

SUBJECT: Continuing the Coastal Coordination Council

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Truitt, B. Turner

0 nays

1 absent — Mowery

WITNESSES: For — Jon Fisher, Texas Chemical Council

Against — None

On — Sally Davenport, General Land Office — Coastal Coordination Council, Ellis Pickett, Surfrider Foundation — Texas Chapter

BACKGROUND: The 65th Legislature in 1977 enacted the Coastal Coordination Act, Natural Resources Code, chapter 33, subchapter F, to provide for more effective and efficient management of the state’s coastal natural resource areas and to make coastal management processes more visible, accessible, and accountable to the people of Texas. In 1989, the 71st Legislature directed the General Land Office (GLO) to develop a plan to manage state-owned coastal lands.

In 1991, the 72nd Legislature directed the GLO, in cooperation with other state agencies, to develop a long-term comprehensive management program for all coastal resources. It also instructed the GLO to establish a statewide policy on coastal erosion, beach access, and sand-dune protection as well as a conservation program for state-owned wetlands in the coastal area. Also in 1991, the Legislature replaced the Natural Resources Council created in 1977 with the Coastal Coordination Council (CCC), which developed the coastal management program (CMP) as part of the federal Coastal Zone Management Act of 1972.

The GLO provides three full-time employees for the council, and other GLO employees support council activities on an as-needed basis. The budget for

the CMP includes about \$2.2 million a year in federal coastal management funds, which are passed through to coastal communities for projects to help control erosion, promote responsible development and coastal access, and enhance critical areas such as wetlands.

The CCC is authorized to review most federal and state regulatory actions that affect coastal resources and local governmental actions related to beachfront construction and dune protection to determine if they are consistent with the CMP. Three members of the CCC must agree to conduct a consistency review and place the matter on the CCC's agenda. At least two-thirds of the council must vote to declare an action inconsistent.

The 1995 legislation set the CCC membership at 11. The seven ex officio members are the GLO commissioner and the chairs or designated appointees of the Parks and Wildlife Commission, the Texas Natural Resources Conservation Commission, Texas Railroad Commission, Texas Water Development Board, and Texas Transportation Commission, plus a member of the State Soil and Water Conservation Board appointed by that board.

In addition, the governor appoints, subject to Senate confirmation, four public members: a city or county elected official, a resident of the coastal area, and a business owner, all of whom must live in a coastal area, and a representative of agriculture. These members serve two-year terms. Also, the CCC may appoint advisory committees, whose members must be coastal residents with expertise in coastal matters.

The CCC also assists small businesses and individuals in applying for the permit applications needed to conduct business in the coastal region and in preparing and submitting the Texas Coastal Nonpoint Source Pollution Control Program as required by federal law.

The CCC will be abolished September 1, 1999, unless extended after Sunset review.

DIGEST: CSHB 906 would continue the CCC until September 1, 2013. The director of the Texas A&M University Sea Grant Program would become a non-voting member of the council. Also, the CCC could appoint a person with expertise in coastal matters who did not live in the Texas coastal area to serve on a CCC coastal management advisory committee.

CSHB 906 also would allow one member — excluding the director of the Texas A&M University Sea Grant Program — rather than three members, to place on the agenda for CCC review any significant unresolved dispute about whether a proposed regulatory action would be consistent with the CMP.

The CCC could award grants to meet CMP goals and by rule establish the procedures for determining how the grants would be awarded. The CCC also would have to include information about population growth, infrastructure needs, and use of resources in the coastal region as part of its biennial report on coastal issues to the Legislature.

CSHB 906 would require that the CCC set aside time at each meeting for public comments on issues before the council. The bill also would add standard sunset provisions governing commission eligibility and grounds for removal, conflict of interest, appointee qualifications, and resolving complaints.

The bill would take effect September 1, 2001.

**SUPPORTERS
SAY:**

CSHB 906 would continue an important program to protect the state's valuable coastal resources by linking seven existing agencies with coastal jurisdiction into a coordinated network without establishing a separate agency. Keeping CCC would help those agencies work together to oversee implementation of the coastal management program without creating a new bureaucracy. The council works well as a forum for the affected state agencies to resolve coastal area problems, and the cooperation among the agencies extends beyond coastal issues.

Changing the composition of the board by adding new public members would make the CCC unnecessarily cumbersome and unwieldy. The current public representatives already provide diverse public input. The CCC holds four council meetings and four executive committee meetings each year, and those meetings provide the public with an opportunity to bring any issue to the attention of the CCC. CSHB 906 would codify this existing policy of allowing public comment at all meetings.

Allowing one member to request a consistency review would bring the CCC in line with the procedure used by most governmental bodies that allow one member to place items on a meeting agenda. The CCC has not abused its

authority to conduct consistency reviews and has been reluctant to second guess decisions made by state and local governments. The CCC has a 45-day time limit to make its determination, which already prevents undue delays of proposed activities. Most of the consistency reviews have focused on federal Army Corps of Engineers projects. The CCC has approved 38 Corps projects since 1997 and disapproved only one, a marina and condominium project in Corpus Christi.

Because of the state's coastal management program, Texas is eligible for almost \$2.2 million a year in federal grants for coastal communities to implement coastal management projects. The CCC has been cost effective and efficient in administering the program, with 90 percent of the federal funds being awarded to cities and counties. The state has received federal grants totaling \$8.7 million, with \$1.9 million in state matching funds. Most of the state matching funds have been the salaries of the GLO staff assigned to the program.

Adding the director of Texas A&M University Sea Grant Program to the CCC would provide a stakeholder with both an interest in coastal issues and a scientific perspective into these important issues. Making the director a non-voting member would give the CCC the benefit of the director's expertise without disrupting the current balance among the agency representatives and the public members.

**OPPONENTS
SAY:**

Allowing only one member — rather than three — to trigger a consistency review could increase the risk that CCC could delay projects already permitted by a governmental agency. The CCC was never intended to become another part of the permitting process. Two-thirds of the membership are required to hold an action inconsistent with the CMP, and it would seem prudent that at least three members concur with the review before it is brought before the full council.

**OTHER
OPPONENTS
SAY:**

An additional public representative who advocates public access and environmental issues should be added to the CCC. The council needs an advocate for those who swim, surf, fish or otherwise enjoy Texas beaches. Another local government official on the board also would help ensure that local interests are represented.

NOTES:

The companion bill, SB 300 by Lucio, was considered in a public hearing by the Senate Natural Resources Committee on March 13 and left pending.

The original version of HB 906 would have increased the CCC membership to 13 members by adding another city or county elected official and a public representative who demonstrated an interest in preserving the coastal region's ecological, aesthetic, and recreational value.