

Amend **HB 1457** by striking all below the enacting clause and substituting the following:

SECTION 1. Section 61.011, Natural Resources Code, is amended by amending Subsections (c) and (d) and adding Subsection (f) to read as follows:

(c) The commissioner [~~attorney general~~] shall strictly and vigorously enforce the prohibition against encroachments on and interferences with the public beach easement. [~~The attorney general shall develop and publicize an enforcement policy to prevent and remove any encroachments and interferences on the public beach. The land office may assist the attorney general in enforcing this subchapter.~~]

(d) The commissioner shall promulgate rules, consistent with the policies established in this section, on the following matters only:

(1) acquisition by local governments or other appropriate entities or public dedication of access ways sufficient to provide adequate public ingress and egress to and from the beach within the area described in Subdivision (6) [~~of this subsection~~];

(2) protection of the public easement from erosion or reduction caused by development or other activities on adjacent land and beach cleanup and maintenance;

(3) local government prohibitions of vehicular traffic on public beaches, provision of off-beach parking, and other minimum measures needed to mitigate for any adverse effect on public access and dune areas;

(4) imposition of beach access, user, or parking fees and reasonable exercises of the police power by local governments with respect to public beaches;

(5) contents and certification of beach access and use plans and standards for local government review of construction on land adjacent to and landward of public beaches; [~~and~~]

(6) construction on land adjacent to and landward of public beaches and lying in the area either up to the first public road generally parallel to the beach or to any closer public road not parallel to the beach, or to within 1,000 feet of mean high tide, whichever is greater, that affects or may affect public

access to and use of public beaches; and

(7) the temporary suspension under Section 61.0185 of enforcement of the prohibition against encroachments on and interferences with the public beach easement and the ability of a property owner to make repairs to a structure while a suspension is in effect.

(f) Chapter 2007, Government Code, does not apply to rules adopted under Subsection (d)(7).

SECTION 2. Sections 61.015(b)-(d), Natural Resources Code, are amended to read as follows:

(b) Local governments shall submit proposed beach access and use plans to the commissioner for certification as to compliance with such policies and rules [~~and to the attorney general for review and comment~~]. The commissioner shall act on a local government's proposed beach access and use plan within 60 days of submission by either approving the plan or denying certification. In the event of denial, the commissioner shall send the proposed plan back to the originating local government with a statement of specific objections and the reasons for denial, along with suggested modifications. On receipt, the local government shall revise and resubmit the plan. The commissioner's certification of local government plans shall be by adoption into the rules under Section 61.011 [~~of this code~~].

(c) A littoral owner proposing construction adjacent to and landward of a public beach in the area described in Section 61.011(d)(6) [~~of this code~~] shall submit a development plan to the appropriate local government. The local government shall forward the development plan to the commissioner [~~and the attorney general~~] no less than 10 working days prior to acting on the development plan. The commissioner [~~or the attorney general~~] may submit comments on the proposed construction to the local government.

(d) The local government shall review the proposed development plan and the commissioner's [~~and attorney general's~~] comments and other information the local government may consider useful to determine consistency with the local government's beach access and use plan.

SECTION 3. Sections 61.018(a) and (d), Natural Resources

Code, are amended to read as follows:

(a) Any county attorney, district attorney, or criminal district attorney, or the [The] attorney general~~[, individually or]~~ at the request of the commissioner, ~~[or any county attorney, district attorney, or criminal district attorney]~~ shall file in a district court of Travis County, or in the county in which the property is located, a suit to obtain either a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove or prevent any improvement, maintenance, obstruction, barrier, or other encroachment on a public beach, or to prohibit any unlawful restraint on the public's right of access to and use of a public beach or other activity that violates this chapter.

(d) Any county attorney, or the [The] attorney general~~[, either individually or]~~ at the request of the commissioner ~~[or any county attorney]~~, may bring a suit for a declaratory judgment to try any issue affecting the public's right of access to or use of the public beach.

