

1-1 By: Williams S.B. No. 2022
1-2 (In the Senate - Filed April 12, 2007; April 17, 2007, read
1-3 first time and referred to Committee on Intergovernmental
1-4 Relations; April 26, 2007, reported adversely, with favorable
1-5 Committee Substitute by the following vote: Yeas 4, Nays 0;
1-6 April 26, 2007, sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2022 By: Wentworth

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the administration, powers, including taxing powers and
1-11 the authority to issue bonds, boundaries, operations, financing,
1-12 and dissolution of the Town Center Improvement District of
1-13 Montgomery County, Texas.

1-14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-15 ARTICLE 1. AMENDMENTS EFFECTIVE IMMEDIATELY

1-16 SECTION 1.01. Subsection (d), Section 1, Chapter 289, Acts
1-17 of the 73rd Legislature, Regular Session, 1993, is amended to read
1-18 as follows:

1-19 (d) The creation and continued operations of the district
1-20 are [is] declared to be essential to the accomplishment of the
1-21 purposes of Article III, Sections [Section] 52 and 52-a, and
1-22 Article XVI, Section 59, of the Texas Constitution and to the
1-23 accomplishment of the several other public purposes stated in this
1-24 Act.

1-25 SECTION 1.02. Subsection (a), Section 5, Chapter 289, Acts
1-26 of the 73rd Legislature, Regular Session, 1993, is amended to read
1-27 as follows:

1-28 (a) The legislature finds that the creation and operation of
1-29 the district and [all of the land and other property included within
1-30 the boundaries of the district will be benefited by] the works,
1-31 projects, improvements, and services that are to be promoted,
1-32 facilitated, and accomplished by the district under powers
1-33 conferred by Article III, Sections [Section] 52 and 52-a, and
1-34 Article XVI, Section 59, of the Texas Constitution and other powers
1-35 granted under this Act will provide a substantial and continuing
1-36 [and that the district is created to serve a] public use and benefit
1-37 not only within and adjacent to the boundaries of the district, but
1-38 throughout the state, by promoting and stimulating business
1-39 activity, commerce, tourism, travel, and economic development and
1-40 diversification in the state; promoting and facilitating public
1-41 safety and health, the mobility of people, traffic circulation, and
1-42 mass transportation in the state; preserving and promoting scenic
1-43 and aesthetic beauty in the state; promoting and advancing
1-44 employment and business relocation and retention in the state;
1-45 reducing or eliminating unemployment and underemployment in the
1-46 state; and protecting and securing the general welfare of the state
1-47 and all of its citizens.

1-48 SECTION 1.03. Section 6, Chapter 289, Acts of the 73rd
1-49 Legislature, Regular Session, 1993, is amended by adding Subsection
1-50 (c) to read as follows:

1-51 (c) Sections 375.161, 375.207, and 375.208, Local
1-52 Government Code, do not apply to the district.

1-53 SECTION 1.04. Section 7, Chapter 289, Acts of the 73rd
1-54 Legislature, Regular Session, 1993, is amended by adding Subsection
1-55 (r) to read as follows:

1-56 (r) The district may sponsor, create, establish, utilize,
1-57 administer, and contract with a local government corporation under
1-58 Subchapter D, Chapter 431, Transportation Code.

1-59 SECTION 1.05. Chapter 289, Acts of the 73rd Legislature,
1-60 Regular Session, 1993, is amended by adding Section 7-a to read as
1-61 follows:

1-62 Sec. 7-a. ADDING TERRITORY BY ELECTION. (a) Except as
1-63 provided by Subsections (d) and (e) of this section, the board may

2-1 also add territory as provided by Section 7(d) of this Act on its
2-2 own motion and without petitions and after notice and hearing given
2-3 and conducted in the manner provided by Subchapter J, Chapter 49,
2-4 Water Code, but subject to a confirmation election.

