

By: Kolkhorst

S.B. No. 2035

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the conversion of the Harris-Fort Bend Counties
3 Municipal Utility District No. 4 to the Katy Management District
4 No. 1; providing authority to issue bonds; providing authority to
5 impose assessments, fees, or taxes.

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

7 SECTION 1. The Harris-Fort Bend Counties Municipal Utility
8 District No. 4 is converted to the Katy Management District No. 1
9 and is governed by Chapter 3935, Special District Local Laws Code,
10 as added by this Act.

11 SECTION 2. Subtitle C, Title 4, Special District Local Laws
12 Code, is amended by adding Chapter 3935 to read as follows:

13 CHAPTER 3935. KATY MANAGEMENT DISTRICT NO. 1

14 SUBCHAPTER A. GENERAL PROVISIONS

15 Sec. 3935.001. DEFINITIONS. In this chapter:

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

17 (2) "City" means the City of Katy.

18 (3) "County" means Harris County or Fort Bend County.

19 (4) "Director" means a board member.

20 (5) "District" means the Katy Management District No.

21 1.

22 Sec. 3935.002. NATURE OF DISTRICT; CONVERSION. The Katy
23 Management District No. 1 is a special district created under
24 Section 59, Article XVI, Texas Constitution, as the Harris-Fort

1 Bend Counties Municipal Utility District No. 4. The district is
2 converted to a municipal management district known as the Katy
3 Management District No. 1 under the same constitutional authority.

4 Sec. 3935.003. PURPOSE; DECLARATION OF INTENT. (a) The
5 conversion and operation of the district are essential to
6 accomplish the purposes of Sections 52 and 52-a, Article III, and
7 Section 59, Article XVI, Texas Constitution, and other public
8 purposes stated in this chapter. By converting the district to a
9 municipal management district and in authorizing the city, the
10 county, and other political subdivisions to contract with the
11 district, the legislature has established a program to accomplish
12 the public purposes set out in Section 52-a, Article III, Texas
13 Constitution.

14 (b) The conversion and operation of the district are
15 necessary to promote, develop, encourage, and maintain employment,
16 commerce, transportation, housing, tourism, recreation, the arts,
17 entertainment, economic development, safety, and the public
18 welfare in the district.

19 (c) This chapter and the conversion or operation of the
20 district may not be interpreted to relieve the city or the county
21 from providing the level of services provided as of the effective
22 date of the Act enacting this chapter to the area in the district.
23 The district is created to supplement and not to supplant city or
24 county services provided in the district.

25 Sec. 3935.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

26 (a) The district is converted to a municipal management district
27 to serve a public use and benefit.

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

6 (c) The operation of the district is in the public interest
7 and is essential to further the public purposes of:

8 (1) developing and diversifying the economy of the
9 state;

10 (2) eliminating unemployment and underemployment; and

11 (3) developing or expanding transportation and
12 commerce.

13 (d) The district will:

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

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

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

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

27 (e) Pedestrian ways along or across a street, whether at

1 grade or above or below the surface, and street lighting, street
2 landscaping, parking, and street art objects are parts of and
3 necessary components of a street and are considered to be a street
4 or road improvement.

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

8 Sec. 3935.005. INITIAL DISTRICT TERRITORY. The district is
9 initially composed of the territory of the former Harris-Fort Bend
10 Counties Municipal Utility District No. 4 as that territory existed
11 on March 1, 2015.

12 Sec. 3935.006. APPLICABILITY OF MUNICIPAL MANAGEMENT
13 DISTRICTS LAW. Except as otherwise provided by this chapter,
14 Chapter 375, Local Government Code, applies to the district.

15 Sec. 3935.007. CONSTRUCTION OF CHAPTER. This chapter shall
16 be liberally construed in conformity with the findings and purposes
17 stated in this chapter.

18 SUBCHAPTER B. BOARD OF DIRECTORS

19 Sec. 3935.051. GOVERNING BODY; TERMS. (a) The district is
20 governed by a board of five voting directors who serve staggered
21 terms of four years, with two or three directors' terms expiring May
22 1 of each even-numbered year.

