
VI. User Fees, Taxes, and Alternative Funding Mechanisms.

Introduction

Unlike grants and loans, user fees and taxes can provide a more stable source of revenue to fund ongoing programs. State agencies such as the TNRCC and the TPWD collect user fees to fund programs related to the fees charged. Spending of the revenues from these user fees is usually restricted by legislation. Local governments can use fees and taxes to provide a stable source of revenue to fund ongoing programs such as operation and maintenance of stormwater systems, wastewater treatment facilities, and water and sewer infrastructure.

When designing a method for financing new activities, it is always best to use existing financing mechanisms rather than create new ones. This is because no start-up funding is required for existing mechanisms, and no new administrative infrastructure needs to be created. In addition, using existing mechanisms is less likely to require legislation or voter approval, and if either is required, the existing mechanism, if it has been successful in the past, will be more easily accepted.

Several state and local funding mechanisms have been recommended for study by the Galveston Bay Management Conference. State fees are discussed first, followed by bonds, local fees, alternative mechanisms, and taxes. This section provides a menu of alternative funding mechanisms that can be used by the state or by the local governments to collect revenues from users of the bay. Local governments can use these mechanisms to finance their participation in implementing *The Galveston Bay Plan*. Mechanisms are analyzed here in terms of their ability to contribute to the financing of Galveston Bay Plan implementation. Criteria used to determine their appropriateness include the distribution of benefits and costs of each method, ease of administration, the legal authorization required, the potential revenues that can be derived from the mechanism, and the stability of those revenues.

In this section, the following funding mechanisms are examined:

State Fees

- TPWD User Fees
- TNRCC Waste Treatment Inspection Fees
- TNRCC Water Quality Assessment Fees (Clean River Act Permit Fees)
- Coastal Protection Fees (Crude Oil Import Fees)

Bonds

- Revenue Bonds

- General Obligation Bonds

Local Fees

- Drainage Fees

Development Based Fees and Mechanisms

- Impact Fees
- Access Fees for Public Services
- Direct Development of Infrastructure
- Offset Requirements
- Mitigation Banking

Incentive and Non-Regulatory Mechanisms

- Ad valorem tax incentives
- Adopt-a-Marsh Programs

Environmental Taxes

- Marine Fuels Taxes
- Dedicated Real Estate Transfer Tax

Existing Local Taxes

Fines

State Fees

TPWD User Fees. The TPWD uses revenues from user fees it collects from boater registration fees, hunting and fishing licenses, and recreational fishing stamps, to fund conservation and recreation programs, and parks and wildlife law enforcement. It dedicates revenues from migratory bird stamps to habitat acquisition. According to Jones (1993), In FY 1992, the Texas Parks and Wildlife collected more than \$40 million in revenue from the following user fees:

- Boat registration fees;
- Hunting licenses;
- Recreational fishing licenses;
- Salt Water Stamps;
- Trout Stamps;
- Waterfowl Stamps; and
- White Wing Dove Stamps.

Fund Nine. Licenses and stamps are issued to residents and non-residents on an annual or temporary basis. The revenues from most of these fees are deposited in Fund Nine at the state treasury, which is dedicated by the Fish

and Wildlife Division for conservation activities, outdoor law enforcement and water safety activities. Fund Nine also receives revenues from subscriptions to the Parks & Wildlife Magazine, federal grants, the state sales and use tax, and the cigarette excise tax. Fund Nine receives more than \$80 million in revenues annually. This fund can be used to contribute to the TPWD's costs of implementing conservation activities related to species population protection recommended in *The Galveston Bay Plan*.

Habitat Acquisition Fund. Revenues from the waterfowl stamps and white dove stamps are not deposited into Fund Nine. Instead, they are deposited in a separate fund dedicated to habitat acquisition. In 1992, these stamps generated approximately \$1 million in revenues for habitat acquisition. This fund could contribute to habitat acquisition and species population protection actions recommended in *The Galveston Bay Plan*, and may also fulfill matching requirements of federal wetland grant programs such as the National Coastal Wetlands Conservation Grant Program.

TNRCC Fees. TNRCC charges several fees to fund its water quality protection and enhancement programs. Application fees charged by TNRCC are strictly cost recovery fees to pay for processing permit applications, and so are not considered here as potential sources of revenue for *The Galveston Bay Plan*. The same is true for Certificate of Competency Fees, which pay for waste water treatment operator certification training.

