

By: Eiland, Seaman, Escobar

H.B. No. 3128

Substitute the following for H.B. No. 3128:

By: Escobar

C.S.H.B. No. 3128

A BILL TO BE ENTITLED

AN ACT

relating to funding of coastal erosion response activities and the coastal management program; imposing a fee.

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

SECTION 1. Section 33.604, Natural Resources Code, is amended to read as follows:

Sec. 33.604. COASTAL EROSION RESPONSE ACCOUNT. (a) The coastal erosion response account is an account in the coastal protection [~~general revenue~~] fund established under Section 40.151 that may be appropriated only to the commissioner and used only for the purpose of implementing this subchapter and Subchapter F.

(b) The account consists of:

(1) all money appropriated for the purposes of this subchapter and Subchapter F;

(2) grants to this state from the United States for the purposes of this subchapter and Subchapter F; [~~and~~]

(3) all money received by this state from the sale of dredged material; and

(4) waste tire fees collected under Section 33.6045.

SECTION 2. Subchapter H, Chapter 33, Natural Resources Code, is amended by adding Section 33.6045 to read as follows:

Sec. 33.6045. WASTE TIRE FEE. (a) A wholesale or retail tire dealer who sells or offers to sell new tires not for resale shall collect at the time and place of sale a waste tire fee of:

1 (1) 75 cents for each new automobile or truck tire that
2 has a rim diameter of 12 inches or more, other than an off-the-road
3 tire intended for use on heavy machinery, including an earthmover,
4 a loader/dozer, a grader, or mining equipment; or

5 (2) 75 cents for a new motorcycle tire, regardless of
6 the rim diameter.

7 (b) A dealer required to collect a fee under this section
8 may retain two and one-half cents from each fee the dealer collects.
9 A dealer shall account for amounts retained under this subsection
10 in the manner prescribed by the comptroller.

11 (c) A dealer required to collect a fee under this section:

12 (1) shall list as a separate item on an invoice a fee
13 due under this section; and

14 (2) except as provided by Subsection (d), on or before
15 the 20th day of the month following the end of each calendar month
16 and on a form and in the manner prescribed by the comptroller, shall
17 file a report with and shall remit to the comptroller the amount of
18 fees collected during the preceding calendar month.

19 (d) A person required to collect a fee under this section
20 who collects less than \$50 for a calendar month or less than \$150
21 for a calendar quarter is not required to file a monthly report but
22 shall file a quarterly report with and make a quarterly remittance
23 to the comptroller. The quarterly report and remittance shall
24 include fees collected during the preceding calendar quarter. The
25 report and remittance are due not later than the 20th day of the
26 month following the end of the calendar quarter.

27 (e) The comptroller shall deposit the amount of the fees

1 collected under this section to the credit of the account.

2 (f) The comptroller shall adopt rules necessary for the
3 administration, collection, reporting, and payment of the fees
4 payable or collected under this section.

5 SECTION 3. Section 33.605(a), Natural Resources Code, is
6 amended to read as follows:

7 (a) Money in the account may be used for any action
8 authorized by this subchapter or Subchapter F.

9 SECTION 4. Sections 40.151(a) and (b), Natural Resources
10 Code, are amended to read as follows:

11 (a) The purpose of this subchapter is to provide immediately
12 available funds for response to all unauthorized discharges, for
13 cleanup of pollution from unauthorized discharges of oil, for
14 payment of damages from unauthorized discharges of oil, ~~and~~ for
15 erosion response projects, and for implementation of the coastal
16 management program.

17 (b) The coastal protection fund is established in the state
18 treasury to be used by the commissioner as a nonlapsing revolving
19 fund only for carrying out the purposes of this chapter and of
20 Subchapters F and ~~Subchapter~~ H, Chapter 33. To this fund shall be
21 credited all fees, penalties, judgments, reimbursements, interest
22 or income on the fund, ~~and~~ charges provided for in this chapter,
23 ~~and~~ the fee revenues levied, collected, and credited pursuant to
24 this chapter, and all money credited to the coastal erosion
25 response account under Section 33.604. The fund shall not exceed
26 \$50 million, exclusive of the amount of money in the coastal erosion
27 response account.