23 (b) The board by resolution may change the number of voting
24 directors on the board if the board determines that the change is in
25 the best interest of the district. The board may not consist of
26 fewer than 5 or more than 11 voting directors.

27 Sec. 3935.052. APPOINTMENT OF VOTING DIRECTORS. (a) The

1 mayor and members of the governing body of the city shall appoint
2 voting directors from persons recommended by the board. A person is
3 appointed if a majority of the members of the governing body,
4 including the mayor, vote to appoint that person.

5 (b) Section 375.063, Local Government Code, does not apply
6 to the district.

7 Sec. 3935.053. NONVOTING DIRECTORS. The board may appoint
8 nonvoting directors to serve at the pleasure of the voting
9 directors.

10 Sec. 3935.054. QUORUM. For purposes of determining the
11 requirements for a quorum of the board, the following are not
12 counted:

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

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

17 (3) a nonvoting director.

18 Sec. 3935.055. COMPENSATION. A director is entitled to
19 receive fees of office and reimbursement for actual expenses as
20 provided by Section 49.060, Water Code. Sections 375.069 and
21 375.070, Local Government Code, do not apply to the board.

22 Sec. 3935.056. INITIAL VOTING DIRECTORS ON CONVERSION TO
23 MANAGEMENT DISTRICT. (a) On the conversion of the district to a
24 management district, the initial board consists of the following
25 directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
26		
27	<u>1.</u>	<u>Kenneth Berger</u>

- 1 2. Orville Wient
- 2 3. Robert C. Hargarther
- 3 4. Donald P. Cox
- 4 5. Nick Alexander Jr.

5 (b) Of the initial directors, the terms of directors
6 appointed for positions one through three expire May 14, 2016, and
7 the terms of directors appointed for positions four and five expire
8 May 12, 2018.

9 (c) Sections 3935.051 and 3935.052 do not apply to the
10 appointment or terms of directors appointed under Subsection (a).
11 A director appointed to succeed a director appointed under
12 Subsection (a) serves until May 1 of the appropriate year.

13 SUBCHAPTER C. POWERS AND DUTIES

14 Sec. 3935.101. GENERAL POWERS AND DUTIES. The district has
15 the powers and duties necessary to accomplish the purposes
16 described by this chapter.

17 Sec. 3935.102. IMPROVEMENT PROJECTS AND SERVICES. The
18 district may provide, design, construct, acquire, improve,
19 relocate, operate, maintain, or finance an improvement project or
20 service using any money available to the district, or contract with
21 a governmental or private entity to provide, design, construct,
22 acquire, improve, relocate, operate, maintain, or finance an
23 improvement project or service authorized under this chapter or
24 Chapter 375, Local Government Code.

25 Sec. 3935.103. MUNICIPAL UTILITY DISTRICT POWERS AND
26 DUTIES. The district has the powers and duties provided by the
27 general law of this state, including Chapters 49 and 54, Water Code,

1 applicable to municipal utility districts created under Section 59,
2 Article XVI, Texas Constitution.

3 Sec. 3935.104. DEVELOPMENT CORPORATION POWERS. The
4 district, using money available to the district, may exercise the
5 powers given to a development corporation under Chapter 505, Local
6 Government Code, including the power to own, operate, acquire,
7 construct, lease, improve, or maintain a project under that
8 chapter.

9 Sec. 3935.105. NONPROFIT CORPORATION. (a) The board by
10 resolution may authorize the creation of a nonprofit corporation to
11 assist and act for the district in implementing a project or
12 providing a service authorized by this chapter.

13 (b) The nonprofit corporation:

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

17 (2) may implement any project and provide any service
18 authorized by this chapter.

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

25 Sec. 3935.106. AGREEMENTS; GRANTS. (a) As provided by
26 Chapter 375, Local Government Code, the district may make an
27 agreement with or accept a gift, grant, or loan from any person.

1 (b) The implementation of a project is a governmental
2 function or service for the purposes of Chapter 791, Government
3 Code.

