

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

(b) The creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, transportation, housing, tourism, recreation, the arts, entertainment, economic development, safety,

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

and the public welfare in the area of the district.

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

Sec. 3859.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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

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

(d) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(e) The district will:

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

SENATE VERSION

and the public welfare in the area of the district.

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

Sec. 3859.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center;

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

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

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

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

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

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

(g) The district will not act as the agent or instrumentality of any private interest even though the

SENATE VERSION

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

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

district will benefit many private interests as well as the public.

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

(1) Section 3859.106;

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

(3) other law.

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

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

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

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

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

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

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

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Chapter 101, Civil Practice and Remedies Code.

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

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

[Sections 3859.009-3859.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

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

(b) The board by resolution may increase or decrease the number of directors on the board, but only if a majority of the 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

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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:

Pos. No. Name of Director

<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>Dawn Choate</u>
<u>7</u>	<u>Ryan Goodland</u>
<u>8</u>	<u>Phillip Martin</u>
<u>9</u>	<u>Elizabeth Choate</u>
<u>10</u>	<u>Sushma Jasti</u>
<u>11</u>	<u>Edwin Lowe</u>

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

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

(d) This section expires September 1, 2011.

[Sections 3859.054-3859.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

SENATE VERSION

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<u>7</u>	<u>Marjorie Evans</u>
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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Sec. 3859.101. DISTRICT POWERS. The district has:
(1) all powers necessary to accomplish the purposes for which the district was created;
(2) the rights, powers, privileges, authority, and functions of a district created under Chapter 375, Local Government Code;
(3) the powers, duties, and contracting authority specified by Subchapters H and I, Chapter 49, Water Code;
(4) the powers given to a corporation under Section 4B, Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil Statutes), including the power to own, operate, acquire, construct, lease, improve, and maintain the projects described by that section; and
(5) the powers of a housing finance corporation created under Chapter 394, Local Government Code.
Sec. 3859.102. NONPROFIT CORPORATION. (a)
The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.
(b) The nonprofit corporation:
(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and
(2) may implement any project and provide any service authorized by this chapter.
(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as,

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

for the same term as, and on the same conditions as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

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

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

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

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

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

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

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

(2) provide district personnel and services.

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

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

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Code.

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

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

[Sections 3859.108-3859.150 reserved for expansion]

SUBCHAPTER D. PUBLIC TRANSIT SYSTEM AND PARKING FACILITIES

Sec. 3859.151. PUBLIC TRANSIT SYSTEM; PETITION REQUIRED. (a) The district may acquire, lease as lessor or lessee, construct, develop, own, operate, and maintain a public transit system to serve the area within the boundaries of the district.

(b) Before the district may act under Subsection (a), a petition must be filed with the district requesting the action with regard to a public transit system. The petition must be signed by owners of property representing a majority of either the total assessed value or the area of the real property in the district that abuts the right-of-way in which the public transit system is proposed to be located. The determination of a majority is based on the property owners along the entire right-of-way of the proposed transit project and may not be calculated on a block-by-block basis.

Sec. 3859.152. PARKING FACILITIES AUTHORIZED; OPERATION BY PRIVATE ENTITY; TAX EXEMPTION. (a) The district may acquire, lease

SENATE VERSION

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

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

as lessor or lessee, construct, develop, own, operate, and maintain parking facilities, including:

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

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

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

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

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

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

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

Sec. 3859.155. PAYMENT IN LIEU OF TAXES TO OTHER TAXING UNIT. If the district's acquisition of property for a parking facility that is leased to or operated by a private entity results in the removal from a taxing unit's tax rolls of real property otherwise subject to ad valorem taxation, the district shall pay to the taxing unit in which the property is located, on or before January 1 of each year, as a payment in lieu of taxes, an amount equal to the ad valorem taxes that otherwise would have been imposed for the preceding tax year on that real property by the taxing unit, without including the value of any improvements constructed on the property.

