

By: Deshotel

H.B. No. 4315

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Beaumont Municipal Management District No. 1; providing authority to issue bonds and impose assessments, fees, or taxes.

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 3960 to read as follows:

CHAPTER 3960. BEAUMONT MUNICIPAL MANAGEMENT DISTRICT NO. 1

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 3960.001. DEFINITIONS. In this chapter:

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

(2) "City" means the City of Beaumont.

(3) "County" means Jefferson County.

(4) "Director" means a board member.

(5) "District" means the Beaumont Municipal Management District No. 1.

Sec. 3960.002. NATURE OF DISTRICT. The Beaumont Municipal Management District No. 1 is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 3960.003. 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, the

1 county, and other political subdivisions to contract with the
2 district, the legislature has established a program to accomplish
3 the public purposes set out in Section 52-a, Article III, Texas
4 Constitution.

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

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

16 Sec. 3960.004. FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a)
17 The district is created to serve a public use and benefit.

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

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

25 (1) developing and diversifying the economy of the
26 state;

27 (2) eliminating unemployment and underemployment; and

1 (3) developing or expanding transportation and
2 commerce.

3 (d) The district will:

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

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

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

15 (4) provide for water, wastewater, drainage, road, and
16 recreational facilities for the district.

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

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

25 Sec. 3960.005. INITIAL DISTRICT TERRITORY. (a) The
26 district is initially composed of the territory described by
27 Section 2 of the Act enacting this chapter.

1 (b) The boundaries and field notes contained in Section 2 of
2 the Act enacting this chapter form a closure. A mistake in the
3 field notes or in copying the field notes in the legislative process
4 does not affect the district's:

5 (1) organization, existence, or validity;

6 (2) right to issue any type of bonds for the purposes
7 for which the district is created or to pay the principal of and
8 interest on the bonds;

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

10 (4) legality or operation.

11 Sec. 3960.006. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.

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

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

16 (2) a tax abatement reinvestment zone created under
17 Chapter 312, Tax Code;

18 (3) an enterprise zone created under Chapter 2303,
19 Government Code; or

20 (4) an industrial district created under Chapter 42,
21 Local Government Code.

22 Sec. 3960.007. APPLICABILITY OF MUNICIPAL MANAGEMENT
23 DISTRICTS LAW. Except as otherwise provided by this chapter,
24 Chapter 375, Local Government Code, applies to the district.

25 Sec. 3960.008. CONSTRUCTION OF CHAPTER. This chapter shall
26 be liberally construed in conformity with the findings and purposes
27 stated in this chapter.

1 SUBCHAPTER B. BOARD OF DIRECTORS

2 Sec. 3960.051. GOVERNING BODY; TERMS. (a) The district is
3 governed by a board of five voting directors who serve staggered
4 terms of four years, with two or three directors' terms expiring
5 June 1 of each odd-numbered year.

6 (b) The board by resolution may change the number of voting
7 directors on the board only if the board determines that the change
8 is in the best interest of the district. The board may not consist
9 of fewer than five or more than nine voting directors.

10 Sec. 3960.052. APPOINTMENT OF VOTING DIRECTORS. The mayor
11 and members of the governing body of the city shall appoint voting
12 directors from persons recommended by the board. A person is
13 appointed if a majority of the members of the governing body,
14 including the mayor, vote to appoint that person.

15 Sec. 3960.053. NONVOTING DIRECTORS. The board may appoint
16 nonvoting directors to serve at the pleasure of the voting
17 directors.

18 Sec. 3960.054. QUORUM. For purposes of determining the
19 requirements for a quorum of the board, the following are not
20 counted:

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

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

25 (3) a nonvoting director.

26 Sec. 3960.055. COMPENSATION. A director is entitled to
27 receive fees of office and reimbursement for actual expenses as

1 provided by Section 49.060, Water Code. Sections 375.069 and
2 375.070, Local Government Code, do not apply to the board.

3 Sec. 3960.056. INITIAL VOTING DIRECTORS. (a) The initial
4 board consists of the following voting directors:

5	<u>Pos. No.</u>	<u>Name of Director</u>
6	<u>1</u>	<u>William Jenkins</u>
7	<u>2</u>	<u>Bradford Klein</u>
8	<u>3</u>	<u>Craig Kinsel</u>
9	<u>4</u>	<u>Vivian Pieternelle</u>
10	<u>5</u>	<u>David Willard</u>

11 (b) Of the initial directors, the terms of directors
12 appointed for positions one through three expire June 1, 2019, and
13 the terms of directors appointed for positions four and five expire
14 June 1, 2021.

