

By: McClendon

H.B. No. 4077

Substitute the following for H.B. No. 4077:

By: Villarreal

C.S.H.B. No. 4077

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of an east San Antonio economic
3 development district to be known as the Eastside Improvement
4 District No. 1; providing authority to impose an assessment and
5 issue bonds.

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

7 SECTION 1. PURPOSE OF ECONOMIC DEVELOPMENT DISTRICT IN EAST
8 SAN ANTONIO. (a) The Eastside Improvement District No. 1 is
9 authorized to be created to help the community redevelop areas that
10 are:

- 11 (1) physically or economically deteriorated;
12 (2) unsafe; or
13 (3) poorly planned.

14 (b) The creation of the district is a tool to be used in
15 blighted areas to:

- 16 (1) implement capital projects such as street and
17 landscaping improvements;
18 (2) provide incentives for private investments and job
19 creation; and
20 (3) assist in the development of residential areas,
21 parks, and open spaces.

22 SECTION 2. EASTSIDE IMPROVEMENT DISTRICT NO. 1. Subtitle
23 C, Title 4, Special District Local Laws Code, is amended by adding
24 Chapter 3845 to read as follows:

1 CHAPTER 3845. EASTSIDE IMPROVEMENT DISTRICT NO. 1

2 SUBCHAPTER A. GENERAL PROVISIONS

3 Sec. 3845.001. DEFINITIONS. In this chapter:

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

6 (2) "City" means the City of San Antonio.

7 (3) "District" means the Eastside Improvement
8 District No. 1.

9 Sec. 3845.002. CREATION BY CITY; NATURE OF DISTRICT. The
10 city by ordinance or resolution may create a special district under
11 Section 59, Article XVI, Texas Constitution, to be known as the
12 Eastside Improvement District No. 1.

13 Sec. 3845.003. PURPOSE; DECLARATION OF INTENT. (a) The
14 creation of the district is essential to accomplish the purposes of
15 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
16 Texas Constitution, and other public purposes stated in this
17 chapter. By authorizing the creation of the district and in
18 authorizing Bexar County, the city, and other political
19 subdivisions to contract with the district, the legislature has
20 established a program to accomplish the public purposes set out in
21 Section 52-a, Article III, Texas Constitution.

22 (b) The creation of the district is necessary to promote,
23 develop, encourage, and maintain employment, commerce,
24 transportation, housing, tourism, recreation, the arts,
25 entertainment, economic development, safety, and the public
26 welfare in the east area of the city.

27 (c) This chapter and the creation of the district may not be

1 interpreted to relieve Bexar County or the city from providing the
2 level of services provided as of the effective date of the
3 district's creation by the city to the area in the district or to
4 release the county or the city from the obligations of each entity
5 to provide services to that area. The district is authorized to be
6 created to supplement and not to supplant the county or city
7 services provided in the district's territory.

8 Sec. 3845.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
9 The district is created to serve a public use and benefit.

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

15 (c) Each improvement project or service authorized by this
16 chapter is essential to carry out a public purpose.

17 (d) The creation of the district is in the public interest
18 and is essential to:

19 (1) further the public purposes of developing and
20 diversifying the economy of the state;

21 (2) eliminate unemployment and underemployment; and

22 (3) develop or expand transportation and commerce.

23 (e) The district will:

24 (1) promote the health, safety, and general welfare of
25 residents, employers, employees, visitors, and consumers in the
26 district, and of the public;

27 (2) provide money to preserve, maintain, and enhance

1 the economic health and vitality of the district as a community and
2 business center;

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

8 (4) promote and benefit commercial development and
9 commercial areas in the district.

10 (f) Pedestrian ways along or across a street, whether at
11 grade or above or below the surface, and street lighting, street
12 landscaping, and street art objects are parts of and necessary
13 components of a street and are considered to be a street or road
14 improvement.

