

1-1 By: Taylor S.B. No. 1160
 1-2 (In the Senate - Filed March 8, 2021; March 18, 2021, read
 1-3 first time and referred to Committee on Water, Agriculture & Rural
 1-4 Affairs; March 30, 2021, reported adversely, with favorable
 1-5 Committee Substitute by the following vote: Yeas 9, Nays 0;
 1-6 March 30, 2021, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10	X			
1-11	X			
1-12	X			
1-13	X			
1-14	X			
1-15	X			
1-16	X			
1-17	X			

1-18 COMMITTEE SUBSTITUTE FOR S.B. No. 1160 By: Taylor

1-19 A BILL TO BE ENTITLED
 1-20 AN ACT

1-21 relating to the creation of the Gulf Coast Protection District;
 1-22 providing authority to issue bonds; providing authority to impose
 1-23 fees; providing authority to impose a tax; granting the power of
 1-24 eminent domain.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:
 1-26 SECTION 1. Subtitle K, Title 6, Special District Local Laws
 1-27 Code, is amended by adding Chapter 9502 to read as follows:

1-28 CHAPTER 9502. GULF COAST PROTECTION DISTRICT

1-29 SUBCHAPTER A. GENERAL PROVISIONS

1-30 Sec. 9502.0101. DEFINITIONS. In this chapter:

1-31 (1) "Board" means the district's board of directors.

1-32 (2) "Director" means a board member.

1-33 (3) "District" means the Gulf Coast Protection
 1-34 District.

1-35 (4) "Ecosystem restoration report" means the Sabine
 1-36 Pass to Galveston Bay, Texas Coastal Storm Risk Management and
 1-37 Ecosystem Restoration Final Integrated Feasibility
 1-38 Report-Environmental Impact Statement issued by the Galveston
 1-39 District, Southwestern Division, of the United States Army Corps of
 1-40 Engineers in May 2017.

1-41 (5) "Protection and restoration study" means the
 1-42 Coastal Texas Protection and Restoration Feasibility Study Final
 1-43 Integrated Feasibility Report and Environmental Impact Statement
 1-44 to be issued by the Galveston District, Southwestern Division, of
 1-45 the United States Army Corps of Engineers, the draft version of
 1-46 which was issued in October 2020.

1-47 Sec. 9502.0102. NATURE OF DISTRICT. The district is a
 1-48 special district created under Section 59, Article XVI, Texas
 1-49 Constitution.

1-50 Sec. 9502.0103. FINDINGS OF BENEFIT AND PUBLIC PURPOSE.

1-51 (a) The creation of the district is essential to accomplish the
 1-52 purposes of Section 59, Article XVI, Texas Constitution, and other
 1-53 public purposes stated in this chapter.

1-54 (b) The creation of the district is necessary to establish
 1-55 an instrumentality for protecting the coast in Chambers, Galveston,
 1-56 Harris, Jefferson, and Orange Counties in the manner provided by
 1-57 this chapter.

1-58 (c) The district is created to serve a public use and
 1-59 benefit.

1-60 (d) All land and other property included in the boundaries

2-1 of the district will benefit from the works and projects
2-2 accomplished by the district.

2-3 Sec. 9502.0104. DISTRICT TERRITORY. (a) The district is
2-4 composed of the territory in Chambers, Galveston, Harris,
2-5 Jefferson, and Orange Counties and territory annexed to the
2-6 district as described by Subsection (b).

2-7 (b) The governing body of the district by order shall annex
2-8 to the district the territory of a county included in the protection
2-9 and restoration study at the request of the commissioners court of
2-10 that county.

2-11 Sec. 9502.0105. APPLICATION OF SUNSET ACT. (a) The
2-12 district is subject to review under Chapter 325, Government Code
2-13 (Texas Sunset Act), but may not be abolished under that chapter.
2-14 The review shall be conducted under Section 325.025, Government
2-15 Code, as if the authority were a state agency scheduled to be
2-16 abolished September 1, 2033, and every 12th year after that year.

2-17 (b) The limited review under this section must assess the
2-18 district's:

2-19 (1) governance;

2-20 (2) management;

2-21 (3) operating structure; and

2-22 (4) compliance with legislative requirements.

2-23 (c) The district shall pay the cost incurred by the Sunset
2-24 Advisory Commission in performing the review. The Sunset Advisory
2-25 Commission shall determine the cost, and the district shall pay the
2-26 amount promptly on receipt of a statement from the Sunset Advisory
2-27 Commission detailing the cost.

