

SPECIAL DISTRICT LOCAL LAWS CODE

TITLE 4. DEVELOPMENT AND IMPROVEMENT

SUBTITLE C. DEVELOPMENT, IMPROVEMENT, AND MANAGEMENT

CHAPTER 3834. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3834.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Harris County Improvement District No. 5.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.002. HARRIS COUNTY IMPROVEMENT DISTRICT NO. 5. The Harris County Improvement District No. 5 is a special district created under Section 59, Article XVI, Texas Constitution.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.003. 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 of Houston, Harris County, and other political subdivisions to contract with the district, the legislature has established a program to accomplish the public purposes set out in Section 52-a, Article III, Texas Constitution.

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

(c) This chapter and the creation of the district may not be interpreted to relieve Harris County or the City of Houston from

providing the level of services provided as of the effective date of this Act, to the area in the district. The district is created to supplement and not to supplant the county services provided in the area in the district.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

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

(c) The creation of the district is in the public interest and is essential to:

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

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

(2) provide needed funding for the district to preserve, maintain, and enhance the economic health and vitality of the district territory as a residential neighborhood and a commercially viable area; and

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

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

(f) The district will not act as the agent or instrumentality of any private interest even though the district will benefit many private interests as well as the public.
Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.005. DISTRICT TERRITORY. The district is composed of the territory described by Section 2 of the Act enacting this chapter, as that territory may have been modified under:

- (1) Subchapter J, Chapter 49, Water Code; or
- (2) other law.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.006. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.007. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 3834.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of 11 voting directors who serve staggered terms of four years, with five or six 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, but only 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 directors.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June

17, 2005.

Sec. 3834.052. QUALIFICATIONS. (a) Three voting directors on the board must reside in a residential area adjacent to the district and eight voting directors must represent commercial property owners or tenants in the district.

(b) If the total number of voting directors of the board is increased or reduced, the board must maintain the same percentage of representation of residential and commercial areas on the board. Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.053. APPOINTMENT OF DIRECTORS. The mayor and members of the governing body of the City of Houston shall appoint directors from persons recommended by the board. A person is appointed if a majority of the members of the governing body, including the mayor, vote to appoint that person. Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.054. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting directors:

(1) the directors of the following departments of the City of Houston or a person designated by that director:

- (A) parks and recreation;
- (B) planning and development; and
- (C) public works; and

(2) the City of Houston's chief of police.

(b) If a department described by Subsection (a) is consolidated, renamed, or changed, the board may appoint a director of the consolidated, renamed, or changed department as a nonvoting director. If a department described by Subsection (a) is abolished, the board may appoint a representative of another department that performs duties comparable to those performed by the abolished department.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.055. QUORUM. (a) Section 375.071, Local Government Code, does not apply to the district.

(b) A majority of the board is a quorum.

(c) Nonvoting directors and vacant director positions are not counted for the purposes of establishing a board quorum.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.056. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

(a) Except as provided by this section:

(1) a director may participate in all board votes and decisions; and

(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.

(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:

(1) a majority of the directors have a similar interest in the same entity; or

(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.

(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that public entity.

(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, Local Government Code.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 3834.101. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) a corporation under Chapter 505, Local Government Code; and

(2) a housing finance corporation under Chapter 394, Local Government Code, to provide housing or residential development projects in the district.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 885 (H.B. 2278), Sec. 3.57, eff. April 1, 2009.

Sec. 3834.102. NONPROFIT CORPORATION. (a) The board by resolution may authorize the creation of a nonprofit corporation to assist and act for the district in implementing a project or providing a service authorized by this chapter.

(b) The nonprofit corporation:

(1) has each power of and is considered for purposes of this chapter to be a local government corporation created under Chapter 431, Transportation Code; and

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

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

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.103. AGREEMENTS; GRANTS. (a) The district may make an agreement with or accept a gift, grant, or loan from any person.

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

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT. To protect the public interest, the district may contract with Harris County or the City of Houston for the county or the city to provide law enforcement services in the district for a fee.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.105. APPROVAL BY CITY OF HOUSTON. (a) Except as provided by Subsection (b), the district must obtain the approval of the City of Houston's governing body for:

(1) the issuance of a bond for each improvement project;

(2) the plans and specifications of the improvement project financed by the bond; and

(3) the plans and specifications of any district improvement project related to the use of land owned by the City of Houston, an easement granted by the City of Houston, or a right-of-way of a street, road, or highway.

(b) If the district obtains the approval of the City of Houston's governing body of a capital improvements budget for a period not to exceed five years, the district may finance the capital improvements and issue bonds specified in the budget without further approval from the City of Houston.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that:

(1) enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986; and

(2) performs a service or provides an activity

consistent with the furtherance of a district purpose.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.107. REMOVAL OF DANGEROUS BUILDINGS. (a) The district may cooperate with the City of Houston to have the City of Houston demolish and remove dangerous buildings in or outside the district as provided by this section.

(b) The district may cooperate with the City of Houston to demolish and remove dangerous buildings outside the district if:

(1) the district makes a determination that demolition and removal would benefit the district; and

(2) the City of Houston agrees.

(c) The district may borrow money to finance the demolition and removal of dangerous buildings under this section without complying with Section 3834.152.