The Financial Planning Committee recommended study of the possibility of establishing NPDES discharge permit fees as a possible source of revenue for implementing *The Galveston Bay Plan*. A surcharge on NPDES permits is not currently feasible in Texas because, in Texas, EPA administers the NPDES permit program. The EPA does not charge an NPDES permit fee. According to staff at EPA Region VI's Permit Section, even if the EPA did charge a fee, revenues would go to the federal general fund, not to the EPA or the states.

Under the Federal Clean Water Act, an NPDES permit is required for all discharges of wastewater into surface waters. According to Hadden and Riggan (1992), there are more than 1,000 permitted facilities in the Bay Area. This includes all point source dischargers, including industrial and municipal dischargers. NPDES permits are required for any project involving the construction, alteration, and/or operation of any sewer system, treatment works, or disposal system and certain stormwater runoff which could result in a discharge into surface waters.

The Federal Clean Water Act allows the EPA to delegate NPDES responsibility to state agencies, if the state meets certain minimum requirements. According to Hadden and Riggan (1992), "Currently, Texas does not have NPDES authority because it does not meet federal guidelines for certain of the administrative and legal arrangements regarding the program." One barrier to full NPDES delegation from EPA to the TNRCC is that the Texas Railroad Commission administers the state permit program

for oil and gas dischargers. Other barriers include issues of conflict of interest, citizen participation in the enforcement process, and environmental impact statement requirements.

In North Carolina, a state which has full authority to administer the NPDES Permit Program, NPDES permits have associated permit application processing fees and annual administering and compliance monitoring fees. The fees, which range from \$120 to \$1,500, are based on the type of facility, which ranges from single family dwelling to major industrial.

In the event that EPA delegates NPDES permit authority to Texas, the Texas Administrative Code states that some of the revenues from the Waste Treatment Inspection Fees will be used to administer the NPDES program. According to Texas Administrative Code 31 TAC 305.501, revenues from Waste Treatment Inspection Fees will continue to be used to inspect waste treatment facilities, and to enforce Chapter 26 of the Texas Water Code and permits governing waste discharges and waste treatment facilities.

Waste Treatment Inspection Fees. In lieu of NPDES fees, the TNRCC could raise revenues by placing a surcharge on Waste Treatment Inspection Fees paid by facilities in the GBNEP region. Revenues from Waste Treatment Fees are deposited into the state's Water Quality Fund. Certificate of Competency Fees, paid by waste treatment plant operators, and Water Quality Assessment Fees, also known as 818 or Clean River Act Fees, are also deposited into this fund.

Revenue from the fees was previously deposited into the Waste Treatment Inspection Fee Fund, also known as Fund 519. This fund is now a subset of the Water Quality Fund. Revenue from waste treatment inspection fees and Certificate Fees supplements other funds appropriated by the legislature to cover the state's costs of administering the program, inspecting waste treatment facilities, issuing and renewing certificate of competence to facility operators, and training and testing facility operators.

Waste Treatment Inspection Fees are explained in Chapter 26.0291 of the Texas Water Code. The fee schedule is further explained in Chapter 31, Subchapter M Chapters 305.41, 305.501, 305.502, and 305.503 of the Texas Administrative Code.

The Texas Administrative Code 31 TAC Subchapter M, 305.501 explains that a waste treatment facility's annual Waste Treatment Inspection Fee is based on the discharge parameters of the facility's permit, and ranges from \$150 to \$11,000. The fee is capped at \$11,000 per facility per year.

According to the Texas Comptroller of Public Accounts, approximately \$5.3 million in Waste Treatment Inspection Fees was collected from Texas facilities in 1993. According to TNRCC staff, 40 to 50 percent of the facilities required to pay Waste Treatment Inspection Fees are in the Houston-

Galveston area. The 1993 revenues from these facilities can be estimated at between \$2.1 and \$2.6 million.

Revenue from Waste Inspection Fees may be used to finance a portion of TNRCC's cost for the following Galveston Bay Actions: WSQ-1, WSQ-4, WSQ-6, WSQ-7, NPS-1, NPS-8, NPS-16, PS-4, and PS-5. New initiatives recommended by these actions are anticipated to cost the TNRCC \$1,198,263 annually for five years. Actions PS-1, PS-2, PS-3, and PS-6 could also be funded by revenues from Waste Treatment Inspection Fees, since they are associated with wastewater dischargers and meet the criteria for use of the revenues. They incur annual costs of \$139,210 to the Galveston Bay Program over a period of five years.