2-5 (b) The board shall order a confirmation election to be held
2-6 on the next lawfully available uniform election date following the
2-7 conclusion of any appeals from the order adding land. The
2-8 confirmation election shall be held within the district, as
2-9 enlarged by reason of any addition of territory under this
2-10 subsection, to confirm such addition of territory and the
2-11 assumption by the added territory of its pro rata share of the
2-12 district's bonds, taxes, indebtedness, and contract obligations.

2-13 (c) A map or plat showing the boundaries of the district, as
2-14 adjusted from time to time, shall be recorded in the real property
2-15 records of each county in which all or part of the district is
2-16 situated not later than the seventh day after the date of each such
2-17 boundary adjustment.

2-18 (d) Notwithstanding Section 7(d) of this Act, territory
2-19 within the corporate limits or extraterritorial jurisdiction of a
2-20 municipality with a population of less than 1.5 million may not be
2-21 added to the district under this section without the express,
2-22 written consent of the municipality given by ordinance, resolution,
2-23 or written agreement.

2-24 (e) The district and a municipality may enter into a written
2-25 agreement for a specified term consenting to the addition of
2-26 territory by the district as provided by Subsection (d) of this
2-27 section or limiting the territory that may be added by the district
2-28 under this section or Section 7(d) of this Act.

2-29 (f) If either the proposition submitted to confirm the
2-30 initial addition of territory or the proposition submitted under
2-31 Section 9(g) of this Act fails to pass by a majority vote, this
2-32 section expires on the date the results of the election are
2-33 canvassed.

2-34 SECTION 1.06. The heading to Section 9, Chapter 289, Acts of
2-35 the 73rd Legislature, Regular Session, 1993, is amended to read as
2-36 follows:

2-37 Sec. 9. [~~CONFIRMATION AND DIRECTORS~~] ELECTIONS.

2-38 SECTION 1.07. Section 9, Chapter 289, Acts of the 73rd
2-39 Legislature, Regular Session, 1993, is amended by adding
2-40 Subsections (e) through (k) to read as follows:

2-41 (e) The board shall order that a confirmation election be
2-42 held in conjunction with the initial election required under
2-43 Section 7-a(b) of this Act to determine whether the proposed
2-44 changes in the composition of the board under Subsection (g) of this
2-45 section shall be confirmed and implemented. If either proposition
2-46 submitted at the confirmation election fails to pass by a majority
2-47 vote, both propositions shall be deemed to have failed.

2-48 (f) All registered and qualified voters within the
2-49 district, as enlarged by the addition of territory to the district
2-50 under Section 7-a of this Act, are eligible to vote in any
2-51 confirmation election called under Subsection (e) of this section
2-52 or Section 7-a of this Act. Otherwise, only registered and
2-53 qualified voters within the district are eligible to vote in all
2-54 other district elections.

2-55 (g) After passage of the propositions in the confirmation
2-56 election, as required by Subsection (e) of this section and Section
2-57 7-a of this Act:

2-58 (1) an election shall be called for the uniform
2-59 election date in May of the next even-numbered year for the election
2-60 of five directors at large. The three candidates receiving the
2-61 highest number of votes shall be elected for a term of three years,
2-62 and the two candidates receiving the next highest number of votes
2-63 shall be elected for a term of two years;

2-64 (2) an election shall be called for the uniform
2-65 election date in May of the next succeeding even-numbered year
2-66 after the election held under Subdivision (1) of this subsection,
2-67 for the election of four directors at large. The four candidates
2-68 receiving the highest number of votes shall be elected for a term of
2-69 two years; and

3-1 (3) an election shall be called annually thereafter
3-2 for the uniform election date in May of each year for the election
3-3 of either three or four directors, as appropriate, to serve
3-4 two-year terms.

