

By: Jackson

S.B. No. 1803

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Galveston County Municipal Utility District No. 63; providing authority to impose taxes 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 8145 to read as follows:

CHAPTER 8145. GALVESTON COUNTY MUNICIPAL UTILITY DISTRICT

NO. 63

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8145.001. DEFINITIONS. In this chapter:

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

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

(3) "Director" means a member of the board.

(4) "District" means the Galveston County Municipal Utility District No. 63.

Sec. 8145.002. NATURE OF DISTRICT. The district is a municipal utility district in Galveston County created under and essential to accomplish the purposes of Sections 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution.

Sec. 8145.003. CONFIRMATION ELECTION REQUIRED. The board shall hold an election to confirm the creation of the district as

provided by Section 49.102, Water Code.

Sec. 8145.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

(a) All land and other property included in the district will benefit from the improvements and services to be provided by the district under powers conferred by Sections 52 and 52-a, Article III, Section 1-g, Article VIII, and Section 59, Article XVI, Texas Constitution.

(b) The district is created for the same purposes as:

(1) a municipal utility district as provided by Section 54.012, Water Code;

(2) a road utility district created under Section 52, Article III, Texas Constitution, and operating under Chapter 441, Transportation Code, including the purpose of constructing, acquiring, improving, maintaining, and operating roads and road facilities;

(3) a navigation district created under Section 59, Article XVI, Texas Constitution, and operating under Chapters 60 and 62, Water Code; and

(4) the purchase, construction, acquisition, ownership, improvement, maintenance and operation of the public works and public improvements authorized for a tax increment reinvestment zone operating under Chapter 311, Tax Code, and a municipal management district operating under Chapter 375, Local Government Code.

Sec. 8145.005. INITIAL DISTRICT TERRITORY. (a) The district is initially composed of the territory described by Section 2 of the Act creating this chapter.

1 (b) The boundaries and field notes contained in Section 2 of
2 the Act creating this chapter form a closure. A mistake made in the
3 field notes or in copying the field notes in the legislative process
4 does not affect the district's:

5 (1) organization, existence, or validity;

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

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

10 (4) legality or operation.

11 Sec. 8145.006. CONSTRUCTION OF CHAPTER. This chapter shall
12 be liberally construed in conformity with the findings and purposes
13 set forth in this chapter.

14 [Sections 8145.007-8145.050 reserved for expansion]

15 SUBCHAPTER B. BOARD OF DIRECTORS

16 Sec. 8145.051. DIRECTORS; TERMS. (a) The district is
17 governed by a board of five directors.

18 (b) Except as provided by Section 8145.053, directors serve
19 staggered four-year terms.

20 Sec. 8145.052. ELECTION OF DIRECTORS. On the uniform
21 election date in May of each even-numbered year, the appropriate
22 number of directors shall be elected.

23 Sec. 8145.053. INITIAL DIRECTORS. (a) The initial board
24 consists of:

25 (1) Patrick Carmichael;

26 (2) Matthew Mannen;

27 (3) Matthew May;

1 (4) Gigi Strang; and

2 (5) Jason H. Styles.

3 (b) The terms of the first three directors named in
4 Subsection (a) expire on the uniform election date in May 2006, and
5 the terms of the last two directors named in Subsection (a) expire
6 on the uniform election date in May 2008.

7 (c) This section expires September 1, 2009.

8 [Sections 8145.054-8145.100 reserved for expansion]

9 SUBCHAPTER C. GENERAL POWERS AND DUTIES

10 Sec. 8145.101. GENERAL POWERS AND DUTIES. The district has
11 the powers and duties necessary to accomplish the purposes for
12 which the district is created.

13 Sec. 8145.102. MUNICIPAL UTILITY DISTRICT POWERS AND
14 DUTIES. The district has the powers and duties provided by the
15 general law of this state, including Chapters 49 and 54, Water Code,
16 applicable to municipal utility districts created under Section 59,
17 Article XVI, Texas Constitution.

18 Sec. 8145.103. NAVIGATION POWERS. The district may
19 purchase, construct, acquire, own, operate, maintain, improve, or
20 extend, inside and outside the district, canals, waterways,
21 bulkheads, docks, and any other improvements or facilities
22 necessary or convenient to accomplish the navigation purposes of
23 the district authorized by Section 59, Article XVI, Texas
24 Constitution.