A surcharge on Waste Treatment Facility Fees would likely require legislation. A simple and equitable surcharge would be to levy a small percentage of the total fee paid per facility. A ten percent surcharge on fees paid by facilities in the Galveston Bay area would yield between \$214,000 and \$265,000 in annual revenue.

Water Quality Assessment Fees Clean River Act, or 818 Fees). The financial Planning Committee has suggested that a portion of the revenue from the graduated fees currently collected statewide under the Texas Clean River Act for the Clean Rivers Program could be used to fund some of the implementation of *The Galveston Bay Plan*. The Water Quality Assessment Fees can be used to fund work performed by TNRCC, San Jacinto Authority and the Trinity River Authority related to the following actions: WSQ-4, WSQ-7, NPS-3, NPS-9, NPS-10, NPS-11, HP-9, FW-1, FW-2, and FW-3. It is anticipated that these actions will cost the TNRCC \$481,900 per year for five years. The estimated cost of these actions to the Galveston Bay Program is \$66,810 per year for five years.

According to the Texas Comptroller of Public Accounts, TNRCC collected a total of \$2.9 million in 1992 and \$4.2 million in 1993 in Water Quality Assessment Fees statewide. According to TNRCC staff, approximately 40 to 50 percent of the wastewater dischargers required to pay the Water Quality Assessment Fees are located in the Galveston Bay area. Although both dischargers and water use permittees pay the Water Quality Assessment Fees, their respective contributions were not identified by the Texas Comptroller's Office. Assuming that 40 percent of the fees are paid by both kinds of permittees in the Galveston Bay area, approximately \$1.16 million in 1992 and \$1.68 million in 1993 was collected in revenue from Water Quality Assessment Fees paid by permittees in the Galveston Bay Area.

According to *The Galveston Bay Plan*: "The Clean Rivers Program was established by the TNRCC under provisions of the Texas Clean Rivers Act. The act provides for a basin-wide comprehensive water quality management approach to evaluate cumulative impacts of point and non-point source pollution. The objectives of the Clean River Program are to

develop inventories of wastewater discharges, assess water quality status and trends, and evaluate cumulative impacts of point and non-point source pollution."

"TNRCC contracts with councils of governments or river authorities to perform comprehensive water quality assessments of river basins or watersheds. The assessments provide definitive technical information on non-point sources of pollution, nutrient loadings and toxic materials, and the impacts and significance of this pollution on the health of aquatic life. Biennial reports will be prepared summarizing the results of the assessments, actions taken to address water quality, and recommendations on TNRCC's regional water quality management plans for each basin or watershed. The program is funded by a state fee on waste water discharge and water rights permits."

The Texas Clean Rivers Act of 1991 requires that a regional assessment of water quality be performed for each watershed or river basin of the state. To fund the assessments, the Act established graduated Water Quality Assessment Fees, also known as Clean River Act Permit Fees and Senate Bill 818 Fees. The fees became effective on December 30, 1991. The graduated fees are assessed against water rights holders and wastewater discharge permit holders in each watershed of the state in proportion to their right to use water from and discharge wastewater into the watershed. Fees paid by municipal and industrial users are assessed on the basis of their permitted daily wastewater discharge. Water rights holders are assessed graduated fees on the basis of their Water Use Permits.

Revenues from Water Quality Assessment Fees are used to pay administrative costs of the regional assessment program, and are granted to the River Authorities throughout the state to pay for water quality assessments by watershed and river basin, as outlined in the Texas Administrative Code 31 Chapter 320. The River Authorities may arrange for designated local governmental organizations to perform their water quality assessments. For example, H-GAC performs the regional water quality assessments for the San Jacinto River Authority.

At this time, the fees are meant to recover only the costs of the Water Quality Assessment Program. According to the Texas Administrative Code 31 TAC 320.1, the Water Quality Assessment Fees should "recover no more than the actual costs of administering the new water quality management programs incurred by river authorities, designated local governments, or the [TNRCC]. Revenue generated by [these fees] shall not be used by river authorities to fund their existing programs. The Commission shall ensure that water users and wastewater dischargers do not pay excessive amounts; and that no municipality shall be assessed cost for any efforts that duplicate water quality management activities carried out pursuant to the Texas Water Code Section 26.177, or rules implementing that section."

