

By: Allen

H.B. No. 4013

Substitute the following for H.B. No. 4013:

By: Smith of Harris

C.S.H.B. No. 4013

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Spectrum Management District;
providing authority to levy an assessment, impose a tax, and issue
bonds.

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

SECTION 1. SPECTRUM MANAGEMENT DISTRICT. Subtitle C, Title
4, Special District Local Laws Code, is amended by adding Chapter
3840 to read as follows:

CHAPTER 3840. SPECTRUM MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3840.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Spectrum Management
District.

Sec. 3840.002. SPECTRUM MANAGEMENT DISTRICT. The Spectrum
Management District is a special district created under Section 59,
Article XVI, Texas Constitution.

Sec. 3840.003. 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. By creating the district and in authorizing the City of
Pearland, Harris County, and other political subdivisions to

1 contract with the district, the legislature has established a
2 program to accomplish the public purposes set out in Section 52-a,
3 Article III, Texas Constitution.

4 (b) The creation of the district is necessary to promote,
5 develop, encourage, and maintain employment, commerce,
6 transportation, housing, tourism, recreation, the arts,
7 entertainment, economic development, safety, and the public
8 welfare in the district.

9 (c) This chapter and the creation of the district may not be
10 interpreted to relieve Harris County and the City of Pearland from
11 providing the level of services provided as of the effective date of
12 the Act enacting this chapter, to the area in the district. The
13 district is created to supplement and not to supplant the county or
14 city services provided in the area in the district.

15 Sec. 3840.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
16 The district is created to serve a public use and benefit.

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

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

24 (1) further the public purposes of developing and
25 diversifying the economy of the state;

26 (2) eliminate unemployment and underemployment; and

27 (3) develop or expand transportation and commerce.

1 (d) The district will:

2 (1) promote the health, safety, and general welfare of
3 residents, employers, potential employees, employees, visitors,
4 and consumers in the district, and of the public;

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

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

12 (4) provide for water, wastewater, and drainage needs
13 of the district; and

14 (5) provide for recreational facilities, sports
15 arenas, and other athletic facilities.

16 (e) Pedestrian ways along or across a street, whether at
17 grade or above or below the surface, and street lighting, street
18 landscaping, parking, and street art objects are parts of and
19 necessary components of a street and are considered to be a street
20 or road improvement.

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

24 Sec. 3840.005. DISTRICT TERRITORY. (a) The district is
25 composed of the territory described by Section 2 of the Act enacting
26 this chapter, as that territory may have been modified under:

27 (1) Subchapter J, Chapter 49, Water Code; or

1 (2) other law.

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

6 (1) organization, existence, or validity;

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

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

11 (4) legality or operation.

12 Sec. 3840.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

13 All or any part of the area of the district is eligible to be
14 included in:

15 (1) a tax increment reinvestment zone created by a
16 municipality under Chapter 311, Tax Code;

17 (2) a tax abatement reinvestment zone created by a
18 municipality under Chapter 312, Tax Code; or

19 (3) an enterprise zone created under Chapter 2303,
20 Government Code.

21 Sec. 3840.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
22 DISTRICTS LAW. (a) Except as otherwise provided by this chapter,
23 Chapter 375, Local Government Code, applies to the district.

24 (b) Subchapter B, Chapter 375, and Sections 375.064(f),
25 375.069, 375.070, 375.071, 375.113, and 375.114, Local Government
26 Code, do not apply to the district.

27 Sec. 3840.008. LIBERAL CONSTRUCTION OF CHAPTER. This

1 chapter shall be liberally construed in conformity with the
2 findings and purposes stated in this chapter.

3 [Sections 3840.009-3840.050 reserved for expansion]

4 SUBCHAPTER B. BOARD OF DIRECTORS

5 Sec. 3840.051. COMPOSITION; TERMS. (a) The district is
6 governed by a board of five voting directors who serve staggered
7 terms of four years, with two or three directors' terms expiring
8 June 1 of each odd-numbered year.

9 (b) The board by resolution may change the number of voting
10 directors on the board, but only if the board determines that the
11 change is in the best interest of the district. The board may not
12 consist of fewer than five or more than 15 voting directors.

13 Sec. 3840.052. APPOINTMENT OF DIRECTORS. (a) The mayor and
14 the governing body of the City of Pearland shall appoint voting
15 directors from persons recommended by the board.

16 (b) A person is appointed if a majority of the members of the
17 governing body, including the mayor, vote to appoint that person.

