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WATERS OF THE STATE, PORTS, AND WATERCRAFT River and Harbor Development: Recognize Need To Replace Dredged Channel Sand On Adjacent Coastal Beaches; Complete Displacement With Cooperation of Local Governing Authority and Department of Natural Resources; Protect Coastal Marshlands and Sea Turtle Habitats; Require Alternative Near Shore Replacement of Sand

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WATERS OF THE STATE, PORTS, AND WATERCRAFT

River and Harbor Development: Recognize Need To Replace Dredged Channel Sand On Adjacent Coastal Beaches; Complete Displacement With Cooperation of Local Governing Authority and Department of Natural Resources; Protect Coastal Marshlands and Sea Turtle Habitats; Require Alternative Near Shore Replacement of Sand.

CODE SECTIONS: O.C.G.A. §§ 52-9-1 (amended), -2 (amended)
BILL NUMBER: HB 1021
ACT NUMBER: 753
GEORGIA LAWS: 2002 Ga. Laws 569
SUMMARY: The Act, entitled the “Coastal Georgia Beach Preservation and Maintenance Act,” provides for the regulation by the Department of Natural Resources of the disposition of beach quality sand and other sediment originating from the dredging of navigation channels within tidal inlets and harbor and river maintenance.
EFFECTIVE DATE: June 1, 2003

History

Commonly, the Army Corps of Engineers is contracted by the State of Georgia to dredge sand out of navigation channels within tidal inlets, as well as entrance to harbors and rivers, in order to allow for the passage of seagoing vessels.¹ When this sand is dredged, however, the Army Corps of Engineers has historically had to rent offshore or upland disposal areas for the sand.² The State of Georgia normally pays about 37% of the cost of moving the dredged sand to

1. Audio Recording of House Proceedings, Feb. 13, 2002 (remarks by Rep. Burke Day), at <http://www.ganet.org/services/leg/audio/2002archive.html> [hereinafter House Audio].

2. *Id.*

these rented facilities.³ As a result, taxpayers are forced to pay for this offsite disposal of sand.⁴ Since the adoption of coastal zone management laws, however, the State of Georgia is now able to make arrangements with Federal entities, such as the Corps of Engineers, that allow a state agency, like the Department of Natural Resources, to go in and direct the federal entity as to the best interests of the State.⁵ Believing that the Department of Natural Resources and local governing authorities are better suited to determine the placement of dredged sand, HB 1021 was introduced to benefit the coastal areas of Georgia, while also saving taxpayers millions of dollars.⁶

HB 1021

Consideration by the House

Representatives Burke Day, Larry Walker, Jimmy Skipper, Carl Rogers, and Speaker of the House, Thomas B. Murphy, of the 153rd, 141st, 137th, 20th, and 18th Districts, respectively, sponsored HB 1021.⁷ Representative Day introduced the bill on the House floor on January 16, 2002.⁸ The House assigned the bill to its Natural Resources and Environment Committee, which favorably reported the bill, as amended, on February 8, 2002.⁹ The amendment simply changed the wording of the bill to specifically include tidal inlets, harbors, and rivers in the definition of coastal waters affected by the bill.¹⁰ The House adopted the Committee amendment and passed the bill by a vote of 99 to 1 on February 13, 2002.¹¹

3. *Id.*

4. *Id.*

5. O.C.G.A. § 12-5-322, -323 (2000).

6. House Audio, *supra* note 1.

7. HB 1021, as introduced, 2002 Ga. Gen. Assem.

8. State of Georgia Final Composite Status Sheet, HB 1021, Apr. 12, 2002; House Audio, *supra* note 1.

9. *Id.*

10. Compare HB 1021, as introduced, 2002 Ga. Gen. Assem., with HB 1021 (HCA), 2002 Ga. Gen. Assem.

11. House Audio, *supra* note 1; Georgia House Voting Record, HB 1021 (Mar. 18, 2002); State of Georgia Final Composite Status Sheet, HB 1021, Apr. 12, 2002.

Consideration by the Senate

On February 14, 2002, the Senate read and referred the bill to the Senate Natural Resources Committee.¹² The Senate Committee favorably reported the bill, as amended, on February 20, 2002.¹³ The Committee amendment simply changed the date the bill would become effective.¹⁴ Instead of becoming effective upon approval by the Governor, the amendment changed the date to June 1, 2003.¹⁵ Senator Rene D. Kemp of the 3rd District, explained that the change in the effective date was needed to give the Army Corps of Engineers time to request additional monies from the Federal Government to cover the cost of moving the beach sand, as well as to allow the Department of Transportation time to view the bill and suggest any changes.¹⁶ The Senate adopted the Committee amendment and passed the bill, as amended, by a unanimous vote on February 27, 2002.¹⁷

Upon its return to the House, the Senate version of the bill was unanimously adopted and passed on March 1, 2002.¹⁸ Governor Roy Barnes signed HB 1021 into law on May 3, 2002.¹⁹

The Act

Section 1 of the Act simply names the Act as the “Coastal Georgia Beach Preservation and Maintenance Act.”²⁰

Section 2 of the Act amends Code sections 52-9-1 and 52-9-2 by striking the original language of the sections in their entirety, and inserting new language concerning the process of dredging and the

12. State of Georgia Final Composite Status Sheet, HB 1021, Apr. 12, 2002.

13. *Id.*

14. *Id.*

15. Compare HB 1021 (HCA), 2002 Ga. Gen. Assem., with HB 1021 (SCA), 2002 Ga. Gen. Assem.

16. Audio Recording of Senate Proceedings, Feb. 27, 2002 (remarks by Sen. Rene D. Kemp), at www.ganet.org/services/leg/audio/2002archive.html [hereinafter Senate Audio].

17. Georgia Senate Voting Record, HB 1021 (Feb. 27, 2002); State of Georgia Final Composite Status Sheet, HB 1021, Apr. 12, 2002.

18. Georgia House Voting Record, HB 1021 (Mar. 18, 2002); State of Georgia Final Composite Status Sheet, HB 1021, Apr. 12, 2002.

19. 2002 Ga. Laws 569, § 4, at 570.

20. O.C.G.A. § 52-9-1 (Supp. 2002).

placement of dredged sand taken from Georgia inlets, harbors, and rivers.²¹ The Act recognizes the need to maintain inlets, harbors, and rivers, and that dredging these waters in order to maintain their navigability alters the natural drift of sand resources—sand that would normally drift to sustain beaches within the littoral zone.²² In response to this problem, the Act requires that all beach-quality sand originating from the dredging of navigable waters be placed on adjacent beaches, or, if the dredged sand is placed elsewhere, that an equivalent amount of beach quality sand from an alternate location is used on those adjacent beaches.²³ Also, if it is determined that the sand obtained from dredging or construction related to navigation projects is unsuitable for beach placement, that sand should be used in a way that is most beneficial to the adjacent beaches.²⁴ One of the more important components of the Act, however, is that the Department of Natural Resources, along with local governing bodies, instead of the Army Corps of Engineers, will now have the authority to determine the best possible placement of the dredged sand so as to protect coastal marshlands and sea turtle habitats surrounding adjacent beach areas.²⁵

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21. Compare 1967 Ga. Laws 516, at 516, and 1972 Ga. Laws 1015, § 1516, at 1055 (formerly found at O.C.G.A. § 52-9-1, -2 (2000)), with O.C.G.A. § 52-9-1, -2 (Supp. 2002).

22. O.C.G.A. § 52-9-1 (Supp. 2002).

23. *Id.* § 52-9-2(a)(2).

24. *Id.* § 52-9-2(b).

25. *Id.* § 52-9-2(a)(2)-(3).