2007, and the terms of the last two directors named in Subsection (a) expire on the uniform election date in May 2009.

(c) On the uniform election date in May 2007, the board shall hold an election for the directors whose terms expire on such date. On the uniform election date in May 2009, the board shall hold an election for the directors whose terms expire on such date.

(d) This section expires September 1, 2009.

Sec. 8149.053. CONFIRMATION ELECTION. The board shall hold

1 an election to confirm the creation of the district as provided by  
2 Section 49.102, Water Code.

3 SUBCHAPTER C. POWERS AND DUTIES

4 Sec. 8149.101. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

5 (a) All land and other property included in the district will  
6 benefit from the improvements and services to be provided by the  
7 district under powers conferred by Section 52, Article III, and  
8 Section 59, Article XVI, Texas Constitution, and other powers  
9 granted under this chapter.

10 (b) The district is created for the following purposes:

11 (1) the purposes of a municipal utility district as  
12 provided pursuant to Section 54.012, Water Code;

13 (2) the purposes of a road utility district created  
14 pursuant to Section 52, Article III, Texas Constitution, and  
15 operating pursuant to Chapter 441, Transportation Code, including  
16 the purpose of constructing, acquiring, improving, maintaining,  
17 and operating road and road facilities as defined in Chapter 441,  
18 Transportation Code;

19 (3) the purchase, construction, acquisition,  
20 ownership, improvement, maintenance, and operation of the public  
21 works and public improvements authorized for a tax increment  
22 reinvestment zone operating pursuant to Chapter 311, Tax Code, and  
23 a municipal management district operating pursuant to Chapter 375,  
24 Local Government Code.

25 Sec. 8149.102. POWERS OF DISTRICT. (a) The district shall  
26 have the functions, powers, authority, rights, and duties which  
27 will permit accomplishment of the purposes for which it was

1 created.

2 (b) The district shall have all of the rights, powers,  
3 privileges, authority, and functions, specifically including but  
4 not limited to those relating to the levying of taxes, issuance of  
5 bonds, imposition of standby fees, and exercise of the power of  
6 eminent domain, conferred by the general laws of this state  
7 applicable to municipal utility districts created under Section 59,  
8 Article XVI, Texas Constitution, including those conferred by  
9 Chapters 49 and 54, Water Code.

10 Sec. 8149.103. SPECIFIC ROAD POWERS OF DISTRICT. (a) The  
11 district may purchase, construct, acquire, own, operate, maintain,  
12 improve, or extend inside and outside its boundaries roads and road  
13 facilities as defined in Chapter 441, Transportation Code, as  
14 authorized by Section 52, Article III, Texas Constitution.

15 (b) In accordance with Section 52, Article III, Texas  
16 Constitution, the district has the power and authority to issue  
17 bonds, notes, and other obligations or otherwise lend its credit  
18 and levy and collect taxes to pay the interest thereon and provide a  
19 sinking fund for the redemption thereof for the construction,  
20 purchase, maintenance, and operation of roads and road facilities.  
21 The total amount of bonds issued for such purpose may not exceed  
22 one-fourth of the assessed market value of real property of the  
23 district as determined by the chief appraiser of the appraisal  
24 district that appraises property for the district.

25 (c) The roads and road facilities may include drainage,  
26 landscaping, and pedestrian improvements and lights, signs, or  
27 signals that are incidental thereto and their construction,

1 maintenance, or operation.

2 (d) The roads and road facilities authorized by this section  
3 must meet all applicable construction standards, zoning and  
4 subdivision requirements, and regulatory ordinances of the city.

5 (e) On completion of a road or road facility authorized by  
6 this section, the district, with the consent of the city, may convey  
7 that road or road facility to the city, provided the conveyance is  
8 free of all indebtedness of the district. If the city becomes the  
9 owner of a road or road facility, the city is responsible for all  
10 future maintenance and upkeep, and the district has no further  
11 responsibility for the road or road facility or its maintenance or  
12 upkeep, unless otherwise agreed to by the district and the city.