4 Sec. 3935.107. LAW ENFORCEMENT SERVICES. To protect the
5 public interest, the district may contract with a qualified party,
6 including the county or the city, to provide law enforcement
7 services in the district for a fee.

8 Sec. 3935.108. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
9 district may join and pay dues to a charitable or nonprofit
10 organization that performs a service or provides an activity
11 consistent with the furtherance of a district purpose.

12 Sec. 3935.109. ECONOMIC DEVELOPMENT. (a) The district may
13 engage in activities that accomplish the economic development
14 purposes of the district.

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

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

20 (2) provide district personnel and services.

21 (c) The district may create economic development programs
22 and exercise the economic development powers provided to
23 municipalities by:

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

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

26 Sec. 3935.110. PARKING FACILITIES. (a) The district may
27 acquire, lease as lessor or lessee, construct, develop, own,

1 operate, and maintain parking facilities or a system of parking
2 facilities, including lots, garages, parking terminals, or other
3 structures or accommodations for parking motor vehicles off the
4 streets and related appurtenances.

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

9 (c) The district's parking facilities are parts of and
10 necessary components of a street and are considered to be a street
11 or road improvement.

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

14 Sec. 3935.111. ANNEXATION OF LAND. The district may annex
15 land as provided by Subchapter J, Chapter 49, Water Code.

16 Sec. 3935.112. APPROVAL BY CITY. (a) Except as provided
17 by Subsection (c), the district must obtain the approval of the city
18 for:

19 (1) the issuance of bonds;

20 (2) the plans and specifications of an improvement
21 project financed by bonds; and

22 (3) the plans and specifications of an improvement
23 project related to the use of land owned by the city, an easement
24 granted by the city, or a right-of-way of a street, road, or
25 highway.

26 (b) The district may not issue bonds until the governing
27 body of the city adopts a resolution or ordinance authorizing the

1 issuance of the bonds.

2 (c) If the district obtains the approval of the city's
3 governing body of a capital improvements budget for a period not to
4 exceed 10 years, the district may finance the capital improvements
5 and issue bonds specified in the budget without further approval
6 from the city.

7 (d) The governing body of the city:

8 (1) is not required to adopt a resolution or ordinance
9 to approve plans and specifications described by Subsection (a);
10 and

11 (2) may establish an administrative process to approve
12 plans and specifications described by Subsection (a) without the
13 involvement of the governing body.

14 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

15 Sec. 3935.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
16 board by resolution shall establish the number of directors'
17 signatures and the procedure required for a disbursement or
18 transfer of district money.

19 Sec. 3935.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
20 The district may acquire, construct, finance, operate, or maintain
21 any improvement or service authorized under this chapter or Chapter
22 375, Local Government Code, using any money available to the
23 district.

24 Sec. 3935.153. PETITION REQUIRED FOR FINANCING SERVICES AND
25 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
26 service or improvement project with assessments under this chapter
27 unless a written petition requesting that service or improvement

1 has been filed with the board.

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

6 Sec. 3935.154. ASSESSMENTS; LIENS FOR ASSESSMENTS.

7 (a) The board by resolution may impose and collect an assessment
8 for any purpose authorized by this chapter in all or any part of the
9 district.

10 (b) An assessment, a reassessment, or an assessment
11 resulting from an addition to or correction of the assessment roll
12 by the district, penalties and interest on an assessment or
13 reassessment, an expense of collection, and reasonable attorney's
14 fees incurred by the district:

15 (1) are a first and prior lien against the property
16 assessed;

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

20 (3) are the personal liability of and a charge against
21 the owners of the property even if the owners are not named in the
22 assessment proceedings.

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

27 (d) The board may make a correction to or deletion from the

1 assessment roll that does not increase the amount of assessment of
2 any parcel of land without providing notice and holding a hearing in
3 the manner required for additional assessments.

4 Sec. 3935.155. TAX AND ASSESSMENT ABATEMENT. The district
5 may designate reinvestment zones and may grant abatements of
6 district taxes or assessments on property in the zones.

