

1-1 By: Taylor S.B. No. 1560  
 1-2 (In the Senate - Filed March 8, 2013; March 19, 2013, read  
 1-3 first time and referred to Committee on Natural Resources;  
 1-4 May 2, 2013, reported adversely, with favorable Committee  
 1-5 Substitute by the following vote: Yeas 7, Nays 0; May 2, 2013,  
 1-6 sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13			X	
1-14	X			
1-15			X	
1-16			X	
1-17	X			
1-18	X			
1-19	X			

1-20 COMMITTEE SUBSTITUTE FOR S.B. No. 1560 By: Hegar

1-21 A BILL TO BE ENTITLED  
 1-22 AN ACT

1-23 relating to easements used for dune construction and maintenance  
 1-24 projects.

1-25 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:  
 1-26 SECTION 1. Subchapter A, Chapter 63, Natural Resources  
 1-27 Code, is amended by adding Section 63.004 to read as follows:

1-28 Sec. 63.004. DUNE PROJECT EASEMENT. (a) For the purposes  
 1-29 of this section, "dune project" means a state, county, or municipal  
 1-30 project to construct and maintain a vegetated stabilized dune on a  
 1-31 beach for protection against avulsive and meteorological events.

1-32 (b) A person who owns property that borders the line of mean  
 1-33 high tide or mean higher high tide, as applicable, that establishes  
 1-34 the boundary of state-owned submerged land may grant an easement on  
 1-35 the property or a portion of the property to this state, a county,  
 1-36 or a municipality for the purpose of allowing the governmental  
 1-37 entity to construct and maintain a dune project in the easement.

1-38 (c) A person who grants a dune project easement under  
 1-39 Subsection (b) must include with the easement a survey locating:

1-40 (1) the line of mean high tide or mean higher high  
 1-41 tide, as applicable;

1-42 (2) the seaward and landward boundaries of the dune  
 1-43 project; and

1-44 (3) each state, county, or municipal easement on the  
 1-45 property that is the subject of the dune project easement that was  
 1-46 recorded before the granting of the dune project easement.

1-47 (d) The granting of a dune project easement under Subsection  
 1-48 (b) does not:

1-49 (1) create a burden on or right of access to the  
 1-50 grantor's property that is not specifically provided for in the  
 1-51 easement; or

1-52 (2) restrict the grantor's right to use the beach or  
 1-53 the land subject to the easement, provided that the grantor's use of  
 1-54 the beach or the land subject to the easement does not:

1-55 (A) unreasonably interfere with public  
 1-56 recreational use of land subject to an easement for recreational  
 1-57 use or construction or maintenance of a dune project in the dune  
 1-58 project easement; or

1-59 (B) violate a state, county, or municipal law.

1-60 (e) The terms of a dune project easement granted under

2-1 Subsection (b) may provide that the seaward boundary of the  
2-2 easement may be affected by gradual or avulsive changes in the line  
2-3 of mean high tide or mean higher high tide, as applicable.

2-4 (f) A dune project easement granted under Subsection (b)  
2-5 automatically terminates if the governmental entity granted the  
2-6 easement:

2-7 (1) does not commence construction of a dune project  
2-8 in the easement within a reasonable period of time or fails to  
2-9 maintain the dune project after completion of the project; or

2-10 (2) does not substantially repair or replace a  
2-11 completed dune project after the project is damaged or destroyed by  
2-12 an avulsive or meteorological event.

2-13 (g) A person may not grant a dune project easement under  
2-14 Subsection (b) unless the person dedicates a portion of the  
2-15 easement to the public for use as a recreational easement. The  
2-16 recreational easement must border the boundary of the public beach.  
2-17 The recreational easement must authorize users of the easement to  
2-18 conduct recreational activities traditionally associated with  
2-19 enjoying gulf beaches on the easement that comply with state,  
2-20 county, and municipal laws, including fishing, boat launching,  
2-21 picnicking, hiking, running, studying nature, bird-watching,  
2-22 engaging in water sports, bicycling, and dog walking.

2-23 (h) A person who grants a recreational easement under  
2-24 Subsection (g) does not by granting the easement:

2-25 (1) assure the public that the premises are safe for  
2-26 recreational purposes;

2-27 (2) have a duty to the public to exercise a greater  
2-28 degree of care than the grantor would owe to a trespasser on the  
2-29 property; or

2-30 (3) assume responsibility or incur liability for an  
2-31 injury to a public user of the easement caused by an act of another  
2-32 public user of the easement.

2-33 (i) Subsection (h) does not limit the liability of a person  
2-34 who grants a recreational easement and has been grossly negligent  
2-35 or has acted with malicious intent or in bad faith.

2-36 (j) A recreational easement granted under Subsection (g)  
2-37 automatically terminates if the associated dune project easement  
2-38 terminates.

2-39 (k) A governmental entity that is granted an easement under  
2-40 this section shall execute a recordable release of the easement and  
2-41 deliver the release to the owner of the property on which the  
2-42 easement is located if the easement is terminated. The  
2-43 governmental entity is not required to remove the dune project if  
2-44 the easement is terminated.

2-45 SECTION 2. The change in law made by this Act applies only  
2-46 to an easement granted on or after the effective date of this Act.  
2-47 An easement granted before the effective date of this Act is  
2-48 governed by the law in effect on the date the easement was granted,  
2-49 and the former law is continued in effect for that purpose.

2-50 SECTION 3. This Act takes effect immediately if it receives  
2-51 a vote of two-thirds of all the members elected to each house, as  
2-52 provided by Section 39, Article III, Texas Constitution. If this  
2-53 Act does not receive the vote necessary for immediate effect, this  
2-54 Act takes effect September 1, 2013.

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