

1-1 By: Huffman, Hegar S.B. No. 656
1-2 (In the Senate - Filed March 8, 2011; March 16, 2011, read
1-3 first time and referred to Committee on Government Organization;
1-4 March 31, 2011, reported adversely, with favorable Committee
1-5 Substitute by the following vote: Yeas 6, Nays 0; March 31, 2011,
1-6 sent to printer.)

1-7 COMMITTEE SUBSTITUTE FOR S.B. No. 656 By: Hegar

1-8 A BILL TO BE ENTITLED
1-9 AN ACT

1-10 relating to the abolition of the Coastal Coordination Council and
1-11 the transfer of its functions to the General Land Office.

1-12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-13 SECTION 1. Subsection (g), Section 201.026, Agriculture
1-14 Code, is amended to read as follows:

1-15 (g) In an area that the state board identifies as having or
1-16 having the potential to develop agricultural or silvicultural
1-17 nonpoint source water quality problems or an area within the
1-18 "coastal zone" designated by the commissioner of the General Land
1-19 Office [~~Coastal Coordination Council~~], the state board shall
1-20 establish a water quality management plan certification program
1-21 that provides, through local soil and water conservation districts,
1-22 for the development, supervision, and monitoring of individual
1-23 water quality management plans for agricultural and silvicultural
1-24 lands. Each plan must be developed, maintained, and implemented
1-25 under rules and criteria adopted by the state board and comply with
1-26 state water quality standards established by the Texas Commission
1-27 on Environmental Quality. The state board shall certify a plan that
1-28 satisfies the state board's rules and criteria and complies with
1-29 state water quality standards established by the Texas Commission
1-30 on Environmental Quality under the commission's exclusive
1-31 authority to set water quality standards for all water in the state.

1-32 SECTION 2. Section 33.004, Natural Resources Code, is
1-33 amended by adding Subdivision (2-a) to read as follows:

1-34 (2-a) "Committee" means the Coastal Coordination
1-35 Advisory Committee.

1-36 SECTION 3. Section 33.051, Natural Resources Code, is
1-37 amended to read as follows:

1-38 Sec. 33.051. GENERAL DUTY. The board, the commissioner
1-39 [~~council~~], the land office, and the network shall perform the
1-40 duties provided in this subchapter.

1-41 SECTION 4. Subsection (a), Section 33.052, Natural
1-42 Resources Code, is amended to read as follows:

1-43 (a) The commissioner shall develop a continuing
1-44 comprehensive coastal management program pursuant to the policies
1-45 stated in Section 33.202 [~~of this code. The program is not~~
1-46 ~~effective until approved by a majority of the council under Section~~
1-47 ~~33.204 of this code~~].

1-48 SECTION 5. Subsection (b), Section 33.052, Natural
1-49 Resources Code, as amended by Chapters 165 (S.B. 971) and 416 (H.B.
1-50 3226), Acts of the 74th Legislature, Regular Session, 1995, is
1-51 reenacted and amended to read as follows:

1-52 (b) In developing the program, the land office shall act as
1-53 the lead agency to coordinate and implement a comprehensive coastal
1-54 management program [~~develop a long-term plan~~] for the management of
1-55 uses affecting coastal natural resource areas, in cooperation with
1-56 other state agencies that have duties relating to coastal matters [~~7~~
1-57 ~~including those agencies represented on the council~~]. The program
1-58 shall implement the policies stated in Section 33.202 [~~of this~~
1-59 ~~code~~] and shall include the elements listed in Section 33.053 [~~of~~
1-60 ~~this code~~].

1-61 SECTION 6. Subsection (e), Section 33.052, Natural
1-62 Resources Code, is amended to read as follows:

1-63 (e) This section does not add to or subtract from the duties

2-1 and responsibilities of a state agency other than the land office,
 2-2 the commissioner [~~council~~], and the board.

