

By: Janek

S.B. No. 1480

A BILL TO BE ENTITLED

AN ACT

relating to efforts by coastal counties to mitigate coastal erosion and improve public access to public beaches; authorizing the issuance of bonds by coastal counties.

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

SECTION 1. The legislature finds that:

(1) Texas has the third-longest coastline in the United States;

(2) Texas beaches and bays are extremely popular as visitor destinations, making beach tourism a multi-billion-dollar industry in the state;

(3) improved public access to and use of the public beaches is needed to realize the full potential of these valued natural resources;

(4) Texas must address long-term solutions to beachfront erosion along developed areas adjacent to beaches and inland bays of the Texas coast;

(5) Texas beaches suffer from the highest rate of erosion in the country;

(6) many structures in Galveston and Brazoria counties are at risk due to erosion over the next 30 years;

(7) public infrastructure as well as residential dwellings that generate significant portions of the local property tax base are threatened by erosion rates of up to 10 feet a year or

greater; and

(8) public works, such as dams and flood-control projects on inland waterways and jetties, sea walls, and dykes along the coast, and subsidence caused by the withdrawal of water are significant causes of erosion, leading to the need for public assistance as an aid in mitigation.

SECTION 2. Chapter 33, Natural Resources Code, is amended by adding Subchapter I to read as follows:

SUBCHAPTER I. COASTAL PROTECTION AND IMPROVEMENT

Sec. 33.701. DEFINITIONS. In this subchapter:

(1) "Bond" means any type of interest-bearing obligation, including a bond, note, bond anticipation note, certificate of participation, lease, contract, or other evidence of indebtedness issued by a coastal county to pay the project costs of a qualified project.

(2) "Coastal county" means a county that borders on the Gulf of Mexico.

(3) "Coastal erosion" has the meaning assigned by Section 33.601.

(4) "Coastal improvement project" means a project to improve access to a public beach by:

(A) acquiring fee title to property or a right of public access to a public beach; or

(B) constructing or maintaining public roads, parking, and other facilities in aid of public access to or use of a public beach.

(5) "Coastal protection project" means a project to

1 address or mitigate coastal erosion.

2 (6) "Coastal protection and improvement fund" means
3 the coastal protection and improvement fund created under Section
4 33.703.

5 (7) "County coastal protection and improvement fund"
6 means a county coastal protection and improvement fund created by a
7 coastal county under Section 33.705.

8 (8) "Project cost" means a cost or expense incurred in
9 relation to a qualified project, including the cost of:

10 (A) designing, engineering, acquiring,
11 constructing, maintaining, improving, extending, repairing,
12 replacing, monitoring, removing, or administering a qualified
13 project; or

14 (B) financing a qualified project, including the
15 cost of issuing bonds and the payment of principal, interest, and
16 redemption price.

17 (9) "Public beach" has the meaning assigned by Section
18 61.013.

19 (10) "Qualified agreement" means an agreement between
20 the land office and a coastal county in accordance with Section
21 33.707.

22 (11) "Qualified payment" means a payment by the
23 commissioner to a coastal county from the coastal protection and
24 improvement fund, as provided by this subchapter, that has been
25 approved in amount and qualification for payment by the land office
26 and the applicable coastal county.

27 (12) "Qualified project" means a coastal protection or

1 improvement project that qualifies for funding under Section
2 33.706.

3 Sec. 33.702. APPLICABILITY OF SUBCHAPTER TO CERTAIN
4 MUNICIPALITIES. The provisions of this subchapter relating to
5 coastal counties apply to a municipality if all or substantially
6 all of the gulf beach within a coastal county is located within the
7 boundaries of the municipality.

8 Sec. 33.703. CREATION OF COASTAL PROTECTION AND IMPROVEMENT
9 FUND. (a) The coastal protection and improvement fund is created
10 as a trust fund outside the state treasury to be held by the Texas
11 Treasury Safekeeping Trust Company and administered by the
12 commissioner as trustee on behalf of the coastal counties.

13 (b) The comptroller shall deposit money in the fund as
14 provided by Section 156.2513, Tax Code.

15 (c) The commissioner shall allocate five percent of the
16 amount deposited in the fund to the land office to be used only to
17 pay the cost of administering any coastal protection and
18 improvement efforts undertaken under this subchapter and to support
19 a coastal monitoring program by The University of Texas Bureau of
20 Economic Geology.

21 (d) The commissioner shall allocate 95 percent of the amount
22 deposited in the fund for use by the coastal counties as provided by
23 this subchapter.

24 Sec. 33.704. USE OF COASTAL PROTECTION AND IMPROVEMENT
25 FUND. (a) The coastal protection and improvement fund shall be
26 used only to:

27 (1) make a qualified payment to a coastal county

1 sponsoring a qualified project under this subchapter; or

2 (2) make an equalization payment as provided by
3 Section 33.709.

4 (b) The commissioner may make a qualified payment from the
5 fund to a coastal county only if and to the extent that the coastal
6 county is sponsoring a project that qualifies for funding as
7 certified by the coastal county and the land office.

