

SUBJECT: Creating the Gulf Coast Protection District

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 10 ayes — T. King, Harris, Bowers, Kacal, Lucio, Paul, Price, Ramos,  
Walle, Wilson

0 nays

1 absent — Larson

SENATE VOTE: On final passage, April 14 — 31-0

WITNESSES: For — Bob Mitchell, Bay Area Houston Economic Partnership; Sally Bakko, City of Galveston; Jed Webb, Galveston County; Michel Bechtel, Harris County Mayors and Councils Association; (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies of Texas; Ron Assad, Gallant Builders; Ryan Brannan, Galveston Park Board of Trustees; Gina Spagnola, Galveston Regional Chamber of Commerce; Taylor Landin, Greater Houston Partnership; Kinnan Golemon, Gulf Coast Authority; Tammy Narvaez, Harris County Commissioners Court; Chris DeVries, Standard Steel Supply; Megan Herring, Texas Association of Business; Mark Vickery, Texas Association of Manufacturers; George Kelemen, Texas Retailers Association; Wayne Smith)

Against — None

On — Hector Rivero, Texas Chemical Council; Anthony Williams, Texas General Land Office; Timothy Vail, U.S. Army Corps of Engineers

DIGEST: CSSB 1160 would create the Gulf Coast Protection District and establish its purposes, functions, and governance.

**Definitions.** "Ecosystem restoration report" would mean 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 (USACE) in May 2017.

"Protection and restoration study" would mean 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 USACE, the draft version of which was issued in October 2020.

**Territory.** The district would be composed of the territory in Chambers, Galveston, Harris, Jefferson, and Orange counties and territory annexed to the district. The district would have to annex the territory of a county included in the protection and restoration study at the request of that county's commissioners court.

**Sunset review.** The district would be subject to review, but could not be abolished, under the Texas Sunset Act. The review would be conducted as if the authority were a state agency scheduled to be abolished September 1, 2033, and every 12th year after that.

The limited review of the district would have to assess the district's governance, management, operating structure, and compliance with legislative requirements. The district would have to promptly pay the cost incurred by the Sunset Advisory Commission in performing the review, as determined by the commission, and could not be required to conduct a management audit under the Texas Administrative Code.

**Governance.** The district would be governed by a board of 11 directors serving staggered four-year terms. The commissioners courts of the five counties originally included in the district would appoint one director each. The governor, with the advice and consent of the Senate, would appoint the other six directors, including:

- two directors to represent Harris County, in addition to the member

- appointed by the county's commissioners court;
- one director to represent a municipality in the district;
  - one director to represent ports;
  - one director to represent industry; and
  - one director to represent environmental concerns.

The board would elect a presiding officer from among the directors to serve for no more than two consecutive terms of two years each.

To qualify for office, a director would have to be registered voter residing in the district. If the director was appointed to represent a county or municipality, the person would have to be a resident of the applicable county or municipality. In making appointments, the governor would have to ensure that residents of a single county did not make up a majority of the directors.

Individuals who in the preceding 24 months had had an interest in or had been employed by or affiliated with a person who had submitted a bid or entered into a contract for a district project would not be eligible to serve as a director and could not be employed or appointed by the district. Directors would not be allowed to acquire a direct or indirect interest in a district project.

Directors would not be entitled to compensation but could be reimbursed for necessary board-related expenses.

Any transaction of district business would require a majority vote by the board. The governor would appoint a temporary executive director for the district to serve until the board members hired a director.

**Powers and duties.** The district could:

- establish, construct, extend, maintain, operate, or improve a coastal barrier or storm surge gate in the manner provided by Local Government Code statutes governing seawalls and levies in coastal municipalities and counties;

- exercise the authority granted to counties to conduct any project described by those statutes;
- establish, construct, and maintain recreational facilities for public use and environmental mitigation facilities related to certain district projects;
- 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 resulted from the design or construction of a project described above.

Before implementing such projects, the district would have to consult with local, state, and federal entities to determine whether an environmental remediation response action was anticipated or located near or at the proposed location of the project. If implementation of a project disrupted such an action, the district would have to:

- consult with the responsible party of the action; and
- coordinate implementation of the project in a manner that did not disrupt the action.

**Taxes and bonds.** The district would be required to hold an election in the manner provided by statute governing general law districts to obtain voter approval before imposing a property tax or bond payable from property taxes. The maximum property tax rate would be 5 cents on each \$100 valuation.

