

## **BILL ANALYSIS**

Senate Research Center

S.B. 1339  
By: Patterson  
Natural Resources  
4-7-97  
As Filed

### **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, S.B. 1339 establishes a new subchapter in the Natural Resource 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. Repealer: Chapter 33H, Natural Resources Code (Coastal Erosion).

SECTION 2. Amends Chapter 33, Natural Resources Code, by adding Subchapter H, as follows:

#### **SUBCHAPTER H. COASTAL EROSION**

Sec. 33.601. **SHORT TITLE:** Coastal Erosion Planning and Response Act.

Sec. 33.602. **DEFINITIONS.** Defines "coastal zone," "critically eroding area," "emergency," "erosion response," "fund," "local government," and "public beach."

Sec. 33.603. **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 but not limited to performance of specific projects designed to inhibit or remediate the effects of erosion. Authorizes the commissioner to promulgate rules for erosion response within the coastal zone. Authorizes the commissioner to issue grants from the fund to local governments to carry out erosion response activities under this subchapter. Authorizes the commissioner to enter onto property within 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 prior to the date the activity commenced, including but not limited to rights of ingress, egress, boating, bathing, and fishing, under certain conditions.

Sec. 33.604. **CREATION OF COASTAL EROSION RESPONSE FUND.** Provides that the coastal erosion response fund is established in the state treasury to be used by the commissioner to carry out the purposes of this subchapter. Requires the fund to be credited all money appropriated for the purposes of this subchapter and all other funds received by the commissioner from federal, state, local government, private, and other sources for the

purposes of erosion response.

Sec. 33.605. **ELIGIBLE USES OF THE FUND.** Authorizes money in the fund to be used for certain purposes. Requires the commissioner's decision to fund an erosion response activity or grant 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 prepare 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 to apply for a grant to fund erosion response activities by submitting certain information to the commissioner. 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. Requires the commissioner to perform certain functions in relation to each grant application.

Sec. 33.609. **SURVEY REQUIREMENT.** Provides that no action relating to the erosion response which will cause or contribute to shoreline alteration shall be undertaken within the coastal zone prior to conducting and filing 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.** Provides that no state agency or local government may perform certain functions without fulfilling certain requirements. 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. **ACTION OR APPROVAL BY STATE.** Requires the state, the commissioner, and the land office staff to be immune from a 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 based on substantial evidence. 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, Texas.

Sec. 33.613. **PROOF OF CLAIM.** Requires any person who claims title to permanent school fund land as a result of accretion, reliction, or avulsion within the coastal zone after the effective date of this subchapter to prove certain occurrences.

Sec. 33.614. **CORRECTION OF TAX ROLLS.** Provide that the commissioner will inform the local appraisal district and identified taxing entities that property currently listed on local tax rolls is now owned by the permanent school fund due to erosion, on receipt of the information required under Subsection (b). Requires the commissioner to take the action

described in Subsection (a) on receipt of certain documents.

SECTION 3. Emergency clause.

Effective date: upon passage.