

(The House considered SB 2043 by Williams, the Senate companion bill, in lieu of HB 3986, the House version of the bill, which had been set on the daily calendar and was analyzed by the House Research Organization. The bill subsequently was enacted as SB 2043.)

HOUSE  
RESEARCH  
ORGANIZATION bill analysis

5/4/2009

HB 3986  
Bonnen, et al.  
(CSHB 3986 by Orr)

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**SUBJECT:** Closing Rollover Pass on Bolivar Peninsula

**COMMITTEE:** Land and Resource Management — committee substitute recommended

**VOTE:** 8 ayes — Bonnen, Farrar, Alvarado, Bolton, Hamilton, Orr, Paxton, Thibaut

0 nays

1 absent — Homer

**WITNESSES:** For — None

Against — Amanda Reynolds and Cliff Tomerlin, Gilchrist Community Association (*Registered, but did not testify*: Connie Tomerlin, Gilchrist Community Association)

On — Jerry Patterson, Texas General Land Office

**BACKGROUND:** Natural Resources Code, ch. 33 provides for the management of coastal public land, including projects intended to respond to coastal erosion along the state's coast.

**DIGEST:** CSHB 3986 would allow the land commissioner to close a man-made pass between the Gulf of Mexico and an inland bay if the:

- commissioner determined that the pass caused or contributed to significant erosion of the shoreline of adjacent beaches;
- the pass was not a public navigational channel built or maintained by the federal government;
- the General Land Office (GLO) received legislative appropriations or other funding for this purpose.

If closing an eligible pass resulted in lost recreational opportunities, the

land commissioner would develop a plan to mitigate the loss of the pass in conjunction with the Parks and Wildlife Department, the county, and the municipality, if applicable, where the pass was located. The plan would

have to be presented to the public for comment before being approved by the commissioner.

The bill would take effect September 1, 2009.

**SUPPORTERS  
SAY:**

CSHB 3986 would implement the unfortunate but necessary closure of Rollover Pass on Bolivar Peninsula. The pass, which was constructed in the 1950s, has been a source of steady, devastating erosion of neighboring beaches. The pass has allowed sand to be stripped from nearby shores and deposited into Rollover Bay and elsewhere, creating serious vulnerabilities in the surrounding coastline. The Army Corps of Engineers currently spends more than \$1 million annually, on average, dredging sand from the pass that is displaced from surrounding beaches, an unsustainable practice that demonstrates the severe impact the pass has on coastal erosion. Hurricane Ike proved especially devastating for Rollover Pass and the surrounding areas, destroying homes and businesses, displacing unknown quantities of sand, and damaging the SH 87 bridge over the pass. Failing to close the pass is not an option because that would have severe repercussions for the Bolivar peninsula as a whole.

CSHB 3986 would close the pass, but require the land commissioner to adopt a plan to create other recreational opportunities — which could take the form of a fishing pier, for instance — in conjunction with other governmental entities. The bill would ensure public comment in the planning process and would result in a plan that could be funded by future legislation.

**OPPONENTS  
SAY:**

CSHB 3986 would have a detrimental impact on remaining businesses and residents in the Gilchrist community and other communities near Rollover Pass. Many neighboring homes and businesses were destroyed by Hurricane Ike. The remaining businesses depend heavily on revenue from people visiting Rollover Pass to fish and partake in other recreational activities. Closing the pass with no arrangement in place to create alternative recreational opportunities would harm the surrounding communities. Local businesses and communities likely would not be able to weather the unknown time it may take until the state allocated funds to build a pier or other recreational structure to substitute for Rollover Pass.

The bill would provide no guarantee that any alternative structure would be built at all. The state would be willing to spend \$6 million to fill in the pass, but no extra to provide an alternative for neighboring residents. While the pass does contribute to erosion, the state has not proved that closing the pass now, before an alternative arrangement can be reached, is a critical priority. At a minimum, the Legislature should require a plan for replacing the recreational opportunities afforded by Rollover Pass, then fund the plan and the closure of the pass simultaneously.

OTHER  
OPPONENTS  
SAY:

CSHB 3986 would not establish a process for public input into a plan for an alternative arrangement at Rollover Pass. While the bill would require the land commissioner to present the plan for public comment, it would not contain any details about public hearings or provide any guarantee that public comments would be incorporated into the plan.

NOTES:

The companion bill, SB 2043 by Williams, passed the Senate by 31-0 on April 23 and was reported favorably, without amendment, by the House Land and Resource Management Committee, making it eligible to be considered in lieu of HB 3986.

The Legislative Budget Board estimates the bill would cost \$1.4 million in fiscal 2010-11. From estimates provided by the General Land Office (GLO), the LBB estimates that the pass could be closed by pumping in sand and protecting the shore for a total cost of \$6 million. The GLO has also estimated it would receive a reimbursement of 75 percent of the total cost of the project from the federal government, about \$4.5 million. In addition, closing the pass could result in a savings of \$150,000 to the state in expenses that would otherwise be incurred for dredging the pass. The fiscal note assumes that alternative recreational opportunities could be provided with existing resources through the Parks and Wildlife Department.