HOUSE RESEARCH ORGANIZATION bill analysis | 5/23/2005 | SB 1044 Janek (Eiland)

SUBJECT: Protection and improvement fund for county coastal protection projects

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Mowery, Harper-Brown, Pickett, Blake, R. Cook, Miller

0 nays

3 absent — Escobar, Leibowitz, Orr

SENATE VOTE: On final passage, May 3 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: The 76th Legislature in 1999 enacted the Coastal Erosion Planning and Response Act (CEPRA), which requires the General Land Office (GLO) to maintain a coastal erosion response plan and a coastal erosion response account. The account includes state general revenue and federal grants appropriated for the coastal erosion response plan, as well as all money received by the state from the sale of dredged materials. The GLO also undertakes erosion studies and projects when the office receives legislative appropriations or other funding.

A separate fund to address coastal erosion and public beach access does not exist outside the state treasury.

DIGEST: SB 1044 would amend Natural Resource Code, chapter 33 and Tax Code, ch. 156 to create the Coastal Protection and Improvement Fund, which would fund coastal improvement and protection projects to improve access to public beaches and manage coastal erosion.

Beginning September 1, 2007, counties bordering the Gulf of Mexico would dedicate 4 percent of their hotel occupancy tax to the Coastal Protection and Improvement Fund. A municipality would have the same authority as a county to receive and apply the funds when all coastal land of the county in which the municipality was located was within the city's municipal boundaries. These funds would be held in a trust fund separate from the state treasury and would be administered by the GLO commissioner. The GLO would retain 5 percent of the funds to cover administrative costs and help support the turtle and coastal monitoring programs of Texas A&M University and the University of Texas. The other 95 percent would be allocated as follows:

- project payments to counties sponsoring coastal improvement and protection projects, with payments not exceeding the estimated cost of the project or the comptroller's hotel occupancy tax revenue estimate.

- equalization payments, redistribution of 5 percent of an above-average county hotel occupancy tax revenue to counties with below-average hotel occupancy tax revenue, with the comptroller responsible for calculating annual averages of hotel occupancy tax revenue estimates.

In addition to the Coastal Protection and Improvement Fund to be administered by the GLO, each county would create a local fund into which project payments and equalization payments would be deposited.

The projects would not be restricted from receiving funds other than coastal protection and improvement fund payments from the GLO. Projects could receive federal, state, local, and private grants and loans, as well as property and sales tax revenue and bond proceeds.

The projects would have to be:

- located within one of the 12 coastal counties;
- located in an area accessible to the public via roads and ferries;
- approved by the General Land Office; and
- completed at a cost of more than $5 million.

A coastal county would have the authority to:

- conceptualize and create the project;
- issue bonds, to be purchased by the Water Development Board, to pay the project costs;
- partner with public or private entities to accomplish the project; and
- contract, lease, finance activities, and acquire property as empowered.

Each project would be required to have a qualified agreement between the GLO and the county, which would define the amount, terms, and duration of the payments. When the payment exceeded the actual cost of the project, the county would refund the account for the excess amount or reduce the following year's payments by the excess amount, unless the county required the full amount of the payment to pay the principal or interest on bonds issued to finance the project.

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, 2005.

SUPPORTERS SAY:

In the United States, Texas has the third longest coast line and the highest rate of erosion, yet it receives less federal money than most states to preserve its beaches. The trust fund created by SB 1044 would create a steady stream of revenue, independent of the biennial appropriations process, to support certain beach protection projects. Beach renourishment projects, critical to coastal landscapes, habitats, wildlife, recreation, and tourism, should not be subject to the fluctuations of biennial appropriations. Using a small percent of the hotel tax revenue, for which Texas beaches to a great extent are responsible, would be a stable source of dedicated, long-term, coastal preservation funding.

SB 1044 would equip coastal counties with the financial resources to draw down significant federal funds to provide access to and protect their beaches. For example, the federal Water Resource and Development Act sponsors programs for shoreline restoration, yet Texas counties cannot provide the required match to participate. Also, currently the U.S. Army Corps of Engineers is conducting a $4.4 million feasibility study on Texas' coastal erosion. Thus far, the study has indicated that a $35 million match would be required to undertake the recommended beach renourishment projects. SB 1044 would allow Texas to generate the funds to pay off the necessary bonds and related expenses over time.

OPPONENTS SAY:

Each year 91.67 percent of state hotel occupancy tax is dedicated to general revenue funds and 8.33 percent is dedicated to local economic development. By reducing the dedicated percent by 4 percent, the bill would generate more than a $49 million total loss in state general revenue and nearly $4.5 million in economic development funds by 2010.

Based on current estimates, the 12 coastal counties collect about $384.5 million in hotel occupancy taxes. Four percent of that share would be more than $15 million, and dedicating this amount would make less funding available for other projects dependent on hotel occupancy tax revenue. In years of decreased tourism, it would be unfair to maintain funding levels for the Coastal Protection and Improvement Fund when other projects and programs would receive declining levels of funding.