

By: Eiland

H.B. No. 2621

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the power of certain coastal municipalities to impose
3 assessments to pay for improvement projects, services, or special
4 events.

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

6 SECTION 1. Subtitle A, Title 10, Local Government Code, is
7 amended by adding Chapter 309 to read as follows:

8 CHAPTER 309. ASSESSMENTS FOR CERTAIN COASTAL MUNICIPALITIES

9 SUBCHAPTER A. GENERAL PROVISIONS

10 Sec. 309.001. DEFINITIONS. In this chapter:

11 (1) "Coastal municipality" means a municipality that
12 borders the Gulf of Mexico.

13 (2) "Park board" means a park board of trustees
14 established under Chapter 306.

15 (3) "Special event" means an event sponsored and
16 promoted by a coastal municipality, or a park board of the coastal
17 municipality, expected to attract 50,000 or more tourists and other
18 visitors to the municipality, including Mardi Gras events,
19 theatrical events, and events using the coastal municipality's
20 beaches.

21 Sec. 309.002. APPLICABILITY. This chapter applies only to
22 a coastal municipality that is a home-rule municipality with a
23 population of less than 60,000.

24 [Sections 309.003-309.050 reserved for expansion]

1 SUBCHAPTER B. ASSESSMENT POWERS AND DUTIES

2 Sec. 309.051. GENERAL POWERS RELATING TO ASSESSMENTS. (a)

3 The governing body of a coastal municipality may undertake
4 improvement projects, services, and special events that confer a
5 special benefit on all or a definable part of the businesses or area
6 within the municipality.

7 (b) The governing body of the coastal municipality may levy
8 and collect special assessments on property or businesses in the
9 municipality, based on the benefit conferred by the project,
10 service, or event, to pay all or part of the cost of the project,
11 service, or event.

12 Sec. 309.052. SPECIFIC POWERS RELATING TO PROJECTS,
13 SERVICES, OR SPECIAL EVENTS FINANCED WITH ASSESSMENTS. An
14 improvement project, service, or special event provided by the
15 coastal municipality or park board may include the construction,
16 acquisition, improvement, relocation, operation, maintenance,
17 financing, or provision of:

18 (1) landscaping, lighting, banners and signs,
19 streets, pedestrian skywalks, pedestrian crosswalks, pedestrian
20 tunnels, seawall improvements, beach renourishment or protection
21 programs or facilities, pedestrian malls, shower facilities,
22 parks, plazas, recreation or scenic areas, historic areas,
23 fountains, works of art, and off-street parking facilities;

24 (2) other improvements similar to those described by
25 Subdivision (1);

26 (3) real property or any interest in real property in
27 connection with an improvement project, service, or special event

1 authorized by this chapter;

2 (4) special services for advertising, economic
3 development, promoting special events, health and sanitation,
4 public safety, maintenance, security, relief of traffic
5 congestion, recreation, and cultural enhancement; and

6 (5) expenses incurred in the establishment,
7 administration, maintenance, provision, and operation of an
8 improvement project, service, or special event.

9 Sec. 309.053. PROPOSED ASSESSMENTS. An improvement
10 project, service, or special event may be financed under this
11 chapter after a hearing with notice given as required by this
12 chapter and a public hearing by the governing body of the coastal
13 municipality on the advisability of providing the project, service,
14 or special event and imposing the proposed assessments.

15 Sec. 309.054. NOTICE OF HEARING. (a) Notice of the hearing
16 shall be given in a newspaper with general circulation in the
17 coastal municipality. The final publication must be made not later
18 than the 30th day before the date of the hearing.

19 (b) The notice must include:

20 (1) the time and place of the hearing;

21 (2) the general nature of the proposed improvement
22 project, service, or special event;

23 (3) the estimated cost of the improvement project,
24 service, or special event, including interest during construction
25 of an improvement project and associated financing costs; and

26 (4) the proposed method of assessment.

27 (c) Written notice containing the information required by

1 Subsection (b) shall be mailed by first class mail not later than
2 the 30th day before the date of the hearing. The notice shall be
3 mailed to each property or business owner in the coastal
4 municipality who will be subject to assessment at the current
5 address of the property or business to be assessed as reflected on
6 the most recent certified tax appraisal roll for the county in which
7 the property or business is located.

8 Sec. 309.055. CONCLUSION OF HEARING; FINDINGS. (a) A
9 hearing on the improvement project, service, or special event,
10 whether conducted by the governing body of the coastal municipality
11 or a hearings examiner, may be adjourned from time to time.

12 (b) At the conclusion of the hearing, the governing body of
13 the coastal municipality shall make findings by resolution or
14 ordinance relating to the advisability of the improvement project,
15 service, or special event, the nature of the improvement project,
16 service, or special event, the estimated cost, the area or property
17 or businesses benefited, the method of assessment, and the method
18 and time for payment of the assessment.