Although revenue from the fees cannot be used to duplicate comprehensive water pollution control or nonpoint source pollution abatement plans required by Section 26.177, the Galveston Bay Plan reports that "information obtained from the Texas Clean Rivers program (to be completed by June, 1995) will be used to identify and characterize priority problems and support implementation of urban non-point source pollution management requirements."

Water Use Permit Fees. Unlike Waste Treatment Inspection Fees and Water Quality Assessment Fees, revenues from Water Use Permit Fees, paid by water rights holders in Texas, are not dedicated to a specified purpose. Instead, they are deposited into the State's General Fund. Redirecting these funds to the Water Quality Fund could provide more revenues for TNRCC programs, including those implemented in the Galveston Bay area.

Water Use Permits are required in cases where a specific quantity of state water is to be diverted or impounded, however, no political subdivision is charged fees to use water to recharge aquifers or for natural pollution abatement. The following information has been summarized from the Texas Administrative Code 31 TAC 295.132: Fees for one-time use of state water are generally assessed at the rate of \$1.00 per acre-foot of storage. One-Time Use Fees are capped at \$25,000. Temporary Water Use Permit Fees are capped at \$500. When the maximum fee has been paid on a permit, and additional use is requested, the fee for additional use can not be more than \$5,000. For use of state water for irrigation, the applicant is charged an annual fee of 50 cents per irrigated acre. For impoundment of state water (reservoirs) for recreational purposes, the applicant is charged \$1.00 per acre of stored or impounded water, otherwise, the applicant is charged 50 cents per acre-foot of stored or impounded water.

OSPRA Coastal Protection Fees (Oil Import Fees). The Management Committee has suggested that the revenue from the existing 2 cent Coastal Protection Fee that is levied on each barrel of crude oil that is transported on State waters could be used to implement actions recommended in *The Galveston Bay Plan*, and to leverage matching grants to increase funding for implementation. Under the Texas Oil Spill Prevention and Response Act of 1991 (OSPRA), revenues from the fees could be spent on actions SD-1 through SD-4, which address spills and dumping. The costs of these actions to the Galveston Bay Program have been estimated at \$9,150 per year for five years. Costs to the GLO have not been estimated.

Other actions that fit this revenue source are those that also further the goal of coastal protection such as the restoration and protection of wetlands, and the reduction of shoreline erosion. A change in legislation would be required to allow revenue from the Coastal Protection Fees to be used for these purposes. In the event that the legislation were changed, revenues from the fees could fund at least part of the following actions: HP-1, HP-4, HP-6, and HP-9. Total costs for these actions have been estimated at \$2,237,450 annually for the next five years.

Coastal Protection Fees paid by companies that transport oil on Texas waters are deposited directly into the Coastal Protection Fund at the State Treasury. The Fund is dedicated to oil spill preparedness, and is managed by the Contingency Planning Section of the Oil Spill Prevention and Response Division of the GLO.

The GLO is restricted by legislation regarding the use of the Coastal Protection Fund. OSPRA requires that revenues from the Coastal Protection Fees be used to pay for the following:

- administration of the office of the State On Site Coordinator located in League City;
- purchase of equipment;
- post-spill damage assessment studies; and
- clean up of spills in cases where the responsible party is not located for payment.

Fees are not the only revenues deposited into the Fund, but they are the only predictable revenues. Revenues from fines and reimbursements of spill clean-ups are also deposited into the fund. Revenues from fines are not predictable, however, fines for non-response levied on parties responsible for spills can be as much as three times the cost of the clean-up, with no limit placed by the State on the amount of the fine. These fines apply to all spills, regardless of size.

The Texas Office of the Comptroller reports that a total of \$18.4 million in revenue was collected from the Coastal Protection Fees in fiscal year 1993. Approximately half of this revenue is collected on barrels landed in the Bay area ports of Houston, Galveston, Texas City, and Freeport.

