

House Bill 4053
Senate Amendments
Section-by-Section Analysis

HOUSE VERSION

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

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

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

Sec. 3856.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The district is created to serve a public use and benefit.

(b) 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, and Section 59, Article XVI, Texas Constitution, and other powers granted under this chapter.

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

(1) further the public purposes of developing and diversifying the economy of the state;

(2) eliminate unemployment and underemployment; and

(3) develop or expand transportation and commerce.

(d) The district will:

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

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

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

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

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

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

- (1) Section 3856.108;
- (2) Subchapter J, Chapter 49, Water Code; or
- (3) other law.

(b) The boundaries and field notes of the district contained 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 bond for a purpose for which the district is created or to pay the principal of and interest on the bond;

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(3) right to impose or collect an assessment or tax; or
(4) legality or operation.
Sec. 3856.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES. All or any part of the area of the district is eligible 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. 3856.007. APPLICABILITY OF MUNICIPAL MANAGEMENT DISTRICTS LAW. Except as otherwise provided by this chapter, Chapter 375, Local Government Code, applies to the district.
Sec. 3856.008. LIBERAL CONSTRUCTION OF CHAPTER. This chapter shall be liberally construed in conformity with the findings and purposes stated in this chapter.
[Sections 3856.009-3856.050 reserved for expansion]
SUBCHAPTER B. BOARD OF DIRECTORS
Sec. 3856.051. GOVERNING BODY; TERMS. (a) The district is governed by a board of nine voting directors appointed under Section 3856.052 and nonvoting directors as provided by Section 3856.053.
(b) Voting directors serve staggered terms of four years, with four or five directors' terms expiring June 1 of each odd-numbered year.
(c) The board by resolution may increase or decrease the number of directors on the board if the board finds that it

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is in the best interest of the district. The board may not consist of fewer than seven or more than 13 directors.

Sec. 3856.052. APPOINTMENT OF DIRECTORS.

The board shall nominate a slate of persons to serve on the succeeding board as voting directors. The members of the governing body of the City of Galveston shall appoint as voting directors the slate of persons nominated by the board.

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

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

(A) parks and recreation;

(B) planning and zoning; and

(C) public works; and

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

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

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

Sec. 3856.054. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT. (a) Except as provided by this section:

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(1) a director may participate in all board votes and decisions; and
(2) Chapter 171, Local Government Code, governs conflicts of interest for directors.
(b) Section 171.004, Local Government Code, does not apply to the district. A director who has a substantial interest in a business or charitable entity that will receive a pecuniary benefit from a board action shall file a one-time affidavit declaring the interest. An additional affidavit is not required if the director's interest changes. After the affidavit is filed with the board secretary, the director may participate in a discussion or vote on that action if:
(1) a majority of the directors have a similar interest in the same entity; or
(2) all other similar business or charitable entities in the district will receive a similar pecuniary benefit.
(c) A director who is also an officer or employee of a public entity may not participate in the discussion of or vote on a matter regarding a contract with that same public entity.
(d) For purposes of this section, a director has a substantial interest in a charitable entity in the same manner that a person would have a substantial interest in a business entity under Section 171.002, Local Government Code.
Sec. 3856.055. INITIAL VOTING DIRECTORS. (a) The initial board consists of the following voting directors:
(b) Of the initial voting directors, the terms of directors

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appointed for positions 1 through 5 expire June 1, 2009, and the terms of directors appointed for positions 6 through 9 expire June 1, 2011.

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

(d) This section expires September 1, 2012.

[Sections 3856.056-3856.100 reserved for expansion]

SUBCHAPTER C. POWERS AND DUTIES

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

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

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

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

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

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

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

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

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(b) The nonprofit corporation:

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

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

(c) The board shall appoint the board of directors of the nonprofit corporation. The board of directors of the nonprofit corporation shall serve in the same manner as the board of directors of a local government corporation created under Chapter 431, Transportation Code.

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

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

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

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

Sec. 3856.106. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. (a) The district may join and pay dues to an organization that:

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

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

(b) An expenditure of public money for membership in the organization is considered to further a district purpose and to be for a public purpose.

