

By: Lucio

S.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the funding of coastal erosion response activities and  
3 the coastal management program.

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

5 SECTION 1. Section 33.603, Natural Resources Code, is  
6 amended by amending Subsections (b) and (e) to read as follows:

7 (b) The studies and projects shall address:

8 (1) assessment of the feasibility, cost, and financing  
9 of different methods of avoiding, slowing, or remedying coastal  
10 erosion;

11 (2) beneficial placement of dredged material where  
12 appropriate to replenish eroded public beach, bay shore, marsh, and  
13 dune areas;

14 (3) public beach, bay shore, and marsh nourishment or  
15 restoration projects using sediments other than material from  
16 navigational or other dredging projects;

17 (4) guidelines on grain size and toxicity level;

18 (5) the economic, natural resource, and other benefits  
19 of coastal erosion projects;

20 (6) the protection, revegetation, and restoration of  
21 dunes;

22 (7) the planting of vegetation as a means of  
23 inhibiting bay shore erosion and projects developing and  
24 cultivating disease-resistant vegetation adapted to local

1 conditions;

2 (8) the construction or retrofitting of dams, jetties,  
3 groins, and other impoundment structures with sediment bypassing  
4 systems;

5 (9) estimating the quantity and quality of sediment  
6 trapped by reservoirs, navigation channels, and placement areas and  
7 identification of other sediment sources;

8 (10) hard structures on bay shorelines, giving  
9 preference to "soft" methods of avoiding, slowing, or remedying  
10 erosion in lieu of erecting hard or rigid shorefront structures;

11 (11) storm damage mitigation, post-storm damage  
12 assessment, ~~and~~ debris removal, and removal and relocation of  
13 structures from public beaches; and

14 (12) other studies or projects the commissioner  
15 considers necessary or appropriate to implement this subchapter.

16 (e) A qualified project partner must pay:

17 (1) not less than 25 percent of the shared project cost  
18 if the project is a beach nourishment project on a public beach or  
19 bay shore; ~~and~~

20 (2) not less than 40 percent of the shared project cost  
21 if the project is any other coastal erosion response study or  
22 project, including:

23 (A) a marsh restoration project; or

24 (B) a bay shoreline protection project other than  
25 a beach nourishment project; and

26 (3) a share of the reasonable costs, as determined by  
27 the commissioner, for removal of debris or structures, or

1 relocation of structures from the public beach.

2 SECTION 2. Section 33.604, Natural Resources Code, is  
3 amended by amending Subsections (a) and (b) to read as follows:

4 (a) The coastal erosion response account is an account in  
5 the coastal protection [~~general revenue~~] fund established in  
6 Section 40.151 of this code that may be appropriated only to the  
7 commissioner and used only for the purpose of implementing this  
8 subchapter and Subchapter F of this chapter.

9 (b) The account consists of:

10 (1) all money appropriated for the purposes of this  
11 subchapter;

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

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

16 (4) interest accruing to the coastal protection fund.

17 SECTION 3. Section 33.605, Natural Resources Code is  
18 amended by amending Subsection (a) and adding Subsection (c) to  
19 read as follows:

20 Sec. 33.605. USES OF ACCOUNT. (a) Money in the account may  
21 be used for the following purposes:

22 (1) any action authorized by this subchapter;

23 (2) any action to implement the coastal management  
24 plan authorized under Subchapter F of this chapter; and

25 (3) any action to implement and enforce Chapters 61  
26 and 63 of this code, including:

27 (A) expenses of the land office related to

1 implementation and enforcement under Section 61.018, Natural  
2 Resources Code, including costs of removal of structures and debris  
3 from the public beach, court costs, expert witness fees, and  
4 attorneys fees;

5 (B) reimbursement to a city or county of  
6 reasonable costs, as determined by the commissioner, related to the  
7 removal of structures and debris from the public beach; and

8 (C) reimbursement to a property owner of up to  
9 100 percent of the reasonable costs, as determined by the  
10 commissioner, paid by the owner for relocation or removal of a  
11 structure that is situated wholly or partially on the public beach;  
12 provided, however, that no money in the account may be used to  
13 purchase real property or reimburse a property owner for the  
14 purchase of real property.

15 (c) The commissioner may seek recovery to the use of the  
16 account all sums expended from the account under Subsection (a)(3)  
17 of this section in a suit for enforcement under Section 61.018 of  
18 this code, except for reimbursement to a property owner under  
19 Subsection (a)(3)(C) of this section.

20 SECTION 4. Section 40.151, Natural Resources Code, is  
21 amended by amending Subsections (a) and (b) to read as follows:

22 Sec. 40.151. COASTAL PROTECTION FUND. (a) The purpose of  
23 this subchapter is to provide immediately available funds for  
24 response to all unauthorized discharges, for cleanup of pollution  
25 from unauthorized discharges of oil, for payment of damages from  
26 unauthorized discharges of oil, ~~and~~ for erosion response projects  
27 and for implementation of the coastal management program.

