

**SUBJECT:** Coastal Erosion Planning and Response Act

**COMMITTEE:** Land and Resource Management — favorable, with amendments

**VOTE:** 6 ayes — Bosse, B. Turner, Howard, Jackson, Krusee, Staples  
0 nays  
1 present, not voting — Mowery  
2 absent — Crabb, Hamric

**SENATE VOTE:** On final passage, May 5 — 28-2 (Fraser, Corona)

**WITNESSES:** None

**BACKGROUND :** The General Land Office (GLO) coordinates the state's coastal erosion avoidance, remediation, and planning programs. The agency identifies critical coastal erosion areas, establishes guidelines for coastal erosion avoidance in those areas, and engages in erosion demonstration projects and studies to address the feasibility, cost and financing methods of erosion avoidance and remediation. The GLO also conducts education programs to increase public awareness about the causes, consequences, and avoidance techniques of erosion and the importance of barrier islands, dunes and bays as natural defenses against storms and hurricanes. The land commissioner may request, solicit, apply for and receive gifts, grants and donations to carry out these duties.

The Coastal Management Program, administered by the GLO, coordinates the activities of state and federal agencies that have coastal jurisdiction and makes recommendations, takes inventory, coordinates activities, issues guidelines, and conducts analysis of the state's coastline.

**DIGEST:** SB 1339 would enact Coastal Erosion Planning and Response Act, expanding the state's coastal erosion planning and remediation programs. It would establish a coastal erosion response fund in the state treasury, consisting of appropriated funds, a \$1 surcharge on certain insurance policies issued by the Texas Catastrophe Property Insurance Association

(CatPool), and other money collected by the land commissioner. A \$1 surcharge would be assessed on each Texas windstorm and hail insurance policy and Texas fire and explosion insurance policy issued through the CatPool covering mobile homes, units of residential manufactured housing, dwellings, and commercial buildings.

Money in the fund could be used for erosion remediation and prevention and as grants to local governments to carry out erosion projects.

At least once each biennium, the land commissioner would report to the Legislature on the coastal erosion planning and response projects and list critically eroding areas, proposed erosion activities, estimated funding requirements, activities funded since the previous report, the financial status of the fund, and the amount needed to carry out the act over the next biennium.

SB 1339 would take effect September 1, 1997.

**Erosion control projects.** The coastal erosion response fund could be used to award grants to local governments located in the coastal zone to conduct erosion response activities. Projects eligible for funding would include research into erosion, actual erosion control, and acquiring land to complete an erosion response project or remove obstacles or encroachments from public beaches.

The bill would establish criteria for awarding grants, including a requirement for assessing the environmental impacts of the project. If a grant was used as a match in seeking other funding and later reimbursed by another source, the local government would have to reimburse the fund for the amount received. The land commissioner could establish cost-sharing requirements for proposed projects and grants.

Before undertaking an erosion response program that would cause or contribute to shoreline alteration, responsible persons would have to conduct and file a coastal boundary survey in the same manner as a survey of public land. Within 30 days of approving the coastal boundary survey, the commissioner would have publish notice and file a copy in the archives and

records division of the General Land Office (GLO) and in the real property records of the affected counties.

A state agency and local government would be prohibited from undertaking an erosion response activity on private property without first obtaining the written consent of the property owner or, if on Permanent School Fund land, without first obtaining the written consent of the board. Consent to undertake an erosion response activity on a public beach would not be required.

**Other provisions.** The state, land commissioner, and GLO staff would be immune from suit and liability for any act or omission related to any matter related to an erosion response project. Judicial review of rights affected by state action would be under the substantial evidence rule. In order to prevail, a person seeking review would be required to prove that the action was arbitrary, capricious, or otherwise unlawful. The venue for action relating to this act would be Travis County.

SB 1339 would specify that any activity undertaken by the commission would not impair the property rights of coastal land owners. If an erosion response activity undertaken by the GLO caused an upland owner to no longer hold title to land that extended to the shoreline, the owner would be entitled to continue to exercise all coastal land rights possessed before the date the erosion response commenced.

A person who claimed title to Permanent School Fund land as a result of the accumulation, recession, or separation of land in the coastal zone after September 1, 1997, would have to prove a change in the shoreline had occurred because of certain actions in order to benefit from the change.

The owner of land submerged because of erosion could request assistance in removing property from the tax rolls. The land commissioner would be required to inform the local appraisal district and appropriate taxing entities that the property listed on the local tax rolls was owned by the Permanent School Fund because of erosion.

**SUPPORTERS  
SAY:** SB 1339 would enhance state and local efforts to protect the Texas coastline. The natural forces of wind and water storms compounded with human coastal development projects have accelerated the rate of erosion along Texas beaches. These coastal areas are among the most treasured natural resources of our state and should be protected from the detrimental effects of erosion.

SB 1339 would refocus coastal efforts towards the preventing erosion. Although the existing Coastal Management Program (CMP) has mitigated some of the impacts associated with coastal erosion, the state's efforts are reactive. The Coastal Erosion Planning and Response Act would encourage state agencies and local governments to develop effective methods to prevent erosion and mitigate its impacts on the Texas coastline.

SB 1339 would ensure local governments had a voice in coastal management projects. Local entities would be key partners in identifying coastal problems and developing and implementing solutions. State grants awarded to local governments would ensure the highest and best use of limited state resources because they would require recipients to conduct pre- and post-erosion project analyses.

SB 1339 would ensure adequate funding was available for state and local erosion projects. Grants would be funded by a \$1 surcharge levied on insurance policies held by coastal residents. These residents benefit from and impact Texas' beaches the most and should be able to contribute this minimal \$1 expense.

**OPPONENTS  
SAY:** SB 1339 would circumvent an already effective coastal management program. The existing CMP adequately responds to citizen concerns about erosion and provides effective methods to mitigate the negative effects of coastal erosion. SB 1339 would be unnecessary and create additional government bureaucracy without providing any additional environmental protections.

**OTHER  
OPPONENTS  
SAY:** The \$1 surcharge targeting coastal insurance policyholders would be tantamount to preserving Texas beaches on the backs of a few Texans. All Texans benefit from the beaches, whether through direct enjoyment or the

ripple effect of tourism across the state. All should help pay to preserve one of the state's most accessible natural resources.

NOTES:

The committee amendments would include a \$1 surcharge on CatPool insurance policies and exclude from the definition of erosion response the construction of breakwater or bulkhead landward of the shoreline. The amendments also would have required the Texas Department of Transportation to issue "Don't mess with Texas beaches" license plates for passenger cars and light trucks, with fees being deposited into the erosion response fund. The amendment specified that the special license plates would have taken effect only upon enactment of HB 3082 by Gray, relating to coastal erosion, which was not reported from the Calendars Committee.