15 (g) The district will not act as the agent or
16 instrumentality of any private interest even though the district
17 will benefit many private interests as well as the public.

18 Sec. 3845.005. DISTRICT TERRITORY. (a) The district is
19 composed of the territory described by Section 3 of the Act enacting
20 this chapter, as that territory may have been modified under
21 Section 3845.106.

22 (b) The boundaries and field notes of the district contained
23 in Section 3 of the Act enacting this chapter form a closure. A
24 mistake in the field notes or in copying the field notes in the
25 legislative process does not in any way affect:

26 (1) the district's organization, existence, and
27 validity;

1 (2) the district's right to issue any type of bond,
2 including a refunding bond, for a purpose for which the district is
3 created or to pay the principal of and interest on the bond;

4 (3) the district's right to impose an assessment; or

5 (4) the legality or operation of the district or the
6 board.

7 Sec. 3845.006. APPLICABILITY OF MUNICIPAL MANAGEMENT
8 DISTRICTS LAW. Except as otherwise provided by this chapter,
9 Chapter 375, Local Government Code, applies to the district, the
10 board, and district employees.

11 Sec. 3845.007. LIBERAL CONSTRUCTION OF CHAPTER. This
12 chapter shall be liberally construed in conformity with the
13 findings and purposes stated in this chapter.

14 [Sections 3845.008-3845.050 reserved for expansion]

15 SUBCHAPTER B. BOARD OF DIRECTORS

16 Sec. 3845.051. COMPOSITION; TERMS. (a) The district is
17 governed by a board of 15 voting directors who serve staggered terms
18 of four years, with 7 or 8 directors' terms expiring each
19 even-numbered anniversary of the district's creation.

20 (b) The board by resolution may increase or decrease the
21 number of voting directors on the board, but only if:

22 (1) it is in the best interest of the district to do
23 so; and

24 (2) the city consents to the increase or decrease by
25 ordinance.

26 (c) The board may not:

27 (1) increase the number of voting directors to more

1 than 30; or

2 (2) decrease the number of voting directors to fewer
3 than 9.

4 Sec. 3845.052. APPOINTMENT OF DIRECTORS. The governing
5 body of the city shall appoint voting directors from among persons
6 who apply to the city for appointment and persons recommended by the
7 board. To be eligible for appointment, a person must meet the
8 qualifications prescribed by Subchapter D, Chapter 375, Local
9 Government Code.

10 Sec. 3845.053. NONVOTING DIRECTORS. (a) The board may
11 appoint the following persons to serve as nonvoting directors:

12 (1) the directors of the parks and recreation,
13 planning and community development, and public works departments of
14 the city;

15 (2) the chief of police of the city;

16 (3) the general manager of the VIA Metropolitan
17 Transit Authority;

18 (4) the president of any institution of higher
19 learning located in the district; or

20 (5) the presiding officer of a nonprofit corporation
21 actively involved in activities in the east area of the city.

22 (b) If a department described by Subsection (a) is
23 consolidated, renamed, or changed, the board may appoint a director
24 of the consolidated, renamed, or changed department as a nonvoting
25 director. If a department described by Subsection (a) is
26 abolished, the board may appoint as a director a representative of
27 another department of the city that performs duties comparable to

1 those performed by the abolished department.

2 Sec. 3845.054. QUORUM. Nonvoting directors are not counted
3 for purposes of determining whether a quorum is present.

4 Sec. 3845.055. VACANCY. A vacancy on the board is filled
5 for the remainder of the unexpired term in the same manner as the
6 original appointment.

7 Sec. 3845.056. CONFLICTS OF INTEREST. (a) Except as
8 provided by this section:

9 (1) a director may participate in all board votes and
10 decisions; and

11 (2) Chapter 171, Local Government Code, governs
12 conflicts of interest of directors.

13 (b) Section 171.004, Local Government Code, does not apply
14 to the district. A director who has a substantial interest in a
15 business or charitable entity that will receive a pecuniary benefit
16 from a board action shall file an affidavit with the board secretary
17 declaring the interest.

