

BILL ANALYSIS

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S.B. 2265
By: Taylor, Larry
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Texas has been the nation's top exporting state for the last 14 consecutive years, with an estimated \$650 billion in trade in 2015 alone. The Gulf Coast region of this state plays a crucial role in its prosperity, as it is home to not only the largest concentration of petrochemical manufacturing and refining facilities in the United States, but also to the federal Strategic Petroleum Reserve and a vital supply of aviation jet fuel for military and commercial use.

In 2008, damage from Hurricane Ike cost almost \$30 billion and caused over 100 deaths in the Gulf Coast region. Interested parties in the state have since been working to develop a coastal barrier system that would protect the residents and businesses along the Gulf Coast from destructive storm surge.

The Joint Interim Committee to Study a Coastal Barrier System, created by this legislature in 2013, has met the past two interims to collect information on these proposals and develop recommendations for the legislature. S.B. 2265 considers the joint committee's recommendations and supports steps needed to be taken to build a coastal barrier system.

S.B. 2265 expands the territory of the Gulf Coast Waste Disposal Authority (authority) and grants it the powers necessary to operate and maintain a coastal spine. S.B. 2265 also creates an advisory board made up of state appointees to advise the authority board during construction and on matters related to operations and maintenance. Provisions in S.B. 2265 are fully contingent on the federal government providing funding for the construction of a coastal spine and have no effect without such funding.

As proposed, S.B. 2265 amends current law relating to the Gulf Coast Waste Disposal Authority and expanding the territory and powers of the authority and authorizes fees and the issuance of bonds.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 1.01, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 1.01. PURPOSE. Provides that the purpose of this Act is to:

- (1) establish an instrumentality for developing and effectuating for the upper Gulf Coast region in this state, rather than for Chambers, Galveston, and Harris Counties, a regional water quality management program including provision of waste disposal and water systems and regulation of disposal of wastes; and
- (2) establish an instrumentality for operating and maintaining a coastal barrier constructed with federal funds to protect the upper Gulf Coast region in this state from hurricane-induced storm surges.

SECTION 2. Amends Section 1.02, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 1.02. FINDINGS AND DECLARATION OF POLICY. Provides that the legislature finds that, rather than provides that it is hereby found and declared that:

(1) the quality of waters in the upper Gulf Coast region in this state is materially affected by the disposal of wastes, rather than the quality of waters in Chambers, Galveston, and Harris Counties is materially affected by the disposal of wastes throughout those counties;

(2) regional approaches to studying water pollution in that region, rather than in these counties, and to taking certain actions would be far more effective than efforts on a county-wide, city-wide, or smaller scale. Makes nonsubstantive changes to this subdivision;

(3) through (5) makes nonsubstantive changes to these subdivisions; and

(6) the territory in the upper Gulf Coast region in this state is vulnerable to damage from hurricane-induced storm surges and that granting the Gulf Coast Waste Disposal Authority (authority) the power to operate and maintain a coastal barrier constructed with federal funds would advance the public purpose of protecting the upper Gulf Coast region in this state from hurricane-induced storm surges.

SECTION 3. Amends Section 1.03(a), Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by adding Subdivision (24) to define "coastal spine."

SECTION 4. Amends Section 2.02, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as follows:

Sec. 2.02. DESCRIPTION. (a) Provides that, except as provided by Subsection (b) of this section, the authority's territory consists of Chambers, Galveston, and Harris Counties, rather than provides that the authority's territory consists of the area inside the boundaries of Chambers, Galveston, and Harris Counties.

(b) Provides that on the date the authority adopts a resolution under Section 3A.01 of this Act stating that the requirements of that section have been met, the authority's territory consists of Brazoria, Chambers, Galveston, Harris, Jefferson, and Orange Counties.

(c) Provides that the Legislature declares that all the area included in the authority's territory, rather than district, will be benefited by the exercise of the powers conferred by this Act.

SECTION 5. Amends Section 2.03, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by amending Subsections (b) and (e) and adding Subsections (f), (g), and (h), as follows:

(b) Provides that, except as provided by Subsection (g) of this section, the board of directors of the authority (board) consists of nine voting directors, rather than provides that the board consists of nine directors.