2-28 (d) The district may not be required to conduct a management
2-29 audit under 30 T.A.C. Chapter 292.

2-30 SUBCHAPTER B. BOARD OF DIRECTORS

2-31 Sec. 9502.0201. GOVERNING BODY; TERMS. (a) The district is
2-32 governed by a board of 11 directors.

2-33 (b) The commissioners courts of Chambers County, Galveston
2-34 County, Harris County, Jefferson County, and Orange County each
2-35 shall appoint one director.

2-36 (c) The governor, with the advice and consent of the senate,
2-37 shall appoint six directors as follows:

2-38 (1) two directors to represent Harris County, in
2-39 addition to the member appointed by the commissioners court under
2-40 Subsection (b);

2-41 (2) one director to represent a municipality in the
2-42 district;

2-43 (3) one director to represent ports;

2-44 (4) one director to represent industry; and

2-45 (5) one director to represent environmental concerns.

2-46 (d) In making the appointments required by Subsection (c),
2-47 the governor shall ensure that residents of a single county do not
2-48 make up a majority of the directors.

2-49 (e) The governor shall consult with:

2-50 (1) the commissioners court of Harris County in making
2-51 the appointments required by Subsection (c)(1); and

2-52 (2) municipalities in the district in making the
2-53 appointment required by Subsection (c)(2).

2-54 (f) Directors serve staggered four-year terms.

2-55 (g) When a director's term expires, the appointing entity
2-56 shall appoint a successor.

2-57 (h) If a director's office becomes vacant by death,
2-58 resignation, or removal, the appointing entity shall appoint a
2-59 director to serve for the remainder of the unexpired term.

2-60 (i) The board shall elect a presiding officer from among the
2-61 directors to serve in that position for two years. A director may
2-62 serve as the presiding officer for not more than two consecutive
2-63 terms.

2-64 (j) Notwithstanding Subsection (f), the governor shall
2-65 designate from the 11 initial directors 5 directors to serve a first
2-66 term of two years. This subsection expires September 1, 2025.

2-67 Sec. 9502.0202. QUALIFICATION. (a) To qualify for office,
2-68 a director must be a registered voter who resides in the district.

2-69 (b) To qualify for office, a director described by Section

3-1 9502.0201(b) or (c)(1) or (2) must be a resident of the county or
3-2 municipality the person is appointed to represent.

3-3 Sec. 9502.0203. CERTAIN CONFLICTS PROHIBITED. (a) An
3-4 individual is not eligible to serve as a director if, in the
3-5 preceding 24 months, the individual had an interest in or was
3-6 employed by or affiliated with a person who has submitted a bid or
3-7 entered into a contract for a district project.

3-8 (b) The board may not employ or appoint an individual
3-9 described by Subsection (a) to work for the district.

3-10 (c) A director may not acquire a direct or indirect interest
3-11 in a district project.

3-12 Sec. 9502.0204. REIMBURSEMENT. A director is not entitled
3-13 to compensation but is entitled to reimbursement for necessary
3-14 expenses incurred in carrying out the duties and responsibilities
3-15 of the board.

3-16 Sec. 9502.0205. VOTING. A concurrence of a majority of the
3-17 directors is required for transacting any business of the district.

3-18 Sec. 9502.0206. TEMPORARY EXECUTIVE DIRECTOR. The governor
3-19 shall appoint a temporary executive director for the district to
3-20 serve until the initial board members hire an executive director
3-21 for the district.

3-22 SUBCHAPTER C. POWERS AND DUTIES

3-23 Sec. 9502.0301. GENERAL DISTRICT POWERS. (a) Except as
3-24 otherwise provided by this section, the district may:

3-25 (1) establish, construct, extend, maintain, operate,
3-26 or improve a coastal barrier or storm surge gate in the manner
3-27 provided by Chapter 571, Local Government Code, for a county to
3-28 establish, construct, extend, maintain, or improve a seawall;

3-29 (2) exercise the authority granted to counties to
3-30 conduct any project described by Chapter 571, Local Government
3-31 Code;

3-32 (3) establish, construct, and maintain recreational
3-33 facilities for public use and environmental mitigation facilities
3-34 related to a project described by Subdivision (1) or (2); and

3-35 (4) establish, construct, maintain, or operate a
3-36 project recommended in the ecosystem restoration report or the
3-37 protection and restoration study.