7 SUBCHAPTER E. TAXES AND BONDS

8 Sec. 3935.201. ELECTIONS REGARDING TAXES AND BONDS.

9 (a) The district may issue, without an election, bonds, notes, and
10 other obligations secured by:

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

12 (2) contract payments described by Section 3935.203.

13 (b) The district must hold an election in the manner
14 provided by Chapters 49 and 54, Water Code, to obtain voter approval
15 before the district may impose an ad valorem tax or issue bonds
16 payable from ad valorem taxes.

17 (c) All or any part of any facilities or improvements that
18 may be acquired by a district by the issuance of its bonds may be
19 submitted as a single proposition or as several propositions to be
20 voted on at the election.

21 Sec. 3935.202. OPERATION AND MAINTENANCE TAX. (a) If
22 authorized by a majority of the district voters voting at an
23 election held in accordance with Section 49.107, Water Code, the
24 district may impose an operation and maintenance tax on taxable
25 property in the district in accordance with that section for any
26 district purpose, including to:

27 (1) maintain and operate the district;

1 (2) construct or acquire improvements; or

2 (3) provide a service.

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

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

7 Sec. 3935.203. CONTRACT TAXES. (a) In accordance with
8 Section 49.108, Water Code, the district may impose a tax other than
9 an operation and maintenance tax and use the revenue derived from
10 the tax to make payments under a contract after the provisions of
11 the contract have been approved by a majority of the district voters
12 voting at an election held for that purpose.

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

16 Sec. 3935.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
17 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms
18 determined by the board. Section 375.205, Local Government Code,
19 does not apply to a loan, line of credit, or other borrowing from a
20 bank or financial institution secured by revenue other than ad
21 valorem taxes.

22 (b) The district may issue bonds, notes, or other
23 obligations payable wholly or partly from ad valorem taxes,
24 assessments, impact fees, revenue, contract payments, grants, or
25 other district money, or any combination of those sources of money,
26 to pay for any authorized district purpose.

27 (c) The limitation on the outstanding principal amount of

1 bonds, notes, and other obligations provided by Section 49.4645,
2 Water Code, does not apply to the district.

3 Sec. 3935.205. TAXES FOR BONDS. At the time the district
4 issues bonds payable wholly or partly from ad valorem taxes, the
5 board shall provide for the annual imposition of a continuing
6 direct annual ad valorem tax, without limit as to rate or amount,
7 for each year that all or part of the bonds are outstanding as
8 required and in the manner provided by Sections 54.601 and 54.602,
9 Water Code.

10 Sec. 3935.206. CITY NOT REQUIRED TO PAY DISTRICT
11 OBLIGATIONS. Except as provided by Section 375.263, Local
12 Government Code, the city is not required to pay a bond, note, or
13 other obligation of the district.

14 SECTION 3. The Katy Management District No. 1 retains all
15 rights, powers, privileges, authority, duties, and functions that
16 the Harris-Fort Bend Counties Municipal Utility District No. 4 had
17 before the effective date of this Act, except as otherwise
18 expressly provided by Chapter 3935, Special District Local Laws
19 Code, as added by this Act.

20 SECTION 4. (a) The legislature validates and confirms all
21 governmental acts and proceedings of the Harris-Fort Bend Counties
22 Municipal Utility District No. 4 that were taken before the
23 effective date of this Act.

24 (b) This section does not apply to any matter that on the
25 effective date of this Act:

26 (1) is involved in litigation if the litigation
27 ultimately results in the matter being held invalid by a final court

1 judgment; or

2 (2) has been held invalid by a final court judgment.

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

10 (b) The governor, one of the required recipients, has
11 submitted the notice and Act to the Texas Commission on
12 Environmental Quality.

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

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

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

25 SECTION 6. This Act takes effect immediately if it receives
26 a vote of two-thirds of all the members elected to each house, as
27 provided by Section 39, Article III, Texas Constitution. If this

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1 Act does not receive the vote necessary for immediate effect, this

2 Act takes effect September 1, 2015.