

By: Weber

H.B. No. 4731

Substitute the following for H.B. No. 4731:

By: Berman

C.S.H.B. No. 4731

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Country Place Management District;  
providing authority to impose an assessment, 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 3875 to read as follows:

CHAPTER 3875. COUNTRY PLACE MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3875.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Country Place Management  
District.

Sec. 3875.002. NATURE OF DISTRICT. The Country Place  
Management District is a special district created under Section 59,  
Article XVI, Texas Constitution.

Sec. 3875.003. 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 the City of  
Pearland, Brazoria County, and other political subdivisions to  
contract with the district, the legislature has established a

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

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

8 (c) This chapter and the creation of the district may not be  
9 interpreted to relieve the City of Pearland and Brazoria County  
10 from providing the level of services provided, as of the effective  
11 date of the Act enacting this chapter, to the area in the district.  
12 The district is created to supplement and not to supplant the city  
13 or county services provided in the area in the district.

14 Sec. 3875.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)  
15 The district is created to serve a public use and benefit.

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

21 (c) The creation of the district is in the public interest  
22 and is essential to:

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

25 (2) eliminate unemployment and underemployment; and

26 (3) develop or expand transportation and commerce.

27 (d) The district will:

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

4           (2) provide needed funding for the district to  
5 preserve, maintain, and enhance the economic health and vitality of  
6 the district territory as a community and business center,  
7 including funding for the ownership, operation, and maintenance of  
8 public recreational facilities, including parks, trails, green  
9 space, golf, and other sporting facilities that benefit the  
10 district;

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

15           (4) provide funding for public improvements,  
16 including drainage facilities, beautification projects, and  
17 identification and directional signage;

18           (5) provide for water, wastewater, drainage, water  
19 reuse, solid waste collection, and recycling for the district; and

20           (6) provide street and road improvements.

21           (e) Pedestrian ways along or across a street, whether at  
22 grade or above or below the surface, and street lighting, street  
23 landscaping, parking, walls and sound barriers, and street art  
24 objects are parts of and necessary components of a street and are  
25 considered to be a street or road improvement.

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

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

2 Sec. 3875.005. INITIAL DISTRICT TERRITORY. (a) The  
3 district is initially composed of the territory described by  
4 Section 2 of the Act enacting this chapter.

5 (b) The boundary description contained in Section 2 of the  
6 Act enacting this chapter forms a closure. A mistake in the  
7 boundary description does not affect the district's:

8 (1) organization, existence, or validity;

9 (2) right to issue any type of bond for the purposes  
10 for which the district is created or to pay the principal of and  
11 interest on the bond;

12 (3) right to impose or collect an assessment or tax; or

13 (4) legality or operation.

14 Sec. 3875.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
15 All or any part of the area of the district is eligible to be  
16 included in:

17 (1) a tax increment reinvestment zone created under  
18 Chapter 311, Tax Code;

19 (2) a tax abatement reinvestment zone created under  
20 Chapter 312, Tax Code; or

21 (3) an enterprise zone created under Chapter 2303,  
22 Government Code.

23 Sec. 3875.007. APPLICABILITY OF MUNICIPAL MANAGEMENT  
24 DISTRICTS LAW. Except as otherwise provided by this chapter,  
25 Chapter 375, Local Government Code, applies to the district.

26 Sec. 3875.008. LIBERAL CONSTRUCTION OF CHAPTER. This  
27 chapter shall be liberally construed in conformity with the

1 findings and purposes stated in this chapter.

2 [Sections 3875.009-3875.050 reserved for expansion]

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 3875.051. GOVERNING BODY; TERMS. (a) The district is  
5 governed by a board of five directors who serve staggered terms of  
6 four years. Two or three directors shall be elected each  
7 even-numbered year on the uniform election date in May established  
8 by the Election Code.

9 (b) Section 49.052, Water Code, applies to the district and  
10 directors.

11 (c) A director may also serve as a director of Brazoria  
12 County Municipal Utility District No. 4. The director is not  
13 entitled to remuneration from the district while serving in both  
14 positions.

15 Sec. 3875.052. CONFIRMATION ELECTION REQUIRED. (a) The  
16 initial directors shall hold an election to confirm the creation of  
17 the district. If an election to confirm the creation of the  
18 district does not pass, the initial directors may call subsequent  
19 elections to confirm the creation of the district without further  
20 approval.

