

## **BILL ANALYSIS**

Senate Research Center

C.S.S.B. 1339  
By: Patterson  
Natural Resources  
4-30-97  
Committee Report (Substituted)

### **DIGEST**

Currently, there is no statewide program to help fund procedures to alleviate coastal erosion problems. This bill creates a program administered by the General Land Office to look for alternative ways to help slow the erosion.

### **PURPOSE**

As proposed, C.S.S.B. 1339 amends Chapter 33H, Natural Resources Code, relating to coastal erosion.

### **RULEMAKING AUTHORITY**

Rulemaking authority is granted to the commissioner of the General Land Office in SECTION 2 (Sec. 33.603(b), Natural Resources Code) of this bill.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Chapter 33H, Natural Resources Code, as follows:

Sec. 33.601. New heading: SHORT TITLE: Coastal Erosion Planning and Response Act. Deletes existing section.

Sec. 33.602. New heading: DEFINITIONS. Defines "coastal zone," "critically eroding area," "emergency," "erosion response," "fund," "local government," and "public beach." Deletes existing section.

Sec. 33.603. New heading: COASTAL EROSION PLANNING AND RESPONSE AUTHORITY. Authorizes the commissioner of the General Land Office (commissioner) to carry out an erosion response activity described in Section 33.605, including specific projects designed to inhibit or remediate the effects of coastal erosion. Authorizes the commissioner to adopt rules for erosion response within the coastal zone. Authorizes the commissioner to award grants from the coastal erosion response fund to local governments to carry out erosion response activities under this subchapter. Authorizes the commissioner to enter property in the coastal zone in order to perform a survey required under Section 33.609. Requires the commissioner to develop a program to increase public awareness through public education concerning certain aspects related to erosion. Provides that an activity undertaken by the commissioner under this subchapter shall not impair littoral rights. Provides that any upland owner shall be entitled to continue to exercise all littoral rights possessed by the owner before the date the erosion response commenced, including rights of ingress, egress, boating, bathing, and fishing, under certain conditions. Deletes a provision authorizing the commissioner to apply for, request, solicit, contract for, receive, and accept gifts, grants, donations, and other assistance from any source to carry out powers and duties provided by this subchapter.

Sec. 33.604. New heading: COASTAL EROSION RESPONSE FUND. Provides that the fund is established in the state treasury to be used by the commissioner to carry out the purposes of this subchapter. Provides that the fund consists of all money appropriated for the purposes of this subchapter and all money received by the commissioner from any other

source for the purpose of erosion response. Deletes Subsections (a) and (b).

Sec. 33.605. **USES OF THE FUND.** Authorizes money in the fund to be used for certain purposes. Requires the commissioner's decision to pay an erosion response activity or award under this subchapter to take into account several factors relating to the success of the proposed activity.

Sec. 33.606. **REPORT TO LEGISLATURE.** Requires the commissioner to submit to the legislature a coastal erosion planning and response report addressed to the legislature, which lists certain information, at least once each biennium.

Sec. 33.607. **GRANTS TO LOCAL GOVERNMENTS.** Authorizes a local government in the coastal zone to apply to the commissioner for a grant to fund erosion response activities by submitting certain information to the commissioner. Requires an application to contain certain information. Authorizes a local government to use a grant from the fund as a match in seeking other funding. Requires the local government to immediately reimburse the fund the amount received up to and including the amount of the original grant in certain circumstances. Authorizes the commissioner to establish a cost-share requirement for any proposed project or grant.

Sec. 33.608. **GRANT APPROVAL.** Authorizes the commissioner to approve, disapprove, or conditionally approve any grant application submitted under Section 33.607. Requires the commissioner to perform certain functions in relation to each grant application.

Sec. 33.609. **SURVEY REQUIREMENT.** Prohibits a person from undertaking any action in the coastal zone, relating to the erosion response which will cause or contribute to shoreline alteration before the person has conducted and filed a coastal boundary survey in the same manner of public land required in Chapter 21, Natural Resources Code, and all applicable rules and duties adopted and performed by the commissioner, as applicable. Requires the shoreline depicted on the survey to become and remain a fixed line for the purpose of locating a shoreline boundary, subject to movement landward of such line. Prohibits a coastal boundary survey conducted under this section from being filed until notice of approval is given by the commissioner under Subsection (c). Requires the survey to contain a statement of certain information. Requires the commissioner to provide a notice of approval in a certain manner within 30 days after the date the commissioner approves a coastal boundary survey.

