

- SUBJECT:** Closure of certain beaches for space flight activities
- COMMITTEE:** Land and Resource Management — committee substitute recommended
- VOTE:** 9 ayes — Deshotel, Walle, Frank, Goldman, Herrero, Paddie, Parker, Simpson, Springer
- 0 nays
- WITNESSES:** For — Carlos Cascos, Cameron County; Lauren Dreyer, Space Exploration Technologies Corp. (SpaceX); Jerry Patterson, General Land Office; Gilberto Salinas, Brownsville Economic Development Council (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Jason Hilts, Brownsville Economic Development Council; Buddy Garcia)
- Against — (*Registered, but did not testify*: Luke Metzger, Environment Texas; Robin Schneider, Texas Campaign for the Environment)
- On — David Land, General Land Office; Ellis Pickett, Surfrider Foundation)
- BACKGROUND:** Natural Resources Code, ch. 61, charges the land commissioner with promulgating rules on various matters governing the use and maintenance of public beaches.
- DIGEST:** CSHB 2623 would allow a county commissioners court to temporarily close a beach in reasonable proximity to a space launch site on a primary or backup launch date. The bill would only apply to a county bordering on the Gulf of Mexico that contained a launch site approved by the Federal Aviation Administration (FAA) following an environmental impact statement (Cameron County). The land commissioner would develop rules for the closure of beaches for space flight activities, which would be defined as activities and training in all phases of preparing for and undertaking space flight.
- A person planning to conduct a launch in a county included would have to submit primary and backup launch dates to the county commissioners court. The commissioners court could not, without the approval of the land

office, close a beach on:

- a Saturday or Sunday between Memorial Day and Labor Day;
- the Saturday or Sunday before Memorial Day;
- Memorial Day;
- July 4; or
- Labor Day.

When closing a beach, the commissioners court would have to comply with the county's beach access and use and dune protection plans.

The land office could approve or deny a beach or access point closure, enter into a memorandum of agreement with a county containing a launch site, and adopt rules to govern beach and access point closures.

This 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, 2013.

**SUPPORTERS
SAY:**

CSHB 2623 would allow Cameron County to take the necessary step of temporarily closing public beaches to ensure public safety during a space launch.

The Space Exploration Technologies Corporation (SpaceX), a private corporation NASA has hired for missions to the International Space Station, is currently confined to launching from Cape Canaveral and Vandenberg Air Force Base, where schedules are constricted by competing priorities. SpaceX is reviewing locations for a new launch site for its exclusive use. The location of the proposed launch site in Texas at Boca Chica Beach — about five miles south of South Padre Island and three miles north of the U.S.-Mexico border — is among several locations in Florida, Georgia, and Puerto Rico in contention for the new site.

The site would allow SpaceX to launch the Falcon 9 and Falcon Heavy orbital vertical launch vehicles, as well as a variety of reusable suborbital launch vehicles. Proposed operations would include up to 12 launches per year, with a maximum of two Falcon Heavy launches, through 2022.

In order to be competitive for the launch site, the Legislature should take reasonable actions to ensure the location at Boca Chica Beach is a viable and attractive option for a new launch site. Above all, this requires

ensuring that the affected area could be secured during scheduled launches.

Economic benefit. The proposed SpaceX site would provide a considerable economic boost for the region and the state. The Rio Grande Valley is among the poorest areas of Texas. If constructed, the site would directly create 600 new jobs paying at least \$55,000 per year and have an estimated economic impact of \$51 million per year. In addition, the site would pay local property taxes and generate state and local sales-and-use taxes from increased economic activity.

The SpaceX launch site also would offer a number of benefits that defy easy quantification. It would present an opportunity for Texas to continue its historic leadership in space exploration activities. The site also would benefit science, math, and engineering education in the state and help instill a healthy curiosity in discovery and exploration among the youth of Texas.

Beach closure. CSHB 2623 is necessary for the location at Boca Chica Beach to be viable as a space launch site. While Cameron County could, under existing law, temporarily close beaches to ensure the public was not exposed to any potential hazards in the launch area, there are no clearly developed rules standardizing this practice for space launches. To remedy this, the bill would allow the land commissioner to adopt rules to govern when and how these closures could be carried out. The perimeter that would have to be cleared to ensure a safe launch is not yet certain, and for this reason, the bill would give specific rulemaking authority to the land commissioner to adopt appropriate rules.

