CHAPTER 1255  
S.B. No. 1912

AN ACT

relating to the creation of the Harborside Management District; providing authority to impose taxes and issue bonds.

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

SECTION 1. CREATION OF DISTRICT. (a) The Harborside Management District is a special district created under Section 59, Article XVI, Texas Constitution.

(b) The board by resolution may change the name of the district.

SECTION 2. DEFINITIONS. In this Act:

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

(2) "District" means the Harborside Management District.

SECTION 3. 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 Act.

(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 area of the district.

(c) The creation of the district and this legislation may
not be interpreted to relieve Galveston County or the City of
Galveston from providing the level of services provided, as of the
effective date of this Act, 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.

(d) 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.

SECTION 4. BOUNDARIES. The district includes all the
territory contained in the following described area:
BEGINNING at the intersection of the Southerly right-of-way line of
Harborside Dr. and the Westerly right-of-way line of 77th Street;
THENCE proceeding in a Northerly direction a distance of
approximately 6,414 feet, from said BEGINNING POINT, across
Harborside Dr. along the Westerly right-of-way line of 77th Street
and continuing beyond the street's terminus along a projection to a
point for corner in Galveston Bay at the Southerly boundary of the
Intercoastal Waterway;
THENCE in an Easterly direction a distance of approximately 9,827
feet along the Southerly boundary of the Intercoastal Waterway to a
point for a corner in the Bay where the Northerly projection of the
Easterly right-of-way line of 57th Street intersects said Southerly
Intercoastal Waterway boundary;
THENCE in a Southerly direction a distance of approximately 4,385
feet along said Northerly projection of the Easterly right-of-way
line of 57th Street to a point for corner where said projection
intersects the Southerly right-of-way of Harborside Dr.;
THENENCE in a Westerly direction a distance of approximately 8,697
feet along the Southerly right-of-way of Harborside Dr. to the
PLACE OF BEGINNING.

SECTION 5. FINDINGS RELATING TO BOUNDARIES. The boundaries
and field notes of the district form a closure. If a mistake is made
in the field notes or in copying the field notes in the legislative
process, the mistake 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 a bond;
(3) right to impose or collect an assessment or tax; or
(4) legality or operation.

SECTION 6. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.
(a) The district is created to serve a public use and benefit. All
the land and other property included in the district will be
benefited by 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 Act.
(b) The creation of the district is in the public interest
and is essential to:

(1) further the public purposes of development and
diversification of the economy of the state; and
(2) eliminate unemployment and underemployment and
develop or expand transportation and commerce.

(c) The district will:

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

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

(3) further 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.

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

(e) The district will not act as the agent or instrumentality of any private interest even though many private interests will, as well as the general public, be benefited by the district.

SECTION 7. APPLICATION OF OTHER LAW. (a) Except as otherwise provided by this Act, Chapter 375, Local Government Code, applies to the district.

(b) Chapter 311, Government Code, applies to this Act.

SECTION 8. CONSTRUCTION OF ACT. This Act shall be liberally
construed in conformity with the findings and purposes stated in this Act.

SECTION 9. BOARD OF DIRECTORS IN GENERAL. (a) Except as provided by Subsection (c), the district is governed by a board of five voting directors appointed under Section 10 and nonvoting directors as provided by Section 11.

(b) Voting directors serve staggered terms of four years, with three directors' terms expiring June 1 of an odd-numbered year and two directors' terms expiring June 1 of the following odd-numbered year.

(c) The board may increase or decrease the number of directors on the board by resolution, provided that it is in the best interest of the district to do so and that the board consists of not fewer than five and not more than 15 directors.

SECTION 10. APPOINTMENT OF DIRECTORS. The governing body of the City of Galveston shall appoint voting directors to the board.