15 (c) Section 3960.052 does not apply to this section.

16 SUBCHAPTER C. POWERS AND DUTIES

17 Sec. 3960.101. GENERAL POWERS AND DUTIES. The district has
18 the powers and duties necessary to accomplish the purposes for
19 which the district is created.

20 Sec. 3960.102. IMPROVEMENT PROJECTS AND SERVICES. The
21 district may provide, design, construct, acquire, improve,
22 relocate, operate, maintain, or finance an improvement project or
23 service using any money available to the district, or contract with
24 a governmental or private entity to provide, design, construct,
25 acquire, improve, relocate, operate, maintain, or finance an
26 improvement project or service authorized under this chapter or
27 Chapter 375, Local Government Code.

1 Sec. 3960.103. DEVELOPMENT CORPORATION POWERS. The
2 district, using money available to the district, may exercise the
3 powers given to a development corporation under Chapter 505, Local
4 Government Code, including the power to own, operate, acquire,
5 construct, lease, improve, or maintain a project under that
6 chapter.

7 Sec. 3960.104. NONPROFIT CORPORATION. (a) The board by
8 resolution may authorize the creation of a nonprofit corporation to
9 assist and act for the district in implementing a project or
10 providing a service authorized by this chapter.

11 (b) The nonprofit corporation:

12 (1) has each power of and is considered to be a local
13 government corporation created under Subchapter D, Chapter 431,
14 Transportation Code; and

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

17 (c) The board shall appoint the board of directors of the
18 nonprofit corporation. The board of directors of the nonprofit
19 corporation shall serve in the same manner as the board of directors
20 of a local government corporation created under Subchapter D,
21 Chapter 431, Transportation Code, except that a board member is not
22 required to reside in the district.

23 Sec. 3960.105. AGREEMENTS; GRANTS. (a) As provided by
24 Chapter 375, Local Government Code, the district may make an
25 agreement with or accept a gift, grant, or loan from any person.

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

1 Code.

2 Sec. 3960.106. LAW ENFORCEMENT SERVICES. To protect the
3 public interest, the district may contract with a qualified party,
4 including the county or the city, to provide law enforcement
5 services in the district for a fee.

6 Sec. 3960.107. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The
7 district may join and pay dues to a charitable or nonprofit
8 organization that performs a service or provides an activity
9 consistent with the furtherance of a district purpose.

10 Sec. 3960.108. ECONOMIC DEVELOPMENT. (a) The district may
11 engage in activities that accomplish the economic development
12 purposes of the district.

13 (b) The district may establish and provide for the
14 administration of one or more programs to promote state or local
15 economic development and to stimulate business and commercial
16 activity in the district, including programs to:

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

18 (2) provide district personnel and services.

19 (c) The district may create economic development programs
20 and exercise the economic development powers provided to
21 municipalities by:

22 (1) Chapter 380, Local Government Code; and

23 (2) Subchapter A, Chapter 1509, Government Code.

24 Sec. 3960.109. PARKING FACILITIES. (a) The district may
25 acquire, lease as lessor or lessee, construct, develop, own,
26 operate, and maintain parking facilities or a system of parking
27 facilities, including lots, garages, parking terminals, or other

1 structures or accommodations for parking motor vehicles off the
2 streets and related appurtenances.

3 (b) The district's parking facilities serve the public
4 purposes of the district and are owned, used, and held for a public
5 purpose even if leased or operated by a private entity for a term of
6 years.

7 (c) The district's parking facilities are parts of and
8 necessary components of a street and are considered to be a street
9 or road improvement.

10 (d) The development and operation of the district's parking
11 facilities may be considered an economic development program.

12 Sec. 3960.110. ANNEXATION OF LAND. The district may annex
13 land as provided by Subchapter J, Chapter 49, Water Code.

14 Sec. 3960.111. APPROVAL BY CITY. Section 375.207, Local
15 Government Code, does not apply to the district.

16 Sec. 3960.112. NO EMINENT DOMAIN POWER. The district may
17 not exercise the power of eminent domain.

18 SUBCHAPTER D. GENERAL FINANCIAL PROVISIONS; ASSESSMENTS

19 Sec. 3960.151. DISBURSEMENTS AND TRANSFERS OF MONEY. The
20 board by resolution shall establish the number of directors'
21 signatures and the procedure required for a disbursement or
22 transfer of district money.

23 Sec. 3960.152. MONEY USED FOR IMPROVEMENTS OR SERVICES.
24 The district may acquire, construct, finance, operate, or maintain
25 any improvement or service authorized under this chapter or Chapter
26 375, Local Government Code, using any money available to the
27 district.

