

By: Gallegos, Ellis, Whitmire

S.B. No. 2044

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Harris County Improvement District No. 9; providing authority to impose a tax and issue bonds.

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

SECTION 1. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3859 to read as follows:

CHAPTER 3859. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3859.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Harris County Improvement District No. 9.

Sec. 3859.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 9. A special district known as the "Harris County Improvement District No. 9" is a governmental agency and political subdivision of this state.

Sec. 3859.003. 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, and other political subdivisions to

1 contract with the district, the legislature has established a
2 program to accomplish the public purposes set out in Section 52-a,
3 Article III, Texas Constitution.

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

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

16 Sec. 3859.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

17 (a) The district is created to serve a public use and benefit.

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

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

25 (d) 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 (e) 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 needed funding for the district to
9 preserve, maintain, and enhance the economic health and vitality of
10 the area as a community and business center;

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

16 (4) promote and benefit commercial development and
17 commercial areas in the district; and

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

23 (A) address the problem of traffic congestion in
24 the district, the need to control traffic and improve pedestrian
25 safety, and the limited availability of money; and

26 (B) benefit the land and other property in the
27 district and the residents, employers, employees, visitors, and

1 consumers in the district and the public.

2 (f) Pedestrian ways along or across a street, whether at
3 grade or above or below the surface, and street lighting, street
4 landscaping, and street art objects are parts of and necessary
5 components of a street and are considered to be a street or road
6 improvement.

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

10 Sec. 3859.005. DISTRICT TERRITORY. (a) The district is
11 composed of the territory described by Section 2 of the Act enacting
12 this chapter, as that territory may have been modified under:

13 (1) Section 3859.106;

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

15 (3) other law.

16 (b) The boundaries and field notes of the district contained
17 in Section 2 of the Act enacting this chapter form a closure. A
18 mistake in the field notes or in copying the field notes in the
19 legislative process does not in any way affect:

20 (1) the district's organization, existence, and
21 validity;

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

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

27 (4) the legality or operation of the district or the

1 board.

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

6 Sec. 3859.006. TORT LIABILITY. The district is a
7 governmental unit under Chapter 101, Civil Practice and Remedies
8 Code, and the operations of the district are essential government
9 functions and are not proprietary functions for any purpose,
10 including the application of Chapter 101, Civil Practice and
11 Remedies Code.

12 Sec. 3859.007. ELIGIBILITY FOR REINVESTMENT ZONES. All or
13 any part of the area of the district is eligible to be included in a
14 tax increment reinvestment zone created by the City of Houston
15 under Chapter 311, Tax Code.

16 Sec. 3859.008. LIBERAL CONSTRUCTION OF CHAPTER. This
17 chapter shall be liberally construed in conformity with the
18 findings and purposes stated in this chapter.

19 [Sections 3859.009-3859.050 reserved for expansion]

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 3859.051. BOARD OF DIRECTORS; TERMS. (a) The
22 district is governed by a board of 11 directors who serve staggered
23 terms of four years with five or six directors' terms expiring June
24 1 of each odd-numbered year.

25 (b) The board by resolution may increase or decrease the
26 number of directors on the board, but only if a majority of the
27 board finds that it is in the best interest of the district to do so.

The board may not:

- (1) increase the number of directors to more than 15;
- or
- (2) decrease the number of directors to fewer than five.

(c) Sections 49.053, 49.054, 49.056, 49.057, 49.058, and 49.060, Water Code, apply to the board.

(d) Subchapter D, Chapter 375, Local Government Code, applies to the board to the extent that subchapter does not conflict with this chapter.

Sec. 3859.052. APPOINTMENT OF DIRECTORS ON INCREASE IN BOARD SIZE. If the board increases the number of directors under Section 3859.051, the board shall appoint qualified persons to fill the new director positions and shall provide for staggering the terms of the directors serving in the new positions. On expiration of the term of a director appointed under this section, a succeeding director shall be appointed and qualified as provided by Subchapter D, Chapter 375, Local Government Code.

