

By: Hegar

S.B. No. 1891

A BILL TO BE ENTITLED

AN ACT

relating to the creation of North Fort Bend County Improvement District No. 1; providing authority to levy 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 3899 to read as follows:

CHAPTER 3899. NORTH FORT BEND COUNTY IMPROVEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3899.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Houston.

(3) "County" means Fort Bend County.

(4) "Director" means a board member.

(5) "District" means the North Fort Bend County Improvement District No. 1.

Sec. 3899.002. NATURE OF DISTRICT. The North Fort Bend County Improvement District No. 1 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3899.003. 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, the

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

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

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

16 Sec. 3899.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
17 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) The creation of the district is in the public interest
24 and is essential to further the public purposes of:

25 (1) developing and diversifying the economy of the
26 state;

27 (2) eliminating unemployment and underemployment; and

1 (3) developing or expanding transportation and
2 commerce.

3 (d) The district will:

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

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

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

15 (4) provide for water, wastewater, drainage, road, and
16 recreational facilities for the district.

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

22 (f) The district will not act as the agent or
23 instrumentality of any private interest even though the district
24 will benefit many private interests as well as the public.

25 Sec. 3899.005. INITIAL DISTRICT TERRITORY. (a) The
26 district is initially composed of the territory described by
27 Section 2 of the Act enacting this chapter.

1 (b) The boundaries and field notes contained in Section 2 of
2 the Act enacting this chapter form a closure. A mistake in the
3 field notes or in copying the field notes in the legislative process
4 does not affect the district's:

5 (1) organization, existence, or validity;

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

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

10 (4) legality or operation.

11 Sec. 3899.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
12 All or any part of the area of the district is eligible to be
13 included in:

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

16 (2) a tax abatement reinvestment zone created under
17 Chapter 312, Tax Code;

18 (3) an enterprise zone created under Chapter 2303,
19 Government Code; or

20 (4) an industrial district created under Chapter 42,
21 Local Government Code.

22 Sec. 3899.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
23 DISTRICTS LAW. Except as otherwise provided by this chapter,
24 Chapter 375, Local Government Code, applies to the district.

25 Sec. 3899.008. LIBERAL CONSTRUCTION OF CHAPTER. This
26 chapter shall be liberally construed in conformity with the
27 findings and purposes stated in this chapter.

[Sections 3899.009-3899.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3899.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of five voting directors who serve staggered terms of four years, with two or three directors' terms expiring June 1 of each odd-numbered year.

(b) The board by resolution may change the number of voting directors on the board if the board determines that the change is in the best interest of the district. The board may not consist of fewer than 5 or more than 15 voting directors.

Sec. 3899.052. APPOINTMENT OF VOTING DIRECTORS. The Texas Commission on Environmental Quality shall appoint voting directors from persons recommended by the board.

Sec. 3899.053. NONVOTING DIRECTORS. The board may appoint nonvoting directors to serve at the pleasure of the voting directors.

Sec. 3899.054. QUORUM. For purposes of determining the requirements for a quorum of the board, the following are not counted:

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

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

(3) a nonvoting director.

Sec. 3899.055. INITIAL VOTING DIRECTORS. (a) On or after the effective date of the Act enacting this chapter, the owners of a majority of the assessed value of the real property in the district

1 according to the most recent certified tax appraisal roll for the
2 county may submit a petition to the Texas Commission on
3 Environmental Quality requesting that the commission appoint as
4 initial voting directors the five persons named in the petition.
5 The commission shall appoint the five persons named in the petition
6 as initial directors by position.

7 (b) Of the initial directors, the terms of directors
8 appointed for positions one through three expire June 1, 2013, and
9 the terms of directors appointed for positions four and five expire
10 June 1, 2015.

11 (c) Section 3899.052 does not apply to appointment of
12 directors under this section.

13 (d) This section expires September 1, 2016.

14 [Sections 3899.056-3899.100 reserved for expansion]

15 SUBCHAPTER C. POWERS AND DUTIES

16 Sec. 3899.101. GENERAL POWERS AND DUTIES. The district has
17 the powers and duties necessary to accomplish the purposes for
18 which the district is created.

19 Sec. 3899.102. IMPROVEMENT PROJECTS AND SERVICES. The
20 district may provide, design, construct, acquire, improve,
21 relocate, operate, maintain, or finance an improvement project or
22 service using money available to the district, or contract with a
23 governmental or private entity to provide, design, construct,
24 acquire, improve, relocate, operate, maintain, or finance an
25 improvement project or service authorized under this chapter or
26 Chapter 375, Local Government Code.

27 Sec. 3899.103. DEVELOPMENT CORPORATION POWERS. The

1 district, using money available to the district, may exercise the
2 powers given to a development corporation under Chapter 505, Local
3 Government Code, including the power to own, operate, acquire,
4 construct, lease, improve, or maintain a project under that
5 chapter.

6 Sec. 3899.104. NONPROFIT CORPORATION. (a) The board by
7 resolution may authorize the creation of a nonprofit corporation to
8 assist and act for the district in implementing a project or
9 providing a service authorized by this chapter.