25 Sec. 8145.104. TAX INCREMENT REINVESTMENT ZONE. (a) All
26 or any part of the area of the district is eligible to be included in
27 a tax increment reinvestment zone created under Chapter 311, Tax

1 Code.

2 (b) The district may enter into a contract with the board of
3 directors of a reinvestment zone and the governing body of the city
4 that provides for the district to manage or assist in managing the
5 reinvestment zone or to implement or assist in implementing the
6 reinvestment zone's project plan and reinvestment zone financing
7 plan. The contract may require the district to issue bonds or other
8 obligations and pledge the contract revenues to the payment of the
9 bonds or other obligations.

10 Sec. 8145.105. EMINENT DOMAIN. (a) Except as provided by
11 Subsection (b), the district may exercise the power of eminent
12 domain as provided by Section 49.222, Water Code.

13 (b) The district must obtain the written consent of the city
14 before exercising the power of eminent domain.

15 [Sections 8145.106-8145.150 reserved for expansion]

16 SUBCHAPTER D. ADDITIONAL ROAD POWERS

17 Sec. 8145.151. ROAD PROJECTS. (a) As authorized by
18 Section 52, Article III, Texas Constitution, the district may
19 construct, acquire, improve, maintain, or operate, inside and
20 outside the district, roads and road facilities as defined by
21 Chapter 441, Transportation Code.

22 (b) The roads and road facilities authorized by Subsection
23 (a) may include drainage, landscaping, pedestrian improvements,
24 lights, signs, or signals that are incidental to the roads and their
25 construction, maintenance, or operation.

26 (c) The roads and road facilities authorized by this section
27 must meet all applicable construction standards, zoning and

1 subdivision requirements, and regulatory ordinances of the city.

2 (d) On completion of a road or road facility authorized by
3 this section, the district, with the consent of the city, may convey
4 the road or road facility to the city if the conveyance is free of
5 all indebtedness of the district. If the city becomes the owner of
6 a road or road facility, the city is responsible for all future
7 maintenance and upkeep and the district has no further
8 responsibility for the road or road facility or its maintenance or
9 upkeep, unless otherwise agreed to by the district and the city.

10 Sec. 8145.152. JOINT ROAD PROJECTS. (a) A district may
11 contract with a state agency, political subdivision, or corporation
12 created under Chapter 431, Transportation Code, for a joint road
13 project.

14 (b) The contract may:
15 (1) provide for joint payment of project costs; and
16 (2) require the state agency, political subdivision,
17 or corporation to design, construct, or improve a project as
18 provided by the contract.

19 (c) A contract may be a contract under Section 49.108, Water
20 Code.

21 Sec. 8145.153. REIMBURSEMENT FOR ROAD PROJECT. (a) The
22 district may:

23 (1) reimburse a private person for money spent to
24 construct a road or road facility that is dedicated or otherwise
25 transferred to public use; or

26 (2) purchase a road or road facility constructed by a
27 private person.

1 (b) The amount paid for the reimbursement or for the
2 purchase of a road or road facility under Subsection (a) may:

3 (1) include all construction costs, including
4 engineering, legal, financing, and other expenses incident to the
5 construction; or

6 (2) be at a price not to exceed the replacement cost of
7 the road or road facility as determined by the board.

8 (c) The reimbursement or purchase of a road or road facility
9 may be paid for with proceeds from the sale of the district's bonds
10 or from any other money available to the district.

11 (d) The district may enter into an agreement to use the
12 proceeds of a subsequent bond sale to reimburse a private person
13 under this section. The agreement may provide the terms and
14 conditions under which the road or road facility is to be dedicated
15 or transferred for the benefit of the public.

16 [Sections 8145.154-8145.200 reserved for expansion]

17 SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

18 Sec. 8145.201. ELECTIONS REGARDING TAXES OR BONDS.

19 (a) The district may issue, without an election, bonds and other
20 obligations secured by revenue or contract payments from any lawful
21 source other than ad valorem taxation.

