1989 MAR -9 AM 11:36

HOUSE OF REPRESENTATIVES

I certify that the attached is a true and correct copy of HB 1446, which was filed of record on FEB 23 1989 and referred to the committee on: Natural Resources

Betty Murray
Chief Clerk of the House

By [signature]

H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city, and the city is required to provide at a minimum the level of services to the area in the district that it is providing as of the effective date of this legislation.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

1 Thence in a southwesterly direction with the center line of
2 the right of way of Caroline Street to the intersection with the
3 center line of the right of way of Pierce Avenue,
4 Thence in a northwesterly direction with the center line of
5 the right of way of Pierce Avenue to the intersection with the
6 center line of the right of way Bagby Street,
7 Thence in a northeasterly direction with the center line of
8 the right of way of Bagby Street to the intersection with a
9 southerly projection of the west line of the right of way of Heiner
10 Street,
11 Thence in a northerly direction with the west line of the
12 right of way of Heiner Street and southerly and northerly
13 projections thereof to the intersection with the center line of the
14 right of way of W. Dallas Street,
15 Thence in a westerly direction with the center line of the
16 right of way of W. Dallas Street to the intersection with a
17 southerly projection of the west line of the right of way of Heiner
18 Street,
19 Thence in a northerly direction with the west line of the
20 right of way of Heiner Street and southerly and northerly
21 projections thereof to the intersection with the center line of the
22 right of way of Allen Parkway,
23 Thence in an easterly direction with the center line of the
24 right of way of Allen Parkway to the intersection with a southerly
25 projection of the center line of the right of way of Sabine Street,
26 Thence in a northerly direction with a southerly projection
27 of the center line of the right of way of Sabine Street and then

with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation,

all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding

for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons

shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Dennis R. Hendrix;
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	Charles Miller;
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Gary W. Warwick;
Position No. 19	Leon Davis;
Position No. 20	James L. Ketelsen;
Position No. 21	Shelia Ruth Wheatley Clark;
Position No. 22	Monty Stone;
Position No. 23	Robert W. Gibbs, Jr.;
Position No. 24	William J. Schmitz;
Position No. 25	Mark M. Sacco;

Position No. 26	Manuel T. Pacheco;
Position No. 27	John Michael Solar;
Position No. 28	A. Martin Wickliff, Jr.;
Position No. 29	Nancy L. Lindsay;
Position No. 30	Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (c) and (d) of this section, the Texas Water Commission shall appoint the members to the board. The commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The commission shall make

appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (c) of this section, a person appointed director shall serve a four-year term.

(g) The commission may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by

electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may

not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the

partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or

shopping areas.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the

limitations provided in Article III, Section 52, and Article III, Section 52(a), of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, or to have those things done at the district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred

by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or

advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an

independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the

district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article

6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (m) or (n) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 15th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 15th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed

assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (1) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an

1 express or implied dedication of the property to the public for
2 recreational, park, scenic, or other public use or constitute
3 evidence of an intent by the owner of the property to make or offer
4 to make that type of dedication, and does not affect the status of
5 the property as private property. If the district levies ad
6 valorem taxes, property that qualifies for an exemption from
7 assessment pursuant to this section must be taxed by the district
8 at its appraised value for recreational, park, or scenic use
9 determined in accordance with Subchapter F, Chapter 23, Tax Code.
10 (o) The board may exempt residential property from all or a
11 part of the assessments levied on that property or determine that
12 residential property will not be benefited by the proposed
13 improvement project or services. Single family detached
14 residential property in the district is exempt from assessment
15 under this Act.
16 (p) If the total cost of an improvement project and/or
17 services is determined, the board shall levy the assessments
18 against each parcel of land against which an assessment may be
19 levied in the district. With regard to an assessment for services,
20 the board may levy an annual assessment that may be lower but not
21 higher than the initial assessment. The board shall have an
22 assessment roll prepared showing the assessments against each
23 property and the board's basis for the assessment. The assessment
24 roll shall be filed with the secretary of the board or other
25 officer who performs the function of secretary and be open for
26 public inspection.
27 (q) Assessments bear interest at a rate specified by the

board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to

the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements

1 authorized under this Act, including installment payments of
2 special assessments or from any other source pledged to their
3 payment.
4 (b) Bonds may be issued to mature serially or otherwise not
5 more than 40 years from their date of issue. Provision may be made
6 for the subsequent issuance of additional parity bonds or
7 subordinate lien bonds under terms or conditions that may be stated
8 in the order or resolution authorizing the issuance of the bonds.
9 (c) The bonds are negotiable instruments within the meaning
10 and for purposes of the Business & Commerce Code. The bonds may be
11 issued registrable as to principal alone or as to both principal
12 and interest, shall be executed, may be made redeemable before
13 maturity, may be issued in the form, denominations, and manner, and
14 under the terms, conditions, and details, may be sold in the
15 manner, at the price, and under the terms, and shall bear interest
16 at the rates, determined and provided in the order or resolution
17 authorizing the issuance of the bonds. Bonds may bear interest and
18 may be issued in accordance with Chapter 503, Acts of the 54th
19 Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas
20 Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular
21 Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the
22 Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil
23 Statutes), and Chapter 656, Acts of the 68th Legislature, Regular
24 Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).
25 (d) If provided by the bond order or resolution, the
26 proceeds from the sale of bonds may be used to pay interest on the
27 bonds during and after the period of the acquisition or

1 construction of any improvement project to be provided through the
2 issuance of the bonds, to administrative and operation expenses to
3 create a reserve fund for the payment of the principal of and
4 interest on the bonds, and to create any other funds. The proceeds
5 of the bonds may be placed on time deposit or invested, until
6 needed, in securities in the manner provided by the bond order or
7 resolution.
8 (e) The board may pledge all or part of the income or
9 assessments from improvement projects financed under this Act or
10 from any other source, to the payment of the bonds, including the
11 payment of principal, interest, and any other amounts required or
12 permitted in connection with the bonds. The pledged income shall
13 be set and collected in amounts that will be at least sufficient,
14 together with any other pledged resources, to provide for all
15 payments of principal, interest, and any other amounts required in
16 connection with the bonds, and, to the extent required by the order
17 or resolution authorizing the issuance of the bonds, to provide for
18 the payment of expenses in connection with the bonds, and to pay
19 operation, maintenance, and other expenses in connection with the
20 improvement projects authorized under this Act.
21 (f) Bonds may be additionally secured by a mortgage or deed
22 of trust on real property relating to the facilities authorized
23 under this Act owned or to be acquired by the district and by
24 chattel mortgages, liens, or security interests on personal
25 property appurtenant to that real property. The board may
26 authorize the execution of trust indentures, mortgages, deeds of
27 trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for

any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A

1 municipality, county, or political subdivision is exempt from
2 impact fees imposed by the district unless the municipality,
3 county, or political subdivision consents to payment of the fees by
4 official act of its governing body. Payment of impact fees, if
5 any, by a municipality, county, or political subdivision must be
6 established by contract. A municipality, county, or political
7 subdivision may contract with the district under terms and
8 conditions the governmental entity considers advisable to provide
9 for payment of impact fees.
10 SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS
11 CONTRACTS. (a) Contracts for more than $25,000 for the
12 construction of improvements or the purchase of material,
13 machinery, equipment, supplies, and other property, except real
14 property, shall be entered only after competitive bids. Notice of
15 the contract for the purpose of soliciting bids shall be published
16 once a week for two consecutive weeks in a newspaper with general
17 circulation in the area in which the district is located. The
18 first publication of notice must be not later than the 15th day
19 before the date set for receiving bids. The board may adopt rules
20 governing receipt of bids and the award of the contract and
21 providing for the waiver of the competitive bid requirement in the
22 event of emergency, in the event the needed materials are available
23 from only one source, in the event that in a procurement requiring
24 design by the supplier competitive bidding would not be appropriate
25 and competitive negotiation, with proposals solicited from an
26 adequate number of qualified sources, would permit reasonable
27 competition consistent with the nature and requirements of the

1 procurement, or in the event that, after solicitation, it is
2 ascertained that there will be only one bidder. This subsection
3 does not apply to contracts for services.
4 (b) If the estimated amount of a proposed contract for
5 works, plant improvements, facilities other than land, or the
6 purchase of equipment, appliances, materials, or supplies is more
7 than $5,000 but less than $25,000, or for a duration of more than
8 two years, competitive bids shall be asked from at least three
9 persons.
10 (c) The district shall attempt to stimulate the growth of
11 disadvantaged businesses inside its boundaries by encouraging the
12 full participation of disadvantaged businesses in all phases of its
13 procurement activities and affording those disadvantaged businesses
14 a full and fair opportunity to compete for district contracts. The
15 district shall establish one or more programs designed to increase
16 participation by disadvantaged businesses in public contract
17 awards. Each program shall be structured to further remedial goals
18 and shall be established to eradicate the effects of any prior
19 discrimination. The board shall review each of its disadvantaged
20 business programs on an annual basis to determine if each program
21 is the most effective method for remedying historical
22 discriminatory actions. The board's review shall determine whether
23 statistically significant disparities exist between the
24 disadvantaged businesses in the relevant market that are qualified
25 to undertake district work and the percentage of total district
26 funds that are awarded to disadvantaged businesses. A program
27 established by the district under this section shall attempt to

1 remedy any statistically significant disparities that are found to
2 exist, and since a program is remedial in nature, it shall continue
3 only until its purposes and objectives are met as determined by the
4 regular periodic reviews.
5 (d) The provisions of this Act state the required procedures
6 necessary for the district to award contracts and supercede any law
7 or other requirement with respect to award of contracts.
8 SECTION 14. CITY APPROVAL. The district must obtain the
9 approval of the city's directors of public works and department of
10 planning for bond issues for an improvement project and the plans
11 and specifications of an improvement project financed by the bond
12 issue. Instead of approval of bonds by the city's directors of
13 public works and department of planning, the district may obtain
14 approval from the city council of the city of a capital
15 improvements budget, for a period not to exceed five years. If the
16 district obtains approval of a capital improvements budget, it may
17 finance the capital improvements and issue bonds specified in the
18 budget without further approval from the city, the city's directors
19 of public works, or the department of planning. However, the
20 city's directors of public works and department of planning must
21 approve the plans and specifications of any improvement project
22 financed by the issuance of bonds. The district must obtain
23 approval from the city's city council, the city's director of
24 public works, and the city's department of planning of the plans
25 and specifications of any improvement project that involves the use
26 of the rights-of-ways of streets, roads, or highways or the use of
27 municipal land or any easements granted by the city. The city

shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(b) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility

rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(m) and (n) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose. The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the

contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(m) and (n) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. On the adoption of such an ordinance, the district is dissolved, and, in accordance with Section 43.075, Local Government Code, the city shall succeed to the property and assets of the district and assume all bonds, debts, obligations, and liabilities of the district.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the commission. Also the legislature finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Evans
Edwards

By Martinez

H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:

AD#3456945

COUNTY OF HARRIS:

Before me, the undersigned authority, a Notary Public in and for the County of Harris, and the State of Texas, on this day personally appeared; LEE BENTON, who after being duly sworn, says that she is the SUPERVISOR - CLASSIFIED ACCTS. RECEIVABLE of THE HOUSTON CHRONICLE, a daily newspaper published in said County and State, and that the publication, of which, the annexed is a true copy, was published to-wit:

ADVERTISING RAN ON DECEMBER 31, 1988

LEE BENTON
SUPERVISOR-CLASSIFIED ACCTS. REC.

Sworn and subscribed to before me, this the 6th day of JANUARY 1989 A.D.

Notary Public in and for the
County of Harris, State of Texas

4100-5005

NOTICE OF INTENTION TO INTRODUCE BILL
IN THE LEGISLATURE OF TEXAS

Notice is hereby given of the intention to introduce a bill in the 71st Legislature, Regular Session, 1989, creating and establishing a conservation and reclamation district under the provisions of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a of the Constitution of Texas, with certain other powers, including those authorized by Article 1269j-4.12, Vernon's Texas Civil Statutes, the general substance of which contemplated law is as follows:

AN ACT creating a conservation and reclamation district under the provisions of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a of the Constitution of Texas, with certain other powers, including those authorized by Article 1269j-4.12, Vernon's Texas Civil Statutes, in Harris County, Texas, to be known as

HOUSTON DOWNTOWN MANAGEMENT DISTRICT

defining its boundaries and finding their closure; finding benefits to the land and other property in the District; providing for the selection, qualifications, and terms of its governing body; containing other provisions relating to the subject; providing a severability clause; finding and declaring compliance with the Constitution, laws, rules, and procedures relative to consent to, notice, introduction, and passage of this Act; and declaringlan emergency. The boundaries of said District in said contemplated bill are as follows:

METES AND BOUNDS DESCRIPTION

705 Acres More or Less

PROPOSED HOUSTON DOWNTOWN MANAGEMENT DISTRICT

PRELIMINARY BOUNDARY DESCRIPTION FOR PURPOSES OF NOTICE

705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas, more particularly described as follows:

Beginning at the intersection of the center line of the right-of-way of Commerce Avenue with the center line of the right-of-way of Austin Street,

Thence in a southwesterly direction with the center line of the right-of-way of Austin street to the intersection with the center line of the right-of-way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right-of-way of Capitol Avenue to the intersection with the center line of the right-of-way of Chartres Street,

Thence in a southwesterly direction with the center line of the right-of-way of Chartres Street to the intersection with the center line of the right-of-way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right-of-way of Clay Avenue to the intersection with the center line of the right-of-way of Caroline Street,

Thence in a southwesterly direction with the center line of the right-of-way of Caroline Street to the intersection with the center line of the right-of-way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right-of-way of Pierce Avenue to the intersection with the center line of the right-of-way of Bagby Street,

Thence in a northeasterly direction with the center line of the right-of-way of Bagby Street to the intersection with a southerly projection of the west line of the right-of-way of Heiner Street,

Thence in a northerly direction with the west line of the right-of-way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right-of-way of W. Dallas Street,

Thence in a westerly direction with the center line of the right-of-way of W. Dallas Street to the intersection with a southerly projection of the west line of the right-of-way of Heiner Street ,

Thence in a northerly direction with the west line of the right-of-way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right-of-way of Allen Parkway,

Thence in a easterly direction with the center line of the right-of-way of Allen Parkway to the intersection with a southerly projection of the center line of the right-of-way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right-of-way of Sabine Street and then with center line of the right-of-way of Sabine Street to the intersection with the north right-of-way line of Memorial Drive,

Thence in an easterly direction with the north right-of-way line of Memorial Drive to the intersection with the west right-of-way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right-of-way line of Interstate Highway 45 to the intersection with the center line of the right-of-way of Franklin Avenue,

Thence in an easterly direction with the center line of the right-of-way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right-of-way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to thelintersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right-of-way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right-of-way to the intersection with the center line of the right-of-way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right-of-way of North San Jacinto Street to the intersection with the center line of the right-of-way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right-of-way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

HOUSE COMMITTEE REPORT

89 MAR 29 AM 9:52
HOUSE OF REPRESENTATIVES

1st Printing

By Martinez H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city, and the city is required to provide at a minimum the level of services to the area in the district that it is providing as of the effective date of this legislation.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then

with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation,

all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding

for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons

shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Dennis R. Hendrix;
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	Charles Miller;
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Gary W. Warwick;
Position No. 19	Leon Davis;
Position No. 20	James L. Ketelsen;
Position No. 21	Shelia Ruth Wheatley Clark;
Position No. 22	Monty Stone;
Position No. 23	Robert W. Gibbs, Jr.;
Position No. 24	William J. Schmitz;
Position No. 25	Mark M. Sacco;

Position No. 26	Manuel T. Pacheco;
Position No. 27	John Michael Solar;
Position No. 28	A. Martin Wickliff, Jr.;
Position No. 29	Nancy L. Lindsay;
Position No. 30	Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (c) and (d) of this section, the Texas Water Commission shall appoint the members to the board. The commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The commission shall make

appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (c) of this section, a person appointed director shall serve a four-year term.

(g) The commission may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by

electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may

not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the

partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or

shopping areas.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the

limitations provided in Article III, Section 52, and Article III, Section 52(a), of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, or to have those things done at the district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred

by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or

advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an

independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the

district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article

6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (m) or (n) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 15th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 15th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed

assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (1) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(1) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an

1 express or implied dedication of the property to the public for
2 recreational, park, scenic, or other public use or constitute
3 evidence of an intent by the owner of the property to make or offer
4 to make that type of dedication, and does not affect the status of
5 the property as private property. If the district levies ad
6 valorem taxes, property that qualifies for an exemption from
7 assessment pursuant to this section must be taxed by the district
8 at its appraised value for recreational, park, or scenic use
9 determined in accordance with Subchapter F, Chapter 23, Tax Code.
10 (o) The board may exempt residential property from all or a
11 part of the assessments levied on that property or determine that
12 residential property will not be benefited by the proposed
13 improvement project or services. Single family detached
14 residential property in the district is exempt from assessment
15 under this Act.
16 (p) If the total cost of an improvement project and/or
17 services is determined, the board shall levy the assessments
18 against each parcel of land against which an assessment may be
19 levied in the district. With regard to an assessment for services,
20 the board may levy an annual assessment that may be lower but not
21 higher than the initial assessment. The board shall have an
22 assessment roll prepared showing the assessments against each
23 property and the board's basis for the assessment. The assessment
24 roll shall be filed with the secretary of the board or other
25 officer who performs the function of secretary and be open for
26 public inspection.
27 (q) Assessments bear interest at a rate specified by the

board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to

the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements

authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or

construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for

any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A

municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $25,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the

procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to

remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city's directors of public works and department of planning for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. Instead of approval of bonds by the city's directors of public works and department of planning, the district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-ways of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city

shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(b) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility

rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(m) and (n) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose. The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the

contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(m) and (n) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. On the adoption of such an ordinance, the district is dissolved, and, in accordance with Section 43.075, Local Government Code, the city shall succeed to the property and assets of the district and assume all bonds, debts, obligations, and liabilities of the district.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the commission. Also the legislature finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

COMMITTEE AMENDMENT NO. 1

Amend H.B. 1446 as follows:

1. In SECTION 1, (d) on page 2, line 4 after the words "services of the city" add a period, delete the comma, and delete the words "and the city is required to provide at a minimum the level of services to the area in the district that it is providing as of the effective date of this legislation."

