

By: Taylor

S.B. No. 1160

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the creation of the Gulf Coast Protection District;  
3 providing authority to issue bonds; providing authority to impose  
4 fees; providing authority to impose a tax; granting the power of  
5 eminent domain.

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

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

9 CHAPTER 9502. GULF COAST PROTECTION DISTRICT

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 9502.0101. DEFINITIONS. In this chapter:

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

13 (2) "Director" means a board member.

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

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

22 (5) "Protection and restoration study" means the  
23 Coastal Texas Protection and Restoration Feasibility Study Final  
24 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 Brazoria, Chambers,  
13 Galveston, Harris, Jefferson, and Orange Counties in the manner  
14 provided by 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 Brazoria, 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 Chapter 292, Title 30, Texas Administrative Code.

20                   SUBCHAPTER B. BOARD OF DIRECTORS

21       Sec. 9502.0151. GOVERNING BODY; TERMS. (a) The district is  
22 governed by a board of 11 directors appointed by the governor. The  
23 governor shall consult with the commissioners courts of Brazoria  
24 County, Chambers County, Galveston County, Harris County,  
25 Jefferson County, and Orange County before appointing the board  
26 members.

27       (b) Directors serve staggered four-year terms.

1       (c) When a director's term expires, the governor shall  
2 appoint a successor.

3       (d) If a director's office becomes vacant by death,  
4 resignation, or removal, the governor shall appoint a director to  
5 serve for the remainder of the unexpired term.

6       (e) Notwithstanding Subsection (b), the governor shall  
7 designate five initial directors to serve a first term of two years.  
8 This subsection expires September 1, 2025.

9       Sec. 9502.0152. REMOVAL. The governor may remove a  
10 director at any time and appoint a replacement director to serve the  
11 remainder of the unexpired term.

12       Sec. 9502.0153. QUALIFICATION. To qualify for office, a  
13 director must be a registered voter who resides in the district.

14       Sec. 9502.0154. CERTAIN CONFLICTS PROHIBITED. (a) An  
15 individual is not eligible to serve as a director if, in the  
16 preceding 24 months, the individual had an interest in or was  
17 employed by or affiliated with a person who has submitted a bid or  
18 entered into a contract for a district project.

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

21       (c) A director may not be employed professionally for  
22 remuneration in a profession related to the operation of the  
23 district during the director's term of office.

24       Sec. 9502.0155. REIMBURSEMENT. A director is not entitled  
25 to compensation but is entitled to reimbursement for necessary  
26 expenses incurred in carrying out the duties and responsibilities  
27 of the board.

1       Sec. 9502.0156. VOTING. A concurrence of a majority of the  
2 directors is required for transacting any business of the district.

3                   SUBCHAPTER C. POWERS AND DUTIES

4       Sec. 9502.0201. GENERAL DISTRICT POWERS. (a) Except as  
5 provided by Subsection (b), the district may:

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

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

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

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

19          (b) Sections 571.006, 571.007, 571.008, 571.009, and  
20 571.010, Local Government Code, do not apply to the district.

21       Sec. 9502.0202. ELECTIONS REGARDING TAXES AND BONDS. (a)  
22 The district must hold an election in the manner provided by Chapter  
23 49, Water Code, to obtain voter approval before the district may  
24 impose an ad valorem tax or issue bonds payable from ad valorem  
25 taxes.

26          (b) The district, without an election, may issue bonds,  
27 notes, or other obligations secured by revenue other than ad

1 valorem taxes.

2 Sec. 9502.0203. REQUIREMENTS FOR CERTAIN PROJECTS. If the  
3 district enters into an agreement with another entity to implement  
4 a project recommended in the ecosystem restoration report or the  
5 protection and restoration study, the district:

6 (1) shall develop a maintenance and operation plan for  
7 the project;

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

10 (3) may use any available money to provide matching  
11 funds to the United States Army Corps of Engineers to implement the  
12 project.

13 Sec. 9502.0204. ACQUISITION AND DISPOSITION OF PROPERTY AND  
14 RIGHTS. (a) The district may purchase, lease, acquire by gift,  
15 maintain, use, and operate property of any kind appropriate for the  
16 exercise of the district's functions.

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

19 Sec. 9502.0205. AGREEMENTS. (a) The district may enter  
20 into a cooperative agreement with a political subdivision, state  
21 agency, or federal agency for a purpose related to the operation or  
22 maintenance of a district project.

23 (b) The district may enter into an interlocal agreement with  
24 a political subdivision for a purpose related to the construction,  
25 operation, or maintenance of a district project.

26 Sec. 9502.0206. CONTRACTS GENERALLY. (a) The district may  
27 enter into contracts and execute instruments that are necessary or

1 convenient to the exercise of the district's powers, rights,  
2 duties, and functions. A contract may be for any term, including  
3 for the life of any facility or structure in the territory of the  
4 district.

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

10 (c) A public agency or political subdivision is authorized  
11 to:

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

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

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

23 (4) fix, charge, and collect impact fees and utility  
24 charges, if the public agency or political subdivision is otherwise  
25 authorized to impose the fees and charges, and to use and pledge  
26 revenue from the fees or charges to make payments to the district  
27 required under a contract with the district.

1       Sec. 9502.0207. CERTAIN CONTRACTS. (a) This section  
2 applies only to a contract for:

- 3           (1) construction or repair;  
4           (2) purchase of material, equipment, or supplies; or  
5           (3) services other than technical, scientific, legal,  
6 fiscal, or other professional services.