The OSPRA places a constraint on fee collection that makes its revenue stream less predictable than it could be. The legislation requires that fees be suspended two months after the fund exceeds \$25 million, and that fees cannot be collected again until the fund drops to \$14 million. Fees are not currently being collected because the fund exceeded \$25 million on October 31, 1993. There is also a cap on the amount of funds that can be raised by the Coastal Protection Fees. The maximum amount that can be managed in the fund is \$50 million. New legislation would be required to allow the funds to continue to be collected after the fund reaches the \$25 million mark, and to remove the \$50,000 cap on the fund.

Corporate Sponsorship. Corporate sponsorship of oil spill response programs, funded by oil and tanker companies, is encouraged by OSPRA. The law provides an incentive for private clean-up initiatives by relieving them of liability. Like its federal counterpart, the Oil Pollution Act of 1990, OSPRA authorizes private parties to aid in the clean-up of spills without being subject to liability except in cases of gross negligence. This enables Galveston Bay to benefit from the technical expertise and equipment of industry cooperatives. In the Galveston Bay area, the industry cooperatives are the Marine Spill Response Corporation (MSRC) and Clean Channel.

Headquartered in the Galveston Bay Area and funded by major oil, pipeline, and shipping companies, the MSRC was established to respond to large oil spills anywhere along the U.S. coastline. Hadden and Riggin (1992) report that by 1996, this non-profit plans to have invested \$400 million in spill response equipment and \$35 million on research and development. It is also planning to build 16 offshore clean-up vessels.

The non-profit industry cooperative Clean Channel Association is funded by fifteen member companies, each of which operates in the Houston Ship Channel. It was created to respond to member companies' oil spills of 10,000 gallons or more, and to some chemical spills in the Houston Ship Channel, the Gulf Intracoastal Waterway, and Galveston Bay and its tributaries. To enable it to respond to non-member spills in the area, Clean Channel now accepts non-member dues from foreign vessels. The cooperative has a skimmer barge in Galveston, and a skimmer and an operations barge in Barbour's Cut. According to Hadden and Riggin, by 1992, Clean Channel had invested \$700,000 in response and clean-up equipment.

Bonds

Local governments often use bonds to finance large capital improvement projects. It is important to remember that some mechanism must be used to repay the bonds.

Revenue Bond Financing. Revenue bonds are secured for specific projects, such as building wastewater treatment facilities and water and sewer infrastructure. They can be repaid by user fees such as charges for waste water treatment or water and sewer fees. Fees used to pay off the bonds are generally tied to the service the bonds are raised to fund.

General Obligation Bond Financing. These types of bonds are secured by a taxing power and generally repaid with revenues from ad valorem or other taxes or appropriations from general revenues. To finance large capital projects, local governments often issue general obligation bonds, which are paid off over an extended period with tax revenues. General obligation bonds require voter approval. Large capital projects can include mitigation banks, as well as transit, street, and park projects.

Local Fees

Drainage Fees: Additions to Water and Sewer Bills. Reducing urban nonpoint source pollution is one of the highest priorities identified in the CCMP. Financing additional local government outlays for infrastructure improvement to reduce this pollution source with revenues from additions to water and sewer charges can be an equitable method if they are based on properties' contribution to runoff pollution and are levied on all water and sewer customers without exception.

Local governments in the Galveston Bay area may also find that this is the most acceptable method to raise revenues for nonpoint source control efforts. A recent study found that there would be broad support for a \$2.00 monthly increase on residents' water bills if the revenues were used for local conservation efforts.

The Mesquite Model. Drainage fees are a relatively new concept, but are already in place in Austin, and in Mesquite, Texas, where they are being used to finance revenue bonds for stormwater drainage.

The City Council of Mesquite, Texas created the Mesquite Drainage Utility District on November 16, 1992, to provide funding to finance major stormwater drainage improvement projects throughout the City. The purpose of these projects is to improve infrastructure to reduce flooding, reduce creek erosion, and comply with EPA mandates regarding stormwater management. The City of Mesquite has issued \$2.26 million in revenue bonds to pay for the projects. Funds provided by the revenue bonds will be used to acquire, construct, and repair structures, equipment and facilities for the City's Municipal Drainage Utility System, and to pay costs related to the issuance of the bonds

To repay the bonds, in January of 1993, the District began charging its Municipal Drainage Utility System customers a monthly drainage fee, which is included on each customer's monthly water, sewerage, and garbage bill. Family residences are charged a drainage fee of \$2.00 per month; commercial and other customers are billed a drainage fee of \$.03 per 100 square feet of impervious area on developed property. Customers cannot pay for one utility service only; they must pay for all services billed. In the City of Mesquite's adopted budget, 1993-94 revenues from these drainage fees are estimated at \$1,071,200.