Sec. 3859.053. INITIAL DIRECTORS. (a) The initial board consists of:

<u>Pos. No.</u>	<u>Name of Director</u>
<u>1</u>	<u>Danny Perkins</u>
<u>2</u>	<u>Helen Bonsall</u>
<u>3</u>	<u>George Yeiter</u>
<u>4</u>	<u>Sue DeHaven</u>
<u>5</u>	<u>Ann Collum</u>
<u>6</u>	<u>Mary Case</u>

1	<u>7</u>	<u>Marjorie Evans</u>
2	<u>8</u>	<u>Joann Lemon</u>
3	<u>9</u>	<u>Darryl Bailey</u>
4	<u>10</u>	<u>Sushma Jasti</u>
5	<u>11</u>	<u>Edwin Lowe</u>

6 (b) Of the initial directors, the terms of directors
7 appointed for positions 1 through 6 expire June 1, 2011, and the
8 terms of directors appointed for positions 7 through 11 expire June
9 1, 2009.

10 (c) Section 3859.051 does not apply to this section.

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

12 [Sections 3859.054-3859.100 reserved for expansion]

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 3859.101. DISTRICT POWERS. The district has:

15 (1) all powers necessary to accomplish the purposes
16 for which the district was created;

17 (2) the rights, powers, privileges, authority, and
18 functions of a district created under Chapter 375, Local Government
19 Code;

20 (3) the powers, duties, and contracting authority
21 specified by Subchapters H and I, Chapter 49, Water Code;

22 (4) the powers given to a corporation under Section
23 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's
24 Texas Civil Statutes), including the power to own, operate,
25 acquire, construct, lease, improve, and maintain the projects
26 described by that section; and

27 (5) the powers of a housing finance corporation

1 created under Chapter 394, Local Government Code.

2 Sec. 3859.102. NONPROFIT CORPORATION. (a) The board by
3 resolution may authorize the creation of a nonprofit corporation to
4 assist and act for the district in implementing a project or
5 providing a service authorized by this chapter.

6 (b) The nonprofit corporation:

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

10 (2) may implement any project and provide any service
11 authorized by this chapter.

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

18 Sec. 3859.103. ELECTIONS. (a) District elections must be
19 held in the manner provided by Subchapter L, Chapter 375, Local
20 Government Code.

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

23 Sec. 3859.104. CONTRACT FOR LAW ENFORCEMENT AND SECURITY
24 SERVICES. The district may contract with:

25 (1) Harris County or the City of Houston for the county
26 or city to provide law enforcement and security services for a fee;
27 and

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

3 Sec. 3859.105. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER
4 POWERS RELATED TO PLANNING AND DEVELOPMENT. (a) The district may
5 establish and provide for the administration of one or more
6 programs to promote state or local economic development and to
7 stimulate business and commercial activity in the district,
8 including programs to:

9 (1) make loans and grants of public money, including
10 bond proceeds; and

11 (2) provide district personnel and services.

12 (b) The district has all of the powers of a municipality
13 under Chapter 380, Local Government Code.

14 (c) The district is eligible to receive a grant from a
15 municipality under Chapter 380, Local Government Code.

16 Sec. 3859.106. ANNEXATION OR EXCLUSION OF TERRITORY. The
17 district may annex or exclude land from the district in the manner
18 provided by Subchapter C, Chapter 375, Local Government Code.

19 Sec. 3859.107. NO EMINENT DOMAIN POWER. The district may
20 not exercise the power of eminent domain.

21 [Sections 3859.108-3859.150 reserved for expansion]

22 SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

23 Sec. 3859.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED.

24 (a) The district may acquire, lease as lessor or lessee,
25 construct, develop, own, operate, and maintain a public transit
26 system to serve the area within the boundaries of the district.

27 (b) Before the district may act under Subsection (a), a

1 petition must be filed with the district requesting the action with
2 regard to a public transit system. The petition must be signed by
3 owners of property representing a majority of either the total
4 assessed value or the area of the real property in the district that
5 abuts the right-of-way in which the public transit system is
6 proposed to be located. The determination of a majority is based on
7 the property owners along the entire right-of-way of the proposed
8 transit project and may not be calculated on a block-by-block
9 basis.

10 Sec. 3859.152. PARKING FACILITIES AUTHORIZED; OPERATION BY
11 PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire,
12 lease as lessor or lessee, construct, develop, own, operate, and
13 maintain parking facilities, including:

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

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

19 (b) A parking facility of the district must be either leased
20 to or operated on behalf of the district by a private entity or an
21 entity other than the district. The district's parking facilities
22 are a program authorized by the legislature under Section 52-a,
23 Article III, Texas Constitution, and accomplish a public purpose
24 under that section even if leased or operated by a private entity
25 for a term of years.