SECTION 11. NONVOTING DIRECTORS. (a) The following persons serve as nonvoting directors:

(1) the directors of the following departments of the City of Galveston or their designees:

(A) parks and recreation;

(B) planning and zoning; and

(C) public works; and

(2) the city manager of the City of Galveston or the city manager's designee.

(b) If an agency, department, or division described by
1 Subsection (a) is consolidated, renamed, or changed, the board may
2 appoint a director of the consolidated, renamed, or changed agency,
3 department, or division as a nonvoting director. If an agency,
4 department, or division described by Subsection (a) is abolished,
5 the board may appoint a representative of another agency,
6 department, or division that performs duties comparable to those,
7 performed by the abolished entity.
8 (c) Nonvoting directors are not counted for the purposes of
9 establishing a quorum of the board.

SECTION 12. CONFLICTS OF INTEREST; ONE-TIME AFFIDAVIT.
(a) Except as provided by this section:
12 (1) a director may participate in all board votes and
13 decisions; and
14 (2) Chapter 171, Local Government Code, governs
15 conflicts of interest for directors.
16 (b) Section 171.004, Local Government Code, does not apply
17 to the district. A director who has a substantial interest in a
18 business or charitable entity that will receive a pecuniary benefit
19 from a board action shall file a one-time affidavit declaring the
20 interest. An additional affidavit is not required if the
21 director's interest changes. After the affidavit is filed with the
22 board secretary, the director may participate in a discussion or
23 vote on that action if:
24 (1) a majority of the directors have a similar
25 interest in the same entity; or
26 (2) all other similar business or charitable entities
27 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 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.

SECTION 13. ADDITIONAL POWERS OF DISTRICT. The district may exercise the powers given to:

(1) a corporation 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) entities described in Chapters 441 and 284, Transportation Code, and may exercise those powers as if specifically named therein; and


SECTION 14. 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.

SECTION 15. LAW ENFORCEMENT SERVICES. 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.

SECTION 16. NONPROFIT CORPORATION. (a) The board by
resolution may authorize the creation of a nonprofit corporation to
assist and act on behalf of the district in implementing a project
or providing a service authorized by this Act.

(b) The board shall appoint the board of directors of a
nonprofit corporation created under this section. 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.

(c) A nonprofit corporation created under this section has
the powers of and is considered for purposes of this Act to be a
local government corporation created under Chapter 431,
Transportation Code.

(d) A nonprofit corporation created under this section may
implement any project and provide any service authorized by this
Act.

SECTION 17. REQUIREMENTS FOR FINANCING SERVICES AND
IMPROVEMENTS. The board may not finance a service or improvement
project with assessments under this Act unless a written petition
requesting that improvement or service has been filed with the
board. The petition must be signed by the owners of a majority of
the assessed value of real property in the district subject to
assessment as determined by the most recent certified tax appraisal
roll for Galveston County.
SECTION 18. 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 a maintenance tax or issues a bond payable from ad valorem taxes.

(b) The board may not 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.

SECTION 19. MAINTENANCE TAX. (a) If authorized at an election held in accordance with Section 18, the district may impose an annual ad valorem tax on taxable property in the district for the maintenance and operation of the district and the improvements constructed or acquired by the district or for the provision of services.

(b) The board shall determine the tax rate.

SECTION 20. ASSESSMENTS. (a) The board by resolution may impose and collect an assessment for any purpose authorized by this Act.

(b) Assessments, including assessments resulting from an addition to or correction of the assessment roll by the district, reassessments, penalties and interest on an assessment or reassessment, expenses 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 charge against
the owners of the property even if the owners are not named in the
assessment proceedings.

(c) A lien is effective from the date of the resolution of
the board 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.

(d) Without necessity of notice and hearing in the manner
required for additional assessments, the board may make corrections
to or deletions from the assessment roll provided that such
corrections or deletions do not increase the amount of assessment
of any parcel of land.