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

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

1 (d) The district may issue bonds or other obligations to
2 finance road projects under Section 52(b)(3), Article III, Texas
3 Constitution, secured wholly or partly by ad valorem taxation,
4 impose ad valorem taxes to pay the principal of and interest on the
5 obligations, and provide a sinking fund for the redemption of the
6 obligations only if the issuance is approved by a two-thirds
7 majority of the voters of the district voting at an election called
8 and held for that purpose. The total amount of bonds issued under
9 this subsection may not exceed one-fourth of the assessed market
10 value of real property of the district as determined by the chief
11 appraiser of the appraisal district that appraises property for the
12 district.

13 Sec. 8145.202. AD VALOREM TAX. (a) If authorized at an
14 election held under Section 8145.201, the district may impose an
15 annual ad valorem tax on taxable property in the district for the
16 provision of services or for the maintenance and operation of the
17 district, including the construction, acquisition, maintenance,
18 and operation of improvements.

19 (b) The board shall determine the tax rate. The rate may not
20 exceed the rate approved at the election.

21 [Sections 8145.203-8145.250 reserved for expansion]

22 SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

23 Sec. 8145.251. AUTHORITY TO ISSUE BONDS AND OTHER
24 OBLIGATIONS. (a) The district may issue bonds or other
25 obligations payable wholly or partly from ad valorem taxes, impact
26 fees, revenue, grants, or other district money, or any combination
27 of those sources, to pay for any authorized district purpose.

1 (b) In exercising the district's borrowing power, the
2 district may issue a bond or other obligation in the form of a bond,
3 note, certificate of participation, or other instrument evidencing
4 a proportionate interest in payments to be made by the district, or
5 other type of obligation.

6 Sec. 8145.252. TAXES FOR BONDS AND OTHER OBLIGATIONS. At
7 the time bonds or other obligations payable wholly or partly from ad
8 valorem taxes are issued:

9 (1) the board shall impose a continuing direct annual
10 ad valorem tax, without limit as to rate or amount, for each year
11 that all or part of the bonds are outstanding; and

12 (2) the district annually shall impose an ad valorem
13 tax on all taxable property in the district in an amount sufficient
14 to:

15 (A) pay the interest on the bonds or other
16 obligations as the interest becomes due;

17 (B) create a sinking fund for the payment of the
18 principal of the bonds or other obligations when due or the
19 redemption price at any earlier required redemption date; and

20 (C) pay the expenses of imposing the taxes.

21 Sec. 8145.253. BONDS FOR CONTRACT COSTS. If the district
22 enters into a contract under Section 8145.152, the district may
23 issue bonds to pay all or part of the costs of the joint road project
24 and any other payments required under the contract.

25 Sec. 8145.254. BONDS PAYABLE FROM REVENUE FROM CERTAIN
26 CONTRACTS. The district may issue bonds payable wholly or partly
27 from the revenue of a contract authorized by Section 8145.104(b) to

1 pay for the implementation of the reinvestment zone's project plan
2 or reinvestment zone financing plan.

3 Sec. 8145.255. AUTHORITY OF TEXAS COMMISSION ON
4 ENVIRONMENTAL QUALITY OVER ISSUANCE OF DISTRICT BONDS.

5 (a) Sections 49.181 and 49.182, Water Code, apply to all water,
6 wastewater, drainage, and recreational facility projects of the
7 district and bonds issued for those purposes.

8 (b) Section 49.181, Water Code, applies to all road and road
9 facility projects and navigation projects and bonds issued for
10 those purposes, but the review of the Texas Commission on
11 Environmental Quality of the projects is limited to the financial
12 feasibility of the projects and bonds, and does not include the
13 review or approval of the design and construction of the projects or
14 the engineering feasibility of the projects. The commission shall
15 adjust the requirements of written applications for investigation
16 of feasibility in accordance with this subsection.

17 (c) Section 49.182, Water Code, does not apply to road and
18 road facility projects, navigation projects, or bonds issued for
19 those purposes.

20 (d) To the extent that the district issues bonds secured
21 solely by revenues provided under a contract described in Section
22 8145.104(b), Sections 49.181, 49.182, and 49.4645, Water Code, do
23 not apply to the issuance of the bonds and do not restrict the types
24 of facilities or improvements that may be financed with the bonds.

