

By: Jackson, Mike

S.B. No. 1885

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Galveston Economic Development District; providing authority to impose a tax and issue a bond or similar obligation.

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

SECTION 1. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3851 to read as follows:

CHAPTER 3851. GALVESTON ECONOMIC DEVELOPMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3851.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Galveston Economic Development District.

Sec. 3851.002. GALVESTON ECONOMIC DEVELOPMENT DISTRICT. The Galveston Economic Development District is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3851.003. PETITION AND RESOLUTION REQUIRED. If the City of Galveston does not adopt a resolution approving the petition requesting the creation of the district under Section 3851.021 on or after the effective date of the Act creating this chapter and before September 1, 2007, the district is dissolved and this chapter expires September 1, 2007.

1 Sec. 3851.004. PURPOSE; DECLARATION OF INTENT. (a) The
2 creation of the district is essential to accomplish the purposes of
3 Sections 52 and 52-a, Article III, and Section 59, Article XVI,
4 Texas Constitution, and other public purposes stated in this
5 chapter. By creating the district and in authorizing the City of
6 Galveston, Galveston County, and other political subdivisions to
7 contract with the district, the legislature has established a
8 program to accomplish the public purposes set out in Section 52-a,
9 Article III, Texas Constitution.

10 (b) The creation of the district is necessary to promote,
11 develop, encourage, and maintain transportation, housing,
12 recreation, the arts, safety, scenic beauty, and the public welfare
13 in the district and adjacent areas.

14 (c) This chapter and the creation of the district may not be
15 interpreted to relieve Galveston County or the City of Galveston
16 from providing the level of services provided as of the effective
17 date of this Act, to the area in the district. The district is
18 created to supplement and not to supplant the city or county
19 services provided in the area in the district.

20 Sec. 3851.005. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
21 The district is created to serve a public use and benefit.

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

27 (c) The district will:

1 (1) promote the health, safety, and general welfare of
2 residents in the district and of the public;

3 (2) provide needed funding for the district to
4 preserve, maintain, and enhance the economic health and vitality of
5 the district territory as a residential neighborhood and a
6 commercially viable area; and

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

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

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

19 Sec. 3851.006. DISTRICT TERRITORY. The district is
20 composed of the territory described by Section 2 of the Act enacting
21 this chapter, as that territory may have been modified under:

22 (1) Subchapter J, Chapter 49, Water Code; or

23 (2) other law.

24 Sec. 3851.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
25 DISTRICTS LAW. Except as otherwise provided by this chapter,
26 Chapter 375, Local Government Code, applies to the district.

27 Sec. 3851.008. LIBERAL CONSTRUCTION OF CHAPTER. This

1 chapter shall be liberally construed in conformity with the
2 findings and purposes stated in this chapter.

3 [Sections 3851.009-3851.020 reserved for expansion]

4 SUBCHAPTER A1. TEMPORARY PROVISIONS

5 Sec. 3851.021. PETITION TO CREATE DISTRICT; RESOLUTION.

6 (a) On or after the effective date of the Act creating this
7 chapter, the owners of a majority of the assessed value of real
8 property in the district, according to the most recent certified
9 tax appraisal roll for Galveston County, may petition the governing
10 body of the City of Galveston to create the district.

11 (b) If the governing body of the City of Galveston
12 determines that the petition meets the requirements of Subsection
13 (a), the governing body shall adopt a resolution approving the
14 petition and creating the district.

15 Sec. 3851.022. INITIAL DIRECTORS. After adopting a
16 resolution under this subchapter, the mayor and members of the
17 governing body of the City of Galveston shall appoint 11 initial
18 directors as provided by Section 3851.053. The mayor and members of
19 the governing body shall stagger the appointments so that five
20 directors' terms expire June 1, 2007, and six directors' terms
21 expire June 1, 2009.

22 Sec. 3851.023. EXPIRATION OF SUBCHAPTER. This subchapter
23 expires September 1, 2009.

24 [Sections 3851.024-3851.050 reserved for expansion]

25 SUBCHAPTER B. BOARD OF DIRECTORS

26 Sec. 3851.051. BOARD OF DIRECTORS; TERMS. (a) The
27 district is governed by a board of 11 voting directors who serve

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

3 (b) The board by resolution may change the number of voting
4 directors on the board, but only if the board determines that the
5 change is in the best interest of the district. The board may not
6 consist of fewer than five or more than 15 directors.

7 Sec. 3851.052. QUALIFICATIONS. Voting directors on the
8 board must:

9 (1) reside in the district;

10 (2) own property in the district; or

11 (3) be an officer, employee, or agent of a person who
12 owns property in the district.

13 Sec. 3851.053. APPOINTMENT OF DIRECTORS. The mayor and
14 members of the governing body of the City of Galveston shall appoint
15 directors from persons recommended by the board. A person is
16 appointed if a majority of the members of the governing body,
17 including the mayor, vote to appoint that person.