(e) Requires the municipalities waste disposal councils of Chambers, Galveston, and Harris Counties each to appoint one director, rather than requires the municipalities waste disposal council of that county, hereinafter created, to appoint one director from each county within the district.

(f) Authorizes the board to appoint one or more persons to the board to serve as nonvoting directors for any term.

(g) Provides that, on the date the authority adopts a resolution under Section 3A.01 of this Act stating that the requirements of that section have been met, the board consists of eighteen voting directors.

(h) Requires the appointment councils of Brazoria, Jefferson, and Orange Counties each to, if the board consists of eighteen voting directors, as provided by Subsection (g) of this section, in addition to appointments made under Subsections (c), (d), and (e) of this section, appoint one voting director.

SECTION 6. Section 2.05, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by amending Subsections (a) and (c) and adding Subsections (a-1), (a-2), (c-1), (c-2), and (g), as follows:

(a) Requires that a director's term of office be two years, commencing September 1 of the year in which the director is appointed, rather than commencing September 1 of the year of his appointment, except that four directors of the first board are required to have one-year terms, in order to obtain staggered terms. Deletes existing text requiring the directors, when the directors have been appointed, to draw lots to determine which have one-year terms.

(a-1) Requires that the directors' terms, if the board has nine voting directors, as provided by Section 2.03(b) (relating to the board consisting of nine directors) of this Act, be staggered so that the terms of not more than five directors expire in a single year.

(a-2) Requires that the directors' terms, if the board has eighteen voting directors, as provided by Section 2.03(g) of this Act, be staggered so that the terms of not more than 10 directors expire in a single year.

(c) Makes nonsubstantive changes to this subsection.

(c-1) Provides that, on the date the authority adopts a resolution under Section 3A.01 of this Act stating that the requirements of that section have been met, there are created:

(1) the Appointment Council of Brazoria County, composed of the mayors of the municipalities in Brazoria County;

(2) the Appointment Council of Jefferson County, composed of the mayors of the municipalities in Jefferson County; and

(3) the Appointment Council of Orange County, composed of the mayors of the municipalities in Orange County.

(c-2) Provides that the sole function of the councils created under Subsections (c) and (c-1) of this section is the selection of directors, rather than requires that the sole function of these councils shall be the selection of directors. Requires each council to elect a chairman, vice-chairman, and secretary, and adopt such bylaws relating to the conduct of its affairs as the council shall determine to be necessary. Deletes existing text requiring the temporary chairman of each council to be the mayor of the county seat. Deletes existing text requiring each municipalities waste council, promptly after this Act becomes effective, to meet at a time and place designated by its temporary chairman after notice of the time and place of that meeting has been mailed by the temporary chairman to each member of the council at least 48 hours prior to the time fixed for the meeting.

(g) Provides that Subsection (f) of this section governs the appointment of directors by appointment councils created under Subsection (c-1) of this section in the same way that Subsection (f) of this section governs appointments by municipal waste disposal councils.

SECTION 7. Amends Subchapter 2, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by adding Section 2.17, as follows:

Sec. 2.17. **ADVISORY BOARD.** (a) Requires the Coastal Spine Advisory Board (advisory board) to advise the authority board during the construction of a coastal spine that is to be operated and maintained by the authority on matters related to the operation and maintenance of the coastal spine.

(b) Provides that the advisory board is not required to be appointed or to meet unless the authority has adopted a resolution under Section 3A.01 of this Act stating that the requirements of that section have been met.

(c) Provides that the advisory board is composed of seven certain members.

(d) Provides that the advisory board is not authorized to act on behalf of the authority without the approval of the authority board.

(e) Requires the advisory board to select from among its members a presiding officer and adopt provisions to determine the terms of board members and stagger the members' terms and other provisions necessary to administer the board.

(f) Provides that an advisory board member is not entitled to reimbursement of expenses or to compensation.

(g) Authorizes the advisory board to appoint one or more persons to the advisory board to serve as nonvoting members.

