

By: Hernandez

H.B. No. 2712

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Channelview Improvement District;
providing authority to issue bonds; providing authority to impose
fees and 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 3943 to read as follows:

CHAPTER 3943. CHANNELVIEW IMPROVEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3943.0101. DEFINITIONS. In this chapter:

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

(2) "County" means Harris County.

(3) "District" means the Channelview Improvement
District.

Sec. 3943.0102. CREATION AND NATURE OF DISTRICT. The
district is a special district created under Section 59, Article
XVI, Texas Constitution.

Sec. 3943.0103. 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 political
subdivisions to contract with the district, the legislature has

1 established a program to accomplish the public purposes set out in
2 Section 52-a, 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, scenic beauty, and
7 the public welfare in the district.

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

14 Sec. 3943.0104. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

15 (a) 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 shall:

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

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

8 (3) provide and maintain common areas and facilities
9 in the district to ensure scenic beauty;

10 (4) provide improvements in the district to promote
11 the welfare of the public in the district; and

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

16 (e) The district may not act as the agent or instrumentality
17 of any private interest even though the district will benefit many
18 private interests as well as the public.

19 Sec. 3943.0105. INITIAL DISTRICT TERRITORY. (a) The
20 district is composed of the territory described by Section 2 of the
21 Act enacting this chapter.

22 (b) The boundaries and field notes of the district contained
23 in Section 2 of the Act enacting this chapter form a closure. A
24 mistake in the field notes or in copying the field notes in the
25 legislative process does not in any way affect the district's:

26 (1) organization, existence, or validity;

27 (2) right to contract;

1 (3) authority to issue any type of bond for a purpose
2 for which the district is created or to pay the principal of and
3 interest on the bond;

4 (4) right to impose or collect a fee or tax or collect
5 other revenue; or

6 (5) legality or operation.

7 Sec. 3943.0106. CONFIRMATION AND DIRECTORS' ELECTION
8 REQUIRED. The initial directors shall hold an election to confirm
9 the creation of the district and to elect five permanent directors
10 as provided by Section 49.102, Water Code.

11 Sec. 3943.0107. APPLICABILITY OF MUNICIPAL MANAGEMENT
12 DISTRICTS LAW. Chapter 375, Local Government Code, does not apply
13 to the district unless specifically provided otherwise by this
14 chapter.

15 SUBCHAPTER B. BOARD OF DIRECTORS

16 Sec. 3943.0201. GOVERNING BODY; TERMS. (a) The district is
17 governed by a board of five directors who occupy numbered
18 positions. The directors who occupy positions one, two, and three
19 are appointed under this section, and the directors who occupy
20 positions four and five are elected as provided by this section and
21 Section 3943.0202.

22 (b) The commissioners court of the county shall appoint:

23 (1) one person who leases a retail store or who owns
24 real property in the district to serve in position one for a
25 three-year term;

26 (2) one person who leases a retail store but does not
27 own real property in the district to serve in position two for a

1 two-year term; and

2 (3) one person who owns real property in the district
3 to serve in position three for a three-year term.

4 (c) A director elected under Section 3943.0202 serves a
5 two-year term. To qualify as a candidate for position four, a
6 person must reside in the district. To qualify as a candidate for
7 position five, a person must lease a retail store or own real
8 property in the district.

9 (d) In appointing directors under Subsection (b), the
10 commissioners court shall consider any recommendation received by
11 an organization dedicated to the economic development of the
12 district.

13 (e) A term expires on December 31 of the appropriate year.

14 Sec. 3943.0202. ELECTION OF DIRECTORS. (a) The board shall
15 hold an election of directors for positions four and five in each
16 odd-numbered year on the uniform election date in November
17 established by Section 41.001, Election Code.

18 (b) In addition to any contents required by the Election
19 Code, notice of a directors' election must:

20 (1) state the number of directors to be voted on; and

21 (2) describe the qualifications for each position for
22 which a candidate is running.

23 (c) In addition to any requirements prescribed by the
24 Election Code, the ballots for a directors' election shall describe
25 the qualifications of the position for which each candidate is
26 running.

27 Sec. 3943.0203. LAW GOVERNING ADMINISTRATION OF BOARD.

1 Sections 375.066-375.070, Local Government Code, apply to the board
2 as if it were established under Chapter 375 of that code.