(d) The City of Houston may reimburse the district for all costs financed by the district from:

(1) the proceeds of foreclosure on any demolition lien on the property; or

(2) any other money the city collects or appropriates for the costs.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.108. NOTICE. Notice required by Chapter 375, Local Government Code, may be sent by first class U.S. Mail rather than certified mail, return receipt requested, if the board of directors determines that first class mail is preferable and provides adequate notice. If the board determines that first class mail is preferable, the board must publish notice in a newspaper of general circulation in the district at least 20 days before the event of which the district is giving notice.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.109. NO EMINENT DOMAIN. The district may not

exercise the power of eminent domain.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.110. ANNEXATION OR EXCLUSION OF LAND. (a) The district may annex land as provided by Subchapter J, Chapter 49, Water Code.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 1, eff. June 19, 2009.

Sec. 3834.111. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

- (1) make loans and grants of public money; and
- (2) provide district personnel and services.

(b) The district has all of the powers of a municipality under Chapter 380, Local Government Code.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 1, eff. June 19, 2009.

Sec. 3834.112. TAX INCREMENT REINVESTMENT ZONES. (a) The district is authorized to establish and implement tax increment reinvestment zones as provided in Chapter 311, Tax Code, in the same manner as a municipality.

(b) All or any part of the district may be included in a tax increment reinvestment zone, regardless of the percentage of total value the land represents to the district as a whole, or whether the land is used for residential purposes.

(c) Section 311.006, Tax Code, does not apply to a reinvestment zone that contains land within the district.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 1, eff. June 19, 2009.

SUBCHAPTER D. FINANCIAL PROVISIONS

Sec. 3834.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The board by resolution shall establish the number of directors' signatures and the procedure required for a disbursement or transfer of the district's money.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.152. PETITION REQUIRED FOR FINANCING SERVICES AND IMPROVEMENTS. (a) The board may not finance a service or improvement project with assessments under this chapter unless a written petition requesting that service or improvement has been filed with the board.

(b) A petition requesting a project financed by assessment must be signed by:

(1) the owners of a majority of the assessed value of real property in the district subject to assessment according to the most recent certified tax appraisal roll for Harris County; or

(2) at least 50 owners of real property in the district that will be subject to the assessment, if more than 50 persons own real property subject to the assessment in the district according to the most recent certified tax appraisal roll for Harris County.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.153. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 3834.157, the district may impose an annual ad valorem tax on taxable property in the district to:

- (1) administer the district;
- (2) maintain and operate the district;
- (3) construct or acquire improvements; or
- (4) provide a service.

(b) The board shall determine the tax rate.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June

17, 2005.

Sec. 3834.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this chapter.

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

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

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

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

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

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

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

(1) an electric utility or a power generation company as defined by Section 31.002, Utilities Code;

(2) a gas utility as defined by Section 101.003 or 121.001, Utilities Code;

(3) a telecommunications provider as defined by Section 51.002, Utilities Code; or

(4) a person who provides to the public cable television or advanced telecommunications services.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.156. BONDS AND OTHER OBLIGATIONS. (a) The district may issue bonds or other obligations payable wholly or partly from assessments, impact fees, revenue, grants, or other money of the district, or any combination of those sources of money, to pay for any authorized purpose of the district.

(b) The district may borrow money according to terms and conditions determined by the board. Section 375.205, Local Government Code, does not apply to a loan, line of credit, or other borrowing from a bank or financial institution secured by revenue other than ad valorem taxes.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 2, eff. June 19, 2009.

Sec. 3834.157. TAX AND BOND ELECTIONS. (a) The district shall hold an election in the manner provided by Subchapter L, Chapter 375, Local Government Code, to obtain voter approval before the district imposes a maintenance tax or issues bonds payable from ad valorem taxes.

(b) The board may not include more than one purpose in a single proposition at an election.

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

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT OBLIGATIONS. Except as provided by Section 375.263, Local

Government Code, a municipality is not required to pay a bond, note, or other obligation of the district.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Sec. 3834.159. COMPETITIVE BIDDING. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than \$50,000.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 3, eff. June 19, 2009.

SUBCHAPTER E. DISSOLUTION

Sec. 3834.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may dissolve the district regardless of whether the district has debt. Section 375.264, Local Government Code, does not apply to the district.

(b) If the district has debt when it is dissolved, the district shall remain in existence solely for the purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

Added by Acts 2005, 79th Leg., Ch. 861 (S.B. 993), Sec. 1, eff. June 17, 2005.

SUBCHAPTER F. TAXES FOR CERTAIN DEFINED AREAS AND DESIGNATED PROPERTY

Sec. 3834.251. 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.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 4,

eff. June 19, 2009.

Sec. 3834.252. 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 3834.251, the board must call and hold an election as provided by Section 3834.157 only in the defined area or in the boundaries of the designated property.

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

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 4, eff. June 19, 2009.

Sec. 3834.253. 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) A court may not review the board's order except on the ground of fraud, palpable error, or arbitrary and confiscatory abuse of discretion.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 4, eff. June 19, 2009.

Sec. 3834.254. TAXES FOR SERVICES, IMPROVEMENTS, AND FACILITIES IN DEFINED AREAS OR DESIGNATED PROPERTY. On voter approval and adoption of the order described in Section 3834.253, the district may apply separately, differently, equitably, and specifically its taxing power and lien authority to the defined area or designated property to provide money to construct, administer, maintain, and operate services, improvements, and facilities that primarily benefit the defined area or designated property.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. 4771), Sec. 4, eff. June 19, 2009.

Sec. 3834.255. ISSUANCE OF BONDS AND IMPOSITION OF TAXES FOR

DEFINED AREA OR DESIGNATED PROPERTY. After the order under Section [3834.253](#) is adopted, the district may issue bonds to provide for any land, improvements, facilities, plants, equipment, and appliances for the defined area or designated property.

Added by Acts 2009, 81st Leg., R.S., Ch. 1082 (H.B. [4771](#)), Sec. 4, eff. June 19, 2009.