

By: Jackson

S.B. No. 1912

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the creation of the Harborside Management District;  
3 providing authority to impose taxes and issue bonds.

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

5 SECTION 1. CREATION OF DISTRICT. (a) The Harborside  
6 Management District is a special district created under Section 59,  
7 Article XVI, Texas Constitution.

8 (b) The board by resolution may change the name of the  
9 district.

10 SECTION 2. DEFINITIONS. In this Act:

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

13 (2) "District" means the Harborside Management  
14 District.

15 SECTION 3. DECLARATION OF INTENT. (a) The creation of the  
16 district is essential to accomplish the purposes of Sections 52 and  
17 52-a, Article III, and Section 59, Article XVI, Texas Constitution,  
18 and other public purposes stated in this Act.

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

24 (c) The creation of the district and this legislation may

1 not be interpreted to relieve Galveston County or the City of  
2 Galveston from providing the level of services provided, as of the  
3 effective date of this Act, to the area in the district. The  
4 district is created to supplement and not to supplant the county or  
5 city services provided in the area in the district.

6 (d) By creating the district and in authorizing the City of  
7 Galveston, Galveston County, and other political subdivisions to  
8 contract with the district, the legislature has established a  
9 program to accomplish the public purposes set out in Section 52-a,  
10 Article III, Texas Constitution.

11 SECTION 4. BOUNDARIES. The district includes all the  
12 territory contained in the following described area:

13 BEGINNING at the intersection of the Southerly right-of-way line of  
14 Harborside Dr. and the Westerly right-of-way line of 77th Street;

15 THENCE proceeding in a Northerly direction a distance of  
16 approximately 6,414 feet, from said BEGINNING POINT, across  
17 Harborside Dr. along the Westerly right-of-way line of 77th Street  
18 and continuing beyond the street's terminus along a projection to a  
19 point for corner in Galveston Bay at the Southerly boundary of the  
20 Intercoastal Waterway;

21 THENCE in an Easterly direction a distance of approximately 9,827  
22 feet along the Southerly boundary of the Intercoastal Waterway to a  
23 point for a corner in the Bay where the Northerly projection of the  
24 Easterly right-of-way line of 57th Street intersects said Southerly  
25 Intercoastal Waterway boundary;

26 THENCE in a Southerly direction a distance of approximately 4,385  
27 feet along said Northerly projection of the Easterly right-of-way

1 line of 57th Street to a point for corner where said projection  
2 intersects the Southerly right-of-way of Harborside Dr.;  
3 THENCE in a Westerly direction a distance of approximately 8,697  
4 feet along the Southerly right-of-way of Harborside Dr. to the  
5 PLACE OF BEGINNING.

6 SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries  
7 and field notes of the district form a closure. If a mistake is made  
8 in the field notes or in copying the field notes in the legislative  
9 process, the mistake does not in any way affect the district's:

- 10 (1) organization, existence, or validity;  
11 (2) right to issue any type of bond for a purpose for  
12 which the district is created or to pay the principal of and  
13 interest on a bond;  
14 (3) right to impose or collect an assessment or tax; or  
15 (4) legality or operation.

16 SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

17 (a) The district is created to serve a public use and benefit. All  
18 the land and other property included in the district will be  
19 benefited by the improvements and services to be provided by the  
20 district under powers conferred by Sections 52 and 52-a, Article  
21 III, and Section 59, Article XVI, Texas Constitution, and other  
22 powers granted under this Act.

23 (b) The creation of the district is in the public interest  
24 and is essential to:

- 25 (1) further the public purposes of development and  
26 diversification of the economy of the state; and  
27 (2) eliminate unemployment and underemployment and

1 develop or expand transportation and commerce.

2 (c) The district will:

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

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

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

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

19 (e) The district will not act as the agent or  
20 instrumentality of any private interest even though many private  
21 interests will, as well as the general public, be benefited by the  
22 district.

23 SECTION 7. APPLICATION OF OTHER LAW. (a) Except as  
24 otherwise provided by this Act, Chapter 375, Local Government Code,  
25 applies to the district.

26 (b) Chapter 311, Government Code, applies to this Act.

27 SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally

1 construed in conformity with the findings and purposes stated in  
2 this Act.

3 SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) Except as  
4 provided by Subsection (c), the district is governed by a board of  
5 five voting directors appointed under Section 10 and nonvoting  
6 directors as provided by Section 11.

7 (b) Voting directors serve staggered terms of four years,  
8 with three directors' terms expiring June 1 of an odd-numbered year  
9 and two directors' terms expiring June 1 of the following  
10 odd-numbered year.

11 (c) The board may increase or decrease the number of  
12 directors on the board by resolution, provided that it is in the  
13 best interest of the district to do so and that the board consists  
14 of not fewer than five and not more than 15 directors.

15 SECTION 10. APPOINTMENT OF DIRECTORS. The board shall  
16 nominate a slate of persons to serve as voting directors. The  
17 members of the governing body of the City of Galveston shall appoint  
18 as voting directors the slate of persons nominated by the board.

