

By: Eiland

H.B. No. 4053

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Galveston Grand Beach Management District; providing authority to levy an assessment, impose a tax, and issue bonds.

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

SECTION 1. GALVESTON GRAND BEACH MANAGEMENT DISTRICT. Subtitle C, Title 4, Special District Local Laws Code, is amended by adding Chapter 3856 to read as follows:

CHAPTER 3856. GALVESTON GRAND BEACH MANAGEMENT DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3856.001. DEFINITIONS. In this chapter:

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

(2) "District" means the Galveston Grand Beach Management District.

Sec. 3856.002. GALVESTON GRAND BEACH MANAGEMENT DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3856.003. 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 chapter. By creating the district and in authorizing the City of Galveston, Galveston County, and other political subdivisions to

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

9 (c) This chapter and the creation of the district may not be
10 interpreted to relieve the City of Galveston or Galveston County
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. 3856.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
16 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 developing and
25 diversifying the economy of the state;

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 residential community and business
8 center; and

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

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

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

21 Sec. 3856.005. DISTRICT TERRITORY. (a) The district is
22 composed of the territory described by Section 2 of the Act enacting
23 this chapter, as that territory may have been modified under:

24 (1) Section 3856.108;

25 (2) Subchapter J, Chapter 49, Water Code; or

26 (3) other law.

27 (b) The boundaries and field notes of the district contained

1 in Section 2 of the Act enacting this chapter form a closure. A
2 mistake in the field notes or in copying the field notes in the
3 legislative process does not in any way affect the district's:

4 (1) organization, existence, or validity;

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

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

9 (4) legality or operation.

10 Sec. 3856.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

11 All or any part of the area of the district is eligible to be
12 included in:

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

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

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

19 Sec. 3856.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
20 DISTRICTS LAW. Except as otherwise provided by this chapter,
21 Chapter 375, Local Government Code, applies to the district.

22 Sec. 3856.008. LIBERAL CONSTRUCTION OF CHAPTER. This
23 chapter shall be liberally construed in conformity with the
24 findings and purposes stated in this chapter.

25 [Sections 3856.009-3856.050 reserved for expansion]

26 SUBCHAPTER B. BOARD OF DIRECTORS

27 Sec. 3856.051. GOVERNING BODY; TERMS. (a) The district is

1 governed by a board of nine voting directors appointed under
2 Section 3856.052 and nonvoting directors as provided by Section
3 3856.053.

4 (b) Voting directors serve staggered terms of four years,
5 with four or five directors' terms expiring June 1 of each
6 odd-numbered year.

7 (c) The board by resolution may increase or decrease the
8 number of directors on the board if the board finds that it is in the
9 best interest of the district. The board may not consist of fewer
10 than seven or more than 13 directors.

11 Sec. 3856.052. APPOINTMENT OF DIRECTORS. The board shall
12 nominate a slate of persons to serve on the succeeding board as
13 voting directors. The members of the governing body of the City of
14 Galveston shall appoint as voting directors the slate of persons
15 nominated by the board.

16 Sec. 3856.053. NONVOTING DIRECTORS. (a) The following
17 persons serve as nonvoting directors:

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

20 (A) parks and recreation;

21 (B) planning and zoning; and

22 (C) public works; and

23 (2) the city manager of the City of Galveston or a
24 person designated by the city manager.

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

1 director. If a department described by Subsection (a) is abolished,
2 the board may appoint a representative of another department that
3 performs duties comparable to those performed by the abolished
4 entity.

5 (c) Nonvoting directors are not counted for the purposes of
6 establishing a quorum of the board.

7 Sec. 3856.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.

8 (a) Except as provided by this section:

9 (1) a director may participate in all board votes and
10 decisions; and

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

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

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

23 (2) all other similar business or charitable entities
24 in the district will receive a similar pecuniary benefit.

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

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

5 Sec. 3856.055. INITIAL VOTING DIRECTORS. (a) The initial
6 board consists of the following voting directors:

| <u>Pos. No.</u> | <u>Name of Director</u> |
|-----------------|----------------------------|
| <u>1</u> | <u>Richard G. Anderson</u> |
| <u>2</u> | <u>Arnold C. Tauch</u> |
| <u>3</u> | <u>Tofigh Shirazi</u> |
| <u>4</u> | <u>Jim Carpenter</u> |
| <u>5</u> | <u>Frank Schaefer</u> |
| <u>6</u> | <u>Donna Coleman</u> |
| <u>7</u> | <u>Martha Wallace</u> |
| <u>8</u> | <u>Juan Pena</u> |
| <u>9</u> | <u>Chad Murphy</u> |

7 (b) Of the initial voting directors, the terms of directors
8 appointed for positions 1 through 5 expire June 1, 2009, and the
9 terms of directors appointed for positions 6 through 9 expire June
10 1, 2011.

