

BILL ANALYSIS

S.B. 1560
By: Taylor
Land & Resource Management
Committee Report (Unamended)

BACKGROUND AND PURPOSE

The Gulf of Mexico shoreline contains an abundance of natural resources, an outlet for recreation, and homes to many Texans. Natural events such as hurricanes have at times altered the shoreline and the line of vegetation. This line is critical in determining where an easement for public beach use begins.

One potential way to protect the coast from such events is the construction of a static dune. Vegetated stabilized dunes can help preserve the beach by protecting against erosion of the shore.

S.B. 1560 amends current law relating to easements used for dune construction and maintenance projects. The bill is restricted to the beach in Galveston County. It also states that the bill cannot be used to reduce the size of the public beach.

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.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter A, Chapter 63, Natural Resources Code, by adding Section 63.004, as follows:

Sec. 63.004. DUNE PROJECT EASEMENT. (a) Defines "dune project" for the purposes of this section.

(b) Clarifies that this section only applies to a county that contains a barrier island and a peninsula, with a population of more than 50,000 but less than 300,000, that borders both the Gulf of Mexico and a county with more a population of more than 4 million.

(c) Authorizes a person who owns property that borders the line of mean high tide or mean higher tide, as applicable, that establishes the boundary of state-owned submerged land to grant an easement on the property or a portion of the property to this state, a county, or a municipality for the purpose of allowing the governmental entity to construct and maintain a dune project in the easement.

(d) Requires a person who grants a dune project easement under Subsection (c) to include with the easement a survey locating:

- (1) the line of mean high tide or mean higher tide, as applicable;
- (2) the seaward and landward boundaries of the dune project; and

(3) each state, county, or municipal easement on the property that is the subject of the dune project easement that was recorded before the granting of the dune project easement.

(e) Provides that the granting of a dune project easement under Subsection (c) does not:

(1) create a burden on or right of access to the grantor's property that is not specifically provided for in the easement; or

(2) restrict the grantor's right to use the beach or the land subject to the easement, provided that the grantor's use of the beach or the land subject to the easement does not:

(A) unreasonably interfere with public recreational use of land subject to an easement for recreational use or construction or maintenance of a dune project in the dune project easement; or

(B) violate a state, county, or municipal law.

(f) Authorizes the terms of a dune project easement granted under Subsection (c) may not reduce the area of public beach but may provide that the seaward boundary of the easement may be affected by gradual or avulsive changes in the line of mean high tide or mean higher tide, as applicable.

(g) Provides that a dune project easement granted under Subsection (c) automatically terminates if the governmental entity that granted the easement:

(1) does not commence construction of a dune project in the easement within a reasonable period of time or fails to maintain the dune project after completion of the project; or

(2) does not substantially repair or replace a completed dune project after the project is damaged or destroyed by an avulsive or meteorological event.

(h) Prohibits a person from granting a dune project easement under Subsection (c) unless the person dedicates a portion of the easement to the public for use as a recreational easement. Requires that the recreational easement border the boundary of the public beach. Requires that the recreational easement authorize users of the easement to conduct recreational activities traditionally associated with enjoying gulf beaches on the easement that comply with state, county, and municipal laws, including fishing, boat launching, picnicking, hiking, running, studying nature, bird-watching, engaging in water sports, bicycling, and dog walking.

(i) Provides that a person who grants a recreational easement under Subsection (h) does not by granting the easement:

(1) assure the public that the premises are safe for recreational purposes;

(2) have a duty to the public to exercise a greater degree of care than the grantor would owe to a trespasser on the property; or

(3) assume responsibility or incur liability for an injury to a public user of the easement caused by an act of another public user of the easement.

(j) Provides that Subsection (i) does not limit the liability of a person who grants a recreational easement and has been grossly negligent or has acted with malicious intent or in bad faith.

(k) Provides that a recreational easement granted under Subsection (h) automatically terminates if the associated dune project easement terminates.

(l) Requires a governmental entity that is granted an easement under this section to execute a recordable release of the easement and deliver the release to the owner of the property on which the easement is located if the easement is terminated. Provides that the governmental entity is not required to remove the dune project if the easement is terminated.

SECTION 2. Makes application of the change in law made by this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2013.

EFFECTIVE DATE

On passage, or, if the bill does not receive the necessary vote, September 1, 2013.