

1-1 By: Patrick S.B. No. 2496
1-2 (In the Senate - Filed April 2, 2009; April 6, 2009, read
1-3 first time and referred to Committee on Economic Development;
1-4 April 29, 2009, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 5, Nays 0; April 29, 2009,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 2496 By: Harris

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

1-10 relating to the powers of the Westchase District.

1-11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-12 SECTION 1. Subchapter A, Chapter 3802, Special District
1-13 Local Laws Code, is amended by adding Sections 3802.0045,
1-14 3802.0055, and 3802.008 to read as follows:

1-15 Sec. 3802.0045. PARKING. A parking improvement is
1-16 considered to be a street or road improvement.

1-17 Sec. 3802.0055. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
1-18 All or any part of the area of the district is eligible to be
1-19 included in:

1-20 (1) a tax increment reinvestment zone created by a
1-21 municipality under Chapter 311, Tax Code;

1-22 (2) a tax abatement reinvestment zone created by a
1-23 municipality under Chapter 312, Tax Code; or

1-24 (3) an enterprise zone created by a municipality under
1-25 Chapter 2303, Government Code.

1-26 Sec. 3802.008. TORT LIABILITY. The district is a
1-27 governmental unit under Chapter 101, Civil Practice and Remedies
1-28 Code, and the operations of the district are essential government
1-29 functions and are not proprietary functions for any purpose,
1-30 including the application of Chapter 101, Civil Practice and
1-31 Remedies Code.

1-32 SECTION 2. Section 3802.051, Special District Local Laws
1-33 Code, is amended to read as follows:

1-34 Sec. 3802.051. BOARD OF DIRECTORS; TERMS. (a) The
1-35 district is governed by a board of 17 directors who serve staggered
1-36 terms of four years, with eight or nine directors' terms expiring
1-37 June 1 of each odd-numbered year.

1-38 (b) The board by resolution may change the number of voting
1-39 directors on the board, but only if the board determines that the
1-40 change is in the best interest of the district. The board may not
1-41 consist of fewer than nine or more than 30 voting directors.

1-42 SECTION 3. Subchapter B, Chapter 3802, Special District
1-43 Local Laws Code, is amended by adding Section 3802.054 to read as
1-44 follows:

1-45 Sec. 3802.054. QUORUM. For purposes of determining whether
1-46 a quorum of the board is present, the following are not counted:

1-47 (1) a board position vacant for any reason, including
1-48 death, resignation, or disqualification;

1-49 (2) a director who is abstaining from participation in
1-50 a vote because of a conflict of interest; or

1-51 (3) a nonvoting director.

1-52 SECTION 4. Section 3802.103, Special District Local Laws
1-53 Code, is amended by adding Subsection (e) to read as follows:

1-54 (e) The implementation of a project is a governmental
1-55 function or service for the purposes of Chapter 791, Government
1-56 Code.

1-57 SECTION 5. Subchapter C, Chapter 3802, Special District
1-58 Local Laws Code, is amended by adding Sections 3802.102 and
1-59 3802.1045 to read as follows:

1-60 Sec. 3802.102. NONPROFIT CORPORATION. (a) The board by
1-61 resolution may authorize the creation of a nonprofit corporation to
1-62 assist and act for the district in implementing a project or
1-63 providing a service authorized by this chapter.

1-64 (b) The nonprofit corporation:

1-65 (1) has each power of and is considered for all

2-1 purposes to be a local government corporation created under Chapter
2-2 431, Transportation Code; and

2-3 (2) may implement any project and provide any service
2-4 authorized by this chapter.

2-5 (c) The board shall appoint the board of directors of the
2-6 nonprofit corporation. The board of directors of the nonprofit
2-7 corporation shall serve in the same manner as, for the same term as,
2-8 and on the same conditions as the board of directors of a local
2-9 government corporation created under Chapter 431, Transportation
2-10 Code.

2-11 (d) The nonprofit corporation may be dissolved as provided
2-12 by Chapter 431, Transportation Code, for a corporation created
2-13 under that chapter.

2-14 Sec. 3802.1045. MEMBERSHIP IN CHARITABLE ORGANIZATIONS.
2-15 The district may join and pay dues to an organization that:

2-16 (1) is exempt from federal income taxation under
2-17 Section 501(a), Internal Revenue Code of 1986, by being listed as an
2-18 exempt organization under Section 501(c)(3), (4), or (6) of that
2-19 code; and

2-20 (2) performs a service or provides an activity
2-21 consistent with the furtherance of a district purpose.

2-22 SECTION 6. Section 3802.106, Special District Local Laws
2-23 Code, as added by Chapter 728 (H.B. 2018), Acts of the 79th
2-24 Legislature, Regular Session, 2005, is renumbered as Section
2-25 3802.107, Special District Local Laws Code, to read as follows:

2-26 Sec. 3802.107 [~~3802.106~~]. CONFERENCE AND CONVOCATION
2-27 CENTERS. The district may finance, acquire, lease as a lessor or
2-28 lessee, construct, improve, operate, or maintain conference and
2-29 convocation centers and supporting facilities. The district may
2-30 enter into a long-term operating agreement with any person for the
2-31 center or facility.

2-32 SECTION 7. Subchapter D, Chapter 3802, Special District
2-33 Local Laws Code, is amended by adding Section 3802.1575 to read as
2-34 follows:

2-35 Sec. 3802.1575. USE OF ELECTRICAL OR OPTICAL LINES.

2-36 (a) The district may impose an assessment to pay the cost of:

2-37 (1) burying or removing electrical power lines,
2-38 telephone lines, cable or fiber-optic lines, or any other type of
2-39 electrical or optical line;

2-40 (2) removing poles and any elevated lines using the
2-41 poles; and

2-42 (3) reconnecting the lines described by Subdivision
2-43 (2) to the buildings or other improvements to which the lines were
2-44 connected.

2-45 (b) The assessment under Subsection (a) shall not be imposed
2-46 on the property, including the equipment, rights-of-way,
2-47 easements, facilities, or improvements, of a telecommunications
2-48 provider as defined by Section 51.002, Utilities Code, or a cable
2-49 service provider or video service provider as defined by Section
2-50 66.002, Utilities Code, unless the property is used as office
2-51 space.

2-52 (c) The district may acquire, operate, or charge fees for
2-53 the use of the district conduits for:

2-54 (1) another person's:

2-55 (A) telecommunications network;

2-56 (B) fiber-optic cable; or

2-57 (C) electronic transmission line; or

2-58 (2) any other type of transmission line or supporting
2-59 facility.

2-60 (d) The district may not require a person to use a district
2-61 conduit.

2-62 SECTION 8. This Act takes effect immediately if it receives
2-63 a vote of two-thirds of all the members elected to each house, as
2-64 provided by Section 39, Article III, Texas Constitution. If this
2-65 Act does not receive the vote necessary for immediate effect, this
2-66 Act takes effect September 1, 2009.