

By: Miles

H.B. No. 4134

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Improvement District No. 10; providing authority to impose a tax and issue bonds.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3860 to read as follows:

CHAPTER 3860. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 10

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3860.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Harris County Improvement District No. 10.

Sec. 3860.002. NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3860.003. 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 Harris County, the City of Houston, the Metropolitan Transit Authority of Harris County, and other political subdivisions to contract with the district, the legislature has established a program to

1 accomplish the public purposes set out in Section 52-a, Article
2 III, Texas Constitution.

3 (b) The creation of the district is necessary to promote,
4 develop, encourage, and maintain employment, commerce,
5 transportation, parking, housing, recreation, the arts, safety,
6 and the public welfare in the area of the district.

7 (c) This chapter and the creation of the district may not be
8 interpreted to relieve Harris County or the City of Houston from
9 providing the level of services provided as of September 1, 2007, to
10 the area in the district. The district is created to supplement and
11 not to supplant the county or city services provided in the area in
12 the district.

13 Sec. 3860.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
14 The district is created to serve a public use and benefit.

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

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

22 (d) 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 (e) The district will:

2 (1) promote the health, safety, and general welfare of
3 residents, employers, employees, visitors, and consumers in the
4 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 area as a residential neighborhood and a commercially viable
8 area;

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

13 (4) promote and benefit commercial development and
14 commercial areas in the district; and

15 (5) promote and develop public transportation and
16 pedestrian facilities and systems using new and alternative means
17 that are attractive, safe, and convenient, including securing
18 expanded and improved transportation and pedestrian facilities and
19 systems, to:

20 (A) address the problem of traffic congestion in
21 the district, the need to control traffic and improve pedestrian
22 safety, and the limited availability of money; and

23 (B) benefit the land and other property in the
24 district and the residents, employers, employees, visitors, and
25 consumers in the district and the public.

26 (f) Pedestrian ways along or across a street, whether at
27 grade or above or below the surface, and street lighting, street

1 landscaping, and street art objects are parts of and necessary
2 components of a street and are considered to be a street or road
3 improvement.

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

7 Sec. 3860.005. DISTRICT TERRITORY. (a) The district is
8 composed of the territory described by Section 2 of the Act enacting
9 this chapter, as that territory may have been modified under:

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

11 (2) other law.

12 (b) The boundaries and field notes of the district contained
13 in Section 2 of this Act form a closure. A mistake in the field
14 notes or in copying the field notes in the legislative process does
15 not in any way affect:

16 (1) the district's organization, existence, and
17 validity;

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

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

23 (4) the legality or operation of the district or the
24 board.

25 (c) A description of the district's boundaries shall be
26 filed with the Texas Commission on Environmental Quality. The
27 commission by order may correct a mistake in the description of the

1 district's boundaries.

2 Sec. 3860.006. APPLICABILITY OF MUNICIPAL MANAGEMENT
3 DISTRICTS LAW. Except as otherwise provided by this chapter,
4 Chapter 375, Local Government Code, applies to the district.

5 Sec. 3860.007. LIBERAL CONSTRUCTION OF CHAPTER. This
6 chapter shall be liberally construed in conformity with the
7 findings and purposes stated in this chapter.

8 [Sections 3860.008-3860.050 reserved for expansion]

9 SUBCHAPTER B. BOARD OF DIRECTORS

10 Sec. 3860.051. COMPOSITION; TERMS. (a) The district is
11 governed by a board of nine voting directors who serve staggered
12 terms of four years, with four or five directors' terms expiring
13 June 1 of each odd-numbered year.

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

17 (1) increase the number of directors to more than
18 nine; or

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

21 Sec. 3860.052. APPOINTMENT OF DIRECTORS. The mayor and
22 members of the governing body of the City of Houston shall appoint
23 voting directors from persons recommended by the board. A person is
24 appointed if a majority of the members of the governing body,
25 including the mayor, vote to appoint that person.

26 Sec. 3860.053. NONVOTING DIRECTORS. (a) The following
27 persons serve as nonvoting directors:

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

3 (A) parks and recreation;

4 (B) planning and development; and

5 (C) public works; and

6 (2) the City of Houston's chief of police.

7 (b) If a department described by Subsection (a) is
8 consolidated, renamed, or changed, the board may appoint a director
9 of the consolidated, renamed, or changed department as a nonvoting
10 director. If a department described by Subsection (a) is
11 abolished, the board may appoint a representative of another
12 department that performs duties comparable to those performed by
13 the abolished department.

