

By: McClendon

H.B. No. 4077

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the East San Antonio Economic Development District; providing authority to impose an assessment, impose a tax, and issue bonds.

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

SECTION 1. EAST SAN ANTONIO ECONOMIC DEVELOPMENT DISTRICT. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3845 to read as follows:

CHAPTER 3845. EAST SAN ANTONIO ECONOMIC DEVELOPMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3845.001. DEFINITIONS. In this chapter:

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

(2) "District" means the East San Antonio Economic Development District.

Sec. 3845.002. EAST SAN ANTONIO ECONOMIC DEVELOPMENT DISTRICT. The East San Antonio Economic Development District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3845.003. 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 Bexar County,

1 the City of San Antonio, and other political subdivisions to
2 contract with the district, the legislature has established a
3 program to accomplish the public purposes set out in Section 52-a,
4 Article III, Texas Constitution.

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

10 (c) This chapter and the creation of the district may not be
11 interpreted to relieve Bexar County or the City of San Antonio from
12 providing the level of services provided as of the effective date of
13 the Act enacting this chapter to the area in the district or to
14 release the county or the city from the obligations of each entity
15 to provide services to that area. The district is created to
16 supplement and not to supplant the county or city services provided
17 in the area in the district.

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

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

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

27 (1) further the public purposes of developing and

1 diversifying the economy of the state;

2 (2) eliminate unemployment and underemployment; and

3 (3) develop or expand transportation and commerce.

4 (d) The district will:

5 (1) promote the health, safety, and general welfare of
6 residents, employers, employees, visitors, and consumers in the
7 district, and of the public;

8 (2) provide money to preserve, maintain, and enhance
9 the economic health and vitality of the district as a community and
10 business center; and

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

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

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

23 Sec. 3845.005. DISTRICT TERRITORY. (a) The district is
24 composed of the territory described by Section 2 of the Act enacting
25 this chapter, as that territory may have been modified under:

26 (1) Section 3845.106;

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

1 (3) 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:

6 (1) the district's organization, existence, and
7 validity;

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

11 (3) the district's right to impose and collect an
12 assessment or tax; or

13 (4) the legality or operation of the district or the
14 board.

15 Sec. 3845.006. APPLICABILITY OF OTHER LAW. Except as
16 otherwise provided by this chapter, Chapter 375, Local Government
17 Code, applies to the district, the board, and district employees.

18 Sec. 3845.007. LIBERAL CONSTRUCTION OF CHAPTER. This
19 chapter shall be liberally construed in conformity with the
20 findings and purposes stated in this chapter.

21 [Sections 3845.008-3845.050 reserved for expansion]

22 SUBCHAPTER B. BOARD OF DIRECTORS

23 Sec. 3845.051. COMPOSITION; TERMS. (a) The district is
24 governed by a board of 15 voting directors who serve staggered terms
25 of four years, with 7 directors' terms expiring June 1 of an
26 odd-numbered year and 8 directors' terms expiring June 1 of the
27 following odd-numbered year.

1 (b) The board by resolution may increase or decrease the
2 number of voting directors on the board, but only if it is in the
3 best interest of the district to do so. The board may not:

4 (1) increase the number of voting directors to more
5 than 30; or

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

8 Sec. 3845.052. APPOINTMENT OF DIRECTORS. The governing
9 body of the City of San Antonio shall appoint voting directors from
10 persons recommended by the board who meet the qualifications
11 prescribed by Subchapter D, Chapter 375, Local Government Code.

12 Sec. 3845.053. NONVOTING DIRECTORS. (a) The following
13 persons serve as nonvoting directors:

14 (1) the directors of the parks and recreation,
15 planning and community development, and public works departments of
16 the City of San Antonio;

17 (2) the chief of police of the City of San Antonio;

18 (3) the general manager of the VIA Metropolitan
19 Transit Authority; and

20 (4) the president of each institution of higher
21 learning located in the district.

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 of San Antonio that performs duties

1 comparable to those performed by the abolished department.

2 (c) The board may appoint the presiding officer of a
3 nonprofit corporation actively involved in activities in the east
4 area of the city of San Antonio to serve as a nonvoting director.

5 Sec. 3845.054. CONFLICTS OF INTEREST. (a) Except as
6 provided by this section:

7 (1) a director may participate in all board votes and
8 decisions; and

9 (2) Chapter 171, Local Government Code, governs
10 conflicts of interest of directors.

