

BILL ANALYSIS

C.S.H.B. 2250
By: Bonnen
Natural Resources
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Coastal Coordination Council (Council) is a 12-member interagency board that administers Texas' federally approved Coastal Management Program. The Council coordinates Texas' approach to managing its coastal resources in compliance with federal coastal management program requirements. The State receives about \$2.5 million per year in federal coastal management funds, most of which the Council uses to award coastal grants.

The Council is subject to the Sunset Act and will be abolished on September 1, 2011, unless continued by the Legislature. The Sunset Advisory Commission found that while the State clearly benefits from maintaining federal approval of its Coastal Management Program, a separate Council is no longer needed to administer it. Since staffs from the General Land Office (GLO) and Council-member agencies perform most of the Coastal Management Program functions, the Sunset Advisory Commission determined GLO could more efficiently perform the Council's limited duties.

C.S.H.B. 2250 abolishes the Council and transfers its functions to GLO; requires establishment of the Coastal Coordination Advisory Committee to advise the Land Commissioner on matters related to the Coastal Management Program; and makes other statutory modifications.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Land Commissioner in SECTION 9 and SECTION 11 of this bill.

Rulemaking authority is transferred from the Coastal Coordination Council to the Land Commissioner in SECTION 8, SECTION 11, SECTION 13, and SECTION 15.

Rulemaking authority is expressly granted to the Attorney General in SECTION 15 of this bill.

All Coastal Coordination Council rules are continued in effect as rules of the General Land Office in SECTION 20 of this bill.

ANALYSIS

Abolishes the Coastal Coordination Council and transfers its functions to GLO

C.S.H.B. 2250 abolishes the Council and transfers its functions, powers, and duties to GLO and the Land Commissioner. The bill continues Council rules until superseded by a GLO rule, and continues a Council certification in effect before the effective date of this Act as well as complaints or other pending proceedings without change in status after the effective date of this Act. The bill provides that a reference in law or rule to the Coastal Coordination Council means the General Land Office and an activity conducted by the Council is considered to be an activity conducted by GLO. The bill repeals the Council's Sunset date and standard language developed by the Sunset Commission related to conflicts of interest, grounds for removal, standards of conduct, training, and complaints. The bill transfers all of the Council's money, records, property, and equipment to GLO on September 1, 2012, or as soon as possible after that date. The bill makes conforming changes throughout the bill related to the transfer, including changing references to the Council, Land Commissioner, and GLO.

The bill requires the Land Commissioner to adopt a comprehensive plan to ensure the smooth transition of all the Council's programs to GLO. The bill also requires GLO, during the

transition, to consult with the National Oceanic and Atmospheric Administration as necessary to ensure continued compliance with federal requirements and to maintain federal approval of the Texas Coastal Management Program.

Consistency Review

C.S.H.B. 2250 prohibits the Land Commissioner from reviewing a consistency determination, on request for referral, of GLO, the Land Commissioner, or the School Land Board. The bill requires the Land Commissioner to refer these consistency review requests to the Attorney General and specifies the timeframe by which the Land Commissioner shall refer such requests. The bill requires the Attorney General to determine whether the action is consistent or inconsistent with the coastal management program, and allows the Attorney General to protest the action if it is determined inconsistent. C.S.H.B. 2250 specifies that a protest by the Attorney General has the same effect as a protest by the Land Commissioner, and authorizes the Attorney General to adopt rules to implement this consistency review process.

C.S.H.B. 2250 also deletes statutory language to remove an outdated provision and language detailing the federal consistency review process to better conform to federal requirements.

Requires establishment of a Coastal Coordination Advisory Committee

C.S.H.B. 2250 requires the Land Commissioner, by rule, to establish the Coastal Coordination Advisory Committee to advise the Land Commissioner on matters related to the Coastal Management Program. The bill requires the Advisory Committee to include a representative from each of the current Council-member agencies, designated by the presiding officer of each agency. These agencies include GLO, Texas Parks and Wildlife Department, Texas Commission on Environmental Quality, Railroad Commission of Texas, Texas Water Development Board, Texas Department of Transportation, Texas State Soil and Water Conservation Board, and Texas Sea Grant College Program. C.S.H.B. 2250 requires the presiding officers of the agencies currently represented on the Council to appoint their representatives to the Advisory Committee as soon as possible after the effective date of the bill. The bill requires the Land Commissioner to appoint the four members representing specific coastal interests, including a city or county elected official who resides in the coastal area; an owner of a business located in the coastal area who resides in the coastal area; a resident from the coastal area; and a representative of agriculture. The bill requires the Land Commissioner, by rule, to establish the terms of office for and duties of committee members. The bill specifies that Chapter 2110, Government Code does not apply to the size, composition, or duration of the committee.

Evaluation of the Permitting Assistance Group

C.S.H.B. 2250 requires the Land Commissioner to evaluate the functions, membership, and usefulness of the Permitting Assistance Group by January 1, 2012. The bill requires the evaluation to include input from all of the Permitting Assistance Group members. The bill authorizes the Land Commissioner to adopt rules as necessary to restructure or abolish the Permitting Assistance Group, expand its functions, or add members.

The bill repeals the following statutory provisions:

- Natural Resources Code, §33.004(13);
- Natural Resources Code, §33.052(c);
- Natural Resources Code, §33.203(20);
- Natural Resources Code, §33.204(b), (c), and (d);
- Natural Resources Code, §33.2042;
- Natural Resources Code, §33.2043;
- Natural Resources Code, §33.2044;
- Natural Resources Code, §33.2045;
- Natural Resources Code, §33.2053(g);
- Natural Resources Code, §33.211; and
- Natural Resources Code, §33.212.

EFFECTIVE DATE

This Act takes effect September 1, 2011.

COMPARISON OF ORIGINAL TO SUBSTITUTE

The substitute contains language not in the original bill that prohibits the Land Commissioner from reviewing a consistency determination, on request for referral, of GLO, the Land Commissioner, or the School Land Board. Instead, the substitute requires the Land Commissioner to refer these consistency review requests to the Attorney General and specifies the timeframe by which the Land Commissioner shall refer such requests. The substitute requires the Attorney General to determine whether the action is consistent or inconsistent with the coastal management program, and allows the Attorney General to protest the action if it is determined inconsistent. C.S.H.B. 2250 specifies that a protest by the Attorney General has the same effect as a protest by the Land Commissioner, and authorizes the Attorney General to adopt rules to implement this consistency review process.

Unlike the original bill, the C.S.H.B. 2250 deletes statutory language to remove an outdated provision and language detailing the federal consistency review process to better conform to federal requirements.

C.S.H.B. 2250 also makes additional technical and conforming changes not included in the original bill.