21 (b) Subchapter D, Chapter 49, Water Code, applies to the  
22 district and directors.

23 (c) Section 375.063, Local Government Code, does not apply  
24 to the district.

25 Sec. 3875.053. INITIAL DIRECTORS. (a) The initial board  
26 consists of the following directors:

27 Pos. No. Name of Director

- 1           1           Jack Banowsky
- 2           2           Charles A. Mills
- 3           3           Hugh S. Pylant
- 4           4           Terry Gray
- 5           5           Paul West

6           (b) Of the initial directors, the terms of directors  
7 appointed for positions 1 through 3 expire May 2010, and the terms  
8 of directors appointed for positions 4 and 5 expire May 2012.

9           (c) Section 3875.052 does not apply to this section.

10          (d) This section expires September 1, 2013.

11          Sec. 3875.054. QUORUM. For purposes of determining the  
12 requirements for a quorum of the board, the following are not  
13 counted:

14           (1) a board position vacant for any reason, including  
15 death, resignation, or disqualification; or

16           (2) a director who is abstaining from participation in  
17 a vote because of a conflict of interest.

18          Sec. 3875.055. COMPENSATION. Except as provided by Section  
19 3875.051(c), a director is entitled to receive fees of office and  
20 reimbursement for actual expenses as provided by Section 49.060,  
21 Water Code. Sections 375.069 and 375.070, Local Government Code,  
22 do not apply to the board.

23          [Sections 3875.056-3875.100 reserved for expansion]

24                   SUBCHAPTER C. POWERS AND DUTIES

25          Sec. 3875.101. DEVELOPMENT CORPORATION POWERS. The  
26 district may exercise the powers given to a development corporation  
27 under Chapter 505, Local Government Code, including the power to

1 own, operate, acquire, construct, lease, improve, or maintain a  
2 project described by that chapter.

3 Sec. 3875.102. NONPROFIT CORPORATION. (a) The board by  
4 resolution may authorize the creation of a nonprofit corporation to  
5 assist and act for the district in implementing a project or  
6 providing a service authorized by this chapter.

7 (b) The nonprofit corporation:

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

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

13 (c) The board shall appoint the board of directors of the  
14 nonprofit corporation. The board of directors of the nonprofit  
15 corporation shall serve in the same manner as the board of directors  
16 of a local government corporation created under Chapter 431,  
17 Transportation Code, except that a board member is not required to  
18 reside in the district.

19 Sec. 3875.103. AGREEMENTS; GRANTS. (a) The district may  
20 make an agreement with or accept a gift, grant, or loan from any  
21 person.

22 (b) The implementation of a project is a governmental  
23 function or service for the purposes of Chapter 791, Government  
24 Code.

25 Sec. 3875.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.  
26 To protect the public interest, the district may contract with a  
27 qualified party, including Brazoria County or the City of Pearland,

1 for the provision of law enforcement services in the district for a  
2 fee.

3 Sec. 3875.105. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
4 district may join and pay dues to a charitable or nonprofit  
5 organization that performs a service or provides an activity  
6 consistent with the furtherance of a district purpose.

7 Sec. 3875.106. ECONOMIC DEVELOPMENT PROGRAMS. (a) The  
8 district may establish and provide for the administration of one or  
9 more programs to promote state or local economic development and to  
10 stimulate business and commercial activity in the district,  
11 including programs to:

12 (1) make loans and grants of public money; and

13 (2) provide district personnel and services.

14 (b) For purposes of this section, the district has all of  
15 the powers of a municipality under Chapter 380, Local Government  
16 Code.

17 Sec. 3875.107. NO EMINENT DOMAIN. The district may not  
18 exercise the power of eminent domain.

19 Sec. 3875.108. ANNEXATION OR EXCLUSION OF LAND. (a) The  
20 district may annex land as provided by Subchapter J, Chapter 49,  
21 Water Code.

22 (b) The district may exclude land as provided by Subchapter  
23 J, Chapter 49, Water Code. Section 375.044(b), Local Government  
24 Code, does not apply to the district.

