

By: Coleman

H.B. No. 4090

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of the Glenbrook Valley Neighborhood  
3 Preservation and Improvement District; providing authority to  
4 impose an assessment and a tax, and issue bonds or similar  
5 obligations.

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

7 SECTION 1. GLENBROOK VALLEY NEIGHBORHOOD PRESERVATION AND  
8 IMPROVEMENT DISTRICT. Subtitle C, Title 4, Special District Local  
9 Laws Code, is amended by adding Chapter 38\_\_ to read as follows:

10 CHAPTER 38\_\_. GLENBROOK VALLEY NEIGHBORHOOD PRESERVATION AND

11 IMPROVEMENT DISTRICT

12 SUBCHAPTER A. GENERAL PROVISIONS

13 Sec. 38\_\_.001. DEFINITIONS. In this chapter:

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

16 (2) "District" means the Glenbrook Valley  
17 Neighborhood Preservation and Improvement District.

18 Sec. 38\_\_.002. GLENBROOK VALLEY NEIGHBORHOOD PRESERVATION  
19 AND IMPROVEMENT DISTRICT. The Glenbrook Valley Neighborhood  
20 Preservation and Improvement District is a special district created  
21 under Section 59, Article XVI, Texas Constitution.

22 Sec. 38\_\_.003. PURPOSE; DECLARATION OF INTENT. (a) The  
23 creation of the district is essential to accomplish the purposes of  
24 Sections 52 and 52-a, Article III, and Section 59, Article XVI,

1 Texas Constitution, and other public purposes stated in this  
2 chapter. By creating the district and in authorizing the City of  
3 Houston, Harris County, and other political subdivisions to  
4 contract with the district, the legislature has established a  
5 program to accomplish the public purposes set out in Section 52-a,  
6 Article III, Texas Constitution.

7 (b) The creation of the district is necessary to provide  
8 enhanced and supplemental services to preserve, protect and enhance  
9 the historic character of the Glenbrook Valley Neighborhood of  
10 Houston, and promote and maintain the Glenbrook Valley Neighborhood  
11 of Houston as a safe, clean, pedestrian-friendly, and aesthetically  
12 pleasing residential neighborhood with sustainable property  
13 values.

14 (c) This chapter and the creation of the district may not be  
15 interpreted to relieve Harris County or the City of Houston from  
16 providing the level of services provided as of the effective date of  
17 the Act enacting this chapter to the area in the district. The  
18 district is created to supplement and not to supplant the county or  
19 city services provided in the area in the district.

20 Sec. 38\_\_ .004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
21 The district is created to serve a public use and benefit.

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

27 (c) The district will:

1           (1) promote the health, safety, and general welfare of  
2 district residents and of the public;

3           (2) provide enhanced and supplemental services to  
4 preserve, maintain, and enhance the vitality of the district as a  
5 residential neighborhood;

6           (3) promote the preservation of the historic character  
7 of the district by advocating for and taking other necessary  
8 actions to preserve, maintain, and enhance the historic character  
9 of the district; and

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

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

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

22          Sec. 38\_\_ .005. DISTRICT TERRITORY. (a) The district is  
23 composed of the territory described by Section 2 of the Act enacting  
24 this chapter, as that territory may have been modified under:

- 25           (1) Subchapter J, Chapter 49, Water Code; or  
26           (2) other law.

27          (b) The boundaries and field notes of the district contained

1 in Section 2 of the Act enacting this chapter form a closure. A  
2 mistake in the field notes or in copying the field notes in the  
3 legislative process does not in any way affect the district's:

- 4 (1) organization, existence, or validity;
- 5 (2) right to issue any type of bond for a purpose for  
6 which the district is created or to pay the principal of and  
7 interest on the bond;
- 8 (3) right to impose or collect an assessment or tax;
- 9 or
- 10 (4) legality or operation.

11 Sec. 38\_\_.006. APPLICABILITY OF MUNICIPAL MANAGEMENT  
12 DISTRICTS LAW. Except as otherwise provided by this chapter,  
13 Chapter 375, Local Government Code, applies to the district.

