

By: Dutton

H.B. No. 325

Substitute the following for H.B. No. 325:

By: Deshotel

C.S.H.B. No. 325

A BILL TO BE ENTITLED

AN ACT

relating to the boundaries of public beaches.

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

SECTION 1. Section 61.001(8), Natural Resources Code, is amended to read as follows:

(8) "Public beach" means any beach area, whether publicly or privately owned, extending inland from the line of mean low tide to the line of vegetation bordering on the Gulf of Mexico to which the public has acquired the right of use or easement to or over the area by prescription, dedication, presumption, or has retained a right by virtue of continuous right in the public since time immemorial, as recognized in law and custom. This definition does not include a beach that is not accessible by a public road or public ferry as provided in Section 61.021 of this code. The doctrine of avulsion does not apply to the determination of the boundary of a public beach.

SECTION 2. Section 61.011(a), Natural Resources Code, is amended to read as follows:

(a) It is declared and affirmed to be the public policy of this state that the public, individually and collectively, shall have the free and unrestricted right of ingress and egress to and from the state-owned beaches bordering on the seaward shore of the Gulf of Mexico, or if the public has acquired a right of use or easement to or over an area by prescription, dedication, or has

1 retained a right by virtue of continuous right in the public, the
2 public shall have the free and unrestricted right of ingress and
3 egress to the larger area extending from the line of mean low tide
4 to the line of vegetation bordering on the Gulf of Mexico. The
5 doctrine of avulsion does not apply to the determination of the
6 boundary of the area to which the public has a right of ingress and
7 egress.

8 SECTION 3. Section 61.012, Natural Resources Code, is
9 amended to read as follows:

10 Sec. 61.012. DEFINITION. In this subchapter, "beach" means
11 state-owned beaches to which the public has the right of ingress and
12 egress bordering on the seaward shore of the Gulf of Mexico or any
13 larger area extending from the line of mean low tide to the line of
14 vegetation bordering on the Gulf of Mexico if the public has
15 acquired a right of use or easement to or over the area by
16 prescription, dedication, or has retained a right by virtue of
17 continuous right in the public. The doctrine of avulsion does not
18 apply to the determination of the boundary of a beach.

19 SECTION 4. Section 61.013(c), Natural Resources Code, is
20 amended to read as follows:

21 (c) For purposes of this section, "public beach" shall mean
22 any beach bordering on the Gulf of Mexico that extends inland from
23 the line of mean low tide to the natural line of vegetation
24 bordering on the seaward shore of the Gulf of Mexico, or such larger
25 contiguous area to which the public has acquired a right of use or
26 easement to or over by prescription, dedication, or estoppel, or
27 has retained a right by virtue of continuous right in the public

1 since time immemorial as recognized by law or custom. This
2 definition does not include a beach that is not accessible by a
3 public road or public ferry as provided in Section 61.021 of this
4 code. The doctrine of avulsion does not apply to the determination
5 of the boundary of a public beach.

6 SECTION 5. Section 61.014(a), Natural Resources Code, is
7 amended to read as follows:

8 (a) As used in this section, "public beach" means the area
9 extending from the line of mean low tide of the Gulf of Mexico to the
10 line of vegetation bordering on the Gulf of Mexico, or to a line 200
11 feet inland from the line of mean low tide, whichever is nearer the
12 line of mean low tide, if the public has acquired a right of use or
13 easement to or over the area by prescription, dedication, or has
14 retained a right by virtue of continuous right in the public. The
15 doctrine of avulsion does not apply to the determination of the
16 boundary of a public beach.

17 SECTION 6. Section 61.062, Natural Resources Code, is
18 amended to read as follows:

19 Sec. 61.062. PUBLIC POLICY. It is the public policy of this
20 state that the public, individually and collectively, shall have
21 the free and unrestricted right of ingress and egress to and from
22 the state-owned beaches bordering on the seaward shore of the Gulf
23 of Mexico if the public has acquired a right of use or easement to or
24 over the area by prescription, dedication, or continuous use. This
25 creates a responsibility for the state, in its position as trustee
26 for the public, to assist local governments in the cleaning of beach
27 areas which are subject to the access rights of the public as

1 defined in Subchapter B of this chapter. The doctrine of avulsion
2 does not apply to the determination of the boundary of the area to
3 which the public has a right of ingress and egress.

