

By: Eiland

H.B. No. 4703

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Galveston County Municipal Utility District No. 76; providing authority to impose a tax and issue bonds; granting a limited 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 8332 to read as follows:

CHAPTER 8332. GALVESTON COUNTY MUNICIPAL

UTILITY DISTRICT NO. 76

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 8332.001. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Galveston County Municipal Utility District No. 76.

Sec. 8332.002. NATURE OF DISTRICT. The district is a municipal utility district created under Section 59, Article XVI, Texas Constitution.

Sec. 8332.003. CONFIRMATION AND DIRECTORS' ELECTION REQUIRED. The temporary directors shall hold an election to confirm the creation of the district and to elect five permanent directors as provided by Section 49.102, Water Code.

Sec. 8332.004. CONSENT OF MUNICIPALITY REQUIRED. The temporary directors may not hold an election under Section 8332.003

1 until each municipality in whose corporate limits or
2 extraterritorial jurisdiction the district is located has
3 consented by ordinance or resolution to the creation of the
4 district and to the inclusion of land in the district.

5 Sec. 8332.005. FINDINGS OF PUBLIC PURPOSE AND BENEFIT. (a)
6 The district is created to serve a public purpose and benefit.

7 (b) The district is created to accomplish the purposes of:

8 (1) a municipal utility district as provided by
9 general law and Section 59, Article XVI, Texas Constitution;

10 (2) Section 52, Article III, Texas Constitution, that
11 relate to the construction, acquisition, or improvement of
12 macadamized, graveled, or paved roads described by Section 54.234,
13 Water Code, or improvements, including storm drainage, in aid of
14 those roads; and

15 (3) a navigation district as provided by general law
16 and Section 59, Article XVI, Texas Constitution.

17 Sec. 8332.006. INITIAL DISTRICT TERRITORY. (a) The
18 district is initially composed of the territory described by
19 Section 2 of the Act creating this chapter.

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

24 (1) organization, existence, or validity;

25 (2) right to issue any type of bond for the purposes
26 for which the district is created or to pay the principal of and
27 interest on a bond;

1 (3) right to impose a tax; or

2 (4) legality or operation.

3 [Sections 8332.007-8332.050 reserved for expansion]

4 SUBCHAPTER B. BOARD OF DIRECTORS

5 Sec. 8332.051. GOVERNING BODY; TERMS. (a) The district is
6 governed by a board of five elected directors.

7 (b) Except as provided by Section 8332.052, directors serve
8 staggered four-year terms.

9 Sec. 8332.052. TEMPORARY DIRECTORS. (a) On or after the
10 effective date of the Act creating this chapter, the owner or owners
11 of a majority of the assessed value of the real property in the
12 district may submit a petition to the Texas Commission on
13 Environmental Quality requesting that the commission appoint as
14 temporary directors the five persons named in the petition. The
15 commission shall appoint as temporary directors the five persons
16 named in the petition.

17 (b) Temporary directors serve until the earlier of:

18 (1) the date permanent directors are elected under
19 Section 8332.003; or

20 (2) the fourth anniversary of the effective date of the
21 Act creating this chapter.

22 (c) If permanent directors have not been elected under
23 Section 8332.003 and the terms of the temporary directors have
24 expired, successor temporary directors shall be appointed or
25 reappointed as provided by Subsection (d) to serve terms that
26 expire on the earlier of:

27 (1) the date permanent directors are elected under

1 Section 8332.003; or

2 (2) the fourth anniversary of the date of the
3 appointment or reappointment.

4 (d) If Subsection (c) applies, the owner or owners of a
5 majority of the assessed value of the real property in the district
6 may submit a petition to the commission requesting that the
7 commission appoint as successor temporary directors the five
8 persons named in the petition. The commission shall appoint as
9 successor temporary directors the five persons named in the
10 petition.

11 [Sections 8332.053-8332.100 reserved for expansion]

12 SUBCHAPTER C. POWERS AND DUTIES

13 Sec. 8332.101. GENERAL POWERS AND DUTIES. The district has
14 the powers and duties necessary to accomplish the purposes for
15 which the district is created.