14 Sec. 3860.054. QUORUM. (a) A majority of the board is a
15 quorum.

16 (b) Nonvoting directors and vacant director positions are
17 not counted for the purposes of establishing a board quorum.

18 Sec. 3860.055. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

19 (a) Except as provided by this section:

20 (1) a director may participate in all board votes and
21 decisions; and

22 (2) Chapter 171, Local Government Code, governs
23 conflicts of interest for directors.

24 (b) Section 171.004, Local Government Code, does not apply
25 to the district. A director who has a substantial interest in a
26 business or charitable entity that will receive a pecuniary benefit
27 from a board action shall file a one-time affidavit declaring the

1 interest. An additional affidavit is not required if the
2 director's interest changes. After the affidavit is filed with the
3 board secretary, the director may participate in a discussion or
4 vote on that action if:

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

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

9 (c) A director who is also an officer or employee of a public
10 entity may not participate in the discussion of or vote on a matter
11 regarding a contract with that public entity.

12 (d) For purposes of this section, a director has a
13 substantial interest in a charitable entity in the same manner that
14 a person would have a substantial interest in a business entity
15 under Section 171.002, Local Government Code.

16 Sec. 3860.056. COMPENSATION OF VOTING DIRECTORS. Voting
17 directors may receive fees of office and reimbursement of expenses
18 as provided by Section 49.060, Water Code.

19 Sec. 3860.057. INITIAL VOTING DIRECTORS. (a) The initial
20 board consists of the following voting directors:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	=====
<u>2</u>	=====
<u>3</u>	=====
<u>4</u>	=====
<u>5</u>	=====
<u>6</u>	=====

1	<u>7</u>	<u>_____</u>
2	<u>8</u>	<u>_____</u>
3	<u>9</u>	<u>_____</u>

4 (b) Of the initial voting directors, the terms of directors
5 appointed for positions 1 through 5 expire June 1, 2009, and the
6 terms of directors appointed for positions 6 through 9 expire June
7 1, 2011.

8 (c) Section 3860.052 does not apply to this section.

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

10 [Sections 3860.058-3860.100 reserved for expansion]

11 SUBCHAPTER C. POWERS AND DUTIES

12 Sec. 3860.101. GENERAL DISTRICT POWERS. The district has
13 all powers necessary to accomplish the purposes for which the
14 district was created.

15 Sec. 3860.102. DEVELOPMENT CORPORATION AND HOUSING
16 CORPORATION POWERS OF DISTRICT. The district may exercise the
17 powers given to:

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

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

26 Sec. 3860.103. 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 same conditions as the board of directors of a local
13 government corporation created under Chapter 431, Transportation
14 Code.

15 Sec. 3860.104. AGREEMENTS; GRANTS. (a) The district may
16 make an agreement with or accept a gift, grant, or loan from any
17 person.

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

21 Sec. 3860.105. CONTRACT FOR LAW ENFORCEMENT SERVICES. To
22 protect the public interest, the district may contract with:

23 (1) Harris County or the City of Houston for the county
24 or the city to provide law enforcement services in the district for
25 a fee; and

26 (2) a private entity for the private entity to provide
27 supplemental security services.

1 Sec. 3860.106. APPROVAL BY CITY OF HOUSTON. (a) Except as
2 provided by Subsection (b), the district must obtain the approval
3 of the City of Houston's governing body for:

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

6 (2) the plans and specifications of the improvement
7 project financed by the bond; and

8 (3) the plans and specifications of any district
9 improvement project related to the use of land owned by the City of
10 Houston, an easement granted by the City of Houston, or a
11 right-of-way of a street, road, or highway.

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

17 Sec. 3860.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
18 district may join and pay dues to an organization that:

19 (1) is an organization exempt from taxation under
20 Section 501(a), Internal Revenue Code of 1986, as an organization
21 described by Section 501(c)(3), (4), or (6) of that code; and

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

24 Sec. 3860.108. ROAD POWERS. (a) The district may exercise
25 the powers given to:

26 (1) a road district created under Chapter 257,
27 Transportation Code; and

1 (2) a road utility district created under Chapter 441,
2 Transportation Code.