4 SECTION 7. Section 61.161, Natural Resources Code, is
5 amended to read as follows:

6 Sec. 61.161. PUBLIC POLICY. It is the public policy of this
7 state that the state-owned beaches bordering on the seaward shore
8 of the Gulf of Mexico, and any larger area extending from the line
9 of mean low tide to the line of vegetation bordering on the Gulf of
10 Mexico, if the public has acquired a right of use or easement to or
11 over the area by the prescription or dedication or has retained a
12 right by virtue of continuous right in the public, shall be used
13 primarily for recreational purposes, and any use which
14 substantially interferes with the enjoyment of the beach area by
15 the public shall constitute an offense against the public policy of
16 the state. The doctrine of avulsion does not apply to the
17 determination of the boundary of the beach area subject to public
18 use. Nothing in this subchapter prevents any agency, department,
19 political subdivision, or municipal corporation of this state from
20 exercising its lawful authority under any law of this state to
21 regulate safety conditions on any beach area subject to public use.

22 SECTION 8. Section 61.162(a), Natural Resources Code, is
23 amended to read as follows:

24 (a) The legislature finds that the operation and
25 maintenance of business establishments at fixed or permanent
26 locations on the public beaches of this state bordering on the
27 seaward shore of the Gulf of Mexico constitute a potential public

1 health hazard and a substantial interference with the free and
2 unrestricted rights of ingress and egress of the public, both
3 individually and collectively, to and from the state-owned beaches
4 bordering on the seaward shore of the Gulf of Mexico or any larger
5 area extending from the line of mean low tide to the line of
6 vegetation bordering on the Gulf of Mexico if the public has
7 acquired a right of use or easement to or over the area by
8 prescription, dedication, or has retained a right by virtue of
9 continuous right in the public. The doctrine of avulsion does not
10 apply to the determination of the boundary of a public beach.

11 SECTION 9. Section 365.033(b), Health and Safety Code, is
12 amended to read as follows:

13 (b) In this section, "beach" means an area in which the
14 public has acquired a right of use or an easement and that borders
15 on the seaward shore of the Gulf of Mexico or extends from the line
16 of mean low tide to the line of vegetation bordering on the Gulf of
17 Mexico. The doctrine of avulsion does not apply to the
18 determination of the boundary of a beach.

19 SECTION 10. Section 21.111(c), Parks and Wildlife Code, is
20 amended to read as follows:

21 (c) If any state park site includes a public beach as
22 defined by Section 61.001, Natural Resources Code [~~on the seaward~~
23 ~~shore of the Gulf of Mexico, extending from the line of mean low~~
24 ~~tide to the line of vegetation, over which the public has acquired a~~
25 ~~right of use or easement to or over the area by prescription or~~
26 ~~dedication or has retained a right by virtue of continuous right in~~
27 ~~the public]~~, no entrance or gate fee may be charged to persons

1 desiring to enter or to leave the public beach area, so long as the
2 persons do not enter any other portion of the park for which an
3 entrance or gate fee is charged.

4 SECTION 11. Section 729.001(b), Transportation Code, is
5 amended to read as follows:

6 (b) In this section, "public beach" has the meaning assigned
7 by Section 61.008, Natural Resources Code [~~means a beach bordering~~
8 ~~on the Gulf of Mexico that extends inland from the line of mean low~~
9 ~~tide to the natural line of vegetation bordering on the seaward~~
10 ~~shore of the Gulf of Mexico, or the larger contiguous area to which~~
11 ~~the public has acquired a right of use or easement to or over by~~
12 ~~prescription, dedication, or estoppel, or has retained a right by~~
13 ~~virtue of continuous right in the public since time immemorial as~~
14 ~~recognized by law or custom~~].

15 SECTION 12. This Act takes effect on the date on which the
16 constitutional amendment proposed by the 83rd Legislature, Regular
17 Session, 2013, establishing the boundaries of public beaches takes
18 effect. If that amendment is not approved by the voters, this Act
19 has no effect.