



**Agenda Item:** Discuss and Consider Approval of the 2023 State Legislative Agenda

**Background:** Ryan Brannan with W.R. Brannan and Associates will review the proposed agenda for the 2023 State legislative session for approval.

This agenda addresses the following items:

- GLO Funding for local coastal programs (Galveston)
- Pre-positioned GLO contracts for Emergency Debris Removal along the coast
- Improve GOMESA reimbursement grant funding
- Consideration of additional funding options beyond Hotel Occupancy Taxes
- Texas Windstorm Insurance Association
- Full Funding for Texas Tourism Promotions
- Statewide Short Term Rental Preemption, proposed by Air BnB
- State Event Trust Authority
- Protect Hotel Occupancy Tax Allocations
- Babe's Beach
- Full Funding for the Battleship Texas
- Pelican Island Bridge Replacement
- Gulf Coast Protection District

**Staff Recommendation:** Staff recommends the approval of the legislative agenda as presented.



## Park Board of Trustees of the City of Galveston 2023 Legislative Agenda

### GLO Funding for local coastal programs (Galveston)

Galveston has traditionally benefitted from a beach maintenance reimbursement grant from the Texas General Land Office. Over the past several years as visitation has increased, funding has decreased from \$255,696 in 2010 to \$88,376 in 2017. The State requires Open Beaches and access every ½ mile along the coast. Of the 44 Galveston access points, costs are recovered through Beach User Fees at only 4 points. Between 2014 to 2017, the Galveston Island Park Board recovered only 2.11% of the total expenditures made on behalf of the State in maintaining Galveston beaches open to the public. This pales in comparison with the percentage of other coastal destinations are receiving, especially when considering the density of visitation to Galveston. Brazoria County recovered 13.12% of their costs over the same period, Galveston County recovered 9.24%, South Padre recouped 5% and Matagorda County recovered 10.01%.

**Position:** Work with the Texas General Land Office to advocate for increased funding for Galveston Island based on alternate criteria.

### Pre-positioned GLO Contracts for Emergency Debris Removal along the coast

Following on Hurricane Ike, in 2011 Galveston representative Craig Eiland authored and passed a bill which amended language in the Natural Resource Code section 61.067 (a-1) to recognize the Texas General Land Office as the sole authorized recipient for federal (FEMA) funding for coastal debris removal. Prior to this amendment, the Park Board of Trustees was a qualified recipient to receive FEMA disaster recovery funding for authorized remediation actions along the Galveston coast. The inclusion of the amendment has blocked the Park Board and other municipalities from receiving emergency relief funding for responding to extraordinary events in our communities that was previously available.

The FEMA Policy Guidebook delineates the required documentation needed to guide agreements between federal, state and local authorities. It is possible to create, sign and have in place pre-positioned contracts that would allow the Park Board to react under authorization from the GLO and in the case of a federally declared emergency and recoup expenses incurred in clean up and recovery.

**Position:** Work towards the development and signing of pre-positioned contracts between the GLO and Park Board of Galveston for emergency debris removal in Galveston.

## Improve GOMESA Reimbursement Grant Funding

The General Land Office (GLO) oversees the administration and distribution of the Gulf of Mexico Energy Security Act (GOMESA) funds to selected projects as authorized under Public Law 109-432. GOMESA was enacted in 2006 and requires the Bureau of Ocean Energy Management (BOEM) to disburse a certain percentage of all qualified Outer Continental Shelf revenues, including bonus bids, rentals and production royalty to four Gulf producing states (Alabama, Louisiana, Mississippi, Texas), their coastal political subdivisions and the Land & Water Conservation Fund for coastal restoration projects. The amount distributed to each state and political subdivision is based on the sections of lease tracts that open each year and the distance from those sections to the states and political subdivisions. Since GOMESA funding is dependent on oil prices and lease sales, it is unknown exactly how much funding each state will receive each year. BOEM does a calculation of the previous year's OCS revenue for GOMESA funding and then deposits those funds into state treasuries the following April without prior notice or estimations of the deposit amounts.

Texas expects to receive a significant increase in GOMESA funding with the beginning of Phase II. To maximize this opportunity, the GLO is working to further initiatives that efficiently and effectively advance GLO coastal priorities. The GLO will use GOMESA funds to support projects that meet the GOMESA authorized uses, Coastal Management Program (CMP) or Coastal Erosion Planning and Response Act (CEPRA) Program goals and objectives, and GLO priorities identified in the Texas Coastal Resiliency Master Plan.

