

SUBJECT: Authorizing hard structures for beach erosion response projects

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 7 ayes — Mowery, Harper-Brown, Blake, R. Cook, Escobar, Orr, Pickett

0 nays

2 absent — Leibowitz, Miller

SENATE VOTE: On final passage, April 20 — 31-0

WITNESSES: *(On House companion bill HB 1117:)*

For — Sidney McClendon, Galveston County Beach Erosion Task Force, West Galveston Island Property Owners Association; Jerry Patterson, General Land Office

Against — Ellis Pickett, Surfrider Foundation Texas Chapter

On — A.R. Schwartz

BACKGROUND: The 76th Legislature authorized 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 consists of state general revenue and federal grants appropriated for the coastal erosion response plan, as well as 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. The GLO may work with state agencies, local governments, federal agencies, or other qualified partners to complete projects.

Under Natural Resource Code, ch. 33, the GLO is not authorized to construct hard structures on or landward of public beaches.

DIGEST: SB 517 would amend Natural Resource Code, sec. 33.603, to allow, as an exception to the prohibition against the construction of hard structures to prevent beach erosion, structural shoreline protection projects that use

innovative technologies designed or engineered to minimize beach scour. It would authorize removal and relocation of structures from public beaches. It would eliminate a preference for "soft" methods of avoiding, slowing, or remedying erosion in lieu of erecting hard or rigid shorefront structures.

The bill would allow the GLO each biennium to dedicate up to 10 percent of its CEPRAs funding to the costs of one or more erosion response demonstration projects.

Notwithstanding other restrictions on the minimum percentage that a qualified project partner otherwise would have to contribute, the land commissioner could decide the percentage contribution for any shared project related to the removal or relocation of debris or structures from the public beach. However, no funds could be used to purchase real property or reimburse a property owner for the purchase of real property.

The bill would take effect September 1, 2005.

**SUPPORTERS
SAY:**

SB 517 would grant the GLO the flexibility to fund new types of erosion control projects in conjunction with beach re-nourishment. By taking advantage of emerging technologies that may include the construction of hard structures, the GLO more effectively could protect the 367 miles Texas shoreline, that rapidly is eroding. Currently, CEPRAs funds equal about \$30 million, and investing a small percentage each biennia in new technology significantly could advance erosion prevention in Texas.

The bill has a limited scope and would not impose immediately a blanket policy on the entire state. Only new projects that demonstrated success would be considered for future implementation. The bill would allow for pilot projects to test out innovative erosion prevention technologies. New technologies, like advanced geotextile tubes made from high-strength woven polypropylene and polyester fabrics, could provide better shoreline protection. Such innovations already have been successful in other Gulf coastal regions of Florida, and Texas needs the authorization to undertake such experiments.

The bill would allow hard structures on the line of vegetation and on the seaward side of the line of vegetation. Concerns have been raised that by moving the line of vegetation, access to public beaches would be decreased. While the structures could change current public access in

some areas, Texas beaches would be preserved for future generations to enjoy. The current method of stopping erosion entirely depends on beach renourishment, the adding of sand to the existing shoreline, which is not sufficient for long-term maintenance and preservation.

OPPONENTS
SAY:

Beach renourishment has proven to be the best method of halting erosion. This bill would reverse a longstanding prohibition on CEPRAs funds being used for hard shoreline structures, which almost always adds a scouring effect. The CEPRAs legislation of 1999 gave Texas the proper tools to fight coastal erosion to protect public beaches, marshes, homes and businesses, and public infrastructure.

Changing allocation of those funds to include methods other than beach renourishment would be imprudent. Although the bill would allow only 10 percent of funding to be dedicated to new technologies, including hard structures, it could result in wasted funds considering that geotextile tubes often fail and that technologies used in other states may not be applicable to Texas beaches. For example, the geotextile tube in place in Treasure Island near the San Luis Pass in Brazoria County failed and now is an eyesore to the area beach, trapping debris in its deflated and partly destroyed material. The erosion process in Texas results from the lack of sand brought down from certain rivers to nourish beaches. The process in other states is different, and the GLO should not adopt technologies that are not proven to apply in Texas.

SB 517 would violate the Open Beaches Act, in Natural Resources Code, ch. 61. Under this act, the line of vegetation generally is the seaward boundary of natural vegetation that spreads continuously inland and is used to help determine the area of public beach. By allowing structures on the seaward side of the line of vegetation, the public easement to the beach would be compromised. The line of vegetation should be allowed to move as dictated by natural occurrences.

NOTES:

The House companion bill, HB 1117 by Eiland, was left pending in the Land and Resource Management Committee after an April 7 public hearing.