

BILL ANALYSIS

C.S.H.B. 3859
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Land & Resource Management
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The City of Galveston's beach access and use plan was approved in 1993 and has since been amended 10 times. The most recent amendment prevents the city from acting within a state-granted charge to adopt applicable rules and requirements that address the management and use of a public beach, the care and protection of sand dunes, and the reduction of public expenditures for erosion and storm damage losses. The city is seeking to remove vehicular traffic from the beach in several areas and provide an alternative for access that includes adequate parking, pedestrian paths, and signage and that is compliant with the Open Beaches Act. However, the city is in a situation where this conditional compliance is being treated as probationary non-compliance. C.S.H.B. 3859 seeks to address this issue and provide some flexibility by authorizing the commissioner of the General Land Office to partially approve the proposed beach access and use plan of certain local governments, which would allow the city to make needed corrections to its plan without slowing down the process for the adoption of rules and requirements for the approved portion of the plan.

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

C.S.H.B. 3859 amends the Natural Resources Code to authorize the commissioner of the General Land Office to partially approve the proposed beach access and use plan of a local government that is a county, or that is a local government located wholly or partly in such county, having a population of more than 350,000 and less than 370,000 that borders the Gulf of Mexico and is adjacent to a county having a population of 4.5 million or more. The bill authorizes the local government, if the commissioner partially approves the proposed plan, to submit to the commissioner subsequent amendments only for the portions of the plan that are partially approved. The amendments must be certified consistent with provisions relating to dunes and with provisions relating to state policy and rules regarding public beach access and rules adopted under such provisions.

C.S.H.B. 3859 requires the commissioner, in the event of a partial approval, to send the unapproved portions back to the originating local government with a statement of specific objections and the reasons for denial, along with suggested modifications, and requires the local government, on receipt, to revise and resubmit the unapproved portions.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2023.

COMPARISON OF INTRODUCED AND SUBSTITUTE

While C.S.H.B. 3859 may differ from the introduced in minor or nonsubstantive ways, the following summarizes the substantial differences between the introduced and committee substitute versions of the bill.

The substitute restricts the proposed beach access and use plans that may be partially approved to those of a local government that is a county, or that is a local government located wholly or partly in such county, having a population of more than 350,000 and less than 370,000 that borders the Gulf of Mexico and is adjacent to a county having a population of 4.5 million or more, whereas the introduced did not include any such restriction.

The substitute omits provisions present in the introduced that did the following:

- required the commissioner, in partially approving a plan, to also identify geographic areas of noncompliance; and
- authorized a local government, in the event of a partial approval, to adopt rules and requirements for the portion of the plan that has been approved.

The substitute includes provisions absent in the introduced that do the following:

- authorize a local government, if the commissioner partially approves a proposed plan, to submit to the commissioner subsequent amendments only for the portions of the plan that are partially approved;
- require such amendments to be certified consistent with provisions relating to dunes and with provisions relating to state policy and rules regarding public beach access and rules adopted under such provisions;
- require the commissioner, in the event of a partial approval, to send the unapproved portions back to the originating local government with a statement of specific objections and the reasons for denial, along with suggested modifications; and
- require the local government, on receipt of such, to revise and resubmit the unapproved portions.