

SUBJECT: Establishing a vegetation line for a portion of Matagorda County beach

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 8 ayes — Walker, Crabb, F. Brown, Geren, Howard, Krusee, Mowery, B. Turner

0 nays

1 absent — Truitt

WITNESSES: For — Elena Lipkowski

Against — Jamie Mitchell, Surfrider, Texas Chapter

BACKGROUND: Natural Resources Code, sec. 61.011 establishes an “open beaches” policy under which the public must have “free and unrestricted right of ingress and egress to the larger area extending from the line of mean low tide to the line of vegetation bordering along the Gulf of Mexico.” In effect, the vegetation line marks the property line for private property owners along Texas beaches. The attorney general must enforce the open beaches law strictly to prevent encroachments against public access to beaches.

The line of vegetation can shift because of erosion, storms, or construction of seawalls and other manmade barriers. Natural Resources Code, sec. 61.016 defines how beach boundaries may be determined in areas with no marked line of vegetation. Sec. 61.017 defines the line of vegetation in several circumstances, including along the Galveston Seawall.

The U.S. Army Corps of Engineers built a seawall along about eight miles of the Gulf Intracoastal Waterway in Matagorda County in the 1990s. Forty to 50 years ago, the line of vegetation extended more than a half-mile from the current location of the seawall, but today it is located within 200 to 300 feet of the seawall because of long-term erosion and storm damage.

DIGEST: HB 779 would define the line of vegetation along 7.5 to 8.5 miles of Sargent Beach in Matagorda County as extending along the seaward side of the stone revetment and the concrete pile wall along the length of the seawall.

The bill would define this vegetation line as the landward boundary of the public beach and would retain fee title to all submerged land as property of the state.

The bill would take effect September 1, 2001.

SUPPORTERS
SAY:

HB 779 would help resolve the question of how to determine the property line between the public beach and private property along this small stretch of the Gulf of Mexico in Matagorda County. The construction of the seawall exacerbated the continuing problems with a vegetation line that constantly moves because of erosion and storm damage. Using the seawall would be a reasonable way to determine the property line.

HB 779 would not interfere with the public's access to the beach, which is protected by the open beaches law. The public still could use the beach between the vegetation line and the line of low mean tide. The bill would not allow privatization of beach property.

The bill would provide some certainty for Matagorda County property owners along Sargent Beach. The shift of the vegetation line could result in the state claiming what was once private property as public beach. The state is not pursuing such claims against property owners now but has filed legal action in the past regarding beach access.

HB 779 would be limited in scope to address the circumstances along eight miles of beach in Matagorda County, rather than the 425 miles of Texas beaches. It would set no new precedent. Existing law already provides for using the Galveston Seawall to determine the line of vegetation. Similar laws protect the rights of landowners holding property adjacent to creeks and rivers that also have shifting property lines.

Sargent Beach has four public access points to the beach along two rights-of-way. The Corps of Engineers owns 150 feet landward from the seawall, and this property is accessible to the public. HB 779 would not change the existing access points and would not limit the public's right to use the open beach.

OPPONENTS
SAY:

HB 779 could set a precedent of reducing public access in areas where manmade erosion-response structures are in place. Using structures such as seawalls and piers to establish the vegetation line could lead to the effective privatization of many of Texas' most easily accessible beaches. Public beaches belong as much to Texans living in El Paso, Lubbock, Dallas, or Texarkana as they belong to residents of the Gulf Coast.

Erosion could result in the loss of 7.5 miles of public beach access. Sargent Beach is eroding by more than 10 feet per year, which is why the Corps of Engineers built the \$64 million revetment. Once the existing beach erodes and the revetment is in or near the water, public access to the beach or the gulf could be eliminated.

HB 779 could result in publicly funded projects actually reducing the amount of land available to the public. This could result in citizens having to drive long distances to reach the next public beach.