

BILL ANALYSIS

Senate Research Center

S.B. 1044
By: Janek
Natural Resources
8/2/2005
Enrolled

AUTHOR'S/SPONSOR'S STATEMENT OF INTENT

The purpose of this bill is to establish a process by which Texas can pay or leverage payment of its share of the cost of major shore protection and improvement projects.

S.B. 1044 allows coastal counties to mitigate coastal erosion and improve public access to public beaches, authorizes the issuance of bonds by coastal counties, and commences the monetary impact on January 1, 2007.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the General Land Office in SECTION 3 (section 33.613, Natural Resources Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Sets forth certain findings of the legislature.

SECTION 2. Amends Section 33.605(a), Natural Resources Code, to provide an exception for a certain restoration project.

SECTION 3. Amends Subchapter H, Chapter 33, Natural Resources Code, by adding Section 33.613, as follows:

Sec. 33.613. PROPERTY RIGHTS; RESTORATION BY BEACHFRONT OWNER OF PRIVATE PROPERTY AFFECTED BY COASTAL EROSION. (a) Provides that this section applies to certain land.

(b) Requires the owner of property immediately landward of a public beach or submerged land, that has been affected by coastal erosion to restore, in accordance with General Land Office (land office) rules, the affected land to its original boundaries as evidenced in a residential subdivision plat for residential lots of one acre or less filed in the real property records of each county in which the affected land is located. Requires the owner to use only private resources and money for restoration authorized by this section. Provides that after restoration the owner owns the restored land in fee simple, subject to certain rights.

(c) Requires the owner, in accordance with land office rules, to build bulkheads on the restored land to prevent further erosion of the restored land.

(d) Requires the land office to adopt certain rules to govern the restoration of land under this section.

(e) Prohibits state money from being used to restore land under this section.

SECTION 4. Amends Chapter 33, Natural Resources Code, by adding Subchapter I, as follows:

SUBCHAPTER I. COASTAL PROTECTION AND IMPROVEMENT

Sec. 33.651. DEFINITIONS. Defines "bond," "coastal county," "coastal erosion," "coastal improvement project," "coastal protection project," "coastal protection and

improvement fund," "county coastal protection and improvement fund," "project cost," "public beach," "qualified agreement," "qualified payment," and "qualified project."

Sec. 33.652. APPLICABILITY OF SUBCHAPTER TO CERTAIN MUNICIPALITIES. Provides that the provisions of this subchapter relating to coastal counties apply to a municipality if all or substantially all of the gulf beach within a coastal county is located within the boundaries of the municipality.

Sec. 33.653. CREATION OF COASTAL PROTECTION AND IMPROVEMENT FUND. (a) Creates the coastal protection and improvement fund (fund) as a trust fund outside the state treasury to be held by the Texas Treasury Safekeeping Trust Company and administered by the commissioner of the General Land Office (commissioner) as trustee on behalf of the coastal counties.

(b) Sets forth the composition of the fund..

(c) Requires the commissioner to allocate five percent of the amount deposited in the fund to the land office to be used only to pay the cost of administering any coastal protection and improvement efforts undertaken under this subchapter and to support a coastal monitoring program by The University of Texas Bureau of Economic Geology and the sea turtle and shore monitoring programs of Texas A&M University at Galveston.

(d) Requires the commissioner to allocate 95 percent of the amount deposited in the fund for use by the coastal counties as provided by this subchapter.

Sec. 33.654. USE OF COASTAL PROTECTION AND IMPROVEMENT FUND. (a) Requires the coastal protection and improvement fund to be used only for a certain purpose.

(b) Authorizes the commissioner to make a qualified payment from the fund to a coastal county only if and to the extent that the coastal county is sponsoring a project that qualifies for funding as certified by the coastal county and the land office.

(c) Requires the amount and timing of a qualified payment to be determined by agreement between the land office and the coastal county sponsoring the project. Prohibits the amount of a qualified payment from exceeding the estimated project costs.

Sec. 33.655. COUNTY COASTAL PROTECTION AND IMPROVEMENT FUND. (a) Requires each coastal county to create a county coastal protection and improvement fund.

(b) Requires each coastal county to deposit any qualified payment that it receives into its county coastal protection and improvement fund and to use the money in the fund only to pay the project costs of a qualified project as provided by this subchapter.