The district could issue bonds, notes, or other obligations not payable by property taxes without holding an election. The district could grant an abatement in the manner provided by the Property Redevelopment and Tax Abatement Act.

**Agreements and contracts.** The district could enter into:

- cooperative agreements with political subdivisions, state agencies, and federal agencies for purposes related to district projects;
- contracts for any term necessary or convenient to the exercise of district functions; and
- partnerships with the U.S. Army Corps of Engineers for a projects recommended in the ecosystem restoration report or the protection and restoration study.

If the district entered into an agreement with another entity, including the Army Corp of Engineers, to implement a project recommended in the ecosystem restoration report or the protection and restoration study, the district:

- would have to develop a maintenance and operation plan for the project;
- could enter into a partnership with a private entity to fund a local share of the cost of the project; and
- could use any available money to provide matching funds to the Army Corps of Engineers to implement the project.

The bill would provide for specific authorizations regarding contract funding by a public agency or political subdivision that entered into a contract with the district. Certain Government Code provisions governing contracting and delivery procedures for construction projects would apply to the district's public work contracts. The district also would have to comply with the Professional Services Procurement Act.

The district could acquire and use property, permits, licenses, and rights related to the exercise of district functions and purposes. The district would bear all expenses related to alterations, replacements, or restorations involved in the exercise of such rights. The district also would have all necessary or useful rights-of-way and easements for its purposes.

**Other provisions and requirements.** If the district implemented a project to create a coastal barrier, the district would have to develop closure procedures in conjunction with each affected entity as specified in the bill.

For the Texas City Channel, the district would have to develop closure procedures with any common carrier terminal railroad providing rail and maritime terminal services to the users of the navigation channel.

To the extent of any conflict, an action or order of the district would be superseded by any order or action related to a district project by a river authority, port authority navigation district, drainage district, or the Harris County Flood Control District.

The district could exercise the power of eminent domain to acquire interest in any type of property if necessary or convenient for district functions. The district could not use eminent domain to acquire property owned or operated by a port authority, navigation district, drainage district, or common carrier railroad. If the bill was passed without receiving a vote of two-thirds of all members of each house, the district would not have the power of eminent domain.

**Report.** The district would be required annually to 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 was located. The report would have to:

- 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.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS  
SAY:

CSSB 1160 would create a special district that could manage various projects and receive substantial federal funding to protect the Texas Gulf Coast from the devastating effects of storm surge flooding. Protecting the coast from storm surge is important for safety, economic, environmental, and national security reasons. Since the Gulf Coast region is responsible

for a significant portion of the state's GDP and storm surge can significantly interfere with the movement of essential goods throughout the state, the district would serve the needs of all Texans. Protecting against storm surge would avoid the negative environmental impacts of damages to the area's petrochemical plants and would help keep the major U.S. military port in Beaumont secure.

Currently, there is no local entity that can participate as a partner in plans by the U.S. Army Corps of Engineers (USACE) to construct a protective coastal barrier on the Gulf Coast. CSSB 1160 would create such an entity and enable the coastal barrier plan and other projects, which would ultimately save Texans billions of dollars in potential damages due to storm surge.

While the bill would create a mechanism to facilitate USACE projects, it would not endorse any specific design element. The particulars of the coastal barrier project and others would continue to be refined as the Corps worked with local partners through the design and build process. Further, it is likely that the project would receive a direct federal appropriation that would significantly defray costs and speed up implementation.

The bill would include sufficient limits on the share of district project costs that would be borne by local citizens and businesses. In order to partner with USACE, the district would be required to have taxing authority, but there would be ample opportunity for local stakeholders to question any proposed bond or assessment. Any property tax would have to be approved by district voters and would be equitably levied as required by the U.S. Constitution. There also would be an absolute cap on property taxes for the district.

CRITICS  
SAY:

CSSB 1160 would facilitate the U.S. Army Corps of Engineers' plan for a Gulf Coast barrier that could be expensive for counties in the district and take too long to complete, especially since there are more cost-effective alternatives to a gate or barrier. The state should require industrial facilities that pose a risk to coastal communities to fortify themselves

against storms. Adequate protection against storm surge could be achieved by a combination of moving people out of harm's way, flood proofing, elevation, and other non-structural solutions.

OTHER  
CRITICS  
SAY:

While the district to be created and the projects it would facilitate are needed, CSSB 1160 could be improved by including additional safeguards to ensure that any financial burden borne by local stakeholders, especially industrial entities, was feasible and equitable.