18 Sec. 3851.054. NONVOTING DIRECTORS. (a) The following
19 persons serve as nonvoting directors:

20 (1) the directors of the following departments of the
21 City of Galveston or a person designated by that director:

22 (A) parks and recreation;

23 (B) planning and development; and

24 (C) public works; and

25 (2) the City of Galveston's chief of police.

26 (b) If a department described by Subsection (a) is
27 consolidated, renamed, or changed, the board may appoint a director

1 of the consolidated, renamed, or changed department as a nonvoting
2 director. If a department described by Subsection (a) is
3 abolished, the board may appoint a representative of another
4 department that performs duties comparable to those performed by
5 the abolished department.

6 Sec. 3851.055. QUORUM. (a) Section 375.071, Local
7 Government Code, does not apply to the district.

8 (b) A majority of the board is a quorum.

9 (c) Nonvoting directors and vacant director positions are
10 not counted for the purposes of establishing a board quorum.

11 Sec. 3851.056. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

12 (a) Except as provided by this section:

13 (1) a director may participate in all board votes and
14 decisions; and

15 (2) Chapter 171, Local Government Code, governs
16 conflicts of interest for directors.

17 (b) Section 171.004, Local Government Code, does not apply
18 to the district. A director who has a substantial interest in a
19 business or charitable entity that will receive a pecuniary benefit
20 from a board action shall file a one-time affidavit declaring the
21 interest. An additional affidavit is not required if the
22 director's interest changes. After the affidavit is filed with the
23 board secretary, the director may participate in a discussion or
24 vote on that action if:

25 (1) a majority of the directors have a similar
26 interest in the same entity; or

27 (2) all other similar business or charitable entities

1 in the district will receive a similar pecuniary benefit.

2 (c) A director who is also an officer or employee of a public
3 entity may not participate in the discussion of or vote on a matter
4 regarding a contract with that public entity.

5 (d) For purposes of this section, a director has a
6 substantial interest in a charitable entity in the same manner that
7 a person would have a substantial interest in a business entity
8 under Section 171.002, Local Government Code.

9 [Sections 3851.057-3851.100 reserved for expansion]

10 SUBCHAPTER C. POWERS AND DUTIES

11 Sec. 3851.101. ADDITIONAL POWERS OF DISTRICT. The district
12 may exercise the powers given to:

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

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

21 Sec. 3851.102. NONPROFIT CORPORATION. (a) The board by
22 resolution may authorize the creation of a nonprofit corporation to
23 assist and act for the district in implementing a project or
24 providing a service authorized by this chapter.

25 (b) The nonprofit corporation:

26 (1) has each power of and is considered for purposes of
27 this chapter to be a local government corporation created under

1 Chapter 431, Transportation Code; and

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

4 (c) The board shall appoint the board of directors of the
5 nonprofit corporation. The board of directors of the nonprofit
6 corporation shall serve in the same manner as, for the same term as,
7 and on the same conditions as the board of directors of a local
8 government corporation created under Chapter 431, Transportation
9 Code.

10 Sec. 3851.103. AGREEMENTS; GRANTS. (a) The district may
11 make an agreement with or accept a gift, grant, or loan from any
12 person.

13 (b) The implementation of a project is a governmental
14 function or service for the purposes of Chapter 791, Government
15 Code.

16 Sec. 3851.104. AUTHORITY TO CONTRACT FOR LAW
17 ENFORCEMENT. To protect the public interest, the district may
18 contract with Galveston County or the City of Galveston for the
19 county or the city to provide law enforcement services in the
20 district for a fee.

21 Sec. 3851.105. APPROVAL BY CITY OF GALVESTON. (a) Except
22 as provided by Subsection (b), the district must obtain the
23 approval of the governing body of the City of Galveston for:

24 (1) the issuance of a bond for each improvement
25 project;

26 (2) the plans and specifications of the improvement
27 project financed by the bond; and

1 (3) the plans and specifications of any district
2 improvement project related to:

3 (A) the use of land owned by the City of
4 Galveston;

5 (B) an easement granted by the City of Galveston;
6 or

7 (C) a right-of-way of a street, road, or highway.

8 (b) If the district obtains the approval of the governing
9 body of the City of Galveston of a capital improvements budget for a
10 period not to exceed five years, the district may finance the
11 capital improvements and issue bonds specified in the budget
12 without further approval from the City of Galveston.

13 Sec. 3851.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
14 district may join and pay dues to an organization that:

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

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

19 Sec. 3851.107. NO EMINENT DOMAIN. The district may not
20 exercise the power of eminent domain.

21 [Sections 3851.108–3851.150 reserved for expansion]

22 SUBCHAPTER D. FINANCIAL PROVISIONS

23 Sec. 3851.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
24 board by resolution shall establish the number of directors'
25 signatures and the procedure required for a disbursement or
26 transfer of the district's money.

27 Sec. 3851.152. PETITION REQUIRED FOR FINANCING SERVICES AND

1 IMPROVEMENTS. (a) The board may not finance a service or
2 improvement project with assessments under this chapter unless a
3 written petition requesting that service or improvement has been
4 filed with the board.

