

By: Jackson

S.B. No. 1912

Substitute the following for S.B. No. 1912:

By: Talton

C.S.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 governing body
16 of the City of Galveston shall appoint voting directors to the
17 board.

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

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

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

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

27 (b) If an agency, department, or division described by

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

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

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

11 (a) Except as provided by this section:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

27 SECTION 15. LAW ENFORCEMENT SERVICES. To protect the

1 public interest, the district may contract with Galveston County or
2 the City of Galveston to provide law enforcement services in the
3 district for a fee.

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

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

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

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

20 SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
21 IMPROVEMENTS. The board may not finance a service or improvement
22 project with assessments under this Act unless a written petition
23 requesting that improvement or service has been filed with the
24 board. The petition must be signed by the owners of a majority of
25 the assessed value of real property in the district subject to
26 assessment as determined by the most recent certified tax appraisal
27 roll for Galveston County.

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

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

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

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

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

17 SECTION 20. ASSESSMENTS. (a) The board by resolution may
18 impose and collect an assessment for any purpose authorized by this
19 Act.

20 (b) Assessments, including assessments resulting from an
21 addition to or correction of the assessment roll by the district,
22 reassessments, penalties and interest on an assessment or
23 reassessment, expenses of collection, and reasonable attorney's
24 fees incurred by the district:

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

27 (2) are superior to any other lien or claim other than

1 a lien or claim for county, school district, or municipal ad valorem
2 taxes; and

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

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

10 (d) Without necessity of notice and hearing in the manner
11 required for additional assessments, the board may make corrections
12 to or deletions from the assessment roll provided that such
13 corrections or deletions do not increase the amount of assessment
14 of any parcel of land.

15 SECTION 21. UTILITIES. The district may not impose an
16 impact fee or assessment on the property, equipment, rights of way,
17 facilities, or improvements of an electric utility or a power
18 generation company as defined by Section 31.002, Utilities Code, a
19 gas utility as defined by Section 101.003 or 121.001, Utilities
20 Code, a telecommunications provider as defined by Section 51.002,
21 Utilities Code, or of a person that provides to the public cable
22 television or advanced telecommunications services. If the
23 district, in the exercise of the powers conferred upon it herein,
24 requires or requests the relocation, rerouting, or removal of
25 electric, gas, water, sewer, communications, or other public
26 utilities, as defined in Sections 31.002, 101.003, 121.001, and
27 51.002, Utilities Code, such relocation, rerouting, or removal

1 shall be at the sole expense of the district.

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

7 (b) In exercising the district's borrowing power, the
8 district may issue a bond or other obligation in the form of a bond,
9 note, certificate of participation, or other instrument evidencing
10 a proportionate interest in payments to be made by the district, or
11 other type of obligation.

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

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

20 SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221,
21 Local Government Code, applies to the district only for a contract
22 that has a value greater than \$15,000.

23 SECTION 26. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
24 OUTSTANDING DEBT. (a) The board may vote to dissolve a district
25 that has debt. If the vote is in favor of dissolution, the district
26 shall remain in existence solely for the limited purpose of
27 discharging its debts. The dissolution is effective when all debts

1 have been discharged.

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

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

6	Pos. No.	Name of Director
7	1	John Sullivan
8	2	Richard Ryan
9	3	John Kelso
10	4	Douglas Harris
11	5	Glenn Forman, Jr.

12 (b) Of the initial directors, the terms of directors
13 appointed for positions 1 through 3 expire June 1, 2007, and the
14 terms of directors appointed for positions 4 and 5 expire June 1,
15 2005.

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

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

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

22 SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
23 district may join and pay dues to an organization that enjoys
24 tax-exempt status under Section 501(c)(3), (4), or (6), Internal
25 Revenue Code of 1986, as amended, and that performs services or
26 provides activities consistent with the furtherance of the purposes
27 of the district. An expenditure of public money for membership in

1 the organization is considered to further the purposes of the
2 district and to be for a public purpose.

3 SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

4 All or any part of the area of the district is eligible,
5 notwithstanding other statutory criteria, to be included in a tax
6 increment reinvestment zone created by the City of Galveston under
7 Chapter 311, Tax Code, or included in a tax abatement reinvestment
8 zone created by the City of Galveston under Chapter 312, Tax Code.
9 All or any part of the area of the district is also eligible to be
10 included in an enterprise zone created by the City of Galveston
11 under Chapter 2303, Government Code.

12 SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. The district

13 may establish and provide for the administration of one or more
14 programs, including programs for making loans and grants of public
15 money and providing personnel and services of the district, to
16 promote state or local economic development and to stimulate
17 business and commercial activity in the district. The district has
18 all of the powers and authority of a municipality under Chapter 380,
19 Local Government Code.

20 SECTION 32. LEGISLATIVE FINDINGS. The legislature finds

21 that:

22 (1) proper and legal notice of the intention to
23 introduce this Act, setting forth the general substance of this
24 Act, has been published as provided by law, and the notice and a
25 copy of this Act have been furnished to all persons, agencies,
26 officials, or entities to which they are required to be furnished by
27 the constitution and laws of this state, including the governor,

1 who has submitted the notice and Act to the Texas Commission on
2 Environmental Quality;

3 (2) the Texas Commission on Environmental Quality has
4 filed its recommendations relating to this Act with the governor,
5 lieutenant governor, and speaker of the house of representatives
6 within the required time;

7 (3) the general law relating to consent by political
8 subdivisions to the creation of districts with conservation,
9 reclamation, and road powers and the inclusion of land in those
10 districts has been complied with; and

11 (4) all requirements of the constitution and laws of
12 this state and the rules and procedures of the legislature with
13 respect to the notice, introduction, and passage of this Act have
14 been fulfilled and accomplished.

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