2-3 SECTION 7. Section 33.055, Natural Resources Code, is
 2-4 amended to read as follows:

2-5 Sec. 33.055. PUBLIC HEARINGS TO CONSIDER COASTAL MANAGEMENT
 2-6 PROGRAM. In developing, reviewing, or amending the coastal
 2-7 management program, after due notice to affected persons and the
 2-8 public generally, the commissioner [~~and the council~~] shall hold or
 2-9 have held public hearings as the commissioner determines [~~and the~~
 2-10 ~~council determine~~] to be appropriate.

2-11 SECTION 8. Subsections (a), (e), (f), and (g), Section
 2-12 33.204, Natural Resources Code, are amended to read as follows:

2-13 (a) The commissioner [~~council~~] by rule shall adopt goals and
 2-14 policies of the coastal management program. A goal or policy may
 2-15 not require an agency or subdivision to perform an action that would
 2-16 exceed the constitutional or statutory authority of the agency or
 2-17 subdivision to which the goal or policy applies.

2-18 (e) In conducting consistency reviews under Section 33.205
 2-19 [~~of this code~~], the commissioner [~~council~~] shall receive and
 2-20 consider the oral or written testimony of any person regarding the
 2-21 coastal management program as the testimony relates to the agency
 2-22 or subdivision action or federal agency action or activity or outer
 2-23 continental shelf plan under review. The commissioner [~~council~~]
 2-24 may reasonably limit the length and format of the testimony and the
 2-25 time at which it will be received. Notice of the period during
 2-26 which the testimony will be received shall be published in the Texas
 2-27 Register and in a newspaper of general circulation in each county
 2-28 directly affected by the matter under review before the
 2-29 commencement of that period. The commissioner [~~council~~] shall
 2-30 consider only the record before the agency or subdivision involved
 2-31 in the matter under review, the agency's or subdivision's findings,
 2-32 applicable laws and rules, any additional information provided by
 2-33 that agency or subdivision, and public testimony under this
 2-34 subsection, provided that if the agency or subdivision did not hold
 2-35 a hearing, make a record, or make findings, the commissioner
 2-36 [~~council~~] may hold a hearing and make findings necessary to a
 2-37 complete and thorough review.

2-38 (f) [~~The land office shall assist the council in carrying~~
 2-39 ~~out its duties. The council members may not receive compensation~~
 2-40 ~~for services but may receive reimbursement for actual and necessary~~
 2-41 ~~expenses.] The land office, in coordination with other agencies~~
 2-42 ~~and subdivisions, shall prepare an annual report on the~~
 2-43 ~~effectiveness of the coastal management program. [The land office~~
 2-44 ~~shall submit the report to the council for approval.] On or before~~
 2-45 ~~January 15 of each odd-numbered year, the land office shall send to~~
 2-46 ~~the legislature each of the previous two annual reports.~~

2-47 (g) The commissioner [~~council~~] may award grants to projects
 2-48 that further the goals and policies of the coastal management
 2-49 program [~~council~~]. The commissioner [~~council~~] shall establish the
 2-50 procedures for making any determination related to awarding a
 2-51 grant.

2-52 SECTION 9. Section 33.2041, Natural Resources Code, is
 2-53 amended to read as follows:

2-54 Sec. 33.2041. COASTAL COORDINATION ADVISORY COMMITTEE
 2-55 [~~COMPOSITION OF COUNCIL, TERMS~~]. (a) The commissioner by rule
 2-56 shall establish the Coastal Coordination Advisory Committee to
 2-57 advise the commissioner on matters related to the coastal
 2-58 management program. The committee [~~council~~] shall consist of:

2-59 (1) a representative of each of the following entities
 2-60 designated by the presiding officer of that entity [~~ex officio~~
 2-61 ~~members~~]:

2-62 (A) the land office [~~commissioner~~];
 2-63 (B) the [~~presiding officer of the~~] Parks and
 2-64 Wildlife Department [~~Commission or a member of the commission~~
 2-65 ~~designated by the presiding officer~~];