7       (b) If a contract will require an estimated expenditure of  
8 more than \$25,000, or if a contract is for a term of more than five  
9 years, the district shall:

10           (1) publish a notice to bidders once each week for  
11 three consecutive weeks before the date set for awarding the  
12 contract; and

13           (2) award the contract to the lowest and best bidder.

14       (c) The notice under Subsection (b) must:

15           (1) state the time and place the bids will be opened;

16           (2) describe:

17                   (A) the general nature of the work to be done;

18                   (B) the material, equipment, or supplies to be  
19 purchased; or

20                   (C) the nonprofessional services to be rendered;

21 and

22           (3) state the terms on which copies of the plans,  
23 specifications, or other pertinent information may be obtained.

24       (d) The notice must be published in a newspaper of general  
25 circulation in the county or counties in which the contract is to be  
26 performed. In addition to publishing notice in a newspaper of  
27 general circulation, the notice may also be published in any other



1 appropriate publication.

2 (e) A person desiring to bid on the construction of any work  
3 advertised as provided by this section shall, on written  
4 application to the board, be furnished with a copy of the detailed  
5 plans and specifications or other detailed engineering and  
6 architectural documents showing the work to be done. The district  
7 may charge a fee to cover the cost of providing the copy.

8 (f) All bids must be in writing, sealed and delivered to the  
9 board, and accompanied by a certified check on a bank located in  
10 this state, or a bid bond from a company approved by the board, in an  
11 amount equal to at least one percent of the total amount bid.

12 (g) The amount of the check or bond shall be forfeited to the  
13 district if the successful bidder fails or refuses to:

14 (1) enter into a proper contract; or

15 (2) furnish bond as required by law.

16 (h) The board may reject any or all bids.

17 (i) Bids shall be opened at the time and place specified in  
18 the notice and shall be announced by the board. The place where the  
19 bids are opened and announced must be open to the public.

20 (j) The contract price of all construction contracts of the  
21 district may be made in partial payment as the work progresses, but  
22 the payments may not exceed 90 percent of the amount due at the time  
23 of each payment. The board shall, during the progress of the work,  
24 inspect the work or cause the work to be inspected by a district  
25 employee. On the completion of any contract in accordance with the  
26 contract's terms, the board shall pay the balance due on the  
27 contract.

1       (k) The person to whom a contract is awarded shall provide  
2 the performance and payment bonds required by law.

3       (l) This section does not prohibit the district from  
4 purchasing surplus property from the United States by contract and  
5 without advertising for bids.

6       (m) An officer, agent, or employee of the district who has a  
7 financial interest in a contract of the types described by  
8 Subsection (a) shall disclose that fact to the board before the  
9 board votes on the acceptance of the contract.

10       (n) Notwithstanding any provision of any charter of any  
11 municipality, contracts between the authority and a municipality  
12 are not required to be approved by the voters of the municipality at  
13 an election.

14       (o) In an emergency, the district is not required to comply  
15 with the bidding procedures described by this section and may award  
16 a contract necessary to protect and preserve the public health and  
17 welfare or the properties of the district.

18       Sec. 9502.0208. NAVIGATION DISTRICT AUTHORITY. Except as  
19 provided by Section 9502.0209(b), an order or action of a  
20 navigation district relating to the operation or maintenance of a  
21 district project supersedes an order or action of the district to  
22 the extent of any conflict.

23       Sec. 9502.0209. AUTHORITY TO DEVELOP BARRIER CLOSURE  
24 PROCEDURES. (a) If the district implements a project to create a  
25 coastal barrier, the district shall develop closure procedures in  
26 conjunction with each navigation district affected by the barrier  
27 or closure.

1        (b) A navigation district may not unilaterally stop a  
2 closure that is proceeding in accordance with procedures developed  
3 under this section.

4        Sec. 9502.0210. ANNUAL REPORT REQUIRED. The district shall  
5 annually submit a report to the legislature, the Legislative Budget  
6 Board, the General Land Office, and the commissioners court of each  
7 county in which the district is located. The report must:

8            (1) describe the district's financial condition and  
9 operations during the preceding year;

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

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

13        Sec. 9502.0211. EMINENT DOMAIN. The district may exercise  
14 the power of eminent domain to acquire a fee simple or other  
15 interest in any type of property if the interest is necessary or  
16 convenient for the exercise of the district's functions. The  
17 district must exercise the power of eminent domain in the manner  
18 provided by Chapter 21, Property Code.

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

26        (b) The governor, one of the required recipients, has  
27 submitted the notice and Act to the Texas Commission on

1 Environmental Quality.

2 (c) The Texas Commission on Environmental Quality has filed  
3 its recommendations relating to this Act with the governor, the  
4 lieutenant governor, and the speaker of the house of  
5 representatives within the required time.

6 (d) All requirements of the constitution and laws of this  
7 state and the rules and procedures of the legislature with respect  
8 to the notice, introduction, and passage of this Act are fulfilled  
9 and accomplished.

10 SECTION 3. (a) Section 9502.0211, Special District Local  
11 Laws Code, as added by Section 1 of this Act, takes effect only if  
12 this Act receives a two-thirds vote of all the members elected to  
13 each house.

14 (b) If this Act does not receive a two-thirds vote of all the  
15 members elected to each house, Subchapter C, Chapter 9502, Special  
16 District Local Laws Code, as added by Section 1 of this Act, is  
17 amended by adding Section 9502.0211 to read as follows:

18 Sec. 9502.0211. NO EMINENT DOMAIN POWER. The district may  
19 not exercise the power of eminent domain.

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

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