

## **BILL ANALYSIS**

C.S.H.B. 1231  
By: Geren  
Transportation  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

The Gulf Coast Intracoastal Waterway (GCIW) is approximately 1108 miles long, partly natural and partly formed from man-made land cuts. A major transportation artery, the GCIW provides sheltered passage for commercial and leisure boats from northwest Florida to Brownsville, Texas. This toll-free waterway requires periodic dredging to remove eight million cubic yards of sediment per year along the Texas coastline. There are several ways to dispose of the dredged sediment.

Although the U.S. Army Corps of Engineers is responsible for maintaining the waterway, which includes dredging it, the Texas Transportation Commission is authorized to acquire land for the placement of dredge spoils, a method of disposal known as “upland disposal.” Currently, this land may be acquired by gift, purchase, or condemnation of property.

Additionally, the House Committee on Land and Resource Management conducted an interim study regarding the disposal of dredged material. The Committee’s report to the 78th Legislature discussed several options for disposal and recommendations for the management of the GCIW. Those recommendations included: encouraging the use of deep ocean disposal, limited use of open bay disposal to include specific months of the year, use of geotubes, limited upland disposal only on lands currently owned by the state or federal government, and possible implementation of a fee for use of the waterway.

CSHB 1231 amends Chapter 51, Transportation Code to reflect certain recommendations of the interim study conducted by the House Land and Resource Management Committee. The bill clarifies the importance of the GCIW to the State of Texas. The bill outlines the procedure for certain condemnation proceedings, and it codifies in state statute the methods of disposal recommended by the U.S. Army Corps of Engineers.

### **RULEMAKING AUTHORITY**

It is the committee’s opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

SECTION 1. Recognizes the economic benefit of the Gulf Coast Intracoastal Waterway to the State of Texas.

SECTION 2. Prohibits the Texas Transportation Commission from condemning private property for the upland disposal of dredged material along Reach 1, Reach 2, Reach 4, Reach 5, and Reach 6 (the Laguna Madre area) of the Gulf Coast Intracoastal Waterway, unless there is no state or federal land available that can be used for that purpose, or that the state’s failure to acquire land will result in closure of any segment of the Gulf Coast Intracoastal Waterway located in Texas.

SECTION 3. Gives express authority to the Texas Transportation Commission to enter into contracts with landowners for the use of land for upland disposal sites. Allows the Texas Department of Transportation to condemn land for disposal only in accordance with the Management Plan prepared by

the Army Corps of Engineers dated October 11, 2002. Requires the Texas Department of Transportation to seek legislative approval before making any substantive changes to dredged material disposal management.

SECTION 4. Repeals the section of the Transportation Code defining a habitat conservation plan.

**EFFECTIVE DATE**

September 1, 2003

**COMPARISON OF ORIGINAL TO SUBSTITUTE**

The substitute differs from the original bill in that the substitute narrows the definition as to what land along the Gulf Coast Intracoastal Waterway cannot be for upland dredged materials disposal. The substitute also provides exceptions to the ban on upland disposal in that area.

The substitute additionally differs from the original in that the section on Open Bay Disposal has been removed, as well as the provision allowing the commission to set a fee per ton on barges using the waterway.

Additionally, the substitute specifies that the Texas Department of Transportation shall condemn land only in accordance with the Draft Laguna Madre GIWW Dredged Material Management Plan prepared by the Army Corps of Engineers and the Interagency Coordination Team dated October 11, 2002, and that the department shall seek legislative approval for any substantive changes to dredged material disposal management once the plan is published.