

1-1 By: Janek S.B. No. 1480
1-2 (In the Senate - Filed March 13, 2003; March 20, 2003, read
1-3 first time and referred to Committee on Natural Resources;
1-4 May 9, 2003, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 8, Nays 0; May 9, 2003, sent
1-6 to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 1480 By: Lucio

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to efforts by coastal counties to mitigate coastal erosion
1-11 and improve public access to public beaches; authorizing the
1-12 issuance of bonds by coastal counties.

1-13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-14 SECTION 1. The legislature finds that:

1-15 (1) Texas has the third-longest coastline in the
1-16 United States;

1-17 (2) Texas beaches and bays are extremely popular as
1-18 visitor destinations, making beach tourism a multi-billion-dollar
1-19 industry in the state;

1-20 (3) improved public access to and use of the public
1-21 beaches is needed to realize the full potential of these valued
1-22 natural resources;

1-23 (4) Texas must address long-term solutions to
1-24 beachfront erosion along developed areas adjacent to beaches and
1-25 inland bays of the Texas coast;

1-26 (5) Texas beaches suffer from the highest rate of
1-27 erosion in the country;

1-28 (6) many structures in Galveston and Brazoria counties
1-29 are at risk due to erosion over the next 30 years;

1-30 (7) public infrastructure as well as residential
1-31 dwellings that generate significant portions of the local property
1-32 tax base are threatened by erosion rates of up to 10 feet a year or
1-33 greater; and

1-34 (8) public works, such as dams and flood-control
1-35 projects on inland waterways and jetties, sea walls, and dykes
1-36 along the coast, and subsidence caused by the withdrawal of water
1-37 are significant causes of erosion, leading to the need for public
1-38 assistance as an aid in mitigation.

1-39 SECTION 2. Chapter 33, Natural Resources Code, is amended
1-40 by adding Subchapter I to read as follows:

1-41 SUBCHAPTER I. COASTAL PROTECTION AND IMPROVEMENT

1-42 Sec. 33.701. DEFINITIONS. In this subchapter:

1-43 (1) "Bond" means any type of interest-bearing
1-44 obligation, including a bond, note, bond anticipation note,
1-45 certificate of participation, lease, contract, or other evidence of
1-46 indebtedness issued by a coastal county to pay the project costs of
1-47 a qualified project.

1-48 (2) "Coastal county" means a county that borders on
1-49 the Gulf of Mexico.

1-50 (3) "Coastal erosion" has the meaning assigned by
1-51 Section 33.601.

1-52 (4) "Coastal improvement project" means a project to
1-53 improve access to a public beach by:

1-54 (A) acquiring fee title to property or a right of
1-55 public access to a public beach; or

1-56 (B) constructing or maintaining public roads,
1-57 parking, and other facilities in aid of public access to or use of a
1-58 public beach.

1-59 (5) "Coastal protection project" means a project to
1-60 address or mitigate coastal erosion.

1-61 (6) "Coastal protection and improvement fund" means
1-62 the coastal protection and improvement fund created under Section
1-63 33.703.

2-1 (7) "County coastal protection and improvement fund"
 2-2 means a county coastal protection and improvement fund created by a
 2-3 coastal county under Section 33.705.

2-4 (8) "Project cost" means a cost or expense incurred in
 2-5 relation to a qualified project, including the cost of:

2-6 (A) designing, engineering, acquiring,
 2-7 constructing, maintaining, improving, extending, repairing,
 2-8 replacing, monitoring, removing, or administering a qualified
 2-9 project; or

2-10 (B) financing a qualified project, including the
 2-11 cost of issuing bonds and the payment of principal, interest, and
 2-12 redemption price.

2-13 (9) "Public beach" has the meaning assigned by Section
 2-14 61.013.

2-15 (10) "Qualified agreement" means an agreement between
 2-16 the land office and a coastal county in accordance with Section
 2-17 33.707.

2-18 (11) "Qualified payment" means a payment by the
 2-19 commissioner to a coastal county from the coastal protection and
 2-20 improvement fund, as provided by this subchapter, that has been
 2-21 approved in amount and qualification for payment by the land office
 2-22 and the applicable coastal county.

2-23 (12) "Qualified project" means a coastal protection or
 2-24 improvement project that qualifies for funding under Section
 2-25 33.706.