19 (c) If a hearings examiner is appointed to conduct the
20 hearing, after conclusion of the hearing the hearings examiner
21 shall file with the governing body of the coastal municipality a
22 report stating the examiner's findings and conclusions.

23 Sec. 309.056. AREA OR BUSINESS TO BE ASSESSED. (a) The
24 area of the coastal municipality or the businesses to be assessed
25 according to the findings of the governing body of the coastal
26 municipality may be the entire municipality or any part of the
27 municipality and may be less than the area proposed in the notice of

1 the hearing. The business to be assessed may be all or part of the
2 businesses in the coastal municipality and may be less than the
3 businesses proposed to be assessed in the notice of hearing.

4 (b) The owner of any property or business proposed to be
5 assessed may waive the right to notice and an assessment hearing and
6 may agree to the imposition and payment of assessments at an agreed
7 rate.

8 Sec. 309.057. OBJECTIONS; LEVY OF ASSESSMENT. (a) At a
9 hearing on proposed assessments, at any adjournment of the hearing,
10 or after consideration of the hearings examiner's report, the
11 governing body of the coastal municipality shall hear and rule on
12 all objections to each proposed assessment.

13 (b) The governing body of the coastal municipality may amend
14 proposed assessments for any parcel or business.

15 (c) After all objections have been heard and action has been
16 taken with regard to those objections, the governing body of the
17 coastal municipality by ordinance shall levy the assessments as
18 special assessments on the property or businesses and shall specify
19 the method of payment of the assessments and may provide that those
20 assessments be paid in periodic installments, including interest.

21 (d) Periodic installments must be in amounts sufficient to
22 meet annual costs for improvement projects, services, or special
23 events as provided by Section 309.058 and continue for the number of
24 years required to retire indebtedness or pay for the services to be
25 rendered or the special events to be provided. The governing body
26 of the coastal municipality may provide interest charges or
27 penalties for failure to make timely payment and also may levy an

1 amount to cover delinquencies and expenses of collection.

2 (e) The governing body of the coastal municipality shall
3 establish a procedure for the distribution or use of any
4 assessments in excess of those necessary to finance the improvement
5 project, service, or special event for which those assessments were
6 collected.

7 Sec. 309.058. APPORTIONMENT OF COST. The portion of the
8 cost of an improvement project, service, or special event to be
9 assessed against the property or businesses in the coastal
10 municipality shall be apportioned by the governing body of the
11 coastal municipality based on the special benefits accruing to the
12 property or businesses because of the improvement project, service,
13 or special event. The cost may be assessed:

14 (1) equally by front foot or by square foot of land
15 area against all property benefited or on the revenue derived by a
16 business from an improvement project, service, or special event;

17 (2) against property according to the value of the
18 property as determined by the governing body of the coastal
19 municipality, with or without regard to structures or other
20 improvements on the property; or

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

24 Sec. 309.059. ASSESSMENT ROLL. (a) If the total cost of an
25 improvement project, service, or special event is determined by the
26 governing body of the coastal municipality to be assessed against
27 benefited property, the governing body of the coastal municipality

1 shall levy the assessments against each parcel of land or business
2 against which an assessment may be levied.

3 (b) With regard to an assessment for a service or special
4 event, the governing body of the coastal municipality may levy an
5 annual assessment that may be lower but not higher than the initial
6 assessment.

7 (c) The governing body of the coastal municipality shall
8 have an assessment roll prepared showing the assessments against
9 each property or business and the governing body of the coastal
10 municipality's basis for the assessment. The assessment roll shall
11 be filed with the secretary of the governing body of the coastal
12 municipality or other officer who performs the function of
13 secretary and be open for public inspection.

14 Sec. 309.060. INTEREST ON ASSESSMENTS; LIEN. (a) An
15 assessment, including an assessment resulting from an addition or
16 correction to the assessment roll, and penalties bear interest at a
17 rate specified by the governing body of the coastal municipality
18 that may not exceed the interest rate permitted by Chapter 1204,
19 Government Code.

20 (b) Interest on an assessment between the effective date of
21 the ordinance or resolution levying the assessment and the date the
22 first installment and any related penalty is payable shall be added
23 to the first installment. The interest or penalties on all unpaid
24 installments shall be added to each subsequent installment until
25 paid.

26 (c) An assessment or any reassessment and any interest and
27 penalties on that assessment or reassessment is a first and prior

1 lien against the property until it is paid. The lien is superior to
2 any other lien or claim other than a lien or claim for county school
3 district or municipal ad valorem taxes.

