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By:  Paul H.B. No. 3029

A BILL TO BE ENTITLED

AN ACT

relating to the creation of the Gulf Coast Protection District; providing authority to issue bonds; providing authority to impose fees; providing authority to impose a tax; granting the power of eminent domain.

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

SECTION 1.  Subtitle K, Title 6, Special District Local Laws Code, is amended by adding Chapter 9502 to read as follows:

CHAPTER 9502. GULF COAST PROTECTION DISTRICT

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 9502.0101.  DEFINITIONS. In this chapter:

(1)  "Board" means the district's board of directors.

(2)  "Director" means a board member.

(3)  "District" means the Gulf Coast Protection District.

(4)  "Ecosystem restoration report" means the Sabine Pass to Galveston Bay, Texas Coastal Storm Risk Management and Ecosystem Restoration Final Integrated Feasibility Report—Environmental Impact Statement issued by the Galveston District, Southwestern Division, of the United States Army Corps of Engineers in May 2017.

(5)  "Protection and restoration study" means the Coastal Texas Protection and Restoration Feasibility Study Final Integrated Feasibility Report and Environmental Impact Statement to be issued by the Galveston District, Southwestern Division, of the United States Army Corps of Engineers, the draft version of which was issued in October 2020.

Sec. 9502.0102.  NATURE OF DISTRICT. The district is a special district created under Section 59, Article XVI, Texas Constitution.

Sec. 9502.0103.  FINDINGS OF BENEFIT AND PUBLIC PURPOSE. (a) The creation of the district is essential to accomplish the purposes of Section 59, Article XVI, Texas Constitution, and other public purposes stated in this chapter.

(b)  The creation of the district is necessary to establish an instrumentality for protecting the coast in Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange Counties in the manner provided by this chapter.

(c)  The district is created to serve a public use and benefit.

(d)  All land and other property included in the boundaries of the district will benefit from the works and projects accomplished by the district.

Sec. 9502.0104.  DISTRICT TERRITORY. (a) The district is composed of the territory in Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange Counties and territory annexed to the district as described by Subsection (b).

(b)  The governing body of the district by order shall annex to the district the territory of a county included in the protection and restoration study at the request of the commissioners court of that county.

Sec. 9502.0105.  APPLICATION OF SUNSET ACT. (a) The district is subject to review under Chapter 325, Government Code (Texas Sunset Act), but may not be abolished under that chapter. The review shall be conducted under Section 325.025, Government Code, as if the authority were a state agency scheduled to be abolished September 1, 2033, and every 12th year after that year.

(b)  The limited review under this section must assess the district's:

(1)  governance;

(2)  management;

(3)  operating structure; and

(4)  compliance with legislative requirements.

(c)  The district shall pay the cost incurred by the Sunset Advisory Commission in performing the review. The Sunset Advisory Commission shall determine the cost, and the district shall pay the amount promptly on receipt of a statement from the Sunset Advisory Commission detailing the cost.

(d)  The district may not be required to conduct a management audit under Chapter 292, Title 30, Texas Administrative Code.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9502.0151.  GOVERNING BODY; TERMS. (a) The district is governed by a board of 11 directors appointed by the governor. The governor shall consult with the commissioners courts of Brazoria County, Chambers County, Galveston County, Harris County, Jefferson County, and Orange County before appointing the board members.

(b)  Directors serve staggered four-year terms.

(c)  When a director's term expires, the governor shall appoint a successor.

(d)  If a director's office becomes vacant by death, resignation, or removal, the governor shall appoint a director to serve for the remainder of the unexpired term.

(e)  Notwithstanding Subsection (b), the governor shall designate five initial directors to serve a first term of two years. This subsection expires September 1, 2025.

Sec. 9502.0152.  REMOVAL. The governor may remove a director at any time and appoint a replacement director to serve the remainder of the unexpired term.

Sec. 9502.0153.  QUALIFICATION. To qualify for office, a director must be a registered voter who resides in the district.

Sec. 9502.0154.  CERTAIN CONFLICTS PROHIBITED. (a) An individual is not eligible to serve as a director if, in the preceding 24 months, the individual had an interest in or was employed by or affiliated with a person who has submitted a bid or entered into a contract for a district project.

(b)  The board may not employ or appoint an individual described by Subsection (a) to work for the district.

(c)  A director may not be employed professionally for remuneration in a profession related to the operation of the district during the director's term of office.

Sec. 9502.0155.  REIMBURSEMENT. A director is not entitled to compensation but is entitled to reimbursement for necessary expenses incurred in carrying out the duties and responsibilities of the board.