14 Sec. 38\_\_.007. LIBERAL CONSTRUCTION OF CHAPTER. This  
15 chapter shall be liberally construed in conformity with the  
16 findings and purposes stated in this chapter.

17 [Sections 38\_\_.008-38\_\_.050 reserved for expansion]

18 SUBCHAPTER B. BOARD OF DIRECTORS

19 Sec. 38\_\_.051. BOARD OF DIRECTORS; TERMS. (a) The  
20 district is governed by a board of 11 voting directors who serve  
21 staggered terms of two years, with 5 directors' terms expiring June  
22 1 of each odd-numbered year.

23 (b) The board by resolution may increase or decrease the  
24 number of voting directors on the board, but only if a majority of  
25 the board determines that the change is in the best interest of the  
26 district. The board may not:

- 27 (1) increase the number of directors to more than 15;

1 or

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

4 Sec. 38\_\_\_.052. APPOINTMENT OF DIRECTORS. The mayor and  
5 members of the governing body of the City of Houston shall appoint  
6 directors from persons recommended by the board. A person is  
7 appointed if a majority of the members of the governing body and the  
8 mayor vote to appoint that person. A vacancy in the office of a  
9 director shall be filled by the remaining members of the Board by  
10 appointing a qualified person for the remainder of the term.

11 Sec. 38\_\_\_.053. NONVOTING DIRECTORS. (a) The following  
12 persons serve as nonvoting directors:

13 (1) the directors of the following departments of the  
14 City of Houston or a person designated by that director:

15 (A) parks and recreation;

16 (B) planning and development; and

17 (C) public works;

18 (2) the City of Houston's chief of police; and

19 (3) each City of Houston councilmember whose council  
20 district is wholly or partly in the district.

21 (b) If a department described by Subsection (a) is  
22 consolidated, renamed, or changed, the board may appoint a director  
23 of the consolidated, renamed, or changed department as a nonvoting  
24 director.

25 (c) If a department described by Subsection (a) is  
26 abolished, the board may appoint a representative of another  
27 department that performs duties comparable to those performed by

1 the abolished department.

2           Sec. 38\_\_\_.054. QUORUM. Nonvoting directors and vacant  
3 director positions are not counted for the purposes of establishing  
4 a board quorum.

5           Sec. 38\_\_\_.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

6 (a) Except as provided by this section:

7           (1) a director (other than a non-voting director) may  
8 participate in all board votes and decisions; and

9           (2) Chapter 171, Local Government Code, governs  
10 conflicts of interest for 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 a one-time affidavit declaring the  
15 interest. An additional affidavit is not required if the  
16 director's interest changes. After the affidavit is filed with the  
17 board secretary, the director may participate in a discussion or  
18 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           (c) A director who is also an officer or employee of a public  
24 entity may not participate in the discussion of or vote on a matter  
25 regarding a contract with that public entity.

26           (d) 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. 38\_\_.056. INITIAL VOTING DIRECTORS. (a) The initial  
4 board consists of the following voting directors:

5	Pos. No.	Name of Director
6	1	[ ]
7	2	[ ]
8	3	[ ]
9	4	[ ]
10	5	[ ]
11	6	[ ]
12	7	[ ]
13	8	[ ]
14	9	[ ]
15	10	[ ]
16	11	[ ]

17

18 (b) Of the initial voting directors, the terms of directors  
19 appointed for positions 1 through 6 expire June 1, [2011, and the  
20 terms of directors appointed for positions 7 through 11 expire June  
21 1, 2009.

22 (c) Section 38\_\_.052 does not apply to this section.

23 (d) This section expires September 1, 2011.

24 [Sections 38\_\_.057-38\_\_.100 reserved for expansion]

25 SUBCHAPTER C. POWERS AND DUTIES

26 Sec. 38\_\_.101. 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) A nonprofit corporation created under this section:

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 a  
10 nonprofit corporation created under this section. The board of  
11 directors of the nonprofit corporation shall serve in the same  
12 manner as the board of directors of a local government corporation  
13 created under Chapter 431, Transportation Code.

14 Sec. 38\_\_\_.102. AGREEMENTS; GRANTS. (a) The district may  
15 make an agreement with or accept a gift, grant, or loan from any  
16 person.

