

By: Eiland

H.B. No. 2781

A BILL TO BE ENTITLED

1 AN ACT

2 relating to efforts by coastal counties to mitigate coastal erosion
3 and improve public access to public beaches; authorizing the
4 issuance of bonds by coastal counties.

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

6 SECTION 1. The legislature finds that:

7 (1) Texas has the third-longest coastline in the
8 United States;

9 (2) Texas beaches and bays are extremely popular as
10 visitor destinations, making beach tourism a multi-billion dollar
11 industry in the state;

12 (3) improved public access to and use of the public
13 beaches is needed to realize the full potential of these valued
14 natural resources;

15 (4) Texas must address long-term solutions to
16 beachfront erosion along developed areas adjacent to beaches and
17 inland bays of the Texas coast;

18 (5) Texas beaches suffer from the highest rate of
19 erosion in the country;

20 (6) many structures in Galveston and Brazoria counties
21 are at risk due to erosion over the next 30 years;

22 (7) public infrastructure as well as residential
23 dwellings that generate significant portions of the local property
24 tax base are threatened by erosion rates of up to 10 feet a year or

1 greater; and

2 (8) public works, such as dams and flood-control
3 projects on inland waterways and jetties, sea walls, and dykes
4 along the coast, and subsidence caused by withdrawal of water are
5 significant causes of erosion, leading to the need for public
6 assistance as an aid in mitigation.

7 SECTION 2. Chapter 33, Natural Resources Code, is amended
8 by adding Subchapter I to read as follows:

9 SUBCHAPTER I. COASTAL PROTECTION AND IMPROVEMENT

10 Sec. 33.701. DEFINITIONS. In this subchapter:

11 (1) "Bond" means any type of interest-bearing
12 obligation, including a bond, note, bond anticipation note,
13 certificate of participation, lease, contract, or other evidence of
14 indebtedness issued by a coastal county to pay the project costs of
15 a qualified project.

16 (2) "Coastal county" means a county that borders on
17 the Gulf of Mexico.

18 (3) "Coastal erosion" has the meaning assigned by
19 Section 33.601.

20 (4) "Coastal improvement project" means a project to
21 improve access to a public beach by:

22 (A) acquiring fee title to property or a right of
23 public access to a public beach; or

24 (B) constructing or maintaining public roads,
25 parking, and other facilities in aid of public access to or use of a
26 public beach.

27 (5) "Coastal protection project" means a project to

1 address or mitigate coastal erosion.

2 (6) "Coastal protection and improvement fund" means
3 the coastal protection and improvement fund created under Section
4 33.703.

5 (7) "County coastal protection and improvement fund"
6 means a county coastal protection and improvement fund created by a
7 coastal county under Section 33.705.

8 (8) "Project cost" means a cost or expense incurred in
9 relation to a qualified project, including the cost of:

10 (A) designing, engineering, acquiring,
11 constructing, maintaining, improving, extending, repairing,
12 replacing, monitoring, removing, or administering a qualified
13 project; or

14 (B) financing a qualified project, including the
15 cost of issuing bonds and the payment of principal, interest, and
16 redemption price.

17 (9) "Public beach" has the meaning assigned by Section
18 61.013.

19 (10) "Qualified agreement" means an agreement between
20 the land office and a coastal county in accordance with Section
21 33.707.

22 (11) "Qualified payment" means a payment by the
23 comptroller to a coastal county from the coastal protection and
24 improvement fund, as provided by this subchapter, that has been
25 approved in amount and qualification for payment by the land office
26 and the applicable coastal county.

27 (12) "Qualified project" means a coastal protection or

1 improvement project that qualifies for funding under Section
2 33.706.

3 Sec. 33.702. APPLICABILITY OF SUBCHAPTER TO CERTAIN
4 MUNICIPALITIES. The provisions of this subchapter relating to
5 coastal counties apply to a municipality if all or substantially
6 all of the Gulf beach within a coastal county is located within the
7 boundaries of the municipality.

8 Sec. 33.703. CREATION OF COASTAL PROTECTION AND IMPROVEMENT
9 FUND. (a) The coastal protection and improvement fund is created
10 as a trust fund outside the state treasury to be held by the Texas
11 Treasury Safekeeping Trust Company and administered by the
12 commissioner as trustee on behalf of the coastal counties.

13 (b) The comptroller shall deposit money in the fund as
14 provided by Section 156.2513, Tax Code.

15 (c) The commissioner shall allocate five percent of the
16 amount deposited in the fund to the land office to be used only to
17 pay the cost of administering any coastal protection and
18 improvement efforts undertaken under this subchapter and to support
19 a coastal monitoring program by The University of Texas Bureau of
20 Economic Geology.

21 (d) The commissioner shall allocate 95 percent of the amount
22 deposited in the fund for use by the coastal counties as provided by
23 this subchapter.

24 Sec. 33.704. USE OF COASTAL PROTECTION AND IMPROVEMENT
25 FUND. (a) The coastal protection and improvement fund shall be
26 used only to:

27 (1) make a qualified payment to a coastal county

1 sponsoring a qualified project under this subchapter; or

2 (2) make an equalization payment as provided by
3 Section 33.709.