10 (b) The nonprofit corporation:

11 (1) has each power of and is considered to be a local
12 government corporation created under Subchapter D, Chapter 431,
13 Transportation Code; and

14 (2) may implement any project and provide any service
15 authorized by this chapter.

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

22 Sec. 3899.105. AGREEMENTS; GRANTS. (a) As provided by
23 Chapter 375, Local Government Code, the district may make an
24 agreement with or accept a gift, grant, or loan from any person.

25 (b) The implementation of a project is a governmental
26 function or service for the purposes of Chapter 791, Government
27 Code.

1 Sec. 3899.106. LAW ENFORCEMENT SERVICES. To protect the
2 public interest, the district may contract with a qualified party,
3 including the county or the city, to provide law enforcement
4 services in the district for a fee.

5 Sec. 3899.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
6 district may join and pay dues to a charitable or nonprofit
7 organization that performs a service or provides an activity
8 consistent with the furtherance of a district purpose.

9 Sec. 3899.108. ECONOMIC DEVELOPMENT. (a) The district may
10 engage in activities that accomplish the economic development
11 purposes of the district.

12 (b) The district may establish and provide for the
13 administration of one or more programs to promote state or local
14 economic development and to stimulate business and commercial
15 activity in the district, including programs to:

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

17 (2) provide district personnel and services.

18 (c) The district may create economic development programs
19 and exercise the economic development powers provided to
20 municipalities by:

21 (1) Chapter 380, Local Government Code; and

22 (2) Subchapter A, Chapter 1509, Government Code.

23 Sec. 3899.109. PARKING FACILITIES. (a) The district may
24 acquire, lease as lessor or lessee, construct, develop, own,
25 operate, and maintain parking facilities or a system of parking
26 facilities, including lots, garages, parking terminals, or other
27 structures or accommodations for parking motor vehicles off the

1 streets and related appurtenances.

2 (b) The district's parking facilities serve the public
3 purposes of the district and are owned, used, and held for a public
4 purpose even if leased or operated by a private entity for a term of
5 years.

6 (c) The district's parking facilities are necessary
7 components of a street and are considered to be a street or road
8 improvement.

9 (d) The development and operation of the district's parking
10 facilities may be considered an economic development program.

11 Sec. 3899.110. ANNEXATION OR EXCLUSION OF LAND. (a) The
12 district may annex land as provided by Subchapter J, Chapter 49,
13 Water Code.

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

17 Sec. 3899.111. STRATEGIC PARTNERSHIP AGREEMENT. The
18 district may negotiate and enter into a written strategic
19 partnership under Section 43.0751, Local Government Code, with a
20 municipality in whose extraterritorial jurisdiction the district
21 is located.

22 Sec. 3899.112. NO EMINENT DOMAIN POWER. The district may
23 not exercise the power of eminent domain.

24 [Sections 3899.113-3899.150 reserved for expansion]

25 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

26 Sec. 3899.151. TAX AND ASSESSMENT ABATEMENTS. The district
27 may designate reinvestment zones and may grant abatements of a tax

1 or assessment on property in the zones.

2 Sec. 3899.152. DISBURSEMENTS AND TRANSFERS OF MONEY. The
3 board by resolution shall establish the number of directors'
4 signatures and the procedure required for a disbursement or
5 transfer of district money.

6 Sec. 3899.153. MONEY USED FOR IMPROVEMENTS OR SERVICES.
7 The district may acquire, construct, finance, operate, or maintain
8 any improvement or service authorized under this chapter or Chapter
9 375, Local Government Code, using any money available to the
10 district.

11 Sec. 3899.154. PETITION REQUIRED FOR FINANCING SERVICES AND
12 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
13 service or improvement project with assessments under this chapter
14 unless a written petition requesting that service or improvement
15 has been filed with the board.

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

20 Sec. 3899.155. METHOD OF NOTICE FOR HEARING. The district
21 may mail the notice required by Section 375.115(c), Local
22 Government Code, by certified or first class United States mail.
23 The board shall determine the method of notice.

24 Sec. 3899.156. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
25 The board by resolution may impose and collect an assessment for any
26 purpose authorized by this chapter in all or any part of the
27 district.

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

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

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

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

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

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

22 Sec. 3899.157. COMPETITIVE BIDDING. Subchapter I, Chapter
23 49, Water Code, applies to the district. Sections 375.221 and
24 375.223, Local Government Code, do not apply to the district.

25 [Sections 3899.158-3899.200 reserved for expansion]

26 SUBCHAPTER E. TAXES AND BONDS

27 Sec. 3899.201. ELECTIONS REGARDING TAXES AND BONDS. (a)

1 The district may issue, without an election, bonds, notes, and
2 other obligations secured by:

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

4 (2) contract payments described by Section 3899.203.

