

By: Whitmire

S.B. No. 1877

A BILL TO BE ENTITLED

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 ____ to read as follows:

CHAPTER ____ . HARRIS COUNTY MUNICIPAL UTILITY DISTRICT

NO. 406.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. ____ .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. ____ .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. ____ .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 Act.

1 Sec.____.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.____.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 Act.

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

21 Sec.____.006. CONSTRUCTION OF ACT. (a) This Act shall be
22 liberally construed in conformity with the findings and purposes
23 set forth in this Act.

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

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

1 prevail.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. ____ .051. BOARD OF DIRECTORS; TERMS. (a) The district
4 is governed by a board of five directors.

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

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

12 Sec. ____ .052. INITIAL DIRECTORS. (a) The initial board
13 consists of the following persons:

- 14 (1) _____;
- 15 (2) _____;
- 16 (3) _____;
- 17 (4) _____; and
- 18 (5) _____.

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

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

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

1 Sec. ____ .053. CONFIRMATION ELECTION. The board of
2 directors shall hold an election to confirm the creation of the
3 district as provided by Section 49.102, Water Code.

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. ____ .101. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

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

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

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

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

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

26 Sec. ____ .102. POWERS OF DISTRICT. (a) The district shall
27 have the functions, powers, authority, rights and duties which will

1 permit accomplishment of the purposes for which it was 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 Article
8 XVI, Section 59, of the Texas Constitution, including those
9 conferred by Chapters 49 and 54, Water Code.

10 Sec. ____ .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, of the Texas Constitution.

15 (b) In accordance with Article III, Section 52, of the 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; or

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. ____ .104. TAX INCREMENT REINVESTMENT ZONE. (a) All or
24 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). The contract may provide that the district shall issue
8 bonds, notes or other obligations and pledge the contract revenues
9 to the payment thereof. The district may issue bonds payable in
10 whole or in part from the revenue of the contract to pay for the
11 implementation of the reinvestment zone's project plan and
12 reinvestment zone financing plan. Such bonds and the projects
13 financed by the bonds are not subject to Sections 49.181 and 49.182,
14 Water Code.

15 Sec.____.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.____.151. ELECTIONS REGARDING TAXES OR BONDS. (b) The
22 district may issue bonds, notes, and other obligations secured by
23 revenues or contract payments from any lawful sources other than ad
24 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, of the Texas Constitution, secured in whole
5 or in part by ad valorem taxation and impose ad valorem taxes to pay
6 the 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. ____ .152. AD VALOREM TAX. (a) If authorized at an
11 election held in accordance with Section ____ .151, the district
12 may impose an annual ad valorem tax on taxable property in the
13 district for the acquisition, construction, financing, maintenance
14 and 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. ____ .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. ____ .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
20 and 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 .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: (1) proper and
20 legal notice of the intention to introduce this Act, setting forth
21 the general substance of this Act, has been published as provided by
22 law, and the notice and a copy of this Act have been furnished to all
23 persons, agencies, officials, or entities to which they are
24 required to be furnished by the constitution and laws of this state,
25 including the governor, who has submitted the notice and Act to the
26 Texas Commission on Environmental Quality;

27 (2) the Texas Commission on Environmental Quality has filed

1 its recommendations relating to this Act with the governor,
2 lieutenant governor, and speaker of the house of representatives
3 within the required time;

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

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

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