2-66 (C) the [~~presiding officer of the~~] Texas
 2-67 Commission on Environmental Quality [~~Natural Resource Conservation~~
 2-68 ~~Commission or a member of the commission designated by the~~
 2-69 ~~presiding officer~~];

3-1 (D) [~~a member of~~] the Railroad Commission of
3-2 Texas [~~appointed by that commission~~];

3-3 (E) the [~~presiding officer of the~~] Texas Water
3-4 Development Board [~~or a member of the board designated by the~~
3-5 ~~presiding officer~~];

3-6 (F) the [~~presiding officer of the~~] Texas
3-7 Department of Transportation [~~Commission or a member of the~~
3-8 ~~commission designated by the presiding officer~~];

3-9 (G) [~~a member of~~] the State Soil and Water
3-10 Conservation Board [~~appointed by that board~~]; and

3-11 (H) the [~~director of the~~] Texas [~~A&M University~~]
3-12 Sea Grant College Program to serve as a nonvoting member; and

3-13 (2) the following members to be appointed by the
3-14 commissioner [~~governor with the advice and consent of the senate to~~
3-15 ~~serve a two-year term~~]:

3-16 (A) a city or county elected official who resides
3-17 in the coastal area;

3-18 (B) an owner of a business located in the coastal
3-19 area who resides in the coastal area;

3-20 (C) a resident from the coastal area; and

3-21 (D) a representative of agriculture.

3-22 (b) The commissioner by rule shall establish the terms of
3-23 office for and duties of committee members [~~terms of the positions~~
3-24 ~~on the council held by the city or county elected official who~~
3-25 ~~resides in the coastal area and the resident from the coastal area~~
3-26 ~~expire May 31 of each even-numbered year. The terms of the~~
3-27 ~~positions on the council held by the owner of a business located in~~
3-28 ~~the coastal area who resides in the coastal area and the~~
3-29 ~~representative of agriculture expire May 31 of each odd-numbered~~
3-30 ~~year~~].

3-31 (c) Chapter 2110, Government Code, does not apply to the
3-32 size, composition, or duration of the committee [~~Appointments to~~
3-33 ~~the council shall be made without regard to the race, color,~~
3-34 ~~disability, sex, religion, age, or national origin of the~~
3-35 ~~appointees~~].

3-36 SECTION 10. The heading to Section 33.205, Natural
3-37 Resources Code, is amended to read as follows:

3-38 Sec. 33.205. CONSISTENCY WITH COASTAL MANAGEMENT PROGRAM;
3-39 COMMISSIONER [~~COUNCIL~~] REVIEW.

3-40 SECTION 11. Section 33.205, Natural Resources Code, is
3-41 amended by amending Subsections (b) through (h) and adding
3-42 Subsections (f-1) and (f-2) to read as follows:

3-43 (b) An agency or subdivision subject to the requirements of
3-44 Subsection (a) shall affirm that it has taken into account the goals
3-45 and policies of the coastal management program by issuing a written
3-46 determination that a proposed agency or subdivision action
3-47 described by Section 33.2051 or 33.2053 is consistent with the
3-48 program goals and policies.

3-49 (c) The commissioner [~~council~~] may [~~not~~] review a proposed
3-50 agency or subdivision action subject to the requirements of
3-51 Subsections (a) and (b) [~~of this section~~] for consistency with the
3-52 goals and policies of the coastal management program if [~~unless~~]:

3-53 (1) the consistency determination for the proposed
3-54 action was contested by:

3-55 (A) a member of the committee [~~council member~~] or
3-56 an agency that was a party in a formal hearing under Chapter 2001,
3-57 Government Code, or in an alternative dispute resolution process;
3-58 or

3-59 (B) another [~~a council member or other~~] person by
3-60 the filing of written comments with the agency before the action was
3-61 proposed if the proposed action is one for which a formal hearing
3-62 under Chapter 2001, Government Code, is not available; and

3-63 (2) a person described by Subdivision (1) [~~of this~~
3-64 ~~subsection~~] files a request for referral alleging a significant
3-65 unresolved dispute regarding the proposed action's consistency
3-66 with the goals and policies of the coastal management program[~~and~~