Sec. 9502.0156.  VOTING. A concurrence of a majority of the directors is required for transacting any business of the district.

SUBCHAPTER C. POWERS AND DUTIES

Sec. 9502.0201.  GENERAL DISTRICT POWERS. (a) Except as provided by Subsection (b), the district may:

(1)  establish, construct, extend, maintain, operate, or improve a coastal barrier or storm surge gate in the manner provided by Chapter 571, Local Government Code, for a county to establish, construct, extend, maintain, or improve a seawall;

(2)  exercise the authority granted to counties to conduct any project described by Chapter 571, Local Government Code;

(3)  establish, construct, and maintain recreational facilities for public use and environmental mitigation facilities related to a project described by Subdivision (1) or (2); and

(4)  establish, construct, maintain, or operate a project recommended in the ecosystem restoration report or the protection and restoration study.

(b)  Sections 571.006, 571.007, 571.008, 571.009, and 571.010, Local Government Code, do not apply to the district.

Sec. 9502.0202.  ELECTIONS REGARDING TAXES AND BONDS. (a) The district must hold an election in the manner provided by Chapter 49, Water Code, to obtain voter approval before the district may impose an ad valorem tax or issue bonds payable from ad valorem taxes.

(b)  The district, without an election, may issue bonds, notes, or other obligations secured by revenue other than ad valorem taxes.

Sec. 9502.0203.  REQUIREMENTS FOR CERTAIN PROJECTS. If the district enters into an agreement with another entity to implement a project recommended in the ecosystem restoration report or the protection and restoration study, the district:

(1)  shall develop a maintenance and operation plan for the project;

(2)  may enter into a partnership with a private entity to fund a local share of the cost of the project; and

(3)  may use any available money to provide matching funds to the United States Army Corps of Engineers to implement the project.

Sec. 9502.0204.  ACQUISITION AND DISPOSITION OF PROPERTY AND RIGHTS. (a) The district may purchase, lease, acquire by gift, maintain, use, and operate property of any kind appropriate for the exercise of the district's functions.

(b)  The district may acquire permits, licenses, and rights related to the exercise of the district's functions.

Sec. 9502.0205.  AGREEMENTS. (a) The district may enter into a cooperative agreement with a political subdivision, state agency, or federal agency for a purpose related to the operation or maintenance of a district project.

(b)  The district may enter into an interlocal agreement with a political subdivision for a purpose related to the construction, operation, or maintenance of a district project.

Sec. 9502.0206.  CONTRACTS GENERALLY. (a) The district may enter into contracts and execute instruments that are necessary or convenient to the exercise of the district's powers, rights, duties, and functions. A contract may be for any term, including for the life of any facility or structure in the territory of the district.

(b)  The district and another governmental entity may enter into a contract for the operation or maintenance of an authorized project in the same way that a political subdivision may contract with another governmental entity under Chapter 472, Transportation Code, to construct or maintain a road or highway.

(c)  A public agency or political subdivision is authorized to:

(1)  enter into a contract with the district;

(2)  determine, agree, and pledge that all or any part of its payments under a contract with the district shall be payable from any source, subject only to the authorization by a majority vote of the governing body of such public agency or political subdivision of the contract, pledge, and payments;

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

(4)  fix, charge, and collect impact fees and utility charges, if the public agency or political subdivision is otherwise authorized to impose the fees and charges, and to use and pledge revenue from the fees or charges to make payments to the district required under a contract with the district.

Sec. 9502.0207.  CERTAIN CONTRACTS. (a) This section applies only to a contract for:

(1)  construction or repair;

(2)  purchase of material, equipment, or supplies; or

(3)  services other than technical, scientific, legal, fiscal, or other professional services.

(b)  If a contract will require an estimated expenditure of more than $25,000, or if a contract is for a term of more than five years, the district shall:

(1)  publish a notice to bidders once each week for three consecutive weeks before the date set for awarding the contract; and

(2)  award the contract to the lowest and best bidder.

(c)  The notice under Subsection (b) must:

(1)  state the time and place the bids will be opened;

(2)  describe:

(A)  the general nature of the work to be done;

(B)  the material, equipment, or supplies to be purchased; or

(C)  the nonprofessional services to be rendered; and

(3)  state the terms on which copies of the plans, specifications, or other pertinent information may be obtained.

(d)  The notice must be published in a newspaper of general circulation in the county or counties in which the contract is to be performed. In addition to publishing notice in a newspaper of general circulation, the notice may also be published in any other appropriate publication.