25 (e) Projects and bonds of the district are not subject to
26 the review and approval of the Texas Transportation Commission or
27 the rules adopted by the Texas Transportation Commission.

1 Sec. 8145.256. APPLICABILITY OF OTHER BOND LAW. Chapter
2 1471, Government Code, does not apply to the district.

3 SECTION 2. The Galveston County Municipal Utility District
4 No. 63 initially includes all the territory contained in the
5 following area:

6 TRACT 1

7 Description of 249.1201 acres of land being part of Subdivisions A,
8 E, F, C, and L, of the KOHFELDT'S RESUBDIVISION according to the map
9 or plat thereof recorded in Volume 10, Page 35 of the Deed Records
10 of Galveston County, Texas. Said 249.1201 being part of the tracts
11 of land conveyed by deed dated March 22, 2004 from Kohfeldt family
12 Limited Partnership, to Texas Gulf Coast Holdings I LP., as
13 recorded in Galveston County Clerk's File No. GAC 2004020691, of
14 the Deed Records of Galveston County, Texas, and being all of the
15 property conveyed by deed dated December 12, 2003 from Presbyterian
16 Children's Homes and Services to Texas Gulf Coast Holdings I LP., as
17 recorded in Galveston County Clerk's File No. GAC 2003089572, of
18 the Deed Records of Galveston County, Texas. Said 249.1201 acres
19 being situated in the Thomas W. Johnson Survey and the James Smith
20 Survey, Galveston County, Texas, and being more particularly
21 described by metes and bounds as follows; (Bearings based plat
22 calls of said Kohfeldts Resubdivision)

23 COMMENCING at a point for corner at the intersection of the north
24 line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R.
25 railroad right-of-way adjacent to State Highway 3;

26 THENCE North 39° 12' 00" West, along the said northeasterly line of
27 the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48

1 feet to a to a point for corner;

2 THENCE North, along the west line of said Haggard Survey, for a
3 distance of 3,650.62 feet to a to a point for corner in the north
4 line of 25th Avenue (R.O.W. 120') (also known as Loop 197);

5 THENCE East, along the north line of said 25th Avenue, for a
6 distance of 5373.41 feet to a to a point for corner at the
7 intersection of the north line of 25th Avenue and the east line of a
8 called 8.23 acre tract (Tract 2) conveyed by deed dated August 17,
9 1971 to the City of Texas City, Texas. Said point for corner being
10 the southwest corner and PLACE of BEGINNING of the herein described
11 tract;

12 THENCE along the east line of said 8.23 acres with a curve to the
13 right having a radius of 625.80 feet, a central angle of 29° 29' 43",
14 a chord bearing and distance of N 16° 40' 28" E, 318.61 feet, an arc
15 length of 322.16 feet to a to a point for reverse curve;

16 THENCE continuing along the east line of said 8.23 acres along said
17 curve to the left having a radius of 320.00 feet, a central angle of
18 68° 43' 28", a chord bearing and distance of N 02° 56' 25" W, 361.23
19 feet, an arc length of 383.83 feet to a to the point of tangent;

20 THENCE North 37° 08' 45" West, continuing along the east line of said
21 8.23 acres for a distance of 2,306.59 feet to a to a point for corner
22 in the south line of called 190.6 acre tract (Golf Course) conveyed
23 by deed dated August 17, 1971 to the City of Texas City, Texas;