3-67 [~~(3) any three members of the council other than the~~
3-68 ~~director of the Texas A&M University Sea Grant Program agree that~~
3-69 ~~there is a significant unresolved dispute regarding the proposed~~

4-1 ~~action's consistency with the goals and policies of the coastal~~
 4-2 ~~management program and the matter is placed on the agenda for a~~
 4-3 ~~council meeting].~~

4-4 (d) If consistency review thresholds are in effect under
 4-5 Section 33.2052, the commissioner [~~council~~] may not review a
 4-6 proposed action subject to the requirements of Subsections (a) and
 4-7 (b) for consistency with the goals and policies of the coastal
 4-8 management program unless the requirements of Subsection (c) are
 4-9 satisfied and:

4-10 (1) if the proposed action is one for which a formal
 4-11 hearing under Chapter 2001, Government Code, is available:

4-12 (A) the action exceeds the applicable thresholds
 4-13 and the agency's consistency determination was contested in a
 4-14 formal hearing or in an alternative dispute resolution process; or

4-15 (B) the action does not exceed the applicable
 4-16 thresholds but may directly and adversely affect a critical area,
 4-17 critical dune area, coastal park, wildlife management area or
 4-18 preserve, or gulf beach and a state agency contested the agency's
 4-19 consistency determination in a formal hearing; or

4-20 (2) if the proposed action is one for which a formal
 4-21 hearing under Chapter 2001, Government Code, is not available to
 4-22 contest the agency's determination, the action exceeds the
 4-23 applicable thresholds.

4-24 (e) The commissioner [~~council~~] must consider and act on a
 4-25 matter referred under Subsection (c) or (d) before the 26th day
 4-26 after the date the agency or subdivision proposed the action. For
 4-27 purposes of this section, an action subject to the contested case
 4-28 provisions of Chapter 2001, Government Code, is proposed when
 4-29 notice of a decision or order is issued under Section 2001.142,
 4-30 Government Code.

4-31 (f) The commissioner [~~council~~] by rule shall establish a
 4-32 process by which an applicant for a permit or other proposed action
 4-33 described in Section 33.2053, or an agency or subdivision proposing
 4-34 an action, may request and receive a preliminary consistency
 4-35 review. The rules shall:

4-36 (1) create a permitting assistance group composed of
 4-37 representatives of committee [~~council~~] member agencies and other
 4-38 interested committee [~~council~~] members to coordinate the
 4-39 preliminary reviews; and

4-40 (2) require that the following written information be
 4-41 produced not later than the 45th day after the date of the request
 4-42 for preliminary review:

4-43 (A) a statement from each agency or subdivision
 4-44 required to permit or approve the project as to whether the agency
 4-45 or subdivision anticipates approving or denying the application;

4-46 (B) if an agency or subdivision intends to deny
 4-47 an application, the agency's or subdivision's explanation of the
 4-48 grounds for denial and recommendations for resolving the grounds in
 4-49 a way that would allow the application to be approved;

4-50 (C) if enough information is already available, a
 4-51 preliminary finding as to whether the project is likely to be found
 4-52 consistent with the goals and policies of the coastal management
 4-53 program; and

4-54 (D) if the project is likely to be found
 4-55 inconsistent with the goals and policies of the coastal management
 4-56 program, an explanation and recommendation for resolving the
 4-57 inconsistency in a way that would allow the project to be found
 4-58 consistent.

4-59 (f-1) Not later than January 1, 2012, the commissioner shall
 4-60 evaluate the functions, including any pending initiatives,
 4-61 membership, and usefulness of the permitting assistance group
 4-62 established under Subsection (f). The evaluation must include
 4-63 input from all members of the permitting assistance group and the
 4-64 committee. This subsection expires April 1, 2012.

4-65 (f-2) The commissioner may adopt rules as necessary to:

4-66 (1) restructure or abolish the permitting assistance
 4-67 group;

4-68 (2) expand the functions of the permitting assistance
 4-69 group; or

5-1 (3) add members to the permitting assistance group.

