

By: Jackson S.B. No. 1803
(In the Senate - Filed March 22, 2005; March 30, 2005, read first time and referred to Committee on Intergovernmental Relations; May 2, 2005, reported adversely, with favorable Committee Substitute by the following vote: Yeas 5, Nays 0; May 2, 2005, sent to printer.)

COMMITTEE SUBSTITUTE FOR S.B. No. 1803 By: Deuell

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.

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

(1) organization, existence, or validity;
 (2) right to issue any type of bond for the purposes for which the district is created or to pay the principal of and interest on a bond;

(3) right to impose or collect an assessment or tax; or
 (4) legality or operation.

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

[Sections 8145.007-8145.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

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

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

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

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

- (1) Patrick Carmichael;
- (2) Matthew Mannen;
- (3) Matthew May;
- (4) Gigi Strang; and
- (5) Jason H. Styles.

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

(c) This section expires September 1, 2009.

[Sections 8145.054-8145.100 reserved for expansion]

SUBCHAPTER C. GENERAL POWERS AND DUTIES

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

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

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

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

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

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

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

[Sections 8145.106-8145.150 reserved for expansion]

SUBCHAPTER D. ADDITIONAL ROAD POWERS

Sec. 8145.151. ROAD PROJECTS. (a) As authorized by Section 52, Article III, Texas Constitution, the district may construct, acquire, improve, maintain, or operate, inside and

outside the district, roads and road facilities as defined by Chapter 441, Transportation Code.

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

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

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

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

(b) The contract may:

- (1) provide for joint payment of project costs; and
- (2) require the state agency, political subdivision, or corporation to design, construct, or improve a project as provided by the contract.

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

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

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

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

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

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

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

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

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

[Sections 8145.154-8145.200 reserved for expansion]

SUBCHAPTER E. GENERAL FINANCIAL PROVISIONS

Sec. 8145.201. ELECTIONS REGARDING TAXES OR BONDS. (a) The district may issue, without an election, bonds and other obligations secured by revenue or contract payments from any lawful source other than ad valorem taxation.

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

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

(d) The district may issue bonds or other obligations to finance road projects under Section 52(b)(3), Article III, Texas Constitution, secured wholly or partly by ad valorem taxation, impose ad valorem taxes to pay the principal of and interest on the obligations, and provide a sinking fund for the redemption of the obligations only if the issuance is approved by a two-thirds majority of the voters of the district voting at an election called

and held for that purpose. The total amount of bonds issued under this subsection may not exceed one-fourth of the assessed market value of real property of the district as determined by the chief appraiser of the appraisal district that appraises property for the district.

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

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

[Sections 8145.203-8145.250 reserved for expansion]

SUBCHAPTER F. BONDS AND OTHER OBLIGATIONS

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

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

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

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

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

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

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

(C) pay the expenses of imposing the taxes.

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

Sec. 8145.254. BONDS PAYABLE FROM REVENUE FROM CERTAIN CONTRACTS. The district may issue bonds payable wholly or partly from the revenue of a contract authorized by Section 8145.104(b) to pay for the implementation of the reinvestment zone's project plan or reinvestment zone financing plan.

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

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

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

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

(d) To the extent that the district issues bonds secured solely by revenues provided under a contract described in Section 8145.104(b), Sections 49.181, 49.182, and 49.4645, Water Code, do

not apply to the issuance of the bonds and do not restrict the types of facilities or improvements that may be financed with the bonds.

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

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

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

TRACT 1

Description of 249.1201 acres of land being part of Subdivisions A, E, F, C, and L, 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 249.1201 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, and being all of the property conveyed by deed dated December 12, 2003 from Presbyterian Children's Homes and Services to Texas Gulf Coast Holdings I LP., as recorded in Galveston County Clerk's File No. GAC 2003089572, of the Deed Records of Galveston County, Texas. Said 249.1201 acres being situated in the Thomas W. Johnson Survey and the James Smith 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 5373.41 feet to a point for corner at the intersection of the north line of 25th Avenue and the east line of a called 8.23 acre tract (Tract 2) conveyed by deed dated August 17, 1971 to the City of Texas City, Texas. Said point for corner being the southwest corner and PLACE of BEGINNING of the herein described tract;

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

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

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

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

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

South 36° 30' 23" East, for a distance of 49.19 feet to a point for corner;

North 87° 28' 47" East, for a distance of 54.39 feet to a point for corner;

North 85° 48' 20" East, for a distance of 1,121.18 feet to a point for corner;

North 23° 36' 58" West, for a distance of 280.94 feet to a point for corner;

North 81° 28' 44" East, for a distance of 1,708.56 feet to a point for corner;