8 (c) The amount and timing of a qualified payment shall be
9 determined by agreement between the land office and the coastal
10 county sponsoring the project. The amount of a qualified payment
11 may not exceed the estimated project costs.

12 (d) The total amount of money a coastal county may receive
13 as qualified payments in a fiscal year may not exceed the amount
14 estimated for that county by the comptroller for that fiscal year
15 under Subsection (e).

16 (e) The comptroller shall estimate the amount of revenue the
17 comptroller will receive from hotels in each coastal county in a
18 fiscal year under Chapter 156, Tax Code, and deposit in the coastal
19 protection and improvement fund as provided by Section 156.2513,
20 Tax Code. The comptroller shall inform the commissioner of the
21 amount estimated for each county.

22 Sec. 33.705. COUNTY COASTAL PROTECTION AND IMPROVEMENT
23 FUND. (a) Each coastal county shall create a county coastal
24 protection and improvement fund.

25 (b) Each coastal county shall deposit any qualified payment
26 or equalization payment under Section 33.709 that it receives into
27 its county coastal protection and improvement fund and shall use

1 the money in the fund only to pay the project costs of a qualified
2 project as provided by this subchapter.

3 Sec. 33.706. PROJECTS THAT QUALIFY FOR FUNDING. To qualify
4 for funding under this subchapter, a project must:

5 (1) be sponsored by a coastal county;

6 (2) be located within the sponsoring coastal county
7 along or adjacent to the shore of the Gulf of Mexico, an inland bay,
8 or a connecting channel between the Gulf of Mexico and an inland
9 bay;

10 (3) be accessible by public roads or a common carrier
11 ferry;

12 (4) be identified and approved for funding by a
13 coastal county and the land office; and

14 (5) require more than \$2.5 million to complete, as
15 estimated by the land office.

16 Sec. 33.707. QUALIFIED AGREEMENT. (a) The land office and
17 a coastal county may enter into one or more agreements relating to a
18 qualified project and the payment of the associated project costs.
19 An agreement is governed by this subchapter.

20 (b) An agreement may provide that the commissioner will pay
21 to the coastal county an agreed amount from the coastal protection
22 and improvement fund over a term of years to be used by the coastal
23 county for a project that qualifies for funding under this
24 subchapter.

25 Sec. 33.708. QUALIFIED PAYMENT. (a) The commissioner
26 shall make qualified payments to a coastal county based on the land
27 office's estimate of the expected project costs of any qualified

1 projects undertaken by that county in the fiscal year in which the
2 payment is made.

3 (b) To the extent that the aggregate of qualified payments
4 by the commissioner to a coastal county in a fiscal year exceeds the
5 project costs of qualified projects undertaken by the county during
6 that year, the commissioner shall recover the amount of the
7 overpayment by:

8 (1) requiring the county to remit the amount of the
9 overpayment to the commissioner for deposit in the coastal
10 protection and improvement fund; or

11 (2) taking a credit against qualified payments due
12 that county the following year or years.

13 (c) If a coastal county that received an overpayment is not
14 due additional qualified payments the following year, the county
15 shall promptly remit the amount of the overpayment to the
16 commissioner for deposit in the coastal protection and improvement
17 fund.

18 (d) Notwithstanding Subsection (b), the commissioner may
19 not take a credit against qualified payments due a coastal county
20 the following year if the county needs the full amount of the
21 qualified payment that year to:

22 (1) pay the principal or interest on, or the
23 redemption price of, bonds issued to finance a qualified project;
24 or

25 (2) fund a reserve or other fund required by the
26 documents authorizing the issuance of bonds.

27 (e) The failure of a coastal county to use the full amount of

1 a qualified payment in the fiscal year in which it is received does
2 not prejudice the right of the county to receive money from the
3 coastal protection and improvement fund in future years as may be
4 provided in the county's qualified agreement.

5 (f) A coastal county may not use a qualified payment as a
6 local match for funding under a state program.

7 (g) A coastal county may use a qualified payment as a local
8 match for funding under a federal program.

9 Sec. 33.709. EQUALIZATION PAYMENT. If in a fiscal year the
10 amount of revenue from hotel occupancy taxes imposed under Chapter
11 156, Tax Code, and received by the comptroller from hotels located
12 in a coastal county is more than the average revenue from those
13 taxes from all coastal counties, the qualified payments to that
14 county in that fiscal year shall be 95 percent of the amount that
15 the county would otherwise be entitled to receive under this
16 subchapter. The remaining 5 percent of the amount that the county
17 would otherwise be entitled to receive shall be divided among the
18 coastal counties from which less-than-average hotel occupancy tax
19 revenue was received by the comptroller for that fiscal year, in
20 inverse proportion to the amount of hotel occupancy taxes received
21 from hotels in each of those counties. The comptroller shall
22 compute the average of the revenue from hotel occupancy taxes
23 received from hotels located in coastal counties and the amount
24 received from each coastal county and shall inform the commissioner
25 of those amounts.