5-2 (g) The commissioner [~~council~~] by rule shall establish a
5-3 process by which an individual or small business may request and
5-4 receive assistance with filing applications for permits or other
5-5 proposed actions described by Section 33.2053. The rules shall
5-6 provide for:

5-7 (1) the coordination of preapplication assistance
5-8 through the permitting assistance group; and

5-9 (2) the provision of the following, by the permitting
5-10 assistance group, to an individual or a small business, on request:

5-11 (A) a list of the permits or other approvals
5-12 necessary for the project;

5-13 (B) a simple, understandable statement of all
5-14 permit requirements;

5-15 (C) a coordinated schedule for each agency's or
5-16 subdivision's decision on the action;

5-17 (D) a list of all the information the agencies or
5-18 subdivisions need to declare the applications for the permits or
5-19 other approvals administratively complete;

5-20 (E) assistance in completing the applications as
5-21 needed; and

5-22 (F) if enough information is already available, a
5-23 preliminary finding as to whether the project is likely to be found
5-24 consistent with the goals and policies of the coastal management
5-25 program.

5-26 (h) If an agency, subdivision, or applicant has received a
5-27 preliminary finding of consistency under Subsection (f)(2)(C) or
5-28 (g)(2)(F) and a request for referral was filed on that action under
5-29 Subsection (c)(2), the commissioner [~~council~~] may accept the
5-30 request for referral only if the agency or subdivision has
5-31 substantially changed the permit or proposed action since the
5-32 preliminary finding was issued.

5-33 SECTION 12. Subsection (e), Section 33.2051, Natural
5-34 Resources Code, is amended to read as follows:

5-35 (e) The commissioner [~~council~~] may not review a proposed
5-36 rule of the [~~Texas~~] Department of Agriculture.

5-37 SECTION 13. Section 33.2052, Natural Resources Code, is
5-38 amended to read as follows:

5-39 Sec. 33.2052. CERTIFICATION OF AGENCY RULES; AGENCY ACTIONS
5-40 CONSIDERED CONSISTENT. (a) The commissioner [~~council~~] by rule
5-41 shall establish and may modify a process by which an agency may
5-42 submit rules and rule amendments described by Section 33.2051 to
5-43 the commissioner [~~council~~] for review and certification for
5-44 consistency with the goals and policies of the coastal management
5-45 program.

5-46 (b) The process must provide that an agency may submit to
5-47 the commissioner [~~council~~] consistency review thresholds for the
5-48 agency's actions described in Section 33.2053. After the
5-49 commissioner [~~council~~] certifies that an agency's rules are
5-50 consistent and approves the agency's thresholds, the agency's
5-51 consistency determination under Section 33.205(b) for an action is
5-52 final and is not subject to referral and review, except as provided
5-53 by Section 33.205(d).

5-54 (c) The commissioner [~~council~~] by rule shall provide that
5-55 the commissioner [~~council~~] may revoke a [~~its~~] certification under
5-56 Subsection (b) if the commissioner [~~council~~] finds that an agency
5-57 has:

5-58 (1) implemented certified rules in a manner that
5-59 conflicts with the goals and policies of the coastal management
5-60 program; or

5-61 (2) amended certified rules in a manner inconsistent
5-62 with the goals and policies of the coastal management program.

5-63 SECTION 14. Subsections (j) and (k), Section 33.2053,
5-64 Natural Resources Code, are amended to read as follows:

5-65 (j) An action to renew, amend, or modify an existing permit,
5-66 certificate, lease, easement, approval, or other action is not an
5-67 action under this section if the action is taken under a rule that
5-68 the commissioner [~~council~~] has certified under Section 33.2052 and:

5-69 (1) for a wastewater discharge permit, if the action

6-1 is not a major permit modification that would:

6-2 (A) increase pollutant loads to coastal waters;
6-3 or

6-4 (B) result in relocation of an outfall to a
6-5 critical area;

6-6 (2) for solid, hazardous, or nonhazardous waste
6-7 permits, if the action is not a Class III modification under rules
6-8 of the Texas ~~[Natural Resource Conservation]~~ Commission on
6-9 Environmental Quality; or

6-10 (3) for any other action, if the action:

6-11 (A) only extends the period of the existing
6-12 authorization and does not authorize new or additional work or
6-13 activity; or

6-14 (B) is not directly relevant to Sections
6-15 33.205(a) and (b).