16 Sec. 8332.102. MUNICIPAL UTILITY DISTRICT POWERS AND
17 DUTIES. The district has the powers and duties provided by the
18 general law of this state, including Chapters 49 and 54, Water Code,
19 applicable to municipal utility districts created under Section 59,
20 Article XVI, Texas Constitution.

21 Sec. 8332.103. AUTHORITY FOR ROAD PROJECTS. (a) Under
22 Section 52, Article III, Texas Constitution, the district may
23 design, acquire, construct, finance, issue bonds for, improve, and
24 convey to this state, a county, or a municipality for operation and
25 maintenance macadamized, graveled, or paved roads described by
26 Section 54.234, Water Code, or improvements, including storm
27 drainage, in aid of those roads.

1 (b) The district may exercise the powers provided by this
2 section without submitting a petition to or obtaining approval from
3 the Texas Commission on Environmental Quality as required by
4 Section 54.234, Water Code.

5 Sec. 8332.104. APPROVAL OF ROAD PROJECT. (a) The district
6 may not undertake a road project authorized by Section 8332.103
7 unless:

8 (1) each municipality or county that will operate and
9 maintain the road has approved the plans and specifications of the
10 road project, if a municipality or county will operate and maintain
11 the road; or

12 (2) the Texas Transportation Commission has approved
13 the plans and specifications of the road project, if the state will
14 operate and maintain the road.

15 (b) Except as provided by Subsection (a), the district is
16 not required to obtain approval from the Texas Transportation
17 Commission to design, acquire, construct, finance, issue bonds for,
18 improve, or convey a road project.

19 Sec. 8332.105. NAVIGATION DISTRICT POWERS. (a) The
20 district has the powers provided by the general law of this state,
21 including Chapters 60 and 62, Water Code, applicable to navigation
22 districts created under Section 59, Article XVI, Texas
23 Constitution.

24 (b) The district may purchase, construct, acquire, own,
25 operate, maintain, improve, or extend, inside or outside the
26 district, a canal or other waterway, bulkhead, dock, or other
27 improvement necessary or convenient to accomplish the navigation

1 purposes of the district.

2 Sec. 8332.106. COMPLIANCE WITH MUNICIPAL CONSENT ORDINANCE
3 OR RESOLUTION. The district shall comply with all applicable
4 requirements of any ordinance or resolution that is adopted under
5 Section 54.016 or 54.0165, Water Code, and that consents to the
6 creation of the district or to the inclusion of land in the
7 district.

8 Sec. 8332.107. LIMITATION ON USE OF EMINENT DOMAIN. The
9 district may not exercise the power of eminent domain outside the
10 district to acquire a site or easement for:

- 11 (1) a road project authorized by Section 8332.103; or
12 (2) a recreational facility as defined by Section
13 49.462, Water Code.

14 [Sections 8332.108-8332.150 reserved for expansion]

15 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS

16 Sec. 8332.151. ELECTIONS REGARDING TAXES OR BONDS. (a) The
17 district may issue, without an election, bonds and other
18 obligations secured by:

- 19 (1) revenue other than ad valorem taxes; or
20 (2) contract payments described by Section 8332.153.

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

25 (c) The district may not issue bonds payable from ad valorem
26 taxes to finance a road project unless the issuance is approved by a
27 vote of a two-thirds majority of the district voters voting at an

1 election held for that purpose.

2 Sec. 8332.152. OPERATION AND MAINTENANCE TAX. (a) If
3 authorized at an election held under Section 8332.151, the district
4 may impose an operation and maintenance tax on taxable property in
5 the district in accordance with Section 49.107, Water Code.

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

8 Sec. 8332.153. CONTRACT TAXES. (a) In accordance with
9 Section 49.108, Water Code, the district may impose a tax other than
10 an operation and maintenance tax and use the revenue derived from
11 the tax to make payments under a contract after the provisions of
12 the contract have been approved by a majority of the district voters
13 voting at an election held for that purpose.