3-5 (h) The board may call and conduct elections from time to
3-6 time on a uniform election date for the purposes of:

3-7 (1) determining whether, according to a regional
3-8 participation agreement authorized by this Act or other law, all or
3-9 part of the territory of the district should be released from the
3-10 extraterritorial jurisdiction of a municipality;

3-11 (2) determining whether, according to a regional
3-12 participation agreement, all or part of the territory of the
3-13 district should be incorporated as a municipality or should adopt
3-14 another form of local government;

3-15 (3) authorizing the levy and assessment of ad valorem
3-16 taxes for district purposes on a uniform basis throughout the
3-17 district;

3-18 (4) authorizing the issuance of indebtedness payable
3-19 in whole or in part from ad valorem taxes; and

3-20 (5) submitting to the qualified voters of the district
3-21 any other bonds, contracts, indebtedness, measures, or
3-22 propositions authorized by law.

3-23 (i) Passage of all confirmation, contract, tax, or other
3-24 propositions or measures at an election shall require a favorable
3-25 vote by a majority of the eligible voters voting in the election.

3-26 (j) The passage at an election of a proposition to confirm
3-27 the addition of territory to the district under Section 7-a of this
3-28 Act shall be deemed to be an election to assume the added
3-29 territory's pro rata share of the bonds, taxes, indebtedness, and
3-30 contract obligations of the district.

3-31 (k) This subsection and Subsections (e)-(j) of this section
3-32 expire if either the proposition submitted to confirm the initial
3-33 addition of territory under Section 7-a of this Act or the
3-34 proposition submitted under Subsection (e) of this section fails to
3-35 pass by a majority vote.

3-36 SECTION 1.08. Subsection (d), Section 11C, Chapter 289,
3-37 Acts of the 73rd Legislature, Regular Session, 1993, is amended to
3-38 read as follows:

3-39 (d) Before designating a development zone on its own motion
3-40 or, if ad valorem taxes are to be used, in whole or in part, for the
3-41 payment of improvement project costs in a development zone to be
3-42 designated in response to a landowner petition, the board shall
3-43 call and hold a public hearing on the creation of the zone in the
3-44 manner provided by Section 311.003(c) and (d), Tax Code, for
3-45 reinvestment zones designated by a municipality.

3-46 SECTION 1.09. The following provisions of Chapter 289, Acts
3-47 of the 73rd Legislature, Regular Session, 1993, are repealed:

- 3-48 (1) Subsections (a) and (b), Section 9; and
- 3-49 (2) Subsection (b), Section 11B.

3-50 ARTICLE 2. AMENDMENTS EFFECTIVE WITH CONFIRMATION ELECTION

3-51 SECTION 2.01. Subsections (b), (h), and (k), Section 7,
3-52 Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993,
3-53 are amended to read as follows:

3-54 (b) The board may levy, assess, and apply the proceeds from
3-55 the ~~[limited sales and use]~~ taxes, fees, and charges authorized by
3-56 ~~[Section 11 of]~~ this Act for any authorized district purposes,
3-57 including making, or funding debt service and other costs related
3-58 to the issuance of bonds to make, any payments required under the
3-59 terms of a regional participation agreement authorized by this Act
3-60 or other law with one or more other governmental entities relating
3-61 to the financing of regional programs, improvements, and facilities
3-62 that mutually benefit the district and such other governmental
3-63 entities ~~[provided that, during each interval of three calendar~~
3-64 ~~years following the commencement of collection of such tax, the~~
3-65 ~~board shall, consistent with constitutional limitations and the~~
3-66 ~~district's authorized powers and purposes, and in its sound~~
3-67 ~~discretion, endeavor to apply an annual average of not less than 10~~
3-68 ~~percent of the net proceeds of the taxes collected under Section 11~~
3-69 ~~of this Act, after deduction of the general and administrative~~

4-1 ~~costs and expenses of the district and the costs and expenses of~~
 4-2 ~~levying, assessing, and collecting such taxes, toward mitigation of~~
 4-3 ~~the net negative impact of development within the district on the~~
 4-4 ~~impact area, including without limitation effects on public~~
 4-5 ~~utilities and services, public transportation and traffic~~
 4-6 ~~movement, and scenic and aesthetic beauty. Direct expenditures~~
 4-7 ~~made for the district or the impact area are allocable to each area~~
 4-8 ~~for which the expenditure was made. Expenditures for the general~~
 4-9 ~~welfare, promotion, or benefit of the district and impact area are~~
 4-10 ~~allocable between the district and the impact area in the amount, as~~
 4-11 ~~determined by the board, that is proportionate to the benefit~~
 4-12 ~~conferred on each area].~~