6-16 (k) The commissioner ~~[council]~~ shall establish a program
6-17 boundary to limit the geographic area in which the requirements of
6-18 Sections 33.205(a) and (b) apply. The boundary is the coastal
6-19 facility designation line as defined by Appendix 1 to 31 TAC Section
6-20 19.2 as that appendix existed on the effective date of this section,
6-21 as modified by Section 33.203(7). Except as provided by
6-22 Subsections (f)(8)-(10), this subchapter does not apply to an
6-23 agency action authorizing an activity outside the program boundary.

6-24 SECTION 15. Section 33.206, Natural Resources Code, is
6-25 amended to read as follows:

6-26 Sec. 33.206. ~~[COUNCIL]~~ ACTION BY COMMISSIONER OR ATTORNEY
6-27 GENERAL. (a) A proposed action is consistent with the goals and
6-28 policies of the coastal management program and approved by the
6-29 commissioner ~~[council]~~ unless ~~[, on the affirmative vote of at least~~
6-30 ~~two-thirds of the members of the council,]~~ the commissioner
6-31 ~~[council]~~ determines the action to be inconsistent with the coastal
6-32 management program and protests the action.

6-33 (b) If the commissioner ~~[council]~~ protests the proposed
6-34 action, the commissioner ~~[council]~~ shall report the commissioner's
6-35 ~~[its]~~ findings on the matter to the agency or subdivision. The
6-36 report shall specify how the proposed action is inconsistent with
6-37 the goals and policies of the coastal management program and
6-38 include specific recommendations of the commissioner ~~[council]~~
6-39 regarding how the proposed action may be modified or amended to make
6-40 it consistent with the program. Before the 21st day after the date
6-41 the agency or subdivision receives the report, the agency or
6-42 subdivision shall review the findings and recommendations and
6-43 determine whether to modify or amend the proposed action to make it
6-44 consistent with the goals and policies of the coastal management
6-45 program and shall notify the commissioner ~~[council]~~ of its
6-46 decision.

6-47 (c) If an agency or subdivision does not modify or amend a
6-48 proposed action to be consistent with the goals and policies of the
6-49 coastal management program, the commissioner ~~[council]~~ shall
6-50 request the attorney general to issue an opinion on the consistency
6-51 of the proposed action with the coastal management program. The
6-52 agency or subdivision is stayed from taking the proposed action
6-53 until the attorney general issues the opinion. The attorney
6-54 general shall issue an opinion before the 26th day after the date
6-55 the commissioner ~~[council]~~ requests the opinion.

6-56 (d) The commissioner ~~[council]~~ shall adopt guidance and
6-57 procedural rules for the review of federal actions, activities, and
6-58 outer continental shelf plans that incorporate the provisions of
6-59 federal regulations governing those reviews. The guidance and
6-60 rules shall provide that the commissioner ~~[chair]~~ or any three
6-61 committee members may request additional information from a federal
6-62 agency or additional time for review as provided by the federal
6-63 regulations.

6-64 (e) The commissioner ~~[council]~~ shall review any ~~[federal]~~
6-65 action, activity, or outer continental shelf plan that any three
6-66 committee members ~~[of the council]~~ agree presents a significant
6-67 unresolved issue regarding consistency with the goals and policies
6-68 of the coastal management program ~~[and place the matter on the~~
6-69 ~~agenda of a meeting of the council for review]~~.