25 [Sections 3875.109-3875.150 reserved for expansion]

26 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

27 Sec. 3875.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The



1 board by resolution shall establish the number of directors'  
2 signatures and the procedure required for a disbursement or  
3 transfer of the district's money.

4 Sec. 3875.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

5 The district may acquire, construct, finance, operate, or maintain  
6 any improvement or service authorized under this chapter or Chapter  
7 375, Local Government Code, using any money available to the  
8 district.

9 Sec. 3875.153. PETITION REQUIRED FOR FINANCING SERVICES AND  
10 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
11 service or improvement project with assessments under this chapter  
12 unless a written petition requesting that service or improvement  
13 has been filed with the board.

14 (b) A petition filed under Subsection (a) must be signed by  
15 the owners of a majority of the assessed value of real property in  
16 the district subject to the assessment according to the most recent  
17 certified tax appraisal roll for Brazoria County.

18 Sec. 3875.154. METHOD OF NOTICE FOR HEARING. The district  
19 may mail the notice required by Section 375.115(c), Local  
20 Government Code, by certified or first class United States mail.  
21 The board shall determine the method of notice.

22 Sec. 3875.155. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
23 The board by resolution may impose and collect an assessment for any  
24 purpose authorized by this chapter in all or any part of the  
25 district. Section 375.114, Local Government Code, does not apply  
26 to the district.

27 (b) An assessment, a reassessment, or an assessment

1 resulting from an addition to or correction of the assessment roll  
2 by the district, penalties and interest on an assessment or  
3 reassessment, an expense of collection, and reasonable attorney's  
4 fees incurred by the district:

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

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

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

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

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

21 Sec. 3875.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND  
22 ASSESSMENTS. The district may not impose an impact fee or  
23 assessment on the property, including the equipment,  
24 rights-of-way, facilities, or improvements, of:

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

27 (2) a gas utility as defined by Section 101.003 or

1 121.001, Utilities Code;

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

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

6 Sec. 3875.157. RESIDENTIAL PROPERTY. Section 375.161,  
7 Local Government Code, does not apply to a tax imposed by the  
8 district or a requirement for payment for a service provided by the  
9 district.

10 Sec. 3875.158. AD VALOREM TAX. (a) If authorized at an  
11 election held in accordance with Section 3875.162, the district may  
12 impose an ad valorem tax on taxable property in the district in  
13 accordance with Section 49.107, Water Code, for any district  
14 purpose, including to:

15 (1) maintain and operate the district;

16 (2) construct or acquire improvements; or

17 (3) provide a service.

18 (b) The board shall determine the tax rate. The rate may not  
19 exceed the rate approved at the election.

20 (c) Section 49.107(h), Water Code, does not apply to the  
21 district.

22 Sec. 3875.159. CONTRACT TAXES. (a) In accordance with  
23 Section 49.108, Water Code, the district may impose a tax other than  
24 an operation and maintenance tax and use the revenue derived from  
25 the tax to make payments under a contract after the provisions of  
26 the contract have been approved by a majority of the district voters  
27 voting at an election held for that purpose.

1       (b) A contract approved by the district voters may contain a  
2 provision stating that the contract may be modified or amended by  
3 the board without further voter approval.

4       Sec. 3875.160. AUTHORITY TO BORROW MONEY AND TO ISSUE  
5 BONDS. (a) The district may borrow money on terms and conditions  
6 as determined by the board. Section 375.205, Local Government  
7 Code, does not apply to a loan, line of credit, or other borrowing  
8 from a bank or financial institution secured by revenue other than  
9 ad valorem taxes.

10       (b) The district may issue by competitive bid or negotiated  
11 sale bonds, notes, or other obligations payable wholly or partly  
12 from ad valorem taxes, assessments, impact fees, revenue, contract  
13 payments, grants, or other district money, or any combination of  
14 those sources of money, to pay for any authorized district purpose.

15       (c) The limitation on the outstanding principal amount of  
16 bonds, notes, and other obligations provided by Section 49.4645,  
17 Water Code, does not apply to the district.

18       Sec. 3875.161. TAXES FOR BONDS. At the time the district  
19 issues bonds payable wholly or partly from ad valorem taxes, the  
20 board shall provide for the imposition of a continuing direct  
21 annual ad valorem tax, without limit as to rate or amount, while all  
22 or part of the bonds are outstanding as required and in the manner  
23 provided by Sections 54.601 and 54.602, Water Code.