2. In SECTION 5, (e) on line 22 after the word "Subsections" delete "(c) and (d)" and insert "(b) and (h)".

3. In SECTION 5, (f) on line 12 after the word "Subsection" delete "(c)" and insert "(h)".

4. In SECTION 14, on line 9 after the words "approval of the" delete the words "city's directors of public works and department of planning" and insert the words "city council", and on line 12 after "issue." delete "Instead of approval of bonds by the city's directors of public works and department of planning," and capitalize "the".

5. In SECTION 14, on line 2, after "Section 20" delete "(b)" and insert "(c)".

Culberson

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

3-22-89
(date)

Sir:

We, your COMMITTEE ON NATURAL RESOURCES,

to whom was referred HB 1446 (measure) have had the same under consideration and beg to report back with the recommendation that it

( ) do pass, without amendment.
(x) do pass, with amendment(s).
( ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. ( ) yes (x) no

An actuarial analysis was requested. ( ) yes (x) no

An author's fiscal statement was requested. (x) yes ( ) no

A criminal justice policy impact statement was prepared. ( ) yes (x) no

A water development policy impact statement was requested. (x) yes ( ) no

(x) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the (x) Local, ( ) Consent, or ( ) Resolutions Calendar.

This measure (x) proposes new law. ( ) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Smith, T., Ch.	x			
Willy, V.C.	x			
Collazo, C.B.O.	x			
Culberson	x			
Holzheauser	x			
Junell	x			
Swift	x			
Wentworth	x			
Yost	x			

Total
9 aye
0 nay
0 present, not voting
0 absent

Terrell R. Smith
CHAIRMAN

Deborah K. Wall
COMMITTEE COORDINATOR

HB 1446
By: Martinez

Committee on
Natural Resources

BILL ANALYSIS

Background

Currently landowners in the proposed Houston Downtown Management District voluntarily assess themselves to finance improvements they feel are needed, including traffic control, landscaping, maintenance, security, art, and amenities. The city of Houston provides many services to the area, but there are services and amenities needed to maintain economic development in the area which are not typically provided by the city.

Purpose of the Bill

This bill is a vehicle for landowners in the district to continue to provide needed improvements in services and amenities and to finance and administer them in a more effective manner.

Section by Section Analysis

Section 1. Creates the district; declares the district essential to the accomplishment of certain public purposes; finds the district necessary, and expresses legislative intent.

Section 2. Boundaries of the district.

Section 3. Findings relating to boundaries.

Section 4. Finding of benefit and public purpose.

Section 5. Provides for a thirty member board of directors serving staggered four year terms. Names the initial directors and provides for their terms. Provides for the qualifications for serving as a director, and the appointment, removal, filling of vacancies, bonding, and voting responsibilities of the directors.

Section 6. Definitions.

Section 7. General powers of the district are provided for under Article XVI, Section 59, Texas Constitution, and Chapter 54, Water Code, and additionally under Article III, Section 52, Texas Constitution and Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984.

Section 8. Grants specific powers necessary to carry out this Act to the District, including all rights necessary, convenient or desirable. The district may not exercise powers of eminent domain.

Section 9. Allows the district to undertake certain improvement projects. Provides for the nature of such improvement projects, and for procedures for hearings on assessments to finance them. Provides for certain exemptions from assessments. Allows appeal of assessments by property owners.

Section 10. Provides for the availability of certain funds for improvement projects, for the issue of

temporary notes, and for a single bond issue to be able to fund several projects.

Section 11. Sets forth the procedures for issuing bonds. Provides that terms and conditions of the bonds be in accordance with Chapter 503, Acts of the 55th Legislature, Regular Session, 1955; Chapter 3, Acts of the 61st Legislature, Regular Session, 1969; the Bond Procedures Act of 1981, and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983. Provides for certain uses of bonds, and for review by the Attorney General.

Section 12. Authorizes the board to impose impact fees pursuant to Chapter 957, Acts of the 70th Legislature, Regular Session, 1987. Provides for exemption of political subdivisions unless they consent to payment by contract.

Section 13. Provides for certain competitive bid procedures, and for the board's authority to make additional rules governing bids. Provides for disadvantaged business programs.

Section 14. Requires the district to obtain city approval for certain improvement projects and bonds to finance them.

Section 15. Territory may be excluded from the district under provision of Chapter 54, Water Code by petition of a property owner, or by motion of the board.

Section 16. Elections must be held to approve bonds or taxes. Election procedures are as provided by Chapter 54, Water Code; bond elections must be requested by petition.

Section 17. Bonds to provide water, sewer, or drainage facilities are subject to Water Commission approval.

Section 18. The district may annex land as provided by Chapter 54, Water Code, subject to approval by the city.

Section 19. Authorizes other entities to enter contracts with the district.

Section 20. Provides procedures for dissolution of the district.

Section 21. Legislative finding of compliance with notice and consent requirements.

Section 22. Emergency clause.

Rulemaking Authority

The district's board is granted authority in Section 8(s) to adopt rules governing the administration of the district and its programs and projects, and in Section 13(a) to adopt rules governing the receipt of bids and the awarding of contracts.

Summary of Committee Action

HB 1446 was considered in public hearing on March 22, 1989. The author, Representative Martinez, introduced the bill. The following persons testified for the bill: Harry Wallingford of Texas Eastern Corp.; Robert Eury, of Central Houston, Inc.; Allison Dickson, of Central Houston, and Patricia Knudson, of the city of Houston. There were no witnesses against the bill. Representative Culberson introduced an amendment to the bill, which was favorable to the author. The amendment makes changes in Section 1 to ensure city services will not be cut back in the district, in Section 14 to give the city council power of approval, and corrects errors in the designation of several subsections. The motion to report the bill favorably to the local calendar, as amended, carried with a vote of 9 ayes, 0 nays, 0 PNV and 0 absent.

STATE OF TEXAS
HOUSE OF REPRESENTATIVES
ROMAN MARTINEZ

DISTRICT 148
HARRIS COUNTY
P.O. BOX 30069
HOUSTON, TEXAS 77249
713-223-5888

AUSTIN OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0620

March 20, 1989

The Honorable Terral Smith
Chairman, Natural Resources Committee
House of Representatives
Austin, Texas

Re: Author's Fiscal Statement, House Bill 1446 (relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District

Sir:

In response to your request for an Author's Fiscal Statement on House Bill 1446, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal impact to the State is anticipated.

2. COST TO HOUSTON DOWNTOWN MANAGEMENT DISTRICT: Any fiscal cost to the District will be determined after creation by the board of directors of the District. The board has assessment powers and taxing authority, but before any assessments or taxes are levied there are many board decisions that must be made, and procedures that must be followed. Therefore, until the District is created and the board is appointed the cost to the District cannot be estimated.

Please let me know if I can provide further information to you.

Sincerely,

Roman Martinez

COMMITTEES:
APPROPRIATIONS, CHAIRMAN BUDGET & OVERSIGHT, ELECTIONS COMMITTEE

ADOPTED

MAY 4 1989

Chief Clerk
House of Representatives

Committee Amendment No. 1
By: Culberson

Amend H.B. 1446 as follows:

1. IN SECTION 1, (d) on page 2, line 4 after the words "services of the city" add a period, delete the comma, and delete the words "and the city is required to provide at a minimum the level of services to the area in the district that it is providing as of the effective date of this legislation."

2. IN SECTION 5, (e) on line 22 after the word "Subsections" delete "(c) and (d)" and insert "(b) and (h)"

3. IN SECTION 5, (f) on line 12 after the word "Subsection" delete "(c)" and insert "(h)".

4. IN SECTION 14, on line 9 after the words "approval of the" delete the words "city's directors of public works and department of planning" and insert the words "city council", and on line 12 after "issue." delete "Instead of approval of bonds by the city's directors of public works and department of planning," and capitalize "the".

5. IN SECTION 14, on line 2, after "Section 20" delete "(b)" and INSERT "(c)".

ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

AMENDMENT NO. 2 BY Al Luna

Amend H.B. 1446 as follows:

(1) On page 22, line 3, strike "15th" and substitute "30th".

(2) On page 22, line 15, strike "15th" and substitute "30th".

ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

AMENDMENT NO. 3 BY Al Luna

Amend H.B. 1446, on page 24, between lines 6 and 7 to insert the following:

A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court.

ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

Amendment No. 4

Amend H.B. 1446 as follows:

1. IN SECTION 5, subsection (e), page 8, line 23, after "section," delete the rest of the sentence and add the following: "succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the Mayor of the City of Houston. The Mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations. If the Mayor is not satisfied with the nominations submitted by the Board, the Board shall submit additional nominations for consideration. Board members may serve successive terms. If for any reason this provision is found to be invalid the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission", ~~then~~ in subsection (e), line 24, substitute "The" with "the". On line 27, subsection (e), page 8, at the beginning of the last sentence, after "The" add "Mayor or the".

2. IN SECTION 5, subsection (g), page 9, after the first word add "Mayor", and delete "commission".

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ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

Amendment No. 5

Amend H.B. 1446 as follows:

IN SECTION 13, subsection (a), page 33, in the first line substitute "$25,000" with "$10,000."

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ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

Amendment No. 6 By: [illegible]

Amend H.B. 1446 as follows:

1. IN SECTION 20, subsection (c), page 38, delete the last sentence and add the following sentence: "Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds."

ADOPTED

MAY 4 1989

Betty Murray
Chief Clerk
House of Representatives

Amendment No. 7

By: [illegible]

Amend H.B. 1446 as follows:

1. IN SECTION 9, subsection (n), line 9, page 26, add the following: For the purposes of this subsection, the term "recreational, park, or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

ENGROSSED
SECOND READING
H.B. No. 1446

By Martinez, et al.

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way

line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a

closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in

the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Dennis R. Hendrix;
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	Charles Miller;
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Gary W. Warwick;
Position No. 19	Leon Davis;
Position No. 20	James L. Ketelsen;
Position No. 21	Shelia Ruth Wheatley Clark;
Position No. 22	Monty Stone;
Position No. 23	Robert W. Gibbs, Jr.;
Position No. 24	William J. Schmitz;
Position No. 25	Mark M. Sacco;
Position No. 26	Manuel T. Pacheco;
Position No. 27	John Michael Solar;
Position No. 28	A. Martin Wickliff, Jr.;

Position No. 29 Nancy L. Lindsay;

Position No. 30 Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (b) and (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations. If the mayor is not satisfied with the nominations submitted by the board, the board shall submit additional nominations for consideration. Board

members may serve successive terms. If for any reason this provision is found to be invalid the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission, the commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The mayor or the commission shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and

conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provision to the contrary.

A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have

no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers

and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers,

privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on

terms and conditions the board determines, and issue notes, bonds or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, or to have those things done at the district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the

relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project

to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution,

that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all

purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement

projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more

of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the

hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing

and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than

one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park, or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a

part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The

owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of

issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be

issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the

payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to

provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for

deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS

CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of

disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project

1 financed by the bond issue. The district may obtain approval from
2 the city council of the city of a capital improvements budget, for
3 a period not to exceed five years. If the district obtains
4 approval of a capital improvements budget, it may finance the
5 capital improvements and issue bonds specified in the budget
6 without further approval from the city, the city's directors of
7 public works, or the department of planning. However, the city's
8 directors of public works and department of planning must approve
9 the plans and specifications of any improvement project financed by
10 the issuance of bonds. The district must obtain approval from the
11 city's city council, the city's director of public works, and the
12 city's department of planning of the plans and specifications of
13 any improvement project that involves the use of the rights-of-ways
14 of streets, roads, or highways or the use of municipal land or any
15 easements granted by the city. The city shall never be obligated
16 to pay any bonds, notes, or other obligations of the district,
17 except as provided by Section 20(c) of this Act.
18 SECTION 15. EXCLUDING TERRITORY. (a) At any time during
19 which the district has no outstanding bonds, the board on its own
20 motion may call a hearing on the question of the exclusion of land
21 from the district in the manner provided by Chapter 54, Water Code,
22 if the exclusions are practicable, just, or desirable.
23 (b) The board must call a hearing on the exclusion of land
24 or other property from the district on the written petition of a
25 landowner or property owner in the district filed with the
26 secretary of the board before the issuance of bonds.
27 SECTION 16. ELECTIONS. (a) A bond election, maintenance

tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose. The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public

areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the

inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

3rd READING

Amendment No. 1
(Second Reading Engrossment)
Amend H.B. 1446 as follows:

1. IN SECTION 6, subsection (7), page 13, at the end of the definition of "mass transit" add the following sentence: "No mass transit system shall be financed by the district without approval of the City Council of the City of Houston."

2. IN SECTION 12, page ~~32~~ 33, line ~~19~~ 9, after "transit systems." add the following sentence: "However, impact fees for mass transit systems may not be imposed without approval of the City Council of the City of Houston.

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ADOPTED

MAY 5 1989

Chief Clerk
House of Representatives

NO. 8

HOUSE ENGROSSMENT

By Martinez, et al. H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way

line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a

closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in

the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

1	Position No. 1	Richard D. Kinder;
2	Position No. 2	A. Robert Abboud;
3	Position No. 3	C. Richard Everett;
4	Position No. 4	Richard G. Knight;
5	Position No. 5	James L. Dunlap;
6	Position No. 6	Ulrich E. Porzig;
7	Position No. 7	William D. Stevens;
8	Position No. 8	John T. Cater;
9	Position No. 9	Marvin G. Marshall;
10	Position No. 10	Omar A. Sawaf;
11	Position No. 11	J. William Sharman, Jr.;
12	Position No. 12	Dennis R. Hendrix;
13	Position No. 13	Robert F. Dunphy;
14	Position No. 14	Lee E. Straus;
15	Position No. 15	Gerald D. Hines;
16	Position No. 16	Charles Miller;
17	Position No. 17	Lynn W. Zimmerman;
18	Position No. 18	Gary W. Warwick;
19	Position No. 19	Leon Davis;
20	Position No. 20	James L. Ketelsen;
21	Position No. 21	Shelia Ruth Wheatley Clark;
22	Position No. 22	Monty Stone;
23	Position No. 23	Robert W. Gibbs, Jr.;
24	Position No. 24	William J. Schmitz;
25	Position No. 25	Mark M. Sacco;
26	Position No. 26	Manuel T. Pacheco;
27	Position No. 27	John Michael Solar;

Position No. 28 A. Martin Wickliff, Jr.;

Position No. 29 Nancy L. Lindsay;

Position No. 30 Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (b) and (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations. If the mayor is not satisfied with the nominations submitted by the board, the board

shall submit additional nominations for consideration. Board members may serve successive terms. If for any reason this provision is found to be invalid the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission, the commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The mayor or the commission shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he

shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of

the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory

practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas. No mass transit system shall be financed by the district without approval of the city council of the city of Houston.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water

Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving

security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, or to have those things done at the district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise

inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the

sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for

its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of

Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas;

fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services

and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the

current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the

required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may

provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political

subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park,

or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to

each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated

in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board.

Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state,

including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without approval of the city council of the city of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be

established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the

purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures

necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(c) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose.

The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written

petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature

finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

STATE OF TEXAS
HOUSE OF REPRESENTATIVES
ROMAN MARTINEZ

DISTRICT 148
HARRIS COUNTY
P.O. BOX 30069
HOUSTON, TEXAS 77249
713 223 5888

AUSTIN OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0620

March 20, 1989

The Honorable Terral Smith
Chairman, Natural Resources Committee
House of Representatives
Austin, Texas

Re: Author's Fiscal Statement, House Bill 1446 (relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District

Sir:

In response to your request for an Author's Fiscal Statement on House Bill 1446, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal impact to the State is anticipated.

2. COST TO HOUSTON DOWNTOWN MANAGEMENT DISTRICT: Any fiscal cost to the District will be determined after creation by the board of directors of the District. The board has assessment powers and taxing authority, but before any assessments or taxes are levied there are many board decisions that must be made, and procedures that must be followed. Therefore, until the District is created and the board is appointed the cost to the District cannot be estimated.

Please let me know if I can provide further information to you.

Sincerely,

Roman Martinez

COMMITTEES:
APPROPRIATIONS, CHAIRMAN BUDGET & OVERSIGHT, ELECTIONS COMMITTEE

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TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner

Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

March 17, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Section 36.

House Bill No. 1446/Senate Bill 841 - Proposed creation of a conservation and reclamation district pursuant to Article III, Section 52 and Article XVI, Section 59(d), Texas Constitution: Houston Downtown Management District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke

Allen Beinke
Executive Director

Enclosure

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King,, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Representative Roman Martinez
Senator Craig Washington
Governor William P. Clements, Jr.
Lieutenant Governor William P. Hobby

2

P. O. Box 13087 Capitol Station • 1700 North Congress Ave. • Austin, Texas 78711-3087 • Area Code 512/463-7830

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT

Water Development Policy Impact Statements for House Bill 1446 and Senate Bill 841 (H.B. 1446 and S.B. 841) relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

H.B. 1446 and S.B. 841 (the Bill) provide that the proposed district would have the powers and duties of Chapter 54, Texas Water Code, applicable to municipal utility districts (MUDs), the powers and duties of road utility districts (RUDs), created pursuant to Article III, Section 52 and 52a of the Texas Constitution, plus numerous other powers specified in the act. Impact statements related to the district follow:

1) **Population Projections** - The Board's population projections for the City of Houston indicate an increase in the City's population ranging from 567,000 to 706,000 residents over the next 20 years. Although the creation of the district is predominately directed toward the businesses of the area, the future population of the City and surrounding suburban areas will have an impact on the area's current and future ability to provide continuing transportation and utility services that support economic development in the downtown area.