Application of the Mesquite Model to the Galveston Bay Area. A \$2.00 surcharge on residential water and sewer bills in the Houston area, modeled after the Mesquite experience has been suggested by members of the Management Conference. Findings detailed in a recent report to the Galveston Bay National Estuary Program (Whittington et. al 1994) indicate that there would be broad support in the Greater Houston-Galveston area for a \$2.00 monthly surcharge on household's water and sewer bills to pay for implementation of *The Galveston Bay Plan*. Whittington et al. estimate that a surcharge of \$2.00 per month on Houston-Galveston residents' current water bills would raise \$25 million per year.

The cost to local municipalities of new initiatives recommended in *The Galveston Bay Plan* related to implementing stormwater programs (NPS-1) is \$14,346,815.

One advantage of a monthly fee such as the flat monthly sewerage surcharge is that it would create a steady, reliable revenue stream. For example, if collected from all residents in the 5 county metropolitan areas, a \$2.00 monthly surcharge would yield \$2.6 million each month. This is not

the case for many other user fees, which can fluctuate depending on such factors as tourist season, weather, and other variables related to use.

Development Based Fees and Mechanisms

Development based fees and mechanisms raise revenues from resource users whose activities require investments to be made in infrastructure in order to accommodate them, or whose activities will have significant environmental impacts. Local governments can use these mechanisms to pay for development of infrastructure and preserve critical habitats, actions that are consistent with *The Galveston Bay Plan* objectives.

Impact Fees. A developer may be required to pay an impact fee as part of the development permitting process. The impact fee is intended to compensate the local government for the impact of a proposed development on public infrastructure. Fees are collected to pay for increased water and sewer (or other) service to the new development.

Impact fees place the burden of the new developments' impact on that development, not on the area as a whole. Revenues are used to pay for expanding existing services. Revenues from impact fees can augment other funds, which may then be used for system maintenance. Impact fees have their limitations. It is sometimes difficult to set the fees at the proper level. Often, revenue collected from a fee does not cover the cost of increased local service that the new development demands.

Access Fees for Existing Public Services. A hookup fee may be imposed to cover the costs of making certain services available to new development.

Direct Development of Infrastructure. A developer may be required to provide stormwater retention ponds as part of the overall development plan in order for it to be accepted. This would be a precondition to development, so that the developer pays for the construction of the facility (and most likely passes at least some of the extra costs on to his customers). This keeps the existing town or city from picking up the cost with funds it usually uses to run and maintain what is already there.

Mitigation Banking. Mitigation Banking is a method of offsetting wetland conversion, in which a developer agrees to pay for the restoration or protection of other wetlands to offset the conversion or loss of wetlands from development. The Texas Mitigation Act of 1991 requires that the mitigation bank be a wetlands restoration or creation project which optimizes or creates the acreage and quality of wetland habitat to offset the adverse impacts to wetlands from permitted or approved development projects elsewhere.

Mitigation banking cannot be considered a financing alternative *per se*, because the sale of credits does not provide a stable or adequate revenue source. Mitigation banking requires start up funding because the costs of acquisition and restoration must be incurred before revenues can be collected from the sale of credits. The

law requires that an agency's wetland must be functional before it can sell mitigation credits, so the wetland must be restored or created before credits are sold. The costs of the mitigation bank are thus highest at the beginning of the project. According to Jones (1993), it is not feasible to issue a revenue bond to pay for the start up costs of the mitigation program because the sale of credits is not predictable enough to guarantee repayment of the bond. Revenue from the sale of the credits may not be adequate to recover the initial costs of restoration and acquisition, and as Jones points out, even if a sufficient amount is charged to recoup these costs, cost recovery may take several years.

The Texas Wetlands Mitigation Act authorizes state agencies and political subdivisions to establish and maintain mitigation banks. Developers who receive wetland development permits that require mitigation can purchase credits from a mitigation bank instead of mitigating on site. The revenues from the credits are then used by the state agency or political subdivision to restore or create wetlands on a parcel of land that it chooses.