GOMESA funding will be disbursed each distribution year for eligible projects based on the following percentages: the CEPRA program will receive approximately 65%, the CMP will receive approximately 15%, and the remaining approximate 20% will be used for planning, administration and to facilitate the initiation and completion of other coastal projects. Not more than 3% of the total amount received by the state can be used on planning assistance and administrative costs pertaining to distribution GOMESA funds under this program. GLO planning assistance and administrative costs may include expenses such as personnel, supplies, equipment, services and other expenses related to administering the program; grant monitoring activities, programmatic studies, planning, and auditing; and public or community relations activities

The current disbursement method has several significant problems. The flexibility tool needs to be improved to aid in timely disbursement. For instance, the current disbursement does not align with busy months when funding is needed more than non-busy months.

**Position:** Work with the Texas General Land Office to advocate for increased funding and improved flexibility with GOMESA funds including a reimbursement grant.

## Consider additional funding options beyond Hotel Occupancy Taxes

In 2019, the Texas legislature passed into law a dedicated mechanism to assure continued funding of certain measures to combat coastal erosion. The law provides for the temporary allocation of a percentage of the revenue derived from the hotel occupancy tax levied in certain coastal counties to the coastal erosion response account to benefit those coastal counties.

While this legislation was very important in giving coastal erosion measures a dedicated funding stream, safe from competing for general revenue dollars, recent events have shown the need for

additional revenue streams. Park Board revenue estimates indicated it could take years to recover the funds to fund its budget needs. Additionally, current beach user fees do not cover the increased costs of maintaining safe public beaches on the Island.

The Park Board has been working with the GLO to increase the amount that can be charged for parking along the sea wall, and progress is starting to be made on that front. The Park Board should continue to work with the GLO on this front, as well as consider other revenue options such as a beach pass. Bolivar, for example, currently has a \$10 beach permit sticker that helps generate revenue.

**Position:** Work with the Texas General Land Office to advocate for additional revenue streams beyond the hotel occupancy tax.

### Texas Windstorm Insurance Association

Last session, the Texas Legislature passed HB 1900, the most pro-coastal TWIA legislation in 40 years. Two sections of the bill created interim legislative committees to study aspects of TWIA. One committee was to study the funding structure of TWIA and propose changes to how TWIA is structured. The other committee was to study TWIA and the FAIR plan including the tort protections that are offered, and make recommendations for legislative changes. Neither of these committees met due to COVID-19 restrictions. Legislation needs to be passed to extend the dates of these committees so that they can meet next interim and accomplish the goals of HB 1900.

**Position:** Work with the Coastal Windstorm Insurance Coalition and other partners to pass legislation allowing HB 1900 to work as intended, specifically by extending the dates for the two interim committees.

### Full Funding for Texas Tourism Promotions

Texas ranks as the 3rd most popular state for domestic travel and is a top 10 state for international travel. An estimated 243 million domestic travelers visited Texas destinations in 2014. Total direct travel spending in Texas in 2014 was \$70.5 billion in 2014, which generated \$5.9 Billion in state and local tax revenues and supported more than 1 million jobs across the State. State tourism promotion is a self-funded program with a dedicated funding source. By statute, funding for the program comes from only 1/12th of the state's six percent hotel occupancy tax. Independent research shows that for every \$1 spent on state tourism advertising, more than \$7 is returned in state tax revenues. This level of return will continue only if the state continues to fully fund its tourism promotion program.

The Comptroller's January 2015 Biennial Revenue Estimate provided to the 84th Texas Legislature predicted \$1.151 billion total in state hotel tax collection, therefore entitling the Governor's Tourism Division to approximately \$96 million in funding. However the Texas Legislature limited the appropriation for the Texas Tourism program in the 2016–17 biennium to a total of \$70.1 million. The Comptroller's January 2017 Biennial Revenue Estimate will likely reflect the same hotel tax collection, therefore entitling the Governor's Tourism Division to approximately \$96 million in funding once again.

**Position:** Advocate for full (\$96 million) funding for Texas Tourism. The Park Board will work together with industry associations Texas Tourism Industry Association (TTIA) and the Texas Hotel & Lodging Association (TH&LA) to preserve full funding for the Governor's tourism promotion program.

### Statewide Short Term Rental Preemption, proposed by Air BnB

The TH&LA anticipates that Airbnb will back a bill that will likely impose a duty on short term rental websites to collect state and local hotel tax- which it currently does not collect. In exchange, the bill would provide for a state wide preemption of local governments from regulating the location of short term rental properties. Such legislation risks long term collection of hotel taxes, as an increasing number of STR properties use Airbnb or others to secure leads for renters and then stop using the site once they build up a clientele who can book directly, thus avoiding commissions and taxes. This also does not allow for open transparency regarding the individual units renting and the revenues generated by those units as the taxes would be consolidated and not representative of individual properties. This does not create a level playing field given that other hotel occupancy tax payers are required to disclose revenues publicly on individual properties. It would also prohibit local municipalities from passing their own ordinances, and may invalidate any ordinances created by Galveston City Council. This is concerning given the distinct character of communities across Texas and the need to be able to accommodate local concerns.