2) **District Finances** - The district may issue and sell bonds secured through ad valorem taxes, special assessments, impact fees, gifts, grants, and any other available revenues. A bond election is required to issue bonds that will be paid with ad valorem taxes, but not required for other bonds. All of the bonds must be approved by the City of Houston; however, only bonds issued to finance water, wastewater or drainage improvements require approval by the Commission.

3) **Board of Directors & Powers** - There are 30 directors who are appointed by the Commission and serve 4 year staggered terms. Specific positions on the board are designated for persons with experience in specific industries.

   In general the district has all the powers conferred by general law applicable to conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution, specifically Chapter 54 of the Texas Water Code. In addition, the district has the powers of road utility districts created pursuant to Article III, Section 52 of the Texas Constitution, including the power to levy ad valorem taxes for construction, maintenance, and operation of roads. This includes power to levy taxes for mass transit

systems, subject to the limitations in Article III, Sections 52 and 52-a.

Specifically, the proposed district could acquire land; construct, develop, own operate and maintain permanent improvements and provide services inside and outside its boundaries; use public streets and roads with consent of the city; relocate and alter the construction of any street, road, alley, railroad, electric lines, telephone telegraph and cable TV lines, pipelines and facilities, as necessary for district improvement projects.

The proposed district could undertake improvement projects which may include landscaping; lighting, banners and signs; streets; sidewalks, pedestrian skywalks, crosswalks and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and demolition in connection with any of the above; improvements similar to the above; acquisition of real property in connection with the above.

The proposed district could also provide for advertising; economic development; promoting the area of the district; health and sanitation, public safety, maintenance, security, business recruitment, development, recreation, and cultural enhancement, promotion of and assistance to disadvantaged businesses, elimination or relief of traffic congestion, and elimination of unemployment and underemployment.

4) **Effect on the Texas Water Development Board's water plan-** The proposed district receives water and wastewater service from the City of Houston, and City water and wastewater planning and implementation activities are consistent with State Water Plan objectives.

5) **Texas Water Commission's supervision** - under Section 5 of the Act, the Commission appoints directors to the board. Under Section 17 of the Act, the Commission approves bonds pursuant to Chapter 54, Texas Water Code, for bonds that finance water, sewer or drainage facilities. Section 17 also states that except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the Commission. It appears that the proposed District will not be required to submit reports and information that the Commission usually requires to be submitted by Chapter 54 districts.

The City of Houston will exercise some of the supervisory functions usually performed by the Commission. The proposed

district is required to receive approval by the City of Houston of all projects, plans and specifications, and bond issues.

6) **Eminent domain power** - The powers of eminent domain have been specifically exempted for this district.

7) **Exclusion of land from the district** - The District has the same provisions as a MUD pursuant to Chapter 54, Texas Water Code. At any time that the district does not have outstanding bonds, the directors can by its own motion call a hearing to exclude land, and must call a hearing to exclude land upon petition by landowner.

8) **Adequacy of boundary description** - The boundary description is along streets and existing landmarks and contains no metes and bounds description.

9) **Comment on powers and duties different from similar types of districts** - The primary purpose of most MUDs and RUDs is to provide water facilities and streets for new development outside of existing cities. In the case of the proposed District, Houston has already provided the infrastructure and will continue to provide basic municipal services normally provided by MUDs and RUDs.

The district's primary purpose is to revitalize the downtown Houston area pursuant to the purposes of Article III, Section 52-a of the Texas Constitution which include: development and diversification of the economy of the state, the elimination of unemployment or underemployment, the development or expansion of transportation or commerce. The District will attempt to promote economic development through provision of improved mass transit, pedestrian facilities, landscaping and other aesthetically oriented projects, and advertising and promotion of the area. The proposed district will be subject to less control by the Commission and more control by the City of Houston than MUDs under general law.

MUDs under general law require an election to confirm the creation of the district, however, the Bill as written requires no election to confirm creation of the proposed district. Both MUDS and RUDs under general law have 5 elected directors, while the proposed district has 30 appointed directors. The provisions that the proposed district cannot undertake any improvement projects until petitioned by owners of a majority of the land or value in the district, and the method of financing projects through special assessments are also different from general law districts.

The district, as proposed, will have the power to make special assessments on property as well as levy taxes to pay off bonds. While the levy of taxes requires an election, the levy of special assessments does not as the bill is currently written.

SENATE FAVORABLE COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

5/22/89
(date)

Sir:

We, your Committee on INTERGOVERNMENTAL RELATIONS to which was referred HB 1446 (measure) by Martinez (sponsor) have on May 20 (hearing date), 1989, had the same under consideration and I am instructed to report it back with the recommendation (s) that it

(✓) do pass and be printed

( ) do pass and be ordered not printed

( ) and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested.	(✓) yes	( ) no
A revised fiscal note was requested.	( ) yes	(✓) no
An actuarial analysis was requested.	( ) yes	(✓) no
Considered by subcommittee.	( ) yes	(✓) no

Senate Sponsor of House Measure Washington

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Parmer, Chairman				✓
Leedom, Vice Chairman			✓	
Armbrister	✓			
Barrientos				✓
Brown	✓			
Carriker	✓			
Haley	✓			
Ratliff	✓			
Tejeda	✓			
Washington	✓			
Whitmire				✓
TOTAL VOTES	7	0	1	3

Kimberly Henry
COMMITTEE CLERK

Hugh Parmer
CHAIRMAN

Paper clip the original and one copy of this form to the original bill and retain one copy for your file.

By: Martinez, et al. (Senate Sponsor - Washington) H.B. No. 1446

(In the Senate - Received from the House May 8, 1989; May 9, 1989, read first time and referred to Committee on Intergovernmental Relations; May 22, 1989, reported favorably by the following vote: Yeas 7, Nays 0; May 22, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Parmer				x
Leedom			x	
Armbrister	x			
Barrientos				x
Brown	x			
Carriker	x			
Haley	x			
Ratliff	x			
Tejeda	x			
Washington	x			
Whitmire				x

A BILL TO BE ENTITLED
AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of

the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the

works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Dennis R. Hendrix;
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	Charles Miller;
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Gary W. Warwick;
Position No. 19	Leon Davis;
Position No. 20	James L. Ketelsen;
Position No. 21	Shelia Ruth Wheatley Clark;
Position No. 22	Monty Stone;
Position No. 23	Robert W. Gibbs, Jr.;
Position No. 24	William J. Schmitz;
Position No. 25	Mark M. Sacco;
Position No. 26	Manuel T. Pacheco;
Position No. 27	John Michael Solar;
Position No. 28	A. Martin Wickliff, Jr.;

Position No. 29 Nancy L. Lindsay;
Position No. 30 Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (b) and (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations. If the mayor is not satisfied with the nominations submitted by the board, the board shall submit additional nominations for consideration. Board members may serve successive terms. If for any reason this provision is found to be invalid the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission, the commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The mayor or the commission shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or

terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas. No mass transit system shall be financed by the district without approval of the city council of the city of Houston.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving security for costs, and may appeal from a judgment without giving supersedeas or cost bond.

(d) The district may incur liabilities, borrow money on terms and conditions the board determines, and issue notes, bonds or other obligations.

(e) The district may acquire by grant, purchase, gift, devise, lease, or otherwise, and may hold, use, sell, lease, or dispose of real and personal property, and licenses, patents, rights, and interests necessary, convenient, or useful for the full exercise of any of its powers pursuant to this Act.

(f) The district may acquire, construct, complete, develop, own, operate, and maintain permanent improvements and provide services inside and outside its boundaries. With the consent of the city, the district is entitled to use the streets, alleys, roads, highways, and other public ways and to relocate, raise, reroute, change the grade of, and alter the construction of, any street, alley, highway, road, railroad, electric lines and facilities, telegraph and telephone properties and facilities, pipelines and facilities, conduits and facilities, and other property, whether publicly or privately owned, as necessary or useful in the construction, reconstruction, repair, maintenance, and operation of the system, or to have those things done at the

district's sole expense. The district may not proceed with any action to change, alter, or damage the property or facilities of the state, its municipal corporations, agencies, or political subdivisions or of owners rendering public services, or that will disrupt those services being provided by others, or to otherwise inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas;

fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the

area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily

for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park, or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time

required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for

the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board. Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state, including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without approval of the city council of the city of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if

any, by a municipality, county, or political subdivision must be established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the

city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(c) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose. The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding

roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

* * * * *

Austin, Texas
May 22, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Intergovernmental Relations to which was referred H.B. No. 1446, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do pass and be printed.

Parmer, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 16, 1989

TO: Honorable Hugh Parmer, Chairman
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

In Re: House Bill No. 1446, as engrossed
By: Martinez

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1446, as engrossed (relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, PA

71FHB1446ae

STATE OF TEXAS
HOUSE OF REPRESENTATIVES
ROMAN MARTINEZ

DISTRICT 148
HARRIS COUNTY
P.O. BOX 30069
HOUSTON, TEXAS 77249
713-223-5888

AUSTIN OFFICE:
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512-463-0620

March 20, 1989

The Honorable Terral Smith
Chairman, Natural Resources Committee
House of Representatives
Austin, Texas

Re: Author's Fiscal Statement, House Bill 1446 (relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District

Sir:

In response to your request for an Author's Fiscal Statement on House Bill 1446, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal impact to the State is anticipated.

2. COST TO HOUSTON DOWNTOWN MANAGEMENT DISTRICT: Any fiscal cost to the District will be determined after creation by the board of directors of the District. The board has assessment powers and taxing authority, but before any assessments or taxes are levied there are many board decisions that must be made, and procedures that must be followed. Therefore, until the District is created and the board is appointed the cost to the District cannot be estimated.

Please let me know if I can provide further information to you.

Sincerely,

Roman Martinez

COMMITTEES:
APPROPRIATIONS, CHAIRMAN BUDGET & OVERSIGHT, ELECTIONS COMMITTEE

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner

Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

March 17, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Section 36.

House Bill No. 1446/Senate Bill 841 - Proposed creation of a conservation and reclamation district pursuant to Article III, Section 52 and Article XVI, Section 59(d), Texas Constitution: Houston Downtown Management District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke

Allen Beinke
Executive Director

Enclosure

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King,, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Representative Roman Martinez
Senator Craig Washington
Governor William P. Clements, Jr.
Lieutenant Governor William P. Hobby

P. O. Box 13087 Capitol Station • 1700 North Congress Ave. • Austin, Texas 78711-3087 • Area Code 512/463-7830

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT

Water Development Policy Impact Statements for House Bill 1446 and Senate Bill 841 (H.B. 1446 and S.B. 841) relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

H.B. 1446 and S.B. 841 (the Bill) provide that the proposed district would have the powers and duties of Chapter 54, Texas Water Code, applicable to municipal utility districts (MUDs), the powers and duties of road utility districts (RUDs), created pursuant to Article III, Section 52 and 52a of the Texas Constitution, plus numerous other powers specified in the act. Impact statements related to the district follow:

1) **Population Projections** - The Board's population projections for the City of Houston indicate an increase in the City's population ranging from 567,000 to 706,000 residents over the next 20 years. Although the creation of the district is predominately directed toward the businesses of the area, the future population of the City and surrounding suburban areas will have an impact on the area's current and future ability to provide continuing transportation and utility services that support economic development in the downtown area.

2) **District Finances** - The district may issue and sell bonds secured through ad valorem taxes, special assessments, impact fees, gifts, grants, and any other available revenues. A bond election is required to issue bonds that will be paid with ad valorem taxes, but not required for other bonds. All of the bonds must be approved by the City of Houston; however, only bonds issued to finance water, wastewater or drainage improvements require approval by the Commission.

3) **Board of Directors & Powers** - There are 30 directors who are appointed by the Commission and serve 4 year staggered terms. Specific positions on the board are designated for persons with experience in specific industries.

   In general the district has all the powers conferred by general law applicable to conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution, specifically Chapter 54 of the Texas Water Code. In addition, the district has the powers of road utility districts created pursuant to Article III, Section 52 of the Texas Constitution, including the power to levy ad valorem taxes for construction, maintenance, and operation of roads. This includes power to levy taxes for mass transit

systems, subject to the limitations in Article III, Sections 52 and 52-a.

Specifically, the proposed district could acquire land; construct, develop, own operate and maintain permanent improvements and provide services inside and outside its boundaries; use public streets and roads with consent of the city; relocate and alter the construction of any street, road, alley, railroad, electric lines, telephone telegraph and cable TV lines, pipelines and facilities, as necessary for district improvement projects.

The proposed district could undertake improvement projects which may include landscaping; lighting, banners and signs; streets; sidewalks, pedestrian skywalks, crosswalks and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and demolition in connection with any of the above; improvements similar to the above; acquisition of real property in connection with the above.

The proposed district could also provide for advertising; economic development; promoting the area of the district; health and sanitation, public safety, maintenance, security, business recruitment, development, recreation, and cultural enhancement, promotion of and assistance to disadvantaged businesses, elimination or relief of traffic congestion, and elimination of unemployment and underemployment.

4) **Effect on the Texas Water Development Board's water plan-** The proposed district receives water and wastewater service from the City of Houston, and City water and wastewater planning and implementation activities are consistent with State Water Plan objectives.

5) **Texas Water Commission's supervision** - under Section 5 of the Act, the Commission appoints directors to the board. Under Section 17 of the Act, the Commission approves bonds pursuant to Chapter 54, Texas Water Code, for bonds that finance water, sewer or drainage facilities. Section 17 also states that except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the Commission. It appears that the proposed District will not be required to submit reports and information that the Commission usually requires to be submitted by Chapter 54 districts.

The City of Houston will exercise some of the supervisory functions usually performed by the Commission. The proposed

district is required to receive approval by the City of Houston of all projects, plans and specifications, and bond issues.

6) **Eminent domain power** - The powers of eminent domain have been specifically exempted for this district.

7) **Exclusion of land from the district** - The District has the same provisions as a MUD pursuant to Chapter 54, Texas Water Code. At any time that the district does not have outstanding bonds, the directors can by its own motion call a hearing to exclude land, and must call a hearing to exclude land upon petition by landowner.

8) **Adequacy of boundary description** - The boundary description is along streets and existing landmarks and contains no metes and bounds description.

9) **Comment on powers and duties different from similar types of districts** - The primary purpose of most MUDs and RUDs is to provide water facilities and streets for new development outside of existing cities. In the case of the proposed District, Houston has already provided the infrastructure and will continue to provide basic municipal services normally provided by MUDs and RUDs.

The district's primary purpose is to revitalize the downtown Houston area pursuant to the purposes of Article III, Section 52-a of the Texas Constitution which include: development and diversification of the economy of the state, the elimination of unemployment or underemployment, the development or expansion of transportation or commerce. The District will attempt to promote economic development through provision of improved mass transit, pedestrian facilities, landscaping and other aesthetically oriented projects, and advertising and promotion of the area. The proposed district will be subject to less control by the Commission and more control by the City of Houston than MUDs under general law.

MUDs under general law require an election to confirm the creation of the district, however, the Bill as written requires no election to confirm creation of the proposed district. Both MUDS and RUDs under general law have 5 elected directors, while the proposed district has 30 appointed directors. The provisions that the proposed district cannot undertake any improvement projects until petitioned by owners of a majority of the land or value in the district, and the method of financing projects through special assessments are also different from general law districts.

The district, as proposed, will have the power to make special assessments on property as well as levy taxes to pay off bonds. While the levy of taxes requires an election, the levy of special assessments does not as the bill is currently written.

AFFIDAVIT OF PUBLICATION

STATE OF TEXAS:

AD#3456945

COUNTY OF HARRIS:

Before me, the undersigned authority, a Notary Public in and for the County of Harris, and the State of Texas, on this day personally appeared; LEE BENTON, who after being duly sworn, says that she is the SUPERVISOR - CLASSIFIED ACCTS. RECEIVABLE of THE HOUSTON CHRONICLE, a daily newspaper published in said County and State, and that the publication, of which, the annexed is a true copy, was published to-wit:

ADVERTISING RAN ON DECEMBER 31, 1988

NOTICE OF INTENTION TO INTRODUCE BILL
IN THE LEGISLATURE OF TEXAS

Notice is hereby given of the intention to introduce a bill in the 71st Legislature, Regular Session, 1989, creating and establishing a conservation and reclamation district under the provisions of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a of the Constitution of Texas, with certain other powers, including those authorized by Article 1269j-4.12, Vernon's Texas Civil Statutes, the general substance of which contemplated law is as follows:

AN ACT creating a conservation and reclamation district under the provisions of Article III, Section 52, Article XVI, Section 59, and Article III, Section 52-a of the Constitution of Texas, with certain other powers, including those authorized by Article 1269j-4.12, Vernon's Texas Civil Statutes, in Harris County, Texas, to be known as

HOUSTON DOWNTOWN MANAGEMENT DISTRICT

defining its boundaries and finding their closure; finding benefits to the land and other property in the District; providing for the selection, qualifications, and terms of its governing body; containing other provisions relating to the subject; providing a severability clause; finding and declaring compliance with the Constitution, laws, rules, and procedures relative to consent to, notice, introduction, and passage of this Act; and declaring an emergency. The boundaries of said District in said contemplated bill are as follows:

METES AND BOUNDS DESCRIPTION
705 Acres More or Less
PROPOSED HOUSTON DOWNTOWN MANAGEMENT DISTRICT
PRELIMINARY BOUNDARY DESCRIPTION FOR PURPOSES OF NOTICE

705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas, more particularly described as follows:

Beginning at the intersection of the center line of the right-of-way of Commerce Avenue with the center line of the right-of-way of Austin Street,

Thence in a southwesterly direction with the center line of the right-of-way of Austin street to the intersection with the center line of the right-of-way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right-of-way of Capitol Avenue to the intersection with the center line of the right-of-way of Chartres Street,

Thence in a southwesterly direction with the center line of the right-of-way of Chartres Street to the intersection with the center line of the right-of-way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right-of-way of Clay Avenue to the intersection with the center line of the right-of-way of Caroline Street,

Thence in a southwesterly direction with the center line of the right-of-way of Caroline Street to the intersection with the center line of the right-of-way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right-of-way of Pierce Avenue to the intersection with the center line of the right-of-way of Bagby Street,

Thence in a northeasterly direction with the center line of the right-of-way of Bagby Street to the intersection with a southerly projection of the west line of the right-of-way of Heiner Street,

Thence in a northerly direction with the west line of the right-of-way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right-of-way of W. Dallas Street,

Thence in a westerly direction with the center line of the right-of-way of W. Dallas Street to the intersection with a southerly projection of the west line of the right-of-way of Heiner Street,

Thence in a northerly direction with the west line of the right-of-way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right-of-way of Allen Parkway,

Thence in a easterly direction with the center line of the right-of-way of Allen Parkway to the intersection with a southerly projection of the center line of the right-of-way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right-of-way of Sabine Street and then with center line of the right-of-way of Sabine Street to the intersection with the north right-of-way line of Memorial Drive,

Thence in an easterly direction with the north right-of-way line of Memorial Drive to the intersection with the west right-of-way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right-of-way line of Interstate Highway 45 to the intersection with the center line of the right-of-way of Franklin Avenue,

Thence in an easterly direction with the center line of the right-of-way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right-of-way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right-of-way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right-of-way to the intersection with the center line of the right-of-way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right-of-way of North San Jacinto Street to the intersection with the center line of the right-of-way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right-of-way of Commerce Avenue to The Point of Beginning

LEE BENTON
SUPERVISOR-CLASSIFIED ACCTS. REC.