24       Sec. 3875.162. ELECTIONS REGARDING TAXES AND BONDS. (a)  
25 The district may issue, without an election, bonds, notes, and  
26 other obligations secured by:

27           (1) revenue other than ad valorem taxes; or

1           (2) contract payments described by Section 3875.159.

2           (b) The district must hold an election in the manner  
3 provided by Subchapter L, Chapter 375, Local Government Code, to  
4 obtain voter approval before the district may impose an ad valorem  
5 tax or issue bonds payable from ad valorem taxes.

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

8           (d) All or any part of any facilities or improvements that  
9 the district may acquire by the issuance of its bonds may be  
10 submitted as a single proposition or as several propositions to be  
11 voted on at the election.

12           Sec. 3875.163. CITY APPROVAL. (a) Except as provided by  
13 Subsection (c), the district must obtain the approval of the City of  
14 Pearland's governing body for the issuance of bonds for each  
15 improvement project.

16           (b) The governing body of the City of Pearland must provide  
17 the approval required for the issuance of bonds under Subsection  
18 (a) by adoption of an ordinance or resolution.

19           (c) The district may obtain any other city approval required  
20 by this chapter by permit or other city administrative process that  
21 does not involve the City of Pearland's governing body.

22           Sec. 3875.164. CITY NOT REQUIRED TO PAY DISTRICT  
23 OBLIGATIONS. Except as provided by Section 375.263, Local  
24 Government Code, the City of Pearland is not required to pay a bond,  
25 note, or other obligation of the district.

26           Sec. 3875.165. COMPETITIVE BIDDING. Subchapter I, Chapter  
27 49, Water Code, applies to the district. Sections 375.221 and

1 375.223, Local Government Code, do not apply to the district.

2 Sec. 3875.166. TAX AND ASSESSMENT ABATEMENTS. The district  
3 may grant in the manner authorized by Chapter 312, Tax Code, an  
4 abatement for a tax or assessment owed to the district.

5 Sec. 3875.167. USAGE FEES. The board of directors may set,  
6 charge, impose, and collect fees, charges, or tolls for the use of  
7 any district facilities.

8 [Sections 3875.168-3875.200 reserved for expansion]

9 SUBCHAPTER E. DISSOLUTION

10 Sec. 3875.201. DISSOLUTION OF DISTRICT. (a) The board of  
11 directors may vote to dissolve the district regardless of the  
12 district's outstanding debt. Section 375.264, Local Government  
13 Code, does not apply to the district.

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

18 SECTION 2. The Country Place Management District initially  
19 includes all territory contained in the boundaries of the Brazoria  
20 County Municipal Utility District No. 4, as those boundaries  
21 existed on January 1, 2009.

22 SECTION 3. (a) The legal notice of the intention to  
23 introduce this Act, setting forth the general substance of this  
24 Act, has been published as provided by law, and the notice and a  
25 copy of this Act have been furnished to all persons, agencies,  
26 officials, or entities to which they are required to be furnished  
27 under Section 59, Article XVI, Texas Constitution, and Chapter 313,

1 Government Code.

2 (b) The governor, one of the required recipients, has  
3 submitted the notice and Act to the Texas Commission on  
4 Environmental Quality.

5 (c) The Texas Commission on Environmental Quality has filed  
6 its recommendations relating to this Act with the governor,  
7 lieutenant governor, and speaker of the house of representatives  
8 within the required time.

9 (d) The general law relating to consent by political  
10 subdivisions to the creation of districts with conservation,  
11 reclamation, and road powers and the inclusion of land in those  
12 districts has been complied with.

13 (e) All requirements of the constitution and laws of this  
14 state and the rules and procedures of the legislature with respect  
15 to the notice, introduction, and passage of this Act have been  
16 fulfilled and accomplished.

17 SECTION 4. This Act takes effect immediately if it receives  
18 a vote of two-thirds of all the members elected to each house, as  
19 provided by Section 39, Article III, Texas Constitution. If this  
20 Act does not receive the vote necessary for immediate effect, this  
21 Act takes effect September 1, 2009.