3-38 (b) Sections 571.006, 571.007, 571.008, 571.009, and
3-39 571.010, Local Government Code, do not apply to the district.

3-40 (c) Before implementing a project described by Subsection
3-41 (a), the district shall consult with local, state, and federal
3-42 entities to determine whether an environmental remediation
3-43 response action is anticipated or located near or at the proposed
3-44 location of the project.

3-45 (d) If implementation of a project described by Subsection
3-46 (a) disrupts, wholly or partly, an ongoing or planned environmental
3-47 remediation response action, the district shall:

3-48 (1) consult with the responsible party of the
3-49 environmental remediation response action; and

3-50 (2) coordinate implementation of the project in a
3-51 manner that does not disrupt the environmental remediation response
3-52 action.

3-53 Sec. 9502.0302. TAXES AND BONDS. (a) The district must
3-54 hold an election in the manner provided by Chapter 49, Water Code,
3-55 to obtain voter approval before the district may impose an ad
3-56 valorem tax or issue bonds payable from ad valorem taxes.

3-57 (b) The board may impose the tax at a rate not to exceed 5
3-58 cents on each \$100 valuation.

3-59 (c) The district, without an election, may issue bonds,
3-60 notes, or other obligations secured by revenue other than ad
3-61 valorem taxes.

3-62 Sec. 9502.0303. REQUIREMENTS FOR CERTAIN PROJECTS. If the
3-63 district enters into an agreement with another entity to implement
3-64 a project recommended in the ecosystem restoration report or the
3-65 protection and restoration study, the district:

3-66 (1) shall develop a maintenance and operation plan for
3-67 the project;

3-68 (2) may enter into a partnership with a private entity
3-69 to fund a local share of the cost of the project; and

4-1 (3) may use any available money to provide matching
 4-2 funds to the United States Army Corps of Engineers to implement the
 4-3 project.

4-4 Sec. 9502.0304. ACQUISITION AND DISPOSITION OF PROPERTY AND
 4-5 RIGHTS. (a) The district may purchase, lease, acquire by gift,
 4-6 maintain, use, and operate property of any kind appropriate for the
 4-7 exercise of the district's functions.

4-8 (b) The district may acquire permits, licenses, and rights
 4-9 related to the exercise of the district's functions.

4-10 Sec. 9502.0305. AGREEMENTS. (a) The district may enter
 4-11 into a cooperative agreement with a political subdivision, a state
 4-12 agency, the United States Army Corps of Engineers, or another
 4-13 federal agency for a purpose related to the study, design,
 4-14 construction, operation, or maintenance of a district project.

4-15 (b) The district may enter into an interlocal agreement with
 4-16 a political subdivision for a purpose related to the study, design,
 4-17 construction, operation, or maintenance of a district project to
 4-18 include the acceptance of the assignment of rights or obligations
 4-19 in an existing design agreement or a project partnership agreement
 4-20 between the political subdivision and the United States Army Corps
 4-21 of Engineers.

4-22 Sec. 9502.0306. CONTRACTS GENERALLY. (a) The district may
 4-23 enter into contracts and execute instruments that are necessary or
 4-24 convenient to the exercise of the district's powers, rights,
 4-25 duties, and functions. A contract may be for any term, including
 4-26 for the life of any facility or structure in the territory of the
 4-27 district.

4-28 (b) The district and another governmental entity may enter
 4-29 into a contract for the operation or maintenance of an authorized
 4-30 project in the same way that a political subdivision may contract
 4-31 with another governmental entity under Chapter 472, Transportation
 4-32 Code, to construct or maintain a road or highway.

4-33 (c) The district may enter into a project partnership
 4-34 agreement with the United States Army Corps of Engineers for the
 4-35 study, design, construction, operation, and maintenance of a
 4-36 project recommended in the ecosystem restoration report or the
 4-37 protection and restoration study.

4-38 (d) A public agency or political subdivision is authorized
 4-39 to:

4-40 (1) enter into a contract with the district;

4-41 (2) determine, agree, and pledge that all or any part
 4-42 of its payments under a contract with the district shall be payable
 4-43 from any source, subject only to the authorization by a majority
 4-44 vote of the governing body of such public agency or political
 4-45 subdivision of the contract, pledge, and payments;

4-46 (3) use and pledge any available revenues or resources
 4-47 for and to the payment of amounts due under a contract with the
 4-48 district as an additional source of payment or as the sole source of
 4-49 payment and agree with the district to assure the availability of
 4-50 revenue and resources when required; and

4-51 (4) fix, charge, and collect impact fees and utility
 4-52 charges, if the public agency or political subdivision is otherwise
 4-53 authorized to impose the fees and charges, and to use and pledge
 4-54 revenue from the fees or charges to make payments to the district
 4-55 required under a contract with the district.