Swo re me, this the 6th

day A.D.

Notary Public in and for the
County of Harris, State of Texas

4100-5005

LETTER OF TRANSMITTAL

HOUSE OF REPRESENTATIVES
STATE OF TEXAS

TO: The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to transmit to you and the Texas Water Commission copies of House Bill No. 1446, a bill relating to a conservation and reclamation district, and copies of the notice of intention to introduce the bill. One copy is for your files and one for you to forward to the Texas Water Commission, under Section 59(d), Article XVI, Constitution of the State of Texas.

FEB 23 1989
Date transmitted to
Governor's Office

Betty Murray
Betty Murray, Chief Clerk
House of Representatives

TO: Texas Water Commission

SUBJECT: A Bill Relating to a Conservation and Reclamation District

This is to forward to you a copy of House Bill No. _____, a bill relating to a conservation and reclamation district, and a copy of the notice of intention to introduce the bill.

2/23/89 AK
Date transmitted to
Texas Water Commission

W. P. Clements, Jr.
William P. Clements, Jr.
Governor

TO: The Honorable Gibson D. "Gib" Lewis
Speaker of the House

The Honorable William P. Hobby
President of the Senate

The Honorable William P. Clements, Jr.
Governor of Texas

SUBJECT: A Bill Relating to a Conservation and Reclamation District

Attached are the recommendations of the Texas Water Commission on House Bill No. _____, in compliance with Section 59(d), Article XVI, Constitution of the State of Texas.

Allen Beinke
Allen Beinke
Executive Director

AMEND THE CAPTION TO CONFORM

TO THE BODY OF THE BILL

ADOPTED

MAY 26 1989

Secretary of the Senate

Amendment No._____ By_____

Amend H.B. 1446, by striking all below the enacting clause and substituting the following:

ADOPTED

MAY 26 1989

Secretary of the Senate

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way

line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a

closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in

the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection [redacted] of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Robert Gibbs, Jr.
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	William S. Schmitz
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Nancy Lindsay
Position No. 19	Manuel Pacheco
Position No. 20	James L. Ketelsen;

(c) In addition to the directors listed under Subsection (b) of this section, the member of the state house of representatives in whose district the district is located shall appoint three persons to serve on the board. The member of the state senate in whose district the district is located shall appoint seven persons to serve on the board. The member of the house of representatives, at the time he makes the appointments, shall designate the appointees to serve in positions number 21 - 23. The senator,at the time

he makes the appointments, shall designate the appointees to serve in positions number 24 - 30. If the district is located in more than one senate or house district this subsection applies only to the senator or representative in whose district a larger portion of the district is located than any other senate or house district, as applicable.

(d) Of the initial directors, the directors appointed for positions 16-20, 29, and 30 shall serve until June 1, 1993, the directors appointed for positions 11-15, 26, 27, and 28 shall serve until June 1, 1992, the directors appointed for positions 6-10, 23, 24, and 25 shall serve until June 1, 1991, and the directors appointed for positions 1 through 5, 21, and 22 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district;

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection; or

(6) determined by the mayor to represent the interests of the downtown community.

(e) Except for directors appointed under Subsection (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board in positions 1 - 20 and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations submitted by the board. If the mayor is not satisfied with the nominations submitted by the board, the board shall submit additional nominations for consideration.

The member of the house of representatives in whose district the larger part of the Houston Downtown Management District is located shall appoint succeedings directors for positions 21 - 23. The member of the state senate in whose senatorial district the larger part of the Houston Downtown Management District is located shall appoint succeeding directors for positions 24 - 30. Board members may serve successive terms.

The mayor, state representative or state senator, shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, and 16--finance and insurance matters;

Positions 6, 11, 18 and 19--matters relating to retail or the provision of services;

Positions 17 and 12--provision of utilities; and

Positions 21 through 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director in positions 1 - 20 shall be filled by the remaining members of the board for the unexpired term with the approval of the mayor. Vacancies in the office of director in positions 21 - 23 shall be filled by the member of the house of representatives in whose district the larger portion of the

Houston Downtown Improvement District is located. Vacancies in the office of director in positions 24 - 30 shall be filled by the senator in whose district the larger portion of the Houston Downtown Improvement District is located.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of

the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory

practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas. No mass transit system shall be financed by the district without approval of the city council of the city of Houston.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water

Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving

1 security for costs, and may appeal from a judgment without giving
2 supersedeas or cost bond.
3 (d) The district may incur liabilities, borrow money on
4 terms and conditions the board determines, and issue notes, bonds
5 or other obligations.
6 (e) The district may acquire by grant, purchase, gift,
7 devise, lease, or otherwise, and may hold, use, sell, lease, or
8 dispose of real and personal property, and licenses, patents,
9 rights, and interests necessary, convenient, or useful for the full
10 exercise of any of its powers pursuant to this Act.
11 (f) The district may acquire, construct, complete, develop,
12 own, operate, and maintain permanent improvements and provide
13 services inside and outside its boundaries. With the consent of
14 the city, the district is entitled to use the streets, alleys,
15 roads, highways, and other public ways and to relocate, raise,
16 reroute, change the grade of, and alter the construction of, any
17 street, alley, highway, road, railroad, electric lines and
18 facilities, telegraph and telephone properties and facilities,
19 pipelines and facilities, conduits and facilities, and other
20 property, whether publicly or privately owned, as necessary or
21 useful in the construction, reconstruction, repair, maintenance,
22 and operation of the system, or to have those things done at the
23 district's sole expense. The district may not proceed with any
24 action to change, alter, or damage the property or facilities of
25 the state, its municipal corporations, agencies, or political
26 subdivisions or of owners rendering public services, or that will
27 disrupt those services being provided by others, or to otherwise

inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the

sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

~~A member of the state legislature or an officer of a county or municipal government located in whole or in part in the district may not be a party to or be an officer or employee of, affiliated with, or own stock or any other interest in a business that enters into a contract, lease, or agreement with the district to provide equipment, products, or services to the district.~~

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for

1 its requirements or for the purpose of carrying out its power under
2 this Act.
3 (l) The district may lease projects or any part of a project
4 to, or contract for the use or operation of the projects or any
5 part of a project by, any operator.
6 (m) The district may conduct hearings and take testimony and
7 proof, under oath or affirmation, at public hearings, on any matter
8 necessary to carry out the purposes of this Act.
9 (n) The district may procure and pay premiums to insurers
10 for insurance of any type in amounts considered necessary or
11 advisable by the board.
12 (o) The district may do any thing necessary, convenient, or
13 desirable to carry out the powers expressly granted or implied by
14 this Act.
15 (p) The responsibility for the management, operation, and
16 control of the property belonging to the district is vested in the
17 board.
18 (q) The board may:
19 (1) employ all persons, firms, partnerships, or
20 corporations considered necessary by the board for the conduct of
21 the affairs of the district, including a general manager,
22 bookkeepers, auditors, engineers, attorneys, financial advisers,
23 peace or traffic control officers, architects, and operating or
24 management companies and prescribe the duties, tenure, and
25 compensation of each;
26 (2) dismiss employees;
27 (3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of

Chapter 101 Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

(v) The district may not invest its funds under Section 8(q)(4) of this Act in, or purchase obligations of a private corporation or other private business entity doing business in the Republic of South Africa unless the corporation or other entity:

(1) has adopted the Statement of Principles for South Africa as they existed in 1987, as described in the Report on the Signatory Companies to the Statement of Principles for South Africa published by Arthur D. Little, Inc., Cambridge, Massachusetts, and has obtained a performance rating in Category 1 of the Statement of Principles for South Africa rating system as determined by Arthur D. Little, Inc.;

(2) does not supply strategic products or services for use by the government, military or police of the Republic of South Africa; and

(3) recognizes the right of all employees who are residents of the Republic of South Africa to organize and strike in support of economic or social objectives, free from the fear of dismissal or blacklisting.

(w) For the purposes of Subsection (v) of this section:

(1) "Doing business in the Republic of South Africa" means conducting or performing manufacturing, assembly, or warehousing operations within the Republic of South Africa or, if a bank or other financial institution, lending money to the government of the Republic of South Africa or any of its agencies or instrumentalities.

(2) "Strategic products or services" means articles designated as arms, ammunition, or implements of war as provided by 22 Code of Federal Regulations Part 121, or data processing equipment or computers sold for military or police use or for use in connection with restrictions on travel within the Republic of South Africa by residents of that country.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas;

fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services

and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the

current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the

required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may

provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political

subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park,

or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to

each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

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On an annual basis, the board shall hold a public hearing to discuss the services and/or improvements that the district is currently providing or proposes to provide, and to receive comments and information from the public about any services and/or improvements the public feels are needed in the district. Notice of the hearing shall be published in a newspaper of general circulation in the county in which the district is which the district is located no later than the 30th day before the date of the hearing. At the conclusion of the hearing the district shall prepare a written report of the hearing and shall file such report with the city and with the presiding officers of each house of the legislature.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated

in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board.

Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state,

including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without approval of the city council of the city of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be

established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the

purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

~~(c) It is the goal of the Legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in Richmond v. J. A. Croson Company and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the district designated under Section 311.005(a)(5)~~ 6, subsection (5) be given full and complete access to the procurement process whereby supplies, materials, services and equipment are acquired by the board. It is also an intent of the Legislature that to the extent constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.

~~(d) It is the intent of the Legislature that the district shall:~~

~~(1) implement a program or programs targeted to disadvantaged businesses in order to inform them fully about the district procurement process and the requirements for their participation in that process;~~

(2) implement such steps as are necessary to insure that all disadvantaged businesses are made fully aware of opportunities in the district. Including, but not limited to, specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county;

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to maximize participation by disadvantaged businesses as subcontractors. The district shall be required to evaluate such actions by prime contractors as a factor in the award of contracts within the district procurement process;

(4) identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials, services and equipment to the district; and

(5) identify barriers to participation by disadvantaged businesses in the district procurement process, such as bonding, insurance and working capital requirements that may be imposed on businesses.

(e) It is the intent of the Legislature that the district shall be required to develop a program pursuant to this Act for the purchase of supplies, materials, services and equipment and that the board of the district compile a report on an annual basis listing the total number and dollar amount of contracts awarded to disadvantaged businesses during the previous year as well as the total number and dollar amount of all contracts awarded. Such annual report shall be available for inspection by the general public during regular business hours.

(f) The provisions of this Act state the required procedures

necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(c) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose.

The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written

petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature

finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

STATE OF TEXAS
HOUSE OF REPRESENTATIVES
ROMAN MARTINEZ

DISTRICT 148
HARRIS COUNTY
P.O. BOX 30069
HOUSTON, TEXAS 77249
713 223 5886

AUSTIN OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78768-2910
512 463 0672

March 20, 1989

The Honorable Terral Smith
Chairman, Natural Resources Committee
House of Representatives
Austin, Texas

Re: Author's Fiscal Statement, House Bill 1446 (relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District

Sir:

In response to your request for an Author's Fiscal Statement on House Bill 1446, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal impact to the State is anticipated.

2. COST TO HOUSTON DOWNTOWN MANAGEMENT DISTRICT: Any fiscal cost to the District will be determined after creation by the board of directors of the District. The board has assessment powers and taxing authority, but before any assessments or taxes are levied there are many board decisions that must be made, and procedures that must be followed. Therefore, until the District is created and the board is appointed the cost to the District cannot be estimated.

Please let me know if I can provide further information to you.

Sincerely,

Roman Martinez

COMMITTEES:
APPROPRIATIONS CHAIRMAN BUDGET & OVERSIGHT, ELECTIONS COMMITTEE

1

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner

Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

March 17, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Section 36.

House Bill No. 1446/Senate Bill 841 - Proposed creation of a conservation and reclamation district pursuant to Article III, Section 52 and Article XVI, Section 59(d), Texas Constitution: Houston Downtown Management District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke

Allen Beinke
Executive Director

Enclosure

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King,, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Representative Roman Martinez
Senator Craig Washington
Governor William P. Clements, Jr.
Lieutenant Governor William P. Hobby

P. O. Box 13087 Capitol Station • 1700 North Congress Ave. • Austin, Texas 78711-3087 • Area Code 512/463-7830

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT

Water Development Policy Impact Statements for House Bill 1446 and Senate Bill 841 (H.B. 1446 and S.B. 841) relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

H.B. 1446 and S.B. 841 (the Bill) provide that the proposed district would have the powers and duties of Chapter 54, Texas Water Code, applicable to municipal utility districts (MUDs), the powers and duties of road utility districts (RUDs), created pursuant to Article III, Section 52 and 52a of the Texas Constitution, plus numerous other powers specified in the act. Impact statements related to the district follow:

1) **Population Projections** - The Board's population projections for the City of Houston indicate an increase in the City's population ranging from 567,000 to 706,000 residents over the next 20 years. Although the creation of the district is predominately directed toward the businesses of the area, the future population of the City and surrounding suburban areas will have an impact on the area's current and future ability to provide continuing transportation and utility services that support economic development in the downtown area.

2) **District Finances** - The district may issue and sell bonds secured through ad valorem taxes, special assessments, impact fees, gifts, grants, and any other available revenues. A bond election is required to issue bonds that will be paid with ad valorem taxes, but not required for other bonds. All of the bonds must be approved by the City of Houston; however, only bonds issued to finance water, wastewater or drainage improvements require approval by the Commission.

3) **Board of Directors & Powers** - There are 30 directors who are appointed by the Commission and serve 4 year staggered terms. Specific positions on the board are designated for persons with experience in specific industries.

   In general the district has all the powers conferred by general law applicable to conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution, specifically Chapter 54 of the Texas Water Code. In addition, the district has the powers of road utility districts created pursuant to Article III, Section 52 of the Texas Constitution, including the power to levy ad valorem taxes for construction, maintenance, and operation of roads. This includes power to levy taxes for mass transit

systems, subject to the limitations in Article III, Sections 52 and 52-a.

Specifically, the proposed district could acquire land; construct, develop, own operate and maintain permanent improvements and provide services inside and outside its boundaries; use public streets and roads with consent of the city; relocate and alter the construction of any street, road, alley, railroad, electric lines, telephone telegraph and cable TV lines, pipelines and facilities, as necessary for district improvement projects.

The proposed district could undertake improvement projects which may include landscaping; lighting, banners and signs; streets; sidewalks, pedestrian skywalks, crosswalks and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and demolition in connection with any of the above; improvements similar to the above; acquisition of real property in connection with the above.

The proposed district could also provide for advertising; economic development; promoting the area of the district; health and sanitation, public safety, maintenance, security, business recruitment, development, recreation, and cultural enhancement, promotion of and assistance to disadvantaged businesses, elimination or relief of traffic congestion, and elimination of unemployment and underemployment.

4) **Effect on the Texas Water Development Board's water plan-** The proposed district receives water and wastewater service from the City of Houston, and City water and wastewater planning and implementation activities are consistent with State Water Plan objectives.

5) **Texas Water Commission's supervision** - under Section 5 of the Act, the Commission appoints directors to the board. Under Section 17 of the Act, the Commission approves bonds pursuant to Chapter 54, Texas Water Code, for bonds that finance water, sewer or drainage facilities. Section 17 also states that except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the Commission. It appears that the proposed District will not be required to submit reports and information that the Commission usually requires to be submitted by Chapter 54 districts.

The City of Houston will exercise some of the supervisory functions usually performed by the Commission. The proposed

district is required to receive approval by the City of Houston of all projects, plans and specifications, and bond issues.

6) **Eminent domain power** - The powers of eminent domain have been specifically exempted for this district.

7) **Exclusion of land from the district** - The District has the same provisions as a MUD pursuant to Chapter 54, Texas Water Code. At any time that the district does not have outstanding bonds, the directors can by its own motion call a hearing to exclude land, and must call a hearing to exclude land upon petition by landowner.

8) **Adequacy of boundary description** - The boundary description is along streets and existing landmarks and contains no metes and bounds description.

9) **Comment on powers and duties different from similar types of districts** - The primary purpose of most MUDs and RUDs is to provide water facilities and streets for new development outside of existing cities. In the case of the proposed District, Houston has already provided the infrastructure and will continue to provide basic municipal services normally provided by MUDs and RUDs.

The district's primary purpose is to revitalize the downtown Houston area pursuant to the purposes of Article III, Section 52-a of the Texas Constitution which include: development and diversification of the economy of the state, the elimination of unemployment or underemployment, the development or expansion of transportation or commerce. The District will attempt to promote economic development through provision of improved mass transit, pedestrian facilities, landscaping and other aesthetically oriented projects, and advertising and promotion of the area. The proposed district will be subject to less control by the Commission and more control by the City of Houston than MUDs under general law.