2-26 Sec. 33.702. APPLICABILITY OF SUBCHAPTER TO CERTAIN
 2-27 MUNICIPALITIES. The provisions of this subchapter relating to
 2-28 coastal counties apply to a municipality if all or substantially
 2-29 all of the gulf beach within a coastal county is located within the
 2-30 boundaries of the municipality.

2-31 Sec. 33.703. CREATION OF COASTAL PROTECTION AND IMPROVEMENT
 2-32 FUND. (a) The coastal protection and improvement fund is created
 2-33 as a trust fund outside the state treasury to be held by the Texas
 2-34 Treasury Safekeeping Trust Company and administered by the
 2-35 commissioner as trustee on behalf of the coastal counties.

2-36 (b) The comptroller shall deposit money in the fund as
 2-37 provided by Section 156.2513, Tax Code.

2-38 (c) The commissioner shall allocate five percent of the
 2-39 amount deposited in the fund to the land office to be used only to
 2-40 pay the cost of administering any coastal protection and
 2-41 improvement efforts undertaken under this subchapter and to support
 2-42 a coastal monitoring program by The University of Texas Bureau of
 2-43 Economic Geology.

2-44 (d) The commissioner shall allocate 95 percent of the amount
 2-45 deposited in the fund for use by the coastal counties as provided by
 2-46 this subchapter.

2-47 Sec. 33.704. USE OF COASTAL PROTECTION AND IMPROVEMENT
 2-48 FUND. (a) The coastal protection and improvement fund shall be
 2-49 used only to:

2-50 (1) make a qualified payment to a coastal county
 2-51 sponsoring a qualified project under this subchapter; or

2-52 (2) make an equalization payment as provided by
 2-53 Section 33.709.

2-54 (b) The commissioner may make a qualified payment from the
 2-55 fund to a coastal county only if and to the extent that the coastal
 2-56 county is sponsoring a project that qualifies for funding as
 2-57 certified by the coastal county and the land office.

2-58 (c) The amount and timing of a qualified payment shall be
 2-59 determined by agreement between the land office and the coastal
 2-60 county sponsoring the project. The amount of a qualified payment
 2-61 may not exceed the estimated project costs.

2-62 (d) The total amount of money a coastal county may receive
 2-63 as qualified payments in a fiscal year may not exceed the amount
 2-64 estimated for that county by the comptroller for that fiscal year
 2-65 under Subsection (e).

2-66 (e) The comptroller shall estimate the amount of revenue the
 2-67 comptroller will receive from hotels in each coastal county in a
 2-68 fiscal year under Chapter 156, Tax Code, and deposit in the coastal
 2-69 protection and improvement fund as provided by Section 156.2513,

3-1 Tax Code. The comptroller shall inform the commissioner of the
 3-2 amount estimated for each county.

3-3 Sec. 33.705. COUNTY COASTAL PROTECTION AND IMPROVEMENT
 3-4 FUND. (a) Each coastal county shall create a county coastal
 3-5 protection and improvement fund.

3-6 (b) Each coastal county shall deposit any qualified payment
 3-7 or equalization payment under Section 33.709 that it receives into
 3-8 its county coastal protection and improvement fund and shall use
 3-9 the money in the fund only to pay the project costs of a qualified
 3-10 project as provided by this subchapter.

3-11 Sec. 33.706. PROJECTS THAT QUALIFY FOR FUNDING. To qualify
 3-12 for funding under this subchapter, a project must:

3-13 (1) be sponsored by a coastal county;

3-14 (2) be located within the sponsoring coastal county
 3-15 along or adjacent to the shore of the Gulf of Mexico, an inland bay,
 3-16 or a connecting channel between the Gulf of Mexico and an inland
 3-17 bay;

3-18 (3) be accessible by public roads or a common carrier
 3-19 ferry;

3-20 (4) be identified and approved for funding by a
 3-21 coastal county and the land office; and

3-22 (5) require more than \$2.5 million to complete, as
 3-23 estimated by the land office.

3-24 Sec. 33.707. QUALIFIED AGREEMENT. (a) The land office and
 3-25 a coastal county may enter into one or more agreements relating to a
 3-26 qualified project and the payment of the associated project costs.
 3-27 An agreement is governed by this subchapter.

3-28 (b) An agreement may provide that the commissioner will pay
 3-29 to the coastal county an agreed amount from the coastal protection
 3-30 and improvement fund over a term of years to be used by the coastal
 3-31 county for a project that qualifies for funding under this
 3-32 subchapter.