14 (b) A contract approved by the district voters may contain a
15 provision stating that the contract may be modified or amended by
16 the board without further voter approval.

17 [Sections 8332.154-8332.200 reserved for expansion]

18 SUBCHAPTER E. BONDS AND OTHER OBLIGATIONS

19 Sec. 8332.201. AUTHORITY TO ISSUE BONDS AND OTHER
20 OBLIGATIONS. The district may issue bonds or other obligations
21 payable wholly or partly from ad valorem taxes, impact fees,
22 revenue, contract payments, grants, or other district money, or any
23 combination of those sources, to pay for any authorized district
24 purpose.

25 Sec. 8332.202. TAXES FOR BONDS. At the time the district
26 issues bonds payable wholly or partly from ad valorem taxes, the
27 board shall provide for the annual imposition of a continuing

1 direct ad valorem tax, without limit as to rate or amount, while all
2 or part of the bonds are outstanding as required and in the manner
3 provided by Sections 54.601 and 54.602, Water Code.

4 Sec. 8332.203. BONDS FOR ROAD PROJECTS. At the time of
5 issuance, the total principal amount of bonds or other obligations
6 issued or incurred to finance road projects and payable from ad
7 valorem taxes may not exceed one-fourth of the assessed value of the
8 real property in the district.

9 SECTION 2. The Galveston County Municipal Utility District
10 No. 76 initially includes all the territory contained in the
11 following area:

12 TRACT I:

13 All that certain 94.0 acres of land, more or less, being
14 partially out of and a part of Lots 493 - 494, and intervening 50
15 foot wide roadways (closed and abandoned in Volume 2263, Pages 767,
16 770, and 773, Galveston County Deed Records), in the TRIMBLE AND
17 LINDSEY SURVEY OF GALVESTON ISLAND, SECTION ONE, and partially out
18 of and a part of Lots 8 - 9, 12 - 13, 28 - 29, 32 - 33, 49, 52, and
19 intervening 50 foot wide roadways (closed and abandoned in Volume
20 2263, Pages 767, 770, and 773, Galveston County Deed Records), in
21 the TRIMBLE AND LINDSEY SURVEY OF GALVESTON ISLAND, SECTION TWO,
22 and said 94.0 acres being more particularly described by metes and
23 bounds as follows:

24 COMMENCING at the point of intersection for the Southwesterly
25 line of 8-Mile Road, a 50 foot wide public roadway right-of-way, and
26 the Northwesterly line of Sportsman Road, a 100 foot wide public
27 roadway (as occupied), and being at the Northeasterly line of said

1 Lot 49;

2 THENCE N 25°00'00" W, along the Southwesterly line of said
3 8-Mile Road and the Northeasterly line of said Lot 49, a distance of
4 100.00 feet to the POINT OF BEGINNING;

5 THENCE S 65°00'00" W, a distance of 100.00 feet to a point for
6 corner;

7 THENCE S 25°00'00" E, a distance of 50.00 feet to a point for
8 corner;

9 THENCE S 65°00'00" W, a distance of 50.00 feet to a point for
10 corner;

11 THENCE S 25°00'00" E, a distance of 50.00 feet to a point for
12 corner, said point being at the Northwesterly line of said
13 Sportsman Road;

14 THENCE S 65°00'00" W, along the Northwesterly line of said
15 Sportsman Road, a distance of 290.00 feet to a point for corner;

16 THENCE N 25°00'00" W, a distance of 543.47 feet to a point for
17 corner and being at the Southeasterly Meander Line of Mean High
18 Water for West Galveston Bay as determined on October 1, 2007, and
19 shown on survey by William E. Merten, LSLS;

20 THENCE generally in a Northeasterly direction, along the said
21 Southeasterly Meander Line of Mean High Water, the following
22 courses and distances:

23 N 51°40'03" E, 167.74 feet to a point for angle to the
24 left;

25 N 42°38'41" E, 36.00 feet to a point for angle to the
26 right;

27 N 49°24'38" E, 45.32 feet to a point for angle to the

1 right;
2 N 54°51'52" E, 36.32 feet to a point for angle to the
3 right;
4 N 71°33'09" E, 108.24 feet to a point for angle to the
5 right;
6 N 86°07'04" E, 113.71 feet to a point for angle to the
7 right;
8 S 74°30'24" E, 49.36 feet to a point for angle to the
9 left;
10 S 81°57'01" E, 52.45 feet to a point for angle to the
11 left;
12 S 89°27'17" E, 49.93 feet to a point for angle to the
13 left;
14 N 87°43'18" E, 75.98 feet to a point for angle to the
15 left;
16 N 70°44'28" E, 61.99 feet to a point for angle to the
17 left;
18 N 08°52'18" E, 45.82 feet to a point for angle to the
19 right;
20 N 50°56'26" E, 66.99 feet to a point for angle to the
21 left;
22 N 43°50'05" E, 267.40 feet to a point for angle to the
23 right;
24 N 65°40'59" E, 52.31 feet to a point for angle to the
25 left;
26 N 35°53'07" E, 54.23 feet to a point for angle to the
27 left;

1 N 34°00'27" E, 50.32 feet to a point for angle to the
2 right;
3 N 53°56'40" E, 60.77 feet to a point for angle to the
4 right;
5 S 67°46'17" E, 39.46 feet to a point for angle to the
6 left;
7 N 68°35'12" E, 64.04 feet to a point for angle to the
8 left;
9 N 12°09'44" E, 59.62 feet to a point for angle to the
10 left;
11 N 30°30'28" W, 51.17 feet to a point for angle to the
12 right;
13 N 32°52'16" E, 66.62 feet to a point for angle to the
14 left;
15 N 23°03'13" E, 47.19 feet to a point for angle to the
16 right;
17 N 48°59'46" E, 34.38 feet to a point for angle to the
18 right;
19 N 63°41'11" E, 93.85 feet to a point for angle to the
20 right;
21 N 64°29'03" E, 84.09 feet to a point for angle to the
22 right;
23 N 86°11'31" E, 103.40 feet to a point for angle to the
24 left;
25 N 73°07'13" E, 81.54 feet to a point for angle to the
26 left;
27 N 64°38'05" E, 85.88 feet to a point for angle to the

1 left;
2 N 44°07'54" E, 156.85 feet to a point for angle to the
3 right;
4 N 59°54'17" E, 72.93 feet to a point for angle to the
5 left; and,
6 N 55°37'46" E, 43.92 feet to a point for corner and being
7 at the common line for said Lot 493 and Lot 490 of said SECTION ONE;
8 THENCE S 25°00'00" E, leaving the said Southeasterly Meander
9 Line of Mean High Water, along the Northeasterly line of said Lot
10 493 and the Southwesterly line of said Lot 490, a distance of
11 2,005.31 feet to a point for corner;
12 THENCE S 31°58'38" W, a distance of 284.15 feet to a point for
13 corner;
14 THENCE S 61°00'34" E, a distance of 208.20 feet to a point for
15 corner;
16 THENCE S 28°59'26" W, a distance of 60.00 feet to a point for
17 corner;
18 THENCE N 61°00'34" W, a distance of 215.85 feet to a point for
19 corner;
20 THENCE S 45°34'49" W, a distance of 658.78 feet to a point for
21 angle to the right;
22 THENCE S 51°17'37" W, a distance of 266.07 feet to a point for
23 angle to the right;
24 THENCE S 57°17'39" W, a distance of 275.04 feet to a point for
25 angle to the right;
26 THENCE S 65°00'00" W, a distance of 306.38 feet to a point for
27 corner at the Northeasterly line of said 8-Mile Road, same being the

1 Southwesterly line of said Lot 33;

2 THENCE N 25°00'00" W, along the Northeasterly line of said
3 8-Mile Road and the Southwesterly line of said Lots 33 and 32 of
4 said SECTION TWO, a distance of 2,176.41 feet to a point for corner
5 at the most Northwesterly terminus of said 8-Mile Road;

6 THENCE S 65°00'00" W, along the Northwesterly terminus of said
7 8-Mile Road, a distance of 50.00 feet to a point for corner and
8 being at the Northeasterly line of said Lot 49;

9 THENCE S 25°00'00" E, along the Southwesterly line of said
10 8-Mile Road, same being the Northeasterly line of said Lot 49, a
11 distance of 280.82 feet to the POINT OF BEGINNING and containing
12 within said boundaries a calculated area of 94.0 acres of land, more
13 or less.

