

By: Creighton

S.B. No. 2271

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Port Neches Improvement District;  
providing authority to issue bonds; providing authority to impose  
assessments, fees, or taxes.

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 3956 to read as follows:

CHAPTER 3956. PORT NECHES IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3956.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Port Neches.

(3) "County" means Jefferson County.

(4) "Director" means a board member.

(5) "District" means the Port Neches Improvement  
District.

Sec. 3956.002. NATURE OF DISTRICT. The Port Neches  
Improvement District is a special district created under Section  
59, Article XVI, Texas Constitution.

Sec. 3956.003. 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. 3956.004. 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           (4) provide for road and recreational facilities for  
15 the district; and

16           (5) provide for water, wastewater, drainage, canals,  
17 waterways, bulkheads, docks, and other similar improvement  
18 facilities for the district.

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

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

27           Sec. 3956.005. DISTRICT TERRITORY. (a) The district is

1 initially composed of the territory described by Section 2 of the  
2 Act enacting this chapter.

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

7 (1) organization, existence, or validity;

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

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

12 (4) legality or operation.

13 Sec. 3956.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

14 All or any part of the area of the district is eligible to be  
15 included in:

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

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

20 (3) an enterprise zone created under Chapter 2303,  
21 Government Code; or

22 (4) an industrial district created under Chapter 42,  
23 Local Government Code.

24 Sec. 3956.007. APPLICABILITY OF MUNICIPAL MANAGEMENT  
25 DISTRICTS LAW. Except as otherwise provided by this chapter,  
26 Chapter 375, Local Government Code, applies to the district.

27 Sec. 3956.008. LIBERAL CONSTRUCTION OF CHAPTER. This

1 chapter shall be liberally construed in conformity with the  
2 findings and purposes stated in this chapter.

3 SUBCHAPTER B. BOARD OF DIRECTORS

4 Sec. 3956.051. GOVERNING BODY; TERMS. The district is  
5 governed by a board of seven voting directors who serve staggered  
6 terms of two years, with three or four directors' terms expiring  
7 June 1 of each year.

8 Sec. 3956.052. ELIGIBILITY OF DIRECTORS. A person is  
9 eligible to serve as a voting or nonvoting director only if the  
10 person is eligible to register to vote under Section 13.001,  
11 Election Code.

12 Sec. 3956.053. APPOINTMENT OF VOTING DIRECTORS. The  
13 governing body of the city, including the mayor, shall appoint the  
14 voting directors. A person is appointed if a majority of the  
15 members of the governing body vote to appoint that person.

16 Sec. 3956.054. NONVOTING DIRECTORS. The board may appoint  
17 nonvoting directors to serve at the pleasure of the voting  
18 directors.

19 Sec. 3956.055. QUORUM. For purposes of determining the  
20 requirements for a quorum of the board, the following are not  
21 counted:

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

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

26 (3) a nonvoting director.

27 Sec. 3956.056. COMPENSATION. A director is entitled to

1 receive fees of office and reimbursement for actual expenses as  
2 provided by Section 49.060, Water Code. Sections 375.069 and  
3 375.070, Local Government Code, do not apply to the board.

4 Sec. 3956.057. INITIAL VOTING DIRECTORS. (a) The initial  
5 board consists of the following directors:

	<u>Pos. No.</u>	<u>Name of Director</u>
6		
7	<u>1.</u>	<u>David LeJeune</u>
8	<u>2.</u>	<u>Leslie Symmonds</u>
9	<u>3.</u>	<u>Olin Clotiaux</u>
10	<u>4.</u>	<u>Doug Savant</u>
11	<u>5.</u>	<u>Lance Bradley</u>
12	<u>6.</u>	<u>Kathy Levingston</u>
13	<u>7.</u>	<u>Aspen Hebert</u>

14 (b) Of the initial directors, the terms of directors  
15 appointed for positions one through four expire June 1, 2018, and  
16 the terms of directors appointed for positions five through seven  
17 expire June 1, 2019.

18 (c) Section 3956.053 does not apply to this section.

19 (d) This section expires September 1, 2019.

20 SUBCHAPTER C. POWERS AND DUTIES

21 Sec. 3956.101. GENERAL POWERS AND DUTIES. The district has  
22 the powers and duties necessary to accomplish the purposes for  
23 which the district is created.