19 SECTION 11. NONVOTING DIRECTORS. (a) The following  
20 persons serve as nonvoting directors:

21 (1) the directors of the following departments of the  
22 City of Galveston or their designees:

- 23 (A) parks and recreation;
- 24 (B) planning and zoning; and
- 25 (C) public works; and

26 (2) the city manager of the City of Galveston or the  
27 city manager's designee.

1           (b) If an agency, department, or division described by  
2 Subsection (a) is consolidated, renamed, or changed, the board may  
3 appoint a director of the consolidated, renamed, or changed agency,  
4 department, or division as a nonvoting director. If an agency,  
5 department, or division described by Subsection (a) is abolished,  
6 the board may appoint a representative of another agency,  
7 department, or division that performs duties comparable to those  
8 performed by the abolished entity.

9           (c) Nonvoting directors are not counted for the purposes of  
10 establishing a quorum of the board.

11           SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

12           (a) Except as provided by this section:

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

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

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

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

27                   (2) all other similar business or charitable entities

1 in the district will receive a similar pecuniary benefit.

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

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

9 SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district  
10 may exercise the powers given to:

11 (1) a corporation under Section 4B, Development  
12 Corporation Act of 1979 (Article 5190.6, Vernon's Texas Civil  
13 Statutes), including the power to own, operate, acquire, construct,  
14 lease, improve, and maintain projects described by that section;

15 (2) a housing finance corporation created under  
16 Chapter 394, Local Government Code, to provide housing or  
17 residential development projects in the district;

18 (3) entities described in Chapters 441 and 284,  
19 Transportation Code, and may exercise those powers as if  
20 specifically named therein; and

21 (4) districts governed by Subchapters E and M, Chapter  
22 60, Water Code, and Section 61.116, Water Code.

23 SECTION 14. AGREEMENTS; GRANTS. (a) The district may make  
24 an agreement with or accept a gift, grant, or loan from any person.

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

1 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the  
2 public interest, the district may contract with Galveston County or  
3 the City of Galveston to provide law enforcement services in the  
4 district for a fee.

5 SECTION 16. NONPROFIT CORPORATION. (a) The board by  
6 resolution may authorize the creation of a nonprofit corporation to  
7 assist and act on behalf of the district in implementing a project  
8 or providing a service authorized by this Act.

9 (b) The board shall appoint the board of directors of a  
10 nonprofit corporation created under this section. The board of  
11 directors of the nonprofit corporation shall serve in the same  
12 manner as the board of directors of a local government corporation  
13 created under Chapter 431, Transportation Code.

14 (c) A nonprofit corporation created under this section has  
15 the powers of and is considered for purposes of this Act to be a  
16 local government corporation created under Chapter 431,  
17 Transportation Code.

18 (d) A nonprofit corporation created under this section may  
19 implement any project and provide any service authorized by this  
20 Act.

21 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND  
22 IMPROVEMENTS. The board may not finance a service or improvement  
23 project with assessments under this Act unless a written petition  
24 requesting that improvement or service has been filed with the  
25 board. The petition must be signed by:

26 (1) the owners of a majority of the assessed value of  
27 real property in the district subject to assessment as determined



1 by the most recent certified tax appraisal roll for Galveston  
2 County; or

3 (2) at least 25 persons who own real property in the  
4 district, if more than 25 persons own real property in the district  
5 as determined by the most recent certified tax appraisal roll for  
6 Galveston County.

7 SECTION 18. ELECTIONS. (a) The district shall hold an  
8 election in the manner provided by Subchapter L, Chapter 375, Local  
9 Government Code, to obtain voter approval before the district  
10 imposes a maintenance tax or issues a bond payable from ad valorem  
11 taxes.

12 (b) The board may include more than one purpose in a single  
13 proposition at an election.

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

16 SECTION 19. MAINTENANCE TAX. (a) If authorized at an  
17 election held in accordance with Section 18, the district may  
18 impose an annual ad valorem tax on taxable property in the district  
19 for the maintenance and operation of the district and the  
20 improvements constructed or acquired by the district or for the  
21 provision of services.

22 (b) The board shall determine the tax rate.

23 SECTION 20. ASSESSMENTS. (a) The board by resolution may  
24 impose and collect an assessment for any purpose authorized by this  
25 Act.

26 (b) Assessments, including assessments resulting from an  
27 addition to or correction of the assessment roll by the district,

1 reassessments, penalties and interest on an assessment or  
2 reassessment, expenses of collection, and reasonable attorney's  
3 fees incurred by the district:

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

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

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

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

16 (d) Without necessity of notice and hearing in the manner  
17 required for additional assessments, the board may make corrections  
18 to or deletions from the assessment roll provided that such  
19 corrections or deletions do not increase the amount of assessment  
20 of any parcel of land.

