

The Senate Committee on Natural Resources and the Environment offered the following substitute to HB 445:

A BILL TO BE ENTITLED
AN ACT

1 To amend Part 2 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia
2 Annotated, relating to shore protection, so as to revise various provisions relative to shore
3 protection; to revise and add definitions; to establish authority and powers of the Department
4 of Natural Resources; to revise provisions relating to permit activities and procedures; to
5 strike obsolete language and correct cross-references; to provide for related matters; to
6 provide for effective dates; to repeal conflicting laws; and for other purposes.

7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

8 **SECTION 1.**

9 Part 2 of Article 4 of Chapter 5 of Title 12 of the Official Code of Georgia Annotated,
10 relating to shore protection, is amended by revising paragraphs (8), (11), (13), (15), and (18)
11 of Code Section 12-5-232, relating to definitions, and by adding a new paragraph to read as
12 follows:

13 "(8) 'Dynamic dune field' means those elements of the sand-sharing system including the
14 dynamic area of beach and sand dunes, varying in height and width, but does not include
15 stable sand dunes. The the ocean boundary of which the dynamic dune field extends to
16 the ordinary high-water mark and the landward boundary of which is the first occurrence
17 either of live native trees 20 feet in height or greater or of a structure existing on July 1,
18 1979 as determined by the department. The landward boundary of the dynamic dune
19 field, as determined by the department, shall be the seaward most line connecting any
20 such tree or either the seaward most occurrence of a structure existing on July 1, 1979,
21 as set forth in this part, or along a line that is:

22 (A) Twenty-five feet landward of the landward toe of the most landward sand dunes;

23 (B) Twenty-five feet landward of the crest of a serviceable shoreline stabilization
24 activity; or

25 (C) In the absence of any such sand dunes or functional structure associated with a
26 shoreline stabilization activity, 25 feet landward of the ordinary high-water mark, or for

27 property owned by the state, 100 feet landward of the ordinary high-water mark to any
 28 other such tree or structure if the distance between the two is a reasonable distance not
 29 to exceed 250 feet. In determining what is a reasonable distance the line for the
 30 purposes of this paragraph, topography, dune stability, vegetation, lot configuration,
 31 existing structures, distance from the ordinary high-water mark, and other relevant
 32 information shall be taken into consideration in order to conserve the vital functions of
 33 the sand-sharing system. If a real estate appraiser certified pursuant to Chapter 39A of
 34 Title 43 determines that an existing structure, shoreline engineering activity, or other
 35 alteration which forms part of the landward boundary of the dynamic dune field has
 36 been more than 80 percent destroyed by storm driven water or erosion, the landward
 37 boundary of the dynamic dune field shall be determined as though such structure had
 38 not been in existence on July 1, 1979."

39 "(10.1) 'Minor activity' means an activity such as the construction or installation of decks,
 40 patios, or porches or the alteration of native landscaping, so long as such construction,
 41 installation, or alteration, when combined with other structures on the subject parcel or
 42 portion thereof, does not impact more than a total of one-third of the subject parcel or
 43 portion thereof that is subject to the jurisdiction of this part; or the construction or
 44 installation of elevated crosswalks providing access across sand dunes and shoreline
 45 stabilization activities.

46 (11) 'Ordinary high-water mark' means the position upper reach of the tide along the
 47 shore of the mean monthly spring high tide reached during the most recent tidal epoch.
 48 This term is not synonymous with 'mean' high-water mark established by the fluctuations
 49 of water and indicated by physical characteristics such as a clear natural line impressed
 50 on the shore, shelving, changes in the character of soil, or the presence of litter and
 51 debris, as determined by the department."

52 "(13) 'Permit-issuing authority' means the Shore Protection Committee or a local unit of
 53 government which has adopted a program of shore protection which meets the standards
 54 of this part and which has been certified by the board as an approved program Reserved."

55 "(15) 'Sand dunes' means mounds of sand within the sand-sharing system deposited along
 56 a coastline by wind, tidal, or wave action, or by beach nourishment or dune construction,
 57 which mounds are often covered with sparse, pioneer vegetation, such as, but not limited
 58 to, sea oats (Uniola paniculate), beach morning glory (Ipomoea pes-caprae), and large salt
 59 meadow cordgrass (Spartina patens), and are located landward of the ordinary high-water
 60 mark and may extend into the tree line."

61 "(18) 'Stable sand dune' means a sand dune not in the sand-sharing system that is
 62 maintained in a steady state of neither erosion nor accretion by indigenous woody

63 vegetative cover such as, but not limited to, pines (Pinus), oaks (Quercus), and wax
 64 myrtles (Morella cerifera)."