MUDs under general law require an election to confirm the creation of the district, however, the Bill as written requires no election to confirm creation of the proposed district. Both MUDS and RUDs under general law have 5 elected directors, while the proposed district has 30 appointed directors. The provisions that the proposed district cannot undertake any improvement projects until petitioned by owners of a majority of the land or value in the district, and the method of financing projects through special assessments are also different from general law districts.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 16, 1989

TO: Honorable Hugh Parmer, Chairman
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

In Re: House Bill No. 1446,
as engrossed
By: Martinez

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1446, as engrossed (relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, PA

71FHB1446ae

SENATE AMENDMENTS

2nd Printing

By Martinez, et al. H.B. No. 1446

A BILL TO BE ENTITLED

AN ACT

relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

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

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way

line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a

closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in

the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection (c) of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Dennis R. Hendrix;
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	Charles Miller;
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Gary W. Warwick;
Position No. 19	Leon Davis;
Position No. 20	James L. Ketelsen;
Position No. 21	Shelia Ruth Wheatley Clark;
Position No. 22	Monty Stone;
Position No. 23	Robert W. Gibbs, Jr.;
Position No. 24	William J. Schmitz;
Position No. 25	Mark M. Sacco;
Position No. 26	Manuel T. Pacheco;
Position No. 27	John Michael Solar;

Position No. 28 A. Martin Wickliff, Jr.;

Position No. 29 Nancy L. Lindsay;

Position No. 30 Joseph Sanchez.

(c) Of the initial directors, the directors appointed for positions 23 through 30 shall serve until June 1, 1993, the directors appointed for positions 16 through 22 shall serve until June 1, 1992, the directors appointed for positions 9 through 15 shall serve until June 1, 1991, and the directors appointed for positions 1 through 8 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district; or

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection.

(e) Except for directors appointed under Subsections (b) and (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations. If the mayor is not satisfied with the nominations submitted by the board, the board

shall submit additional nominations for consideration. Board members may serve successive terms. If for any reason this provision is found to be invalid the board shall be appointed by the Texas Water Commission. In the event the board is selected by the commission, the commission shall solicit suggestions from existing board members concerning persons who would be eligible to represent the various interests in the district before appointing subsequent directors. The mayor or the commission shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 12, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, 24, and 25--finance and insurance matters;

Positions 6, 11, 21, 26, 27, 28, and 29--matters relating to retail or the provision of services;

Positions 17 and 23--provision of utilities; and

Positions 16, 18, 19, 22, and 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director shall be filled by the remaining members of the board for the unexpired term.

(i) As soon as practicable after a director is appointed, he

shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of

the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory

practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

(7) "Mass transit" means transportation of passengers and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas. No mass transit system shall be financed by the district without approval of the city council of the city of Houston.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water

Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving

1 security for costs, and may appeal from a judgment without giving
2 supersedeas or cost bond.
3 (d) The district may incur liabilities, borrow money on
4 terms and conditions the board determines, and issue notes, bonds
5 or other obligations.
6 (e) The district may acquire by grant, purchase, gift,
7 devise, lease, or otherwise, and may hold, use, sell, lease, or
8 dispose of real and personal property, and licenses, patents,
9 rights, and interests necessary, convenient, or useful for the full
10 exercise of any of its powers pursuant to this Act.
11 (f) The district may acquire, construct, complete, develop,
12 own, operate, and maintain permanent improvements and provide
13 services inside and outside its boundaries. With the consent of
14 the city, the district is entitled to use the streets, alleys,
15 roads, highways, and other public ways and to relocate, raise,
16 reroute, change the grade of, and alter the construction of, any
17 street, alley, highway, road, railroad, electric lines and
18 facilities, telegraph and telephone properties and facilities,
19 pipelines and facilities, conduits and facilities, and other
20 property, whether publicly or privately owned, as necessary or
21 useful in the construction, reconstruction, repair, maintenance,
22 and operation of the system, or to have those things done at the
23 district's sole expense. The district may not proceed with any
24 action to change, alter, or damage the property or facilities of
25 the state, its municipal corporations, agencies, or political
26 subdivisions or of owners rendering public services, or that will
27 disrupt those services being provided by others, or to otherwise

inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the

sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for

its requirements or for the purpose of carrying out its power under this Act.

(l) The district may lease projects or any part of a project to, or contract for the use or operation of the projects or any part of a project by, any operator.

(m) The district may conduct hearings and take testimony and proof, under oath or affirmation, at public hearings, on any matter necessary to carry out the purposes of this Act.

(n) The district may procure and pay premiums to insurers for insurance of any type in amounts considered necessary or advisable by the board.

(o) The district may do any thing necessary, convenient, or desirable to carry out the powers expressly granted or implied by this Act.

(p) The responsibility for the management, operation, and control of the property belonging to the district is vested in the board.

(q) The board may:

(1) employ all persons, firms, partnerships, or corporations considered necessary by the board for the conduct of the affairs of the district, including a general manager, bookkeepers, auditors, engineers, attorneys, financial advisers, peace or traffic control officers, architects, and operating or management companies and prescribe the duties, tenure, and compensation of each;

(2) dismiss employees;

(3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of

Chapter 101, Civil Practice and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas;

fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services

and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the

current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the

required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may

provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political

subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park,

or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to

each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board, or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated

in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board.

Refunding bonds may be issued in amounts necessary to pay the principal of and interest and redemption premium, if any, on bonds to be refunded, at maturity or on any redemption date, and to provide for the payment of costs incurred in connection with the refunding. The refunding bonds shall be issued in the manner provided by this Act for other bonds.

(i) The district shall submit bonds and the appropriate proceedings authorizing their issuance to the attorney general for examination. If the bonds recite that they are secured by a pledge of assessments, impact fees, revenues, or rentals from a contract or lease, the district also shall submit to the attorney general a copy of the assessment procedures, impact fee procedures, contract, or lease and the proceedings relating to it. If the attorney general finds that the bonds have been authorized and any assessment, contract, or lease has been made in accordance with law, he shall approve the bonds and the assessment, impact fee, contract, or lease, and the bonds shall be registered by the comptroller of public accounts. After approval and registration, the bonds and any assessment, impact fee, contract, or lease relating to them are incontestable in any court or other forum for any reason and are valid and binding obligations for all purposes in accordance with their terms.

(j) District bonds are legal and authorized investments for banks, trust companies, savings and loan associations, insurance companies, fiduciaries, trustees, and guardians, and for all interest and sinking funds and other public funds of the state and agencies, subdivisions, and instrumentalities of the state,

including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without approval of the city council of the city of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be

established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the

purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

(c) The district shall attempt to stimulate the growth of disadvantaged businesses inside its boundaries by encouraging the full participation of disadvantaged businesses in all phases of its procurement activities and affording those disadvantaged businesses a full and fair opportunity to compete for district contracts. The district shall establish one or more programs designed to increase participation by disadvantaged businesses in public contract awards. Each program shall be structured to further remedial goals and shall be established to eradicate the effects of any prior discrimination. The board shall review each of its disadvantaged business programs on an annual basis to determine if each program is the most effective method for remedying historical discriminatory actions. The board's review shall determine whether statistically significant disparities exist between the disadvantaged businesses in the relevant market that are qualified to undertake district work and the percentage of total district funds that are awarded to disadvantaged businesses. A program established by the district under this section shall attempt to remedy any statistically significant disparities that are found to exist, and since a program is remedial in nature, it shall continue only until its purposes and objectives are met as determined by the regular periodic reviews.

(d) The provisions of this Act state the required procedures

necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(c) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose.

The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written

petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature

finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Amendment No._____ By_____

Amend H.B. 1446, by striking all below the enacting clause and substituting the following:

ADOPTED
MAY 26 1989
Secretary of the Senate

SECTION 1. CREATION; LEGISLATIVE DECLARATION. (a) There is created and established a special district, to be known as Houston Downtown Management District, that is a governmental agency, a body politic and corporate, and a political subdivision of the state.

(b) The name of the district may be changed by resolution of the board.

(c) The creation of the district is declared to be essential to the accomplishment of the purposes of Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and to the accomplishment of the other public purposes stated in this Act.

(d) The legislature finds, determines, and declares that the creation of the district is necessary to promote, develop, encourage, and maintain employment, commerce, economic development, and the public welfare in the downtown area of Houston and in the Houston metropolitan area. It is the legislature's intent that the creation of the district and this legislation not be interpreted to relieve the city of Houston from providing the present level of

services to the area included within the district or to release the city of Houston from the obligations it has to provide municipal service to that area. The district is created to supplement and not supplant the municipal services of the city.

SECTION 2. BOUNDARIES. The boundaries of the district are as follows: 705 acres, more or less, in the J. Austin Survey, Abstract 1, the J.S. Holman Survey, Abstract 323, the O. Smith Survey, Abstract 696, and the J. Wells Survey, Abstract 832, Harris County, Texas more particularly described as follows:

BEGINNING at the intersection of the center line of the right of way of Commerce Avenue with the center line of the right of way of Austin Street,

Thence in a southwesterly direction with the center line of the right of way of Austin street to the intersection with the center line of the right of way of Capitol Avenue,

Thence in a southeasterly direction with the center line of the right of way of Capitol Avenue to the intersection with the center line of the right of way of Chartres Street,

Thence in a southwesterly direction with the center line of the right of way of Chartres Street to the intersection with the center line of the right of way of Clay Avenue,

Thence in a northwesterly direction with the center line of the right of way of Clay Avenue to the intersection with the center line of the right of way of Caroline Street,

Thence in a southwesterly direction with the center line of the right of way of Caroline Street to the intersection with the center line of the right of way of Pierce Avenue,

Thence in a northwesterly direction with the center line of the right of way of Pierce Avenue to the intersection with the center line of the right of way Bagby Street,

Thence in a northeasterly direction with the center line of the right of way of Bagby Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of W. Dallas Street,

Thence in a westerly direction with the center line of the right of way of W. Dallas Street to the intersection with a southerly projection of the west line of the right of way of Heiner Street,

Thence in a northerly direction with the west line of the right of way of Heiner Street and southerly and northerly projections thereof to the intersection with the center line of the right of way of Allen Parkway,

Thence in an easterly direction with the center line of the right of way of Allen Parkway to the intersection with a southerly projection of the center line of the right of way of Sabine Street,

Thence in a northerly direction with a southerly projection of the center line of the right of way of Sabine Street and then with the center line of the right of way of Sabine Street to the intersection with the north right of way line of Memorial Drive,

Thence in an easterly direction with the north right of way

line of Memorial Drive to the intersection with the west right of way line of Interstate Highway 45,

Thence in a northeasterly direction with the west right of way line of Interstate Highway 45 to the intersection with the center line of the right of way of Franklin Avenue,

Thence in an easterly direction with the center line of the right of way of Franklin Avenue to the intersection with a southerly projection of the center line of the northbound ramp to Interstate Highway 10, a continuation of Louisiana Street,

Thence in a northerly direction with the center line of the right of way of the northbound ramp to Interstate Highway 10 and the southerly projection thereof, to the intersection with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way,

Thence in an easterly direction with the center line of the Southern Pacific Rail Road's "Main Passenger Line" right of way to the intersection with the center line of the right of way of North San Jacinto Street,

Thence in a southerly direction with the center line of the right of way of North San Jacinto Street to the intersection with the center line of the right of way of Commerce Avenue,

Thence in a southeasterly direction with the center line of the right of way of Commerce Avenue to The Point of Beginning, containing 705 acres, more or less, including, without limitation, all air space above and all subsurface below said property.

SECTION 3. FINDINGS RELATING TO BOUNDARIES. The legislature finds that the boundaries and field notes of the district form a

closure. If a mistake is made in the field notes or in copying the field notes in the legislative process, it in no way affects the organization, existence, and validity of the district, the right of the district to issue any type of bonds or refunding bonds for the purposes for which the district is created or to pay the principal of and interest on the bonds, or the right of the district to levy and collect assessments or taxes, or in any other manner affects the legality or operation of the district or its governing body.

SECTION 4. FINDING OF BENEFIT AND PUBLIC PURPOSE. (a) The legislature finds that all of the land and other property included within the boundaries of the district will be benefited by the works and projects that are to be accomplished and the services to be provided by the district under powers conferred by Article III, Section 52; Article XVI, Section 59; and Article III, Section 52-a, of the Texas Constitution, and other powers granted under this Act, and that the district is created to serve a public use and benefit.

(b) The legislature finds that the creation of the district is essential to further the public purposes of development and diversification of the economy of the state, the elimination of unemployment and underemployment and the development or expansion of transportation and commerce, is in the public interest, and that the district will promote the health, safety, and general welfare of residents, employers, employees, and consumers in the district, and the general public. The district will provide needed funding for the Houston downtown area to preserve, maintain, and enhance the economic health and vitality of the area as a community and business center. The present and prospective traffic congestion in

the district, the need for traffic control and the safety of pedestrians, and the limited availability of funds require the promotion and development of public transportation and pedestrian facilities and systems by new and alternative means, and the district will serve the public purpose of securing expanded and improved transportation and pedestrian facilities and systems. The public transportation and pedestrian facilities and systems promoted and developed by the district will be attractive, safe, and convenient, and will benefit not only the land and property in the district, but also the employees, employers, and consumers of the district and the general public. The district will further promote the health, safety, welfare, morals, convenience, and enjoyment of the public by landscaping and developing certain areas within the district, which are necessary for the restoration, preservation, and enhancement of scenic and aesthetic beauty. The district will not act as the agent or instrumentality of any private interests even though many private interests will be benefited by the district, as will the general public.

(c) This Act shall be liberally construed in conformity with the legislative findings and purposes stated in this Act.

SECTION 5. BOARD OF DIRECTORS. (a) The district is governed by a board of 30 directors who shall serve for staggered terms of four years.

(b) At the time this Act takes effect, the following persons shall constitute the initial board of the district for the terms indicated in Subsection [redacted] of this section:

Position No. 1	Richard D. Kinder;
Position No. 2	A. Robert Abboud;
Position No. 3	C. Richard Everett;
Position No. 4	Richard G. Knight;
Position No. 5	James L. Dunlap;
Position No. 6	Ulrich E. Porzig;
Position No. 7	William D. Stevens;
Position No. 8	John T. Cater;
Position No. 9	Marvin G. Marshall;
Position No. 10	Omar A. Sawaf;
Position No. 11	J. William Sharman, Jr.;
Position No. 12	Robert Gibbs, Jr.
Position No. 13	Robert F. Dunphy;
Position No. 14	Lee E. Straus;
Position No. 15	Gerald D. Hines;
Position No. 16	William S. Schmitz
Position No. 17	Lynn W. Zimmerman;
Position No. 18	Nancy Lindsay
Position No. 19	Manuel Pacheco
Position No. 20	James L. Ketelsen;

(c) In addition to the directors listed under Subsection (b) of this section, the member of the state house of representatives in whose district the district is located shall appoint three persons to serve on the board. The member of the state senate in whose district the district is located shall appoint seven persons to serve on the board. The member of the house of representatives, at the time he makes the appointments, shall designate the appointees to serve in positions number 21 - 23. The senator,at the time

he makes the appointments, shall designate the appointees to serve in positions number 24 - 30. If the district is located in more than one senate or house district this subsection applies only to the senator or representative in whose district a larger portion of the district is located than any other senate or house district, as applicable.

(d) Of the initial directors, the directors appointed for positions 16-20, 29, and 30 shall serve until June 1, 1993, the directors appointed for positions 11-15, 26, 27, and 28 shall serve until June 1, 1992, the directors appointed for positions 6-8, 23, 24, and 25 shall serve until June 1, 1991, and the directors appointed for positions 1 through 5, 21, and 22 shall serve until June 1, 1990.

(d) To be qualified to serve as a director, a person must be at least 18 years old and:

(1) a resident of the district;

(2) an owner of property in the district;

(3) an owner of stock, whether beneficial or otherwise, of a corporate owner of property in the district;

(4) an owner of a beneficial interest in a trust that owns property in the district;

(5) an agent, employee, or tenant of one of the persons covered by Subdivisions (2)-(4) of this subsection; or

(6) determined by the mayor to represent the interests of the downtown community.

(e) Except for directors appointed under Subsection (h) of this section, succeeding directors shall be selected as provided herein. The existing board of directors shall make nominations for persons to serve on the board in positions 1 - 20 and submit such recommendations to the mayor of the city of Houston. The mayor shall review the nominations, and shall appoint subsequent directors from the list of nominations submitted by the board. If the mayor is not satisfied with the nominations submitted by the board, the board shall submit additional nominations for consideration

The member of the house of representatives in whose district the larger part of the Houston Downtown Management District is located shall appoint succeedings directors for positions 21 - 23. The member of the state senate in whose senatorial district the larger part of the Houston Downtown Management District is located shall appoint succeeding directors for positions 24 - 30. Board members may serve successive terms.

The mayor, state representative or state senator, shall make appointments to the board so that the following places on the board will be occupied by persons with experience in the following areas:

Positions 1, 5, 7, 13, and 20--energy matters;

Positions 2, 8, and 14--commercial banking;

Positions 3, 9, and 15--real estate development;

Positions 4, 10, and 16--finance and insurance matters;

Positions 6, 11, 18 and 19--matters relating to retail or the provision of services;

Positions 17 and 12--provision of utilities; and

Positions 21 through 30--at-large.

(f) Except as provided by Subsection (h) of this section, a person appointed director shall serve a four-year term.

(g) The mayor may remove a director for misconduct or failure to carry out his duties upon petition by a majority of the remaining directors.

(h) A vacancy in the office of director in positions 1 - 20 shall be filled by the remaining members of the board for the unexpired term with the approval of the mayor. Vacancies in the office of director in positions 21 - 23 shall be filled by the member of the house of representatives in whose district the larger portion of the

Houston Downtown Improvement District is located. Vacancies in the office of director in positions 24 - 30 shall be filled by the senator in whose district the larger portion of the Houston Downtown Improvement District is located.