3-33 Sec. 33.708. QUALIFIED PAYMENT. (a) The commissioner
 3-34 shall make qualified payments to a coastal county based on the land
 3-35 office's estimate of the expected project costs of any qualified
 3-36 projects undertaken by that county in the fiscal year in which the
 3-37 payment is made.

3-38 (b) To the extent that the aggregate of qualified payments
 3-39 by the commissioner to a coastal county in a fiscal year exceeds the
 3-40 project costs of qualified projects undertaken by the county during
 3-41 that year, the commissioner shall recover the amount of the
 3-42 overpayment by:

3-43 (1) requiring the county to remit the amount of the
 3-44 overpayment to the commissioner for deposit in the coastal
 3-45 protection and improvement fund; or

3-46 (2) taking a credit against qualified payments due
 3-47 that county the following year or years.

3-48 (c) If a coastal county that received an overpayment is not
 3-49 due additional qualified payments the following year, the county
 3-50 shall promptly remit the amount of the overpayment to the
 3-51 commissioner for deposit in the coastal protection and improvement
 3-52 fund.

3-53 (d) Notwithstanding Subsection (b), the commissioner may
 3-54 not take a credit against qualified payments due a coastal county
 3-55 the following year if the county needs the full amount of the
 3-56 qualified payment that year to:

3-57 (1) pay the principal or interest on, or the
 3-58 redemption price of, bonds issued to finance a qualified project;
 3-59 or

3-60 (2) fund a reserve or other fund required by the
 3-61 documents authorizing the issuance of bonds.

3-62 (e) The failure of a coastal county to use the full amount of
 3-63 a qualified payment in the fiscal year in which it is received does
 3-64 not prejudice the right of the county to receive money from the
 3-65 coastal protection and improvement fund in future years as may be
 3-66 provided in the county's qualified agreement.

3-67 (f) A coastal county may not use a qualified payment as a
 3-68 local match for funding under a state program.

3-69 (g) A coastal county may use a qualified payment as a local

4-1 match for funding under a federal program.

4-2 Sec. 33.709. EQUALIZATION PAYMENT. If in a fiscal year the
 4-3 amount of revenue from hotel occupancy taxes imposed under Chapter
 4-4 156, Tax Code, and received by the comptroller from hotels located
 4-5 in a coastal county is more than the average revenue from those
 4-6 taxes from all coastal counties, the qualified payments to that
 4-7 county in that fiscal year shall be 95 percent of the amount that
 4-8 the county would otherwise be entitled to receive under this
 4-9 subchapter. The remaining 5 percent of the amount that the county
 4-10 would otherwise be entitled to receive shall be divided among the
 4-11 coastal counties from which less-than-average hotel occupancy tax
 4-12 revenue was received by the comptroller for that fiscal year, in
 4-13 inverse proportion to the amount of hotel occupancy taxes received
 4-14 from hotels in each of those counties. The comptroller shall
 4-15 compute the average of the revenue from hotel occupancy taxes
 4-16 received from hotels located in coastal counties and the amount
 4-17 received from each coastal county and shall inform the commissioner
 4-18 of those amounts.

4-19 Sec. 33.710. GENERAL POWERS OF COASTAL COUNTIES. (a) In
 4-20 addition to all other powers that a coastal county has under general
 4-21 law, a coastal county has the rights, powers, privileges,
 4-22 authority, and functions that are necessary or convenient to:

4-23 (1) the designing, engineering, acquiring,
 4-24 constructing, improving, maintaining, extending, repairing,
 4-25 replacing, monitoring, removing, administering, and financing of a
 4-26 qualified project located in a coastal county; and
 4-27 (2) the funding of a reserve or other fund relating to
 4-28 bonds.

4-29 (b) A coastal county may issue bonds to pay the project
 4-30 costs of a qualified project. For purposes of this subchapter, a
 4-31 coastal county is an eligible issuer and a qualified project is an
 4-32 eligible project within the meaning of Chapter 1371, Government
 4-33 Code, and the provisions of Chapter 1371, Government Code, are
 4-34 applicable to bonds issued by a coastal county.

