

- SUBJECT:** Requiring local governments to adopt coastal erosion response plans
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 8 ayes — Bonnen, Farrar, Alvarado, Hamilton, Homer, Orr, Paxton, Thibaut
- 0 nays
- 1 absent — Bolton
- WITNESSES:** For — Jerry Patterson, General Land Office; Ellis Pickett, Surfrider Foundation Texas Upper Coast Chapter (*Registered, but did not testify*: Terry Hallmark)
- Against — None
- BACKGROUND:** Ch. 33, subch. H of the Natural Resources Code establishes policies and administrative authority for the management of coastal erosion in public coastal land in Texas.
- Sec. 33.607 authorizes local governments that are subject to state laws governing the use of public beaches and protection of dunes to prepare a plan for reducing public expenditures for erosion and storm damage losses that includes a building set-back line. A plan adopted under this provision may:
- preserve and enhance the public's right of access to and use of a public beach;
  - preserve sand dunes that provide natural storm protection or for conservation purposes;
  - prohibit new construction seaward of the building set-back line; and
  - provide for acquiring, directly or indirectly, property seaward of the building set-back line.
- An erosion response plan adopted by a local government may not establish a building set-back line more than 1,000 feet landward of the line of mean high tide. The land commissioner may adopt rules for establishing and implementing a building set-back line adopted by a municipality.

Sec. 33.602 requires the General Land Office (GLO) to implement a coastal erosion response plan in coordination with federal and state agencies and local governments.

Sec. 33.604 establishes the Coastal Erosion Response Account and identifies funds that may be appropriated to the account. Money in the account may be used broadly for coastal management activities, but all grants from the account must be approved by the Texas land commissioner.

**DIGEST:**

HB 2073 would amend Natural Resources Code, sec. 33.607 to require local governments subject to state laws governing the use of public beaches and protection of dunes to adopt a coastal erosion response plan based on erosion data and the GLO's erosion response plan. Erosion response plans adopted by local governments could include a building set-back line, subject to rules established by the land commissioner. Criteria used for granting funds from the Coastal Erosion Response Account would be amended to include consideration of a local response plan adopted by a local government.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

HB 2073 would make critical improvements to the management of public coastal land in Texas by requiring local governments with public beaches to adopt erosion response plans for coastal land in their jurisdictions. Requiring local governments to adopt such plans in coordination with GLO's statewide plan would be a critical step toward implementing a unified coastal erosion response strategy for the state.

Erosion along the state's coastline has reached severe levels, and about 64 percent of the Gulf Coast is experiencing critical, long-term beach erosion. Hurricanes have worsened coastal erosion in many areas. The storm surge from Hurricane Ike relocated massive amounts of beach sand, moving it offshore and to bays and other destinations further inland.

Current state law gives local governments the option of adopting erosion response plans with building set-back lines, but it does not make adopting such plans mandatory. While some local governments have adopted plans under this provision, others have not, resulting in a lack of coherence in erosion planning and management along the Texas coast. HB 2073 would

promote consistency in coastal erosion planning by requiring local plans that conform to certain restrictions.

HB 2073 would modify current law to allow local governments to adopt a building set-back line but would not require that erosion plans contain such a provision. This measure would provide local governments sufficient flexibility to tailor their plans to suit their specific coastal environments. Allowing the land commissioner to establish rules with respect to the plans would create an opportunity to put in place strong incentives for local governments to adopt building set-back lines in their erosion response plans.

Amending eligibility criteria for grants from the Coastal Erosion Response Account to include local erosion response plans could offset any additional burdens placed on local governments encountered in adopting the plans.

**OPPONENTS  
SAY:**

HB 2073 should require coastal erosion response plans by local governments to include a building set-back line. Specifically including a set-back line would have the advantage of creating uniformity and clarity among the many local governments that manage coastal land. In addition, the building set-back line would ensure that local erosion response plans prohibit in clear terms building in certain beach areas vulnerable to erosion. Also, the vague language in the bill leaves too much uncertainty about how such plans should be structured and what they should contain.

**NOTES**

The companion bill, SB 673 by Hegar, has been referred to the Senate Natural Resources Committee.