(i) As soon as practicable after a director is appointed, he shall execute a bond for $10,000 payable to the district and conditioned on the faithful performance of his duties. Each director's bond must be approved by the board, and each director shall take the oath of office prescribed by the constitution for public officers. The bond and oath shall be filed with the district and retained in its records.

(j) After the directors are appointed and have qualified by executing a bond and taking the proper oath, they shall organize by electing a president, a vice-president, a secretary, and any other officers as in the judgment of the board are considered necessary.

(k) A position on the board may not be construed to be a civil office of emolument for any purpose, including those purposes described by Article XVI, Section 40, of the Texas Constitution.

(l) A director is not entitled to compensation for his position on the board but is entitled to be reimbursed for necessary expenses incurred in carrying out the duties and responsibilities of a director.

(m) Fifteen directors constitute a quorum for the consideration of matters relating to the district and a concurrence of a majority of a quorum of directors is required for any official action of the district. In addition, written consent of at least 20 directors is required to authorize the levy of assessments, the levy of taxes, the imposition of impact fees, or the issuance of bonds.

(n) A person who qualifies to serve on the board under Subsection (d) of this section shall be qualified to serve as a director and participate in all votes pertaining to the business of

practices or similar insidious circumstances over which they have no control; or

(B) a sole proprietorship for the purpose of making a profit that is 100 percent owned, operated, and controlled by one or more persons described by Paragraph (A) of this subdivision; or

(C) a partnership for the purpose of making a profit in which 51 percent of the assets and interest in the partnership must be owned by one or more persons described by Paragraph (A) of this subdivision, and minority or women partners must have a proportionate interest in the control, operation, and management of the partnership affairs; or

(D) a joint venture between minority and women's group members for the purpose of making a profit in which the minority participation is based on the sharing of real economic interest and must include equally proportionate control over management, interest in capital, and interest earnings. If majority group members own or control debt securities, leasehold interest, management contracts, or other interests, the joint venture shall not be designated a disadvantaged business; or

(E) a supplier contract between persons described in Paragraph (A) of this subdivision and a prime contractor in which the disadvantaged business is directly involved for the manufacture or distribution of the supplies or materials or otherwise for warehousing and shipping the supplies.

(6) "District" means the Houston Downtown Management District.

the district regardless of any statutory provision to the contrary. A director who has a beneficial interest in a business entity that will receive a pecuniary benefit from an action of the board may participate in discussion and vote on that action if a majority of the board has a similar interest in the same action or if all other similar business entities in the district will receive a similar pecuniary benefit. An employee of a public entity may serve on the board of directors of the district, but that public employee may not participate in the discussion of or vote on any matter regarding assessments on or contracts with the public entity of which the director is an employee.

SECTION 6. DEFINITIONS. In this Act:

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

(2) "Bonds" means any type of interest-bearing obligation, including, without limitation, a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness.

(3) "City" means the city of Houston.

(4) "Commission" means the Texas Water Commission.

(5) "Disadvantaged business" means:

(A) a corporation formed for the purpose of making a profit of which at least 51 percent of all classes of the shares of stock or other equitable securities are owned by one or more persons who are socially disadvantaged because of their identification as members of certain groups, that may include black Americans, Hispanic Americans, women, Asian Pacific Americans, and American Indians, that have suffered the effects of discriminatory

(7) "Mass transit" means transportation of passengers and hand-carried packages and/or baggage of those passengers by means of motorbus, trolley, coach, street railway, rail, suspended overhead rail, elevated railway, subway, people mover, automobile, or any other surface, overhead, or underground transportation or any combination of the foregoing, and includes stations or terminals and public parking facilities, and facilities incidental to or related to any of the foregoing, including commercial or shopping areas. No mass transit system shall be financed by the district without approval of the city council of the city of Houston.

(8) "System" means all real and personal property owned or held by the district for mass transit purposes, including land, interests in land, buildings, structures, rights-of-way, easements, franchises, rail lines, bus lines, stations, platforms, terminals, rolling stock, garages, shops, equipment, and facilities including vehicle parking areas and facilities, and other facilities necessary or convenient for the beneficial use and access of persons and vehicles to stations, terminals, yards, cars, and buses, control houses, signals and land, facilities, and equipment for the protection and environmental enhancement of all such facilities.

SECTION 7. GENERAL POWERS. (a) The district has all of the rights, powers, privileges, authority, and functions conferred by the general law of this state applicable to conservation and reclamation districts created under Article XVI, Section 59, of the Texas Constitution, including those conferred by Chapter 54, Water.

Code. The district may contract and manage its affairs and funds for any corporate purpose in accordance with Chapter 54, Water Code. In addition, the district has all the rights, powers, privileges, authority, and functions of road districts and road utility districts created pursuant to Article III, Section 52, of the Texas Constitution, including the power to levy ad valorem taxes for the construction, maintenance, and operation of macadamized, graveled, or paved roads and turnpikes, or in aid thereof. This power includes the power to levy ad valorem taxes to provide for mass transit systems in the manner and subject to the limitations provided in Article III, Section 52, and Article III, Section 52-a, of the Texas Constitution. The district also has those powers conferred by Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes), together with the additional rights, privileges, authority, and functions contained in that Act.

(b) If any provision of the general law is in conflict or inconsistent with this Act, this Act prevails. Any general law not in conflict or inconsistent with this Act is adopted and incorporated by reference.

SECTION 8. SPECIFIC POWERS. (a) The district shall have all the powers necessary or convenient to carry out and effect the purposes and provisions of this Act, including the powers granted in this section.

(b) The district has perpetual succession.

(c) The district may sue and be sued in courts of competent jurisdiction, may institute and prosecute suits without giving

1 security for costs, and may appeal from a judgment without giving
2 supersedeas or cost bond.
3 (d) The district may incur liabilities, borrow money on
4 terms and conditions the board determines, and issue notes, bonds
5 or other obligations.
6 (e) The district may acquire by grant, purchase, gift,
7 devise, lease, or otherwise, and may hold, use, sell, lease, or
8 dispose of real and personal property, and licenses, patents,
9 rights, and interests necessary, convenient, or useful for the full
10 exercise of any of its powers pursuant to this Act.
11 (f) The district may acquire, construct, complete, develop,
12 own, operate, and maintain permanent improvements and provide
13 services inside and outside its boundaries. With the consent of
14 the city, the district is entitled to use the streets, alleys,
15 roads, highways, and other public ways and to relocate, raise,
16 reroute, change the grade of, and alter the construction of, any
17 street, alley, highway, road, railroad, electric lines and
18 facilities, telegraph and telephone properties and facilities,
19 pipelines and facilities, conduits and facilities, and other
20 property, whether publicly or privately owned, as necessary or
21 useful in the construction, reconstruction, repair, maintenance,
22 and operation of the system, or to have those things done at the
23 district's sole expense. The district may not proceed with any
24 action to change, alter, or damage the property or facilities of
25 the state, its municipal corporations, agencies, or political
26 subdivisions or of owners rendering public services, or that will
27 disrupt those services being provided by others, or to otherwise

inconvenience the owners of that property or those facilities, without having first obtained the written consent of those owners. If the owners of the property or facilities desire to handle the relocation, raising, change in the grade of, or alteration in the construction of the property or facilities with their own personnel, or have the work done by contractors of their own choosing, the district may enter agreements with the owners providing for the necessary relocations, changes, or alterations of the property or facilities by the owners or contractors and the reimbursement by the district to those owners of the costs incurred by the owners in making those relocations, changes, or alterations or having them accomplished by contractors.

(g) If the district, in exercising any of the powers conferred by this Act, requires the relocation, adjustment, raising, lowering, rerouting, or changing the grade of, or altering the construction of any street, alley, highway, overpass, underpass, or road, any railroad tract, bridge, or other facilities or property, any electric lines, conduits, or other facilities or property, any telephone or telegraph lines, conduits, or other facilities or property, any gas transmission or distribution pipes, pipelines, mains, or other facilities or property, any water, sanitary sewer or storm sewer pipes, pipelines, mains, or other facilities, or property, any cable television lines, cables, conduits, or other facilities or property, or any other pipelines and any facilities or properties relating to those pipelines, those relocations, adjustments, raising, lowering, rerouting, or changing of grade, or altering of construction must be accomplished at the

sole cost and expense of the district, and damages that are suffered by the owners of the property or facilities shall be borne by the district.

(h) The district may enter into agreements with a person or entity, public or private, for the joint use of their respective facilities, installations, and property.

(i) The district may establish and maintain reasonable and nondiscriminatory rates, fares, tolls, charges, rents, or other fees or compensation for the use of the improvements constructed, operated, or maintained by the district.

(j) The district may enter contracts, leases, and agreements with, and accept grants and loans from, the United States and its departments and agencies, the state and its agencies, counties, municipalities, and political subdivisions, public or private corporations, including a nonprofit corporation created under a resolution of the board, and other persons, and may perform all acts necessary for the full exercise of the powers vested in it on terms and conditions and for the term the board may determine to be advisable. The district may acquire property under conditional sales contracts, leases, equipment trust certificates, or any other form of contract or trust agreement.

~~A member of the state legislature or an officer of a county or municipal government located in whole or in part in the district may not be a party to or be an officer or employee of, affiliated with, or own stock or any other interest in a business that enters into a contract, lease, or agreement with the district to provide equipment, products, or services to the district.~~

(k) The district may sell, lease, convey, or otherwise dispose of any of its rights, interests, or property that are not needed for, or, in the case of leases, that are not inconsistent with, the efficient operation and maintenance of the district's improvements. The district may sell, lease, or otherwise dispose of any surplus material or personal or real property not needed for

1 its requirements or for the purpose of carrying out its power under
2 this Act.
3 (l) The district may lease projects or any part of a project
4 to, or contract for the use or operation of the projects or any
5 part of a project by, any operator.
6 (m) The district may conduct hearings and take testimony and
7 proof, under oath or affirmation, at public hearings, on any matter
8 necessary to carry out the purposes of this Act.
9 (n) The district may procure and pay premiums to insurers
10 for insurance of any type in amounts considered necessary or
11 advisable by the board.
12 (o) The district may do any thing necessary, convenient, or
13 desirable to carry out the powers expressly granted or implied by
14 this Act.
15 (p) The responsibility for the management, operation, and
16 control of the property belonging to the district is vested in the
17 board.
18 (q) The board may:
19 (1) employ all persons, firms, partnerships, or
20 corporations considered necessary by the board for the conduct of
21 the affairs of the district, including a general manager,
22 bookkeepers, auditors, engineers, attorneys, financial advisers,
23 peace or traffic control officers, architects, and operating or
24 management companies and prescribe the duties, tenure, and
25 compensation of each;
26 (2) dismiss employees;
27 (3) adopt a seal for the district;

(4) invest funds of the district in any investments authorized by the Public Funds Investment Act of 1987 (Article 842a-2, Vernon's Texas Civil Statutes), and provide, by resolution, that an authorized representative manage the district's funds and invest and reinvest the funds of the district on terms the board considers advisable;

(5) establish a fiscal year for the district;

(6) establish a complete system of accounts for the district and each year shall have prepared an audit of the district's affairs, which shall be open to public inspection, by an independent certified public accountant or a firm of independent certified public accountants; and

(7) designate one or more banks to serve as the depository bank or banks.

(r) Funds of the district shall be deposited in the depository bank or banks unless otherwise required by orders or resolutions authorizing the issuance of the district's bonds or notes. To the extent that funds in the depository bank or banks are not insured by the Federal Deposit Insurance Corporation, they must be secured in the manner provided by law for the security of funds of counties. The board, by resolution, may authorize a designated representative to supervise the substitution of securities pledged to secure the district's funds.

(s) The board may adopt and enforce reasonable rules and regulations governing the administration of the district and its programs and projects.

(t) The district is a "unit of government" for purposes of

Chapter [illegible] and Remedies Code (Texas Tort Claims Act), and operations of the district are considered to be essential governmental functions and not proprietary functions for all purposes, including the application of the Texas Tort Claims Act.

(u) The district may not exercise the power of eminent domain.

(v) The district may not invest its funds under Section 8(q)(4) of this Act in, or purchase obligations of a private corporation or other private business entity doing business in the Republic of South Africa unless the corporation or other entity:

(1) has adopted the Statement of Principles for South Africa as they existed in 1987, as described in the Report on the Signatory Companies to the Statement of Principles for South Africa published by Arthur D. Little, Inc., Cambridge, Massachusetts, and has obtained a performance rating in Category I of the Statement of Principles for South Africa rating system as determined by Arthur D. Little, Inc.;

(2) does not supply strategic products or services for use by the government, military, or police of the Republic of South Africa; and

(3) recognizes the right of all employees who are residents of the Republic of South Africa to organize and strike in support of economic or social objectives, free from the fear of dismissal or blacklisting.

(w) For the purposes of Subsection (v) of this section:

(1) "Doing business in the Republic of South Africa" means conducting or performing manufacturing, assembly, or warehousing operations within the Republic of South Africa or, if a bank or other financial institution, lending money to the government of the Republic of South Africa or any of its agencies or instrumentalities.

(2) "Strategic products or services" means articles designated as arms, ammunition, or implements of war as provided by 22 Code of Federal Regulations Part 121, or data processing equipment or computers sold for military or police use or for use in connection with restrictions on travel within the Republic of South Africa by residents of that country.

SECTION 9. POWERS AND DUTIES RELATING TO ASSESSMENTS. (a) In addition to the powers provided by Sections 7 and 8 of this Act, the board may undertake improvement projects and/or services that confer a special benefit on all or a definable part of the district. The board may levy and collect special assessments on property in that area, based on the benefit conferred by the improvement project or services, to pay all or part of the cost of the project and/or services. If the board determines that there is a benefit to the district, the district may provide improvements and/or services to an area outside the boundaries of the district. Each improvement project or service authorized by this Act is found and declared to carry out a public purpose.

(b) An improvement project or services provided by the district may include the construction, acquisition, improvement, relocation, operation, maintenance, or provision of:

(1) landscaping; lighting, banners, and signs; streets and/or sidewalks; pedestrian skywalks, crosswalks, and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer, and/or power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and/or recreation and scenic areas; historic areas;

fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and the cost of any demolition in connection with providing any of the improvement projects;

(2) other improvements similar to those described in Subdivision (1) of this subsection;

(3) the acquisition of real property or any interest in real property in connection with an improvement, project, or services authorized by this Act, Chapter 54, Water Code, or Chapter 13, Acts of the 68th Legislature, 2nd Called Session, 1984 (Article 6674r-1, Vernon's Texas Civil Statutes);

(4) special supplemental services for advertising, economic development, promoting the area in the district, health and sanitation, public safety, maintenance, security, business recruitment, development, elimination or relief of traffic congestion, recreation, and cultural enhancement; and

(5) expenses incurred in the establishment, administration, maintenance, and operation of the district or any of its improvements, projects, or services.

(c) An improvement project on two or more streets or two or more types of improvements may be included in one proceeding and financed as one improvement project.

(d) Services or improvement projects may be financed under this Act after hearing notice given as required by this section and a public hearing by the board on the advisability of the improvements and/or services and the proposed assessments.

(e) The board of the district may not finance services

and/or improvement projects under this Act unless a written petition has been filed with the board requesting those improvements or services signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, and utility rights-of-way, other public areas and any other property exempt from assessment pursuant to Subsection (n) or (o) of this section, based on the most recent certified county property tax rolls.

(f) Notice of the hearing shall be given in a newspaper with general circulation in the county in which the district is located. The final publication must be made not later than the 30th day before the date of the hearing. The notice shall include the following information:

(1) the time and place of the hearing;

(2) the general nature of the proposed improvement project or services;

(3) the estimated cost of the improvement that may include interest during construction and associated financing costs; and

(4) the proposed method of assessment.

(g) Written notice containing the information required by Subsection (f) of this section shall be mailed by certified mail, return receipt requested, not later than the 30th day before the date of the hearing. The notice shall be mailed to each property owner in the district who will be subject to assessment at the

current address of the property to be assessed as reflected on the tax rolls.

(h) The board may appoint a hearings examiner to conduct the hearing, or any other hearing called by the board including a hearing required by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes), who may be an employee of the district or a member of the district's board. The hearing shall be conducted in accordance with the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes).

(i) The hearing on the services and/or improvement project, whether conducted by the board or a hearings examiner, may be adjourned from time to time. At the conclusion of the hearing, the board shall make findings by resolution or order relating to the advisability of the improvement project and/or services, the nature of the improvement project and/or services, the estimated cost, the area benefited, the method of assessment, and the method and time for payment of the assessment. If a hearings examiner is appointed to conduct the hearing, after conclusion of the hearing, the hearings examiner shall file with the board a report stating his findings and conclusions.

(j) The area of the district to be assessed according to the findings of the board may be the entire district or any part of the district and may be less than the area proposed in the notice of the hearing, but the area to be assessed may not include property that is not within the district boundaries at the time of the hearing unless there is an additional hearing, preceded by the

required notice. However, the owner of improvements constructed or land annexed to the district after the district has imposed assessments may waive the right to notice and an assessment hearing and may agree to the imposition and payment of assessments at an agreed rate for improvements constructed or land annexed to the district.

(k) At the hearing on proposed assessments, at any adjournment of the hearing, or after consideration of the hearings examiner's report, the board shall hear and rule on all objections to each proposed assessment. The board may amend proposed assessments for any parcel. After all objections have been heard and action has been taken with regard to those objections, the board, by order or resolution, shall levy the assessments as special assessments on the property, and shall specify the method of payment of the assessments and may provide that those assessments be paid in periodic installments, including interest. A person against whom an assessment is imposed under the board's order may appeal that assessment to a district court in the county in which the district is located in the manner provided for appeal under the Administrative Procedure and Texas Register Act (Article 6252-13a, Vernon's Texas Civil Statutes). The review by the district court under this section is by trial de novo as that term is used in the appeal of cases from justice court to county court. Periodic installments shall meet annual costs for services and improvements as provided by Subsection (l) of this section and shall continue for the number of years required to retire indebtedness or pay for the services to be rendered. The board may

provide interest charges or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. If assessments are levied for more than one service and/or improvement project, the board may provide that assessments collected for one service and/or improvement project may be borrowed to be used for another service and/or improvement project. The board shall establish a procedure for the distribution or use of assessments, if any, in excess of those needed to finance the services or improvement project for which those assessments were collected.