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

20 Sec. 38\_\_\_.103. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.  
21 To protect the public interest, the district may contract with a  
22 qualified party, including Harris County, the City of Houston, or a  
23 nonprofit corporation, to provide supplemental law enforcement  
24 services in the district for a fee.

25 Sec. 38\_\_\_.104. APPROVAL BY CITY OF HOUSTON. (a) Except as  
26 provided by Subsection (b), the district must obtain the approval  
27 of the City of Houston's governing body for:



1           (1) the issuance of a bond for each improvement  
2 project;

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

5           (3) the plans and specifications of any district  
6 improvement project related to:

7                   (A) the use of land owned by the City of Houston;

8                   (B) an easement granted by the City of Houston;

9 or

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

11           (b) The approval obtained for the issuance of bonds under  
12 Subsection (a) must be a resolution by the City of Houston. The  
13 approval obtained for plans and specifications must be a permit  
14 issued by the City of Houston.

15           (c) If the district obtains the approval of the City of  
16 Houston's governing body of a capital improvements budget for a  
17 period not to exceed five years, the district may finance the  
18 capital improvements and issue bonds specified in the budget  
19 without further approval from the City of Houston.

20           Sec. 38\_\_105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
21 district may join and pay dues to an organization that:

22                   (1) enjoys tax-exempt status under Section 501(c)(3),  
23 (4), or (6), Internal Revenue Code of 1986; and

24                   (2) performs a service or provides an activity  
25 consistent with the furtherance of a district purpose.

26           Sec. 38\_\_106. CERTIFICATION OF PROPERTY OWNERS'  
27 ASSOCIATION. (a) If the board finds that it will benefit district

1 property and it is consistent with the district's purposes, the  
2 board by resolution may certify a nonprofit corporation whose  
3 members are the property owners of the district as a property  
4 owners' association under Chapter 204, Property Code.

5 (b) A nonprofit corporation certified by the board under  
6 this section is a property owners' association under Chapter 204,  
7 Property Code, and has the powers and duties of an association under  
8 that chapter. Certification under this section satisfies all  
9 procedural requirements regarding the creation of a property  
10 owners' association under that chapter, including the requirements  
11 of Section 204.006, Property Code.

12 (c) Not later than the 30th day after the date of the board's  
13 resolution, the board shall file a notice of the certification in  
14 the real property records of Harris County. The notice must state  
15 that the nonprofit corporation is a property owners' association  
16 under Chapter 204, Property Code.

17 (d) The certification is permanent and may not be revoked.

18 Sec. 38\_\_.107. NO EMINENT DOMAIN. The district may not  
19 exercise the power of eminent domain.

20 [Sections 38\_\_.108-38\_\_.150 reserved for expansion]

21 SUBCHAPTER D. FINANCIAL PROVISIONS

22 Sec. 38\_\_.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
23 board by resolution shall establish the number of directors'  
24 signatures and the procedure required for a disbursement or  
25 transfer of the district's money.

26 Sec. 38\_\_.152. PETITION REQUIRED FOR FINANCING SERVICES AND  
27 IMPROVEMENTS WITH ASSESSMENTS. The board may not finance a service

1 or improvement project through assessments under this chapter  
2 unless a written petition requesting that service or improvement  
3 has been filed with the board. The petition must be signed by:

4 (1) the owners of a majority of the assessed value of  
5 real property in the district subject to assessment according to  
6 the most recent certified tax appraisal roll for Harris County; or

7 (2) at least 25 persons who own land in the district  
8 that will be subject to the assessment, if there are more than 25  
9 persons who own property in the district that will be subject to the  
10 assessment according to the most recent certified tax appraisal  
11 roll for Harris County.

12 Sec. 38\_\_\_.153. METHOD OF NOTICE FOR HEARING. The district  
13 may mail the notice required by Section 375.115(c), Local  
14 Government Code, by certified United States mail or an equivalent  
15 service that can provide a record of mailing or other delivery.

16 Sec. 38\_\_\_.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
17 The board by resolution may impose and collect an assessment for any  
18 purpose authorized by this chapter.

