

By: Jackson

S.B. No. 1801

A BILL TO BE ENTITLED

AN ACT

relating to the creation of Galveston County Municipal Utility District No. 61; providing authority to impose taxes and standby fees and issue bonds; granting the power of eminent domain.

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

SECTION 1. Subtitle F, Title 6, Special District Local Laws Code, is amended by adding Chapter ___ to read as follows:

CHAPTER ____ . GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT

NO. 61.

SUBCHAPTER A. GENERAL PROVISIONS

Sec. ____ .001. DEFINITIONS. In this Chapter:

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

(2) "City" means the City of Texas City, Texas.

(3) "District" means Galveston County Municipal Utility District No. 61.

Sec. ____ .002. CREATION OF DISTRICT. Galveston County Municipal Utility District No. 61 is created as a special district under Section 52, Article III, and Section 59, Article XVI, Texas Constitution.

Sec. ____ .003. DECLARATION OF INTENT. The creation of the district is essential to accomplish the purposes of Section 52, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act.

1 Sec. ____ .004. INITIAL DISTRICT TERRITORY. (a) The
2 district is initially composed of territory described by Section 2
3 of the Act creating this chapter.

4 (b) The boundaries and field notes of the district form a
5 closure. A mistake in the field notes or in copying the field notes
6 in the legislative process does not in any way affect the
7 district's:

8 (1) organization, existence, or validity;

9 (2) right to issue any type of bond for the purposes
10 for which the district is created or to pay the principal of and
11 interest on a bond;

12 (3) right to impose or collect an assessment or tax; or

13 (4) legality or operation.

14 Sec. ____ .005. APPLICABILITY OF OTHER LAW. (a) Except as
15 otherwise provided by this Chapter, Chapters 49 and 54, Water Code,
16 apply to the district.

17 (b) Chapter 311, Government Code (Code Construction Act),
18 applies to this Act.

19 (c) Chapter 1471, Government Code, does not apply to the
20 district.

21 Sec. ____ .006. CONSTRUCTION OF ACT. (a) This Act shall be
22 liberally construed in conformity with the findings and purposes
23 set forth in this Act.

24 (b) If any provision of the general law conflicts with this
25 Act, this Act prevails.

26 (c) If any provision of the general law conflicts with
27 Chapters 49 and 54, Water Code, Chapters 49 and 54, Water Code

1 prevail.

2 SUBCHAPTER B. BOARD OF DIRECTORS

3 Sec. ____ .051. BOARD OF DIRECTORS; TERMS. (a) The district
4 is governed by a board of five directors.

5 (b) Except for the initial directors, each director shall be
6 elected and shall serve for the term of office provided for
7 directors under Chapter 49, Water Code, and until his successor is
8 elected and has qualified.

9 (c) Except for the initial directors, each director shall
10 qualify to serve as director in the manner provided by Chapter 49,
11 Water Code.

12 Sec. ____ .052. INITIAL DIRECTORS. (a) The initial board
13 consists of the following persons:

- 14 (1) _____ ;
- 15 (2) _____ ;
- 16 (3) _____ ;
- 17 (4) _____ ; and
- 18 (5) _____ .

19 (b) Of the initial directors, the terms of the first three
20 directors named in Subsection (a) expire on the uniform election
21 date in May 2007, and the terms of the last two directors named in
22 Subsection (a) expire on the uniform election date in May 2009.

23 (c) On the uniform election date in May 2007, the board
24 shall hold an election for the directors whose terms expire on such
25 date. On the uniform election date in May 2009, the board shall
26 hold an election for the directors whose terms expire on such date.

27 (d) This section expires September 1, 2009.

1 Sec. ____ .053. CONFIRMATION ELECTION. The board of
2 directors shall hold an election to confirm the creation of the
3 district as provided by Section 49.102, Water Code.

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. ____ .101. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

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

11 (b) The district is created for the following purposes:

12 (1) the purposes of a municipal utility district as
13 provided pursuant to Section 54.012, Water Code;

14 (2) the purposes of road utility districts created
15 pursuant to Section 52, Article III, Texas Constitution, and
16 operating pursuant to Chapter 441, Transportation Code, including
17 the purpose of constructing, acquiring, improving, maintaining and
18 operating road and road facilities as defined in Chapter 441,
19 Transportation Code;

20 (3) the purposes of navigation districts created
21 pursuant to Section 59, Article XVI, Texas Constitution, and
22 operating pursuant to Chapters 60 and 62, Water Code; and

23 (4) the purchase, construction, acquisition,
24 ownership, improvement, maintenance and operation of the public
25 works and public improvements authorized for a tax increment
26 reinvestment zone operating pursuant to Chapter 311, Tax Code, and
27 a municipal management district operating pursuant to Chapter 375,

1 Local Government Code.

2 Sec. ____ .102. POWERS OF DISTRICT. (a) The district shall
3 have the functions, powers, authority, rights and duties which will
4 permit accomplishment of the purposes for which it was created.