1           (b) The coastal protection fund is established in the state  
2 treasury to be used by the commissioner as a nonlapsing revolving  
3 fund only for carrying out the purposes of this chapter and of  
4 Subchapters [~~Subchapter~~] F and H, Chapter 33. To this fund shall be  
5 credited all fees, penalties, judgments, reimbursements, interest  
6 or income on the fund, and charges provided for in this chapter and  
7 the fee revenues levied, collected, and credited pursuant to this  
8 chapter and all money credited to the coastal erosion response  
9 account pursuant to Section 33.604 of this code. The fund shall not  
10 exceed \$50 million, exclusive of the amount in the coastal erosion  
11 response account.

12           SECTION 5. Section 40.152, Natural Resources Code, is  
13 amended by amending Subsection (a) and adding new Subsection (c) to  
14 read as follows:

15           Sec. 40.152. USE OF FUND.

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

18               (1) administrative expenses, personnel and training  
19 expenses, and equipment maintenance and operating costs related to  
20 implementation and enforcement of this chapter;

21               (2) response costs related to abatement and  
22 containment of actual or threatened unauthorized discharges of oil  
23 incidental to unauthorized discharges of hazardous substances;

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

26               (4) assessment, restoration, rehabilitation, or  
27 replacement of or mitigation of damage to natural resources damaged

1 by an unauthorized discharge of oil;

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

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

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

10 (8) other costs and damages authorized by this  
11 chapter;

12 (9) [~~in an amount not to exceed the interest accruing~~  
13 ~~to the fund annually,~~] erosion response projects under Subchapter  
14 H, Chapter 33 and costs necessary to administer the coastal  
15 management program under Subchapter F, Chapter 33; and

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

19 (c) There is hereby appropriated from the fund to the  
20 General Land Office, subject to this section, \$2 million for  
21 administrative costs for the purposes specified in Subdivision (9)  
22 of Subsection (a) of this section for the two-year period beginning  
23 September 1, 2005.

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

26 Sec. 40.155. Determination of Fee

27 (a) Except as otherwise provided in this section, the rate

1 of the fee shall be two cents per barrel of crude oil until the  
2 commissioner certifies that the unencumbered balance in the fund  
3 has reached \$25 million, exclusive of the amount in the coastal  
4 erosion response account. The commissioner shall certify to the  
5 comptroller the date on which the unencumbered balance in the fund  
6 exceeds \$25 million, exclusive of the amount in the coastal erosion  
7 response account. The fee shall not be collected or required to be  
8 paid on or after the first day of the second month following the  
9 commissioner's certification to the comptroller that the  
10 unencumbered balance in the fund exceeds \$25 million, exclusive of  
11 the amount in the coastal erosion response account.

12 (b) If the unencumbered balance in the fund falls below \$14  
13 million, exclusive of the amount in the coastal erosion response  
14 account, the commissioner shall certify such fact to the  
15 comptroller. On receiving the commissioner's certification, the  
16 comptroller shall resume collecting the fee until suspended in the  
17 manner provided in Subsection (a) of this section.

18 (c) Notwithstanding the provisions of Subsection (a) or (b)  
19 of this section, the fee shall be levied at the rate of four cents  
20 per barrel if the commissioner certifies to the comptroller a  
21 written finding of the following facts:

22 (1) the unencumbered balance in the fund is less than  
23 \$25 million, exclusive of the amount in the coastal erosion  
24 response account;

25 (2) an unauthorized discharge of oil in excess of  
26 100,000 gallons has occurred within the previous 30 days; and

27 (3) expenditures from the fund for response costs and

1 damages are expected to deplete the fund substantially, exclusive  
2 of the amount in the coastal erosion response account.

3 (d) In the event of a certification to the comptroller under  
4 Subsection (c) of this section, the comptroller shall collect the  
5 fee at the rate of four cents per barrel until the unencumbered  
6 balance in the fund reaches \$25 million, exclusive of the amount in  
7 the coastal erosion response account, or any lesser amount that the  
8 commissioner determines is necessary to pay response costs and  
9 damages without substantially depleting the fund. The commissioner  
10 shall certify to the comptroller the date on which the unencumbered  
11 balance in the fund exceeds \$25 million or such other lesser amount,   
12 exclusive of the amount in the coastal erosion response account.  
13 The fee shall not be collected or required to be paid on or after the  
14 first day of the second month following the commissioner's  
15 certification to the comptroller.

16 (e) For purposes of this section, the unencumbered balance  
17 of the fund shall be determined by the unencumbered cash balance of  
18 the fund, exclusive of the amount in the coastal erosion response  
19 account, at the end of each month or on the date of a finding under  
20 Subsection (c) of this section.

21 SECTION 7. EFFECTIVE DATE. This Act takes effect  
22 immediately if it receives a vote of two-thirds of all the members  
23 elected to each house, as provided by Section 39, Article III, Texas  
24 Constitution. If this Act does not receive the vote necessary for  
25 immediate effect, this Act takes effect September 1, 2005.