4-35 (c) A coastal county may:

4-36 (1) enter into agreements with a public or private
 4-37 person for the joint ownership, financing, or operation of a
 4-38 qualified project;

4-39 (2) enter into contracts, leases, and agreements with,
 4-40 and accept grants and loans from, any person to perform all acts
 4-41 necessary for the full exercise of the powers vested in the county
 4-42 on terms and for the term the county determines to be advisable;

4-43 (3) acquire property under a conditional sales
 4-44 contract, lease, equipment trust certificate, or other form of
 4-45 contract or trust agreement; and

4-46 (4) do anything necessary, convenient, or desirable to
 4-47 carry out the powers expressly granted or implied by this
 4-48 subchapter.

4-49 Sec. 33.711. AUTHORITY TO CONTRACT. (a) A coastal county
 4-50 may contract with a state agency, municipality, county, or other
 4-51 political subdivision of the state or any agency or instrumentality
 4-52 of the federal government to implement a qualified project under
 4-53 this subchapter. A contract under this section may:

4-54 (1) be for a period on which the parties agree;

4-55 (2) include terms on which the parties agree; and

4-56 (3) be payable from taxes, qualified payments, or any
 4-57 other source of revenue available for that purpose.

4-58 (b) A coastal county may enter into a contract, lease, or
 4-59 agreement with or make or accept grants and loans to or from:

4-60 (1) the United States;

4-61 (2) the State of Texas;

4-62 (3) a county, municipality, or other political
 4-63 subdivision of the state;

4-64 (4) a public or private corporation; or

4-65 (5) any other person.

4-66 Sec. 33.712. FUNDS AVAILABLE FOR QUALIFIED PROJECTS.

4-67 (a) A coastal county may pay the project costs of a qualified
 4-68 project from general or available funds, payments received from the
 4-69 land office, including payments from the coastal protection and

5-1 improvement fund, contract reserves, ad valorem taxes, sales taxes,
5-2 the proceeds of bonds, or any combination of those funds.

5-3 (b) Payments made by the commissioner under this subchapter
5-4 are in addition to any other funds to which the coastal county may
5-5 be entitled under any other state law or program.

5-6 (c) This subchapter does not preclude a contribution to a
5-7 qualified project from any state, federal, private, or other
5-8 source.

5-9 Sec. 33.713. BONDS ELIGIBLE FOR PURCHASE. Bonds issued by a
5-10 coastal county under this subchapter may be purchased by the Texas
5-11 Water Development Board for purposes authorized by Chapter 17,
5-12 Water Code.

5-13 Sec. 33.714. CONSTRUCTION OF SUBCHAPTER. This subchapter
5-14 shall be liberally construed to accomplish the purposes of
5-15 mitigation of coastal erosion and improvement of public access to
5-16 public beaches.

5-17 SECTION 3. Subchapter F, Chapter 156, Tax Code, is amended
5-18 by adding Section 156.2513 to read as follows:

5-19 Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN COASTAL
5-20 COUNTIES. (a) Beginning September 1, 2005, not later than the
5-21 last day of the month following a calendar quarter, the comptroller
5-22 shall:

5-23 (1) compute the amount of revenue derived from the
5-24 collection of taxes imposed under this chapter at a rate of four
5-25 percent and received from hotels located in counties that border on
5-26 the Gulf of Mexico; and

5-27 (2) issue to the coastal protection and improvement
5-28 fund created under Section 33.703, Natural Resources Code, a
5-29 warrant drawn on the general revenue fund in the amount computed
5-30 under Subdivision (1).

5-31 (b) Notwithstanding Subsection (a)(2), for each fiscal year
5-32 the comptroller may not issue a warrant in an amount that exceeds
5-33 the aggregate of the amounts needed, as estimated by the General
5-34 Land Office, for qualified projects, as defined by Section 33.701,
5-35 Natural Resources Code, for that fiscal year. Any amount computed
5-36 by the comptroller in excess of the aggregate of the amounts needed
5-37 for qualified projects shall be deposited in the general revenue
5-38 fund.

5-39 (c) The money deposited in the coastal protection and
5-40 improvement fund under this section may be used only as provided by
5-41 Subchapter I, Chapter 33, Natural Resources Code.

5-42 SECTION 4. The commissioner of the General Land Office
5-43 shall make the first distribution of money from the coastal
5-44 protection and improvement fund on or after January 1, 2006.

5-45 SECTION 5. This Act takes effect immediately if it receives
5-46 a vote of two-thirds of all the members elected to each house, as
5-47 provided by Section 39, Article III, Texas Constitution. If this
5-48 Act does not receive the vote necessary for immediate effect, this
5-49 Act takes effect September 1, 2003.

5-50 * * * * *