

By: Janek

S.B. No. 1044

A BILL TO BE ENTITLED

1 AN ACT

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

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

6 SECTION 1. The legislature finds that:

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

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

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

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

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

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

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

1 greater; and

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

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

9 SUBCHAPTER I. COASTAL PROTECTION AND IMPROVEMENT

10 Sec. 33.651. DEFINITIONS. In this subchapter:

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

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

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

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

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

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

27 (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 33.653.

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 33.655.

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 33.657.

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 33.656.

3 Sec. 33.652. 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. 33.653. 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 and the sea turtle and shore monitoring programs
21 of Texas A&M University at Galveston.

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

25 Sec. 33.654. USE OF COASTAL PROTECTION AND IMPROVEMENT
26 FUND. (a) The coastal protection and improvement fund shall be
27 used only to:

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

3 (2) make an equalization payment as provided by
4 Section 33.659.

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

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

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

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

23 Sec. 33.655. COUNTY COASTAL PROTECTION AND IMPROVEMENT
24 FUND. (a) Each coastal county shall create a county coastal
25 protection and improvement fund.

26 (b) Each coastal county shall deposit any qualified payment
27 or equalization payment under Section 33.659 that it receives into

1 its county coastal protection and improvement fund and shall use
2 the money in the fund only to pay the project costs of a qualified
3 project as provided by this subchapter.

4 Sec. 33.656. PROJECTS THAT QUALIFY FOR FUNDING. (a) To
5 qualify for funding under this subchapter, a project must:

6 (1) be sponsored by a coastal county;

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

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

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

15 (5) except as provided by Subsection (b), require more
16 than \$5 million to complete, as estimated by the land office.

17 (b) Subsection (a)(5) does not apply to a project financed
18 by equalization payments.

19 Sec. 33.657. QUALIFIED AGREEMENT. (a) The land office and
20 a coastal county may enter into one or more agreements relating to a
21 qualified project and the payment of the associated project costs.
22 An agreement is governed by this subchapter.

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

1 Sec. 33.658. QUALIFIED PAYMENT. (a) The commissioner
2 shall make qualified payments to a coastal county based on the land
3 office's estimate of the expected project costs of any qualified
4 projects undertaken by that county in the fiscal year in which the
5 payment is made.

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

11 (1) requiring the county to remit the amount of the
12 overpayment to the commissioner for deposit in the coastal
13 protection and improvement fund; or

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

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

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

25 (1) pay the principal or interest on, or the
26 redemption price of, bonds issued to finance a qualified project;
27 or

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

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

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

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

12 Sec. 33.659. EQUALIZATION PAYMENT. If in a fiscal year the
13 amount of revenue from hotel occupancy taxes imposed under Chapter
14 156, Tax Code, and received by the comptroller from hotels located
15 in a coastal county is more than the average revenue from those
16 taxes from all coastal counties, the qualified payments to that
17 county in that fiscal year shall be 95 percent of the amount that
18 the county would otherwise be entitled to receive under this
19 subchapter. The remaining 5 percent of the amount that the county
20 would otherwise be entitled to receive shall be divided among the
21 coastal counties from which less-than-average hotel occupancy tax
22 revenue was received by the comptroller for that fiscal year, in
23 inverse proportion to the amount of hotel occupancy taxes received
24 from hotels in each of those counties. The comptroller shall
25 compute the average of the revenue from hotel occupancy taxes
26 received from hotels located in coastal counties and the amount
27 received from each coastal county and shall inform the commissioner

1 of those amounts.

2 Sec. 33.660. GENERAL POWERS OF COASTAL COUNTIES. (a) In
3 addition to all other powers that a coastal county has under general
4 law, a coastal county has the rights, powers, privileges,
5 authority, and functions that are necessary or convenient to:

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

10 (2) the funding of a reserve or other fund relating to
11 bonds.

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

18 (c) A coastal county may:

19 (1) enter into agreements with a public or private
20 person for the joint ownership, financing, or operation of a
21 qualified project;

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

26 (3) acquire property under a conditional sales
27 contract, lease, equipment trust certificate, or other form of

1 contract or trust agreement; and

2 (4) do anything necessary, convenient, or desirable to
3 carry out the powers expressly granted or implied by this
4 subchapter.

5 Sec. 33.661. AUTHORITY TO CONTRACT. (a) A coastal county
6 may contract with a state agency, municipality, county, or other
7 political subdivision of the state or any agency or instrumentality
8 of the federal government to implement a qualified project under
9 this subchapter. A contract under this section may:

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

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

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

22 Sec. 33.662. FUNDS AVAILABLE FOR QUALIFIED PROJECTS.

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

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

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

7 Sec. 33.663. BONDS ELIGIBLE FOR PURCHASE. Bonds issued by a
8 coastal county under this subchapter may be purchased by the Texas
9 Water Development Board for purposes authorized by Chapter 17,
10 Water Code.

11 Sec. 33.664. CONSTRUCTION OF SUBCHAPTER. This subchapter
12 shall be liberally construed to accomplish the purposes of
13 mitigation of coastal erosion and improvement of public access to
14 public beaches.

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

17 Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN COASTAL
18 COUNTIES. (a) Beginning September 1, 2007, not later than the
19 last day of the month following a calendar quarter, the comptroller
20 shall:

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

25 (2) issue to the coastal protection and improvement
26 fund created under Section 33.653, Natural Resources Code, a
27 warrant drawn on the general revenue fund in the amount computed

1 under Subdivision (1).

2 (b) Notwithstanding Subsection (a)(2), for each fiscal year
3 the comptroller may not issue a warrant in an amount that exceeds
4 the aggregate of the amounts needed, as estimated by the General
5 Land Office, for qualified projects, as defined by Section 33.651,
6 Natural Resources Code, for that fiscal year. Any amount computed
7 by the comptroller in excess of the aggregate of the amounts needed
8 for qualified projects shall be deposited in the general revenue
9 fund.

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

13 SECTION 4. The commissioner of the General Land Office
14 shall make the first distribution of money from the coastal
15 protection and improvement fund created under Section 33.653,
16 Natural Resources Code, as added by this Act, on or after January 1,
17 2008.

18 SECTION 5. This Act takes effect immediately if it receives
19 a vote of two-thirds of all the members elected to each house, as
20 provided by Section 39, Article III, Texas Constitution. If this
21 Act does not receive the vote necessary for immediate effect, this
22 Act takes effect September 1, 2005.