24 Sec. 3956.102. IMPROVEMENT PROJECTS AND SERVICES. The  
25 district may provide, design, construct, acquire, improve,  
26 relocate, operate, maintain, or finance an improvement project or  
27 service using any money available to the district, or contract with

1 a governmental or private entity to provide, design, construct,  
2 acquire, improve, relocate, operate, maintain, or finance an  
3 improvement project or service authorized under this chapter or  
4 Chapter 375, Local Government Code.

5 Sec. 3956.103. DEVELOPMENT CORPORATION POWERS. The  
6 district, using money available to the district, may exercise the  
7 powers given to a development corporation under Chapter 505, Local  
8 Government Code, including the power to own, operate, acquire,  
9 construct, lease, improve, or maintain a project under that  
10 chapter.

11 Sec. 3956.104. NONPROFIT CORPORATION. (a) The board by  
12 resolution may authorize the creation of a nonprofit corporation to  
13 assist and act for the district in implementing a project or  
14 providing a service authorized by this chapter.

15 (b) The nonprofit corporation:

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

19 (2) may implement any project and provide any service  
20 authorized by this chapter.

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

27 Sec. 3956.105. AGREEMENTS; GRANTS. (a) As provided by

1 Chapter 375, Local Government Code, the district may make an  
2 agreement with or accept a gift, grant, or loan from any person.  
3 The district shall promptly notify the city of any gift or grant  
4 accepted by the district.

5 (b) The implementation of a project is a governmental  
6 function or service for the purposes of Chapter 791, Government  
7 Code.

8 Sec. 3956.106. LAW ENFORCEMENT SERVICES. To protect the  
9 public interest, the district may contract with a qualified party,  
10 including the county or the city, to provide law enforcement  
11 services in the district for a fee.

12 Sec. 3956.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
13 district may join and pay dues to a charitable or nonprofit  
14 organization that performs a service or provides an activity  
15 consistent with the furtherance of a district purpose.

16 Sec. 3956.108. PARKING FACILITIES. (a) The district may  
17 acquire, lease as lessor or lessee, construct, develop, own,  
18 operate, and maintain parking facilities or a system of parking  
19 facilities, including lots, garages, parking terminals, or other  
20 structures or accommodations for parking motor vehicles off the  
21 streets and related appurtenances.

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

26 (c) The district's parking facilities are parts of and  
27 necessary components of a street and are considered to be a street



1 or road improvement.

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

4 Sec. 3956.109. ANNEXATION OF LAND. The district may annex  
5 land as provided by Subchapter J, Chapter 49, Water Code.

6 Sec. 3956.110. NAVIGATION DISTRICT POWERS. The district  
7 has the powers provided by the general law of this state applicable  
8 to navigation districts created under Section 59, Article XVI,  
9 Texas Constitution, including Chapters 60 and 62, Water Code.

10 Sec. 3956.111. APPROVAL BY CITY. (a) Except as provided  
11 by Subsection (c), the district must obtain the approval of the city  
12 for:

13 (1) the issuance of bonds or any other obligations,  
14 subject to Section 3956.201 or 3956.203;

15 (2) the plans and specifications of an improvement  
16 project financed by bonds; and

17 (3) the plans and specifications of an improvement  
18 project related to the use of land owned by the city, an easement  
19 granted to or by the city, or a right-of-way of a street, road, or  
20 highway.

21 (b) The district may not issue bonds until the governing  
22 body of the city adopts a resolution or ordinance authorizing the  
23 issuance of the bonds.

24 (c) If the district obtains the approval of the city's  
25 governing body of a capital improvements budget for a period not to  
26 exceed five years, the district may finance the capital  
27 improvements and issue bonds specified in the budget without

1 further approval from the city.

2 (d) The governing body of the city:

3 (1) is not required to adopt a resolution or ordinance  
4 to approve plans and specifications described by Subsection (a);  
5 and

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

9 Sec. 3956.112. CONSENT OF CITY REQUIRED. The district may  
10 not take any of the following actions until the city has consented  
11 by ordinance or resolution to the creation of the district and to  
12 the inclusion of land in the district:

13 (1) hold an election under Subchapter L, Chapter 375,  
14 Local Government Code;

15 (2) impose an ad valorem tax;

16 (3) impose an assessment;

17 (4) issue bonds; or

18 (5) enter into an agreement to reimburse the costs of  
19 facilities.

20 Sec. 3956.113. NO EMINENT DOMAIN POWER. The district may  
21 not exercise the power of eminent domain.

22 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

23 Sec. 3956.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The  
24 board by resolution shall establish the number of directors'  
25 signatures and the procedure required for a disbursement or  
26 transfer of district money.

