

- SUBJECT:** Allowing certain entities to construct coastal protection structures
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 8 ayes — Bonnen, Farrar, Alvarado, Hamilton, Homer, Orr, Paxton, Thibaut
- 0 nays
- 1 absent — Bolton
- WITNESSES:** For — Jerry Patterson, commissioner, General Land Office
- Against — Terry Hallmark; (*Against committee substitute:* Ellis Pickett, Surfrider Foundation Upper Coast Chapter)
- BACKGROUND:** Natural Resources Code, ch. 61, subch. B grants free and unrestricted access to public beaches, defined as the area between the average low tide of the Gulf of Mexico and the “line of vegetation” — the seaward boundary of natural vegetation that spreads inland without interruption. Constructing any barrier or restraint that might interfere with free access to public beaches is prohibited.
- Certain structures that provide an aid to navigation, or serve to protect the shore, fishing, safety, or other specific purposes are permitted, so long as they are established or maintained by:
- an agency, department, institution, or subdivision, or instrumentality of the federal government;
 - an agency, department, institution, or instrumentality of Texas;
 - a county or municipal government; and
 - a subdivision of the state that acts in conjunction with the county or municipality in which structure is located.
- DIGEST:** CSHB 1445 would add a subdivision of the state that received approval of the land commissioner to the list of entities that could establish and maintain shore protection structures on a public beach. A structure constructed by such an entity would have to be:

- designed to protect public infrastructure, including a highway or bridge;
- located on land that was submerged and owned by the state, that the state acquired for the purposes of building the structure, and that was located in or adjacent to the mouth of a natural inlet from the Gulf of Mexico; and
- extended at least 1,000 feet along the shoreline.

The land commissioner could specify requirements for the design and location of the structure and any required public parking.

The bill would expand special conditions affecting a line of vegetation to include a shore protection structure that interrupted the natural line of vegetation for a distance of at least 1,000 feet. In such an instance, the line of vegetation would be along the seaward side of the extent of the shore protection structure if:

- a perpetual easement had been granted in favor of the public that would provide access to the length of the structure and an adjacent sidewalk; and
- the shore protection structure has a public parking area with at least one parking space for each 15 feet of the structure and with entrances and exits no further apart than a half-mile.

An entity constructing a parking structure under this provision would have to gain the land commissioner's approval for a coastal boundary survey. The structure would not affect the state's ownership of the water, beds, and shores of the Gulf of Mexico.

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, 2009.

**SUPPORTERS
SAY:**

CSHB 1445 would help prevent further coastal erosion of key areas along the Texas coast, such as the area around San Luis pass. The bill would allow other public entities, such as the Treasure Island MUD, to construct a revetment structure near the mouth of a natural inlet of the Gulf of Mexico, of which there are two along the Texas coast. The area around San Luis pass has experienced severe erosion in recent years, and in effect no remaining beach exists in the area that would be protected by the revetment structure. Allowing the MUD to construct the protective

structure would help slow and possibly stop the rate of erosion in the area around Treasure City.

Any revetment structure constructed under the bill would have to be pre-approved by the General Land Office, which is charged with coordinating and administering policy regarding public beaches in the state. The bill also would require the structure to include public access, which would make the affected area more accessible to the public than it is currently. Constructing such a structure would provide further protection against normal erosion and severe weather events, such as hurricanes.

CSHB 1445 would help protect both public infrastructure, such as roads, and private property in key areas along the coast from further loss and damage due to erosion. The structure authorized in the act would not increase coastal erosion in other areas of the coast, and would require minimal maintenance over time.

OPPONENTS
SAY:

CSHB 1445 would expand the construction of hard structures on the coast, setting a bad precedent for the management of the state's public beaches. Establishing hard structures on the coast to address erosion in general may interfere with public access to and use of the public beaches for surfing, wading, fishing, and swimming and could be very difficult to remove if they proved ineffective or detrimental in the future. Allowing for the establishment of revetments and similar structures on public beaches even in bracketed areas could provide a justification for constructing additional, similar structures in other locations in the future.

Managing coastal erosion in the state is a serious, ongoing issue that must be undertaken only on the basis of careful research with attention to possible inadvertent consequences. The construction of hard structures to address erosion issues is not an ideal, long-term solution for preserving the state's beaches.

NOTES:

The committee substitute would restrict the conditions that could affect a line of vegetation to structures that had a perpetual easement along the length of the structure, and, when a subdivision was building the structure, a public parking area with at least one parking space for each 15 feet of the structure was provided.