18 Sec. 3840.053. DISQUALIFICATION. Section 49.052, Water
19 Code, does not apply to the district.

20 Sec. 3840.054. NONVOTING DIRECTORS. The board may appoint
21 nonvoting directors to serve at the pleasure of the voting
22 directors.

23 Sec. 3840.055. QUORUM. For purposes of determining the
24 requirements for a quorum, the following are not counted:

25 (1) a board position vacant for any reason, including
26 death, resignation, or disqualification;

27 (2) a director who is abstaining from participation in

a vote because of a conflict of interest; or

(3) a nonvoting director.

Sec. 3840.056. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Fred Welch</u>
<u>2</u>	<u>Charlie Whynot</u>
<u>3</u>	<u>Cullum Heard</u>
<u>4</u>	<u>Mark Evans</u>
<u>5</u>	<u>Ronnie Hecht</u>

(b) Of the initial voting directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2009, and the terms of directors appointed for positions 4 and 5 expire June 1, 2011.

(c) Section 3840.052 does not apply to this section.

(d) This section expires September 1, 2012.

[Sections 3840.057-3840.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3840.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) an economic development corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, or maintain a project described by that section;

(2) a housing finance corporation under Chapter 394, Local Government Code, to provide housing or residential

1 development projects in the district; and

2 (3) a sports facilities district under Chapter 325,
3 Local Government Code.

4 Sec. 3840.102. NONPROFIT CORPORATION. (a) The board by
5 resolution may authorize the creation of a nonprofit corporation to
6 assist and act for the district in implementing a project or
7 providing a service authorized by this chapter.

8 (b) The nonprofit corporation:

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

12 (2) may implement any project and provide any service
13 authorized by this chapter.

14 (c) The board shall appoint the board of directors of the
15 nonprofit corporation.

16 (d) The board of directors of the nonprofit corporation
17 shall serve in the same manner as the board of directors of a local
18 government corporation created under Chapter 431, Transportation
19 Code, except that a director of the corporation is not required to
20 reside in the district.

21 Sec. 3840.103. AGREEMENTS; GRANTS. (a) The district may
22 make an agreement with or accept a gift, grant, or loan from any
23 person.

24 (b) The implementation of a project is a governmental
25 function or service for the purposes of Chapter 791, Government
26 Code.

27 Sec. 3840.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.

1 To protect the public interest, the district may contract with a
2 qualified party, including Harris County or the City of Pearland,
3 to provide law enforcement services in the district for a fee.

4 Sec. 3840.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
5 district may join and pay dues to a charitable or nonprofit
6 organization that performs a service or provides an activity
7 consistent with the furtherance of a district purpose.

8 Sec. 3840.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
9 district may establish and provide for the administration of one or
10 more programs to promote state or local economic development and to
11 stimulate business and commercial activity in the district,
12 including programs to:

13 (1) make loans and grants of public money; and

14 (2) provide district personnel and services.

15 (b) For purposes of this section, the district has all of
16 the powers of a municipality under Chapter 380, Local Government
17 Code.

18 Sec. 3840.107. PROPERTY. The district may construct,
19 purchase, sell, or lease property, including facilities, to
20 accomplish a district purpose.

21 Sec. 3840.108. NO EMINENT DOMAIN. The district may not
22 exercise the power of eminent domain.

23 [Sections 3840.109-3840.150 reserved for expansion]

24 SUBCHAPTER D. FINANCIAL PROVISIONS

25 Sec. 3840.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
26 board by resolution shall establish the number of directors'
27 signatures and the procedure required for a disbursement or

1 transfer of the district's money.

2 Sec. 3840.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
3 The district may acquire, construct, finance, operate, or maintain
4 any improvement or service authorized under this chapter or Chapter
5 375, Local Government Code, using any money available to the
6 district.

7 Sec. 3840.153. PETITION REQUIRED FOR FINANCING SERVICES AND
8 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
9 service or improvement project with assessments under this chapter
10 unless a written petition requesting that service or improvement
11 has been filed with the board.

12 (b) A petition filed under Subsection (a) must be signed by:

13 (1) the owners of a majority of the assessed value of
14 real property in the district subject to the proposed assessment
15 according to the most recent certified tax appraisal roll for
16 Harris County; or

17 (2) at least 50 owners of real property in the district
18 if more than 50 persons own real property in the district as
19 determined by the most recent certified tax appraisal roll for
20 Harris County.

21 Sec. 3840.154. METHOD OF NOTICE FOR HEARING. The district
22 may mail the notice required by Section 375.115(c), Local
23 Government Code, by certified or first class United States mail.
24 The board shall determine the method of notice.