21 SECTION 21. UTILITIES. The district may not impose an  
22 impact fee or assessment on the property, equipment, rights of way,  
23 facilities, or improvements of an electric utility or a power  
24 generation company as defined by Section 31.002, Utilities Code, a  
25 gas utility as defined by Section 101.003 or 121.001, Utilities  
26 Code, a telecommunications provider as defined by Section 51.002,  
27 Utilities Code, or of a person that provides to the public cable

1 television or advanced telecommunications services. If the  
2 district, in the exercise of the powers conferred upon it herein,  
3 requires or requests the relocation, rerouting, or removal of  
4 electric, gas, water, sewer, communications, or other public  
5 utilities, as defined in Sections 31.002, 101.003, 121.001, and  
6 51.002, Utilities Code, such relocation, rerouting, or removal  
7 shall be at the sole expense of the district.

8 SECTION 22. BONDS. (a) The district may issue bonds or  
9 other obligations payable in whole or in part from ad valorem taxes,  
10 assessments, impact fees, revenue, grants, or other money of the  
11 district, or any combination of those sources of money, to pay for  
12 any authorized purpose of the district.

13 (b) In exercising the district's borrowing power, the  
14 district may issue a bond or other obligation in the form of a bond,  
15 note, certificate of participation, or other instrument evidencing  
16 a proportionate interest in payments to be made by the district, or  
17 other type of obligation.

18 SECTION 23. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT  
19 OBLIGATIONS. Except as provided by Section 375.263, Local  
20 Government Code, a municipality is not required to pay a bond, note,  
21 or other obligation of the district.

22 SECTION 24. DISBURSEMENTS OR TRANSFERS OF MONEY. The board  
23 by resolution shall establish the number of directors' signatures  
24 and the procedure required for a disbursement or transfer of the  
25 district's money.

26 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,  
27 Local Government Code, applies to the district only for a contract

1 that has a value greater than \$25,000.

2 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH  
3 OUTSTANDING DEBT. (a) The board may vote to dissolve a district  
4 that has debt. If the vote is in favor of dissolution, the district  
5 shall remain in existence solely for the limited purpose of  
6 discharging its debts. The dissolution is effective when all debts  
7 have been discharged.

8 (b) Section 375.264, Local Government Code, does not apply  
9 to the district.

10 SECTION 27. INITIAL DIRECTORS. (a) The initial board  
11 consists of the following persons:

Pos. No.	Name of Director
1	John Sullivan
2	Richard Ryan
3	John Kelso
4	Douglas Harris
5	Glenn Forman, Jr.

18 (b) Of the initial directors, the terms of directors  
19 appointed for positions 1 through 3 expire June 1, 2007, and the  
20 terms of directors appointed for positions 4 and 5 expire June 1,  
21 2005.

22 (c) Section 10 does not apply to this section.

23 (d) This section expires September 1, 2007.

24 SECTION 28. TAX AND ASSESSMENT ABATEMENTS. Without further  
25 authorization or other procedural requirement, the district may  
26 grant, consistent with Chapter 312, Tax Code, an abatement for a tax  
27 or assessment owed to the district.

1           SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The  
2 district may join and pay dues to an organization that enjoys  
3 tax-exempt status under Section 501(c)(3), (4), or (6), Internal  
4 Revenue Code of 1986, as amended, and that performs services or  
5 provides activities consistent with the furtherance of the purposes  
6 of the district. An expenditure of public money for membership in  
7 the organization is considered to further the purposes of the  
8 district and to be for a public purpose.

9           SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.  
10 All or any part of the area of the district is eligible,  
11 notwithstanding other statutory criteria, to be included in a tax  
12 increment reinvestment zone created by the City of Galveston under  
13 Chapter 311, Tax Code, or included in a tax abatement reinvestment  
14 zone created by the City of Galveston under Chapter 312, Tax Code.  
15 All or any part of the area of the district is also eligible to be  
16 included in an enterprise zone created by the City of Galveston  
17 under Chapter 2303, Government Code.

18           SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. The district  
19 may establish and provide for the administration of one or more  
20 programs, including programs for making loans and grants of public  
21 money and providing personnel and services of the district, to  
22 promote state or local economic development and to stimulate  
23 business and commercial activity in the district. The district has  
24 all of the powers and authority of a municipality under Chapter 380,  
25 Local Government Code.

26           SECTION 32. LEGISLATIVE FINDINGS. The legislature finds  
27 that:

1           (1) proper and legal notice of the intention to  
2 introduce this Act, setting forth the general substance of this  
3 Act, has been published as provided by law, and the notice and a  
4 copy of this Act have been furnished to all persons, agencies,  
5 officials, or entities to which they are required to be furnished by  
6 the constitution and laws of this state, including the governor,  
7 who has submitted the notice and Act to the Texas Commission on  
8 Environmental Quality;

9           (2) the Texas Commission on Environmental Quality has  
10 filed its recommendations relating to this Act with the governor,  
11 lieutenant governor, and speaker of the house of representatives  
12 within the required time;

13           (3) the general law relating to consent by political  
14 subdivisions to the creation of districts with conservation,  
15 reclamation, and road powers and the inclusion of land in those  
16 districts has been complied with; and

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

21           SECTION 33. EFFECTIVE DATE.       This Act takes effect  
22 immediately if it receives a vote of two-thirds of all the members  
23 elected to each house, as provided by Section 39, Article III, Texas  
24 Constitution. If this Act does not receive the vote necessary for  
25 immediate effect, this Act takes effect September 1, 2003.