

By: Christian

H.B. No. 3577

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the authority of a municipality or county to define the
3 line of vegetation bordering a public beach.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 61.011, Natural Resources Code, is
6 amended by amending Subsection (d) and adding Subsection (d-1) to
7 read as follows:

8 (d) The commissioner shall promulgate rules, consistent
9 with the policies established in this section, on the following
10 matters only:

11 (1) acquisition by local governments or other
12 appropriate entities or public dedication of access ways sufficient
13 to provide adequate public ingress and egress to and from the beach
14 within the area described in Subdivision (6);

15 (2) protection of the public easement from erosion or
16 reduction caused by development or other activities on adjacent
17 land and beach cleanup and maintenance;

18 (3) local government prohibitions of vehicular
19 traffic on public beaches, provision of off-beach parking, and
20 other minimum measures needed to mitigate for any adverse effect on
21 public access and dune areas;

22 (4) imposition of beach access, user, or parking fees
23 and reasonable exercises of the police power by local governments
24 with respect to public beaches;

1 (5) contents and certification of beach access and use
2 plans and standards for local government review of construction on
3 land adjacent to and landward of public beaches, including
4 procedures for expedited review of beach access and use plans under
5 Section 61.015;

6 (6) construction on land adjacent to and landward of
7 public beaches and lying in the area either up to the first public
8 road generally parallel to the beach or to any closer public road
9 not parallel to the beach, or to within 1,000 feet of mean high
10 tide, whichever is greater, that affects or may affect public
11 access to and use of public beaches;

12 (7) the temporary suspension under Section 61.0185 of
13 enforcement of the prohibition against encroachments on and
14 interferences with the public beach easement and the ability of a
15 property owner to make repairs to a house while a suspension is in
16 effect;

17 (8) ~~[the determination of the line of vegetation or~~
18 ~~natural line of vegetation,~~

19 ~~(9)~~ the factors to be considered in determining
20 whether a structure, improvement, obstruction, barrier, or hazard
21 on the public beach:

22 (A) constitutes an imminent hazard to safety,
23 health, or public welfare; or

24 (B) substantially interferes with the free and
25 unrestricted right of the public to enter or leave the public beach
26 or traverse any part of the public beach; and

27 (9) ~~(10)~~ the procedures for determining whether a

1 structure is not insurable property for purposes of Section
2 2210.004, Insurance Code, because of the factors listed in
3 Subsection (h) of that section.

4 (d-1) A municipality has the exclusive right to determine
5 the line of vegetation or natural line of vegetation in the
6 municipality. A county has the exclusive right to determine the
7 line of vegetation or natural line of vegetation in the
8 unincorporated area of the county.

9 SECTION 2. Sections 61.0185(a), (b), and (c), Natural
10 Resources Code, are amended to read as follows:

11 (a) The commissioner by order may suspend for a period of
12 two years from the date the order is issued the submission of a
13 request that the attorney general file a suit under Section
14 61.018(a) to obtain a temporary or permanent court order or
15 injunction, either prohibitory or mandatory, to remove a house from
16 a public beach if the applicable county or municipality
17 ~~[commissioner]~~ determines that ~~[+~~

18 ~~(1)]~~ the line of vegetation establishing the boundary
19 of the public beach has moved as a result of a meteorological event
20 and the commissioner determines that:

21 (1) [+(2)] the house was located landward of the
22 natural line of vegetation before the meteorological event; and

23 (2) [(3)] the house does not present an imminent
24 threat to public health and safety.

25 (b) A county or municipality, as applicable, ~~[The~~
26 ~~commissioner]~~ shall make a determination under Subsection (a)
27 regarding the line of vegetation in accordance with Sections 61.016

1 and 61.017.

2 (c) A county or municipality, as applicable, [~~The~~
3 ~~commissioner~~] shall consult with the Bureau of Economic Geology of
4 The University of Texas at Austin when making a determination under
5 Subsection (a) regarding:

6 (1) the line of vegetation; or

7 (2) the effect of a meteorological event on the
8 location of the public beach easement.

9 SECTION 3. Section 61.020(b), Natural Resources Code, is
10 amended to read as follows:

11 (b) The determination of the location of the line of
12 vegetation by a county or municipality, as applicable, [~~the~~
13 ~~commissioner~~] as provided by Sections 61.016 and 61.017 constitutes
14 prima facie evidence of the landward boundary of the area subject to
15 the public easement until a court adjudication establishes the line
16 in another place.

17 SECTION 4. This Act takes effect September 1, 2009.