4 (d) The owner of any property or any business assessed may
5 at any time pay the entire assessment against any property or
6 business assessed with accrued interest to the date of the payment.

7 Sec. 309.061. SUPPLEMENTAL ASSESSMENTS. After notice and
8 hearing in the manner required for original assessments, the
9 governing body of the coastal municipality may make supplemental
10 assessments to correct omissions or mistakes in the assessment:

11 (1) relating to the total cost of the improvement
12 project, service, or special event;

13 (2) to correct omissions of benefited property or
14 businesses; or

15 (3) covering delinquencies or costs of collection.

16 Sec. 309.062. APPEAL. (a) After determination of an
17 assessment, a property owner or business may appeal the assessment
18 to the governing body of the coastal municipality. The property
19 owner must file a notice of appeal with the governing body of the
20 coastal municipality not later than the 30th day after the date that
21 the assessment is adopted. The governing body of the coastal
22 municipality shall set a date to hear the appeal.

23 (b) The property owner or business owner may appeal the
24 governing body of the coastal municipality's decision on the
25 assessment to a court. The property owner must file notice of the
26 appeal with the court not later than the 30th day after the date of
27 the governing body of the coastal municipality's final decision

1 with respect to the assessment.

2 (c) Failure to file either of the notices in the time
3 required by this section results in a loss of the right to appeal
4 the assessment.

5 (d) If an assessment against a parcel of land or business is
6 set aside by a court, found excessive by the governing body of the
7 coastal municipality, or determined to be invalid by the governing
8 body of the coastal municipality, the governing body of the coastal
9 municipality may make a reassessment or new assessment of the
10 parcel or the business.

11 Sec. 309.063. CERTAIN RESIDENTIAL PROPERTY EXEMPT. The
12 governing body of the coastal municipality may not impose an
13 assessment or other requirement for payment, construction,
14 alteration, or dedication under this chapter on single-family
15 detached residential property or a residential duplex, triplex, or
16 fourplex.

17 Sec. 309.064. GOVERNMENTAL ENTITIES; ASSESSMENTS. A
18 municipality, county or other political subdivision may pay an
19 assessment under this chapter as established by contract with the
20 coastal municipality. The contract with the coastal municipality
21 may be under terms considered advisable to provide for the payment
22 of the assessments.

23 Sec. 309.065. GRANTS AND LOANS AUTHORIZED. A coastal
24 municipality may apply for and accept federal, state, or private
25 grants or loans and use the proceeds of assessments levied and
26 collected under this chapter as the local share to match the award
27 of any federal, state, or other grant.

1 [Sections 309.066-309.100 reserved for expansion]

2 SUBCHAPTER C. BONDS

3 Sec. 309.101. BONDS. (a) For the payment of all or part of
4 the costs of an improvement project, the governing body of the
5 coastal municipality may issue bonds in one or more series payable
6 from and secured by assessments, revenue, grants, gifts, leases or
7 other contracts, or any combination of those funds.

8 (b) Bonds may be liens on all or part of the revenue derived
9 from improvements authorized under this chapter, including
10 installment payments of special assessments or from any other
11 source pledged to their payment.

12 Sec. 309.102. PLEDGES. (a) The governing body of the
13 coastal municipality may pledge all or part of the assessments or
14 income from an improvement project financed under this chapter, or
15 from any other source, to the payment of the bonds, including the
16 payment of principal, interest, and any other amounts required or
17 permitted in connection with the bonds. The pledged income shall be
18 set and collected in amounts that will be at least sufficient, with
19 any other pledged resources, to provide for all payments of
20 principal, interest, and any other amounts required in connection
21 with the bonds and to the extent required by the ordinance or
22 resolution authorizing the issuance of the bonds, to provide for
23 the payment of expenses in connection with the bonds and to pay
24 operation, maintenance, and other expenses in connection with the
25 improvement projects authorized under this chapter.

26 (b) Bonds may be additionally secured by a mortgage or deed
27 of trust on real property relating to the facilities authorized

1 under this chapter owned or to be acquired by the coastal
2 municipality and by chattel mortgages, liens, or security interests
3 on personal property appurtenant to that real property. The
4 governing body of the coastal municipality may authorize the
5 execution of trust indentures, mortgages, deeds of trust, or other
6 forms of encumbrance to evidence the indebtedness.

7 (c) The governing body of the coastal municipality may
8 pledge to the payment of the bonds all or any part of any grant,
9 donation, revenue, or income received or to be received from the
10 United States government or any other public or private source.

11 SECTION 2. This Act takes effect immediately if it receives
12 a vote of two-thirds of all the members elected to each house, as
13 provided by Section 39, Article III, Texas Constitution. If this
14 Act does not receive the vote necessary for immediate effect, this
15 Act takes effect September 1, 2005.