[Sections 3859.156-3859.200 reserved for expansion]

SUBCHAPTER E. FINANCIAL PROVISIONS

Sec. 3859.201. AUTHORITY TO IMPOSE ASSESSMENTS, AD VALOREM TAXES, AND IMPACT FEES. The district may impose, assess, charge, or collect an assessment, an ad valorem tax, an impact fee, or another fee in accordance with Chapter 49.

SENATE VERSION

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function or to accomplish a purpose or duty for which the district was created.

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

(b) The board shall determine the tax rate.

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

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

(b) The petition must be signed by:

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

(2) at least 25 persons who own real property in the

SENATE VERSION

Water Code, for a purpose specified by Chapter 375, Local Government Code, or as needed to exercise a power or function or to accomplish a purpose or duty for which the district was created.

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

(b) The board shall determine the tax rate.

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

district or the area of the district that will be subject to the assessment, if more than 25 persons own real property in the district or area that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County.

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

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

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

(c) Not later than the fourth anniversary of the date on which a delinquent assessment became due, the district may file suit to foreclose the lien or to enforce the obligation for the assessment, or both, and for any interest accrued.

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

SENATE VERSION

district or the area of the district that will be subject to the assessment, if more than 25 persons own real property in the district or area that will be subject to the assessment as determined by the most recent certified tax appraisal roll for Harris County.

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CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

20 percent of the assessment and interest.

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

Sec. 3859.207. PROPERTY OF CERTAIN UTILITIES EXEMPT FROM ASSESSMENT AND IMPACT FEES.

The district may not impose an impact fee or assessment on the property, including equipment or facilities, of:

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

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

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

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

Sec. 3859.208. USE OF ELECTRICAL OR OPTICAL LINES. (a) The district may impose an assessment to pay the cost of:

(1) burying or removing electrical power lines, telephone lines, cable or fiber optic lines, or any other type of electrical or optical line;

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

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

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

SENATE VERSION

20 percent of the assessment and interest.

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

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

CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

- (1) another person's:
(A) telecommunications network;
(B) fiber-optic cable; or
(C) electronic transmission line; or
(2) any other type of transmission line or supporting facility.
(c) The district may not require a person to use a district conduit.

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

[Sections 3859.210-3859.250 reserved for expansion]

SUBCHAPTER F. DISSOLUTION

Sec. 3859.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The district may be dissolved as provided by Subchapter M, Chapter 375, Local Government Code, except that Section 375.264, Local Government Code, does not apply to the district.

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

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

SENATE VERSION

- (1) another person's:
(A) telecommunications network;
(B) fiber-optic cable; or
(C) electronic transmission line; or
(2) any other type of transmission line or supporting facility.
(c) The district may not require a person to use a district conduit.

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Same as House version.

CONFERENCE

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
<p>described area:</p> <p>BEGINNING at the intersection of the north boundary of Dixie and the east right of way line of Interstate 45 South;</p> <p>Then southerly along the east right of way line of Interstate 45 South to its intersection with the south right of way line of Almeda Genoa;</p> <p>Then westerly along the south right of way line of Almeda Genoa to its intersection with the west right of line of Telephone;</p> <p>Then southerly along the west right of way line of Telephone to its intersection with the south right of way line of Almeda Genoa;</p> <p>Then westerly along the south right of way line of Almeda Genoa to its intersection with the west right of way line of Mykawa;</p> <p>Then northerly along the west right of way line of Mykawa to its intersection with the north boundary of Dixie;</p> <p>Then easterly along the north boundary of Dixie to the POINT OF BEGINNING.</p>		
<p>SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:</p> <p>(1) proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required</p>	<p>Same as House version.</p>	

House Bill 4110
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION	SENATE VERSION	CONFERENCE
<p>to be furnished by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;</p> <p>(2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;</p> <p>(3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and</p> <p>(4) all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.</p>		
<p>SECTION 4. INAPPLICABILITY OF NOTICE LAW. Section 313.006, Government Code, does not apply to this Act.</p>	<p>Same as House version.</p>	
<p>SECTION 5. EFFECTIVE DATE. This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2007.</p>	<p>Same as House version.</p>	