7-1 (f) ~~[If an activity requiring an agency or subdivision~~
 7-2 ~~action described by Section 33.2053 that falls below thresholds in~~
 7-3 ~~effect under Section 33.2052 also requires an equivalent federal~~
 7-4 ~~permit or license, the council may only determine the agency or~~
 7-5 ~~subdivision action's consistency.]~~ If an activity requiring an
 7-6 agency or subdivision action described by Section 33.2053 that
 7-7 falls above thresholds in effect under Section 33.2052 also
 7-8 requires an equivalent federal permit or license, the commissioner
 7-9 ~~[council]~~ may determine the consistency of the agency or
 7-10 subdivision action or the federal license or permit, but not both.
 7-11 The determination regarding the consistency of an action made by
 7-12 the commissioner ~~[council]~~ under this subsection constitutes the
 7-13 state's determination regarding consistency of the equivalent
 7-14 agency or subdivision action or federal action.

7-15 (g) Notwithstanding the other provisions of this
 7-16 subchapter, the commissioner may not determine whether a proposed
 7-17 action of the land office, the commissioner, or the board is
 7-18 consistent with the goals and policies of the coastal management
 7-19 program. The commissioner shall refer a request for a review of the
 7-20 consistency of such an action to the attorney general not later than
 7-21 the second day after the date the commissioner receives the
 7-22 request. The attorney general shall determine whether the action
 7-23 is consistent with the goals and policies of the coastal management
 7-24 program in accordance with the applicable provisions of this
 7-25 subchapter governing determinations by the commissioner. If the
 7-26 attorney general determines the action to be inconsistent with the
 7-27 goals and policies of the coastal management program, the attorney
 7-28 general may protest the action in accordance with the provisions of
 7-29 this subchapter governing protests by the commissioner. A protest
 7-30 by the attorney general has the same effect as a protest by the
 7-31 commissioner. The attorney general may adopt rules as necessary to
 7-32 implement this subsection ~~[If, after review, the council finds a~~
 7-33 ~~proposed federal agency action or activity or outer continental~~
 7-34 ~~shelf plan is inconsistent with the coastal management program, and~~
 7-35 ~~the federal agency does not modify the action, activity, or outer~~
 7-36 ~~continental shelf plan to achieve consistency with the program, the~~
 7-37 ~~governor, with the assistance of the chair of the council, may seek~~
 7-38 ~~mediation of the matter in accordance with federal law].~~

7-39 ~~[(h) The council may not protest a proposed action by an~~
 7-40 ~~agency or subdivision pertaining to an application filed with that~~
 7-41 ~~agency or subdivision before the date the coastal management~~
 7-42 ~~program is adopted.]~~

7-43 SECTION 16. Section 33.207, Natural Resources Code, is
 7-44 amended to read as follows:

7-45 Sec. 33.207. COMMISSIONER ~~[COUNCIL]~~ RECOMMENDATIONS. In
 7-46 addition to the report required by Section 33.206, the commissioner
 7-47 ~~[council]~~:

7-48 (1) may periodically submit recommendations to an
 7-49 agency or subdivision designed to encourage the agency or
 7-50 subdivision to carry out its functions in a manner consistent with
 7-51 the coastal management program, including recommendations for
 7-52 methods to simplify governmental procedures and changes in
 7-53 applicable rules or statutes; and

7-54 (2) shall report to the legislature on:
 7-55 (A) recommended statutory changes needed to make
 7-56 more effective and efficient use of public funds and provide for
 7-57 more effective and efficient management of coastal natural resource
 7-58 areas, including recommendations on methods to simplify
 7-59 governmental procedures;

7-60 (B) agency or subdivision actions that are not
 7-61 consistent with the coastal management program; and

7-62 (C) population growth of, infrastructure needs
 7-63 of, and use of resources on the coast.