19 (b) An assessment, a reassessment, or an assessment  
20 resulting from an addition to or correction of the assessment roll  
21 by the district, penalties and interest on an assessment or  
22 reassessment, an expense of collection, and reasonable attorney's  
23 fees incurred by the district:

24 (1) are a first and prior lien against the property  
25 assessed;

26 (2) are superior to any other lien or claim other than  
27 a lien or claim for county, school district, or municipal ad valorem

1 taxes; and

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

5 (c) The lien is effective from the date of the board's  
6 resolution imposing the assessment until the date the assessment is  
7 paid. The board may enforce the lien in the same manner that the  
8 board may enforce an ad valorem tax lien against real property,  
9 except that the board may not foreclose on a residential homestead.

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

14 (e) Section 375.161, Local Government Code, does not apply  
15 to the district.

16 Sec. 38\_\_\_.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND  
17 ASSESSMENTS. The district may not impose an impact fee or  
18 assessment on the property, including the equipment,  
19 rights-of-way, facilities, or improvements, of:

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

22 (2) a gas utility as defined by Section 101.003 or  
23 121.001, Utilities Code;

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

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

1           Sec. 38\_\_\_.156. CERTAIN RESIDENTIAL PROPERTY EXEMPT FROM  
2 IMPACT FEES AND ASSESSMENTS. (a) An individual is entitled to an  
3 exemption from an impact fee or assessment if:

4                 (1) the individual is 65 years of age or older or is  
5 disabled as defined by Section 11.13(m), Tax Code; and

6                 (2) the assessment will be imposed against property  
7 that the individual owns and occupies as a residence homestead.

8           (b) To obtain the exemption, the individual must file with  
9 the board an affidavit stating the facts required by Subsection  
10 (a).

11           Sec. 38\_\_\_.157. BONDS AND OTHER OBLIGATIONS. (a) The  
12 district may issue bonds or other obligations, by competitive bid  
13 or negotiated sale, payable wholly or partly from ad valorem taxes,  
14 assessments, impact fees, revenue, grants, or other money of the  
15 district, or any combination of those sources of money, to pay for  
16 any authorized purpose of the district.

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

22           Sec. 38\_\_\_.158. TAXES FOR BONDS AND OTHER OBLIGATIONS. At  
23 the time bonds or other obligations payable wholly or partly from ad  
24 valorem taxes are issued:

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

1 (2) the district annually shall impose the continuing  
2 direct ad valorem tax on all taxable property in the district in an  
3 amount sufficient to:

4 (A) pay the interest on the bonds or other  
5 obligations as the interest becomes due;

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

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

10 Sec. 38\_\_.159. BOND ELECTIONS. (a) The district shall hold  
11 an election in the manner provided by Subchapter L, Chapter 375,  
12 Local Government Code, to obtain voter approval before the district  
13 issues bonds.

14 (b) The board may include more than one purpose in a single  
15 proposition at an election.

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

18 Sec. 38\_\_.160. CITY NOT REQUIRED TO PAY DISTRICT  
19 OBLIGATIONS. Except as provided by Section 375.263, Local  
20 Government Code, the City of Houston is not required to pay a bond,  
21 note, or other obligation of the district.

22 Sec. 38\_\_.161. COMPETITIVE BIDDING. Section 375.221, Local  
23 Government Code, applies to the district only for a contract that  
24 has a value greater than \$25,000.

25 [Sections 38\_\_.162-38\_\_.200 reserved for expansion]

26 SUBCHAPTER E. DISSOLUTION

27 Sec. 38\_\_.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING

1 DEBT. (a) The board may dissolve the district regardless of  
2 whether the district has debt.

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

7 (c) Section 375.264, Local Government Code, does not apply  
8 to the district.

9 SECTION 2. BOUNDARIES. As of the effective date of this  
10 Act, the District includes all territory contained in the following  
11 described area:

12 BEGINNING [ ]

13 SECTION 3. Section 313.006, Government Code, does not apply  
14 to this Act.

15 SECTION 4. LEGISLATIVE FINDINGS. The legislature finds  
16 that:

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

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

1 within the required time;

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

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

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