SECTION 4. Subchapter B, Chapter 61, Natural Resources Code, is amended by adding Section 61.0185 to read as follows:

Sec. 61.0185. TEMPORARY SUSPENSION OF SUBMISSION OF REQUESTS THAT ATTORNEY GENERAL FILE SUIT. (a) The commissioner by order may suspend for a period of two years from the date the order is issued the submission of a request that the attorney general file a suit under Section 61.018(a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove an improvement, obstruction, barrier, or other encroachment from a public beach if the commissioner determines that:

(1) the line of vegetation establishing the boundary of the public beach has moved as a result of a meteorological event;

(2) the improvement, obstruction, barrier, or other encroachment was located landward of the line of vegetation before the meteorological event; and

(3) the improvement, obstruction, barrier, or other encroachment does not present an imminent threat to public health and safety.

(b) The commissioner shall notify the attorney general and

each pertinent county attorney, district attorney, or criminal district attorney of the issuance of an order under this section.

(c) A county attorney, district attorney, or criminal district attorney may not file suit under Section 61.018(a) to obtain a temporary or permanent court order or injunction, either prohibitory or mandatory, to remove an improvement, obstruction, barrier, or other encroachment from a public beach while the improvement, obstruction, barrier, or other encroachment is subject to an order issued under this section.

(d) While an order issued under this section is in effect, a local government may:

(1) issue a certificate or permit authorizing repair of a structure subject to the order if the local government determines that the repair complies with rules adopted by the commissioner under Section 61.011(d)(7); and

(2) allow utilities to be reconnected to a structure subject to the order.

(e) Issuance of an order under this section is purely within the discretion of the commissioner. This section does not create:

(1) a duty on the part of the commissioner to issue an order related to all or part of an improvement, obstruction, barrier, or other encroachment, regardless of any determination made; or

(2) a private cause of action for:

(A) issuance of an order under this section; or

(B) failure to issue an order under this section.

(f) Chapter 2007, Government Code, does not apply to an order issued under this section.

SECTION 5. Section 61.022(c), Natural Resources Code, is amended to read as follows:

(c) A local government proposing to adopt or amend such vehicular traffic regulations, except those for public safety, or fees shall submit a plan detailing the proposed action to the ~~[attorney general and the]~~ commissioner for review. The commissioner shall certify whether the proposed action is consistent or inconsistent with such policies and rules. Certifications of consistency shall be by adoption into the rules

promulgated under Section 61.011 [~~of this code~~].

SECTION 6. Section 61.026(b), Natural Resources Code, is amended to read as follows:

(b) The land office [~~or the attorney general's office~~] may develop and distribute public information about the requirements of this chapter, the importance of natural beach and dune systems, and the necessity for preserving them. Such information may include public service announcements made under the direction of the land office.

SECTION 7. Section 63.054(c), Natural Resources Code, is amended to read as follows:

(c) Each county or municipality administering this chapter shall establish procedures and requirements governing the review and approval of dune permits, and these procedures and requirements shall be submitted to the commissioner [~~and attorney general~~] for [~~their~~] comments.

SECTION 8. Section 63.181(a), Natural Resources Code, is amended to read as follows:

(a) Any county attorney, district attorney, or criminal district attorney, or the [~~The~~] attorney general [~~, individually or~~] at the request of the commissioner, [~~or any county attorney, district attorney, or criminal district attorney~~] shall file in a district court of Travis County or in the county in which the violation occurred a suit to obtain either a temporary or permanent court order or injunction to prohibit and remedy any violation of this chapter or any rule, permit, or order under this chapter and to collect damages to natural resources injured by the violation and to recover civil penalties.

SECTION 9. Section 61.011(e), Natural Resources Code, is repealed.

SECTION 10. (a) This Act takes effect September 1, 2003.

(b) Section 61.0185, Natural Resources Code, as added by this Act, applies to a meteorological event that occurs before, on, or after the effective date of this Act.