

By: Faircloth

H.B. No. 4308

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to the Gulf Coast Waste Disposal Authority and expanding  
3 the territory and powers of the authority; authorizing fees and the  
4 issuance of bonds.

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

6 SECTION 1. Section 1.01, Chapter 409, Acts of the 61st  
7 Legislature, Regular Session, 1969, is amended to read as follows:

8 Sec. 1.01. PURPOSE. The purpose of this Act is to:

9 (1) establish an instrumentality for developing and  
10 effectuating for the upper Gulf Coast region in this state  
11 [Chambers, Galveston, and Harris Counties] a regional water quality  
12 management program including provision of waste disposal and water  
13 systems and regulation of disposal of wastes; and

14 (2) establish an instrumentality for operating and  
15 maintaining a coastal barrier constructed with federal funds to  
16 protect the upper Gulf Coast region in this state from  
17 hurricane-induced storm surges.

18 SECTION 2. Section 1.02, Chapter 409, Acts of the 61st  
19 Legislature, Regular Session, 1969, is amended to read as follows:

20 Sec. 1.02. FINDINGS AND DECLARATION OF POLICY. The  
21 legislature finds [It is hereby found and declared] that:

22 (1) the quality of waters in the upper Gulf Coast  
23 region in this state [Chambers, Galveston, and Harris Counties] is  
24 materially affected by the disposal of wastes [throughout those

1 ~~counties~~];

2           (2) ~~[that]~~ regional approaches to studying water  
3 pollution in that region ~~[these counties]~~, ~~[to]~~ planning corrective  
4 and preventive measures, ~~[to]~~ providing coordinated facilities for  
5 waste disposal, and ~~[to]~~ regulating waste disposal would be far  
6 more effective than efforts on a county-wide, city-wide, or smaller  
7 scale;

8           (3) ~~[that]~~ solid wastes, as well as other kinds of  
9 waste, may impair water quality by seepage, drainage, and  
10 otherwise;

11           (4) ~~[that]~~ creation of the Gulf Coast Waste Disposal  
12 Authority would advance the established policy of the state to  
13 maintain the quality of the waters in the state consistent with the  
14 public health and public enjoyment thereof, the propagation and  
15 protection of terrestrial and aquatic life, the operation of  
16 existing industries, and the economic development of the state;

17           (5) ~~[and that]~~ impending shortage of water in the  
18 district for beneficial uses requires that all reasonable measures  
19 be taken to prevent and abate water pollution, and to reclaim  
20 polluted water for beneficial uses; and

21           (6) the territory in the upper Gulf Coast region in  
22 this state is vulnerable to damage from hurricane-induced storm  
23 surges and that granting the Gulf Coast Waste Disposal Authority  
24 the power to operate and maintain a coastal barrier constructed  
25 with federal funds would advance the public purpose of protecting  
26 the upper Gulf Coast region in this state from hurricane-induced  
27 storm surges.

1 SECTION 3. Section 1.03(a), Chapter 409, Acts of the 61st  
2 Legislature, Regular Session, 1969, is amended by adding  
3 Subdivision (24) to read as follows:

4 (24) "Coastal spine" means a coastal barrier to  
5 protect the upper Gulf Coast region in this state from  
6 hurricane-induced storm surges.

7 SECTION 4. Section 2.02, Chapter 409, Acts of the 61st  
8 Legislature, Regular Session, 1969, is amended to read as follows:

9 Sec. 2.02. DESCRIPTION. (a) Except as provided by  
10 Subsection (b) of this section, the [The] authority's territory  
11 consists of [the area inside the boundaries of] Chambers,  
12 Galveston, and Harris Counties.

13 (b) On the date the authority adopts a resolution under  
14 Section 3A.01 of this Act stating that the requirements of that  
15 section have been met, the authority's territory consists of  
16 Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange  
17 Counties.

18 (c) The Legislature declares that all the area included in  
19 the authority's territory [district] will be benefited by the  
20 exercise of the powers conferred by this Act.

21 SECTION 5. Section 2.03, Chapter 409, Acts of the 61st  
22 Legislature, Regular Session, 1969, is amended by amending  
23 Subsections (b) and (e) and adding Subsections (f), (g), and (h) to  
24 read as follows:

25 (b) Except as provided by Subsection (g) of this section,  
26 the [The] board consists of nine voting directors.