3 Sec. 3943.0204. VOTING BY BOARD PRESIDENT RESTRICTED. The
4 board president may not vote except to break a tie vote.

5 Sec. 3943.0205. INITIAL DIRECTORS. (a) The initial
6 directors elected under Section 3943.0202 shall be elected at an
7 election to be held on November 5, 2019.

8 (b) The initial directors appointed under Section 3943.0201
9 shall be appointed for terms to start on January 1, 2020.

10 (c) This section expires September 1, 2024.

11 SUBCHAPTER C. POWERS AND DUTIES

12 Sec. 3943.0301. GENERAL POWERS. The district has all of the
13 powers and duties necessary to accomplish the purposes for which
14 the district was created, including the powers and duties provided
15 by:

16 (1) Subchapter E, Chapter 375, Local Government Code;
17 and

18 (2) the general laws of this state on conservation and
19 reclamation districts created under Section 59, Article XVI, Texas
20 Constitution, including Chapter 49, Water Code.

21 Sec. 3943.0302. IMPROVEMENT PROJECTS. The district may
22 provide, or it may enter into contracts with a governmental or
23 private entity to provide, and pay all or part of the costs of the
24 improvement projects described by Subchapter D or activities in
25 support of or incidental to those projects.

26 Sec. 3943.0303. DEVELOPMENT CORPORATION POWERS. The
27 district, using money available to the district, may exercise the

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

5 Sec. 3943.0304. RULES. The district may adopt rules:

6 (1) to administer and operate the district;

7 (2) for the use, enjoyment, availability, protection,
8 security, and maintenance of the district's facilities; and

9 (3) for the provision of public safety and security in
10 the district.

11 Sec. 3943.0305. LEASE, ACQUISITION, OR CONSTRUCTION OF
12 BUILDING OR FACILITY; ECONOMIC DEVELOPMENT PROGRAMS. The district
13 may, as if the district were a home-rule municipality with a
14 population of more than 100,000:

15 (1) issue bonds and lease, acquire, or construct a
16 building or facility as provided by Subchapter A, Chapter 1509,
17 Government Code; and

18 (2) establish and administer a program as provided by
19 Section 380.002, Local Government Code.

20 Sec. 3943.0306. CONTRACTS; GRANTS; DONATIONS. (a) The
21 district may contract with any person to accomplish the purposes of
22 this chapter on terms and for the period the board determines,
23 including contracting for the payment of costs incurred by the
24 person on behalf of the district, including all or part of the costs
25 of an improvement project, from tax proceeds or any other specified
26 source of money.

27 (b) The district may contract with a person to receive,

1 administer, and perform the district's duties under a gift, grant,
2 loan, conveyance, transfer, bequest, donation, or other financial
3 arrangement relating to the investigation, planning, analysis,
4 acquisition, construction, completion, implementation, or
5 operation of a proposed or existing improvement project.

6 (c) Any person, including any type of governmental entity,
7 may contract with the district to carry out the purposes of this
8 chapter.

9 Sec. 3943.0307. ANNEXATION OR EXCLUSION OF TERRITORY. The
10 district may add or exclude territory in the manner provided by
11 Chapter 375, Local Government Code.

12 Sec. 3943.0308. NO PEACE OFFICERS. The district may not
13 employ peace officers.

14 Sec. 3943.0309. NO EMINENT DOMAIN. The district may not
15 exercise the power of eminent domain.

16 SUBCHAPTER D. IMPROVEMENT PROJECTS

17 Sec. 3943.0401. IMPROVEMENT PROJECTS AND SERVICES. The
18 district may provide, design, construct, acquire, improve, lease,
19 relocate, repair, operate, maintain, or finance an improvement
20 project or service using money available to the district, or
21 contract with a governmental or private entity to provide, design,
22 construct, acquire, improve, lease, relocate, repair, operate,
23 maintain, or finance an improvement project or service authorized
24 under this chapter.

25 Sec. 3943.0402. MISCELLANEOUS DESIGN, CONSTRUCTION, AND
26 MAINTENANCE. An improvement project may include the planning,
27 design, construction, improvement, and maintenance of:

- 1 (1) landscaping;
- 2 (2) highway right-of-way or transit corridor
- 3 beautification and improvement;
- 4 (3) lighting, banners, and signs;
- 5 (4) a street or sidewalk;
- 6 (5) a hiking and cycling path or trail;
- 7 (6) a pedestrian walkway, skywalk, crosswalk, or
- 8 tunnel;
- 9 (7) a park, lake, garden, recreational facility, open
- 10 space, scenic area, or related exhibit or preserve;
- 11 (8) a fountain, plaza, or pedestrian mall; or
- 12 (9) public art or sculpture and related exhibits and
- 13 facilities and educational or cultural exhibits and facilities,
- 14 including exhibits, displays, attractions, or facilities for
- 15 special events, holidays, or seasonal or cultural celebrations.