7-64 SECTION 17. Subsections (b) and (c), Section 33.208,
 7-65 Natural Resources Code, are amended to read as follows:

7-66 (b) If the attorney general issues an opinion under Section
 7-67 33.206(c) that a proposed agency or subdivision action is
 7-68 inconsistent with the coastal management program and the agency or
 7-69 subdivision fails to implement the commissioner's ~~[council's]~~

8-1 recommendation regarding the action, the attorney general shall
8-2 file suit in a district court of Travis County to enforce this
8-3 subchapter. The court shall consider the attorney general's
8-4 opinion in determining whether the proposed action is consistent
8-5 with the coastal management program.

8-6 (c) Notwithstanding the request of an opinion from, or the
8-7 filing of suit by, the attorney general, the commissioner [~~council~~]
8-8 and the agency or subdivision may enter into a settlement agreement
8-9 with regard to the proposed agency or subdivision action. If the
8-10 commissioner [~~council~~] and the agency or subdivision enter into a
8-11 settlement agreement, the commissioner [~~council~~] may rescind the
8-12 commissioner's [~~its~~] request for an opinion from the attorney
8-13 general.

8-14 SECTION 18. Section 33.209, Natural Resources Code, is
8-15 amended to read as follows:

8-16 Sec. 33.209. PROHIBITION ON SPECIAL AREA MANAGEMENT PLANS.
8-17 The land office [~~council~~] may not develop or approve a special area
8-18 management plan, including a plan for an area designated under the
8-19 national estuary program.

8-20 SECTION 19. The following provisions of the Natural
8-21 Resources Code are repealed:

- 8-22 (1) Subdivision (13), Section 33.004;
- 8-23 (2) Subsection (c), Section 33.052;
- 8-24 (3) Subdivision (20), Section 33.203;
- 8-25 (4) Subsections (b), (c), and (d), Section 33.204;
- 8-26 (5) Section 33.2042;
- 8-27 (6) Section 33.2043;
- 8-28 (7) Section 33.2044;
- 8-29 (8) Section 33.2045;
- 8-30 (9) Subsection (g), Section 33.2053;
- 8-31 (10) Section 33.211; and
- 8-32 (11) Section 33.212.

8-33 SECTION 20. (a) Effective September 1, 2011, the Coastal
8-34 Coordination Council is abolished and the powers and duties of the
8-35 council are transferred to the General Land Office in accordance
8-36 with Chapter 33, Natural Resources Code, as amended by this Act.

8-37 (b) As soon as possible after the effective date of this
8-38 Act, the presiding officers of the appropriate entities shall
8-39 appoint the members of the Coastal Coordination Advisory Committee
8-40 in accordance with Section 33.2041, Natural Resources Code, as
8-41 amended by this Act.

8-42 (c) All rules of the Coastal Coordination Council are
8-43 continued in effect as rules of the General Land Office until
8-44 superseded by a rule of the land office. A certification issued by
8-45 the council is continued in effect as provided by the law in effect
8-46 immediately before the effective date of this Act. A complaint,
8-47 investigation, contested case, or other proceeding pending on the
8-48 effective date of this Act is continued without change in status
8-49 after the effective date of this Act. An activity conducted by the
8-50 council is considered to be an activity conducted by the land
8-51 office.

8-52 (d) A reference in another law or an administrative rule to
8-53 the Coastal Coordination Council means the General Land Office.

8-54 (e) On September 1, 2011, or as soon as is possible after
8-55 that date, the commissioner of the General Land Office shall adopt a
8-56 comprehensive plan to ensure the smooth transition of all programs
8-57 operated by the Coastal Coordination Council before September 1,
8-58 2011, from the council to the land office. During the transition,
8-59 the General Land Office shall consult with the National Oceanic and
8-60 Atmospheric Administration as necessary to ensure continued
8-61 compliance with federal requirements and to maintain federal
8-62 approval of the Texas Coastal Management Program.

8-63 (f) All money, records, property, and equipment in the
8-64 possession of the Coastal Coordination Council on September 1,
8-65 2012, shall be transferred to the possession of the General Land
8-66 Office on September 1, 2012, or as soon as possible after that date.

8-67 SECTION 21. This Act takes effect September 1, 2011.