27 (e) The [From each county within the district, the]

1 municipalities waste disposal councils [~~council~~] of Chambers,  
2 Galveston, and Harris Counties each [~~that county, hereinafter~~  
3 ~~created,~~] shall appoint one director.

4 (f) The board may appoint one or more persons to the board to  
5 serve as nonvoting directors for any term.

6 (g) On the date the authority adopts a resolution under  
7 Section 3A.01 of this Act stating that the requirements of that  
8 section have been met, the board consists of eighteen voting  
9 directors.

10 (h) If the board consists of eighteen voting directors, as  
11 provided by Subsection (g) of this section, in addition to  
12 appointments made under Subsections (c), (d), and (e) of this  
13 section, the appointment councils of Brazoria, Jefferson, and  
14 Orange Counties each shall appoint one voting director.

15 SECTION 6. Section 2.05, Chapter 409, Acts of the 61st  
16 Legislature, Regular Session, 1969, is amended by amending  
17 Subsections (a) and (c) and adding Subsections (a-1), (a-2), (c-1),  
18 (c-2), and (g) to read as follows:

19 (a) A director's term of office shall be two years,  
20 commencing September 1 of the year in which the director is  
21 appointed [~~of his appointment, except that four directors of the~~  
22 ~~first board shall have one-year terms, in order to obtain staggered~~  
23 ~~terms. When the directors have been appointed, they shall draw lots~~  
24 ~~to determine which have one-year terms)].~~

25 (a-1) If the board has nine voting directors, as provided by  
26 Section 2.03(b) of this Act, the directors' terms must be staggered  
27 so that the terms of not more than five directors expire in a single

1 year.

2 (a-2) If the board has eighteen voting directors, as  
3 provided by Section 2.03(g) of this Act, the directors' terms must  
4 be staggered so that the terms of not more than 10 directors expire  
5 in a single year.

6 (c) There are [~~hereby~~] created:

7 (1) the Municipalities Waste Disposal Council of  
8 Chambers County, [~~which shall be~~] composed of the mayors of each and  
9 all of the incorporated cities and towns the city hall of which is  
10 situated within Chambers County;

11 (2) the Municipalities Waste Disposal Council of  
12 Galveston County, [~~which shall be~~] composed of the mayors of each  
13 and all of the incorporated cities and towns the city hall of which  
14 is situated within Galveston County; and

15 (3) the Municipalities Waste Disposal Council of  
16 Harris County, [~~which shall be~~] composed of the mayors of each and  
17 all of the incorporated cities and towns the city hall of which is  
18 situated within Harris County.

19 (c-1) On the date the authority adopts a resolution under  
20 Section 3A.01 of this Act stating that the requirements of that  
21 section have been met, there are created:

22 (1) the Appointment Council of Brazoria County,  
23 composed of the mayors of the municipalities in Brazoria County;

24 (2) the Appointment Council of Jefferson County,  
25 composed of the mayors of the municipalities in Jefferson County;  
26 and

27 (3) the Appointment Council of Orange County, composed

1 of the mayors of the municipalities in Orange County.

2 (c-2) The sole function of the [~~these~~] councils created  
3 under Subsections (c) and (c-1) of this section is [~~shall be~~] the  
4 selection of directors. Each [~~The temporary chairman of each~~  
5 ~~council shall be the mayor of the county seat. Promptly after this~~  
6 ~~Act becomes effective, each municipalities waste disposal council~~  
7 ~~shall meet at a time and place designated by its temporary chairman~~  
8 ~~after notice of the time and place of that meeting has been mailed~~  
9 ~~by the temporary chairman to each member of the council at least 48~~  
10 ~~hours prior to the time fixed for the meeting. At that meeting,~~  
11 ~~the~~] council shall elect a chairman, vice-chairman, and secretary,  
12 and shall adopt such bylaws relating to the conduct of its affairs  
13 as the council shall determine to be necessary.

14 (g) Subsection (f) of this section governs the appointment  
15 of directors by appointment councils created under Subsection (c-1)  
16 of this section in the same way that Subsection (f) of this section  
17 governs appointments by municipal waste disposal councils.

18 SECTION 7. Subchapter 2, Chapter 409, Acts of the 61st  
19 Legislature, Regular Session, 1969, is amended by adding Section  
20 2.17 to read as follows:

21 Sec. 2.17. ADVISORY BOARD. (a) The Coastal Spine Advisory  
22 Board shall advise the authority board during the construction of a  
23 coastal spine that is to be operated and maintained by the authority  
24 on matters related to the operation and maintenance of the coastal  
25 spine.