65 **SECTION 2.**

66 Said part is further amended by revising Code Section 12-5-233, relating to area of operation
 67 of part, as follows:

68 "12-5-233.

69 The area of operation of this part shall be:

70 (1) The dynamic dune fields on the barrier islands of this state as determined by
 71 reference to Code Section 12-5-232. Such determination shall be made by the
 72 ~~permit-issuing authority~~ committee on the basis of site inspection and evaluation of other
 73 pertinent information as provided for in subsection (d) of Code Section 12-5-239;

74 (2) The submerged shoreline lands of this state from the seaward limit of this state's
 75 jurisdiction landward to the dynamic dune fields or to a line projected from the
 76 westernmost point of the dynamic dune field on the southern end of a barrier island, to
 77 the westernmost point of the dynamic dune field on the northern end of the adjacent
 78 barrier island to the south; ~~and~~

79 (3) If an area has dynamic dune fields as defined by Code Section 12-5-232, and
 80 marshlands as defined by Code Section 12-5-282, it is subject to the jurisdiction of this
 81 part and Part 4 of this article. In the event of a conflict between this part and Part 4 of this
 82 article, the commissioner shall determine which part shall apply so as to best protect the
 83 public interest; and

84 (4) The area of operation of this part shall not include any area landward of the most
 85 recent seaward platted lot line, if roadways, bridges, or water and sewer lines have been
 86 extended to such a lot prior to July 1, 2019, on the updrift side of a groin permitted under
 87 the Shore Protection Act, unless such groin is part of a publicly funded shoreline
 88 engineering activity, within a distance from the groin of 5,000 feet or ten times the length
 89 of the groin, whichever is less."

90 **SECTION 3.**

91 Said part is further amended by revising Code Section 12-5-235, relating to the Shore
 92 Protection Committee, as follows:

93 "12-5-235.

94 (a) There is created the Shore Protection Committee within the department. The
 95 committee shall be composed of five members, including the commissioner of natural
 96 resources and four people selected by the board. Each of three persons selected by the
 97 board shall be a resident of Camden, Glynn, McIntosh, Liberty, Bryan, or Chatham County.

98 Three members of the committee shall constitute a quorum. The members of the
 99 committee shall be entitled to and shall be reimbursed from moneys appropriated to the
 100 department for their expenses, such as mileage and per diem, as set by the board.

101 (b) The committee shall have the authority to issue orders and to grant, suspend, revoke,
 102 modify, extend, condition, or deny permits as provided in this part. Permits may, at the
 103 committee's discretion, be revoked, suspended, or modified upon a finding that the
 104 permittee is not in compliance with permit conditions or that the permittee is in violation
 105 of any rule or regulation promulgated pursuant to this part.

106 (c) The ~~chairman~~ chairperson of the committee, upon application by the permittee, may
 107 issue renewal of a permit previously granted by the committee. Such action must be based
 108 upon recommendations of staff, past committee actions, and the results of public
 109 comments. The ~~chairman~~ chairperson may refer the request for renewal to the committee
 110 to decide on renewals that, in his or her judgment, should receive broader consideration.
 111 A committee member may choose to have the full committee decide on renewals that the
 112 member feels should receive broader consideration.

113 (d) Any permit for minor activity may be issued by the commissioner based on the
 114 recommendations of staff, past committee actions, and the results of public comments. The
 115 commissioner may refer the application to the committee to decide on permits for minor
 116 activities that, in his or her judgment, should receive broader consideration. A committee
 117 member may choose to have the full committee decide on permit applications for minor
 118 activities that the member feels should receive broader consideration."

119 SECTION 4.

120 Said part is further amended by revising Code Section 12-5-238, relating to form and
 121 contents of application for permit, as follows:

122 "12-5-238.

123 All applications for permits required by this part must be on forms prescribed by the
 124 ~~permit-issuing authority~~ committee, must be properly executed, and must include the
 125 following:

- 126 (1) The name and address of the applicant;
- 127 (2) A brief description of the proposed project;
- 128 (3) Construction documents showing the applicant's proposed project and the manner or
 129 method by which the project shall be accomplished. Such document shall identify the
 130 dynamic dune field affected;
- 131 (4) A copy of the deed or other instrument under which the applicant claims title to the
 132 property or, if the applicant is not the owner, a copy of the deed or other instrument under
 133 which the owner claims the title together with written permission from the owner to carry

