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S.B. No. 1160

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Gulf Coast Protection District;
providing authority to issue bonds; providing authority to impose
fees; providing authority to impose a tax; granting the power of
eminent domain.

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

SECTION 1. Subtitle K, Title 6, Special District Local Laws
Code, is amended by adding Chapter 9502 to read as follows:

CHAPTER 9502. GULF COAST PROTECTION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9502.0101. DEFINITIONS. In this chapter:

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

(2) "Director" means a board member.

(3) "District" means the Gulf Coast Protection
District.

(4) "Ecosystem restoration report" means the Sabine
Pass to Galveston Bay, Texas Coastal Storm Risk Management and
Ecosystem Restoration Final Integrated Feasibility
Report—Environmental Impact Statement issued by the Galveston
District, Southwestern Division, of the United States Army Corps of
Engineers in May 2017.

(5) "Protection and restoration study" means the
Coastal Texas Protection and Restoration Feasibility Study Final
Integrated Feasibility Report and Environmental Impact Statement

1 to be issued by the Galveston District, Southwestern Division, of
2 the United States Army Corps of Engineers, the draft version of
3 which was issued in October 2020.

4 Sec. 9502.0102. NATURE OF DISTRICT. The district is a
5 special district created under Section 59, Article XVI, Texas
6 Constitution.

7 Sec. 9502.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

8 (a) The creation of the district is essential to accomplish the
9 purposes of Section 59, Article XVI, Texas Constitution, and other
10 public purposes stated in this chapter.

11 (b) The creation of the district is necessary to establish
12 an instrumentality for protecting the coast in Chambers, Galveston,
13 Harris, Jefferson, and Orange Counties in the manner provided by
14 this chapter.

15 (c) The district is created to serve a public use and
16 benefit.

17 (d) All land and other property included in the boundaries
18 of the district will benefit from the works and projects
19 accomplished by the district.

20 Sec. 9502.0104. DISTRICT TERRITORY. (a) The district is
21 composed of the territory in Chambers, Galveston, Harris,
22 Jefferson, and Orange Counties and territory annexed to the
23 district as described by Subsection (b).

24 (b) The governing body of the district by order shall annex
25 to the district the territory of a county included in the protection
26 and restoration study at the request of the commissioners court of
27 that county.

1 Sec. 9502.0105. APPLICATION OF SUNSET ACT. (a) The
2 district is subject to review under Chapter 325, Government Code
3 (Texas Sunset Act), but may not be abolished under that chapter.
4 The review shall be conducted under Section 325.025, Government
5 Code, as if the authority were a state agency scheduled to be
6 abolished September 1, 2033, and every 12th year after that year.

7 (b) The limited review under this section must assess the
8 district's:

- 9 (1) governance;
- 10 (2) management;
- 11 (3) operating structure; and
- 12 (4) compliance with legislative requirements.

13 (c) The district shall pay the cost incurred by the Sunset
14 Advisory Commission in performing the review. The Sunset Advisory
15 Commission shall determine the cost, and the district shall pay the
16 amount promptly on receipt of a statement from the Sunset Advisory
17 Commission detailing the cost.

18 (d) The district may not be required to conduct a management
19 audit under 30 T.A.C. Chapter 292.

20 SUBCHAPTER B. BOARD OF DIRECTORS

21 Sec. 9502.0201. GOVERNING BODY; TERMS. (a) The district is
22 governed by a board of 11 directors.

23 (b) The commissioners courts of Chambers County, Galveston
24 County, Harris County, Jefferson County, and Orange County each
25 shall appoint one director.

26 (c) The governor, with the advice and consent of the senate,
27 shall appoint six directors as follows:

1 (1) two directors to represent Harris County, in
2 addition to the member appointed by the commissioners court under
3 Subsection (b);

4 (2) one director to represent a municipality in the
5 district;

6 (3) one director to represent ports;

7 (4) one director to represent industry; and

8 (5) one director to represent environmental concerns.

9 (d) In making the appointments required by Subsection (c),
10 the governor shall ensure that residents of a single county do not
11 make up a majority of the directors.

12 (e) The governor shall consult with:

13 (1) the commissioners court of Harris County in making
14 the appointments required by Subsection (c)(1); and

15 (2) municipalities in the district in making the
16 appointment required by Subsection (c)(2).

17 (f) Directors serve staggered four-year terms.

18 (g) When a director's term expires, the appointing entity
19 shall appoint a successor.

20 (h) If a director's office becomes vacant by death,
21 resignation, or removal, the appointing entity shall appoint a
22 director to serve for the remainder of the unexpired term.

23 (i) The board shall elect a presiding officer from among the
24 directors to serve in that position for two years. A director may
25 serve as the presiding officer for not more than two consecutive
26 terms.

27 (j) Notwithstanding Subsection (f), the governor shall

1 designate from the 11 initial directors 5 directors to serve a first
2 term of two years. This subsection expires September 1, 2025.

3 Sec. 9502.0202. QUALIFICATION. (a) To qualify for office,
4 a director must be a registered voter who resides in the district.