26 (b) The advisory board is not required to be appointed or to  
27 meet unless the authority has adopted a resolution under Section

1 3A.01 of this Act stating that the requirements of that section have  
2 been met.

3 (c) The advisory board is composed of seven members as  
4 follows:

5 (1) one member appointed by the governor;

6 (2) one member appointed by the lieutenant governor;

7 (3) one member appointed by the speaker of the house of  
8 representatives;

9 (4) one member appointed by the Texas Commission on  
10 Environmental Quality;

11 (5) one member appointed by the Parks and Wildlife  
12 Commission;

13 (6) the commissioner of the General Land Office, or  
14 the commissioner's designee; and

15 (7) one member of the authority board chosen by the  
16 authority board.

17 (d) The advisory board is not authorized to act on behalf of  
18 the authority without the approval of the authority board.

19 (e) The advisory board shall:

20 (1) select from among its members a presiding officer;  
21 and

22 (2) adopt provisions to determine the terms of board  
23 members and stagger the members' terms and other provisions  
24 necessary to administer the board.

25 (f) An advisory board member is not entitled to  
26 reimbursement of expenses or to compensation.

27 (g) The advisory board may appoint one or more persons to

1 the advisory board to serve as nonvoting members.

2 (h) If the authority board determines that construction of a  
3 coastal spine is complete:

4 (1) the advisory board is abolished as of the date the  
5 authority board makes the determination; and

6 (2) the authority board shall notify each appointing  
7 person and entity named in Subsection (c) of this section that the  
8 advisory board is abolished.

9 SECTION 8. Chapter 409, Acts of the 61st Legislature,  
10 Regular Session, 1969, is amended by adding Subchapter 3A to read as  
11 follows:

12 SUBCHAPTER 3A. COASTAL SPINE

13 Sec. 3A.01. COASTAL SPINE CONTINGENT ON FEDERAL FUNDING AND  
14 FINDING OF SUFFICIENT REVENUE. The authority may not begin to  
15 operate or maintain a coastal spine, exercise a power granted to the  
16 authority under this subchapter, or otherwise exercise a power  
17 granted to the authority by this Act in support of the operation or  
18 maintenance of a coastal spine unless:

19 (1) the federal government approves money for the  
20 construction of a coastal spine in this state;

21 (2) the authority determines that the authority's  
22 revenue sources, or projected revenue sources, authorized for use  
23 for the operation and maintenance of a coastal spine under Section  
24 3A.03 of this Act are sufficient to cover the cost of operating and  
25 maintaining a coastal spine; and

26 (3) the authority adopts a resolution stating that the  
27 requirements of Subdivisions (1) and (2) of this section have been



1 met and submits a copy of the resolution to the legislature.

2 Sec. 3A.02. GENERAL POWERS AND DUTIES. (a) The authority  
3 is authorized to operate and maintain a coastal spine in the manner  
4 provided by this subchapter.

5 (b) The authority may exercise a power granted to the  
6 authority by Subchapter 3 of this Act to support the operation and  
7 maintenance of a coastal spine.

8 (c) A duty assigned to the authority under Subchapter 3 of  
9 this Act that relates to the authority's duty to develop and  
10 effectuate a regional water quality management program does not  
11 apply to the operation or maintenance of a coastal spine by the  
12 authority unless otherwise provided by this subchapter.

13 (d) A coastal spine may be operated and maintained inside or  
14 outside the territory of the authority.

15 (e) The authority may convey material and rights produced or  
16 acquired during the operation or maintenance of a coastal spine,  
17 including spoil, dredged material, and development rights.

18 (f) The authority may:

19 (1) apply for a permit for an activity related to the  
20 operation or maintenance of a coastal spine; and

21 (2) seek other necessary approvals for the operation  
22 or maintenance of a coastal spine from a state or federal agency.

23 Sec. 3A.03. USE OF FUNDS FOR COASTAL SPINE. The authority  
24 may operate and maintain a coastal spine using money available to  
25 the authority, including tax revenue, only if the money is not  
26 related to the authority's waste disposal, pollution control,  
27 wastewater treatment, water reuse, water systems, or solid waste

1 operations.

2 Sec. 3A.04. MASTER PLAN. (a) In addition to the master  
3 plan developed under Section 3.10 of this Act, the authority shall  
4 develop, prepare, and revise, as needed, a master plan for the  
5 operation and maintenance of a coastal spine.