25 Sec. 3840.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
26 The board by resolution may impose and collect an assessment for any
27 purpose authorized by this chapter in all or any part of the

1 district.

2 (b) An assessment, a reassessment, or an assessment
3 resulting from an addition to or correction of the assessment roll
4 by the district, penalties and interest on an assessment or
5 reassessment, an expense of collection, and reasonable attorney's
6 fees incurred by the district:

7 (1) are a first and prior lien against the property
8 assessed;

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

12 (3) are the personal liability of and a charge against
13 the owners of the property even if the owners are not named in the
14 assessment proceedings.

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

19 (d) The board may make a correction to or deletion from the
20 assessment roll that does not increase the amount of assessment of
21 any parcel of land without providing notice and holding a hearing in
22 the manner required for additional assessments.

23 Sec. 3840.156. AD VALOREM TAX. (a) If authorized at an
24 election held in accordance with Section 3840.160, the district may
25 impose an annual ad valorem tax on taxable property in the district
26 for any district purpose, including to:

27 (1) maintain and operate the district;

1 (2) construct or acquire improvements; or

2 (3) provide a service.

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

4 Sec. 3840.157. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR
5 ASSESSMENTS. The district may not impose an impact fee or
6 assessment on the property, including the equipment,
7 rights-of-way, facilities, or improvements, of:

8 (1) an electric utility or a power generation company
9 as defined by Section 31.002, Utilities Code;

10 (2) a gas utility as defined by Section 101.003 or
11 121.001, Utilities Code;

12 (3) a telecommunications provider as defined by
13 Section 51.002, Utilities Code; or

14 (4) a person who provides to the public cable
15 television or advanced telecommunications services.

16 Sec. 3840.158. BONDS AND OTHER OBLIGATIONS. (a) The
17 district may issue by competitive bid or negotiated sale bonds or
18 other obligations payable wholly or partly from taxes, assessments,
19 impact fees, revenue, grants, or other money of the district, or any
20 combination of those sources of money, to pay for any authorized
21 purpose of the district.

22 (b) The district may issue a bond or other obligation in the
23 form of a bond, note, certificate of participation or other
24 instrument evidencing a proportionate interest in payments to be
25 made by the district, or other type of obligation.

26 (c) The term of a bond issued under this chapter may not
27 exceed 40 years from the date of issuance.

1 (d) In addition to any other terms authorized by the board
2 by bond order or resolution, the proceeds of the district's bonds
3 may be used for a reserve fund, credit enhancement, or capitalized
4 interest for the bonds.

5 (e) The limitation on the outstanding principal amount of
6 bonds, notes, and other obligations provided by Section 49.4645,
7 Water Code, does not apply to the district.

8 Sec. 3840.159. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
9 the time bonds or other obligations payable wholly or partly from ad
10 valorem taxes are issued:

11 (1) the board shall impose a continuing direct annual
12 ad valorem tax, without limit as to rate or amount, for each year
13 that all or part of the bonds are outstanding; and

14 (2) the district annually shall impose a continuing
15 direct ad valorem tax on all taxable property in the district in an
16 amount sufficient to:

17 (A) pay the interest on the bonds or other
18 obligations as the interest becomes due;

19 (B) create a sinking fund for the payment of the
20 principal of the bonds or other obligations when due or the
21 redemption price at any earlier required redemption date; and

22 (C) pay the expenses of imposing the taxes.

23 Sec. 3840.160. TAX AND BOND ELECTIONS. (a) The district
24 shall hold an election in the manner provided by Subchapter L,
25 Chapter 375, Local Government Code, to obtain voter approval before
26 the district imposes an ad valorem tax or issues bonds payable from
27 ad valorem taxes.

1 (b) The board may include more than one issue in a single
2 proposition at an election.

3 (c) Section 375.243, Local Government Code, does not apply
4 to the district.

5 Sec. 3840.161. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
6 OBLIGATIONS. Except as provided by Section 375.263, Local
7 Government Code, a municipality is not required to pay a bond, note,
8 or other obligation of the district.

9 Sec. 3840.162. BIDDING REQUIREMENTS. Section 375.221,
10 Local Government Code, and Sections 49.273(d), (e), (f), and (g),
11 Water Code, do not apply to the district.

12 Sec. 3840.163. TAX AND ASSESSMENT ABATEMENTS. The district
13 may grant in the manner authorized by Chapter 312, Tax Code, an
14 abatement for a tax or assessment owed to the district.