6-1 South 68° 58' 23" East, for a distance of 735.29 feet to a to a point
 6-2 for corner;
 6-3 North 68° 34' 30" East, for a distance of 533.76 feet to a to a point
 6-4 for corner;
 6-5 North 60° 30' 34" East, for a distance of 466.76 feet to a to a point
 6-6 for corner in the west line of a 100' Texas & New Orleans Rail Road
 6-7 right-of-way;
 6-8 THENCE South 11° 37' 17" East, along the west line of said 100'
 6-9 Texas & New Orleans Rail Road right-of-way, for a distance of
 6-10 2,151.34 feet to a to a to a point for corner;
 6-11 THENCE West, for a distance of 308.27 feet to a to a point for
 6-12 corner;
 6-13 THENCE South, for a distance of 1,095.00 feet to a to a point for
 6-14 corner in the north line of said 25th Avenue (also known as Loop
 6-15 197);
 6-16 THENCE West along the north line of said 25th Avenue (also known as
 6-17 Loop 197), for a distance of 3,207.79 feet to the PLACE OF BEGINNING
 6-18 of herein described tract of land and containing within these calls
 6-19 10,851,671 square feet or 249.1201 acres of land.
 6-20 TRACT 2
 6-21 Description of 9.7801 acres of land being part of
 6-22 Subdivisions E, and F of the KOHFELDT'S RESUBDIVISION according to
 6-23 the map or plat thereof recorded in Volume 10, Page 35 of the Deed
 6-24 Records of Galveston County, Texas. Said 9.7801 acres being part of
 6-25 the tracts of land conveyed by deed dated March 22, 2004 from
 6-26 Kohfeldt family Limited Partnership, to Texas Gulf Coast Holdings I
 6-27 LP., as recorded in Galveston County Clerk's File No. GAC
 6-28 2004020691, of the Deed Records of Galveston County, Texas. Said
 6-29 9.7801 acres being situated in the Thomas W. Johnson Survey,
 6-30 Galveston County, Texas, and being more particularly described by
 6-31 metes and bounds as follows; (Bearings based plat calls of said
 6-32 Kohfeldts Resubdivision)
 6-33 COMMENCING at a point for corner at the intersection of the north
 6-34 line of F.M. 1764 with the northeasterly line of the G.H. & H. R.R.
 6-35 railroad right-of-way adjacent to State Highway 3;
 6-36 THENCE North 39° 12' 00" West, along the said northeasterly line of
 6-37 the G.H. & H. R.R. railroad right-of-way, for a distance of 557.48
 6-38 feet to a to a point for corner;
 6-39 THENCE North, along the west line of said Haggard Survey, for a
 6-40 distance of 3,650.62 feet to a to a point for corner in the north
 6-41 line of 25th Avenue (R.O.W. 120') (also known as Loop 197);
 6-42 THENCE East, along the north line of said 25th Avenue, for a
 6-43 distance of 5,253.36 feet to a to a point for corner at the
 6-44 intersection of the north line of 25th Avenue and the west line of a
 6-45 called 8.23 acre tract (Tract 2) conveyed by deed dated August 17,
 6-46 1971 to the City of Texas City, Texas;
 6-47 THENCE along the west line of said 8.23 acres with a curve to the
 6-48 right having a radius of 745.80 feet, a central angle of 29° 48' 20",
 6-49 a chord bearing and distance of N 16° 31' 10" E, 383.60 feet, an arc
 6-50 length of 387.96 feet to a to a point for reverse curve;
 6-51 THENCE continuing along the west line of said 8.23 acres along said
 6-52 curve to the left having a radius of 200.00 feet, a central angle of
 6-53 68° 43' 28", a chord bearing and distance of N 02° 56' 25" W, 225.78
 6-54 feet, an arc length of 239.90 feet to a to the point of tangent;
 6-55 THENCE North 37° 08' 45" West, continuing along the west line of said
 6-56 8.23 acres for a distance of 595.32 feet to the southeast corner and
 6-57 PLACE of BEGINNING of the herein described tract;
 6-58 THENCE in a northwesterly direction along the perimeter of the said
 6-59 190.6 acre tract (Golf Course), the following calls;
 6-60 North 69° 32' 47" West, for a distance of 865.01 feet to a to a point
 6-61 for corner;
 6-62 North 14° 17' 14" West, for a distance of 832.79 feet to a to a point
 6-63 for corner;
 6-64 North 37° 08' 45" West, for a distance of 180.00 feet to a to a point
 6-65 for corner;
 6-66 North 52° 51' 15" East, for a distance of 140.00 feet to a to a point
 6-67 for the most westerly northwest corner of said 8.23 acre tract;
 6-68 THENCE South 37° 08' 45" East, along the west line of said 8.23 acres
 6-69 for a distance of 1,677.74 feet to the PLACE OF BEGINNING of herein

described tract of land and containing within these calls 426,021 square feet or 9.7801 acres of land.

SECTION 3. (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

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

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

* * * * *