18 (c) Another affidavit is required if the director's
19 interest changes.

20 (d) After the affidavit is filed, the director may
21 participate in a discussion or vote on that action if:

22 (1) a majority of the directors have a similar
23 interest in the same entity; or

24 (2) all other similar business or charitable entities
25 in the district will receive a similar pecuniary benefit.

26 (e) A director who is also an officer or employee of a public
27 entity may not participate in a discussion of or vote on a matter

1 regarding a contract with that same public entity.

2 (f) For purposes of this section, a director has a
3 substantial interest in a charitable entity in the same manner that
4 a person would have a substantial interest in a business entity
5 under Section 171.002, Local Government Code.

6 (g) The ethics code adopted by the city applies to a
7 director. If there is a conflict between this chapter and the
8 city's ethics code, the city's ethics code prevails.

9 Sec. 3845.057. INITIAL VOTING DIRECTORS. (a) Not later
10 than 180 days after the district's creation date, the governing
11 body of the city shall by ordinance appoint the initial 15 voting
12 directors by position.

13 (b) Of the initial voting directors, the terms of directors
14 appointed for positions 1 through 8 expire on the second
15 anniversary of the district's creation date, and the terms of
16 directors appointed for positions 9 through 15 expire on the fourth
17 anniversary of the district's creation date.

18 (c) Section 3845.052 does not apply to this section.

19 (d) This section expires September 1, 2012.

20 [Sections 3845.058-3845.100 reserved for expansion]

21 SUBCHAPTER C. POWERS AND DUTIES

22 Sec. 3845.101. GENERAL DISTRICT POWERS. The city by
23 ordinance may grant the district any power necessary to accomplish
24 the purposes for which the district was created.

25 Sec. 3845.102. ADDITIONAL DISTRICT POWERS. The city by
26 ordinance may grant the district:

27 (1) any power given to a corporation under Section 4B,

1 the Development Corporation Act of 1979 (Article 5190.6, Vernon's
2 Texas Civil Statutes), and the power to own, operate, acquire,
3 construct, lease, improve, and maintain projects; and

4 (2) any power given to a housing finance corporation
5 created under Chapter 394, Local Government Code, to provide
6 housing or residential development projects in the district.

7 Sec. 3845.103. NONPROFIT CORPORATION. (a) The board by
8 resolution may authorize the creation of a nonprofit corporation to
9 assist and act for the district in implementing a project or
10 providing a service authorized by this chapter.

11 (b) The creation of the nonprofit corporation is subject to
12 the city's consent to its creation by ordinance. The ordinance may
13 contain any conditions on its consent related to the creation of,
14 powers of, or appointment of directors for, the corporation.

15 (c) The nonprofit corporation, subject to the ordinance:

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

19 (2) may be authorized to implement any project and
20 provide any service authorized by this chapter.

21 (d) The board, subject to the ordinance, shall appoint the
22 board of directors of the nonprofit corporation. The board of
23 directors of the nonprofit corporation shall serve in the same
24 manner as, for the same term as, and on the conditions of the board
25 of directors of a local government corporation created under
26 Chapter 431, Transportation Code.

27 Sec. 3845.104. CONTRACTS; GRANTS; DONATIONS. (a) Bexar

1 County, the city, or another political subdivision of this state,
2 without further authorization, may contract with the district to
3 implement a project of the district or assist the district in
4 providing a service authorized under this chapter. A contract
5 under this subsection may:

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

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

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

10 (4) provide terms under which other revenue collected
11 at a district project or from a person using or purchasing a
12 commodity or service at a district project may be paid to the
13 district.

14 (b) The district may enter into a contract, lease, or other
15 agreement with or make or accept a grant or loan to or from, or
16 accept donations from, any person, including:

17 (1) the United States;

18 (2) this state or a state agency;

19 (3) any political subdivision of this state; or

20 (4) a public or private corporation, including a
21 nonprofit corporation created by the board under this subchapter.

