

By: Jackson

S.B. No. 1866

A BILL TO BE ENTITLED

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AN ACT

relating to the creation of Dickinson Management District No. 1; providing authority to levy assessments, impose taxes and issue bonds.

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

SECTION 1. DICKINSON MANAGEMENT DISTRICT NO. 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter ____ to read as follows:

CHAPTER _____. DICKINSON MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. _____.001. DEFINITIONS. In this chapter:

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

(2) "District" means Dickinson Management District No. 1.

Sec. _____.002. DICKINSON MANAGEMENT DISTRICT NO. 1.

(a) Dickinson Management District No. 1 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. _____.003. PURPOSE; DECLARATION OF INTENT. (a) The creation of the district is essential to accomplish the purposes of Sections 52 and 52-a, Article III, and Section 59, Article XVI, Texas Constitution, and other public purposes stated in this Act. By creating the district and in authorizing the City of Dickinson, Galveston County, and other political subdivisions to contract with

1 the district, the legislature has established a program to
2 accomplish the public purposes set out in Section 52-a, Article
3 III, Texas Constitution.

4 (b) The creation of the district is necessary to promote,
5 develop, encourage, and maintain employment, commerce,
6 transportation, housing, tourism, recreation, the arts,
7 entertainment, economic development, safety, and the public
8 welfare in the area of the district.

9 (c) This chapter and the creation of the district may not be
10 interpreted to relieve Galveston County or the City of Dickinson
11 from providing the level of services provided as of the effective
12 date of the Act enacting this chapter to the area in the district.
13 The district is created to supplement and not to supplant the county
14 or city services provided in the area in the district.

15 Sec. ____ .004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

16 (a) The district is created to serve a public use and benefit.

17 (b) All land and other property included in the district
18 will benefit from the improvements and services to be provided by
19 the district under powers conferred by Sections 52 and 52-a,
20 Article III, and Section 59, Article XVI, Texas Constitution, and
21 other powers granted under this chapter.

22 (c) The creation of the district is in the public interest
23 and is essential to:

24 (1) further the public purposes of development and
25 diversification of the economy of the state; and

26 (2) eliminate unemployment and underemployment; and

27 (3) develop or expand transportation and commerce.

1 (d) The district will:

2 (1) promote the health, safety, and general welfare of
3 residents, employers, potential employees, employees, visitors,
4 and consumers in the district and of the public;

5 (2) provide needed funding for the district to
6 preserve, maintain, and enhance the economic health and vitality of
7 the district territory as a community and business center; and

8 (3) promote the health, safety, welfare, and enjoyment
9 of the public by providing pedestrian ways and by landscaping and
10 developing certain areas in the district, which are necessary for
11 the restoration, preservation, and enhancement of scenic beauty.

12 (e) Pedestrian ways along or across a street, whether at
13 grade or above or below the surface, and street lighting, street
14 landscaping, parking, and street art objects are parts of and
15 necessary components of a street and are considered to be a street
16 or road improvement.

17 (f) The district will not act as the agent or
18 instrumentality of any private interest even though the district
19 will benefit many private interests as well as the public.

20 Sec. ____ .005. DISTRICT TERRITORY. (a) The district is
21 composed of the territory described by Section 2 of the Act enacting
22 this chapter, as that territory may have been modified under:

23 (1) Subchapter J, Chapter 49, Water Code;

24 (2) Section ____ .108; or

25 (3) other law.

26 (b) The boundaries and field notes of the district contained
27 in Section 2 of the Act enacting this chapter form a closure. A

mistake in the field notes or in copying the field notes in the legislative process, does not in any way affect the district's:

(1) organization, existence, or validity;

(2) right to issue any type of bonds for a purpose for which the district is created or to pay the principal of and interest on the bonds;

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

(4) legality or operation.

Sec. _____.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

All or any part of the area of the district is eligible, notwithstanding other statutory criteria, to be included in:

(1) a tax increment reinvestment zone created by a municipality under Chapter 311, Tax Code;

(2) a tax abatement reinvestment zone created by a municipality under Chapter 312, Tax Code; or

(3) an enterprise zone created by a municipality under Chapter 2303, Government Code.

Sec. _____.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.

Sec. _____.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.

[Sections _____.009-_____.050 reserved for expansion]

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. _____.051. BOARD OF DIRECTORS; TERMS. (a) The district is governed by a board of five voting directors who serve

1 staggered terms of four years, with two or three directors' terms
2 expiring June 1 of each odd-numbered year.