5 (b) To qualify for office, a director described by Section
6 9502.0201(b) or (c)(1) or (2) must be a resident of the county or
7 municipality the person is appointed to represent.

8 Sec. 9502.0203. CERTAIN CONFLICTS PROHIBITED. (a) An
9 individual is not eligible to serve as a director if, in the
10 preceding 24 months, the individual had an interest in or was
11 employed by or affiliated with a person who has submitted a bid or
12 entered into a contract for a district project.

13 (b) The board may not employ or appoint an individual
14 described by Subsection (a) to work for the district.

15 (c) A director may not acquire a direct or indirect interest
16 in a district project.

17 Sec. 9502.0204. REIMBURSEMENT. A director is not entitled
18 to compensation but is entitled to reimbursement for necessary
19 expenses incurred in carrying out the duties and responsibilities
20 of the board.

21 Sec. 9502.0205. VOTING. A concurrence of a majority of the
22 directors is required for transacting any business of the district.

23 Sec. 9502.0206. TEMPORARY EXECUTIVE DIRECTOR. The governor
24 shall appoint a temporary executive director for the district to
25 serve until the initial board members hire an executive director
26 for the district.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9502.0301. GENERAL DISTRICT POWERS. (a) Except as otherwise provided by this section, the district may:

(1) establish, construct, extend, maintain, operate, or improve a coastal barrier or storm surge gate in the manner provided by Chapter 571, Local Government Code, for a county to establish, construct, extend, maintain, or improve a seawall;

(2) exercise the authority granted to counties to conduct any project described by Chapter 571, Local Government Code;

(3) establish, construct, and maintain recreational facilities for public use and environmental mitigation facilities related to a project described by Subdivision (1) or (2);

(4) establish, construct, maintain, or operate a project recommended in the ecosystem restoration report or the protection and restoration study; and

(5) provide interior drainage remediation or improvements to reduce additional flood risk for a project recommended in the ecosystem restoration report where additional flood risk results from the design or construction of a project described by Subdivision (1), (2), or (4).

(b) Sections 571.006, 571.007, 571.008, 571.009, and 571.010, Local Government Code, do not apply to the district.

(c) Before implementing a project described by Subsection (a), the district shall consult with local, state, and federal entities to determine whether an environmental remediation response action is anticipated or located near or at the proposed

1 location of the project.

2 (d) If implementation of a project described by Subsection
3 (a) disrupts, wholly or partly, an ongoing or planned environmental
4 remediation response action, the district shall:

5 (1) consult with the responsible party of the
6 environmental remediation response action; and

7 (2) coordinate implementation of the project in a
8 manner that does not disrupt the environmental remediation response
9 action.

10 Sec. 9502.0302. TAXES AND BONDS. (a) The district must
11 hold an election in the manner provided by Chapter 49, Water Code,
12 to obtain voter approval before the district may impose an ad
13 valorem tax or issue bonds payable from ad valorem taxes.

14 (b) The board may impose the tax at a rate not to exceed 5
15 cents on each \$100 valuation.

16 (c) The district, without an election, may issue bonds,
17 notes, or other obligations secured by revenue other than ad
18 valorem taxes.

19 Sec. 9502.0303. REQUIREMENTS FOR CERTAIN PROJECTS. If the
20 district enters into an agreement with another entity to implement
21 a project recommended in the ecosystem restoration report or the
22 protection and restoration study, the district:

23 (1) shall develop a maintenance and operation plan for
24 the project;

25 (2) may enter into a partnership with a private entity
26 to fund a local share of the cost of the project; and

27 (3) may use any available money to provide matching

1 funds to the United States Army Corps of Engineers to implement the
2 project.

3 Sec. 9502.0304. ACQUISITION AND DISPOSITION OF PROPERTY AND
4 RIGHTS. (a) The district may purchase, lease, acquire by gift,
5 maintain, use, and operate property of any kind appropriate for the
6 exercise of the district's functions, including acquiring property
7 by mutual agreement with a navigation district or a drainage
8 district.

9 (b) The district may acquire permits, licenses, and rights
10 related to the exercise of the district's functions.

11 Sec. 9502.0305. AGREEMENTS. (a) The district may enter
12 into a cooperative agreement with a political subdivision, a state
13 agency, the United States Army Corps of Engineers, or another
14 federal agency for a purpose related to the study, design,
15 construction, operation, or maintenance of a district project.

16 (b) The district may enter into an interlocal agreement with
17 a political subdivision for a purpose related to the study, design,
18 construction, operation, or maintenance of a district project to
19 include the acceptance of the assignment of rights or obligations
20 in an existing design agreement or a project partnership agreement
21 between the political subdivision and the United States Army Corps
22 of Engineers.

23 Sec. 9502.0306. CONTRACTS GENERALLY. (a) The district may
24 enter into contracts and execute instruments that are necessary or
25 convenient to the exercise of the district's powers, rights,
26 duties, and functions. A contract may be for any term, including
27 for the life of any facility or structure in the territory of the

1 district.

2 (b) The district and another governmental entity may enter
3 into a contract for the operation or maintenance of an authorized
4 project in the same way that a political subdivision may contract
5 with another governmental entity under Chapter 472, Transportation
6 Code, to construct or maintain a road or highway.