5 (b) The district shall have all of the rights, powers,
6 privileges, authority and functions, specifically including but
7 not limited to those relating to the levying of taxes, issuance of
8 bonds, imposition of standby fees, and exercise of the power of
9 eminent domain, conferred by the general laws of this state
10 applicable to municipal utility districts created under Article
11 XVI, Section 59, of the Texas Constitution, including those
12 conferred by Chapters 49 and 54, Water Code.

13 Sec. ____ .103. SPECIFIC ROAD POWERS OF DISTRICT. (a) The
14 district may purchase, construct, acquire, own, operate, maintain,
15 improve or extend inside and outside its boundaries roads and road
16 facilities as defined in Chapter 441, Transportation Code, as
17 authorized by Section 52, Article III, of the Texas Constitution.

18 (b) In accordance with Article III, Section 52, of the Texas
19 Constitution, the district has the power and authority to issue
20 bonds, notes, and other obligations or otherwise lend its credit
21 and levy and collect taxes to pay the interest thereon and provide a
22 sinking fund for the redemption thereof for the construction,
23 purchase, maintenance and operation of roads and road facilities.
24 The total amount of bonds issued for such purpose may not exceed
25 one-fourth of the assessed market value of real property of the
26 district as determined by the chief appraiser of the appraisal
27 district that appraises property for the district.

1 (c) The roads and road facilities may include drainage,
2 landscaping and pedestrian improvements and lights, signs, or
3 signals that are incidental thereto and their construction,
4 maintenance, or operation.

5 (d) The roads and road facilities authorized by this section
6 must meet all applicable construction standards, zoning and
7 subdivision requirements, and regulatory ordinances of the city.

8 (e) On completion of a road or road facility authorized by
9 this section, the district, with the consent of the city, may convey
10 that road or road facility to the city, provided the conveyance is
11 free of all indebtedness of the district. If the city becomes the
12 owner of a road or road facility, the city is responsible for all
13 future maintenance and upkeep, and the district has no further
14 responsibility for the road or road facility or its maintenance or
15 upkeep, unless otherwise agreed to by the district and the city.

16 (f) A district may contract with a state agency, political
17 subdivision, or corporation created under Chapter 431,
18 Transportation Code, for a joint road or road facility. The
19 district may issue bonds to pay all or part of the costs of the road
20 or road facility and any other payments required pursuant to the
21 contract. A contract may be a contract under Section 49.108, Water
22 Code. The contract may:

23 (1) provide for joint payment of the costs of the road
24 or road facility; and

25 (2) require the state agency, political subdivision,
26 or corporation to design, construct, or improve a road or road
27 facility as provided by the contract.

1 (g) The district may agree to:

2 (1) reimburse a private person for money spent to
3 construct a road or road facility that has been or will be dedicated
4 or otherwise transferred to public use; or

5 (2) purchase a road or road facility constructed by a
6 private person.

7 (h) The amount paid for the reimbursement or purchase of a
8 road or road facility:

9 (1) may include all construction costs, including
10 engineering, legal, financing, and other expenses incident to the
11 construction; or

12 (2) may be at a price not to exceed the replacement
13 cost of the road or road facility as determined by the board; and

14 (3) may be paid with proceeds from the sale of the
15 district's bonds or from any other money available to the district.

16 (i) The district may enter into an agreement to use the
17 proceeds of a subsequent bond sale for reimbursing all construction
18 costs, engineering and other expenses, and financing costs incident
19 to construction or acquisition of a road or an interest in a road to
20 a private person who constructs or acquires a road or road facility
21 that benefits the district pursuant to the agreement. The
22 agreement may provide the terms and conditions under which the road
23 or road facility will be dedicated or transferred for the benefit of
24 the public and to pay or reimburse the cost of constructing or
25 acquiring the road.

26 Sec. ____ .104. SPECIFIC NAVIGATION POWERS OF DISTRICT. The
27 district may purchase, construct, acquire, own, operate, maintain,

1 improve or extend inside and outside its boundaries canals,
2 waterways, bulkheads, docks, and any other improvements or
3 facilities necessary or convenient to accomplish the navigation
4 purposes of the district authorized by Section 59, Article XVI, of
5 the Texas Constitution.

