

## **BILL ANALYSIS**

C.S.S.B. 1160  
By: Taylor  
Natural Resources  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Certain U.S. Army Corps of Engineers reports and studies, done in partnership with the General Land Office, offer solutions for the increasing frequency and intensity of storm surge flooding on the Texas Gulf Coast. However, there is no entity in Texas that has the authority to sign a project partnership agreement with the corps for projects to implement these solutions. In order to sign such an agreement, an entity must meet certain requirements. C.S.S.B. 1160 seeks to create the Gulf Coast Protection District as an entity that will meet these requirements, be eligible for federal funds, and manage applicable projects.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

C.S.S.B. 1160 amends the Special District Local Laws Code to create the Gulf Coast Protection District, which is composed of the territory in Chambers, Galveston, Harris, Jefferson, and Orange Counties. The bill requires the district's governing body by order to 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. The bill defines "protection and restoration study" as 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 U.S. Army Corps of Engineers, the draft version of which was issued in October 2020.

C.S.S.B. 1160 subjects the district to review under the Texas Sunset Act but prohibits the district from being abolished under the act and sets out related provisions.

C.S.S.B. 1160 sets out provisions relating to the district's board of directors.

C.S.S.B. 1160 authorizes the district to do the following, except as otherwise provided by the bill:

- establish, construct, extend, maintain, operate, or improve a coastal barrier or storm surge gate in the manner provided by Local Government Code provisions relating to seawalls and levees in coastal municipalities and counties for a county to establish, construct, extend, maintain, or improve a seawall;

- exercise the authority granted to counties to conduct any project described by those provisions;
- establish, construct, and maintain recreational facilities for public use and environmental mitigation facilities related to an applicable project;
- establish, construct, maintain, or operate a project recommended in the ecosystem restoration report or the protection and restoration study; and
- 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 an applicable project.

The bill does the following:

- makes specified tax and bond provisions relating to seawalls and levees in coastal municipalities and counties inapplicable to the district;
- sets out provisions relating to the implementation of a project with respect to an environmental remediation response action; and
- defines "ecosystem restoration report" as 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 U.S. Army Corps of Engineers in May 2017.

C.S.S.B. 1160 requires the district to hold an election in the manner provided by provisions generally applicable to all water districts to obtain voter approval before the district may impose a property tax or issue bonds payable from property taxes and caps the tax rate at five cents on each \$100 valuation. The bill authorizes the district, without an election, to issue bonds, notes, or other obligations secured by revenue other than property taxes. The bill authorizes the district to grant an abatement for a tax owed to the district in the manner provided by the Property Redevelopment and Tax Abatement Act.

C.S.S.B. 1160 requires the district to 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 do the following:

- describe the district's financial condition and operations during the preceding year;
- propose a budget for the following year; and
- describe generally the work proposed for the following year.

C.S.S.B. 1160 authorizes the district to 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 bill requires the district to exercise the power of eminent domain in the manner provided by statutory eminent domain provisions and prohibits the district from exercising the power of eminent domain to acquire property owned or operated by a port authority, navigation district, drainage district, or common carrier railroad. These provisions of the bill take effect only if the bill receives a two-thirds vote of all the members elected to each house. If the bill does not receive such a vote, the bill prohibits the district from exercising the power of eminent domain.

C.S.S.B. 1160 sets out provisions relating to the following:

- requirements for certain projects, including a project's maintenance and operation plan, partnerships with private entities to share in a project's costs, and providing matching funds to the U.S. Army Corps of Engineers to implement a project;
- acquisition and disposition of property and rights for the exercise of the district's functions;
- costs of the relocation or alteration of certain property, including electric transmission lines or telephone properties, facilities, or pipelines;
- rights-of-way and easements for any of the district's purposes and the requirement for the district to restore a used facility to its previous condition;
- authority of the district to enter into cooperative and interlocal agreements for specified purposes;

- authority of the district to enter into contracts and execute instruments to exercise its powers, rights, duties, and functions, the requirements and terms for certain contracts, certain partnership agreements with the U.S. Army Corps of Engineers, the eligible sources for payment of a contract, and the authority of a public agency or political subdivision to contract with the district and to fix, charge, and collect related impact fees and utility charges;
- the superseding order in a conflict between an order or action of the district and an order or action of another political subdivision; and
- requirements for the district to develop certain barrier closure procedures if applicable.

**EFFECTIVE DATE**

On passage, or, if the bill does not receive the necessary vote, September 1, 2021.

**COMPARISON OF SENATE ENGROSSED AND SUBSTITUTE**

While C.S.S.B. 1160 may differ from the engrossed in minor or nonsubstantive ways, the following summarizes the substantial differences between the engrossed and committee substitute versions of the bill.

The substitute includes a provision not included in the engrossed authorizing the district to grant an abatement for a tax owed to the district in the manner provided by the Property Redevelopment and Tax Abatement Act.

The substitute includes provisions not included in the engrossed that do the following:

- require all necessary relocation, raising, lowering, rerouting, or change in grade or alteration of construction to be done at the sole expense of the district 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 line or telephone properties, facilities, or pipelines;
- define "sole expense" as 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;
- establish that 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;
- require the district to restore a used facility to its previous condition as nearly as possible at the sole expense of the district; and
- authorize the district to acquire, sell, lease, convey, or otherwise dispose of a right-of-way or easement under terms and conditions determined by the district.

The substitute includes language not included in the engrossed establishing that an order or action of the Harris County Flood Control District relating to the operation or maintenance of a Gulf Coast Protection District project supersedes an order or action of the district to the extent of any conflict.