22 (c) The district may perform all acts necessary for the full
23 exercise of the powers vested in the district on terms and for the
24 period the board determines advisable.

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

27 Sec. 3845.105. COMPETITIVE BIDDING. Section 375.221,

1 Local Government Code, does not apply to a district contract for
2 \$25,000 or less.

3 Sec. 3845.106. ANNEXATION OR DISANNEXATION. (a) The board
4 by resolution may annex or disannex territory in the same manner as
5 a defense adjustment management authority under Section 375.3085,
6 Local Government Code.

7 (b) Subchapter J, Chapter 49, Water Code, does not apply to
8 the district.

9 Sec. 3845.107. NO EMINENT DOMAIN POWER. The district may
10 not exercise the power of eminent domain.

11 [Sections 3845.108-3845.150 reserved for expansion]

12 SUBCHAPTER D. PUBLIC PARKING FACILITIES

13 Sec. 3845.151. PARKING FACILITIES AUTHORIZED. To the
14 extent authorized by a city ordinance, city parking facilities
15 contract, or city bond covenant, the district may acquire, lease as
16 lessor or lessee, construct, develop, own, operate, and maintain
17 parking facilities, including:

18 (1) lots, garages, parking terminals, or other
19 structures or accommodations for the parking of motor vehicles; and

20 (2) equipment, entrances, exits, fencing, and other
21 accessories necessary for safety and convenience in the parking of
22 vehicles.

23 Sec. 3845.152. RULES. The district may adopt rules
24 covering its public parking facilities except that a rule relating
25 to or affecting the use of the public right-of-way or a requirement
26 for off-street parking is subject to all applicable municipal
27 charter, code, or ordinance requirements.

1 Sec. 3845.153. FINANCING OF PUBLIC PARKING FACILITIES. (a)

2 The district may use any of its resources, including revenue,
3 assessments, and grant or contract proceeds, to pay the cost of
4 acquiring and operating public parking facilities.

5 (b) The district may set and impose fees or charges for the
6 use of the public parking facilities and may issue bonds or notes to
7 finance the cost of these facilities.

8 [Sections 3845.154-3845.200 reserved for expansion]

9 SUBCHAPTER E. FINANCIAL PROVISIONS

10 Sec. 3845.201. PETITION REQUIRED FOR FINANCING SERVICES AND

11 IMPROVEMENTS. (a) The board may not finance a service or an
12 improvement project under this chapter unless a written petition is
13 filed with the board requesting:

14 (1) that service or improvement; and

15 (2) that an assessment be imposed to finance the
16 service or improvement.

17 (b) The petition must be signed by:

18 (1) the owners of a majority of the assessed value of
19 real property in the district according to the most recent
20 certified tax appraisal roll for Bexar County; or

21 (2) at least 50 owners of land in the district, if more
22 than 50 persons own property in the district according to the most
23 recent certified tax appraisal roll for Bexar County.

24 Sec. 3845.202. DISBURSEMENTS AND TRANSFERS OF MONEY. The

25 board by resolution shall establish the number of directors'
26 signatures and the procedure required for a disbursement or
27 transfer of the district's money.

1 Sec. 3845.203. AUTHORITY TO IMPOSE ASSESSMENTS. The
2 district may impose an assessment as provided by Chapter 375, Local
3 Government Code, to provide an improvement or service for a project
4 or activity the district may acquire, construct, improve, or
5 provide under this chapter.

6 Sec. 3845.204. ASSESSMENT IN PART OF DISTRICT. An
7 assessment may be imposed on only a part of the district if only
8 that part will benefit from the service or improvement.