13 (f) A district may contract with a state agency, political  
14 subdivision, or corporation created under Chapter 431,  
15 Transportation Code, for a joint road or road facility. The  
16 district may issue bonds to pay all or part of the costs of the road  
17 or road facility and any other payments required pursuant to the  
18 contract. A contract may be a contract under Section 49.108, Water  
19 Code. The contract may:

20 (1) provide for joint payment of the costs of the road  
21 or road facility; and

22 (2) require the state agency, political subdivision,  
23 or corporation to design, construct, or improve a road or road  
24 facility as provided by the contract.

25 (g) The district may agree to:

26 (1) reimburse a private person for money spent to  
27 construct a road or road facility that has been or will be dedicated

1 or otherwise transferred to public use; or

2 (2) purchase a road or road facility constructed by a  
3 private person.

4 (h) The amount paid for the reimbursement or purchase of a  
5 road or road facility:

6 (1) may include all construction costs, including  
7 engineering, legal, financing, and other expenses incident to the  
8 construction;

9 (2) may be at a price not to exceed the replacement  
10 cost of the road or road facility as determined by the board; and

11 (3) may be paid with proceeds from the sale of the  
12 district's bonds or from any other money available to the district.

13 (i) The district may enter into an agreement to use the  
14 proceeds of a subsequent bond sale for reimbursing all construction  
15 costs, engineering and other expenses, and financing costs incident  
16 to construction or acquisition of a road or an interest in a road to  
17 a private person who constructs or acquires a road or road facility  
18 that benefits the district pursuant to the agreement. The  
19 agreement may provide the terms and conditions under which the road  
20 or road facility will be dedicated or transferred for the benefit of  
21 the public and to pay or reimburse the cost of constructing or  
22 acquiring the road.

23 Sec. 8149.104. TAX INCREMENT REINVESTMENT ZONE. (a) All  
24 or any part of the area of the district is eligible, regardless of  
25 other statutory criteria, to be included in a tax increment  
26 reinvestment zone created pursuant to Chapter 311, Tax Code.

27 (b) The district may enter into a contract with the board of

1 directors of a reinvestment zone created pursuant to Chapter 311,  
2 Tax Code, and the governing body of the city for the district to  
3 manage or assist in managing the reinvestment zone or implement or  
4 assist in implementing the reinvestment zone's project plan and  
5 reinvestment zone financing plan for the term of the contract in the  
6 same manner as a local government corporation pursuant to Section  
7 311.010(f), Tax Code. The contract may provide that the district  
8 shall issue bonds, notes or other obligations and pledge the  
9 contract revenues to the payment thereof. The district may issue  
10 bonds payable in whole or in part from the revenue of the contract  
11 to pay for the implementation of the reinvestment zone's project  
12 plan and reinvestment zone financing plan. Such bonds and the  
13 projects financed by the bonds are not subject to Sections 49.181  
14 and 49.182, Water Code.

15 Sec. 8149.105. EMINENT DOMAIN. (a) The district may  
16 exercise the power of eminent domain in accordance with Section  
17 49.222, Water Code.

18 (b) The district shall obtain the written consent of the  
19 city prior to exercising its power of eminent domain.

20 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

21 Sec. 8149.151. ELECTIONS REGARDING TAXES OR BONDS.

22 (a) The district may issue bonds, notes, and other obligations  
23 secured by revenues or contract payments from any lawful sources  
24 other than ad valorem taxation without an election.

25 (b) The district must hold an election in the manner  
26 provided by Chapters 49 and 54, Water Code, to obtain voter approval  
27 before the district may impose a maintenance tax or issue bonds



1 payable from ad valorem taxes.