26 (c) The district's public parking facilities and any lease
27 to a private entity are exempt from the payment of ad valorem taxes

1 and state and local sales and use taxes.

2 Sec. 3859.153. RULES. The district may adopt rules
3 covering its public transit system or its public parking facilities
4 except that a rule relating to or affecting the use of the public
5 right-of-way or a requirement for off-street parking is subject to
6 all applicable municipal charter, code, or ordinance requirements.

7 Sec. 3859.154. FINANCING OF PUBLIC TRANSIT SYSTEM OR
8 PARKING FACILITIES. (a) The district may use any of its
9 resources, including revenue, assessments, taxes, and grant or
10 contract proceeds, to pay the cost of acquiring and operating a
11 public transit system or public parking facilities.

12 (b) The district may set and impose fees, charges, or tolls
13 for the use of the public transit system or the public parking
14 facilities and may issue bonds or notes to finance the cost of these
15 facilities.

16 (c) Except as provided by Section 3859.151, if the district
17 pays for or finances the cost of acquiring or operating a public
18 transit system or public parking facilities with resources other
19 than assessments, a petition of property owners or a public hearing
20 is not required.

21 Sec. 3859.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING
22 UNIT. If the district's acquisition of property for a parking
23 facility that is leased to or operated by a private entity results
24 in the removal from a taxing unit's tax rolls of real property
25 otherwise subject to ad valorem taxation, the district shall pay to
26 the taxing unit in which the property is located, on or before
27 January 1 of each year, as a payment in lieu of taxes, an amount

1 equal to the ad valorem taxes that otherwise would have been imposed
2 for the preceding tax year on that real property by the taxing unit,
3 without including the value of any improvements constructed on the
4 property.

5 [Sections 3859.156-3859.200 reserved for expansion]

6 SUBCHAPTER E. FINANCIAL PROVISIONS

7 Sec. 3859.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM
8 TAXES, AND IMPACT FEES. The district may impose, assess, charge, or
9 collect an assessment, an ad valorem tax, an impact fee, or another
10 fee in accordance with Chapter 49, Water Code, for a purpose
11 specified by Chapter 375, Local Government Code, or as needed to
12 exercise a power or function or to accomplish a purpose or duty for
13 which the district was created.

14 Sec. 3859.202. MAINTENANCE TAX. (a) If authorized at an
15 election held in accordance with Section 3859.103, the district may
16 impose an annual ad valorem tax on taxable property in the district
17 to maintain, restore, replace, or operate the district and
18 improvements that the district constructs or acquires or the
19 district's facilities, works, or services.

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

21 Sec. 3859.203. ASSESSMENT IN PART OF DISTRICT. An
22 assessment may be imposed on only a part of the district if only
23 that part will benefit from the service or improvement.

24 Sec. 3859.204. PETITION REQUIRED FOR ASSESSMENT AND FOR
25 FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not impose
26 an assessment or finance a service or improvement project under
27 this chapter unless a written petition requesting the improvement

1 or service has been filed with the board.

2 (b) The petition must be signed by:

3 (1) the owners of a majority of the assessed value of
4 real property in the district or in the area of the district that
5 will be subject to the assessment as determined by the most recent
6 certified tax appraisal roll for Harris County; or

7 (2) at least 25 persons who own real property in the
8 district or the area of the district that will be subject to the
9 assessment, if more than 25 persons own real property in the
10 district or area that will be subject to the assessment as
11 determined by the most recent certified tax appraisal roll for
12 Harris County.

13 Sec. 3859.205. ASSESSMENTS CONSIDERED TAXES. For purposes
14 of a title insurance policy issued under Title 11, Insurance Code,
15 an assessment is a tax.

16 Sec. 3859.206. LIENS FOR ASSESSMENTS; SUITS TO RECOVER
17 ASSESSMENTS. (a) An assessment imposed on property under this
18 chapter is a personal obligation of the person who owns the property
19 on January 1 of the year for which the assessment is imposed. If the
20 person transfers title to the property, the person is not relieved
21 of the obligation.

22 (b) On January 1 of the year for which an assessment is
23 imposed on a property, a lien attaches to the property to secure the
24 payment of the assessment and any interest accrued on the
25 assessment. The lien has the same priority as a lien for district
26 taxes.