4-13 (h) The board may establish, revise, repeal, enforce,
 4-14 collect, and apply the proceeds from user fees, concessions,
 4-15 admissions, rentals, or other similar fees or charges for the
 4-16 enjoyment, sale, rental, or other use of the district's facilities,
 4-17 services, properties, or improvement projects; however, ~~[because~~
 4-18 ~~the district is created in an area that is devoted primarily to~~
 4-19 ~~commercial and business activity,]~~ the district may not impose an
 4-20 impact fee or assessment on a single family residential property or
 4-21 a residential duplex, triplex, quadruplex, or condominium.

4-22 (k) The district may not employ peace officers, but may
 4-23 contract with:

4-24 (1) a county or municipality that has territory wholly
 4-25 or partly in or contiguous to the district's territory ~~[or impact~~
 4-26 ~~area]~~ for the county or municipality to provide law enforcement
 4-27 services by any lawful means for the district, including a
 4-28 warrantless arrest, to the same extent and with the same effect as
 4-29 if the district were authorized to employ its own peace officers
 4-30 directly; and

4-31 (2) off-duty peace officers directly to provide public
 4-32 safety and security services in connection with a special event,
 4-33 holiday, period with high traffic congestion, or similar
 4-34 circumstance.

4-35 SECTION 2.02. Section 7C, Chapter 289, Acts of the 73rd
 4-36 Legislature, Regular Session, 1993, is amended to read as follows:

4-37 Sec. 7C. CONFLICT BETWEEN DISTRICT RULE AND OTHER LOCAL
 4-38 REGULATIONS. To the extent a district rule conflicts with a rule,
 4-39 order, ordinance, or regulation of a county or municipality with
 4-40 jurisdiction in the district's territory ~~[or impact area]~~, the
 4-41 rule, order, ordinance, or regulation of the county or municipality
 4-42 controls.

4-43 SECTION 2.03. Subsections (a), (e), and (j), Section 8,
 4-44 Chapter 289, Acts of the 73rd Legislature, Regular Session, 1993,
 4-45 are amended to read as follows:

4-46 (a) The district is governed by a board ~~[composed]~~ of ~~[11]~~
 4-47 directors elected ~~[or appointed]~~ as provided by Section 9(g) of
 4-48 this Act to [Subsection (c) of this section. Directors] serve
 4-49 staggered terms as described by that section [of four years]. To be
 4-50 qualified to serve as a director, a person must be at least 18 years
 4-51 of age and be a resident of the district.

4-52 (e) A vacancy in the office of director shall be filled by
 4-53 appointment of a qualified individual by a majority vote of the
 4-54 remaining directors, except that if the number of directors for any
 4-55 reason is less than four ~~[six]~~, on petition of a resident of or
 4-56 owner of real property in the district, the commission shall
 4-57 appoint the required number of qualified individuals to fill the
 4-58 vacancies. ~~[The board may remove a director for misconduct or~~
 4-59 ~~failure to carry out the director's duties by unanimous vote of all~~
 4-60 ~~of the remaining directors.]~~

4-61 (j) Except as provided by [in] Subsection (e) of this
 4-62 section, four ~~[five]~~ directors constitute a quorum for the
 4-63 consideration of all matters pertaining to the business ~~[purposes]~~
 4-64 of the district, and a concurrence of a majority of a quorum of
 4-65 directors shall be required for any official action of the
 4-66 district.