Incentive and Non-Regulatory Mechanisms

Tax incentives (ad valorem). Reducing a property owner's ad valorem property tax is a non-regulatory effort to protect wetlands and habitat, rather than a mechanism to raise revenue. It may save state and federal agencies money by encouraging private citizens to set aside wetlands and habitat on their land, but may also reduce the local tax base through tax exemptions. This possible outcome could be offset, however, if property in the county becomes more valuable because of the presence of scenic habitats.

Adopt-a-marsh programs. Like tax incentives, adopt-a-marsh programs are non-regulatory efforts, rather than mechanisms to raise revenue. This mechanism uses volunteerism to achieve wetlands and habitat protection. Unlike tax incentives, however, they probably would not reduce the local tax base. Adopt-a-marsh programs may save state and federal agencies money by encouraging private citizens and organizations to purchase or sponsor the purchase of wetlands and habitat for their preservation.

State Taxes

Marine Fuels Taxes. A marine fuels tax is one that is charged on fuel pumped at estuarine and coastal marinas. States that impose a tax on marine fuels typically use the revenues to protect, conserve and maintain water bodies and service and access facilities. A marine fuels tax can be considered a user tax as well as a polluter tax, since a cleaner Bay enhances boaters' experience, while their use of the Bay affects water quality. This tax would need to be regional or statewide to be effective because boaters could buy fuel from the stations in neighboring locales which did not have the tax.

Texas does not have a marine fuels tax. The state does levy a highway fuel tax. Those who purchase fuel for marine use can file for a refund of the fuels tax paid on fuel purchased for marine use. The revenues from the state fuels tax are used to fund education and road transportation infrastructure, as well as other activities. Implementing a marine fuel tax in Texas would require new legislation.

In Texas, because of the large quantity of fuel sold to marine users annually, a marine fuels tax has the potential to raise significant revenues. According to the Texas State Comptroller's Office, recreational boaters purchased 60 million gallons of fuel in 1992.

Although a marine fuels tax would represent a smaller loss to recreational boaters and fishermen than to commercial fishermen and vessel operators, they are likely to oppose the tax. Recreational boaters already contribute to Texas Parks and Wildlife's revenues with a boater registration fee. Revenues from these fees are dedicated to conservation, recreation, and parks and wildlife law enforcement. (See discussion of TPWD Fees in this section.)

According to the Texas Comptroller's office, most recreational boat users in Texas never file for a refund on the fuel they use in their boats because they are not aware that they are eligible for the refund. To avoid double taxing recreational boaters, legislation could exempt marinas from the existing highway fuels tax.

Commercial fishing vessel operators, whose vessel fuel is exempted from the present fuel tax, would probably strongly oppose a marine fuels tax levied on fuel used in commercial vessels, because it would significantly increase their cost of production, and because they would bear much more of the of the tax burden than would recreational boaters. Fuel is a major expense for commercial fishing vessel operators. Although commercial fishermen could pass much of the cost of the tax on to consumers by increasing their seafood prices, it could drive some commercial fishermen out of business.

Dedicated Real Estate Transfer Tax. Land development and transfer can be taxed and the revenues used to fund land management measures, easements, and land trusts. Maryland financed its *Open Space Program* for over 20 years with such a tax, which earned \$77 million in 1988 with a .5 percent real estate transfer tax; \$39 million of which went exclusively into the *Open Space Program*. The downfall of such taxes is that they are dependent on the transactions of the real estate market which can be highly variable.

Local Taxes

Local governments can use most of their tax revenue for any public purpose that they are authorized by the state to undertake. This includes in some cases expenditures they will have to make as participants in new activities recommended by *The Galveston Bay Plan*. Ad valorem property tax revenues, as

well as municipal and county sales and use tax revenues, are deposited into local governments' general funds.

Ad valorem Property Taxes. Property tax revenue is usually deposited in a local government's general fund along with other unrestricted revenues, and used to finance general government operations. For example, local governments usually pay for annual stormwater system administration, operation and maintenance funds with money from ad valorem revenues in their general fund. In the Galveston Bay area, Harris county funds its Flood Control District with ad valorem property taxes.

In Texas, there is no cap on ad valorem county property taxes. Counties in Texas deposit property tax revenues in two kinds of accounts: 1) maintenance and operation funds, and 2) interest and sinking funds. Funds from these accounts pay for maintenance and operation of county run facilities and pay off interest and debt from bonds.