3 (b) The governing body of the City of Dickinson may change
4 the number of voting directors on the board. The board may not
5 consist of fewer than five or more than 15 voting directors.

6 Sec. _____.052. APPOINTMENT OF DIRECTORS. (a) The mayor
7 and members of the governing body of the City of Dickinson shall
8 appoint voting directors. A person is appointed if a majority of
9 the council and the mayor vote to appoint that person.

10 (b) Section 375.063, Local Government Code, does not apply
11 to the district.

12 Sec. _____.053. NONVOTING DIRECTORS. The board may appoint
13 non-voting directors.

14 Sec. _____.054. QUORUM. For the purposes of determining the
15 requirements for a quorum of the board, the following are not
16 counted:

17 (1) a board position vacant for any reason, including
18 death, resignation, or disqualification;

19 (2) a director who is abstaining from participation in
20 a vote because of a conflict of interest; or

21 (3) a nonvoting director.

22 Sec. _____.055. INITIAL VOTING DIRECTORS. (a) The mayor
23 and members of the governing body of the City of Dickinson shall
24 appoint the five initial directors by position.

25 (b) Of the initial voting directors, the terms of directors
26 appointed for positions 1 through 3 expire June 1, 2007, and the
27 terms of directors appointed for positions 4 and 5 expire June 1,

1 2009.

2 (c) This section expires September 1, 2010.

3 [Sections _____.056-_____.100 reserved for expansion]

4 SUBCHAPTER C. POWERS AND DUTIES

5 Sec. _____.101. ADDITIONAL POWERS OF DISTRICT. The district
6 may exercise the powers given to:

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

11 (2) a housing finance corporation under Chapter 394,
12 Local Government Code, to provide housing or residential
13 development projects in the district.

14 Sec. _____.102. NONPROFIT CORPORATION. (a) The board by
15 resolution may authorize the creation of a nonprofit corporation to
16 assist and act for the district in implementing a project or
17 providing a service authorized by this chapter.

18 (b) The nonprofit corporation:

19 (1) has each power of and is considered for purposes of
20 this chapter to be a local government corporation created under
21 Chapter 431, Transportation Code; and

22 (2) may implement any project and provide any service
23 authorized by this chapter.

24 (c) The board shall appoint the board of directors of the
25 nonprofit corporation. A director of the corporation is not
26 required to reside in the district.

27 (d) The board of directors of the nonprofit corporation

1 shall serve in the same manner as the board of directors of a local
2 government corporation created under Chapter 431, Transportation
3 Code.

4 Sec. _____.103. AGREEMENTS; GRANTS. (a) The district may
5 make an agreement with or accept a gift, grant, or loan from any
6 person.

7 (b) The implementation of a project is a governmental
8 function or service for the purposes of Chapter 791, Government
9 Code.

10 Sec. _____.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
11 To protect the public interest, the district may contract with a
12 qualified party, including Galveston County or the City of
13 Dickinson to provide law enforcement services in the district for a
14 fee.

15 Sec. _____.105. APPROVAL BY CITY OF DICKINSON. (a) Except
16 as provided by Subsection (b), the district must obtain the
17 approval of the City of Dickinson's governing body for:

18 (1) the issuance of bonds for each improvement
19 project;

20 (2) the imposition of a sales and use tax;

21 (3) the plans and specifications of the improvement
22 project financed by bonds; and

23 (4) the plans and specifications of any district
24 improvement project related to the use of land owned by the City of
25 Dickinson, an easement granted by the City of Dickinson, or a
26 right-of-way of a street, road, or highway.

27 (b) The approval obtained for the issuance of bonds and the

1 imposition of a sales and use tax must be a resolution by the City of
2 Dickinson. The approval obtained for plans and specifications must
3 be a permit issued by the City of Dickinson.

4 (c) If the district obtains approval from the governing body
5 of the City of Dickinson for a capital improvements budget for a
6 period not to exceed five years, the district may finance the
7 capital improvements and issue bonds specified in the budget
8 without further approval from the City of Dickinson.

9 (d) The City of Dickinson and the district may agree on
10 conditions for obtaining the approval of the city under this
11 section, including an agreement for the approval of a sales and use
12 tax that requires the district to abolish or decrease the rate of
13 the tax if the rate, when combined with other local sales and use
14 taxes, results in a combined tax rate of more than two percent in
15 any location in the district.