134 out the project on ~~his~~ the owner's land. In lieu of a deed or other instrument referred to
135 in this paragraph, the ~~permit-issuing authority~~ committee may accept some other
136 reasonable evidence of ownership of the property in question or other lawful authority
137 to make use of the property. If all or any part of the proposed construction or alteration
138 shall take place on property which is owned by the State of Georgia, the applicant shall
139 present an easement, revocable license, or other written permission from the state to use
140 the property for the proposed project; in the alternative, the ~~permit-issuing authority~~
141 committee may condition the issuance of the permit on the requirement to obtain written
142 permission from the state. The ~~permit-issuing authority~~ committee will not adjudicate title
143 disputes concerning the property which is the subject of the application; provided,
144 however, that the ~~permit-issuing authority~~ committee may decline to process an
145 application when submitted documents show conflicting deeds;

146 (5) A plat showing the boundaries of the proposed project site;

147 (6) The names and addresses of all landowners of property adjoining or abutting the
148 parcel of land on which the proposed project is to be located. If the property to be altered
149 is bordered on any side by other property of the applicant, the applicant shall supply the
150 names and addresses of the nearest landowners, other than the applicant, of property
151 adjoining the applicant's property. If the applicant cannot determine the identity of
152 adjoining landowners or their addresses, the applicant shall file in lieu thereof an affidavit
153 stating that a diligent search, including a search of the records of the county tax assessor's
154 office, has been made but that the applicant was not able to ascertain the names or
155 addresses of adjoining landowners;

156 (7) ~~An application fee in such reasonable amount as is designated by the permit-issuing~~
157 ~~authority or, if the committee is the permit-issuing authority, a nonrefundable application~~
158 ~~fee as set by the board which reflects the cost to the department to evaluate the~~
159 ~~application. Fees for the renewal of a permit shall be equal to the application fee.~~
160 ~~Application fees shall not exceed \$1,000.00 for any one proposal. If the committee is the~~
161 ~~permit-issuing authority, such fees shall be paid to the department~~ A nonrefundable
162 application fee to be set by the board in an amount necessary to defray the administrative
163 cost of issuing such permit. Renewal fees shall be equal to application fees, which shall
164 not exceed \$1,000.00 for any one proposal and shall be paid to the department;

165 (8) Site plans for the proposed project site showing existing and proposed streets,
166 utilities, buildings, and any other physical structures;

167 (9) A certification by a registered architect or engineer licensed by this state certifying
168 that all proposed structures, if any, for which the permit is applied are designed to meet
169 suitable hurricane-resistant standards;

170 (10) Any and all other relevant data required by the ~~permit-issuing authority~~ committee
 171 for the purposes of ascertaining that the proposed improvements, activities, and uses will
 172 meet the standards of this part;

173 (11) A certificate or letter from the local governing authority or authorities of the
 174 political subdivision in which the property is located stating that the applicant's proposal
 175 ~~is not violative of~~ would not violate any zoning law; and

176 (12) A statement from the applicant that he or she has made inquiry to the appropriate
 177 authorities that the proposed project is not over a landfill or hazardous waste site and that
 178 the site is otherwise suitable for the proposed project."

179 **SECTION 5.**

180 Said part is further amended by revising Code Section 12-5-239, relating to completion of
 181 permit, notice of proposed activity, and requirements and restrictions regarding issuance of
 182 permit, as follows:

183 "(a) The ~~permit-issuing authority~~ committee shall take action on each permit application
 184 within 90 days after the application is completed; provided, however, that this provision
 185 may be waived upon the written request of the applicant. An application is complete when
 186 it contains substantially all of the written information, documents, forms, fees, and
 187 materials required by this part. An application must be completed sufficiently in advance
 188 of the ~~permit-issuing authority~~ committee meeting at which the project will be considered
 189 to allow for public notice and evaluation by the ~~permit-issuing authority~~ committee.

190 (b) After receipt of a completed application and at least ~~30~~ 15 days prior to acting on the
 191 application, the ~~permit-issuing authority~~ committee shall notify all persons identified by
 192 the applicant as owning land adjacent to the location of the proposed project and to all
 193 persons who have filed a written request with ~~such permit-issuing authority~~ the committee
 194 that their names be placed on a mailing list for receipt of such notice. Any person desiring
 195 to be placed on such mailing list must so request in writing and renew such request in
 196 December of each year. The name of any person who has not renewed such request shall
 197 be removed from the list. The landowners who have not requested to be placed on a
 198 mailing list shall be notified in writing if their addresses are known. Such notice shall be
 199 in writing and shall include a general description of the proposed project and its location.
 200 The applicant shall post such notice in a conspicuous place on the subject property at or
 201 prior to the time the ~~permit-issuing authority~~ committee issues public notice of the
 202 application. If the applicant has filed an affidavit that the names or addresses of the
 203 adjoining landowners were not ascertained after a diligent search, the ~~permit-issuing~~
 204 authority committee shall cause a notice of the proposed activity and a brief description of
 205 the land to be affected to be published in the legal organ or a newspaper of general

206 circulation in the county in which such land lies. Cost of such public notices shall be paid
207 by the applicant. Whenever there appears to be sufficient public interest, the ~~permit-issuing~~
208 authority committee may call a public hearing.