27 Sec. 3956.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.

1 The district may acquire, construct, finance, operate, or maintain  
2 any improvement or service authorized under this chapter or Chapter  
3 375, Local Government Code, using any money available to the  
4 district.

5 Sec. 3956.153. PETITION REQUIRED FOR FINANCING SERVICES AND  
6 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a  
7 service or improvement project with assessments under this chapter  
8 unless a written petition requesting that service or improvement  
9 has been filed with the board.

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

14 Sec. 3956.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)  
15 The board by resolution may impose and collect an assessment for any  
16 purpose authorized by this chapter in all or any part of the  
17 district.

18 (b) An assessment, a reassessment, or an assessment  
19 resulting from an addition to or correction of the assessment roll  
20 by the district, penalties and interest on an assessment or  
21 reassessment, an expense of collection, and reasonable attorney's  
22 fees incurred by the district:

23 (1) are a first and prior lien against the property  
24 assessed;

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

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

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

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

12                           SUBCHAPTER E. TAXES AND BONDS

13           Sec. 3956.201. ELECTIONS REGARDING TAXES AND BONDS. (a)  
14 The district may issue, without an election, bonds, notes, and  
15 other obligations secured by:

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

17                   (2) contract payments described by Section 3956.203.

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

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

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

1       Sec. 3956.202. OPERATION AND MAINTENANCE TAX. (a) If  
2 authorized by a majority of the district voters voting at an  
3 election held in accordance with Section 3956.201, the district may  
4 impose an operation and maintenance tax on taxable property in the  
5 district in accordance with Section 49.107, Water Code, for any  
6 district purpose, including to:

7           (1) maintain and operate the district;

8           (2) construct or acquire improvements; or

9           (3) provide a service.

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

12       Sec. 3956.203. CONTRACT TAXES. (a) In accordance with  
13 Section 49.108, Water Code, the district may impose a tax other than  
14 an operation and maintenance tax and use the revenue derived from  
15 the tax to make payments under a contract after the provisions of  
16 the contract have been approved by a majority of the district voters  
17 voting at an election held for that purpose.

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

21       Sec. 3956.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS  
22 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms  
23 determined by the board. Section 375.205, Local Government Code,  
24 does not apply to a loan, line of credit, or other borrowing from a  
25 bank or financial institution secured by revenue other than ad  
26 valorem taxes.

27       (b) The district may issue bonds, notes, or other

1 obligations payable wholly or partly from ad valorem taxes,  
2 assessments, impact fees, revenue, contract payments, grants, or  
3 other district money, or any combination of those sources of money,  
4 to pay for any authorized district purpose.

5 Sec. 3956.205. TAXES FOR BONDS. At the time the district  
6 issues bonds payable wholly or partly from ad valorem taxes, the  
7 board shall provide for the annual imposition of a continuing  
8 direct annual ad valorem tax, without limit as to rate or amount,  
9 for each year that all or part of the bonds are outstanding as  
10 required and in the manner provided by Sections 54.601 and 54.602,  
11 Water Code.

12 Sec. 3956.206. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
13 OBLIGATIONS. Except as provided by Section 375.263, Local  
14 Government Code, a municipality is not required to pay bonds,  
15 notes, or other obligations of the district.

16 SECTION 2. The Port Neches Improvement District initially  
17 includes all territory contained in the following area:

18 Lots one through eighteen (1-18), Block One (1), Oaks Subdivision  
19 of the City of Port Neches, Jefferson County, Texas as per the plat  
20 of said subdivision recorded in Volume 1, page 100, map records of  
21 said county.

22 Lots three through thirty-three (3-33), Block Two (2), Oaks  
23 Subdivision of the City of Port Neches, Jefferson County, Texas as  
24 per the plat of said subdivision recorded in Volume 1, page 100, map  
25 records of said county.

26 Lots one through five (1-5), Block Eighteen (18), of Oaks Addition,  
27 an Addition to the City of Port Neches, Jefferson County, Texas,

1 according to the map or plat thereof, of record in Volume 1, page  
2 100, Map Records of Jefferson County, Texas.

3 SECTION 3. (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, the  
15 lieutenant governor, and the speaker of the house of  
16 representatives within the required time.

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

21 SECTION 4. This Act takes effect immediately if it receives  
22 a vote of two-thirds of all the members elected to each house, as  
23 provided by Section 39, Article III, Texas Constitution. If this  
24 Act does not receive the vote necessary for immediate effect, this  
25 Act takes effect September 1, 2017.