16 Sec. 3943.0403. PARKING AND TRANSPORTATION. An improvement

17 project may include the planning, design, construction,

18 improvement, maintenance, and operation of an off-street parking

19 facility, heliport, bus terminal, mass transit, and roadway or

20 water transportation system.

21 Sec. 3943.0404. DEMOLITION. An improvement project may

22 include the removal, razing, demolition, or clearing of land or

23 improvements in connection with an improvement project.

24 Sec. 3943.0405. ACQUISITION OF PROPERTY. An improvement

25 project may include the acquisition of property or an interest in

26 property in connection with an improvement project.

27 Sec. 3943.0406. SPECIAL OR SUPPLEMENTAL SERVICES. An

1 improvement project may include a special or supplemental service
2 for the improvement and promotion of the district or for the
3 protection of public health and safety in the district, including:

4 (1) tourism;

5 (2) elimination of traffic congestion;

6 (3) health, sanitation, public safety, security, fire
7 protection, or emergency medical services;

8 (4) recreational, educational, or cultural
9 improvements, enhancements, and services; and

10 (5) advertising, promotion, and business recruitment.

11 Sec. 3943.0407. SIMILAR IMPROVEMENT PROJECTS. An
12 improvement project may include a public improvement, facility, or
13 service similar to a project described by this subchapter.

14 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

15 Sec. 3943.0501. NO AD VALOREM TAX. The district may not
16 impose an ad valorem tax.

17 Sec. 3943.0502. FEES; CHARGES. The district may:

18 (1) establish and collect user fees, concession fees,
19 admission fees, rental fees, or other similar fees or charges; and

20 (2) apply the proceeds from those fees or charges for
21 the enjoyment, sale, rental, or other use of the district's
22 facilities, services, or improvement projects.

23 Sec. 3943.0503. BORROWING MONEY. The district may borrow
24 money for a district purpose.

25 Sec. 3943.0504. PAYMENT OF EXPENSES. The district may
26 provide or secure the payment or repayment of any district expense,
27 including:

1 (1) a district cost relating to an improvement
2 project;

3 (2) a district contractual obligation or
4 indebtedness, because of a lease, installment purchase contract, or
5 other agreement; or

6 (3) a tax, user fee, concession fee, rental fee, or
7 other revenue or resources of the district.

8 Sec. 3943.0505. BONDS. (a) The board may issue bonds as
9 provided by Subchapter J, Chapter 375, Local Government Code.

10 (b) In addition to the sources described in Subchapter J,
11 Chapter 375, Local Government Code, bonds issued by the district
12 may be secured and made payable, in whole or in part, by a pledge of
13 any part of the net proceeds the district receives from a specified
14 portion of not more than one-half of the district's maximum sales
15 and use tax amount authorized under Section 3943.0602.

16 (c) Sections 375.207 and 375.208, Local Government Code, do
17 not apply to bonds issued under this section.

18 SUBCHAPTER F. SALES AND USE TAX

19 Sec. 3943.0601. SALES AND USE TAX. (a) For purposes of
20 this section:

21 (1) "Taxable items" includes all items subject to a
22 sales and use tax that is imposed by the county.

23 (2) "Use," with respect to a taxable service, means
24 the derivation in the district of a direct or indirect benefit from
25 the service.

26 (b) The district may impose a sales and use tax if
27 authorized by a majority vote at an election held for that purpose.

1 (c) If the district adopts a sales and use tax:

2 (1) the tax is imposed on the receipts from the sale at
3 retail of taxable items in the district; and

4 (2) a use tax is imposed on the use, storage, or other
5 consumption in the district of taxable items purchased or rented
6 from a retailer during the period in which the sales and use tax is
7 effective in the district.

8 (d) The rate of the use tax is the same as the rate of the
9 sales tax portion of the tax applied to the sales price of the
10 taxable items and is included in the sales tax.

11 (e) The district may not adopt a sales and use tax if as a
12 result of the adoption of the tax the combined rate of all sales and
13 use taxes imposed by the district and other political subdivisions
14 of this state having territory in the district would exceed two
15 percent at any location in the district.