2 (c) The district may issue bonds, notes, and other  
3 obligations to finance roads and road facilities under Section  
4 52(b)(3), Article III, Texas Constitution, secured in whole or in  
5 part by ad valorem taxation and impose ad valorem taxes to pay the  
6 principal of and interest on those obligations and provide a  
7 sinking fund for the redemption thereof only if the issuance is  
8 approved by a two-thirds majority of the voters of the district  
9 voting at an election called and held for that purpose.

10 Sec. 8149.152. AD VALOREM TAX. (a) If authorized at an  
11 election held in accordance with Section 8149.151, the district may  
12 impose an annual ad valorem tax on taxable property in the district  
13 for the acquisition, construction, financing, maintenance, and  
14 operation of the district and the improvements constructed or  
15 acquired by the district or for the provision of services.

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

17 SUBCHAPTER E. BONDS OR OTHER OBLIGATIONS

18 Sec. 8149.201. OBLIGATIONS. (a) The district may issue  
19 bonds, notes, or other obligations payable in whole or in part from  
20 ad valorem taxes, impact fees, revenue, grants, or other money of  
21 the district, or any combination of those sources of money, to pay  
22 for any authorized purpose of the district.

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

1       (c) At the time bonds payable in whole or in part from ad  
2 valorem taxes are issued, the board shall levy a continuing direct  
3 annual ad valorem tax for each year while all or part of the bonds  
4 are outstanding on all taxable property within the district in  
5 sufficient amount to pay the interest on the bonds as it becomes due  
6 and to create a sinking fund for the payment of the principal of the  
7 bonds when due or the redemption price at any earlier required  
8 redemption date and to pay the expenses of assessing and collecting  
9 taxes.

10       Sec. 8149.202. AUTHORITY OF TEXAS COMMISSION ON  
11 ENVIRONMENTAL QUALITY OVER ISSUANCE OF DISTRICT BONDS.

12       (a) Sections 49.181 and 49.182, Water Code, apply to all water,  
13 wastewater, drainage, and recreational facility projects of the  
14 district and bonds issued therefor.

15       (b) Section 49.181, Water Code, applies to all road and road  
16 facility projects and bonds issued therefor; however, the review of  
17 the Texas Commission on Environmental Quality of such projects  
18 shall be limited to the financial feasibility of such projects and  
19 bonds and shall not include the review or approval of the design and  
20 construction of such projects or the engineering feasibility of  
21 such projects, and the requirements of written applications for  
22 investigation of feasibility shall be adjusted accordingly.

23       (c) Section 49.182, Water Code, does not apply to any road  
24 and road facility projects and bonds issued therefor.

25       (d) Projects and bonds of the district are not subject to  
26 the review and approval of the Texas Transportation Commission or  
27 the rules promulgated by the Texas Transportation Commission.

1       (e) To the extent that the district issues bonds secured  
2 solely by revenues provided under a contract described in Section  
3 8149.104(b), Sections 49.181, 49.182, and 49.4645, Water Code,  
4 shall not apply to the issuance of such bonds and shall not restrict  
5 the types of facilities or improvements that may be financed with  
6 such bonds.

7       SECTION 2. Harris County Municipal Utility District No. 406  
8 initially includes all the territory contained in the following  
9 area:

10       BEING 509.9 acres out of the W.C.R.R. Company Survey Section  
11 18, Block 4 land situated in the A. Sumbardo Survey, Abstract 1496,  
12 the J.E. Durkee Survey, Abstract 1133, the G.M. Stewart Survey,  
13 Abstract 1494, the J.H. Stewart Survey, Abstract 1493, the J.E.  
14 Durkee Survey, Abstract 1069, said 509.9 acres of land being more  
15 particularly described by metes and bounds as follows:

16       BEGINNING at the northeast corner of the said A. Sumbardo  
17 Survey, Abstract 1496 and the northwest corner of the S. Contreras  
18 Survey, Abstract 220;