4-67 SECTION 2.04. Section 11C, Chapter 289, Acts of the 73rd
 4-68 Legislature, Regular Session, 1993, is amended by adding
 4-69 Subsections (q) and (r) to read as follows:

5-1 (q) Upon the creation and organization of a development zone
 5-2 over the territory of one or more existing development zones, and
 5-3 upon the imposition or assessment by the governing body of an ad
 5-4 valorem tax or limited sales and use tax for the development zone,
 5-5 the existing development zones are dissolved and abolished and all
 5-6 assets, properties, indebtedness, obligations, and liabilities of
 5-7 the existing development zones transfer to and are assumed by the
 5-8 newly created and organized development zone.

5-9 (r) For a development zone created to facilitate a
 5-10 continuing improvement project, the board and the governing body
 5-11 need not specify or include in a preliminary financing plan, in the
 5-12 resolution creating the development zone, or in the project plan or
 5-13 financing plan of the development zone a duration or date of
 5-14 termination of the development zone.

5-15 SECTION 2.05. Subsections (a) and (c), Section 12A, Chapter
 5-16 289, Acts of the 73rd Legislature, Regular Session, 1993, are
 5-17 amended to read as follows:

5-18 (a) The board may issue bonds of the district for any
 5-19 district purpose or improvement project, including for the purpose
 5-20 of making or providing for payment of any amounts due or to become
 5-21 due from the district under a regional participation agreement
 5-22 authorized by this Act or other law, which shall be deemed to be in
 5-23 furtherance of a program authorized pursuant to Section 52-a,
 5-24 Article III, Texas Constitution, in the manner provided by
 5-25 Subchapter J, Chapter 375, Local Government Code. Sections 375.207
 5-26 and 375.208, Local Government Code, do not apply to bonds issued by
 5-27 the district under this Act.

5-28 (c) In addition to the sources of money described by
 5-29 Subchapter J, Chapter 375, Local Government Code, the bonds of the
 5-30 district may be secured and made payable, wholly or partly, by a
 5-31 pledge of any part of the net proceeds the district receives from:

5-32 (1) a specified portion, but not more than one-half of
 5-33 one percent, of the sales and use tax authorized by Section 11 of
 5-34 this Act; ~~and~~

5-35 (2) the hotel occupancy tax authorized by Section 11A
 5-36 of this Act;

5-37 (3) an ad valorem tax approved by the voters of the
 5-38 district at an election called for that purpose;

5-39 (4) any revenues or proceeds received or to be
 5-40 received by the district from contracts, agreements, or other
 5-41 lawful sources, including a contract with a development zone to
 5-42 facilitate an improvement project or project plan of the district
 5-43 or the development zone;

5-44 (5) any other revenues, income, or proceeds that in
 5-45 accordance with this Act or other law may be pledged or used for
 5-46 purposes described by Subdivision (4) of this subsection; or

5-47 (6) any combination of revenues, taxes, or proceeds
 5-48 from one or more of the sources described by Subdivisions (1)-(5) of
 5-49 this subsection.

5-50 SECTION 2.06. Subsection (b), Section 13, Chapter 289, Acts
 5-51 of the 73rd Legislature, Regular Session, 1993, is amended to read
 5-52 as follows:

5-53 (b) The district and a municipality any part of which is
 5-54 located in the boundaries of the district [~~or impact area~~] may enter
 5-55 into and carry out an interlocal agreement for the accomplishment
 5-56 of an improvement project or the provision of a facility, a service,
 5-57 or equipment by the district in or for the benefit of the
 5-58 municipality. Notwithstanding any other law, payment for the
 5-59 improvement project, facility, service, or equipment may be made or
 5-60 pledged by the municipality to the district out of any money the
 5-61 municipality collects under Chapter 351, Tax Code, or out of any
 5-62 other available money.