3 (b) The district does not need the approval of the Texas
4 Department of Transportation or the Texas Transportation
5 Commission to construct a road or street if the director of public
6 works of the City of Houston has approved the road or street.

7 Sec. 3860.109. AIR RIGHTS; CONSTRUCTION. The district may
8 acquire air rights and may construct improvements on property on
9 which it only owns air rights.

10 Sec. 3860.110. ADDITIONAL PROPERTY RIGHTS; LEASEHOLDS. The
11 district may construct improvements on property on which it only
12 has a leasehold interest and may own undivided interests in
13 buildings and other improvements.

14 Sec. 3860.111. NO EMINENT DOMAIN POWER. The district may
15 not exercise the power of eminent domain.

16 [Sections 3860.112-3860.150 reserved for expansion]

17 SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

18 Sec. 3860.151. PUBLIC TRANSIT SYSTEM. The district may
19 acquire, lease as lessor or lessee, construct, develop, own,
20 operate, and maintain a public transit system to serve the area in
21 the district.

22 Sec. 3860.152. PARKING FACILITIES AUTHORIZED; OPERATION BY
23 PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease
24 as lessor or lessee, construct, develop, own, operate, and maintain
25 parking facilities, including:

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

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

4 (b) A parking facility of the district must be either leased
5 to or operated on behalf of the district by a private entity or an
6 entity other than the district. The district's parking facilities
7 are a program authorized by the legislature under Section 52-a,
8 Article III, Texas Constitution, and accomplish a public purpose
9 under that section even if leased or operated by a private entity
10 for a term of years.

11 (c) The district's public parking facilities and any lease
12 to a private entity are exempt from the payment of ad valorem taxes
13 and state and local sales and use taxes.

14 Sec. 3860.153. RULES. The district may adopt rules
15 covering its public transit system or its public parking facilities
16 except that a rule relating to or affecting the use of the public
17 right-of-way or a requirement for off-street parking is subject to
18 all applicable municipal charter, code, or ordinance requirements.

19 Sec. 3860.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR
20 PARKING FACILITIES. (a) The district may use any of its resources,
21 including revenue, assessments, taxes, and grant or contract
22 proceeds, to pay the cost of acquiring and operating a public
23 transit system or public parking facilities.

24 (b) The district may set and impose fees, charges, or tolls
25 for the use of the public transit system or the public parking
26 facilities and may issue bonds or notes to finance the cost of these
27 facilities.

1 (c) If the district pays for or finances the cost of
2 acquiring or operating a public transit system or public parking
3 facilities with resources other than assessments, a petition of
4 property owners or a public hearing is not required.

5 Sec. 3860.155. AGREEMENT WITH RAPID TRANSIT AUTHORITY. (a)
6 In this section, "authority" means a rapid transit authority
7 created under Chapter 451, Transportation Code.

8 (b) The district and an authority may agree to jointly
9 construct, own, operate, and maintain a transit facility or a
10 parking facility under the terms the authority and district desire.

11 (c) The agreement may provide that the district and the
12 authority exchange or trade land provided that each party to the
13 agreement receives fair market value. The authority is not
14 required to offer any property that it proposes to trade to the
15 district for sale to the public or for sale to any abutting property
16 owner.

17 [Sections 3860.156-3860.200 reserved for expansion]

18 SUBCHAPTER E. FINANCIAL PROVISIONS

19 Sec. 3860.201. DISBURSEMENTS AND TRANSFERS OF MONEY. The
20 board by resolution shall establish the number of directors'
21 signatures and the procedure required for a disbursement or
22 transfer of the district's money.

23 Sec. 3860.202. PETITION REQUIRED FOR FINANCING SERVICES AND
24 IMPROVEMENTS. (a) The board may not finance a service or
25 improvement project with assessments under this chapter unless a
26 written petition requesting that service or improvement has been
27 filed with the board.

1 (b) A petition requesting a project financed by assessment
2 must be signed by:

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

6 (2) at least 25 owners of real property in the district
7 that will be subject to the assessment, if more than 25 persons own
8 real property subject to the assessment in the district according
9 to the most recent certified tax appraisal roll for Harris County.

10 Sec. 3860.203. MAINTENANCE TAX. (a) If authorized at an
11 election held in accordance with Section 3860.208, the district may
12 impose an annual ad valorem tax on taxable property in the district
13 to:

- 14 (1) administer the district;
15 (2) maintain and operate the district;
16 (3) construct or acquire improvements; or
17 (4) provide a service.