11 (c) Section 3856.052 does not apply to this section.

12 (d) This section expires September 1, 2012.

13 [Sections 3856.056-3856.100 reserved for expansion]

14 SUBCHAPTER C. POWERS AND DUTIES

15 Sec. 3856.101. ADDITIONAL POWERS OF DISTRICT. The district
16 may exercise the powers given to:

17 (1) a corporation created under Section 4B,

1 Development Corporation Act of 1979 (Article 5190.6, Vernon's Texas
2 Civil Statutes), including the power to own, operate, acquire,
3 construct, lease, improve, and maintain projects described by that
4 section;

5 (2) a housing finance corporation created under
6 Chapter 394, Local Government Code, to provide housing or
7 residential development projects in the district;

8 (3) a county under Chapter 284, Transportation Code;

9 (4) a road utility district under Chapter 441,
10 Transportation Code;

11 (5) a navigation district under Subchapters E and M,
12 Chapter 60, Water Code; and

13 (6) a navigation district under Section 61.116, Water
14 Code.

15 Sec. 3856.102. NONPROFIT CORPORATION. (a) The board by
16 resolution may authorize the creation of a nonprofit corporation to
17 assist and act for the district in implementing a project or
18 providing a service authorized by this chapter.

19 (b) The nonprofit corporation:

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

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

25 (c) The board shall appoint the board of directors of the
26 nonprofit corporation. The board of directors of the nonprofit
27 corporation shall serve in the same manner as the board of directors

1 of a local government corporation created under Chapter 431,
2 Transportation Code.

3 Sec. 3856.103. AGREEMENTS; GRANTS. (a) The district may
4 make an agreement with or accept a gift, grant, or loan from any
5 person.

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

9 Sec. 3856.104. AUTHORITY TO CONTRACT FOR LAW ENFORCEMENT.
10 To protect the public interest, the district may contract with
11 Galveston County or the City of Galveston to provide law
12 enforcement services in the district for a fee.

13 Sec. 3856.105. COMPETITIVE BIDDING. Section 375.221, Local
14 Government Code, applies to the district only for a contract that
15 has a value greater than \$25,000.

16 Sec. 3856.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. (a)
17 The 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 (b) An expenditure of public money for membership in the
23 organization is considered to further a district purpose and to be
24 for a public purpose.

25 Sec. 3856.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The
26 district may establish and provide for the administration of one or
27 more programs to promote state or local economic development and to

1 stimulate business and commercial activity in the district,
2 including programs to:

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

4 (2) provide district personnel and services.

5 (b) For purposes of this section, the district has all of
6 the powers of a municipality under Chapter 380, Local Government
7 Code.

8 Sec. 3856.108. ANNEXATION. In addition to the authority to
9 annex territory under Subchapter C, Chapter 375, Local Government
10 Code, the district may annex territory in a reinvestment zone
11 created by the City of Galveston under Chapter 311, Tax Code, if the
12 city's governing body consents to the annexation.

13 Sec. 3856.109. NO EMINENT DOMAIN. The district may not
14 exercise the power of eminent domain.

15 [Sections 3856.110-3856.150 reserved for expansion]

16 SUBCHAPTER D. FINANCIAL PROVISIONS

17 Sec. 3856.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
18 board by resolution shall establish the number of directors'
19 signatures and the procedure required for a disbursement or
20 transfer of the district's money.

21 Sec. 3856.152. TAX AND BOND ELECTIONS. (a) The district
22 shall hold an election in the manner provided by Subchapter L,
23 Chapter 375, Local Government Code, to obtain voter approval before
24 the district imposes an ad valorem tax or issues bonds payable from
25 ad valorem taxes.

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

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

3 Sec. 3856.153. AD VALOREM TAX. (a) If authorized at an
4 election held in accordance with Section 3856.152, the district may
5 impose an annual ad valorem tax on taxable property in the district
6 to:

7 (1) maintain and operate the district;

8 (2) construct or acquire improvements; or

9 (3) provide a service.

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

11 Sec. 3856.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
12 The board by resolution may impose and collect an assessment for any
13 purpose authorized by this chapter.

14 (b) The board may not impose an assessment on a parcel of
15 real property with a taxable value of less than \$50,000 at the time
16 of the assessment, according to the most recent certified tax
17 appraisal roll for Galveston County, unless the owner of that
18 parcel agrees in writing to pay the assessment.

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

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

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

1 taxes; and

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

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

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

13 Sec. 3856.155. PETITION REQUIRED FOR FINANCING SERVICES AND
14 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
15 service or improvement project with assessments under this chapter
16 unless a written petition requesting that service or improvement
17 has been filed with the board.