4 (b) The commissioner may make a qualified payment from the
5 fund to a coastal county only if and to the extent that the coastal
6 county is sponsoring a project that qualifies for funding as
7 certified by the coastal county and the land office.

8 (c) The amount and timing of a qualified payment shall be
9 determined by agreement between the land office and the coastal
10 county sponsoring the project. The amount of a qualified payment
11 may not exceed the estimated project costs.

12 Sec. 33.705. COUNTY COASTAL PROTECTION AND IMPROVEMENT
13 FUND. (a) Each coastal county shall create a county coastal
14 protection and improvement fund.

15 (b) Each coastal county shall deposit any qualified payment
16 or equalization payment under Section 33.709 that it receives into
17 its county coastal protection and improvement fund and shall use
18 the money in the fund only to pay the project costs of a qualified
19 project as provided by this subchapter.

20 Sec. 33.706. PROJECTS THAT QUALIFY FOR FUNDING. To qualify
21 for funding under this subchapter, a project must:

22 (1) be sponsored by a coastal county;

23 (2) be located within the sponsoring coastal county
24 along or adjacent to the shore of the Gulf of Mexico, an inland bay,
25 or a connecting channel between the Gulf of Mexico and an inland
26 bay;

27 (3) be accessible by public roads or a common carrier

1 ferry;

2 (4) be identified and approved for funding by a
3 coastal county and the land office; and

4 (5) require more than \$2.5 million to complete, as
5 estimated by the land office.

6 Sec. 33.707. QUALIFIED AGREEMENT. (a) The land office and
7 a coastal county may enter into one or more agreements relating to a
8 qualified project and the payment of the associated project costs.
9 An agreement is governed by this subchapter.

10 (b) An agreement may provide that the commissioner will pay
11 to the coastal county an agreed amount from the coastal protection
12 and improvement fund over a term of years to be used by the coastal
13 county for a project that qualifies for funding under this
14 subchapter.

15 Sec. 33.708. QUALIFIED PAYMENT. (a) The commissioner
16 shall make an initial qualified payment to a coastal county based on
17 the land office's estimate of the expected project costs of any
18 qualified projects undertaken by that county in the fiscal year in
19 which the payment is made.

20 (b) To the extent that the aggregate of qualified payments
21 by the commissioner to a coastal county in a fiscal year exceeds the
22 project costs of qualified projects undertaken by the county during
23 that year, the commissioner shall recover the amount of the
24 overpayment by:

25 (1) requiring the county to remit the amount of the
26 overpayment to the commissioner for deposit in the coastal
27 protection and improvement fund; or

1 (2) taking a credit against qualified payments due
2 that county the following year or years.

3 (c) If a county that received an overpayment is not due
4 additional qualified payments the following year, the county shall
5 promptly remit the amount of the overpayment to the commissioner
6 for deposit in the coastal protection and improvement fund.

7 (d) Notwithstanding Subsection (b), the commissioner may
8 not take a credit against qualified payments due a county the
9 following year if the county needs the full amount of the qualified
10 payment that year to:

11 (1) pay the principal or interest on, or the
12 redemption price of, bonds issued to finance a qualified project;
13 or

14 (2) fund a reserve or other fund required by the
15 documents authorizing the issuance of bonds.

16 (e) The failure of a county to use the full amount of a
17 qualified payment in the fiscal year in which it is received does
18 not prejudice the right of the county to receive money from the
19 coastal protection and improvement fund in future years as may be
20 provided in the county's qualified agreement.

21 (f) A coastal county may not use a qualified payment as a
22 local match for funding under a state program.

23 (g) A coastal county may use a qualified payment as a local
24 match for funding under a federal program.

25 Sec. 33.709. EQUALIZATION PAYMENT. If in a fiscal year the
26 amount of revenue from hotel occupancy taxes imposed under Chapter
27 156, Tax Code, and received by the comptroller from hotels located

1 in a coastal county in a fiscal year is more than the average
2 revenue from those taxes from all coastal counties, the qualified
3 payments to that county in that fiscal year shall be 95 percent of
4 the amount that the county would otherwise be entitled to receive
5 under this subchapter. The remaining 5 percent of the amount that
6 the county would otherwise be entitled to receive shall be divided
7 among the coastal counties from which less-than-average hotel
8 occupancy tax revenue was received by the comptroller for that
9 fiscal year, in inverse proportion to the amount of hotel occupancy
10 taxes received from hotels in each of those counties. The
11 comptroller shall compute the average of the revenue from hotel
12 occupancy taxes received from hotels located in coastal counties
13 and the amount received from each coastal county and shall inform
14 the commissioner of those amounts.