Sec. 33.610. **LANDOWNER CONSENT.** Prohibits a state agency or local government from undertaking erosion response activity on certain property. Authorizes the commissioner to enter onto the property and undertake any erosion response activity on receipt of consent required under Subsection (a). Provides that consent to undertake erosion response activity under this subchapter is not required on a public beach.

Sec. 33.611. **IMMUNITY.** Provides that the state, the commissioner, and the land office staff are immune from suit and from liability for any act or omission related to certain matters.

Sec. 33.612. **JUDICIAL REVIEW.** Requires the standard for judicial review of rights affected by any action of the state, the commissioner, or land office staff to be under substantial evidence rule. Requires a person seeking review to prove that the action complained of was arbitrary, capricious, or not otherwise in accordance with law. Requires the venue for any action relating to this subchapter to be in Travis County.

Sec. 33.613. **PROOF OF CLAIM.** Requires a person, who claims title to permanent school fund land as a result of accretion, reliction, or avulsion in the coastal zone after September 1, 1997, to prove certain situations exist.

Sec. 33.614. **CORRECTION OF TAX ROLLS.** Authorizes the owner of land submerged because of erosion to request the commissioner's assistance in removing certain

property from the tax rolls by submitting certain documents. Requires the commissioner to inform the local appraisal district and identified taxing entities that certain property is owned by the permanent school fund because of erosion. Requires the district to remove the property from the tax rolls upon notification from the commissioner.

SECTION 2. (a) Effective date: September 1, 1997.

(b) and (c) Make application of this Act prospective.

SECTION 3. Emergency clause.

### **SUMMARY OF COMMITTEE CHANGES**

Deletes proposed SECTION 1 which repealed Chapter 33H, Natural Resources Code (Coastal Erosion). Adds new SECTION 1.

SECTION 1.

Amends Section 33.601, Natural Resources Code, to provide a new heading: "SHORT TITLE." Authorizes this subchapter to be known as the "Coastal Erosion Planning and Response Act."

Amends Section 33.602, Natural Resources Code, to provide a new heading: "DEFINITIONS." Redefines "critical eroding area," "erosion response," and "public beach."

Amends Section 33.603, Natural Resources Code, to authorize the commissioner to carry out certain erosion response projects under this section. Authorizes the commissioner to adopt rules, rather than promulgate rules, for erosion response in the coastal zone. Makes nonsubstantive changes.

Amends Section 33.604, Natural Resources Code, to provide a new heading: "COASTAL EROSION RESPONSE FUND." Provides that the coastal erosion response fund consists of all money appropriated for the purpose of this subchapter and all money received by the commissioner from any other source for the purpose of erosion response.

Amends Section 33.605, Natural Resources Code, to make nonsubstantive language changes regarding the uses of the fund.

Amends Section 33.606, Natural Resources Code, to require the commissioner to submit to the legislature a coastal erosion and response report. Makes nonsubstantive changes.

Amends Section 33.607, Natural Resources Code, to require an application for a grant under this section for certain information. Makes nonsubstantive changes.

Amends Section 33.608, Natural Resources Code, to make nonsubstantive changes.

Amends Section 33.609, Natural Resources Code, to make nonsubstantive changes

Amends Section 33.610, Natural Resources Code, to prohibit a state agency from undertaking erosion response activity on certain property. Makes nonsubstantive changes.

Amends Section 33.611, Natural Resources Code, to provide a new heading: "IMMUNITY." Makes nonsubstantive changes.

Amends Section 33.612, Natural Resources Code, to require judicial review of rights affected by an action of certain officials to be under the substantial evidence rule. Makes a nonsubstantive change.

Amends Section 33.613, Natural Resources Code, to provide that a person who claims title to permanent school fund land as a result of certain conditions happening in the coastal zone after September 1, 1997 must prove certain instances have occurred in order to prevail the claim.

Amends Section 33.614, Natural Resources Code, to make changes regarding the correction of tax rolls.

SECTION 2.

(a) Effective date: September 1, 1997.

(b) and (c) Makes application of this Act prospective.

SECTION 3.

Emergency clause.