6 (b) The authority shall submit the first master plan and any  
7 revised versions of the master plan to the General Land Office  
8 before implementing the plan. The General Land Office may approve  
9 or disapprove a plan submitted under this section. If the General  
10 Land Office does not issue a decision on a plan submitted under this  
11 section before the 31st day after the date the General Land Office  
12 receives the plan, the plan is considered to be approved.

13 Sec. 3A.05. ACQUISITION. The authority may:

14 (1) purchase, lease, acquire by gift, maintain, use,  
15 and operate facilities and systems related to the operation or  
16 maintenance of a coastal spine; and

17 (2) acquire permits, licenses, and rights related to  
18 the operation or maintenance of a coastal spine.

19 Sec. 3A.06. CONTRACTS. (a) The authority may make  
20 contracts and execute instruments that are necessary or convenient  
21 to the exercise of its powers, rights, duties, and functions under  
22 this subchapter. The authority is authorized to execute all  
23 appropriate documents and instruments in connection with the  
24 contracts.

25 (b) The authority may enter into contracts for a purpose  
26 related to the operation or maintenance of a coastal spine in the  
27 manner that a municipal management district may enter into

1 contracts under Chapter 375, Local Government Code, as amended.

2 (c) The authority and all persons are authorized to enter  
3 into contracts with respect to the operation or maintenance of a  
4 coastal spine.

5 (d) A public agency or local government is authorized to:

6 (1) enter into a contract with the authority;

7 (2) determine, agree, and pledge that all or any part  
8 of its payments under a contract with the authority shall be payable  
9 from any source, subject only to the authorization by a majority  
10 vote of the governing body of such public agency or local government  
11 of the contract, pledge, and payments;

12 (3) use and pledge any available revenues or resources  
13 for and to the payment of amounts due under a contract with the  
14 authority as an additional source of payment or as the sole source  
15 of payment and agree with the authority to assure the availability  
16 of revenue and resources when required; and

17 (4) fix, charge, and collect impact fees and utility  
18 charges, if the public agency or local government is otherwise  
19 authorized to impose the fees and charges, and to use and pledge  
20 revenue from the fees or charges to make payments to the authority  
21 required under a contract with the authority.

22 (e) The authority and another governmental entity may enter  
23 into a contract for the operation or maintenance of a coastal spine  
24 in the same way that a political subdivision may contract with  
25 another governmental entity under Chapter 472, Transportation  
26 Code, to construct or maintain a road or highway.

27 (f) Notwithstanding Section 3.23(a) of this Act, a contract

1 related to the operation or maintenance of a coastal spine may be  
2 for any term if the contract is approved by the General Land Office.

3 Sec. 3A.07. AGREEMENTS. (a) The authority may enter into a  
4 cooperative agreement with a political subdivision, state agency,  
5 or federal agency for a purpose related to the operation or  
6 maintenance of a coastal spine.

7 (b) The authority may enter into an interlocal agreement  
8 with a political subdivision for a purpose related to the operation  
9 or maintenance of a coastal spine.

10 Sec. 3A.08. POWER TO REGULATE NAVIGATION. (a) The  
11 authority has the powers provided to navigation districts by  
12 Sections 60.043 and 62.118, Water Code, as amended.

13 (b) The authority may control and distribute storm water and  
14 floodwater of rivers and streams in aid of navigation, in the manner  
15 provided by Chapter 62, Water Code, as amended, for navigation  
16 districts.

17 (c) For a purpose related to operating or maintaining a  
18 coastal spine, an order or action of the authority supersedes an  
19 order or action of a navigation district.

20 Sec. 3A.09. DEVELOPMENT CORPORATION POWERS. (a) The  
21 authority may act as a unit, as defined by Section 501.002, Local  
22 Government Code, to create a development corporation for a purpose  
23 related to the operation or maintenance of a coastal spine.

24 (b) This section does not authorize the authority to impose  
25 a sales tax.

26 Sec. 3A.10. LOCAL GOVERNMENT CORPORATION POWERS. (a) The  
27 board by resolution may authorize the creation of a nonprofit

1 corporation to assist and act for the authority in operating or  
2 maintaining a coastal spine.

3 (b) The nonprofit corporation:

4 (1) has each power of and is considered to be a local  
5 government corporation created under Subchapter D, Chapter 431,  
6 Transportation Code, as amended, including for the purposes of  
7 Section 431.105, Transportation Code; and

8 (2) may implement a project related to the operation  
9 or maintenance of a coastal spine.