7 (c) The district may enter into a project partnership
8 agreement with the United States Army Corps of Engineers for the
9 study, design, construction, operation, and maintenance of a
10 project recommended in the ecosystem restoration report or the
11 protection and restoration study.

12 (d) A public agency or political subdivision is authorized
13 to:

14 (1) enter into a contract with the district;

15 (2) determine, agree, and pledge that all or any part
16 of its payments under a contract with the district shall be payable
17 from any source, subject only to the authorization by a majority
18 vote of the governing body of such public agency or political
19 subdivision of the contract, pledge, and payments;

20 (3) use and pledge any available revenues or resources
21 for and to the payment of amounts due under a contract with the
22 district as an additional source of payment or as the sole source of
23 payment and agree with the district to assure the availability of
24 revenue and resources when required; and

25 (4) fix, charge, and collect impact fees and utility
26 charges, if the public agency or political subdivision is otherwise
27 authorized to impose the fees and charges, and to use and pledge

1 revenue from the fees or charges to make payments to the district
2 required under a contract with the district.

3 Sec. 9502.0307. REQUIREMENTS FOR CERTAIN CONTRACTS. (a)
4 Chapter 2269, Government Code, applies to the district's public
5 work contracts, as defined by Section 2269.001 of that chapter.
6 Section 2269.003(d) of that chapter does not apply to the district.

7 (b) The district shall comply with Subchapter A, Chapter
8 2254, Government Code.

9 Sec. 9502.0308. CONFLICT WITH ORDER OR ACTION OF ANOTHER
10 POLITICAL SUBDIVISION. An order or action of a river authority,
11 port authority, navigation district, or drainage district relating
12 to the operation or maintenance of a district project supersedes an
13 order or action of the district to the extent of any conflict.

14 Sec. 9502.0309. AUTHORITY TO DEVELOP BARRIER CLOSURE
15 PROCEDURES. If the district implements a project to create a
16 coastal barrier, the district shall develop closure procedures in
17 conjunction with each board of trustees established under Chapter
18 54, Transportation Code, port authority, navigation district, and
19 drainage district affected by the barrier or closure. For the Texas
20 City Channel, the district shall develop closure procedures with
21 any common carrier terminal railroad providing rail and maritime
22 terminal services to the users of the navigation channel.

23 Sec. 9502.0310. ANNUAL REPORT REQUIRED. The district shall
24 annually submit a report to the legislature, the Legislative Budget
25 Board, the General Land Office, and the commissioners court of each
26 county in which the district is located. The report must:

27 (1) describe the district's financial condition and

1 operations during the preceding year;

2 (2) propose a budget for the following year; and

3 (3) describe generally the work proposed for the
4 following year.

5 Sec. 9502.0311. EMINENT DOMAIN. (a) The district may
6 exercise the power of eminent domain to acquire a fee simple or
7 other interest in any type of property if the interest is necessary
8 or convenient for the exercise of the district's functions. The
9 district must exercise the power of eminent domain in the manner
10 provided by Chapter 21, Property Code.

11 (b) The district may not exercise the power of eminent
12 domain to acquire property owned or operated by a port authority,
13 navigation district, drainage district, or common carrier
14 railroad.

15 SECTION 2. (a) The legal notice of the intention to
16 introduce this Act, setting forth the general substance of this
17 Act, has been published as provided by law, and the notice and a
18 copy of this Act have been furnished to all persons, agencies,
19 officials, or entities to which they are required to be furnished
20 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
21 Government Code.

22 (b) The governor, one of the required recipients, has
23 submitted the notice and Act to the Texas Commission on
24 Environmental Quality.

25 (c) The Texas Commission on Environmental Quality has filed
26 its recommendations relating to this Act with the governor, the
27 lieutenant governor, and the speaker of the house of

1 representatives within the required time.

2 (d) All requirements of the constitution and laws of this
3 state and the rules and procedures of the legislature with respect
4 to the notice, introduction, and passage of this Act are fulfilled
5 and accomplished.

6 SECTION 3. (a) Section 9502.0311, Special District Local
7 Laws Code, as added by Section 1 of this Act, takes effect only if
8 this Act receives a two-thirds vote of all the members elected to
9 each house.

10 (b) If this Act does not receive a two-thirds vote of all the
11 members elected to each house, Subchapter C, Chapter 9502, Special
12 District Local Laws Code, as added by Section 1 of this Act, is
13 amended by adding Section 9502.0311 to read as follows:

14 Sec. 9502.0311. NO EMINENT DOMAIN POWER. The district may
15 not exercise the power of eminent domain.

16 (c) This section is not intended to be an expression of a
17 legislative interpretation of the requirements of Section 17(c),
18 Article I, Texas Constitution.

19 SECTION 4. This Act takes effect immediately if it receives
20 a vote of two-thirds of all the members elected to each house, as
21 provided by Section 39, Article III, Texas Constitution. If this
22 Act does not receive the vote necessary for immediate effect, this
23 Act takes effect September 1, 2021.