15 [Sections 3840.164-3840.200 reserved for expansion]

16 SUBCHAPTER E. SALES AND USE TAX

17 Sec. 3840.201. MEANINGS OF WORDS AND PHRASES. Words and
18 phrases used in this subchapter that are defined by Chapters 151 and
19 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
20 Tax Code.

21 Sec. 3840.202. APPLICABILITY OF CERTAIN TAX CODE
22 PROVISIONS. (a) Except as otherwise provided by this subchapter,
23 Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code,
24 apply to taxes imposed under this subchapter and to the
25 administration and enforcement of those taxes in the same manner
26 that those laws apply to state taxes.

27 (b) Chapter 321, Tax Code, relating to municipal sales and

1 use taxes, applies to the application, collection, change, and
2 administration of a sales and use tax imposed under this subchapter
3 to the extent consistent with this chapter, as if references in
4 Chapter 321, Tax Code, to a municipality referred to the district
5 and references to a governing body referred to the board.

6 (c) Sections 321.106, 321.401, 321.402, 321.404, 321.406,
7 321.409, 321.506, 321.507, and 321.508, Tax Code, do not apply to a
8 tax imposed under this subchapter.

9 Sec. 3840.203. AUTHORIZATION; ELECTION. (a) The district
10 may adopt a sales and use tax to serve the purposes of the district
11 after an election in which a majority of the voters of the district
12 voting in the election authorize the adoption of the tax.

13 (b) The board by order may call an election to authorize a
14 sales and use tax. The election may be held with any other district
15 election.

16 (c) The district shall provide notice of the election and
17 shall hold the election in the manner prescribed by Section
18 3840.160.

19 (d) The ballots shall be printed to provide for voting for
20 or against the proposition: "Authorization of a district sales and
21 use tax in the Spectrum Management District at a rate not to exceed
22 _____ percent."

23 Sec. 3840.204. ABOLISHING SALES AND USE TAX. (a) Except as
24 provided by Subsection (b), the board, with the consent of the
25 governing body of the City of Pearland, may abolish the sales and
26 use tax without an election.

27 (b) The board may not abolish the sales and use tax if the

1 district has outstanding debt secured by the tax.

2 Sec. 3840.205. SALES AND USE TAX RATE. (a) On adoption of
3 the tax authorized by this subchapter, there is imposed a tax on the
4 receipts from the sale at retail of taxable items in the district,
5 and an excise tax on the use, storage, or other consumption in the
6 district of taxable items purchased, leased, or rented from a
7 retailer in the district during the period that the tax is in
8 effect.

9 (b) The board shall determine the rate of the tax, which may
10 be in one-eighth of one percent increments not to exceed the maximum
11 rate authorized by the district voters at the election. The board
12 may lower the tax rate to the extent it does not impair any
13 outstanding debt or obligations payable from the tax.

14 (c) The rate of the excise tax is the same as the rate of the
15 sales tax portion of the tax and is applied to the sales price of the
16 taxable item.

17 [Sections 3840.206-3840.250 reserved for expansion]

18 SUBCHAPTER F. DISSOLUTION

19 Sec. 3840.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
20 DEBT. (a) The board may dissolve the district regardless of
21 whether the district has debt. Section 375.264, Local Government
22 Code, does not apply to the district.

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

27 SECTION 2. BOUNDARIES. As of the effective date of this

1 Act, the Spectrum Management District includes all territory
2 contained in the following described area:

3 Beginning at the intersection of the East boundary of the
4 right of way of State Highway 288 and the Harris County line at
5 Clear Creek;

6 Thence, West along the Harris County line following Clear
7 Creek to the East boundary of the right of way of Almeda School Road
8 (County Road 48);

9 Thence, North along the East boundary of the right of way of
10 Almeda School Road (County Road 48) to the South boundary of the
11 right of way of Beltway 8 (Sam Houston Parkway);

12 Thence, East along the South boundary of the right of way of
13 Beltway 8 (Sam Houston Parkway) to the East boundary of the right of
14 way of State Highway 288;

15 Thence, South along the East boundary of the right of way of
16 State Highway 288 to the point of beginning.

17 SAVE AND EXCEPT and land contained within the boundaries of
18 the Pearland Municipal Management District No. 1.

19 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
20 that:

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

1 Environmental Quality;

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

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

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

14 SECTION 4. EFFECTIVE DATE. This Act takes effect
15 immediately if it receives a vote of two-thirds of all the members
16 elected to each house, as provided by Section 39, Article III, Texas
17 Constitution. If this Act does not receive the vote necessary for
18 immediate effect, this Act takes effect September 1, 2007.