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

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

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

15 Sec. 3899.202. OPERATION AND MAINTENANCE TAX. (a) If
16 authorized by a majority of the district voters voting at an
17 election held in accordance with Section 3899.201, the district may
18 impose an operation and maintenance tax on taxable property in the
19 district in accordance with Section 49.107, Water Code, for any
20 district purpose, including to:

21 (1) maintain and operate the district;

22 (2) construct or acquire improvements; or

23 (3) provide a service.

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

26 Sec. 3899.203. CONTRACT TAXES. (a) In accordance with
27 Section 49.108, Water Code, the district may impose a tax other than

1 an operation and maintenance tax and use the revenue derived from
2 the tax to make payments under a contract after the provisions of
3 the contract have been approved by a majority of the district voters
4 voting at an election held for that purpose.

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

8 Sec. 3899.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
9 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms
10 determined by the board. Section 375.205, Local Government Code,
11 does not apply to a loan, line of credit, or other borrowing from a
12 bank or financial institution secured by revenue other than ad
13 valorem taxes.

14 (b) The district may issue bonds, notes, or other
15 obligations payable wholly or partly from ad valorem taxes,
16 assessments, impact fees, revenue, contract payments, grants, or
17 other district money, or any combination of those sources of money,
18 to pay for any authorized district purpose.

19 Sec. 3899.205. TAXES FOR BONDS. At the time the district
20 issues bonds payable wholly or partly from ad valorem taxes, the
21 board shall provide for the annual imposition of a continuing
22 direct annual ad valorem tax, without limit as to rate or amount,
23 for each year that all or part of the bonds are outstanding as
24 required and in the manner provided by Sections 54.601 and 54.602,
25 Water Code.

26 Sec. 3899.206. TAXES AND BONDS FOR RECREATIONAL FACILITIES.
27 (a) The limitation on the outstanding principal amount of bonds,

notes, and other obligations under Section 49.4645, Water Code, does not apply to the district.

(b) Section 49.107(h), Water Code, does not apply to the district.

[Sections 3899.207-3899.250 reserved for expansion]

SUBCHAPTER F. DEFINED AREAS

Sec. 3899.251. AUTHORITY TO ESTABLISH DEFINED AREAS OR DESIGNATED PROPERTY. The district may define areas or designate certain property of the district to pay for improvements, facilities, or services that primarily benefit that area or property and do not generally and directly benefit the district as a whole.

Sec. 3899.252. PROCEDURE FOR ELECTION. (a) Before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes of the area defined or property designated under Section 3899.251, the board shall call and hold an election in the defined area or within the boundaries of the designated property only.

(b) The board may submit the proposition to the voters on the same ballot to be used in another election.

Sec. 3899.253. DECLARING RESULT AND ISSUING ORDER. (a) If a majority of the voters voting at the election approve the proposition or propositions, the board shall declare the results and, by order, shall establish the defined area and describe it by metes and bounds or designate the specific property.

(b) The board's order is not subject to judicial review except on the ground of fraud, palpable error, or arbitrary and

1 confiscatory abuse of discretion.

2 Sec. 3899.254. TAXES FOR SERVICES, IMPROVEMENTS, AND
3 FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter
4 approval and adoption of the order described by Section 3899.253,
5 the district may apply separately, differently, equitably, and
6 specifically its taxing power and lien authority to the defined
7 area or designated property to provide money to construct,
8 administer, maintain, and operate services, improvements, and
9 facilities that primarily benefit the defined area or designated
10 property.

11 Sec. 3899.255. ISSUANCE OF BONDS FOR DEFINED AREAS OR
12 DESIGNATED PROPERTY. After the order under Section 3899.253 is
13 adopted, the district may issue bonds to provide for any land,
14 improvements, facilities, plants, equipment, and appliances for
15 the defined area or designated property.

16 SECTION 2. North Fort Bend County Improvement District No.
17 1 initially includes all the territory contained in the following
18 area:

19 All of RESTRICTED RESERVE "A" in Block 1 of VILLAGE CENTER SEC
20 1, a subdivision in Fort Bend County, Texas, according to the map or
21 plat thereof recorded under Slide No. 2419A of the Plat Records of
22 Fort Bend County, Texas; and

23 All of RESTRICTED RESERVE "A" in Block 1 of VILLAGE CENTER SEC
24 2, a subdivision in Fort Bend County, Texas, according to the map or
25 plat thereof recorded under Slide No. 2418B of the Plat Records of
26 Fort Bend County, Texas.

27 SECTION 3. (a) The legal notice of the intention to

1 introduce this Act, setting forth the general substance of this
2 Act, has been published as provided by law, and the notice and a
3 copy of this Act have been furnished to all persons, agencies,
4 officials, or entities to which they are required to be furnished
5 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
6 Government Code.

7 (b) The governor, one of the required recipients, has
8 submitted the notice and Act to the Texas Commission on
9 Environmental Quality.

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

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

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

22 SECTION 4. This Act takes effect immediately if it receives
23 a vote of two-thirds of all the members elected to each house, as
24 provided by Section 39, Article III, Texas Constitution. If this
25 Act does not receive the vote necessary for immediate effect, this
26 Act takes effect September 1, 2011.