(h) Provides that, if the authority board determines that construction of a coastal spine is complete, the advisory board is abolished as of the date the authority board makes the determination, and requires the authority board to notify each appointing person and entity named in Subsection (c) of this section that the advisory board is abolished.

SECTION 8. Amends Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by adding Subchapter 3A, as follows:

SUBCHAPTER 3A. COASTAL SPINE

Sec. 3A.01. **COASTAL SPINE CONTINGENT ON FEDERAL FUNDING AND FINDING OF SUFFICIENT REVENUE.** Prohibits the authority from beginning to operate or maintain a coastal spine, exercise a power granted to the authority under this subchapter, or otherwise exercise a power granted to the authority by this Act in support of the operation or maintenance of a coastal spine unless certain criteria are met.

Sec. 3A.02. **GENERAL POWERS AND DUTIES.** (a) Provides that the authority is authorized to operate and maintain a coastal spine in the manner provided by this subchapter.

(b) Authorizes the authority to exercise a power granted to the authority by Subchapter 3 of this Act to support the operation and maintenance of a coastal spine.

(c) Provides that a duty assigned to the authority under Subchapter 3 of this Act that relates to the authority's duty to develop and effectuate a regional water quality management program does not apply to the operation or maintenance of a coastal spine by the authority unless otherwise provided by this subchapter.

(d) Authorizes a coastal spine to be operated and maintained inside or outside the territory of the authority.

(e) Authorizes the authority to convey material and rights produced or acquired during the operation or maintenance of a coastal spine, including spoil, dredged material, and development rights.

(f) Authorizes the authority to apply for a permit for an activity related to the operation or maintenance of a coastal spine and seek other necessary approvals for the operation or maintenance of a coastal spine from a state or federal agency.

Sec. 3A.03. USE OF FUNDS FOR COASTAL SPINE. Authorizes the authority to operate and maintain a coastal spine using money available to the authority, including tax revenue, only if the money is not related to the authority's waste disposal, pollution control, wastewater treatment, water reuse, water systems, or solid waste operations.

Sec. 3A.04. MASTER PLAN. (a) Requires that the authority develop, prepare, and revise, as needed, a master plan for the operation and maintenance of a coastal spine, in addition to the master plan developed under Section 3.10 of this Act.

(b) Requires that the authority submit the first master plan and any revised versions of the master plan to the General Land Office (GLO) before implementing the plan. Authorizes GLO to approve or disapprove a plan submitted under this section. Provides that, if GLO does not issue a decision on a plan submitted under this section before the 31st day after the date GLO receives the plan, the plan is considered to be approved.

Sec. 3A.05. ACQUISITION. Authorizes the authority to purchase, lease, acquire by gift, maintain, use, and operate facilities and systems related to the operation or maintenance of a coastal spine and acquire permits, licenses, and rights related to the operation or maintenance of a coastal spine.

Sec. 3A.06. CONTRACTS. (a) Authorizes the authority to make contracts and execute instruments that are necessary or convenient to the exercise of its powers, rights, duties, and functions under this subchapter. Provides that the authority is authorized to execute all appropriate documents and instruments in connection with the contracts.

(b) Authorizes the authority to enter into contracts for a purpose related to the operation or maintenance of a coastal spine in the manner that a municipal management district may enter into contracts under Chapter 375 (Municipal Management Districts in General), Local Government Code, as amended.

(c) Provides that the authority and all persons are authorized to enter into contracts with respect to the operation or maintenance of a coastal spine.

(d) Provides that a public agency or local government is authorized to take certain actions.

(e) Authorizes the authority and another governmental entity to enter into a contract for the operation or maintenance of a coastal spine in the same way that a political subdivision may contract with another governmental entity under Chapter 472 (Miscellaneous Provisions), Transportation Code, to construct or maintain a road or highway.

(f) Authorizes a contract related to the operation or maintenance of a coastal spine to be for any term if the contract is approved by GLO, notwithstanding Section 3.23(a) of this Act.

Sec. 3A.07. AGREEMENTS. (a) Authorizes the authority to enter into a cooperative agreement with a political subdivision, state agency, or federal agency for a purpose related to the operation or maintenance of a coastal spine.