(l) The portion of the cost of an improvement project and/or services to be assessed against the property in the district shall be apportioned by the board based on the special benefits accruing to the property because of the improvement project and/or services. The cost may be assessed:

(1) equally per front foot or per square foot of land area against all property in the district;

(2) against property according to the value of the property as determined by the board, with or without regard to structures or other improvements on the property; or

(3) on the basis of any other reasonable assessment plan that results in imposing fair and equitable shares of the cost on property similarly benefited.

(m) Payment of assessments by cities, counties, political subdivisions, and organizations exempt from federal income tax under Section 501(c)(3), Internal Revenue Code of 1986, if any, shall be established by contract. Cities, counties, and political

subdivisions may contract with the district under terms and conditions as those entities consider advisable to provide for the payment of assessments.

(n) Property that comprises three or more acres, separated only by streets or public rights-of-way, that was used primarily for recreational, park, or scenic use during the immediately preceding calendar year, and on which money has been spent for landscaping at any time in an amount that is equal to the lesser of five years of proposed district assessments on the property or the proposed amount of the district's assessments on the property pursuant to a plan of assessment adopted by the board is exempt from assessment by the district, except with consent of the owner of the property. Property is exempt from assessment by the district pursuant to this section during the period that the property is used primarily for recreational, park, or scenic use in accordance with this section. The fact that property is exempt from assessment by the district may not be construed to be an express or implied dedication of the property to the public for recreational, park, scenic, or other public use or constitute evidence of an intent by the owner of the property to make or offer to make that type of dedication, and does not affect the status of the property as private property. If the district levies ad valorem taxes, property that qualifies for an exemption from assessment pursuant to this section must be taxed by the district at its appraised value for recreational, park, or scenic use determined in accordance with Subchapter F, Chapter 23, Tax Code. For the purposes of this subsection, the term "recreational, park,

or scenic use" has the meaning set forth in Subchapter F, Chapter 23, Tax Code.

(o) The board may exempt residential property from all or a part of the assessments levied on that property or determine that residential property will not be benefited by the proposed improvement project or services. Single family detached residential property in the district is exempt from assessment under this Act.

(p) If the total cost of an improvement project and/or services is determined, the board shall levy the assessments against each parcel of land against which an assessment may be levied in the district. With regard to an assessment for services, the board may levy an annual assessment that may be lower but not higher than the initial assessment. The board shall have an assessment roll prepared showing the assessments against each property and the board's basis for the assessment. The assessment roll shall be filed with the secretary of the board or other officer who performs the function of secretary and be open for public inspection.

(q) Assessments bear interest at a rate specified by the board that may not exceed the interest rate permitted by Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes). Interest on an assessment between the effective date of the order or resolution levying the assessment and the date the first installment and any related penalty is payable shall be added to the first installment. The interest or penalties on all unpaid installments shall be added to

each subsequent installment until paid. An assessment or any reassessment and any interest and penalties on that assessment or reassessment is a lien against the property until it is paid. The owner of any property assessed may pay at any time the entire assessment against any lot or parcel with accrued interest to the date of the payment.

(r) After notice and hearing in the manner required for original assessments, the board may make supplemental assessments to correct omissions or mistakes in the assessment relating to the total cost of the improvement project and/or services or to cover delinquencies or costs of collection.

(s) After determination of an assessment, a property owner may appeal the assessment to the board. The property owner must file a notice of appeal with the board not later than the 30th day after the date that the assessment is adopted. The board shall set a date to hear the appeal. The property owner may appeal the board's decision on the assessment to a court of competent jurisdiction. The property owner must file notice of the appeal with the court of competent jurisdiction not later than the 30th day after the date of the board's final decision with respect to the assessment. Failure to file either of the notices in the time required by this subsection results in a loss of the right to appeal the assessment.

(t) If an assessment against a parcel of land is set aside by a court of competent jurisdiction, found excessive by the board or determined to be invalid by the board, the board may make a reassessment or new assessment of the parcel.

#(v)

On an annual basis, the board shall hold a public hearing to discuss the services and/or improvements that the district is currently providing or proposes to provide, and to receive comments and information from the public about any services and/or improvements the public feels are needed in the district. Notice of the hearing shall be published in a newspaper of general circulation in the county in which the district is which the district is located no later than the 30th day before the date of the hearing. At the conclusion of the hearing the district shall prepare a written report of the hearing and shall file such report with the city and with the presiding officers of each house of the legislature.

SECTION 10. FUNDS AVAILABLE FOR PAYMENT OF PROJECTS AND SERVICES. (a) The cost of any improvement project and/or services, including interest during construction and costs of issuance of bonds, may be paid from general or available funds, assessments, or the proceeds of bonds payable from taxes, revenues, assessments, impact fees, grants, gifts, contracts, leases, or any combination of those funds.

(b) During the progress of an improvement project or services, the board may issue temporary notes to pay the costs of the improvement project and/or services and issue bonds on completion.

(c) The costs of more than one improvement project and/or service may be paid from a single issue and sale of bonds without other consolidation proceedings before the bond issue.

SECTION 11. BONDS. (a) For the payment of all or part of the costs of an improvement project or services, the board may issue bonds in one or more series payable from and secured by ad valorem taxes, assessments, impact fees, revenues, grants, gifts, contracts, leases, or any combination of those funds. Bonds may be liens on all or part of the revenue derived from improvements authorized under this Act, including installment payments of special assessments or from any other source pledged to their payment.

(b) Bonds may be issued to mature serially or otherwise not more than 40 years from their date of issue. Provision may be made for the subsequent issuance of additional parity bonds or subordinate lien bonds under terms or conditions that may be stated

in the order or resolution authorizing the issuance of the bonds.

(c) The bonds are negotiable instruments within the meaning and for purposes of the Business & Commerce Code. The bonds may be issued registrable as to principal alone or as to both principal and interest, shall be executed, may be made redeemable before maturity, may be issued in the form, denominations, and manner, and under the terms, conditions, and details, may be sold in the manner, at the price, and under the terms, and shall bear interest at the rates, determined and provided in the order or resolution authorizing the issuance of the bonds. Bonds may bear interest and may be issued in accordance with Chapter 503, Acts of the 54th Legislature, Regular Session, 1955 (Article 717k, Vernon's Texas Civil Statutes), Chapter 3, Acts of the 61st Legislature, Regular Session, 1969 (Article 717k-2, Vernon's Texas Civil Statutes), the Bond Procedures Act of 1981 (Article 717k-6, Vernon's Texas Civil Statutes), and Chapter 656, Acts of the 68th Legislature, Regular Session, 1983 (Article 717q, Vernon's Texas Civil Statutes).

(d) If provided by the bond order or resolution, the proceeds from the sale of bonds may be used to pay interest on the bonds during and after the period of the acquisition or construction of any improvement project to be provided through the issuance of the bonds, to administrative and operation expenses to create a reserve fund for the payment of the principal of and interest on the bonds, and to create any other funds. The proceeds of the bonds may be placed on time deposit or invested, until needed, in securities in the manner provided by the bond order or resolution.

(e) The board may pledge all or part of the income or assessments from improvement projects financed under this Act or from any other source, to the payment of the bonds, including the payment of principal, interest, and any other amounts required or permitted in connection with the bonds. The pledged income shall be set and collected in amounts that will be at least sufficient, together with any other pledged resources, to provide for all payments of principal, interest, and any other amounts required in connection with the bonds, and, to the extent required by the order or resolution authorizing the issuance of the bonds, to provide for the payment of expenses in connection with the bonds, and to pay operation, maintenance, and other expenses in connection with the improvement projects authorized under this Act.

(f) Bonds may be additionally secured by a mortgage or deed of trust on real property relating to the facilities authorized under this Act owned or to be acquired by the district and by chattel mortgages, liens, or security interests on personal property appurtenant to that real property. The board may authorize the execution of trust indentures, mortgages, deeds of trust, or other forms of encumbrance to evidence the indebtedness.

(g) The board may pledge to the payment of the bonds all or any part of any grant, donation, revenues, or income received or to be received from the United States government or any other public or private source.

(h) Bonds issued pursuant to this Act may be refunded or otherwise refinanced by the issuance of refunding bonds under terms or conditions determined by order or resolution of the board.

1 Refunding bonds may be issued in amounts necessary to pay the
2 principal of and interest and redemption premium, if any, on bonds
3 to be refunded, at maturity or on any redemption date, and to
4 provide for the payment of costs incurred in connection with the
5 refunding. The refunding bonds shall be issued in the manner
6 provided by this Act for other bonds.

7 (i) The district shall submit bonds and the appropriate
8 proceedings authorizing their issuance to the attorney general for
9 examination. If the bonds recite that they are secured by a pledge
10 of assessments, impact fees, revenues, or rentals from a contract
11 or lease, the district also shall submit to the attorney general a
12 copy of the assessment procedures, impact fee procedures, contract,
13 or lease and the proceedings relating to it. If the attorney
14 general finds that the bonds have been authorized and any
15 assessment, contract, or lease has been made in accordance with
16 law, he shall approve the bonds and the assessment, impact fee,
17 contract, or lease, and the bonds shall be registered by the
18 comptroller of public accounts. After approval and registration,
19 the bonds and any assessment, impact fee, contract, or lease
20 relating to them are incontestable in any court or other forum for
21 any reason and are valid and binding obligations for all purposes
22 in accordance with their terms.

23 (j) District bonds are legal and authorized investments for
24 banks, trust companies, savings and loan associations, insurance
25 companies, fiduciaries, trustees, and guardians, and for all
26 interest and sinking funds and other public funds of the state and
27 agencies, subdivisions, and instrumentalities of the state,

including counties, cities, towns, villages, school districts, and other kinds and types of districts, public agencies, and bodies politic. The bonds also are eligible and lawful security for deposits of counties, cities, towns, villages, school districts, and all other kinds and types of districts, public agencies, and bodies politic, to the extent of the market value of the bonds, when accompanied by any unmatured interest coupons appurtenant to the bonds.

SECTION 12. IMPOSITION OF IMPACT FEES. The board may impose impact fees to pay for the cost of providing improvements that the district is authorized to provide pursuant to this Act, including mass transit systems. However, impact fees for mass transit systems may not be imposed without approval of the city council of the city of Houston. The board may provide for impact fees to be paid in periodic installments and may include an interest charge from the date the impact fees are imposed to the date the impact fees are paid. The board may provide interest charges and/or penalties for failure to make timely payment and also may levy an amount to cover delinquencies and expenses of collection. Impact fees shall be adopted pursuant to the procedures provided by Chapter 957, Acts of the 70th Legislature, Regular Session, 1987 (Article 1269j-4.11, Vernon's Texas Civil Statutes). A municipality, county, or political subdivision is exempt from impact fees imposed by the district unless the municipality, county, or political subdivision consents to payment of the fees by official act of its governing body. Payment of impact fees, if any, by a municipality, county, or political subdivision must be

established by contract. A municipality, county, or political subdivision may contract with the district under terms and conditions the governmental entity considers advisable to provide for payment of impact fees.

SECTION 13. COMPETITIVE BIDDING ON CERTAIN PUBLIC WORKS CONTRACTS. (a) Contracts for more than $10,000 for the construction of improvements or the purchase of material, machinery, equipment, supplies, and other property, except real property, shall be entered only after competitive bids. Notice of the contract for the purpose of soliciting bids shall be published once a week for two consecutive weeks in a newspaper with general circulation in the area in which the district is located. The first publication of notice must be not later than the 15th day before the date set for receiving bids. The board may adopt rules governing receipt of bids and the award of the contract and providing for the waiver of the competitive bid requirement in the event of emergency, in the event the needed materials are available from only one source, in the event that in a procurement requiring design by the supplier competitive bidding would not be appropriate and competitive negotiation, with proposals solicited from an adequate number of qualified sources, would permit reasonable competition consistent with the nature and requirements of the procurement, or in the event that, after solicitation, it is ascertained that there will be only one bidder. This subsection does not apply to contracts for services.

(b) If the estimated amount of a proposed contract for works, plant improvements, facilities other than land, or the

purchase of equipment, appliances, materials, or supplies is more than $5,000 but less than $25,000, or for a duration of more than two years, competitive bids shall be asked from at least three persons.

~~(c) It is the goal of the Legislature, subject to the constitutional requirements spelled out by the United States Supreme Court in Richmond v. J. A. Croson Company and as hereafter further elaborated by federal and state courts, that all disadvantaged businesses in the district designated under Section 3[illegible] 6, subsection (5) be given full and complete access to the procurement process whereby supplies, materials, services and equipment are acquired by the board. It is also an intent of the Legislature that to the extent constitutionally permissible, a preference be given to disadvantaged businesses. The board and general contractor shall give preference among bids or other proposals that are otherwise comparable, to a bid or other proposal by a disadvantaged business having its home office located in this state.~~

~~(d) It is the intent of the Legislature that the district shall:~~

~~(1) implement a program or programs targeted to disadvantaged businesses in order to inform them fully about the district procurement process and the requirements for their participation in that process;~~

(2) implement such steps as are necessary to insure that all disadvantaged businesses are made fully aware of opportunities in the district, including, but not limited to, specific opportunities to submit bids and proposals. Steps that may be appropriate in certain circumstances include mailing requests for proposals or notices inviting bids to all disadvantaged businesses in the county;

(3) require prime contractors, as part of their responses to requests for proposals or bids, to make a specific showing of how they intend to maximize participation by disadvantaged businesses as subcontractors. The district shall be required to evaluate such actions by prime contractors as a factor in the award of contracts within the district procurement process;

(4) identify disadvantaged businesses in the county that provide or have the potential to provide supplies, materials, services and equipment to the district; and

(5) identify barriers to participation by disadvantaged businesses in the district procurement process, such as bonding, insurance and working capital requirements that may be imposed on businesses.

(e) It is the intent of the Legislature that the district shall be required to develop a program pursuant to this Act for the purchase of supplies, materials, services, and equipment and that the board of the district compile a report on an annual basis listing the total number and dollar amount of contracts awarded to disadvantaged businesses during the previous year as well as the total number and dollar amount of all contracts awarded. Such annual report shall be available for inspection by the general public during regular business hours.

(f) The provisions of this Act state the required procedures

necessary for the district to award contracts and supercede any law or other requirement with respect to award of contracts.

SECTION 14. CITY APPROVAL. The district must obtain the approval of the city council for bond issues for an improvement project and the plans and specifications of an improvement project financed by the bond issue. The district may obtain approval from the city council of the city of a capital improvements budget, for a period not to exceed five years. If the district obtains approval of a capital improvements budget, it may finance the capital improvements and issue bonds specified in the budget without further approval from the city, the city's directors of public works, or the department of planning. However, the city's directors of public works and department of planning must approve the plans and specifications of any improvement project financed by the issuance of bonds. The district must obtain approval from the city's city council, the city's director of public works, and the city's department of planning of the plans and specifications of any improvement project that involves the use of the rights-of-way of streets, roads, or highways or the use of municipal land or any easements granted by the city. The city shall never be obligated to pay any bonds, notes, or other obligations of the district, except as provided by Section 20(c) of this Act.

SECTION 15. EXCLUDING TERRITORY. (a) At any time during which the district has no outstanding bonds, the board on its own motion may call a hearing on the question of the exclusion of land from the district in the manner provided by Chapter 54, Water Code, if the exclusions are practicable, just, or desirable.

(b) The board must call a hearing on the exclusion of land or other property from the district on the written petition of a landowner or property owner in the district filed with the secretary of the board before the issuance of bonds.

SECTION 16. ELECTIONS. (a) A bond election, maintenance tax election, and any other election held in the district may be held at the same time and in conjunction with any other election.

(b) Elections held in the district are not required to be held on a uniform election date specified in Section 41.001, Election Code, and an election shall be called and held as provided by the appropriate provisions of Chapter 54, Water Code.

(c) The board may call an election for the purpose of voting on any measure.

(d) The board may not call a bond election unless a written petition requesting an election signed by the owners of 50 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls at the time or the owners of 50 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act based on the most recent certified county property tax rolls, has been filed with the board.

(e) Bonds payable in whole or in part from taxes or assessments may not be issued unless approved by a majority, or any larger percentage if required by the constitution, of the qualified voters in the district voting at an election held for that purpose.

The bonds must be approved by a majority of the qualified voters of the district voting at the election or by a larger number of voters as required by the constitution for certain purposes. Bonds payable from sources other than taxes may be issued by the board and assessments may be levied without approval at an election.

SECTION 17. BOND APPROVAL. The district must obtain approval of the commission as provided by Chapter 54, Water Code, if it issues bonds to provide water, sewage, or drainage facilities. Except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the commission.

SECTION 18. ANNEXATION. The district may annex land as provided by Chapter 54, Water Code, subject to the approval of the governing body of the city.

SECTION 19. CONTRACTS WITH DISTRICT. Without further authorization, a state agency, city, county, other political subdivision, corporation, individual, or other entity may contract with the district to carry out the purposes of this Act, notwithstanding any other law or charter provisions to the contrary.

SECTION 20. DISSOLUTION. (a) The board of the district by majority vote may dissolve the district at any time. However, the district may not be dissolved by the board if the district has outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(b) The board shall dissolve the district on written

petition filed with the board by the owners of 75 percent or more of the assessed value of the property in the district based on the most recent certified county property tax rolls or the owners of 75 percent or more of the surface area of the district, excluding roads, streets, highways, utility rights-of-way, other public areas, and other property exempt from assessment pursuant to Sections 9(n) and (o) of this Act, based on the most recent certified county property tax rolls. However, the district may not be dissolved by the board if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

(c) The city's city council may, by a vote of not less than two-thirds of its membership, adopt an ordinance dissolving the district. Provided, however, the district may not be dissolved by the city if the district has any outstanding bonded indebtedness until that bonded indebtedness has been repaid or defeased in accordance with the order or resolution authorizing the issuance of the bonds.