Position: Support initiatives that support collection of taxes from STR while maintaining local ability to regulate the sector.

### State Event Trust Fund Authority

The State Event Fund provides a source of matching funds for the costs of city wide events that may have a substantial tourism impact. The state funding comes from the uptick in state taxes that are directly attributable from these specific events. Each session there are critics of this program that seek to reduce or repeal this authority. It is a top priority to retain this program, Galveston has benefitted from this mechanism previously.

Position: Support continued funding of the State Event Trust Fund Authority

### Protect Hotel Occupancy Tax allocations

Hotel owners, operators or managers must collect *state* hotel occupancy tax from their guests who rent a room or space in a hotel costing \$15 or more each day. The tax applies not only to hotels and motels, but also to bed and breakfasts, condominiums, apartments and houses. *Local* hotel taxes apply to sleeping rooms costing \$2 or more each day.

With the numerous sporting and entertainment events around the state, many homeowners rent their homes or rooms in their house to people attending these events. Persons leasing their houses must collect hotel occupancy tax from their customers in the same way a hotel or motel collects the tax from its guests. Property management companies, online travel companies and other third-party rental companies may also be responsible for collecting the tax.

The state hotel occupancy tax rate is 6 percent (.06) of the cost of a room. [Cities](#) and certain [counties](#) and special purpose districts are authorized to impose an additional local hotel tax that the local taxing authority collects.

In 2015 The City of Galveston passed [Ordinance 15-012](#) which authorized the Park Board of Trustees to require all Short Term Rentals (STR's) to be registered. The Park Board is also authorized to collect Hotel Occupancy Tax (HOT) on a monthly or quarterly basis.

In May of 2021 the City of Galveston passed [Ordinance 21-021](#) which requires the property owner and/or property management company to display the GVR number on any and all advertisements. This includes all booking platforms, management company websites and any private listings (i.e. Facebook, Instagram, etc.). It is the owner's responsibility to make sure that their individual property(s) are in compliance. Failure to do so will result in the listing being removed.

The City of Galveston is currently considering an ordinance to make changes to the existing structure, and other entities may also be looking to change the way the HOT tax is allocated.

Position: Prevent legislative attempts to change the HOT allocation that would adversely affect the Galveston Park Board of Trustees.

### [Babe's Beach](#)

The Galveston Park board of trustees has filed a lawsuit that leaders say is needed to protect a public investment of about \$75 million that went into building Babe's Beach and to ensure planned reconstructions projects worth about another \$50 million or so aren't derailed.

The petition, filed Friday in the 212th Judicial District Court, also seeks a temporary restraining order against two people who claim ownership of beach land and two people who operate rental businesses on that land, one of whom is a park board trustee.

The lawsuit raises questions about the lines between a public and private beach and whether land claimed by the Gulf of Mexico and restored with public money returns to private owners or remains under state ownership.

The petition asserts owners Ted O'Rourke and Gulf Properties, as well as vendors Frank Maceo and Jason Worthen, a park board trustee, are preventing the park board from accessing public lands and of operating concessions on a public beach.

"Defendants now claim private property rights of the public beach, which was restored by renourishment," court documents assert. "Defendants are preventing the park board from operating under its lease with the state of Texas to operate on the public beach by placing unauthorized vendors on the public beach."

Long-held state practice has asserted that land once submerged because of natural erosion becomes state land by default.

A 20-year surface lease signed with the Texas General Land Office in 2015 gives the park board permission to conduct certain business on state-owned property along the seawall from 61st Street to the western end of the seawall.

The lease lets the park board enter contracts or franchise agreements to promote recreation.

Recently, however, owners of land that had been submerged began claiming ownership of slices of beach and have started entering agreements with companies that rent umbrellas and chairs, without the typically required permit from the park board.

The Texas Open Beaches Act gives Texans a right to access the ocean through a public easement along the water line. While the state owns much of the property along the beach, there are some privately held lands, such as Porretto Beach.

Position: Work with the General Land Office to determine ownership of Babe's Beach through litigation and other means. Defeat legislation adverse to the State's and Park Board's rightful claim of ownership of the beach.

### Full Funding for the Battleship Texas

The Texas Historical Commission (THC) approved three permits enabling major work to begin on the relocation and restoration of the Battleship Texas. In a special posted meeting conducted by teleconference, the THC's executive committee took actions enabling the Battleship Texas Foundation to prepare the ship for relocation to a shipyard for restoration. The permits also authorize restoration work on the vessel's hull and "blister" - twin compartments that helped protect it from torpedoes or other assaults - and projects involving the removal and restoration of large deck pieces, like cannons and searchlights.

The 86th Texas Legislature approved funding to move and restore the Battleship Texas. Due to the importance and complexity of the project, the THC Executive Committee conducted a special public meeting through teleconference after the agency's scheduled March meeting was postponed in response to the COVID-19 crisis.