TABLE 1. Value of Taxable Property in the Five County Galveston Bay Region, 1992.

County	Taxable property value 1992 (\$)
Brazoria	10,717,405,556.00
Chambers	2,837,413,241.00
Galveston	10,426,394,279.00
Harris	117,876,300,055.00
Liberty	2,008,113,484.00
TOTAL	143,865,626,615.00

Source: State Comptroller's Office, Property Tax Division
Amounts reported by Counties for 1992.

An advantage of using property tax revenues and sales tax revenues to finance local stormwater and other non-point source pollution expenditures is that these revenues are placed in the general fund, and do not require special administrative or legal mechanisms to allow them to be spent.

Funding non-point source pollution control programs with property taxes may not be the most equitable method, because property taxes are *ad valorem* taxes which are not based on the property's contribution of runoff or pollution. In addition, some properties, which are potentially large contributors of runoff, are exempt from property taxes and thus do not pay for stormwater services.

An *ad valorem* property tax increase tax would require a majority vote of the residents in the taxing jurisdiction. A one quarter mil ad valorem property tax increase in all five counties of the Galveston Bay area would yield approximately \$350,000 per year. This would raise property taxes by approximately three percent. The revenue from this increase could be used to fund the counties' costs of implementing *The Galveston Bay Plan* initiatives. Total costs to the five counties in the Galveston Bay area from

new initiatives in *The Galveston Bay Plan* are estimated at \$225,531 per year for five years.

Sales and Use Taxes. Like ad valorem property taxes, revenue from sales and use taxes is usually deposited in a local government's general fund along with other unrestricted revenues, and used to finance general government operations. Consumers pay state sales and use taxes, and in some cases municipal and county sales and use taxes on goods and services purchased in Texas. Merchants are required to report and pay the total sales and use tax to which they are subject to the State Comptroller's office on a periodic basis. A large majority of merchants do this on a monthly basis, however, some small merchants file on a quarterly basis, while large manufacturers and refiners can file on an annual basis. The Comptroller's Office collects the sales and use tax revenues from the merchants, and deposits them to the Treasury's General Fund. The revenues are processed and allocation checks are sent to municipalities, counties, and other taxing authorities. Once the Comptroller's Office receives the revenues, processing requires approximately two weeks before the local jurisdictions are sent their allocation checks.

TABLE 2. Taxable Annual Sales in the Five County Galveston Bay Region, 1992.

County	Taxable annual sales 1992
Brazoria	1,018,120,348.00
Chambers	183,848,843.00
Galveston	1,434,188,007.00
Harris	28,114,863,625.00
Liberty	205,798,773.00
TOTAL	30,956,819,596.00

Source: Texas Comptroller of Public Accounts, Research Division

The Texas state sales and use tax rate is 6.25 percent. In Texas, the maximum combined total sales and use tax is 8.25 percent. This includes the state sales and use tax, and may include county, municipal, transit authority and other special districts and authorities. Thus, the maximum municipal, county, and special authority tax that can be charged is currently two percent. It would be feasible to add a fraction of a cent onto the municipal and or county sales and use tax as long as it did not cause that tax to exceed two percent, and as long as it was approved by voters in the city or county where levied.

Several cities in the Houston-Galveston area cannot institute an additional local tax without exceeding the two percent cap on combined local sales and use taxes. This is because in addition to a one percent municipal sales and use tax, in 1979 voters approved a one percent Transit Authority (MTA) tax. The MTA sales and use tax applies to the city of Houston and the western two thirds of Harris County, including the city of Katy. Other cities in the area in which the maximum combined local tax is charged include

Seabrook, Alvin and Brazoria, Kemah, La Marque, Texas City, and Cleveland.

Cities in the Galveston Bay area that do not have the MTA sales and use tax may be able to increase their local sales and use tax, as long as the two percent cap is not exceeded. A new special district sales tax or a tax increase must be approved by the voters within the affected area, however. The local sales and use taxes of cities and counties in the Galveston Bay region are listed in the Appendix of this report.

Fines

Fines imposed for violations of mandates and regulations are collected only in cases of non-compliance, not on a regular basis. They are more effective as incentives to comply, rather than as a source of funding. Fines and penalties should not be counted on for revenue generation, because their purpose is to increase compliance and reduce pollution. If they are successful, revenues from them should decrease.