5-63 SECTION 2.07. Section 14, Chapter 289, Acts of the 73rd
 5-64 Legislature, Regular Session, 1993, is amended to read as follows:

5-65 Sec. 14. DISSOLUTION. (a) The board may elect by majority
 5-66 vote to dissolve the district at any time [~~, and the board shall~~
 5-67 ~~dissolve the district on written petition of the owners of 75~~
 5-68 ~~percent, in terms of acreage, of the real property in the district];~~
 5-69 however, the district may not be dissolved by the board if the

6-1 district has any outstanding indebtedness or contractual
6-2 obligations, including obligations under a regional participation
6-3 agreement authorized by this Act or other law, until such
6-4 indebtedness or contractual obligations have been repaid or
6-5 discharged, unless the indebtedness or contractual obligations
6-6 have been assumed by another governmental entity with the power and
6-7 authority to repay or discharge them.

6-8 (b) After the board elects to dissolve the district, the
6-9 board shall transfer ownership of all property and assets of the
6-10 district to Montgomery County, except as provided by Subsection (c)
6-11 of this section.

6-12 (c) If on the date of the vote to dissolve the district more
6-13 than 50 percent of the territory within the district is within the
6-14 boundaries [~~corporate limits~~] of another governmental entity that
6-15 has assumed the indebtedness and contractual obligations of the
6-16 district under Subsection (a) of this section [~~a municipality~~], the
6-17 board shall transfer ownership of the district's property and
6-18 assets to that governmental entity [~~municipality~~].

6-19 (d) The district may not be dissolved by a municipality
6-20 annexing all or part of [~~in which~~] the district [~~is located~~].

6-21 SECTION 2.08. The following provisions of Chapter 289, Acts
6-22 of the 73rd Legislature, Regular Session, 1993, are repealed:

- 6-23 (1) Subdivision (4), Section 2;
- 6-24 (2) Subsections (b), (c), and (k), Section 8;
- 6-25 (3) Subsection (d), Section 9; and
- 6-26 (4) Subsection (e), Section 11C.

6-27 ARTICLE 3. PROCEDURAL MATTERS AND EFFECTIVE DATES

6-28 SECTION 3.01. The legislature finds that proper and legal
6-29 notice of the intention to introduce this Act, setting forth the
6-30 general substance of this Act, has been published as provided by
6-31 law, that the notice and a copy of this Act have been furnished to
6-32 all persons, agencies, officials, or entities to which they are
6-33 required to be furnished by the constitution and laws of this state,
6-34 including the governor, who has submitted the notice and Act to the
6-35 Texas Commission on Environmental Quality, that the Texas
6-36 Commission on Environmental Quality has filed its recommendations
6-37 relating to this Act with the governor, lieutenant governor, and
6-38 speaker of the house of representatives within the required time,
6-39 and that all requirements of the constitution and laws of this state
6-40 and the rules and procedures of the legislature with respect to the
6-41 notice, introduction, and passage of this Act have been fulfilled
6-42 and accomplished.

6-43 SECTION 3.02. (a) Article 2 of this Act takes effect only
6-44 if a majority of the voters, at an initial confirmation election
6-45 held under Section 7-a and Subsection (e), Section 9, Chapter 289,
6-46 Acts of the 73rd Legislature, Regular Session, 1993, as added by
6-47 Article 1 of this Act, approve the propositions. If no election is
6-48 held under Section 7-a or Subsection (e), Section 9, Chapter 289,
6-49 Acts of the 73rd Legislature, Regular Session, 1993, as added by
6-50 Article 1 of this Act, or if the election is held but the voters do
6-51 not approve the propositions or the propositions are deemed not to
6-52 have been passed, Article 2 of this Act has no effect.

6-53 (b) If Article 2 of this Act takes effect under Subsection
6-54 (a) of this section, the effective date of Article 2 of this Act is
6-55 the date the results of the election are officially declared.

6-56 SECTION 3.03. Except as otherwise provided by this Act,
6-57 this Act takes effect immediately if it receives a vote of
6-58 two-thirds of all the members elected to each house, as provided by
6-59 Section 39, Article III, Texas Constitution. If this Act does not
6-60 receive the vote necessary for immediate effect, this Act takes
6-61 effect September 1, 2007.

6-62 * * * * *