Sec. 3856.107. ECONOMIC DEVELOPMENT PROGRAMS. (a) The district may establish and provide for the administration of one or more programs to promote state or local economic development and to stimulate business and commercial activity in the district, including programs to:

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

(2) provide district personnel and services.

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

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

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

[Sections 3856.110-3856.150 reserved for expansion]

SUBCHAPTER D. FINANCIAL PROVISIONS

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

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money.

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

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

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

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

(1) maintain and operate the district;

(2) construct or acquire improvements; or

(3) provide a service.

(b) The board shall determine the tax rate.

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

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

(c) An assessment, a reassessment, or an assessment

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resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

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

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

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

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

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

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

(b) The petition must be signed by:

(1) the owners of a majority of the assessed value of real

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resulting from an addition to or correction of the assessment roll by the district, penalties and interest on an assessment or reassessment, an expense of collection, and reasonable attorney's fees incurred by the district:

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

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

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

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property in the district subject to assessment according to the most recent certified tax appraisal roll for Galveston County; or

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

Sec. 3856.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

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

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

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

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

(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

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property in the district subject to assessment according to the most recent certified tax appraisal roll for Galveston County; or

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

Sec. 3856.156. UTILITY PROPERTY EXEMPT FROM IMPACT FEES OR ASSESSMENTS. The district may not impose an impact fee or assessment on the property, including the equipment, rights-of-way, facilities, or improvements, of:

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

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

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

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

(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

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obligation.

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

[Sections 3856.159-3856.200 reserved for expansion]

SUBCHAPTER E. DISSOLUTION

Sec. 3856.201. EXCEPTION FOR DISSOLUTION OF DISTRICT WITH OUTSTANDING DEBT. (a) The board may vote to dissolve a district that has debt. If the vote is in favor of dissolution, the district shall remain in existence solely for the limited purpose of discharging its debts. The dissolution is effective when all debts have been discharged.

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

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

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

THENCE proceeding in a Northeasterly direction along the Southeasterly right-of-way line of East Seawall Blvd.

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obligation.

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

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Same as House version.

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to a point representing the Westerly projection of a certain 5.9620 acre shown in the deed records as the West Part of Reserve C (3-2) Grand Beach;
THENCE in an Easterly direction along said projection to a point at the intersection of the Westerly right-of-way line of Apffel Park Dr.;
THENCE in an Northeasterly direction along said right-of-way to the Northwesterly corner of a certain 33.5829 acre tract shown in the deed records as Reserve F Grand Beach;
THENCE in an Easterly direction along the Northerly property line of said tract to the intersection of the Westerly right-of-way line of Apffel Park Dr.;
THENCE in an Easterly direction along the Northern right-of-way line of Apffel Park Dr. to a point representing the Easterly projection of said right-of-way and its intersection with the Northeasterly projection of the property line of a certain 20 acre tract shown in the deed records as Reserve G (7-2) Grand Beach;
THENCE in a Southwesterly direction to a point at the Southwesterly corner of a certain 24.6649 acre tract shown in the deed records as Part of Reserve I (9-1) Grand Beach;
THENCE in a Northwesterly direction to a point at the intersection of Southerly right of way line of East Seawall Blvd.;
THENCE in a North Easterly direction along the Southerly right-of-way line of East Seawall Blvd. to the POINT OF BEGINNING.
PROVIDED; HOWEVER, that such boundaries shall

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specifically exclude those properties currently known as the Islander East Condominiums and the Galvestonian unless such property is later annexed pursuant to the provisions of this Act.

SECTION 3. LEGISLATIVE FINDINGS. The legislature finds that:

- (1) proper and 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 by the constitution and laws of this state, including the governor, who has submitted the notice and Act to the Texas Commission on Environmental Quality;
- (2) the Texas Commission on Environmental Quality has filed its recommendations relating to this Act with the governor, lieutenant governor, and speaker of the house of representatives within the required time;
- (3) the general law relating to consent by political subdivisions to the creation of districts with conservation, reclamation, and road powers and the inclusion of land in those districts has been complied with; and
- (4) 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 have been fulfilled and accomplished.

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SECTION 4. EFFECTIVE DATE. 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, 2007.

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Same as House version.

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