1 Sec. 3960.153. PETITION REQUIRED FOR FINANCING SERVICES AND
2 IMPROVEMENTS WITH ASSESSMENTS. (a) The board may not finance a
3 service or improvement project with assessments under this chapter
4 unless a written petition requesting that service or improvement
5 has been filed with the board.

6 (b) A petition filed under Subsection (a) must be signed by
7 the owners of a majority of the assessed value of real property in
8 the district subject to assessment according to the most recent
9 certified tax appraisal roll for the county.

10 Sec. 3960.154. ASSESSMENTS; LIENS FOR ASSESSMENTS. (a)
11 The board by resolution may impose and collect an assessment for any
12 purpose authorized by this chapter in all or any part of the
13 district.

14 (b) An assessment, a reassessment, or an assessment
15 resulting from an addition to or correction of the assessment roll
16 by the district, penalties and interest on an assessment or
17 reassessment, an expense of collection, and reasonable attorney's
18 fees incurred by the district:

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

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

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

27 (c) The lien is effective from the date of the board's

1 resolution imposing the assessment until the date the assessment is
2 paid. The board may enforce the lien in the same manner that the
3 board may enforce an ad valorem tax lien against real property.

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

8 Sec. 3960.155. TAX AND ASSESSMENT ABATEMENTS. The district
9 may designate reinvestment zones and may grant abatements of a tax
10 or assessment on property in the zones.

11 SUBCHAPTER E. TAXES AND BONDS

12 Sec. 3960.201. ELECTIONS REGARDING TAXES AND BONDS. (a)
13 The district may issue, without an election, bonds, notes, and
14 other obligations secured by:

15 (1) revenue other than ad valorem taxes; or

16 (2) contract payments described by Section 3960.203.

17 (b) The district must hold an election in the manner
18 provided by Subchapter L, Chapter 375, Local Government Code, to
19 obtain voter approval before the district may impose an ad valorem
20 tax or issue bonds payable from ad valorem taxes.

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

23 (d) All or any part of any facilities or improvements that
24 may be acquired by a district by the issuance of its bonds may be
25 submitted as a single proposition or as several propositions to be
26 voted on at the election.

27 Sec. 3960.202. OPERATION AND MAINTENANCE TAX. (a) If

1 authorized by a majority of the district voters voting at an
2 election held in accordance with Section 3960.201, the district may
3 impose an operation and maintenance tax on taxable property in the
4 district in accordance with Section 49.107, Water Code, for any
5 district purpose, including to:

- 6 (1) maintain and operate the district;
- 7 (2) construct or acquire improvements; or
- 8 (3) provide a service.

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

11 Sec. 3960.203. CONTRACT TAXES. (a) In accordance with
12 Section 49.108, Water Code, the district may impose a tax other than
13 an operation and maintenance tax and use the revenue derived from
14 the tax to make payments under a contract after the provisions of
15 the contract have been approved by a majority of the district voters
16 voting at an election held for that purpose.

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

20 Sec. 3960.204. AUTHORITY TO BORROW MONEY AND TO ISSUE BONDS
21 AND OTHER OBLIGATIONS. (a) The district may borrow money on terms
22 determined by the board. Section 375.205, Local Government Code,
23 does not apply to a loan, line of credit, or other borrowing from a
24 bank or financial institution secured by revenue other than ad
25 valorem taxes.

26 (b) The district may issue bonds, notes, or other
27 obligations payable wholly or partly from ad valorem taxes,

1 assessments, impact fees, revenue, contract payments, grants, or
2 other district money, or any combination of those sources of money,
3 to pay for any authorized district purpose.

4 Sec. 3960.205. TAXES FOR BONDS. At the time the district
5 issues bonds payable wholly or partly from ad valorem taxes, the
6 board shall provide for the annual imposition of a continuing
7 direct annual ad valorem tax, without limit as to rate or amount,
8 for each year that all or part of the bonds are outstanding as
9 required and in the manner provided by Sections 54.601 and 54.602,
10 Water Code.

11 Sec. 3960.206. CITY NOT REQUIRED TO PAY DISTRICT
12 OBLIGATIONS. Except as provided by Section 375.263, Local
13 Government Code, the city is not required to pay a bond, note, or
14 other obligation of the district.