16 Sec. 3943.0602. TAX ELECTION PROCEDURES. (a) The board may
17 order an election to adopt, change the rate of, or abolish a sales
18 and use tax. The election may be held at the same time and in
19 conjunction with a directors' election.

20 (b) The election must be held on the next uniform election
21 date that falls on or after the 45th day after the date the election
22 order is adopted.

23 (c) Notice of the election shall be given and the election
24 shall be held in the manner prescribed for a bond election by
25 Subchapter D, Chapter 49, Water Code.

26 Sec. 3943.0603. BALLOT WORDING. (a) In an election to
27 adopt a sales and use tax, the ballot shall be prepared to permit

1 voting for or against the proposition: "The adoption of a local
2 sales and use tax in the Channelview Improvement District at the
3 rate of (proposed tax rate)."

4 (b) In an election to change the rate of the sales and use
5 tax, the ballot shall be prepared to permit voting for or against
6 the proposition: "The (increase or decrease, as applicable) in the
7 rate of the local sales and use tax imposed in the Channelview
8 Improvement District from (tax rate on election date) percent to
9 (proposed tax rate) percent."

10 (c) In an election to abolish the sales and use tax, the
11 ballot shall be prepared to permit voting for or against the
12 proposition: "The abolition of the local sales and use tax in the
13 Channelview Improvement District."

14 Sec. 3943.0604. APPLICABILITY OF CERTAIN TAX CODE
15 PROVISIONS. (a) Chapter 321, Tax Code, governs the imposition,
16 computation, administration, enforcement, and collection of the
17 sales and use tax authorized by this subchapter except to the extent
18 Chapter 321, Tax Code, is inconsistent with this chapter.

19 (b) A reference in Chapter 321, Tax Code, to a municipality
20 or the governing body of a municipality is a reference to the
21 district or the board, respectively, for the purposes of this
22 chapter.

23 Sec. 3943.0605. TAX RATES. The district may impose the
24 sales and use tax in increments of one-eighth of one percent, with a
25 minimum tax of one-half percent and a maximum tax of one percent.

26 Sec. 3943.0606. ABOLITION OF TAX. The board by order and
27 without an election may abolish the sales and use tax.

1 Sec. 3943.0607. USE OF TAXES. The district may use the
2 proceeds from the sales and use tax only for the purposes for which
3 the district was created.

4 Sec. 3943.0608. EFFECTIVE DATE OF TAX OR TAX CHANGE. The
5 adoption of a tax rate or a change in the tax rate takes effect after
6 the expiration of the first complete calendar quarter occurring
7 after the date on which the comptroller receives a notice of the
8 results of the election.

9 SUBCHAPTER G. DISSOLUTION

10 Sec. 3943.0701. DISSOLUTION BY BOARD ORDER. The board by
11 order may dissolve the district at any time unless the district has
12 outstanding indebtedness or contractual obligations.

13 Sec. 3943.0702. DISSOLUTION BY ELECTION. (a) The board by
14 order shall dissolve the district if a majority of the voters of the
15 district voting at an election called for that purpose vote to
16 dissolve the district.

17 (b) After the date the district is dissolved, the district
18 may not impose taxes.

19 (c) If on the date the district is dissolved the district
20 has outstanding liabilities, the board shall, not later than the
21 30th day after the date of dissolution, adopt a resolution
22 certifying each outstanding liability. The county shall assume the
23 outstanding liabilities and shall collect the sales and use tax for
24 the district for the remainder of the calendar year. The county may
25 continue to collect the tax for an additional calendar year if the
26 commissioners court of the county finds that the tax revenue is
27 needed to retire the district liabilities that were assumed by the

1 county.

2 (d) The district may continue to operate for a period not to
3 exceed two months after performing its duties under Subsection (c).
4 The district is continued in effect for the purpose of performing
5 those duties.

6 (e) If the district is continued in effect under Subsection
7 (d), the district is dissolved entirely on the first day of the
8 month following the month in which the board certifies to the
9 secretary of state that the district has fully performed its duties
10 under Subsection (c).

11 Sec. 3943.0703. ADMINISTRATION OF DISTRICT PROPERTY
12 FOLLOWING DISSOLUTION. (a) After the date the board orders the
13 dissolution of the district, the board shall transfer ownership of
14 all district property to the county, except as provided by
15 Subsection (b).

16 (b) If, on the date on which the board orders the
17 dissolution, more than 50 percent of the district territory is in a
18 municipality, the board shall transfer ownership of the district's
19 property to the municipality.

