

## **BILL ANALYSIS**

H.B. 4172  
By: Middleton  
Judiciary & Civil Jurisprudence  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

Concerns have been raised regarding the procedure for establishing that an area is subject to a public beach easement. There are calls to place the burden of proof on the party seeking to establish that the title of the littoral owner does not include the right to prevent the public from using the area for ingress or egress to the sea or that there is a common law right or easement in favor of the public for ingress or egress to the sea on the area. H.B. 4172 seeks to address the issue by establishing the burden of proof in certain suits or administrative proceedings relating to access of public beaches.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **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**

H.B. 4172 amends the Natural Resources Code to place the burden of proof, in a suit or administrative proceeding to establish that an applicable area is subject to a public beach easement, on the party seeking to establish such an easement. The bill removes the following:

- provisions establishing that a showing that the area in question is located from mean low tide to the line of vegetation is prima facie evidence of a public beach easement; and
- a provision establishing that the determination of the location of the line of vegetation by the commissioner of the General Land Office, as provided by law, constitutes prima facie evidence of the landward boundary of the area subject to the public easement until a court adjudication establishes the line in another place.

### **EFFECTIVE DATE**

September 1, 2021.