(e)  A person desiring to bid on the construction of any work advertised as provided by this section shall, on written application to the board, be furnished with a copy of the detailed plans and specifications or other detailed engineering and architectural documents showing the work to be done. The district may charge a fee to cover the cost of providing the copy.

(f)  All bids must be in writing, sealed and delivered to the board, and accompanied by a certified check on a bank located in this state, or a bid bond from a company approved by the board, in an amount equal to at least one percent of the total amount bid.

(g)  The amount of the check or bond shall be forfeited to the district if the successful bidder fails or refuses to:

(1)  enter into a proper contract; or

(2)  furnish bond as required by law.

(h)  The board may reject any or all bids.

(i)  Bids shall be opened at the time and place specified in the notice and shall be announced by the board. The place where the bids are opened and announced must be open to the public.

(j)  The contract price of all construction contracts of the district may be made in partial payment as the work progresses, but the payments may not exceed 90 percent of the amount due at the time of each payment. The board shall, during the progress of the work, inspect the work or cause the work to be inspected by a district employee. On the completion of any contract in accordance with the contract's terms, the board shall pay the balance due on the contract.

(k)  The person to whom a contract is awarded shall provide the performance and payment bonds required by law.

(l)  This section does not prohibit the district from purchasing surplus property from the United States by contract and without advertising for bids.

(m)  An officer, agent, or employee of the district who has a financial interest in a contract of the types described by Subsection (a) shall disclose that fact to the board before the board votes on the acceptance of the contract.

(n)  Notwithstanding any provision of any charter of any municipality, contracts between the authority and a municipality are not required to be approved by the voters of the municipality at an election.

(o)  In an emergency, the district is not required to comply with the bidding procedures described by this section and may award a contract necessary to protect and preserve the public health and welfare or the properties of the district.

Sec. 9502.0208.  NAVIGATION DISTRICT AUTHORITY. Except as provided by Section 9502.0209(b), an order or action of a navigation district relating to the operation or maintenance of a district project supersedes an order or action of the district to the extent of any conflict.

Sec. 9502.0209.  AUTHORITY TO DEVELOP BARRIER CLOSURE PROCEDURES. (a) If the district implements a project to create a coastal barrier, the district shall develop closure procedures in conjunction with each navigation district affected by the barrier or closure.

(b)  A navigation district may not unilaterally stop a closure that is proceeding in accordance with procedures developed under this section.

Sec. 9502.0210.  ANNUAL REPORT REQUIRED. The district shall annually submit a report to the legislature, the Legislative Budget Board, the General Land Office, and the commissioners court of each county in which the district is located. The report must:

(1)  describe the district's financial condition and operations during the preceding year;

(2)  propose a budget for the following year; and

(3)  describe generally the work proposed for the following year.

Sec. 9502.0211.  EMINENT DOMAIN. The district may exercise the power of eminent domain to acquire a fee simple or other interest in any type of property if the interest is necessary or convenient for the exercise of the district's functions. The district must exercise the power of eminent domain in the manner provided by Chapter 21, Property Code.

SECTION 2.  (a) The legal notice of the intention to introduce this Act, setting forth the general substance of this Act, has been published as provided by law, and the notice and a copy of this Act have been furnished to all persons, agencies, officials, or entities to which they are required to be furnished under Section 59, Article XVI, Texas Constitution, and Chapter 313, Government Code.

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

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

(d)  All requirements of the constitution and laws of this state and the rules and procedures of the legislature with respect to the notice, introduction, and passage of this Act are fulfilled and accomplished.

SECTION 3.  (a) Section 9502.0211, Special District Local Laws Code, as added by Section 1 of this Act, takes effect only if this Act receives a two-thirds vote of all the members elected to each house.

(b)  If this Act does not receive a two-thirds vote of all the members elected to each house, Subchapter C, Chapter 9502, Special District Local Laws Code, as added by Section 1 of this Act, is amended by adding Section 9502.0211 to read as follows:

Sec. 9502.0211.  NO EMINENT DOMAIN POWER. The district may not exercise the power of eminent domain.

(c)  This section is not intended to be an expression of a legislative interpretation of the requirements of Section 17(c), Article I, Texas Constitution.

SECTION 4.  This Act takes effect immediately if it receives a vote of two-thirds of all the members elected to each house, as provided by Section 39, Article III, Texas Constitution. If this Act does not receive the vote necessary for immediate effect, this Act takes effect September 1, 2021.