1 SECTION 5. Section 40.152(a), Natural Resources Code, is
2 amended to read as follows:

3 (a) Money in the fund may be disbursed for the following
4 purposes and no others:

5 (1) administrative expenses, personnel and training
6 expenses, and equipment maintenance and operating costs related to
7 implementation and enforcement of this chapter;

8 (2) response costs related to abatement and
9 containment of actual or threatened unauthorized discharges of oil
10 incidental to unauthorized discharges of hazardous substances;

11 (3) response costs and damages related to actual or
12 threatened unauthorized discharges of oil;

13 (4) assessment, restoration, rehabilitation, or
14 replacement of or mitigation of damage to natural resources damaged
15 by an unauthorized discharge of oil;

16 (5) in an amount not to exceed \$50,000 annually, the
17 small spill education program;

18 (6) in an amount not to exceed \$1,250,000 annually,
19 interagency contracts under Section 40.302;

20 (7) the purchase of response equipment under Section
21 40.105 within two years of the effective date of this chapter, in an
22 amount not to exceed \$4 million; thereafter, for the purchase of
23 equipment to replace equipment that is worn or obsolete;

24 (8) other costs and damages authorized by this
25 chapter;

26 (9) in an amount not to exceed \$32 million each state
27 fiscal biennium [~~the interest accruing to the fund annually~~],

1 erosion response projects under Subchapter H, Chapter 33, and costs
2 necessary to administer the coastal management program under
3 Subchapter F, Chapter 33; and

4 (10) in conjunction with the Railroad Commission of
5 Texas, costs related to the plugging of abandoned or orphaned oil
6 wells located on state-owned submerged lands.

7 SECTION 6. Section 40.155, Natural Resources Code, is
8 amended to read as follows:

9 Sec. 40.155. DETERMINATION OF FEE. (a) Except as otherwise
10 provided in this section, the rate of the fee shall be two cents per
11 barrel of crude oil until the commissioner certifies that the
12 unencumbered balance in the fund has reached \$25 million, exclusive
13 of the amount of money in the coastal erosion response account. The
14 commissioner shall certify to the comptroller the date on which the
15 unencumbered balance in the fund exceeds \$25 million, exclusive of
16 the amount of money in the coastal erosion response account. The
17 fee shall not be collected or required to be paid on or after the
18 first day of the second month following the commissioner's
19 certification to the comptroller that the unencumbered balance in
20 the fund exceeds \$25 million, exclusive of the amount of money in
21 the coastal erosion response account.

22 (b) If the unencumbered balance in the fund falls below \$14
23 million, exclusive of the amount of money in the coastal erosion
24 response account, the commissioner shall certify such fact to the
25 comptroller. On receiving the commissioner's certification, the
26 comptroller shall resume collecting the fee until suspended in the
27 manner provided in Subsection (a) [~~of this section~~].

1 (c) Notwithstanding the provisions of Subsection (a) or (b)
2 [~~of this section~~], the fee shall be levied at the rate of four cents
3 per barrel if the commissioner certifies to the comptroller a
4 written finding of the following facts:

5 (1) the unencumbered balance in the fund is less than
6 \$25 million, exclusive of the amount of money in the coastal erosion
7 response account;

8 (2) an unauthorized discharge of oil in excess of
9 100,000 gallons has occurred within the previous 30 days; and

10 (3) expenditures from the fund for response costs and
11 damages are expected to deplete the fund substantially, exclusive
12 of the amount of money in the coastal erosion response account.

13 (d) In the event of a certification to the comptroller under
14 Subsection (c) [~~of this section~~], the comptroller shall collect the
15 fee at the rate of four cents per barrel until the unencumbered
16 balance in the fund reaches \$25 million or any lesser amount that
17 the commissioner determines is necessary to pay response costs and
18 damages without substantially depleting the fund, exclusive of the
19 amount of money in the coastal erosion response account. The
20 commissioner shall certify to the comptroller the date on which the
21 unencumbered balance in the fund exceeds \$25 million or such other
22 lesser amount, exclusive of the amount of money in the coastal
23 erosion response account. The fee shall not be collected or
24 required to be paid on or after the first day of the second month
25 following the commissioner's certification to the comptroller.

26 (e) For purposes of this section, the unencumbered balance
27 of the fund, exclusive of the amount of money in the coastal erosion

1 response account, shall be determined by the unencumbered cash
2 balance of the fund, exclusive of that amount, at the end of each
3 month or on the date of a finding under Subsection (c) [~~of this~~
4 ~~section~~].

5 SECTION 7. The comptroller of public accounts may adopt
6 emergency rules for the implementation of Section 33.6045, Natural
7 Resources Code, as added by this Act.

8 SECTION 8. This Act takes effect on the first day of the
9 first month beginning on or after the earliest date on which this
10 Act may take effect if it receives a vote of two-thirds of all the
11 members elected to each house, as provided by Section 39, Article
12 III, Texas Constitution.