

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 80TH LEGISLATIVE REGULAR SESSION

April 2, 2007

TO: Honorable Craig Estes, Chair, Senate Committee on S/C on Ag., Rural Affairs & Coastal Resources

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: SB1789 by Jackson, Mike (Relating to the protection of coastal resources; providing for administrative penalties.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would authorize local governments to develop local building set-back lines to preserve public access to beaches and protect coastal sand dunes necessary for storm protection and conservation. Local governments could prohibit new construction seaward of this line and could acquire property in this area to prevent future development. These activities would be added to the definition of "coastal improvement project" and would be made eligible for funding from the coastal erosion response account.

The land commissioner would be authorized to promulgate rules to determine the line of vegetation marking the boundary between the public beach and private property, establish factors to determine whether a structure on the public beach is a hazard to public safety or interferes with the public's right to access the beach, and to establish procedures to determine if a structure is insurable property under the Texas Windstorm Insurance Association.

The bill would extend the time available to the land office for the review of local government beach access plans from 60 to 90 days. The bill would create a two-tiered review timeline for projects proposed on land adjacent to the public beach. Small scale projects of less than 5000 square feet or habitable structures of two stories or less would be forwarded to the land commissioner for review and comment 10 days prior to a local government's action on the project. Local governments would be required to provide the land commissioner with 30 days to review and prepare comments on projects larger than 5000 square feet and two stories.

The maximum daily penalty for failure to comply with an order of the commissioner to remove an unauthorized structure from the public beach would be increased to a maximum of \$2000 per day. The commissioner would also be granted authority to assess administrative penalties of up to \$2000 per day for a person who violates laws relating to the use and maintenance of public beaches.

The land commissioner would be authorized to order the removal of structures or hazards on the public beach if the structure is inconsistent with the local government's beach access and use plan and the structure poses a threat to safety, health or public welfare. The decision to remove a structure is at the commissioner's discretion and the commissioner would be authorized to contract for the removal of unauthorized structures from funds appropriated by the legislature. The bill also provides for notice to the Texas Windstorm Insurance Associate that a structure is located on the public beach, authorizes administrative penalties and allows the commissioner to pursue removal of structures from the public beach. Should the owner of a structure fail to pay the assessed penalties, removal costs and other fees before the 60th day following the commissioner's order to remove the structure, the land commissioner would be authorized to sell salvageable parts of the structure, request the attorney general file civil suit to collect penalties, costs of removal and other fees and expenses.

County and municipalities would be required to submit their procedures for permitting construction

activities requiring a dune permit to the land commissioner for review of any impact on critical dune areas. The commissioner would have 90 days to review the local dune protection plans and the procedures for the approval or disapproval of local dune plans is provided. Penalties for violations of dune protection would be increased to a maximum of \$2000 per day, and the land commissioner would be authorized to assess administrative penalties.

The Insurance Code would be amended by the bill providing that a structure may not be insured through the Texas Windstorm Insurance Association if the land commissioner determines the structure is located on the public beach.

The bill would add a disclosure notice to a seller's disclosure notice required in real property transactions. The disclosure would inform a purchaser that the property is located in an area where a beachfront construction or dune protection permit is required to make repairs or improvements.

Although the bill could result in increased penalty collections as provided in the bill, and although the removal of structures or hazards by the land commissioner could result in costs to the General Land Office, this estimate assumes that the vast majority of citizens would comply with new law promulgated by the bill; therefore, the revenue increase associated with passage of the bill is not expected to be significant, and costs associated with the removal of structures is not expected to be significant. Furthermore, the bill would result in additional workload for various state agencies; however, any costs associated with the bill's implementation are expected to be absorbed using existing agency resources.

Local Government Impact

Coastal political subdivisions would likely incur costs associated with the establishment of dune restoration lines and developing permitting-related ordinances. This estimate assumes such costs could be absorbed within existing local government resources.

Source Agencies: 302 Office of the Attorney General, 304 Comptroller of Public Accounts, 305 General Land Office and Veterans' Land Board, 360 State Office of Administrative Hearings

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