



1 access exists on or after July 1, 1987, or where the public  
2 has established an accessway through private lands to lands  
3 seaward of the mean high tide or water line by prescription,  
4 prescriptive easement, or any other legal means, development  
5 or construction shall not interfere with such right of public  
6 access unless a comparable alternative accessway is provided.

7 Section 2. Section 161.141, Florida Statutes, is  
8 amended to read:

9 161.141 Property rights of state and private upland  
10 owners in beach restoration project areas.--The Legislature  
11 declares that it is the public policy of the state to cause to  
12 be fixed and determined, pursuant to beach restoration, beach  
13 nourishment, and erosion control projects, the boundary line  
14 between sovereignty lands of the state bordering on the  
15 Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida,  
16 and the bays, lagoons, and other tidal reaches thereof, and  
17 the upland properties adjacent thereto; except that such  
18 boundary line shall not be fixed for beach restoration  
19 projects that result from inlet or navigation channel  
20 maintenance dredging projects unless such projects involve the  
21 construction of authorized beach restoration projects.  
22 However, prior to construction of such a beach restoration  
23 project, the board of trustees must establish the line of mean  
24 high water for the area to be restored; and any additions to  
25 the upland property landward of the established line of mean  
26 high water which result from the restoration project remain  
27 the property of the upland owner subject to all governmental  
28 regulations and are not to be used to justify increased  
29 density or the relocation of the coastal construction control  
30 line as may be in effect for such upland property. The  
31 resulting additions to upland property are also subject to a

1 public easement for traditional uses of the sandy beach  
2 consistent with uses that would have been allowed prior to the  
3 need for the restoration project. It is further declared that  
4 there is no intention on the part of the state to extend its  
5 claims to lands not already held by it or to deprive any  
6 upland or submerged land owner of the legitimate and  
7 constitutional use and enjoyment of his or her property. If an  
8 authorized beach restoration, beach nourishment, and erosion  
9 control project cannot reasonably be accomplished without the  
10 taking of private property, the taking must be made by the  
11 requesting authority by eminent domain proceedings. In any  
12 action alleging a taking of all or part of a property or  
13 property right as a result of a beach restoration project, in  
14 determining whether such taking has occurred or the value of  
15 any damage alleged with respect to the owner's remaining  
16 upland property adjoining the beach restoration project, the  
17 enhancement, if any, in value of the owner's remaining  
18 adjoining property of the upland property owner by reason of  
19 the beach restoration project shall be considered. If a taking  
20 is judicially determined to have occurred as a result of a  
21 beach restoration project, the enhancement in value to the  
22 owner's remaining adjoining property by reason of the beach  
23 restoration project shall be offset against the value of the  
24 damage, if any, resulting to such remaining adjoining property  
25 of the upland property owner by reason of the beach  
26 restoration project, but such enhancement in the value shall  
27 not be offset against the value of the property or property  
28 right alleged to have been taken. If the enhancement in value  
29 shall exceed the value of the damage, if any, to the remaining  
30 adjoining property, there shall be no recovery over against  
31 the property owner for such excess.

1           Section 3. Section 161.144, Florida Statutes, is  
2 created to read:

3           161.144 Policy guidance related to sand source  
4 management.--The Legislature recognizes that beach-quality  
5 sand for the nourishment of the state's critically eroded  
6 beaches is an exhaustible resource, in ever-decreasing supply,  
7 and must be carefully managed for the systemwide benefit of  
8 the state's beaches. Therefore, the Department of  
9 Environmental Protection, pursuant to s. 161.161 and in  
10 cooperation with federal and local government agencies, shall  
11 develop and maintain an inventory of identified offshore sand  
12 sources as part of the regional elements of its comprehensive  
13 long-term beach management plan. Offshore sand sources in  
14 state or federal waters which are identified for potential,  
15 proposed, or permitted use shall be clearly mapped or  
16 otherwise noted and readily available for public review. In  
17 addition, boards of county commissioners of coastal counties  
18 adjacent to sand sources proposed for use outside of the  
19 region or subregion shall be provided written notice by the  
20 department and an opportunity to comment during a specific  
21 project's planning and permitting stages. The department shall  
22 identify in its annual list of local government funding  
23 requests submitted to the Legislature, pursuant to s. 161.091,  
24 those projects that propose to use sand sources from another  
25 region or subregion at the time the list is submitted.

26           Section 4. This act shall take effect October 1, 2007.  
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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN  
COMMITTEE SUBSTITUTE FOR  
CS/SB 2008

Expands the definition of "access" or "public access" to include established accessways as those that must be retained for public use.

Amends provisions related to beach restoration projects and the property rights of upland owners to provide the method by which potential impacts to the upland owners would be valued in conjunction with the restoration project.