10 (c) The board shall appoint the board of directors of the  
11 nonprofit corporation. The board of directors of the nonprofit  
12 corporation shall serve in the same manner as the board of directors  
13 of a local government corporation created under Subchapter D,  
14 Chapter 431, Transportation Code, as amended.

15 SECTION 9. Section 5.01(a), Chapter 409, Acts of the 61st  
16 Legislature, Regular Session, 1969, is amended to read as follows:

17 (a) For the purpose of carrying out any power or authority  
18 conferred by this Act, including the expense of preparing the  
19 master plan and the payment of engineering and other expenses in  
20 connection therewith, the authority is empowered to issue its bonds  
21 in three general classes:

22 (1) bonds secured by ad valorem taxes;

23 (2) bonds secured by a pledge of all or part of the  
24 revenues accruing to the authority, including [~~without limitation~~]  
25 those received from:

26 (A) sale of water or other products;

27 (B) [7] rendition of service;

- 1           (C) [ ] tolls;
- 2           (D) [ ] charges;
- 3           (E) a contract entered into with a city or other
- 4 governmental agency, authority, or district related to the
- 5 operation or maintenance of a coastal spine; [ ] and
- 6           (F) [from] all other sources other than ad
- 7 valorem taxes; and

8           (3) bonds secured by a combination pledge of all or  
9 part of the revenues described in Subdivision (2) of this  
10 subsection[ ] and taxes.

11           SECTION 10. Subchapter 5, Chapter 409, Acts of the 61st  
12 Legislature, Regular Session, 1969, is amended by adding Section  
13 5.10 to read as follows:

14           Sec. 5.10. CATASTROPHE BONDS. A corporation created by the  
15 authority under Section 3A.09 or 3A.10 of this Act may issue a  
16 security with a condition that the corporation's obligation to pay  
17 interest or repay the principal is deferred or forgiven if the  
18 corporation suffers a loss from a particular predefined  
19 catastrophe.

20           SECTION 11. If the territory of the Gulf Coast Waste  
21 Disposal Authority is expanded, the initial directors from  
22 Brazoria, Jefferson, and Orange Counties under Sections 2.03 and  
23 2.05, Chapter 409, Acts of the 61st Legislature, Regular Session,  
24 1969, as amended by this Act, shall draw lots to determine which  
25 director or directors will serve one-year terms and which will  
26 serve two-year terms to fulfill the staggered terms requirement of  
27 Section 2.05, Chapter 409, Acts of the 61st Legislature, Regular

1 Session, 1969, as amended by this Act.

2 SECTION 12. If the territory of the Gulf Coast Waste  
3 Disposal Authority is expanded, the temporary chairman of each  
4 appointment council created under Section 2.05(c-1), Chapter 409,  
5 Acts of the 61st Legislature, Regular Session, 1969, as added by  
6 this Act, for Brazoria, Jefferson, and Orange Counties shall be the  
7 mayor of the county seat for that county. Promptly after the date  
8 the councils are created, each council shall meet at a time and  
9 place designated by the temporary chairman to elect a chairman,  
10 vice-chairman, and secretary and adopt bylaws relating to the  
11 conduct of council affairs.

12 SECTION 13. (a) The legal notice of the intention to  
13 introduce this Act, setting forth the general substance of this  
14 Act, has been published as provided by law, and the notice and a  
15 copy of this Act have been furnished to all persons, agencies,  
16 officials, or entities to which they are required to be furnished  
17 under Section 59, Article XVI, Texas Constitution, and Chapter 313,  
18 Government Code.

19 (b) The governor, one of the required recipients, has  
20 submitted the notice and Act to the Texas Commission on  
21 Environmental Quality.

22 (c) The Texas Commission on Environmental Quality has filed  
23 its recommendations relating to this Act with the governor,  
24 lieutenant governor, and speaker of the house of representatives  
25 within the required time.

26 (d) All requirements of the constitution and laws of this  
27 state and the rules and procedures of the legislature with respect

1 to the notice, introduction, and passage of this Act have been  
2 fulfilled and accomplished.

3         SECTION 14. This Act takes effect immediately if it  
4 receives a vote of two-thirds of all the members elected to each  
5 house, as provided by Section 39, Article III, Texas Constitution.  
6 If this Act does not receive the vote necessary for immediate  
7 effect, this Act takes effect September 1, 2017.