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

17 (c) After the affidavit is filed, the director may
18 participate in a discussion or vote on that action if:

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

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

23 (d) A director who is also an officer or employee of a public
24 entity may not participate in a discussion of or vote on a matter
25 regarding a contract with that same public entity.

26 (e) For purposes of this section, a director has a
27 substantial interest in a charitable entity in the same manner that

1 a person would have a substantial interest in a business entity
2 under Section 171.002, Local Government Code.

3 Sec. 3845.055. INITIAL VOTING DIRECTORS. (a) Not later
4 than October 1, 2007, the governing body of the City of San Antonio
5 shall appoint the initial 15 voting directors by position.

6 (b) Of the initial voting directors, the terms of directors
7 appointed for positions 1 through 8 expire June 1, 2009, and the
8 terms of directors appointed for positions 9 through 15 expire June
9 1, 2011.

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

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

12 [Sections 3845.056-3845.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 3845.101. GENERAL DISTRICT POWERS. The district has
15 all powers necessary to accomplish the purposes for which the
16 district was created.

17 Sec. 3845.102. ADDITIONAL DISTRICT POWERS. The district
18 has:

19 (1) the powers given to a corporation under Section
20 4B, the Development Corporation Act of 1979 (Article 5190.6,
21 Vernon's Texas Civil Statutes), and the power to own, operate,
22 acquire, construct, lease, improve, and maintain projects; and

23 (2) the powers given to a housing finance corporation
24 created under Chapter 394, Local Government Code, to provide
25 housing or residential development projects in the district.

26 Sec. 3845.103. NONPROFIT CORPORATION. (a) The board by
27 resolution may authorize the creation of a nonprofit corporation to

1 assist and act for the district in implementing a project or
2 providing a service authorized by this chapter.

3 (b) The nonprofit corporation:

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

7 (2) may implement any project and provide any service
8 authorized by this chapter.

9 (c) The board shall appoint the board of directors of the
10 nonprofit corporation. The board of directors of the nonprofit
11 corporation shall serve in the same manner as, for the same term as,
12 and on the conditions of the board of directors of a local
13 government corporation created under Chapter 431, Transportation
14 Code.

15 Sec. 3845.104. CONTRACTS; GRANTS; DONATIONS. (a) To
16 protect the public interest, the district may contract with Bexar
17 County or the City of San Antonio for the county or city to provide
18 law enforcement services in the district for a fee.

19 (b) Bexar County, the City of San Antonio, or another
20 political subdivision of this state, without further
21 authorization, may contract with the district to implement a
22 project of the district or assist the district in providing a
23 service authorized under this chapter. A contract under this
24 subsection may:

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

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

27 (3) be payable from taxes or any other source of

1 revenue that may be available for that project or service; or

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

6 (c) The district may enter into a contract, lease, or other
7 agreement with or make or accept a grant or loan to or from, or
8 accept donations from, any person, including:

9 (1) the United States;

10 (2) this state or a state agency;

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

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

14 (d) The district may perform all acts necessary for the full
15 exercise of the powers vested in the district on terms and for the
16 period the board determines advisable.

17 (e) The implementation of a project is a governmental
18 function or service for purposes of Chapter 791, Government Code.

19 Sec. 3845.105. COMPETITIVE BIDDING. Section 375.221,
20 Local Government Code, does not apply to a district contract for
21 \$25,000 or less.

22 Sec. 3845.106. ANNEXATION. In addition to the authority to
23 annex territory under Subchapter C, Chapter 375, Local Government
24 Code, the district has the authority to annex territory located in a
25 reinvestment zone created by the City of San Antonio under Chapter
26 311, Tax Code, if the city's governing body consents to the
27 annexation.

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

3 [Sections 3845.108-3845.150 reserved for expansion]

4 SUBCHAPTER D. FINANCIAL PROVISIONS

5 Sec. 3845.151. PETITION REQUIRED FOR FINANCING SERVICES AND
6 IMPROVEMENTS. (a) The board may not finance a service or an
7 improvement project under this chapter unless a written petition
8 requesting that service or improvement is filed with the board.

9 (b) The petition must be signed by:

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

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

16 Sec. 3845.152. DISBURSEMENTS AND TRANSFERS OF MONEY. The
17 board by resolution shall establish the number of directors'
18 signatures and the procedure required for a disbursement or
19 transfer of the district's money.