9 Sec. 3845.205. LIENS FOR ASSESSMENTS. (a) An assessment or
10 reassessment, interest on an assessment or reassessment, an expense
11 of collection, and reasonable attorney's fees incurred by the
12 district:

13 (1) are a first and prior lien against the property
14 assessed;

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

18 (3) are the personal liability of and a charge against
19 the owners of the property even if the owners are not named in the
20 assessment proceedings.

21 (b) The lien is effective from the date of the board's
22 resolution imposing the assessment until the date the assessment is
23 paid. The board may enforce the lien in the same manner that the
24 board may enforce an ad valorem tax lien against real property.

25 Sec. 3845.206. SUITS TO RECOVER ASSESSMENTS. (a) An
26 assessment imposed on property under this chapter is a personal
27 obligation of the person who owns the property on January 1 of the

1 year for which the assessment is imposed. If the person transfers
2 title to the property, the person is not relieved of the obligation.

3 (b) Not later than the fourth anniversary of the date on
4 which a delinquent assessment became due, the district may file
5 suit to foreclose the lien or to enforce the obligation for the
6 assessment, or both, and for any interest accrued.

7 (c) In addition to recovering the amount of the assessment
8 and any accrued interest, the district may recover reasonable
9 costs, including attorney's fees, that the district incurs in
10 foreclosing the lien or enforcing the obligation. The costs may not
11 exceed an amount equal to 20 percent of the assessment and interest.

12 (d) If the district does not file a suit in connection with a
13 delinquent assessment on or before the last date on which the
14 district may file suit under Subsection (b), the assessment and any
15 interest accrued is considered paid.

16 Sec. 3845.207. ASSESSMENT OF GOVERNMENTAL ENTITIES AND
17 NONPROFITS. (a) Except as provided by this section, the district
18 may not impose an assessment on:

19 (1) a governmental entity, including a municipality,
20 county, or other political subdivision; or

21 (2) an organization exempt from taxation under Section
22 501(a), Internal Revenue Code of 1986 (26 U.S.C. Section 501(a)),
23 as an organization described by Section 501(c)(3) of that code.

24 (b) An entity or organization described by Subsection (a)
25 may contract with a district to pay assessments under terms the
26 district and the entity or organization consider advisable,
27 including a term that requires apportionment of the assessment in

1 the manner provided by Section 372.015, Local Government Code.

2 Sec. 3845.208. CERTAIN RESIDENTIAL AND UTILITY PROPERTY
3 EXEMPT FROM ASSESSMENTS. (a) The district may not impose an
4 assessment on a single-family detached residence or a residential
5 duplex, triplex, or fourplex.

6 (b) The district may not impose an assessment on the
7 property, equipment, or facilities of a person who provides to the
8 public cable television, gas, light, power, telephone, sewage, or
9 water service.

10 Sec. 3845.209. DEBT; APPROVAL BY CITY. (a) The district
11 may issue bonds, notes, or other debt obligations in accordance
12 with Subchapters I and J, Chapter 375, Local Government Code, for a
13 purpose specified by that chapter or as required to exercise a power
14 or function or to accomplish a purpose or duty for which the
15 district was created.

16 (b) In exercising the district's borrowing power, the
17 district may issue a bond or other obligation in the form of a bond,
18 note, certificate of participation or other instrument evidencing a
19 proportionate interest in payments to be made by the district, or
20 other type of obligation.

21 (c) The district must obtain the approval of the city:

22 (1) for the issuance of any bonds;

23 (2) of the plans and specifications of the improvement
24 project to be financed by the bonds; and

25 (3) of the plans and specifications of a district
26 improvement project related to:

27 (A) the use of land owned by the city;

1 (B) an easement granted by the city; or

2 (C) a right-of-way of a street, road, or highway.

3 (d) If the district obtains the approval of the city of a
4 capital improvements budget for a specified period not to exceed
5 five years, the district may finance the capital improvements and
6 issue bonds specified in the budget subject to further approval
7 from the city.