14 TRACT II:

15 All that certain 6.6 acres of land, more or less, being out of
16 and a part of Lot 49, in the TRIMBLE AND LINDSEY SURVEY OF GALVESTON
17 ISLAND, SECTION TWO, and further including all of Lots 1 - 3 and
18 Lots 11 - 14 of ANDERSON WAY'S ADDITION NO. ONE (1), a subdivision
19 in Galveston County, Texas, according to the map or plat thereof
20 recorded in Volume 254-A, Page 78, and transferred to Volume 11,
21 Page 20, both of the Map Records in the Office of the County Clerk of
22 Galveston County, Texas, and said 6.6 acres being more particularly
23 described by metes and bounds as follows:

24 BEGINNING at the point of intersection for the Southwesterly
25 line of 8-Mile Road, a 50 foot wide public roadway right-of-way, and
26 the Southeasterly line of Sportsman Road, a 100 foot wide public
27 roadway (as occupied), same being the North corner of said Lot 1,

1 and being at the Northeasterly line of said Lot 49;

2 THENCE S 25°00'00" E, along the Southwesterly line of said
3 8-Mile Road, same being the Northeasterly line of said Lot 49 and
4 Lots 1 - 3, a distance of 150.00 feet to a point for corner;

5 THENCE S 65°00'00" W, along the Southeasterly line of said Lot
6 3, a distance of 100.00 feet to a point for corner;

7 THENCE S 25°00'00" E, along the Southwesterly line of Lots 4 -
8 10 of said ANDERSON WAY'S ADDITION NUMBER ONE (1), a distance of
9 350.00 feet to a point for corner, same being the West corner of
10 said Lot 11;

11 THENCE N 65°00'00" E, along the Northwesterly line of said Lot
12 11, a distance of 100.00 feet to a point for corner at the
13 Southwesterly line of said 8-Mile Road, same being the
14 Northeasterly line of said Lot 49;

15 THENCE S 25°00'00" E, along the Southwesterly line of said
16 8-Mile Road, same being the Northeasterly line of said Lot 49 and
17 said Lots 11 - 14, a distance of 200.00 feet to a point for corner;

18 THENCE S 65°00'00" W, along the Southeasterly line of said Lot
19 14, a distance of 100.00 feet to a point for corner;

20 THENCE S 25°00'00" E, along the Southwesterly line of Lots 15
21 - 22 of said ANDERSON WAY'S ADDITION NUMBER ONE (1), a distance of
22 400.00 feet to a point for corner and being at the Southeasterly
23 line of said Lot 49, same being the Northwesterly line of Lot 48 of
24 said SECTION TWO;

25 THENCE S 65°00'00" W, along the common line for said Lots 48
26 and 49, a distance of 230.00 feet to a point for corner, same being
27 the common corner for said Lots 48 and 49 and Lots 52 and 53 of said

1 SECTION TWO;

2 THENCE N 25°00'00" W, along the common line for said Lots 49
3 and 52, a distance of 1,100.00 feet to a point for corner at the
4 Southeasterly line of said Sportsman Road;

5 THENCE N 65°00'00" E, along the Southeasterly line of said
6 Sportsman Road, a distance of 330.00 feet to the POINT OF BEGINNING
7 and containing within said boundaries a calculated area of 6.6
8 acres of land, more or less.

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

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

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

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

27 SECTION 4. This Act takes effect immediately if it receives

H.B. No. 4703

1 a vote of two-thirds of all the members elected to each house, as
2 provided by Section 39, Article III, Texas Constitution. If this
3 Act does not receive the vote necessary for immediate effect, this
4 Act takes effect September 1, 2009.