6 Sec. ____ .106. TAX INCREMENT REINVESTMENT ZONE. (a) All or
7 any part of the area of the district is eligible, regardless of
8 other statutory criteria, to be included in a tax increment
9 reinvestment zone created pursuant to Chapter 311, Tax Code.

10 (b) The district may enter into a contract with the board of
11 directors of a reinvestment zone created pursuant to Chapter 311,
12 Tax Code, and the governing body of the city for the district to
13 manage or assist in managing the reinvestment zone or implement or
14 assist in implementing the reinvestment zone's project plan and
15 reinvestment zone financing plan for the term of the contract in the
16 same manner as a local government corporation pursuant to Section
17 311.010(f). The contract may provide that the district shall issue
18 bonds, notes or other obligations and pledge the contract revenues
19 to the payment thereof. The district may issue bonds payable in
20 whole or in part from the revenue of the contract to pay for the
21 implementation of the reinvestment zone's project plan and
22 reinvestment zone financing plan. Such bonds and the projects
23 financed by the bonds are not subject to Sections 49.181 and 49.182,
24 Water Code.

25 Sec. ____ .107. EMINENT DOMAIN. (a) The district may
26 exercise the power of eminent domain in accordance with Section
27 49.222, Water Code.

1 (b) The district shall obtain the written consent of the
2 city prior to exercising its power of eminent domain.

3 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

4 Sec. ____ .151. ELECTIONS REGARDING TAXES OR BONDS. (b) The
5 district may issue bonds, notes, and other obligations secured by
6 revenues or contract payments from any lawful sources other than ad
7 valorem taxation without an election.

8 (b) The district must hold an election in the manner
9 provided by Chapters 49 and 54, Water Code, to obtain voter approval
10 before the district may impose a maintenance tax or issue bonds
11 payable from ad valorem taxes.

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

14 (d) The district may issue bonds, notes, and other
15 obligations to finance roads and road facilities under Section
16 52(b)(3), Article III, of the Texas Constitution, secured in whole
17 or in part by ad valorem taxation and impose ad valorem taxes to pay
18 the principal of and interest on those obligations and provide a
19 sinking fund for the redemption thereof only if the issuance is
20 approved by a two-thirds majority of the voters of the district
21 voting at an election called and held for that purpose.

22 Sec. ____ .152. AD VALOREM TAX. (a) If authorized at an
23 election held in accordance with Section ____ .151, the district may
24 impose an annual ad valorem tax on taxable property in the district
25 for the acquisition, construction, financing, maintenance and
26 operation of the district and the improvements constructed or
27 acquired by the district or for the provision of services.

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

2 SUBCHAPTER E. BONDS OR OTHER OBLIGATIONS

3 Sec. ____ .201. OBLIGATIONS. (a) The district may issue
4 bonds, notes, or other obligations payable in whole or in part from
5 ad valorem taxes, impact fees, revenue, grants, or other money of
6 the district, or any combination of those sources of money, to pay
7 for any authorized purpose of the district.

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

13 (c) At the time bonds payable in whole or in part from ad
14 valorem taxes are issued, the board shall levy a continuing direct
15 annual ad valorem tax for each year while all or part of the bonds
16 are outstanding on all taxable property within the district in
17 sufficient amount to pay the interest on the bonds as it becomes due
18 and to create a sinking fund for the payment of the principal of the
19 bonds when due or the redemption price at any earlier required
20 redemption date and to pay the expenses of assessing and collecting
21 taxes.

22 Sec. ____ .202. AUTHORITY OF TEXAS COMMISSION ON
23 ENVIRONMENTAL QUALITY OVER ISSUANCE OF DISTRICT BONDS.

24 (a) Sections 49.181 and 49.182, Water Code, apply to all water,
25 wastewater, drainage and recreational facility projects of the
26 district and bonds issued therefor.

27 (b) Section 49.181, Water Code, applies to all road and road

1 facility projects and navigation projects and bonds issued
2 therefor; however, the review of the Texas Commission on
3 Environmental Quality of such projects shall be limited to the
4 financial feasibility of such projects and bonds, and shall not
5 include the review or approval of the design and construction of
6 such projects or the engineering feasibility of such projects, and
7 the requirements of written applications for investigation of
8 feasibility shall be adjusted accordingly.

