S.B. No. 1160

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 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 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 30 T.A.C. Chapter 292.

SUBCHAPTER B. BOARD OF DIRECTORS

Sec. 9502.0201. GOVERNING BODY; TERMS. (a) The district is governed by a board of 11 directors.

(b) The commissioners courts of Chambers County, Galveston County, Harris County, Jefferson County, and Orange County each shall appoint one director.

(c) The governor, with the advice and consent of the senate, shall appoint six directors as follows:
(1) two directors to represent Harris County, in addition to the member appointed by the commissioners court under Subsection (b);

(2) one director to represent a municipality in the district;

(3) one director to represent ports;

(4) one director to represent industry; and

(5) one director to represent environmental concerns.

(d) In making the appointments required by Subsection (c), the governor shall ensure that residents of a single county do not make up a majority of the directors.

(e) The governor shall consult with:

(1) the commissioners court of Harris County in making the appointments required by Subsection (c)(1); and

(2) municipalities in the district in making the appointment required by Subsection (c)(2).

(f) Directors serve staggered four-year terms.

(g) When a director's term expires, the appointing entity shall appoint a successor.

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

(i) The board shall elect a presiding officer from among the directors to serve in that position for two years. A director may serve as the presiding officer for not more than two consecutive terms.

(j) Notwithstanding Subsection (f), the governor shall
designate from the 11 initial directors 5 directors to serve a first term of two years. This subsection expires September 1, 2025.

Sec. 9502.0202. QUALIFICATION. (a) To qualify for office, a director must be a registered voter who resides in the district.

(b) To qualify for office, a director described by Section 9502.0201(b) or (c)(1) or (2) must be a resident of the county or municipality the person is appointed to represent.

Sec. 9502.0203. 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 acquire a direct or indirect interest in a district project.

Sec. 9502.0204. 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. 9502.0205. VOTING. A concurrence of a majority of the directors is required for transacting any business of the district.

Sec. 9502.0206. TEMPORARY EXECUTIVE DIRECTOR. The governor shall appoint a temporary executive director for the district to serve until the initial board members hire an executive director for the district.
SUBCHAPTER C. POWERS AND DUTIES

Sec. 9502.0301. GENERAL DISTRICT POWERS. (a) Except as otherwise provided by this section, 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);

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

(5) provide interior drainage remediation or improvements to reduce additional flood risk for a project recommended in the ecosystem restoration report where additional flood risk results from the design or construction of a project described by Subdivision (1), (2), or (4).

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

(c) Before implementing a project described by Subsection (a), the district shall consult with local, state, and federal entities to determine whether an environmental remediation response action is anticipated or located near or at the proposed
(d) If implementation of a project described by Subsection (a) disrupts, wholly or partly, an ongoing or planned environmental remediation response action, the district shall:

1. consult with the responsible party of the environmental remediation response action; and
2. coordinate implementation of the project in a manner that does not disrupt the environmental remediation response action.

Sec. 9502.0302. 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 board may impose the tax at a rate not to exceed 5 cents on each $100 valuation.

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

(d) The district may grant an abatement for a tax owed to the district in the manner provided by Chapter 312, Tax Code.

Sec. 9502.0303. 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. 9502.0304. 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, including acquiring property by mutual agreement with a navigation district or a drainage district.

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

Sec. 9502.0305. COSTS OF RELOCATION OF PROPERTY; EASEMENTS. (a) In the event that the district, in the exercise of the power of eminent domain or power of relocation or any other power, makes necessary the relocation, raising, lowering, rerouting, or change in grade of or alteration in construction of any electric transmission or distribution line or telephone properties, facilities, or pipelines, all necessary relocations, raising, lowering, rerouting, or change in grade or alteration of construction shall be done at the sole expense of the district.

(b) In this section, "sole expense" means the actual cost of the relocation, raising, lowering, rerouting, or change in grade or alteration of construction and providing comparable replacement without enhancing the facilities after deducting from it the net salvage value derived from the old facility.

(c) The district has all necessary or useful rights-of-way
and easements along, over, under, and across all public, state, municipal, and county roads, highways, and places for any of its purposes. The district shall restore a used facility to its previous condition as nearly as possible at the sole expense of the district.

(d) The district may acquire, sell, lease, convey, or otherwise dispose of a right-of-way or easement under terms and conditions determined by the district.

Sec. 9502.0306. AGREEMENTS. (a) The district may enter into a cooperative agreement with a political subdivision, a state agency, the United States Army Corps of Engineers, or another federal agency for a purpose related to the study, design, construction, 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 study, design, construction, operation, or maintenance of a district project to include the acceptance of the assignment of rights or obligations in an existing design agreement or a project partnership agreement between the political subdivision and the United States Army Corps of Engineers.

Sec. 9502.0307. 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) The district may enter into a project partnership
agreement with the United States Army Corps of Engineers for the
study, design, construction, operation, and maintenance of a
project recommended in the ecosystem restoration report or the
protection and restoration study.

(d) 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. 9502.0308. REQUIREMENTS FOR CERTAIN CONTRACTS. (a) Chapter 2269, Government Code, applies to the district's public work contracts, as defined by Section 2269.001, Government Code. Section 2269.003(d), Government Code, does not apply to the district.

(b) The district shall comply with Subchapter A, Chapter 2254, Government Code.

Sec. 9502.0309. CONFLICT WITH ORDER OR ACTION OF ANOTHER POLITICAL SUBDIVISION. An order or action of the Harris County Flood Control District, a river authority, a port authority, a navigation district, or a drainage 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. 9502.0310. AUTHORITY TO DEVELOP BARRIER CLOSURE PROCEDURES. If the district implements a project to create a coastal barrier, the district shall develop closure procedures in conjunction with each board of trustees established under Chapter 54, Transportation Code, port authority, navigation district, and drainage district affected by the barrier or closure. For the Texas City Channel, the district shall develop closure procedures with any common carrier terminal railroad providing rail and maritime terminal services to the users of the navigation channel.

Sec. 9502.0311. 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. 9502.0312. EMINENT DOMAIN. (a) 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.

(b) The district may not exercise the power of eminent domain to acquire property owned or operated by a port authority, navigation district, drainage district, or common carrier railroad.

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 9502.0312, 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 9502.0312 to read as follows:

Sec. 9502.0312. 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.
S.B. No. 1160

President of the Senate    Speaker of the House

I hereby certify that S.B. No. 1160 passed the Senate on April 14, 2021, by the following vote: Yeas 31, Nays 0; May 25, 2021, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 27, 2021, House granted request of the Senate; May 29, 2021, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0.

Secretary of the Senate

I hereby certify that S.B. No. 1160 passed the House, with amendments, on May 20, 2021, by the following vote: Yeas 130, Nays 16, one present not voting; May 27, 2021, House granted request of the Senate for appointment of Conference Committee; May 29, 2021, House adopted Conference Committee Report by the following vote: Yeas 131, Nays 8, one present not voting.

Chief Clerk of the House

Approved:

Date

Governor