19       THENCE, S 02°32'21" E, a distance of 2548.00 feet along the  
20 east line of the said A. Sumbardo Survey, the east line of the said  
21 J.E. Durkee Survey, Abstract 1133 to a point for corner and the  
22 beginning of a curve to the left;

23       THENCE the following courses and distances over and across  
24 the said J.E. Durkee Survey, Abstract 1133, the G.M. Stewart  
25 Survey, Abstract 1494, the J.H. Stewart Survey, Abstract 1493 and  
26 the J.E. Durkee Survey, Abstract 1069;

27       In a southwesterly direction, along said curve to the left a

1 distance of 2659.74 feet, having a radius of 2050.00 feet a central  
2 angle of 74°20'15" and a chord which bears S 50°17'32" W, 2477.07  
3 feet to the point of tangency;

4 S 13°07'24" W, a distance of 205.00 feet to the beginning of a  
5 tangent curve to the right;

6 In a southwesterly direction, along said curve to the right a  
7 distance of 2774.10 feet, having a radius of 1950.00 feet a central  
8 angle of 81°30'36" and a chord which bears S 53°52'42" W, 2546.02  
9 feet to a point of tangency;

10 N 85°22'00" W, a distance of 688.22 feet to a point for corner  
11 in the west line of the said J.E. Durkee Survey, Abstract 1069;

12 THENCE N 02°27'50" W, a distance of 765.14 feet to a point for  
13 corner and being a reentrant corner of the said J.H. Stewart Survey,  
14 Abstract 1493;

15 THENCE S 87°43'47" W, a distance of 385.98 feet along a south  
16 line of the said J.H. Stewart Survey, Abstract 1493 to a point for  
17 corner, same being the most westerly southwest corner of the said  
18 J.H. Stewart Survey, Abstract 1493 and the southeast corner of the  
19 S.S. Reynolds Survey, Abstract 1356;

20 THENCE N 02°49'10" W, a distance of 4247.15 feet along the  
21 west line of the said J.H. Stewart Survey, Abstract 1493, the west  
22 line of the said A. Sumbardo Survey, Abstract 1496 to a point for  
23 corner in the south line of Beltway 8 (Sam Houston Tollway);

24 THENCE the following courses and distances over and across  
25 the said A. Sumbardo Survey and along the south line of the said  
26 Beltway 8 (Sam Houston Tollway):

27 In an easterly direction, along a curve to the left, a

1 distance of 502.22 feet, having a radius of 2573.48 feet a central  
2 angle of 11°10'53" and a chord which bears N 85°52'02" E, 501.42 feet  
3 to a point for corner;

4 N 85°58'41" E, a distance of 33.78 feet to a point for corner;

5 N 55°27'00" E, a distance of 79.03 feet to a point for corner;

6 N 16°53'11" E, a distance of 33.76 feet to a point for corner;

7 N 78°49'24" E, a distance of 140.00 feet to a point for corner;

8 N 11°09'12" W, a distance of 18.70 feet to a point for corner;

9 N 06°55'01" W, a distance of 25.26 feet to a point for corner;

10 N 31°12'48" E, a distance of 77.56 feet to a point for corner;

11 N 69°13'13" E, a distance of 24.53 feet to a point for corner;

12 N 72°15'59" E, a distance of 98.00 feet to a point for corner;

13 N 71°10'32" E, a distance of 156.40 feet to a point for corner

14 in the north line of the said A. Sumbardo Survey, Abstract 1496

15 THENCE N 87°08'39" E, departing the south line of said Beltway  
16 8 (Sam Houston Tollway) and along the north line of the said A.  
17 Sumbardo Survey, a distance of 2840.07 feet to the POINT OF  
18 BEGINNING and containing 509.9 acres of land.

19 SECTION 3. The legislature finds that:

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

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

5           (3) the general law relating to consent by political  
6 subdivisions to the creation of districts with conservation,  
7 reclamation, and road powers and the inclusion of land in those  
8 districts has been complied with; and

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

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