26 Sec. 33.710. GENERAL POWERS OF COASTAL COUNTIES. (a) In
27 addition to all other powers that a coastal county has under general

1 law, a coastal county has the rights, powers, privileges,
2 authority, and functions that are necessary or convenient to:

3 (1) the designing, engineering, acquiring,
4 constructing, improving, maintaining, extending, repairing,
5 replacing, monitoring, removing, administering, and financing of a
6 qualified project located in a coastal county; and

7 (2) the funding of a reserve or other fund relating to
8 bonds.

9 (b) A coastal county may issue bonds to pay the project
10 costs of a qualified project. For purposes of this subchapter, a
11 coastal county is an eligible issuer and a qualified project is an
12 eligible project within the meaning of Chapter 1371, Government
13 Code, and the provisions of Chapter 1371, Government Code, are
14 applicable to bonds issued by a coastal county.

15 (c) A coastal county may:

16 (1) enter into agreements with a public or private
17 person for the joint ownership, financing, or operation of a
18 qualified project;

19 (2) enter into contracts, leases, and agreements with,
20 and accept grants and loans from, any person to perform all acts
21 necessary for the full exercise of the powers vested in the county
22 on terms and for the term the county determines to be advisable;

23 (3) acquire property under a conditional sales
24 contract, lease, equipment trust certificate, or other form of
25 contract or trust agreement; and

26 (4) do anything necessary, convenient, or desirable to
27 carry out the powers expressly granted or implied by this

1 subchapter.

2 Sec. 33.711. AUTHORITY TO CONTRACT. (a) A coastal county
3 may contract with a state agency, municipality, county, or other
4 political subdivision of the state or any agency or instrumentality
5 of the federal government to implement a qualified project under
6 this subchapter. A contract under this section may:

7 (1) be for a period on which the parties agree;
8 (2) include terms on which the parties agree; and
9 (3) be payable from taxes, qualified payments, or any
10 other source of revenue available for that purpose.

11 (b) A coastal county may enter into a contract, lease, or
12 agreement with or make or accept grants and loans to or from:

13 (1) the United States;
14 (2) the State of Texas;
15 (3) a county, municipality, or other political
16 subdivision of the state;
17 (4) a public or private corporation; or
18 (5) any other person.

19 Sec. 33.712. FUNDS AVAILABLE FOR QUALIFIED PROJECTS.

20 (a) A coastal county may pay the project costs of a qualified
21 project from general or available funds, payments received from the
22 land office, including payments from the coastal protection and
23 improvement fund, contract reserves, ad valorem taxes, sales taxes,
24 the proceeds of bonds, or any combination of those funds.

25 (b) Payments made by the commissioner under this subchapter
26 are in addition to any other funds to which the coastal county may
27 be entitled under any other state law or program.

1 (c) This subchapter does not preclude a contribution to a
2 qualified project from any state, federal, private, or other
3 source.

4 Sec. 33.713. BONDS ELIGIBLE FOR PURCHASE. Bonds issued by a
5 coastal county under this subchapter may be purchased by the Texas
6 Water Development Board for purposes authorized by Chapter 17,
7 Water Code.

8 Sec. 33.714. CONSTRUCTION OF SUBCHAPTER. This subchapter
9 shall be liberally construed to accomplish the purposes of
10 mitigation of coastal erosion and improvement of public access to
11 public beaches.

12 SECTION 3. Subchapter F, Chapter 156, Tax Code, is amended
13 by adding Section 156.2513 to read as follows:

14 Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN COASTAL
15 COUNTIES. (a) Beginning September 1, 2005, not later than the
16 last day of the month following a calendar quarter, the comptroller
17 shall:

18 (1) compute the amount of revenue derived from the
19 collection of taxes imposed under this chapter at a rate of four
20 percent and received from hotels located in counties that border on
21 the Gulf of Mexico; and

22 (2) issue to the coastal protection and improvement
23 fund created under Section 33.703, Natural Resources Code, a
24 warrant drawn on the general revenue fund in the amount computed
25 under Subdivision (1).

26 (b) Notwithstanding Subsection (a)(2), for each fiscal year
27 the comptroller may not issue a warrant in an amount that exceeds

1 the aggregate of the amounts needed, as estimated by the General
2 Land Office, for qualified projects, as defined by Section 33.701,
3 Natural Resources Code, for that fiscal year. Any amount computed
4 by the comptroller in excess of the aggregate of the amounts needed
5 for qualified projects shall be deposited in the general revenue
6 fund.

7 (c) The money deposited in the coastal protection and
8 improvement fund under this section may be used only as provided by
9 Subchapter I, Chapter 33, Natural Resources Code.

10 SECTION 4. The commissioner of the General Land Office
11 shall make the first distribution of money from the coastal
12 protection and improvement fund on or after January 1, 2006.

13 SECTION 5. This Act takes effect immediately if it receives
14 a vote of two-thirds of all the members elected to each house, as
15 provided by Section 39, Article III, Texas Constitution. If this
16 Act does not receive the vote necessary for immediate effect, this
17 Act takes effect September 1, 2003.