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

19 (c) An owner of real property in the district, except
20 property exempt under the Texas or United States Constitution or
21 under the Tax Code, is liable for the payment of ad valorem taxes
22 imposed by the district on the property.

23 Sec. 3860.204. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
24 The board by resolution may impose and collect an assessment for any
25 purpose authorized by this chapter.

26 (b) An assessment, a reassessment, or an assessment
27 resulting from an addition to or correction of the assessment roll

1 by the district, penalties and interest on an assessment or
2 reassessment, an expense of collection, and reasonable attorney's
3 fees incurred by the district:

4 (1) are a first and prior lien against the property
5 assessed;

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

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

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

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

20 Sec. 3860.205. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
21 ASSESSMENTS. The district may not impose an impact fee or
22 assessment on the property, including the equipment,
23 rights-of-way, facilities, or improvements, of:

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

26 (2) a gas utility as defined by Section 101.003 or
27 121.001, Utilities Code;

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

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

5 Sec. 3860.206. BONDS AND OTHER OBLIGATIONS. (a) The
6 district may issue bonds or other obligations payable wholly or
7 partly from assessments, impact fees, revenue, grants, or other
8 money of the district, or any combination of those sources of money,
9 to pay for any authorized district purpose.

10 (b) In exercising the district's power to borrow, the
11 district may issue a bond or other obligation in the form of a bond,
12 note, certificate of participation or other instrument evidencing a
13 proportionate interest in payments to be made by the district, or
14 other type of obligation.

15 Sec. 3860.207. LIMIT ON PARKS AND RECREATION BONDS. Bonds
16 issued to finance parks and recreational facilities may not exceed
17 one percent of the assessed value of the real property in the
18 district according to the most recent certified tax appraisal roll
19 for Harris County.

20 Sec. 3860.208. TAX AND BOND ELECTIONS. (a) The district
21 shall hold an election in the manner provided by Subchapter L,
22 Chapter 375, Local Government Code, to obtain voter approval before
23 the district imposes a maintenance tax or issues bonds payable from
24 ad valorem taxes.

25 (b) The board may not include more than one purpose in a
26 single proposition at an election.

27 (c) Section 375.243, Local Government Code, does not apply

1 to the district.

2 Sec. 3860.209. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
3 OBLIGATIONS. Except as provided by Section 375.263, Local
4 Government Code, a municipality is not required to pay a bond, note,
5 or other obligation of the district.

6 Sec. 3860.210. COMPETITIVE BIDDING. Section 375.221, Local
7 Government Code, applies to the district only for a contract that
8 has a value greater than \$25,000.

9 [Sections 3860.211-3860.250 reserved for expansion]

10 SUBCHAPTER F. DISSOLUTION

11 Sec. 3860.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
12 DEBT. (a) The board may dissolve the district regardless of
13 whether the district has debt. Section 375.264, Local Government
14 Code, does not apply to the district.

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

19 SECTION 2. BOUNDARIES. As of the effective date of this
20 Act, the Harris County Improvement District No. 10 includes all
21 territory generally bounded by the following described area:

22 Beginning at a point on the North at the intersection of
23 Almeda and the 610 South Loop, thence in an easterly direction along
24 the centerline of the 610 South Loop to the intersection of the 610
25 South Loop and MLK; thence in a southerly direction along the
26 centerline of MLK to the intersection of MLK and E. Orem; thence in
27 a westerly direction along the centerline of E. Orem to the

1 intersection of E. Orem and Cullen; thence in a southerly direction
2 along the centerline of Cullen to the intersection of Cullen and
3 Almeda-Genoa; thence in a westerly direction along the centerline
4 of Almeda-Genoa to the intersection of Almeda-Genoa and Almeda;
5 thence in a northerly direction to the intersection of Almeda and
6 the 610 South Loop.

7 SECTION 3. REIMBURSEMENT FOR COST OF CREATION. The Harris
8 County Improvement District No. 10 may reimburse the cost of
9 creating the district from assessments or other revenue created by
10 the district.

11 SECTION 4. LEGISLATIVE FINDINGS. The legislature finds
12 that:

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

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

25 (3) 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 (4) 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. INAPPLICABILITY OF NOTICE LAW. Section 313.006,
7 Government Code, does not apply to this Act.

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