8 Sec. 3845.210. SPENDING ON PROJECTS OUTSIDE THE DISTRICT
9 PROHIBITED. The district may not spend money for a project outside
10 the district.

11 Sec. 3845.211. NO AD VALOREM TAX OR IMPACT FEE. The
12 district may not impose an ad valorem tax or impact fee.

13 Sec. 3845.212. USE OF ELECTRICAL OR OPTICAL LINES. (a) The
14 district may impose an assessment to pay the cost of:

15 (1) burying or removing electrical power lines,
16 telephone lines, cable or fiber optic lines, or any other type of
17 electrical or optical line;

18 (2) removing poles and any elevated lines using the
19 poles; and

20 (3) reconnecting the lines described by Subdivision
21 (2) to the buildings or other improvements to which the lines were
22 connected.

23 (b) The district may negotiate a license agreement with the
24 city to use a municipal right-of-way to acquire and operate
25 district conduits.

26 (c) The district may charge fees for another person's:

27 (1) telecommunications network;

- 1 (2) fiber-optic cable;
2 (3) data transmission line; or
3 (4) any other type of communications transmission line
4 or supporting facility.

5 (d) The district may not require a person to use a district
6 conduit.

7 [Sections 3845.213-3845.250 reserved for expansion]

8 SUBCHAPTER F. DISSOLUTION

9 Sec. 3845.251. DISSOLUTION BY BOARD; CITY CONSENT REQUIRED.

10 (a) The board may dissolve the district regardless of whether the
11 district has debt. Section 375.264, Local Government Code, does
12 not apply to the district.

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

17 (c) The district may not be dissolved unless the governing
18 body of the city consents to the dissolution.

19 Sec. 3845.252. DISSOLUTION OF DISTRICT BY CITY. (a) The
20 city's governing body may dissolve the district.

21 (b) Before dissolution, the city shall publish notice and
22 hold public hearings on the proposed dissolution under Section
23 375.305, Local Government Code, in the same manner as a
24 municipality creating a defense adjustment management authority
25 under Subchapter O, Chapter 375, Local Government Code.

26 (c) On dissolution of the district under this section, the
27 city assumes all district assets, debts, and other obligations.

1 (d) Section 375.263, Local Government Code, does not apply
2 to the district.

3 SECTION 3. BOUNDARIES. As of the effective date of this
4 Act, the Eastside Improvement District No. 1 includes all territory
5 contained in the following described area:

6 UNLESS otherwise specified, the boundaries of this district will
7 travel along the centerline of each street included, and each
8 intersection will be the intersection of the centerlines of the
9 streets mentioned.

10 Beginning at the juncture of East Commerce Street and IH-37,
11 continuing in a northerly direction to the juncture of IH-37 with
12 IH-35, and continuing in an east-northeasterly direction to the
13 juncture of IH-35 with South New Braunfels Avenue, and proceeding
14 south to a point at the juncture of South New Braunfels Avenue and
15 East Commerce Street, and proceeding west to a point of closure at
16 the juncture of East Commerce Street and IH-37.

17 SECTION 4. LEGISLATIVE FINDINGS. The legislature finds
18 that:

19 (1) proper and legal notice of the intention to
20 introduce this Act, setting forth the general substance of this
21 Act, has been published as provided by law, and the notice and a
22 copy of this Act have been furnished to all persons, agencies,
23 officials, or entities to which they are required to be furnished by
24 the constitution and laws of this state;

25 (2) the general law relating to consent by political
26 subdivisions to the creation of districts with conservation,
27 reclamation, and road powers and the inclusion of land in those

1 districts has been complied with; and

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

6 SECTION 5. EFFECTIVE DATE. This Act takes effect
7 immediately if it receives a vote of two-thirds of all the members
8 elected to each house, as provided by Section 39, Article III, Texas
9 Constitution. If this Act does not receive the vote necessary for
10 immediate effect, this Act takes effect September 1, 2007.