While it is true that the bill could have an impact on residents wishing to use the beach during a launch closure, this would not likely be a widespread problem. CSHB 2623 would prohibit the county, without special permission, from closing the beaches on popular beach days from Memorial Day to Labor Day. Placing limits on when beaches could be closed for launches would ensure the area was accessible in times of great demand. In addition, while Cameron County does operate a park at Boca Chica Beach, it is fairly remote, with no water, wastewater, or electricity services. The small negative effect the bill could have on beach users would be greatly exceeded by the substantial economic benefits to the Rio Grande Valley and the state at large.

Environmental impact. CSHB 2623 simply would provide the necessary authority to close beaches around the Boca Chica site and would have no bearing on environmental issues that have been raised. Some critics with environmental concerns would like to block the beach closure authority in an effort to halt the project, but this bill is not the proper forum for addressing those issues.

The potential environmental impact of the project has been extensively documented in a draft environmental impact statement (EIS) released by the FAA this month. In the course of conducting the EIS, the FAA conferred with many federal agencies, including the U.S. Fish and Wildlife Department and the National Parks Service, and took comments from many others on potential impacts of the project. The EIS suggested there would be environmental impacts associated with the project and recommended mitigation measures that the FAA and SpaceX would implement to reduce or offset potential consequences. In addition, the FAA is undergoing formal consultations with the U.S. Fish and Wildlife Service to minimize the effects of site construction on the piping plover. A mitigation plan to reduce these impacts will appear in the final EIS.

The EIS process is specifically designed to ascertain potential environmental impacts. The FAA's extensive environmental review process determined that the impacts of the project were not overwhelming and could be mitigated by specific measures that currently are under consideration.

Other impacts. To be sure, launching spacecraft from the Boca Chica site would affect area residents in positive and negative ways. Yet the proposal has received overwhelming support from area residents giving public input, and it is clear that most believe the negative impacts of the project are greatly outweighed by the positive benefits to the region and to Texas as a whole.

Boca Chica Village, which would be most affected, has a very small, mostly transient population. With launches limited to 12 per year, the bill should not have a major impact on the quality of life for nearby residents.

**OPPONENTS
SAY:**

While CSHB 2623 might further the laudable goal of enhancing opportunities for space flight activities in the state, it would impose a significant cost in terms of environmental damage to sensitive areas and negative impacts to area residents. There are alternative sites in Texas that

have been considered that are not in the heart of such an environmentally sensitive coastal habitat and would not require beach closures.

Environmental impact. The U.S. Department of the Interior and the Texas Parks and Wildlife Department expressed concerns over impacts to the environmentally sensitive area surrounding the site and the multitude of rare and endangered species that call the area home. The proposed facilities are surrounded by the Refuge Complex lands, which are managed to protect threatened and endangered species and birds. The area encompasses habitat for federally listed species as well as other key fish and wildlife resources, which the project would directly and indirectly impact.

Several species of concern inhabit the proposed project area, including the ocelot, Kemp ridley sea turtle, green sea turtle, loggerhead sea turtles, the Northern Aplomado Falcon, and some species of plover, including the piping plover. In addition, the area is within the Central Flyway, a route through which more than 500 species of birds, representing millions in number, migrate each year.

In addition to the direct loss of habitat resulting from the construction of the project, there is concern that the quality and natural resource value of the surrounding properties would also be reduced as a result of the project. Noise, construction activities, pollutants, and other effects can disrupt animals and habitats in areas at some distance from the core launch site.

Beach closure. CSHB 2623 would authorize the closure of public beaches for a private purpose — launching spacecraft. Texas has a long and proud commitment to protecting access to public beaches for all citizens to enjoy. Closing access to public beaches for private activities on a regular basis would erode this tradition.

By creating an exception for a private entity, the bill could represent the proverbial “camel's nose under the tent.” Creating a precedent of allowing public beach closures for private purposes could lead to the granting of additional closures for a larger number of purposes, which would limit access to public beaches.

Other impacts. The bill would result in a significant noise and aesthetic impacts, especially for residents of Boca Chica Village. The launch site would be a stark feature on the land amid the flat coastal landscape.

Impacts would be felt from launches, and more immediately from the construction of numerous facilities in the area.

NOTES:

The companion bill, SB 1574 by Lucio, was referred to the Senate Natural Resources Committee on March 19.

CShB 2623 differs from the bill as filed in that it moves provisions allowing the closure of a public beach during a space launch from the Local Government Code into the Natural Resources Code and makes some procedural changes to how the beach closures would be executed.