18 (b) The petition must be signed by:

19 (1) the owners of a majority of the assessed value of
20 real property in the district subject to assessment according to
21 the most recent certified tax appraisal roll for Galveston County;
22 or

23 (2) at least 25 persons who own real property in the
24 district, if more than 25 persons own real property in the district
25 according to the most recent certified tax appraisal roll for
26 Galveston County.

27 Sec. 3856.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR

1 ASSESSMENTS. The district may not impose an impact fee or
2 assessment on the property, including the equipment,
3 rights-of-way, facilities, or improvements, of:

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

6 (2) a gas utility as defined by Section 101.003 or
7 121.001, Utilities Code; or

8 (3) a person who provides to the public cable
9 television or advanced telecommunications services.

10 Sec. 3856.157. BONDS AND OTHER OBLIGATIONS. (a) The
11 district may issue bonds or other obligations payable wholly or
12 partly from taxes, assessments, impact fees, revenue, grants, or
13 other money of the district, or any combination of those sources of
14 money, to pay for any authorized purpose of the district.

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

20 Sec. 3856.158. MUNICIPALITY NOT REQUIRED TO PAY DISTRICT
21 OBLIGATIONS. Except as provided by Section 375.263, Local
22 Government Code, a municipality is not required to pay a bond, note,
23 or other obligation of the district.

24 [Sections 3856.159-3856.200 reserved for expansion]

25 SUBCHAPTER E. DISSOLUTION

26 Sec. 3856.201. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH
27 OUTSTANDING DEBT. (a) The board may vote to dissolve a district

1 that has debt. If the vote is in favor of dissolution, the district
2 shall remain in existence solely for the limited purpose of
3 discharging its debts. The dissolution is effective when all debts
4 have been discharged.

5 (b) Section 375.264, Local Government Code, does not apply
6 to the district.

7 SECTION 2. BOUNDARIES. As of the effective date of this
8 Act, the Galveston Grand Beach Management District encompasses
9 approximately 456 acres and includes all territory contained in the
10 following described area:

11 BEGINNING at the intersection of the Northeasterly corner of the
12 Southerly right-of-way line of East Seawall Blvd. and the Northerly
13 right-of-way line of Apfell Park Dr.;

14 THENCE proceeding in a Northeasterly direction along the
15 Southeasterly right-of-way line of East Seawall Blvd. to a point
16 representing the Westerly projection of a certain 5.9620 acre shown
17 in the deed records as the West Part of Reserve C (3-2) Grand Beach;
18 THENCE in an Easterly direction along said projection to a point at
19 the intersection of the Westerly right-of-way line of Apffel Park
20 Dr.;

21 THENCE in an Northeasterly direction along said right-of-way to the
22 Northwesterly corner of a certain 33.5829 acre tract shown in the
23 deed records as Reserve F Grand Beach;

24 THENCE in an Easterly direction along the Northerly property line
25 of said tract to the intersection of the Westerly right-of-way line
26 of Apffel Park Dr.;

27 THENCE in an Easterly direction along the Northern right-of-way

1 line of Apffel Park Dr. to a point representing the Easterly
2 projection of said right-of-way and its intersection with the
3 Northeasterly projection of the property line of a certain 20 acre
4 tract shown in the deed records as Reserve G (7-2) Grand Beach;
5 THENCE in a Southwesterly direction to a point at the Southwesterly
6 corner of a certain 24.6649 acre tract shown in the deed records as
7 Part of Reserve I (9-1) Grand Beach;
8 THENCE in a Northwesterly direction to a point at the intersection
9 of Southerly right of way line of East Seawall Blvd.;
10 THENCE in a North Easterly direction along the Southerly
11 right-of-way line of East Seawall Blvd. to the POINT OF BEGINNING.
12 PROVIDED; HOWEVER, that such boundaries shall specifically exclude
13 those properties currently known as the Islander East Condominiums
14 and the Galvestonian unless such property is later annexed pursuant
15 to the provisions of this Act.

16 SECTION 3. LEGISLATIVE FINDINGS. The legislature finds
17 that:

18 (1) proper and legal notice of the intention to
19 introduce this Act, setting forth the general substance of this
20 Act, has been published as provided by law, and the notice and a
21 copy of this Act have been furnished to all persons, agencies,
22 officials, or entities to which they are required to be furnished by
23 the constitution and laws of this state, including the governor,
24 who has submitted the notice and Act to the Texas Commission on
25 Environmental Quality;

26 (2) the Texas Commission on Environmental Quality has
27 filed its recommendations relating to this Act with the governor,

1 lieutenant governor, and speaker of the house of representatives
2 within the required time;

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

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

11 SECTION 4. EFFECTIVE DATE. This Act takes effect
12 immediately if it receives a vote of two-thirds of all the members
13 elected to each house, as provided by Section 39, Article III, Texas
14 Constitution. If this Act does not receive the vote necessary for
15 immediate effect, this Act takes effect September 1, 2007.