9 (c) Section 49.182, Water Code, does not apply to any road
10 and road facility projects and navigation projects and bonds issued
11 therefor.

12 (d) Projects and bonds of the district are not subject to
13 the review and approval of the Texas Transportation Commission or
14 the rules promulgated by the Texas Transportation Commission.

15 (e) To the extent that the district issues bonds secured
16 solely by revenues provided under a contract described in Section
17 ____.104(b), Sections 49.181, 49.182, and 49.4645, Water Code,
18 shall not apply to the issuance of such bonds and shall not restrict
19 the types of facilities or improvements that may be financed with
20 such bonds.

21 SECTION 2. Galveston County Municipal Utility District No.
22 61 initially includes all the territory contained in the following
23 area:

24 Of 329.9550 acres of land being part of Subdivisions I, J, K,
25 L, M, N, and O, of the KOHFELDT'S RESUBDIVISION according to the map
26 or plat thereof recorded in Volume 10, Page 35 of the Deed Records
27 of Galveston County, Texas. Said 329.9550 acres being part of the

1 tracts of land conveyed by deed dated March 22, 2004 from Kohfeldt
2 family Limited Partnership, to Texas Gulf Coast Holdings I LP., as
3 recorded in Galveston County Clerk's File No. GAC 2004020691, of
4 the Deed Records of Galveston County, Texas. Said 329.9550 acres
5 being situated in the Thomas W. Johnson Survey, James Haggard
6 Survey, and the James Smith Survey Galveston County, Texas, and
7 being more particularly described by metes and bounds as follows;
8 (Bearings based plat calls of said Kohfeldts Resubdivision)

9 BEGINNING at a point for corner at the intersection of the
10 north line of F.M. 1764 with the northeasterly line of the G.H. & H.
11 R.R. railroad right-of-way adjacent to State Highway 3;

12 THENCE North 39° 12' 00" West, along the said northeasterly
13 line of the G.H. & H. R.R. railroad right-of-way, for a distance of
14 557.48 feet to a to a point for corner;

15 THENCE North, along the west line of said Haggard Survey, for
16 a distance of 3,560.62 feet to a to a point for corner in the south
17 line of 25th Avenue (R.O.W. 120')(also known as Loop 197), said to a
18 point for corner being the northwest corner of the herein described
19 tract;

20 THENCE East, continuing along the south line of 25th Avenue
21 (also known as Loop 197), for a distance of 5,752.59 feet to the
22 northeast corner of the herein described tract;

23 THENCE South, for a distance of 1,095.00 feet to a to a point
24 for corner;

25 THENCE West, for a distance of 1,320.00 feet to a to a point
26 for corner in the common line of the Thomas W. Johnson Survey, and
27 the James Smith Survey;

1 THENCE South, along the common line of the Thomas W. Johnson
2 Survey, and the James Smith Survey, for a distance of 1,155.00 feet
3 to a to a point for corner;

4 THENCE West, for a distance of 2,640.00 feet to a to a point
5 for corner in the east line of the James Haggard Survey;

6 THENCE South, along the east line of the James Haggard
7 Survey, for a distance of 1,657.30 feet to a to a point for corner in
8 the north line of said F.M. 1764;

9 THENCE South 87° 48' 00" West along the north line of said F.M.
10 1764, for a distance of 1,441.31 feet to the PLACE OF BEGINNING of
11 herein described tract of land and containing within these calls
12 14,372,838 square feet or 329.9550 acres of land.

13 SECTION 3. The legislature finds that: (1) proper and
14 legal notice of the intention to introduce this Act, setting forth
15 the general substance of this Act, has been published as provided by
16 law, and the notice and a copy of this Act have been furnished to all
17 persons, agencies, officials, or entities to which they are
18 required to be furnished by the constitution and laws of this state,
19 including the governor, who has submitted the notice and Act to the
20 Texas Commission on Environmental Quality;

21 (2) the Texas Commission on Environmental Quality has
22 filed its recommendations relating to this Act with the governor,
23 lieutenant governor, and speaker of the house of representatives
24 within the required time;

25 (3) the general law relating to consent by political
26 subdivisions to the creation of districts with conservation,
27 reclamation, and road powers and the inclusion of land in those

1 districts has been complied with; and

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

6 SECTION 4. This Act takes effect immediately if it receives
7 a vote of two-thirds of all the members elected to each house, as
8 provided by Section 39, Article III, Texas Constitution. If this
9 Act does not receive the vote necessary for immediate effect, this
10 Act takes effect September 1, 2005.