

By: Taylor

S.B. No. 1560

A BILL TO BE ENTITLED

AN ACT

relating to easements used for dune construction and maintenance projects in certain counties.

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

SECTION 1. Subchapter A, Chapter 63, Natural Resources Code, is amended by adding Section 63.004 to read as follows:

Sec. 63.004. DUNE PROJECT EASEMENT. (a) For the purposes of this section, "dune project" means a state, county, or municipal project to construct and maintain a vegetated stabilized dune on a beach for protection against avulsive and meteorological events.

(b) This section applies only to property in a county:

(1) that contains a barrier island and a peninsula;

(2) with a population of more than 50,000 and less than 350,000; and

(3) that borders:

(A) the Gulf of Mexico; and

(B) a county with a population of more than four million.

(c) A person who owns property that borders the line of mean high tide or mean higher high tide, as applicable, that establishes the boundary of state-owned submerged land may 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.

1       (d) A person who grants a dune project easement under  
2 Subsection (c) must include with the easement a survey locating:

3           (1) the line of mean high tide or mean higher high  
4 tide, as applicable;

5           (2) the seaward and landward boundaries of the dune  
6 project; and

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

10       (e) The granting of a dune project easement under Subsection  
11 (c) does not:

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

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

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

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

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

1       (g) A dune project easement granted under Subsection (c)  
2 automatically terminates if the governmental entity granted the  
3 easement:

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

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

10       (h) A person may not grant a dune project easement under  
11 Subsection (c) unless the person dedicates a portion of the  
12 easement to the public for use as a recreational easement. The  
13 recreational easement must border the boundary of the public beach.  
14 The recreational easement must authorize users of the easement to  
15 conduct recreational activities traditionally associated with  
16 enjoying gulf beaches on the easement that comply with state,  
17 county, and municipal laws, including fishing, boat launching,  
18 picnicking, hiking, running, studying nature, bird-watching,  
19 engaging in water sports, bicycling, and dog walking.

20       (i) A person who grants a recreational easement under  
21 Subsection (h) does not by granting the easement:

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

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

27           (3) assume responsibility or incur liability for an

1 injury to a public user of the easement caused by an act of another  
2 public user of the easement.

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

6 (k) A recreational easement granted under Subsection (h)  
7 automatically terminates if the associated dune project easement  
8 terminates.

9 (l) A governmental entity that is granted an easement under  
10 this section shall execute a recordable release of the easement and  
11 deliver the release to the owner of the property on which the  
12 easement is located if the easement is terminated. The  
13 governmental entity is not required to remove the dune project if  
14 the easement is terminated.

15 SECTION 2. The change in law made by this Act applies only  
16 to an easement granted on or after the effective date of this Act.  
17 An easement granted before the effective date of this Act is  
18 governed by the law in effect on the date the easement was granted,  
19 and the former law is continued in effect for that purpose.

20 SECTION 3. This Act takes effect immediately if it receives  
21 a vote of two-thirds of all the members elected to each house, as  
22 provided by Section 39, Article III, Texas Constitution. If this  
23 Act does not receive the vote necessary for immediate effect, this  
24 Act takes effect September 1, 2013.