SECTION 21. UTILITIES. The district may not impose an
impact fee or assessment on the property, equipment, rights of way,
facilities, or improvements of an electric utility or a power
generation company as defined by Section 31.002, Utilities Code, a
gas utility as defined by Section 101.003 or 121.001, Utilities
Code, a telecommunications provider as defined by Section 51.002,
Utilities Code, or of a person that provides to the public cable
television or advanced telecommunications services. If the
district, in the exercise of the powers conferred upon it herein,
requires or requests the relocation, rerouting, or removal of
electric, gas, water, sewer, communications, or other public
utilities, as defined in Sections 31.002, 101.003, 121.001, and
51.002, Utilities Code, such relocation, rerouting, or removal
shall be at the sole expense of the district.

SECTION 22. BONDS. (a) The district may issue bonds or other obligations payable in whole or in part from ad valorem 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 obligation.

SECTION 23. 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.

SECTION 24. DISBURSEMENTS OR 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 money.

SECTION 25. COMPETITIVE BIDDING LIMIT. Section 375.221, Local Government Code, applies to the district only for a contract that has a value greater than $15,000.

SECTION 26. 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 27. INITIAL DIRECTORS. (a) The initial board consists of the following persons:

<table>
<thead>
<tr>
<th>Pos. No.</th>
<th>Name of Director</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>John Sullivan</td>
</tr>
<tr>
<td>2</td>
<td>Richard Ryan</td>
</tr>
<tr>
<td>3</td>
<td>John Kelso</td>
</tr>
<tr>
<td>4</td>
<td>Douglas Harris</td>
</tr>
<tr>
<td>5</td>
<td>Glenn Forman, Jr.</td>
</tr>
</tbody>
</table>

(b) Of the initial directors, the terms of directors appointed for positions 1 through 3 expire June 1, 2007, and the terms of directors appointed for positions 4 and 5 expire June 1, 2005.

(c) Section 10 does not apply to this section.

(d) This section expires September 1, 2007.

SECTION 28. TAX AND ASSESSMENT ABATEMENTS. Without further authorization or other procedural requirement, the district may grant, consistent with Chapter 312, Tax Code, an abatement for a tax or assessment owed to the district.

SECTION 29. MEMBERSHIP IN CHARITABLE ORGANIZATIONS. The district may join and pay dues to an organization that enjoys tax-exempt status under Section 501(c)(3), (4), or (6), Internal Revenue Code of 1986, as amended, and that performs services or provides activities consistent with the furtherance of the purposes of the district. An expenditure of public money for membership in
the organization is considered to further the purposes of the
district and to be for a public purpose.

SECTION 30. ELIGIBILITY FOR INCLUSION IN SPECIAL ZONES.
All or any part of the area of the district is eligible,
notwithstanding other statutory criteria, to be included in a tax
increment reinvestment zone created by the City of Galveston under
Chapter 311, Tax Code, or included in a tax abatement reinvestment
zone created by the City of Galveston under Chapter 312, Tax Code.
All or any part of the area of the district is also eligible to be
included in an enterprise zone created by the City of Galveston
under Chapter 2303, Government Code.

SECTION 31. ECONOMIC DEVELOPMENT PROGRAMS. The district
may establish and provide for the administration of one or more
programs, including programs for making loans and grants of public
money and providing personnel and services of the district, to
promote state or local economic development and to stimulate
business and commercial activity in the district. The district has
all of the powers and authority of a municipality under Chapter 380,
Local Government Code.

SECTION 32. 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.

SECTION 33. 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, 2003.
I hereby certify that S.B. No. 1912 passed the Senate on May 12, 2003, by the following vote: Yeas 31, Nays 0; and that the Senate concurred in House amendment on May 30, 2003, by the following vote: Yeas 31, Nays 0.

I hereby certify that S.B. No. 1912 passed the House, with amendment, on May 28, 2003, by the following vote: Yeas 144, Nays 0, two present not voting.

Approved:

20 JUN '03

Rick Perry
Governor