Now that Battleship Texas is docked in Galveston, months of repairs will begin to address leaking and to repair the super-structure. Most of the repairs will be funded by a \$35 million federal grant. The foundation eventually would like to secure the funding that would be needed to replace the deck and paint the ship.

The Battleship Texas Foundation operates the Battleship Texas under a 99-year memorandum of understanding from TPWD who owns the battleship. In 2019, the Texas legislature passed SB1511 directing TPWD to enter a 99-year lease with a qualified nonprofit to operate the ship. In the same session, the legislature appropriated \$35 million to fund the hull repair of Battleship Texas.

Position: Work with our elected officials and other stakeholders to ensure full funding of the restoration of Battleship Texas

### Pelican Island Bridge Replacement

The Texas Department of Transportation (TxDOT), along with assistance from the USACE, are holding an industry meeting to discuss TxDOT's proposed replacement of the Seawolf Parkway Bridge/Pelican Island bridge connecting Galveston Island and Pelican Island.

The meeting will be held at the USACE Galveston District Headquarters on Galveston Island on Tuesday August 23, 2022 from 10-11:30. There will be a virtual option via Webex as well. Webex information to follow soon.

TxDOT will be presenting preliminary design concepts to the industry stakeholders in the proposed project area and gathering feedback on the proposed designs. TxDOT thinks it would be extremely valuable to have representatives from Lone Star Harbor Safety Committee in attendance.

The Pelican Island Causeway Bridge is a vital part of the one road leading to and from Pelican Island. Over 2,000 people--students, faculty, and staff--depend on this bridge to travel between Galveston and Pelican Island. The bridge was originally opened in the year of 1960. A bascule bridge, it is now the last bridge of its kind in Texas.

According to Colonel Fossum, the impending replacement of the bridge became a topic of discussion about 25 years ago. But for the last 5 years, campus communities and city officials have observed the bridge's condition becoming both increasingly outdated and deteriorated. However, progress being made on setting the replacement's construction in motion has been gradual.

The cost of the planned bridge's structure, along with matters of land ownership and the ownership of the road itself, have presented the most significant obstacles in the process of replacing the bridge with an alternate route to Pelican Island. Both the demolition of the current bridge and the full construction of the new one have presented demanding prospects in terms of resources and financial responsibility to involved entities, the most prominent of which are Galveston County, Port Houston, City of Galveston, Texas A&M University, Galveston County Navigation District no. 1, and the Port of Galveston. Galveston City Council recently released a [memorandum of understanding](#) describing the plan for the new bridge's construction. The *Houston Chronicle* has helpfully [reported](#) on the bridge's replacement as well.

"This is a very necessary step for our campus," Colonel Fossum stated in an interview, after describing the many benefits the new bridge will help provide for TAMUG's students and campus grounds. "It will not only be safer but one of the things the bridge will definitely be is wider. So there will be less issues with traffic, redirecting traffic when trucks carrying wide loads are passing through...also, a lot of hazardous cargo carried on trucks passes from the current bridge close to our campus. The route I want will put a lot more distance between that hazardous cargo and buildings our students are in."

Colonel Fossum also shared his hope of buying the land around where the bridge would connect to Pelican island, explaining this would provide an opportunity for the campus grounds to expand, particularly for recreational purposes. Additionally, the colonel was happy to share that the new bridge will include a complete bicycle and pedestrian lane.

A time frame for the new bridge's construction will be estimated once all parties can agree on the funding, location, and direction of the project. Colonel Fossum anticipates an update on an environmental survey to be conducted over the land that the bridge will be connected to on Pelican Island.

### [Gulf Coast Protection District](#)

While the Gulf Coast Protection District does not have any specific legislative agenda requests, they will be seeking funding from the Legislature and will be monitoring events. Regarding their efforts, the Galveston Park Board can support the action items listed below:



Funding: The Gulf Coast Protection District (GCPD) will be seeking an appropriation in the 88th regular session from the Texas legislature to continue funding GCPD operations and the non-federal share of the US Army Corps of Engineers' storm surge suppression projects in the Sabine to Galveston and Coastal Texas programs that are located in GCPD's five county territory. In order to protect our citizens, natural resources, and the industry that upholds this state, the Galveston Park Board supports funding to the GCPD for these projects on the Texas Gulf Coast.

Monitoring: The Gulf Coast Protection District has been functioning for a just over a year. GCPD has undertaken large steps during that time and actions continue to accelerate at the federal level, largely shaping the direction that GCPD will have to follow. The Galveston Park Board supports ongoing legislative engagement and monitoring of the progress of GCPD and the Sabine to Galveston and Coastal Texas programs as the state has significant funds invested in GCPD projects and these programs have long-term impact on coastal resiliency and the state economy.