15 SECTION 2. The Beaumont Municipal Management District No. 1
16 initially includes all territory contained in the following area:

17 Being a 364.59 acre tract of land out of the Hezekiah Williams
18 League, Abstract 56, Jefferson County, Texas; and being all of and
19 the same as that certain called 356.24 acre tract as described in
20 Deed to Hilcorp Energy I, L.P. as recorded in File Number
21 2000033569 of the Real Property Records of Jefferson County, Texas;
22 and being all of and the same as that certain called 3.00 acre tract
23 as described in Deed to Hilcorp Energy I, L.P. as recorded in File
24 Number 2009026928 of the Real Property Records of Jefferson County,
25 Texas; and being all of and the same as that certain called 3.00
26 acre tract as described in Deed to Hilcorp Energy I, L.P. as
27 recorded in File Number 2009026928 of the Real Property Records of

1 Jefferson County, Texas; also being all of that certain called
2 5.327 acre tract as described in Deed to City of Beaumont as
3 recorded in File Number 1999017825 of the Real Property Records of
4 Jefferson County, Texas; said 364.59 acre tract of land being more
5 particularly described by metes and bounds as follows with all
6 bearings reference to said Deed:

7 BEGINNING at the intersection of the South right-of-way line
8 of Delaware Street (100-foot right-of-way) and the West
9 right-of-way line of Dowlen Road;

10 THENCE with the East line of said 356.24 acre tract of land
11 and the West right-of-way line of said Dowlen Road as follows:

- 12 - South 46° 38' 29" East, 71.03 feet to a point for corner;
13 - South 01° 29' 54" East, 1,020.43 feet to a point for corner at the
14 beginning of a curve to the right;
15 - Along the arc of said curve to the right, having a radius of
16 1,103.22 feet, a central angle of 34° 52' 43", an arc length of
17 671.58 feet and a chord of South 15° 56' 27" West, 661.26 feet to a
18 point for corner;
19 - South 33° 22' 49" West, 676.38 feet to a point for corner at the
20 Easternmost Southeastern corner of said 356.24 acre tract of land;

21 THENCE with the Southeastern lines of said 356.24 acre tract
22 of land as follows:

- 23 - North 52° 02' 47" West, 895.70 feet to a point for corner;
24 - South 17° 40' 16" West, 979.76 feet to a point for corner;
25 - North 70° 37' 12" West, 71.57 feet to a point for corner;
26 - South 88° 37' 33" West, 242.50 feet to a point for corner;
27 - South 01° 25' 51" East, 570.34 feet to a point for corner;

1 - South 01° 27' 47" East, 399.76 feet to a point for corner;
2 - South 88° 35' 58" West, 1,691.15 feet to a point for corner;
3 - South 01° 21' 56" East, 539.95 feet to a point for corner;
4 - South 89° 12' 54" West, 322.92 feet to a point for corner;
5 - South 00° 42' 53" East, 454.55 feet to a point for corner;
6 - South 89° 07' 58" West, 150.00 feet to a point for corner;
7 - South 00° 42' 53" East, 199.68 feet to a point for corner in the
8 North right-of-way line of Gladys Avenue (60-foot right-of-way) and
9 being the Southernmost Southeastern corner of said 356.24 acre
10 tract of land;

11 THENCE South 89° 05' 45" West with the South line of said
12 356.24 acre tract of land and the North right-of-way line of said
13 Gladys Avenue, 806.54 feet to a point for corner at the Southwest
14 corner of said 356.24 acre tract of land;

15 THENCE with the West line of said 356.24 acre tract of land as
16 follows:

17 - North 00° 36' 51" West, 1,065.58 feet to a point for corner;
18 - North 00° 36' 45" West, 1,122.34 feet to a point for corner;
19 - South 87° 17' 20" West, 351.02 feet to a point for corner;
20 - North 01° 24' 42" West, 2,152.60 feet to a point for corner at the
21 Northwest corner of said 356.24 acre tract of land;

22 THENCE North 87° 14' 14" East with the North line of said
23 356.24 acre tract of land, 1,372.55 to a point for corner on the arc
24 of a curve to the right in said South right-of-way line of said
25 Delaware Street;

26 THENCE with the North line of said 356.24 acre tract of land
27 and said South right-of-way line of said Delaware Street as

1 follows:

2 - Along the arc of said curve to the right, having a radius of
3 3,020.88 feet, a central angle of 29° 15' 52", an arc length of
4 1,542.95 feet and a chord of North 74° 05' 40" East, 1,526.23 feet to
5 a point for corner;

6 - North 88° 43' 36" East, 2,302.43 feet to the PLACE OF BEGINNING:
7 containing 364.59 acres of land, more or less.

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

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

18 (c) The Texas Commission on Environmental Quality has filed
19 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 (d) 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.

26 (e) All requirements of the constitution and laws of this
27 state and the rules and procedures of the legislature with respect

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

3 SECTION 4. 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, 2017.