16 Sec. ____ .106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
17 district may join and pay dues to an organization that:

18 (1) enjoys tax-exempt status under Section 501(c)(3),
19 (4), or (6), Internal Revenue Code of 1986; and

20 (2) performs a service or provides an activity
21 consistent with the furtherance of a district purpose.

22 Sec. ____ .107. ECONOMIC DEVELOPMENT PROGRAMS AND OTHER
23 POWERS RELATED TO PLANNING AND DEVELOPMENT. The district may
24 establish and provide for the administration of one or more
25 programs to promote state or local economic development and to
26 stimulate business and commercial activity in the district,
27 including programs to:

1 (1) make loans and grants of public money; and

2 (2) provide district personnel and services.

3 (b) The district has all of the powers and authority of a
4 municipality under Chapter 380, Local Government Code.

5 Sec. _____.007. ANNEXATION. In addition to the authority to
6 annex territory under Subchapter C, Chapter 375, Local Government
7 Code, the district has the authority to annex territory if the
8 governing body of the City of Dickinson consents by resolution or
9 ordinance to the annexation.

10 Sec. _____.109. NO EMINENT DOMAIN. The district may not
11 exercise the power of eminent domain.

12 [Sections _____.110-_____.150 reserved for expansion]

13 SUBCHAPTER D. FINANCIAL PROVISIONS

14 Sec. _____.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
15 board by resolution shall establish the number of directors'
16 signatures and the procedure required for a disbursement or
17 transfer of the district's money.

18 Sec. _____.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
19 The district may acquire, construct, finance, operate, or maintain
20 any improvement or service authorized under this chapter or Chapter
21 375, Local Government Code, using any money available to the
22 district.

23 Sec. _____.153. PETITION REQUIRED FOR FINANCING SERVICES
24 AND IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance
25 a service or improvement project with assessments under this
26 chapter unless a written petition requesting that service or
27 improvement has been filed with the board.

1 (b) A petition filed under Subsection (a) must be signed by:

2 (1) the owners of a majority of the assessed value of
3 real property in the district subject to assessment as determined
4 by the most recent certified tax appraisal roll for Galveston
5 County; or

6 (2) at least 25 persons who own real property in the
7 district, if more than 25 persons own real property in the district
8 as determined by the most recent certified tax appraisal roll for
9 Galveston County.

10 Sec. _____.154. METHOD OF NOTICE FOR HEARING. The district
11 may mail the notice required by Section 375.115(c), Local
12 Government Code, by certified United States mail or an equivalent
13 service that can provide a record of mailing or other delivery.

14 Sec. _____.155. ASSESSMENTS; LIENS FOR ASSESSMENTS.

15 (a) The board by resolution may impose and collect an assessment
16 in all or part of the district for any purpose authorized by this
17 chapter.

18 (b) An assessment, reassessment, or an assessment resulting
19 from an addition to or correction of the assessment roll by the
20 district, penalties and interest on an assessment or reassessment,
21 an expense of collection, and reasonable attorney's fees incurred
22 by the district:

23 (1) are a first and prior lien against the property
24 assessed;

25 (2) are superior to any other lien or claim other than
26 a lien or claim for county, school district, or municipal ad valorem
27 taxes; and

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

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

8 (d) The board may make a correction to or a deletion from the
9 assessment roll that does not increase the amount of assessment of
10 any parcel of land without providing notice and holding a hearing in
11 the manner required for additional assessments.

12 Sec. _____.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
13 ASSESSMENTS. (a) The district may not impose an impact fee or
14 assessment on the property, including the equipment, rights of way,
15 facilities, or improvements of:

16 (1) an electric utility or a power generation company
17 as defined by Section 31.002, Utilities Code;

18 (2) a gas utility as defined by Section 101.003 or
19 121.001, Utilities Code;

20 (3) a telecommunications provider as defined by
21 Section 51.002, Utilities Code; or

22 (4) a person who provides to the public cable
23 television or advanced telecommunications services.

24 Sec. _____.157. BONDS AND OTHER OBLIGATIONS. (a) The
25 district may issue bonds or other obligations, by competitive bid
26 or negotiated sale, payable wholly or partly from sales and use
27 taxes, assessments, impact fees, revenue, grants, or other money of

1 the district, or any combination of those sources of money, to pay
2 for any authorized purpose of the district.