(b) Authorizes the authority to enter into an interlocal agreement with a political subdivision for a purpose related to the operation or maintenance of a coastal spine.

Sec. 3A.08. POWER TO REGULATE NAVIGATION. (a) Provides that the authority has the powers provided to navigation districts by Sections 60.043 (Power Over Waterways) and 62.118 (Cooperation with United States), Water Code, as amended.

(b) Authorizes the authority to control and distribute storm water and floodwater of rivers and streams in aid of navigation, in the manner provided by Chapter 62, Water Code, as amended, for navigation districts.

(c) Provides that, for a purpose related to operating or maintaining a coastal spine, an order or action of the authority supersedes an order or action of a navigation district.

Sec. 3A.09. DEVELOPMENT CORPORATION POWERS. (a) Authorizes the authority to act as a unit, as defined by Section 501.002 (Definitions), Local Government Code, to create a development corporation for a purpose related to the operation or maintenance of a coastal spine.

(b) Provides that this section does not authorize the authority to impose a sales tax.

Sec. 3A.10. LOCAL GOVERNMENT CORPORATION POWERS. (a) Authorizes the board by resolution to authorize the creation of a nonprofit corporation to assist and act for the authority in operating or maintaining a coastal spine.

(b) Provides that the nonprofit corporation has each power of and is considered to be a local government corporation created under Subchapter D (Local Government Corporation), Chapter 431 (Texas Transportation Corporation Act), Transportation Code, as amended, including for the purposes of Section 431.105 (Contractual Authority), Transportation Code, and is authorized to implement a project related to the operation or maintenance of a coastal spine.

(c) Requires that the board appoint the board of directors of the nonprofit corporation. Requires that the board of directors of the nonprofit corporation serve in the same manner as the board of directors of a local government corporation created under Subchapter D, Chapter 431, Transportation Code, as amended.

SECTION 9. Amends Section 5.01(a), Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as follows:

(a) Provides that, for the purpose of carrying out any power or authority conferred by this Act, including the expense of preparing the master plan and the payment of engineering and other expenses in connection therewith, the authority is empowered to issue its bonds in three general classes:

(1) makes no changes to this subdivision;

(2) bonds secured by a pledge of all or part of the revenues accruing to the authority, including those received from, rather than including without limitation those received from:

(A) through (D) creates these paragraphs from existing text and makes nonsubstantive changes;

(E) a contract entered into with a city or other governmental agency, authority, or district related to the operation or maintenance of a coastal spine; and

(F) makes a nonsubstantive change; and

(3) makes no changes to this subdivision.

SECTION 10. Amends Subchapter 5, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, by adding Section 5.10, as follows:

Sec. 5.10. CATASTROPHE BONDS. Authorizes a corporation created by the authority under Section 3A.09 or 3A.10 of this Act to issue a security with a condition that the corporation's obligation to pay interest or repay the principal is deferred or forgiven if the corporation suffers a loss from a particular predefined catastrophe.

SECTION 11. Requires that the initial directors from Brazoria, Jefferson, and Orange Counties under Sections 2.03 and 2.05, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as amended by this Act, if the territory of the Gulf Coast Waste Disposal Authority is expanded, draw lots to determine which director or directors will serve one-year terms and which will serve two-year terms to fulfill the staggered terms requirement of Section 2.05, Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as amended by this Act.

SECTION 12. Requires that the temporary chairman of each appointment council created under Section 2.05(c-1), Chapter 409, Acts of the 61st Legislature, Regular Session, 1969, as added by this Act, for Brazoria, Jefferson, and Orange Counties, if the territory of the Gulf Coast Waste Disposal Authority is expanded, be the mayor of the county seat for that county. Requires that each council meet at a time and place designated by the temporary chairman to elect a chairman, vice-chairman, and secretary and adopt bylaws relating to the conduct of council affairs promptly after the date the councils are created.

SECTION 13. Provides that all requirements of the constitution and the 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 14. Effective date: upon passage or September 1, 2017.