SECTION 21. NOTICE AND CONSENT. The legislature finds that proper and legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished by the constitution and laws of this state, including the governor of Texas, who has submitted the notice and Act to the Texas Water Commission. Also the legislature

finds that the commission has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time. The general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with, and all requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act have been fulfilled and accomplished.

SECTION 22. EMERGENCY. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

STATE OF TEXAS
HOUSE OF REPRESENTATIVES
ROMAN MARTINEZ

DISTRICT 148
HARRIS COUNTY
P.O. BOX 30069
HOUSTON, TEXAS 77249
713 221 5888

AUSTIN OFFICE
P.O. BOX 2910
AUSTIN, TEXAS 78769-2910
512 463 0478

March 20, 1989

The Honorable Terral Smith
Chairman, Natural Resources Committee
House of Representatives
Austin, Texas

Re: Author's Fiscal Statement, House Bill 1446 (relating to the creation, administration, powers, duties, operation, financing and dissolution of the Houston Downtown Management District

Sir:

In response to your request for an Author's Fiscal Statement on House Bill 1446, I have determined the following:

1. COST TO STATE GOVERNMENT: No fiscal impact to the State is anticipated.

2. COST TO HOUSTON DOWNTOWN MANAGEMENT DISTRICT: Any fiscal cost to the District will be determined after creation by the board of directors of the District. The board has assessment powers and taxing authority, but before any assessments or taxes are levied there are many board decisions that must be made, and procedures that must be followed. Therefore, until the District is created and the board is appointed the cost to the District cannot be estimated.

Please let me know if I can provide further information to you.

Sincerely,

Roman Martinez

COMMITTEES
APPROPRIATIONS CHAIRMAN BUDGET & OVERSIGHT ELECTIONS COMMITTEE

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner

Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

March 17, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Section 36.

House Bill No. 1446/Senate Bill 841 - Proposed creation of a conservation and reclamation district pursuant to Article III, Section 52 and Article XVI, Section 59(d), Texas Constitution: Houston Downtown Management District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke

Allen Beinke
Executive Director

Enclosure

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King,, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Representative Roman Martinez
Senator Craig Washington
Governor William P. Clements, Jr.
Lieutenant Governor William P. Hobby

P. O. Box 13087 Capitol Station • 1700 North Congress Ave. • Austin, Texas 78711-3087 • Area Code 512 463-7830

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT

Water Development Policy Impact Statements for House Bill 1446 and Senate Bill 841 (H.B. 1446 and S.B. 841) relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district.

H.B. 1446 and S.B. 841 (the Bill) provide that the proposed district would have the powers and duties of Chapter 54, Texas Water Code, applicable to municipal utility districts (MUDs), the powers and duties of road utility districts (RUDs), created pursuant to Article III, Section 52 and 52a of the Texas Constitution, plus numerous other powers specified in the act. Impact statements related to the district follow:

1) **Population Projections** - The Board's population projections for the City of Houston indicate an increase in the City's population ranging from 567,000 to 706,000 residents over the next 20 years. Although the creation of the district is predominately directed toward the businesses of the area, the future population of the City and surrounding suburban areas will have an impact on the area's current and future ability to provide continuing transportation and utility services that support economic development in the downtown area.

2) **District Finances** - The district may issue and sell bonds secured through ad valorem taxes, special assessments, impact fees, gifts, grants, and any other available revenues. A bond election is required to issue bonds that will be paid with ad valorem taxes, but not required for other bonds. All of the bonds must be approved by the City of Houston; however, only bonds issued to finance water, wastewater or drainage improvements require approval by the Commission.

3) **Board of Directors & Powers** - There are 30 directors who are appointed by the Commission and serve 4 year staggered terms. Specific positions on the board are designated for persons with experience in specific industries.

   In general the district has all the powers conferred by general law applicable to conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution, specifically Chapter 54 of the Texas Water Code. In addition, the district has the powers of road utility districts created pursuant to Article III, Section 52 of the Texas Constitution, including the power to levy ad valorem taxes for construction, maintenance, and operation of roads. This includes power to levy taxes for mass transit

systems, subject to the limitations in Article III, Sections 52 and 52-a.

Specifically, the proposed district could acquire land; construct, develop, own operate and maintain permanent improvements and provide services inside and outside its boundaries; use public streets and roads with consent of the city; relocate and alter the construction of any street, road, alley, railroad, electric lines, telephone telegraph and cable TV lines, pipelines and facilities, as necessary for district improvement projects.

The proposed district could undertake improvement projects which may include landscaping; lighting, banners and signs; streets; sidewalks, pedestrian skywalks, crosswalks and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and demolition in connection with any of the above; improvements similar to the above; acquisition of real property in connection with the above.

The proposed district could also provide for advertising; economic development; promoting the area of the district; health and sanitation, public safety, maintenance, security, business recruitment, development, recreation, and cultural enhancement, promotion of and assistance to disadvantaged businesses, elimination or relief of traffic congestion, and elimination of unemployment and underemployment.

4) **Effect on the Texas Water Development Board's water plan-** The proposed district receives water and wastewater service from the City of Houston, and City water and wastewater planning and implementation activities are consistent with State Water Plan objectives.

5) **Texas Water Commission's supervision** - under Section 5 of the Act, the Commission appoints directors to the board. Under Section 17 of the Act, the Commission approves bonds pursuant to Chapter 54, Texas Water Code, for bonds that finance water, sewer or drainage facilities. Section 17 also states that except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the Commission. It appears that the proposed District will not be required to submit reports and information that the Commission usually requires to be submitted by Chapter 54 districts.

The City of Houston will exercise some of the supervisory functions usually performed by the Commission. The proposed

district is required to receive approval by the City of Houston of all projects, plans and specifications, and bond issues.

6) **Eminent domain power** - The powers of eminent domain have been specifically exempted for this district.

7) **Exclusion of land from the district** - The District has the same provisions as a MUD pursuant to Chapter 54, Texas Water Code. At any time that the district does not have outstanding bonds, the directors can by its own motion call a hearing to exclude land, and must call a hearing to exclude land upon petition by landowner.

8) **Adequacy of boundary description** - The boundary description is along streets and existing landmarks and contains no metes and bounds description.

9) **Comment on powers and duties different from similar types of districts** - The primary purpose of most MUDs and RUDs is to provide water facilities and streets for new development outside of existing cities. In the case of the proposed District, Houston has already provided the infrastructure and will continue to provide basic municipal services normally provided by MUDs and RUDs.

The district's primary purpose is to revitalize the downtown Houston area pursuant to the purposes of Article III, Section 52-a of the Texas Constitution which include: development and diversification of the economy of the state, the elimination of unemployment or underemployment, the development or expansion of transportation or commerce. The District will attempt to promote economic development through provision of improved mass transit, pedestrian facilities, landscaping and other aesthetically oriented projects, and advertising and promotion of the area. The proposed district will be subject to less control by the Commission and more control by the City of Houston than MUDs under general law.

MUDs under general law require an election to confirm the creation of the district, however, the Bill as written requires no election to confirm creation of the proposed district. Both MUDS and RUDs under general law have 5 elected directors, while the proposed district has 30 appointed directors. The provisions that the proposed district cannot undertake any improvement projects until petitioned by owners of a majority of the land or value in the district, and the method of financing projects through special assessments are also different from general law districts.

AMEND THE CAPTION TO CONFORM

TO THE BODY OF THE BILL

ADOPTED

MAY 26 1989

Secretary of the Senate

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 16, 1989

TO: Honorable Hugh Parmer, Chairman
Committee on Intergovernmental Relations
Senate Chamber
Austin, Texas

In Re: House Bill No. 1446,
as engrossed
By: Martinez

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 1446, as engrossed (relating to the creation, administration, powers, duties, operation, financing, and dissolution of the Houston Downtown Management District and the power of certain entities to contract with the district) this office has determined the following:

No fiscal implication to the State is anticipated.

Because the bill would not have statewide impact on units of local government of the same type or class, no comment from this office is required by the rules of the Senate as to its probable fiscal implication on units of local government.

Source: LBB Staff: JO, JWH, AL, SKM, PA

71FHB1446ae

TEXAS WATER COMMISSION

B. J. Wynne, III, Chairman
Paul Hopkins, Commissioner
John O. Houchins, Commissioner

Allen Beinke, Executive Director
Michael E. Field, General Counsel
Brenda W. Foster, Chief Clerk

March 17, 1989

The Honorable Gib Lewis
Speaker of the House of Representatives

Re: Responsibility of the Texas Water Commission to submit a recommendation on legislation pursuant to Article XVI, Section 59(d), Texas Constitution; and Responsibility of the Texas Water Commission and the Texas Water Development Board to submit a water development policy impact statement pursuant to HOUSE RULE 4 Section 36.

House Bill No. 1446/Senate Bill 841 - Proposed creation of a conservation and reclamation district pursuant to Article III, Section 52 and Article XVI, Section 59(d), Texas Constitution: Houston Downtown Management District

Dear Speaker Lewis:

The following attachment is submitted in response to the above-referenced constitutional and house rule requirements. Comments 1) and 4) were provided by the Texas Water Development Board and comments on the remaining items were provided by the Texas Water Commission.

Sincerely,

Allen Beinke

Allen Beinke
Executive Director

Enclosure

cc w/enclosure: Ms. Betty Murray, Chief Clerk, House of Representatives
Ms. Betty King,, Secretary of the Senate
Representative Terral Smith, Chairman, House Natural Resources Committee
Representative Roman Martinez
Senator Craig Washington
Governor William P. Clements, Jr.
Lieutenant Governor William P. Hobby

P. O. Box 13087 Capitol Station • 1700 North Congress Ave. • Austin, Texas 78711-3087 • Area Code 512/463-7830

TEXAS WATER COMMISSION AND TEXAS WATER DEVELOPMENT BOARD
COMMENTS RELATING TO THE HOUSTON DOWNTOWN MANAGEMENT DISTRICT

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H.B. 1446 and S.B. 841 (the Bill) provide that the proposed district would have the powers and duties of Chapter 54, Texas Water Code, applicable to municipal utility districts (MUDs), the powers and duties of road utility districts (RUDs), created pursuant to Article III, Section 52 and 52a of the Texas Constitution, plus numerous other powers specified in the act. Impact statements related to the district follow:

1) **Population Projections** - The Board's population projections for the City of Houston indicate an increase in the City's population ranging from 567,000 to 706,000 residents over the next 20 years. Although the creation of the district is predominately directed toward the businesses of the area, the future population of the City and surrounding suburban areas will have an impact on the area's current and future ability to provide continuing transportation and utility services that support economic development in the downtown area.

2) **District Finances** - The district may issue and sell bonds secured through ad valorem taxes, special assessments, impact fees, gifts, grants, and any other available revenues. A bond election is required to issue bonds that will be paid with ad valorem taxes, but not required for other bonds. All of the bonds must be approved by the City of Houston; however, only bonds issued to finance water, wastewater or drainage improvements require approval by the Commission.

3) **Board of Directors & Powers** - There are 30 directors who are appointed by the Commission and serve 4 year staggered terms. Specific positions on the board are designated for persons with experience in specific industries.

   In general the district has all the powers conferred by general law applicable to conservation and reclamation districts created under Article XVI, Section 59 of the Texas Constitution, specifically Chapter 54 of the Texas Water Code. In addition, the district has the powers of road utility districts created pursuant to Article III, Section 52 of the Texas Constitution, including the power to levy ad valorem taxes for construction, maintenance, and operation of roads. This includes power to levy taxes for mass transit

systems, subject to the limitations in Article III, Sections 52 and 52-a.

Specifically, the proposed district could acquire land; construct, develop, own operate and maintain permanent improvements and provide services inside and outside its boundaries; use public streets and roads with consent of the city; relocate and alter the construction of any street, road, alley, railroad, electric lines, telephone telegraph and cable TV lines, pipelines and facilities, as necessary for district improvement projects.

The proposed district could undertake improvement projects which may include landscaping; lighting, banners and signs; streets; sidewalks, pedestrian skywalks, crosswalks and/or tunnels; drainage improvements; pedestrian malls; solid waste, water, sewer and power facilities, including electrical, gas, steam, cogeneration, and chilled water facilities; parks, plazas, lakes, bayous, ponds, and recreation and scenic areas; historic areas; fountains; works of art; off-street parking facilities, bus terminals, heliports, and mass transit systems; and demolition in connection with any of the above; improvements similar to the above; acquisition of real property in connection with the above.

The proposed district could also provide for advertising; economic development; promoting the area of the district; health and sanitation, public safety, maintenance, security, business recruitment, development, recreation, and cultural enhancement, promotion of and assistance to disadvantaged businesses, elimination or relief of traffic congestion, and elimination of unemployment and underemployment.

4) **Effect on the Texas Water Development Board's water plan-** The proposed district receives water and wastewater service from the City of Houston, and City water and wastewater planning and implementation activities are consistent with State Water Plan objectives.

5) **Texas Water Commission's supervision** - under Section 5 of the Act, the Commission appoints directors to the board. Under Section 17 of the Act, the Commission approves bonds pursuant to Chapter 54, Texas Water Code, for bonds that finance water, sewer or drainage facilities. Section 17 also states that except as expressly provided by this section and Section 5 of this Act, the district is not subject to the jurisdiction of the Commission. It appears that the proposed District will not be required to submit reports and information that the Commission usually requires to be submitted by Chapter 54 districts.

The City of Houston will exercise some of the supervisory functions usually performed by the Commission. The proposed

district is required to receive approval by the City of Houston of all projects, plans and specifications, and bond issues.

6) **Eminent domain power** - The powers of eminent domain have been specifically exempted for this district.

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The district's primary purpose is to revitalize the downtown Houston area pursuant to the purposes of Article III, Section 52-a of the Texas Constitution which include: development and diversification of the economy of the state, the elimination of unemployment or underemployment, the development or expansion of transportation or commerce. The District will attempt to promote economic development through provision of improved mass transit, pedestrian facilities, landscaping and other aesthetically oriented projects, and advertising and promotion of the area. The proposed district will be subject to less control by the Commission and more control by the City of Houston than MUDs under general law.

MUDs under general law require an election to confirm the creation of the district, however, the Bill as written requires no election to confirm creation of the proposed district. Both MUDS and RUDs under general law have 5 elected directors, while the proposed district has 30 appointed directors. The provisions that the proposed district cannot undertake any improvement projects until petitioned by owners of a majority of the land or value in the district, and the method of financing projects through special assessments are also different from general law districts.

The district, as proposed, will have the power to make special assessments on property as well as levy taxes to pay off bonds. While the levy of taxes requires an election, the levy of special assessments does not as the bill is currently written.

1446

By Martinez

A BILL TO BE ENTITLED

AN ACT

to the creation, administration, powers, duties, operation, financing, lution of the Houston Downtown Management District and the power of ntities to contract with the district.

FEB 23 1989 — 1. Filed with the Chief Clerk.

MAR 8 1989 — 2. Read first time and Referred to Committee on Natural Resources

MAR 22 1989 — 3. Reported ___ favorably (as amended) ~~(as substituted)~~ and sent to Printer at 4:45pm

MAR 28 1989

MAR 29 1989 — 4. Printed and distributed at 9:52am

MAR 29 1989 — 5. Sent to Committee on Calendars at 12:38 pm L&C

APR 11 1989 — TRANSFERRED TO COMMITTEE ON CALENDARS 3:31 pm

MAY 4 1989 — 6. Read second time (amended) passed to third reading ~~(failed)~~ by (Non-Record Vote) ~~(Record Vote of ___ yeas, ___ nays, ___ present, not voting).~~

___ 7. Motion to reconsider and table the vote by which H.B. ___ was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

___ 8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of ___ yeas, ___ nays, and ___ present, not voting.

MAY 5 1989 — 9. Read third time (amended); finally passed ~~(failed)~~ by (Non-Record Vote) ~~(Record Vote of ___ yeas, ___ nays, ___ present, not voting).~~

___ 10. Caption ordered amended to conform to body of bill.

___ 11. Motion to reconsider and table the vote by which H. B. ___ was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of ___ yeas, ___ nays, and ___ present, not voting).

MAY 5 1989 — 12. Ordered Engrossed at 12:01 pm

MAY 6 1989 — 13. Engrossed.

MAY 6 1989 — 14. Returned to Chief Clerk at 2:40 am

MAY 8 1989 — 15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 8 1989 — 16. Received from the House

MAY 9 1989 — 17. Read, referred to Committee on INTERGOVERNMENTAL RELATIONS

MAY 22 1989 — 18. Reported favorably

___ 19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

___ 20. Ordered not printed.

MAY 26 1989 — 21. Regular order of business suspended by U.C.
~~(a viva voce vote.)~~
~~(___ yeas, ___ nays.)~~

_____	22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.
MAY 26 1989	23. Read second time amended passed to third reading by: (a viva voce vote.) (_____ yeas, _____ nays.)
MAY 26 1989	24. Caption ordered amended to conform to body of bill.
MAY 27 1989	25. Regular order ~~Senate and Constitutional 3-Day Rules~~ suspended by vote of _____ yeas, _____ nays to place bill on third reading and final passage.
MAY 27 1989	26. Read third time and passed by ~~(a viva voce vote.)~~ (31 yeas, 0 nays.)

OTHER ACTION: OTHER ACTION:

Betty King
Secretary of the Senate

MAY 27 1989	27. Returned to the House.
MAY 27 1989	28. Received from the Senate (with amendments.) ~~(as substituted.)~~
MAY 29 1989	29. House ~~(Concurred)~~ (Refused to Concur) in Senate (Amendments) ~~(Substitute)~~ by a (Non-Record Vote) ~~(Record Vote of _____ yeas, _____ nays, _____ present, not voting).~~
MAY 29 1989	30. Conference Committee Ordered.
_____	31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record Vote of _____ yeas, _____ nays, and _____ present, not voting).
_____	32. Ordered Enrolled at _____

89 MAY -6 AM 2:40

89 MAY

H. No.

relating and diss

IGR

9444