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

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

10 Sec. _____.158. CITY NOT REQUIRED TO PAY DISTRICT
11 OBLIGATIONS. Except as provided by Section 375.263, Local
12 Government Code, the City of Dickinson is not required to pay a
13 bond, note, or other obligation of the district.

14 Sec. _____.159. COMPETITIVE BIDDING. Section 375.221, Local
15 Government Code, applies to the district only for a contract that
16 has a value greater than \$25,000.

17 Sec. _____.160. TAX AND ASSESSMENT ABATEMENTS. The district
18 may grant, in the manner authorized by Chapter 312, Tax Code, an
19 abatement for a tax or assessment owed to the district.

20 [Sections _____.161-_____.200 reserved for expansion]

21 SUBCHAPTER E. SALES AND USE TAX

22 Sec. _____.201. MEANINGS OF WORDS AND PHRASES. Words and
23 phrases used in this subchapter that are defined by Chapters 151 an
24 321, Tax Code, have the meanings assigned by Chapters 151 and 321,
25 Tax Code.

26 Sec. _____.202. APPLICABILITY OF CERTAIN TAX CODE
27 PROVISIONS. (a) Except as otherwise provided by this subchapter,

1 Subtitles A and B, Title 2, Tax Code, and Chapter 151, Tax Code,
2 apply to taxes imposed under this subchapter and to the
3 administration and enforcement of those taxes in the same manner
4 that those laws apply to state taxes.

5 (b) The provisions of Subchapters B, C, and D, Chapter 321,
6 Tax Code, relating to municipal sales and use taxes apply to the
7 application, collection, change, and administration of a sales and
8 use tax imposed under this subchapter to the extent consistent with
9 this chapter, as if references in Chapter 321, Tax Code, to a
10 municipality referred to the district and references to a governing
11 body referred to the board.

12 (c) Sections 321.401-321.406 and Subchapter F, Chapter 321,
13 Tax Code, do not apply to a tax imposed under this subchapter.

14 (d) Section 321.203(1), Tax Code, added by Acts 2003,
15 Chapter 1152, Section 2, does not apply to any sales and use tax or
16 excise tax imposed within the boundaries of the district.

17 Sec. _____.203. AUTHORIZATION. The district may adopt a
18 sales and use tax for the benefit of the district. The board is not
19 required to call an election to adopt the tax.

20 Sec. _____.204. ABOLISHING SALES AND USE TAX. (a) Except
21 as provided in subsection (b), the board, with the consent of the
22 governing body of the City of Dickinson, may abolish the sales and
23 use tax without an election.

24 (b) The board may not abolish the sales and use tax if the
25 district has outstanding debt secured by the tax.

26 Sec. _____.205. SALES AND USE TAX RATE. (a) On adoption of
27 the tax authorized by this subchapter, there is imposed a tax at the

1 rate authorized by the district on the receipts from the sale at
2 retail of taxable items within the district, and an excise tax on
3 the use, storage, or other consumption within the district of
4 taxable items purchased, leased, or rented from a retailer within
5 the district during the period that the tax is in effect.

6 (b) The rate of the excise tax is the same as the rate of the
7 sales tax portion of the tax and is applied to the sales price of the
8 taxable item.

9 [Sections _____.206-_____.050 reserved for expansion]

10 SUBCHAPTER F. DISSOLUTION

11 Sec. _____.251. DISSOLUTION OF DISTRICT WITH OUTSTANDING
12 DEBT. (a) The board may dissolve the district regardless of
13 whether the district has debt. Section 375.264, Local Government
14 Code, does not apply to the district.

15 (b) If the district has debt when it is dissolved, the
16 district shall remain in existence solely for the purpose of
17 discharging its debts. The dissolution is effective when all debts
18 have been discharged.

19 SECTION 2. BOUNDARIES. As of the effective date of this
20 Act, Dickinson Management District No. 1 includes all territory
21 contained in the corporate limits of the City of Dickinson.

22 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
23 that:

24 (1) proper and legal notice of the intention to
25 introduce this Act, setting forth the general substance of this
26 Act, has been published as provided by law, and the notice and a
27 copy of this Act have been furnished to all persons, agencies,

1 officials, or entities to which they are required to be furnished by
2 the constitution and laws of this state, including the governor,
3 who has submitted the notice and Act to the Texas Commission on
4 Environmental Quality;

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

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

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

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