Sec. 33.656. PROJECTS THAT QUALIFY FOR FUNDING. Sets forth certain project qualification requirements for funding under this subchapter.

Sec. 33.657. QUALIFIED AGREEMENT. (a) Authorizes the land office and a coastal county to enter into one or more agreements relating to a qualified project and the payment of the associated project costs. Provides that an agreement is governed by this subchapter.

(b) Authorizes an agreement to provide that the commissioner will pay to the coastal county an agreed amount from the coastal protection and improvement fund over a term of years to be used by the coastal county for a project that qualifies for funding under this subchapter.

Sec. 33.658. QUALIFIED PAYMENT. (a) Requires the commissioner to make qualified payments to a coastal county based on the land office's estimate of the expected project costs of any qualified projects undertaken by that county in the fiscal year in which the payment is made.

(b) Requires the commissioner, to the extent that the aggregate of qualified payments by the commissioner to a coastal county in a fiscal year exceeds the project costs of qualified projects undertaken by the county during that year, to recover the amount of the overpayment by taking certain actions.

(c) Requires a coastal county, if the county received an overpayment and is not due additional qualified payments the following year, to promptly remit the amount of the overpayment to the commissioner for deposit in the coastal protection and improvement fund.

(d) Prohibits the commissioner, notwithstanding Subsection (b), from taking a credit against qualified payments due a coastal county the following year if the county needs the full amount of the qualified payment that year to pay certain costs.

(e) Provides that the failure of a coastal county to use the full amount of a qualified payment in the fiscal year in which it is received does not prejudice the right of the county to receive money from the coastal protection and improvement fund in future years as may be provided in the county's qualified agreement.

(f) Prohibits a coastal county from using a qualified payment as a local match for funding under a state program.

(g) Authorizes a coastal county to use a qualified payment as a local match for funding under a federal program.

Sec. 33.659. GENERAL POWERS OF COASTAL COUNTIES. (a) Provides that in addition to all other powers that a coastal county has under general law, a coastal county has the rights, powers, privileges, authority, and functions that are necessary or convenient to certain projects.

(b) Authorizes a coastal county to issue bonds to pay the project costs of a qualified project. Provides that, for purposes of this subchapter, a coastal county is an issuer and a qualified project is an eligible project within the meaning of Chapter 1371 (Obligation for Certain Public Improvements), Government Code, are applicable to bonds issued by a coastal county.

(c) Authorizes a coastal county to take certain actions.

Sec. 33.660. AUTHORITY TO CONTRACT. (a) Authorizes a coastal county to contract with a state agency, municipality, county, or other political subdivision of the state or any agency or instrumentality of the federal government to implement a qualified project under this subchapter. Authorizes a contract under this section to contain certain conditions.

(b) Authorizes a coastal county to enter into a contract, lease, or agreement with or make or accept grants and loans to or from certain entities.

Sec. 33.661. FUNDS AVAILABLE FOR QUALIFIED PROJECTS. (a) Authorizes a coastal county to pay the project costs of a qualified project from general or available funds, payments received from the land office, including payments from the coastal protection and improvement fund, contract reserves, ad valorem taxes, sales taxes, the proceeds of bonds, or any combination of those funds.

(b) Provides that payments made by the commissioner under this subchapter are in addition to any other funds to which the coastal county is authorized to be entitled under any other state law or program.

(c) Provides that this subchapter does not preclude a contribution to a qualified project from any state, federal, private, or other source.

Sec. 33.662. BONDS ELIGIBLE FOR PURCHASE. Authorizes bonds issued by a coastal county under this subchapter to be purchased by the Texas Water Development Board for purposes authorized by Chapter 17 (Public Funding), Water Code.

Sec. 33.663. CONSTRUCTION OF SUBCHAPTER. Requires this subchapter to be liberally construed to accomplish the purposes of mitigation of coastal erosion and improvement of public access to public beaches.

SECTION 5. Requires the commissioner of the General Land Office, to the extent money is available, to make the first distribution of money from the coastal protection and improvement fund created under Section 33.653, Natural Resources Code, as added by this Act, on or after January 1, 2008.

SECTION 6. Requires the General Land Office, not later than December 1, 2005, to adopt rules for the administration and regulation of the restoration of land affected by coastal erosion as authorized by Section 33.613, Natural Resources Code, as added by this Act.

SECTION 7. Effective date: upon passage or September 1, 2005.