24 THENCE in a easterly direction along the perimeter of the 190.6 acre
25 tract (Golf Course), the following calls;

26 North 87° 28' 47" East, for a distance of 30.11 feet to a to a
27 point for corner;

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1 South 36° 30' 23" East, for a distance of 49.19 feet to a to a
2 point for corner;
3 North 87° 28' 47" East, for a distance of 54.39 feet to a to a point
4 for corner;
5 North 85° 48' 20" East, for a distance of 1,121.18 feet to a to a
6 point for corner;
7 North 23° 36' 58" West, for a distance of 280.94 feet to a to a point
8 for corner;
9 North 81° 28' 44" East, for a distance of 1,708.56 feet to a to a
10 point for corner;
11 South 68° 58' 23" East, for a distance of 735.29 feet to a to a point
12 for corner;
13 North 68° 34' 30" East, for a distance of 533.76 feet to a to a point
14 for corner;
15 North 60° 30' 34" East, for a distance of 466.76 feet to a to a point
16 for corner in the west line of a 100' Texas & New Orleans Rail Road
17 right-of-way;
18 THENCE South 11° 37' 17" East, along the west line of said 100' Texas
19 & New Orleans Rail Road right-of-way, for a distance of 2,151.34
20 feet to a to a to a point for corner;
21 THENCE West, for a distance of 308.27 feet to a to a point for
22 corner;
23 THENCE South, for a distance of 1,095.00 feet to a to a point for
24 corner in the north line of said 25th Avenue (also known as Loop
25 197);
26 THENCE West along the north line of said 25th Avenue (also known as
27 Loop 197), for a distance of 3,207.79 feet to the PLACE OF BEGINNING

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of herein described tract of land and containing within these calls
10,851,671 square feet or 249.1201 acres of land.

TRACT 2

Description of 9.7801 acres of land being part of
Subdivisions E, and F of the KOHFELDT'S RESUBDIVISION according to
the map or plat thereof recorded in Volume 10, Page 35 of the Deed
Records of Galveston County, Texas. Said 9.7801 acres being part of
the tracts of land conveyed by deed dated March 22, 2004 from
Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I
LP., as recorded in Galveston County Clerk's File No. GAC
2004020691, of the Deed Records of Galveston County, Texas. Said
9.7801 acres being situated in the Thomas W. Johnson Survey,
Galveston County, Texas, and being more particularly described by
metes and bounds as follows; (Bearings based plat calls of said
Kohfeldt's Resubdivision)

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

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

THENCE North, along the west line of said Haggard Survey, for a
distance of 3,650.62 feet to a point for corner in the north
line of 25th Avenue (R.O.W. 120') (also known as Loop 197);

THENCE East, along the north line of said 25th Avenue, for a
distance of 5,253.36 feet to a point for corner at the
intersection of the north line of 25th Avenue and the west line of a

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1 called 8.23 acre tract (Tract 2) conveyed by deed dated August 17,
2 1971 to the City of Texas City, Texas;
3 THENCE along the west line of said 8.23 acres with a curve to the
4 right having a radius of 745.80 feet, a central angle of 29° 48' 20",
5 a chord bearing and distance of N 16° 31' 10" E, 383.60 feet, an arc
6 length of 387.96 feet to a to a point for reverse curve;
7 THENCE continuing along the west line of said 8.23 acres along said
8 curve to the left having a radius of 200.00 feet, a central angle of
9 68° 43' 28", a chord bearing and distance of N 02° 56' 25" W, 225.78
10 feet, an arc length of 239.90 feet to a to the point of tangent;
11 THENCE North 37° 08' 45" West, continuing along the west line of said
12 8.23 acres for a distance of 595.32 feet to the southeast corner and
13 PLACE of BEGINNING of the herein described tract;
14 THENCE in a northwesterly direction along the perimeter of the said
15 190.6 acre tract (Golf Course), the following calls;
16 North 69° 32' 47" West, for a distance of 865.01 feet to a to a point
17 for corner;
18 North 14° 17' 14" West, for a distance of 832.79 feet to a to a point
19 for corner;
20 North 37° 08' 45" West, for a distance of 180.00 feet to a to a point
21 for corner;
22 North 52° 51' 15" East, for a distance of 140.00 feet to a to a point
23 for the most westerly northwest corner of said 8.23 acre tract;
24 THENCE South 37° 08' 45" East, along the west line of said 8.23 acres
25 for a distance of 1,677.74 feet to the PLACE OF BEGINNING of herein
26 described tract of land and containing within these calls 426,021
27 square feet or 9.7801 acres of land.

1 SECTION 3. (a) The 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
6 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
7 Government Code.

8 (b) The governor, one of the required recipients, has
9 submitted the notice and Act to the Texas Commission on
10 Environmental Quality.

11 (c) The Texas Commission on Environmental Quality has filed
12 its recommendations relating to this Act with the governor, the
13 lieutenant governor, and the speaker of the house of
14 representatives within the required time.

15 (d) All requirements of the constitution and laws of this
16 state and the rules and procedures of the legislature with respect
17 to the notice, introduction, and passage of this Act are fulfilled
18 and accomplished.

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