4-56 Sec. 9502.0307. CERTAIN CONTRACTS. The district may enter
 4-57 into contracts in the manner provided by Chapter 49, Water Code, for
 4-58 construction or repair projects and the purchase of equipment,
 4-59 materials, or supplies.

4-60 Sec. 9502.0308. CONFLICT WITH ORDER OR ACTION OF ANOTHER
 4-61 POLITICAL SUBDIVISION. An order or action of a navigation
 4-62 district, port authority, river authority, or drainage district
 4-63 relating to the operation or maintenance of a district project
 4-64 supersedes an order or action of the district to the extent of any
 4-65 conflict.

4-66 Sec. 9502.0309. AUTHORITY TO DEVELOP BARRIER CLOSURE
 4-67 PROCEDURES. If the district implements a project to create a
 4-68 coastal barrier, the district shall develop closure procedures in
 4-69 conjunction with each board of trustees established under Chapter

5-1 54, Transportation Code, navigation district, drainage district,
5-2 and port authority affected by the barrier or closure.

5-3 Sec. 9502.0310. ANNUAL REPORT REQUIRED. The district shall
5-4 annually submit a report to the legislature, the Legislative Budget
5-5 Board, the General Land Office, and the commissioners court of each
5-6 county in which the district is located. The report must:

5-7 (1) describe the district's financial condition and
5-8 operations during the preceding year;

5-9 (2) propose a budget for the following year; and

5-10 (3) describe generally the work proposed for the
5-11 following year.

5-12 Sec. 9502.0311. EMINENT DOMAIN. The district may exercise
5-13 the power of eminent domain to acquire a fee simple or other
5-14 interest in any type of property if the interest is necessary or
5-15 convenient for the exercise of the district's functions. The
5-16 district must exercise the power of eminent domain in the manner
5-17 provided by Chapter 21, Property Code.

5-18 SECTION 2. (a) The legal notice of the intention to
5-19 introduce this Act, setting forth the general substance of this
5-20 Act, has been published as provided by law, and the notice and a
5-21 copy of this Act have been furnished to all persons, agencies,
5-22 officials, or entities to which they are required to be furnished
5-23 under Section 59, Article XVI, Texas Constitution, and Chapter 313,
5-24 Government Code.

5-25 (b) The governor, one of the required recipients, has
5-26 submitted the notice and Act to the Texas Commission on
5-27 Environmental Quality.

5-28 (c) The Texas Commission on Environmental Quality has filed
5-29 its recommendations relating to this Act with the governor, the
5-30 lieutenant governor, and the speaker of the house of
5-31 representatives within the required time.

5-32 (d) All requirements of the constitution and laws of this
5-33 state and the rules and procedures of the legislature with respect
5-34 to the notice, introduction, and passage of this Act are fulfilled
5-35 and accomplished.

5-36 SECTION 3. (a) Section 9502.0311, Special District Local
5-37 Laws Code, as added by Section 1 of this Act, takes effect only if
5-38 this Act receives a two-thirds vote of all the members elected to
5-39 each house.

5-40 (b) If this Act does not receive a two-thirds vote of all the
5-41 members elected to each house, Subchapter C, Chapter 9502, Special
5-42 District Local Laws Code, as added by Section 1 of this Act, is
5-43 amended by adding Section 9502.0311 to read as follows:

5-44 Sec. 9502.0311. NO EMINENT DOMAIN POWER. The district may
5-45 not exercise the power of eminent domain.

5-46 (c) This section is not intended to be an expression of a
5-47 legislative interpretation of the requirements of Section 17(c),
5-48 Article I, Texas Constitution.

5-49 SECTION 4. This Act takes effect immediately if it receives
5-50 a vote of two-thirds of all the members elected to each house, as
5-51 provided by Section 39, Article III, Texas Constitution. If this
5-52 Act does not receive the vote necessary for immediate effect, this
5-53 Act takes effect September 1, 2021.

5-54 * * * * *