5 (b) A petition requesting a project financed by assessment
6 must be signed by:

7 (1) the owners of a majority of the assessed value of
8 real property in the district subject to assessment according to
9 the most recent certified tax appraisal roll for Galveston County;
10 or

11 (2) at least 50 owners of real property in the district
12 that will be subject to the assessment, if more than 50 persons own
13 real property subject to the assessment in the district according
14 to the most recent certified tax appraisal roll for Galveston
15 County.

16 Sec. 3851.153. MAINTENANCE TAX. (a) If authorized at an
17 election held in accordance with Section 3851.157, the district may
18 impose an annual ad valorem tax on taxable property in the district
19 to:

- 20 (1) administer the district;
21 (2) maintain and operate the district;
22 (3) construct or acquire improvements; or
23 (4) provide a service.

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

25 Sec. 3851.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
26 The board by resolution may impose and collect an assessment for any
27 purpose authorized by this chapter.

1 (b) An assessment, a reassessment, or an assessment
2 resulting from an addition to or correction of the assessment roll
3 by the district, penalties and interest on an assessment or
4 reassessment, an expense of collection, and reasonable attorney's
5 fees incurred by the district:

6 (1) are a first and prior lien against the property
7 assessed;

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

11 (3) are the personal liability of and a charge against
12 the owners of the property even if the owners are not named in the
13 assessment proceedings.

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

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

22 Sec. 3851.155. UTILITY PROPERTY EXEMPT FROM IMPACT FEES AND
23 ASSESSMENTS. The district may not impose an impact fee or
24 assessment on the property, including the equipment,
25 rights-of-way, facilities, or improvements, of:

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

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

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

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

7 Sec. 3851.156. BONDS AND OTHER OBLIGATIONS. (a) The
8 district may issue bonds or other obligations payable wholly or
9 partly from taxes, assessments, impact fees, revenue, grants, or
10 other money of the district, or any combination of those sources of
11 money, to pay for any authorized purpose of the district.

12 (b) The district may issue a bond or other obligation in the
13 form of a bond, note, certificate of participation or other
14 instrument evidencing a proportionate interest in payments to be
15 made by the district, or other type of obligation.

16 Sec. 3851.157. TAX AND BOND ELECTIONS. (a) The district
17 shall hold an election in the manner provided by Subchapter L,
18 Chapter 375, Local Government Code, to obtain voter approval before
19 the district imposes a maintenance tax or issues bonds payable from
20 ad valorem taxes.

21 (b) The board may not include more than one purpose in a
22 single proposition at an election.

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

25 Sec. 3851.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
26 OBLIGATIONS. Except as provided by Section 375.263, Local
27 Government Code, a municipality is not required to pay a bond, note,

1 or other obligation of the district.

2 Sec. 3851.159. COMPETITIVE BIDDING. Section 375.221, Local
3 Government Code, applies to the district only for a contract that
4 has a value greater than \$25,000.

5 [Sections 3851.160-3851.200 reserved for expansion]

6 SUBCHAPTER E. DISSOLUTION

7 Sec. 3851.201. DISSOLUTION OF DISTRICT WITH OUTSTANDING
8 DEBT. (a) The board may dissolve the district regardless of
9 whether the district has debt. Section 375.264, Local Government
10 Code, does not apply to the district.

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

15 SECTION 2. As of the effective date of this Act, the
16 Galveston Economic Development District includes all territory
17 contained in the following described area:

18 Beginning at a point, said point being the intersection of the south
19 right of way of Broadway and the west right of way line of 30th
20 Street; thence north along the west right of way line of 30th Street
21 to its intersection with the extension of the north right of way
22 line of Harborside Drive; thence east along the north right of way
23 line of Harborside Drive to its intersection with the extension of
24 the east right of way line of 4th Street (Holiday Drive); thence
25 south along the east right of way line of 4th Street (Holiday Drive)
26 to its intersection with the south right of way line of Seawall
27 Boulevard; thence westward along the south right of way of Seawall

1 Boulevard to its intersection with the extension of the south right
2 of way of Broadway; thence westerly along the south right of way of
3 Broadway to its intersection with the west right of way line of 30th
4 Street; said intersection point being the place of beginning of
5 this district.

6 SECTION 3. The Galveston Economic Development District may
7 reimburse the cost of creating the district from assessments or
8 other revenues collected by the district.

9 SECTION 4. The legislature finds that:

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

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

22 (3) the general law relating to consent by political
23 subdivisions to the creation of districts with conservation,
24 reclamation, and road powers and the inclusion of land in those
25 districts has been complied with; and

26 (4) all requirements of the constitution and laws of
27 this state and the rules and procedures of the legislature with

1 respect to the notice, introduction, and passage of this Act have
2 been fulfilled and accomplished.

3 SECTION 5. This Act takes effect immediately if it receives
4 a vote of two-thirds of all the members elected to each house, as
5 provided by Section 39, Article III, Texas Constitution. If this
6 Act does not receive the vote necessary for immediate effect, this
7 Act takes effect September 1, 2005.