20 Sec. 3845.153. BOARD VOTE REQUIRED TO IMPOSE TAXES,
21 ASSESSMENTS, OR IMPACT FEES. The imposition of a tax, assessment,
22 or impact fee requires a vote of a majority of the directors
23 serving.

24 Sec. 3845.154. AUTHORITY TO IMPOSE TAXES, ASSESSMENTS, AND
25 IMPACT FEES. The district may impose an ad valorem tax, assessment,
26 or impact fee as provided by Chapter 375, Local Government Code, to
27 provide an improvement or service for a project or activity the

1 district may acquire, construct, improve, or provide under this
2 chapter.

3 Sec. 3845.155. MAINTENANCE TAX. (a) If authorized at an
4 election held in accordance with Section 3845.159, the district may
5 impose an annual ad valorem tax on taxable property in the district
6 to:

7 (1) maintain and operate the district and the
8 improvements constructed or acquired by the district; or

9 (2) provide a service.

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

11 Sec. 3845.156. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
12 The board by resolution may impose and collect an assessment for any
13 purpose authorized by this chapter.

14 (b) An assessment, a reassessment, or an assessment
15 resulting from an addition to or correction of the assessment roll
16 by the district, penalties and interest on an assessment or
17 reassessment, an expense of collection, and reasonable attorney's
18 fees incurred by the district:

19 (1) are a first and prior lien against the property
20 assessed;

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

24 (3) are the personal liability of and a charge against
25 the owners of the property even if the owners are not named in the
26 assessment proceeding.

27 (c) The lien is effective from the date of the board's

1 resolution imposing the assessment until the date the assessment is
2 paid. The board may enforce the lien in the same manner that the
3 board may enforce an ad valorem tax lien against real property.

4 (d) The board may correct, add to, or delete assessments
5 from its assessment rolls after notice and hearing as provided by
6 Subchapter F, Chapter 375, Local Government Code.

7 Sec. 3845.157. PROPERTY EXEMPT FROM TAXES, IMPACT FEES, AND
8 ASSESSMENTS. (a) The district may not impose an impact fee or
9 assessment on a residential property or condominium.

10 (b) The district may not impose an impact fee or assessment
11 on the property, equipment, or facilities of a person who provides
12 to the public cable television, gas, light, power, telephone,
13 sewage, or water service.

14 Sec. 3845.158. OBLIGATIONS; APPROVAL BY CITY OF SAN
15 ANTONIO. (a) The district may issue bonds or other obligations
16 payable wholly or partly from ad valorem taxes, assessments, impact
17 fees, revenue, grants, or other money of the district, or any
18 combination of those sources of money, to pay for any authorized
19 purpose of the district.

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

25 (c) Except as provided by Subsection (d), the district must
26 obtain the approval of the City of San Antonio:

27 (1) for the issuance of a bond for each improvement

1 project;

2 (2) of the plans and specifications of the improvement
3 project to be financed by the bond; and

4 (3) of the plans and specifications of a district
5 improvement project related to:

6 (A) the use of land owned by the City of San
7 Antonio;

8 (B) an easement granted by the City of San
9 Antonio; or

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

11 (d) If the district obtains the approval of the City of San
12 Antonio of a capital improvements budget for a specified period not
13 to exceed five years, the district may finance the capital
14 improvements and issue bonds specified in the budget without
15 further approval from the City of San Antonio.

16 Sec. 3845.159. ELECTIONS REGARDING TAXES OR BONDS. (a) In
17 addition to the elections required under Subchapter L, Chapter 375,
18 Local Government Code, the district must hold an election in the
19 manner provided by that subchapter to obtain voter approval before
20 the district may:

21 (1) impose a maintenance tax; or

22 (2) issue a bond payable from ad valorem taxes or
23 assessments.

24 (b) The board may submit multiple purposes in a single
25 proposition at an election.

26 [Sections 3845.160-3845.200 reserved for expansion]

1 SUBCHAPTER E. DISSOLUTION

2 Sec. 3845.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
3 DEBT. (a) The board may dissolve the district regardless of
4 whether the district has debt. Section 375.264, Local Government
5 Code, does not apply to the district.

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

10 SECTION 2. BOUNDARIES. As of the effective date of this
11 Act, the East San Antonio Economic Development District includes
12 all territory contained in the following described area:

13 _____
14 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
15 that:

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

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

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

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

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