20 SECTION 2. The Channelview Improvement District initially
21 includes all the territory contained in the following area:

22 BEGINNING at the centerline intersection of the East Sam
23 Houston Parkway ("Beltway 8") with the centerline of Wallisville
24 Road, approximately 2 1/2 miles north of Interstate 10 ("East
25 Freeway"), along said "Beltway 8";

26 THENCE, in a Northeasterly direction, along the centerline of
27 said Wallisville Road, to the intersection of said Wallisville Road

1 with the west bank of the San Jacinto River;

2 THENCE, in a Southerly direction, along the westerly bank of
3 the said San Jacinto River; inclusive of the body of water known as
4 Bear Lake, to the intersection of the U.P.S. Railroad and the
5 southerly bank of a body of water known as Whites Lake;

6 THENCE, in an Easterly direction, along the southerly bank of
7 said Whites Lake, to the intersection of said Whites Lake, also
8 being the northerly Right-of-Way line of said Interstate 10 with
9 the westerly bank of the said San Jacinto River;

10 THENCE, in a Southwesterly direction, along the westerly bank
11 of the said San Jacinto River, crossing the northerly outlet of Old
12 River to the intersection of the northerly City of Houston, City
13 Limit Line;

14 THENCE, in a Southwesterly direction, with a curve to the
15 left, along said northerly City Limit Line crossing the southerly
16 outlet of Old River to the southerly bank of said Old River;

17 THENCE, in an Easterly direction with the southerly bank of
18 said Old River and with the said northerly City Limit Line to the
19 west bank of the Houston Ship Channel;

20 THENCE, in a Southwesterly direction with the northwesterly
21 bank of said Houston Ship Channel and with the northwesterly City
22 Limit Line to an angle point in said City Limit Line northeasterly
23 of the outlet of Carpenters Bayou/Barge Channel;

24 THENCE, in a Northwesterly direction leaving said Houston
25 Ship Channel with the northeasterly City Limit Line to an angle
26 point of said City Limit Line;

27 THENCE, in a Southwesterly direction with the northwesterly

1 City Limit Line, being a line parallel to and located approximately
2 2,500 feet from the centerline of the said Houston Ship Channel,
3 crossing said Carpenters Bayou/Barge Channel to an angle point in
4 said City Limit Line;

5 THENCE, in a Southeasterly direction with the southwesterly
6 City Limit Line to the westerly bank of the said Houston Ship
7 Channel;

8 THENCE, in a Southwesterly direction with the northwesterly
9 bank of said Houston Ship Channel with the northwesterly City Limit
10 Line to an angle point of said City Limit Line located near the
11 outlet of the Jacinto Port Slip;

12 THENCE, in a Northwesterly direction leaving said Houston
13 Ship Channel with the northeasterly City Limit Line to an angle
14 point of said City Limit Line;

15 THENCE, in a Southwesterly direction with northwesterly City
16 Limit Line, being a line parallel to and located approximately
17 2,500 feet from the centerline of said Houston Ship Channel,
18 crossing said Jacinto Port Slip to an angle point in said City Limit
19 Line;

20 THENCE, in a Southeasterly direction with southwesterly City
21 Limit Line to the westerly bank of the said Houston Ship Channel;

22 THENCE, in a Southeasterly direction with the northerly City
23 Limit Line and generally with the Northerly bank of said Houston
24 Ship Channel, crossing said "Beltway 8" to the intersection of the
25 northerly bank of the said Houston Ship Channel with the extension
26 of the centerline of Penn City Road;

27 THENCE, in a Northerly direction, along the said centerline

1 extension of said Penn City Road, to the common intersection of Penn
2 City Road, "Beltway 8" and Interstate 10 for corner;

3 THENCE, in a Northerly direction, along the centerline of
4 said "Beltway 8", approximately 2 1/2 miles to the POINT OF
5 BEGINNING. Save and except for any portion hereof that is included
6 in the municipal or corporate boundaries of the City of Houston.

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

14 (b) The governor, one of the required recipients, has
15 submitted the notice and Act to the Texas Commission on
16 Environmental Quality.

17 (c) The Texas Commission on Environmental Quality has filed
18 its recommendations relating to this Act with the governor, the
19 lieutenant governor, and the speaker of the house of
20 representatives within the required time.

21 (d) 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 are fulfilled
24 and accomplished.

25 SECTION 4. 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, 2019.