27 (c) Not later than the fourth anniversary of the date on

1 which a delinquent assessment became due, the district may file
2 suit to foreclose the lien or to enforce the obligation for the
3 assessment, or both, and for any interest accrued.

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

9 (e) If the district does not file a suit in connection with a
10 delinquent assessment on or before the last date on which the
11 district may file suit under Subsection (c), the assessment and any
12 interest accrued is considered paid.

13 Sec. 3859.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM
14 ASSESSMENT AND IMPACT FEES. The district may not impose an impact
15 fee or assessment on the property, including equipment or
16 facilities, of:

17 (1) an electric utility as defined by Section 31.002,
18 Utilities Code;

19 (2) a gas utility as defined by Section 101.003 or
20 121.001, Utilities Code;

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

23 (4) a cable operator as defined by 47 U.S.C. Section
24 522.

25 Sec. 3859.208. USE OF ELECTRICAL OR OPTICAL LINES.

26 (a) The district may impose an assessment to pay the cost of:

27 (1) burying or removing electrical power lines,

1 telephone lines, cable or fiber optic lines, or any other type of
2 electrical or optical line;

3 (2) removing poles and any elevated lines using the
4 poles; and

5 (3) reconnecting the lines described by Subdivision
6 (2) to the buildings or other improvements to which the lines were
7 connected.

8 (b) The district may acquire, operate, or charge fees for
9 the use of the district conduits for:

10 (1) another person's:

11 (A) telecommunications network;

12 (B) fiber-optic cable; or

13 (C) electronic transmission line; or

14 (2) any other type of transmission line or supporting
15 facility.

16 (c) The district may not require a person to use a district
17 conduit.

18 (d) The district may not charge a person a fee for the use of
19 the person's conduit.

20 Sec. 3859.209. DEBT. The district may issue bonds, notes,
21 or other debt obligations in accordance with Subchapters I and J,
22 Chapter 375, Local Government Code, for a purpose specified by that
23 chapter or as required to exercise a power or function or to
24 accomplish a purpose or duty for which the district was created.

25 [Sections 3859.210-3859.250 reserved for expansion]

26 SUBCHAPTER F. DISSOLUTION

27 Sec. 3859.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING

1 DEBT. (a) The district may be dissolved as provided by Subchapter
2 M, Chapter 375, Local Government Code, except that Section 375.264,
3 Local Government Code, does not apply to the district.

4 (b) If the district has debt when it is dissolved, the
5 district shall remain in existence solely for the purpose of
6 discharging its bonds or other obligations according to their
7 terms.

8 SECTION 2. BOUNDARIES. As of the effective date of this
9 Act, the Harris County Improvement District No. 9 includes all
10 territory contained in the following described area:

11 BEGINNING at the intersection of the north boundary of Dixie and the
12 east right of way line of Interstate 45 South;

13 Then southerly along the east right of way line of Interstate 45
14 South to its intersection with the south right of way line of Almeda
15 Genoa;

16 Then westerly along the south right of way line of Almeda Genoa to
17 its intersection with the west right of line of Telephone;

18 Then southerly along the west right of way line of Telephone to its
19 intersection with the south right of way line of Almeda Genoa;

20 Then westerly along the south right of way line of Almeda Genoa to
21 its intersection with the west right of way line of Mykawa;

22 Then northerly along the west right of way line of Mykawa to its
23 intersection with the north boundary of Dixie;

24 Then easterly along the north boundary of Dixie to the POINT OF
25 BEGINNING.

26 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
27 that:

1 (1) proper and legal notice of the intention to
2 introduce this Act, setting forth the general substance of this
3 Act, has been published as provided by law, and the notice and a
4 copy of this Act have been furnished to all persons, agencies,
5 officials, or entities to which they are required to be furnished by
6 the constitution and laws of this state, including the governor,
7 who has submitted the notice and Act to the Texas Commission on
8 Environmental Quality;

9 (2) the Texas Commission on Environmental Quality has
10 filed its recommendations relating to this Act with the governor,
11 lieutenant governor, and speaker of the house of representatives
12 within the required time;

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

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

21 SECTION 4. INAPPLICABILITY OF NOTICE LAW. Section 313.006,
22 Government Code, does not apply to this Act.

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