15 Sec. 33.710. GENERAL POWERS OF COASTAL COUNTIES. (a) In
16 addition to all other powers that a coastal county has under general
17 law, a coastal county has the rights, powers, privileges,
18 authority, and functions conferred by the general law of this state
19 applicable to conservation and reclamation districts created under
20 Section 59, Article XVI, Texas Constitution, including those
21 conferred by Chapters 49 and 54, Water Code, that are necessary or
22 convenient to:

23 (1) the designing, engineering, acquiring,
24 constructing, improving, maintaining, extending, repairing,
25 replacing, monitoring, removing, administering, and financing of a
26 qualified project located in a coastal county; and

27 (2) the funding of a reserve or other fund relating to

1 bonds.

2 (b) A coastal county may issue bonds to pay the project
3 costs of a qualified project. For purposes of this subchapter, a
4 coastal county is an eligible issuer and a qualified project is an
5 eligible project within the meaning of Chapter 1371, Government
6 Code, and the provisions of Chapter 1371, Government Code, are
7 applicable to bonds issued by a coastal county.

8 (c) A coastal county may:

9 (1) enter into agreements with a public or private
10 person for the joint ownership, financing, or operation of a
11 qualified project;

12 (2) enter into contracts, leases, and agreements with,
13 and accept grants and loans from, any person to perform all acts
14 necessary for the full exercise of the powers vested in the county
15 on terms and for the term the county determines to be advisable;

16 (3) acquire property under a conditional sales
17 contract, lease, equipment trust certificate, or other form of
18 contract or trust agreement; and

19 (4) do anything necessary, convenient, or desirable to
20 carry out the powers expressly granted or implied by this
21 subchapter.

22 Sec. 33.711. AUTHORITY TO CONTRACT. (a) A coastal county
23 may contract with a state agency, municipality, county, or other
24 political subdivision of the state or any agency or instrumentality
25 of the federal government to implement a qualified project under
26 this subchapter. A contract under this section may:

27 (1) be for a period on which the parties agree;

1 (2) include terms on which the parties agree; and
2 (3) be payable from taxes, qualified payments, or any
3 other source of revenue available for that purpose.

4 (b) A coastal county may enter into a contract, lease, or
5 agreement with or make or accept grants and loans to or from:

6 (1) the United States;

7 (2) the State of Texas;

8 (3) a county, municipality, or other political
9 subdivision of the state;

10 (4) a public or private corporation; or

11 (5) any other person.

12 Sec. 33.712. FUNDS AVAILABLE FOR QUALIFIED PROJECTS. (a) A
13 coastal county may pay the project costs of a qualified project from
14 general or available funds, payments received from the land office,
15 including payments from the coastal protection and improvement
16 fund, contract reserves, ad valorem taxes, sales taxes, county
17 hotel occupancy taxes, the proceeds of bonds, or any combination of
18 those funds.

19 (b) Payments made by the commissioner under this subchapter
20 are in addition to any other funds to which the coastal county may
21 be entitled under any other state law or program.

22 (c) This subchapter does not preclude a contribution to a
23 qualified project from any state, federal, private, or other
24 source.

25 Sec. 33.713. BONDS ELIGIBLE FOR PURCHASE. Bonds issued by a
26 coastal county under this subchapter may be purchased by the Texas
27 Water Development Board for purposes authorized by Chapter 17,

1 Water Code.

2 Sec. 33.714. CONSTRUCTION OF SUBCHAPTER. This subchapter
3 shall be liberally construed to accomplish the purposes of
4 mitigation of coastal erosion and improvement of public access to
5 public beaches.

6 SECTION 3. Subchapter F, Chapter 156, Tax Code, is amended
7 by adding Section 156.2513 to read as follows:

8 Sec. 156.2513. ALLOCATION OF REVENUE TO CERTAIN COASTAL
9 COUNTIES. (a) Beginning September 1, 2005, not later than the last
10 day of the month following a calendar quarter, the comptroller
11 shall:

12 (1) compute the amount of revenue derived from the
13 collection of taxes imposed under this chapter at a rate of four
14 percent and received from hotels located in counties that border on
15 the Gulf of Mexico; and

16 (2) issue to the coastal protection and improvement
17 fund created under Section 33.703, Natural Resources Code, a
18 warrant drawn on the general revenue fund in the amount computed
19 under Subdivision (1).

20 (b) Notwithstanding Subsection (a)(2), for each fiscal year
21 the comptroller may not issue a warrant in an amount that exceeds
22 the aggregate of the amounts needed, as estimated by the General
23 Land Office, for qualified projects, as defined by Section 33.701,
24 Natural Resources Code, for that fiscal year. Any amount computed
25 by the comptroller in excess of the aggregate of the amounts needed
26 for qualified projects shall be deposited in the general revenue
27 fund.

1 (c) The money deposited in the coastal protection and
2 improvement fund under this section may be used only as provided by
3 Subchapter I, Chapter 33, Natural Resources Code.

4 SECTION 4. The commissioner of the General Land Office
5 shall make the first distribution of money from the coastal
6 protection and improvement fund on or after January 1, 2006.

7 SECTION 5. This Act takes effect immediately if it receives
8 a vote of two-thirds of all the members elected to each house, as
9 provided by Section 39, Article III, Texas Constitution. If this
10 Act does not receive the vote necessary for immediate effect, this
11 Act takes effect September 1, 2003.