209 (c) No permit shall be issued except in accordance with the following provisions:

210 (1) A permit for a structure or land alteration, including, but not limited to, private
211 residences, motels, hotels, condominiums, and other commercial structures, in the
212 dynamic dune field may be issued only when:

213 (A) The proposed project shall occupy the landward area of the subject parcel and, if
214 feasible, the area landward of the sand dunes;

215 (B) At least a reasonable percentage, not less than one-third, of the subject parcel shall
216 be retained in its naturally vegetated and topographical condition;

217 (C) The proposed project is designed according to applicable hurricane-resistant
218 standards;

219 (D) The activities associated with the construction of the proposed project are kept to
220 a minimum, are temporary in nature, and, upon project completion, restore the natural
221 topography and vegetation to at least its former condition, using the best available
222 technology; and

223 (E) The proposed project will maintain the normal functions of the sand-sharing
224 mechanisms in minimizing storm-wave damage and erosion, both to the unaltered
225 section of the subject parcel and at other shoreline locations;

226 (2) No permits shall be issued for a structure on beaches, eroding sand dune areas, and
227 submerged lands; provided, however, that a permit for a pier, boardwalk, or crosswalk
228 in such an area may be issued, provided that:

229 (A) The activities associated with the construction of the proposed land alterations are
230 kept to a minimum, are temporary in nature, and, upon project completion, the natural
231 topography and vegetation shall be restored to at least their former condition, using the
232 best available technology; and

233 (B) The proposed project maintains the normal functions of the sand-sharing
234 mechanisms in minimizing storm-wave damage and erosion, both to the unaltered
235 section of the subject parcel and at other shoreline locations;

236 (3) A permit for shoreline engineering activity or for a land alteration on beaches, sand
237 dunes, and submerged lands may be issued only when:

238 (A) The activities associated with the construction of the proposed project are to be
239 temporary in nature, and the completed project will result in complete restoration of any
240 beaches, dunes, or shoreline areas altered as a result of that activity;

241 (B) The proposed project will insofar as possible minimize effects to the sand-sharing
242 mechanisms from storm-wave damage and erosion both to the subject parcel and at
243 other shoreline locations;

244 (C) In the event that shoreline stabilization is necessary, either low-sloping porous rock
245 structures or other techniques which maximize the dissipation of wave energy and
246 minimize shoreline erosion shall be used. Permits may be granted for shoreline
247 stabilization activities when the applicant has demonstrated that no reasonable or viable
248 alternative exists; provided, however, that beach restoration and renourishment
249 techniques are preferable to the construction of shoreline stabilization activities; and

250 (D) A copy of the permit application has been transmitted to the local unit of
251 government wherein the project site lies, if such local unit of government has been
252 certified by the board, requesting comments on such application.

253 (d) In evaluating a permit application in order to determine compliance with the provisions
254 set forth in subsection (c) of this Code section, the ~~permit-issuing authority~~ committee may
255 use the following assessment tools and techniques, as appropriate and as available:

256 (1) Historic photographs and topographic data of the project site, which can be used in
257 determining the impact of a proposed project on the stability of the shoreline;

258 (2) On-site inspections to determine the impact of a proposed project on topographic and
259 vegetative conditions, erosion or accretion rates, and other factors influencing the life
260 cycles of dune plants;

261 (3) Any recognized or accepted scientific investigations necessary to determine the
262 proposed project's impacts on the surrounding biological and geological systems, and the
263 historic and archeological resources;

264 (4) When present, the potential effects of shoreline engineering structures (seawalls,
265 groins, jetties, etc.), their condition, and their apparent influence on the sand-sharing
266 system as it relates to the proposed project;

267 (5) Historic, climatological, tidal data, and meteorological records of the vicinity of the
268 project and possible potential effects of a proposed project upon erosion and accretion
269 rates; and

270 (6) New scientific information which, through recent advances, would effect a more
271 competent decision relative to wise use and management of Georgia's sand-sharing
272 system.

273 (e) Every permit shall require that the proposed project be completed within five years
274 after the date of issuance of the permit and shall expire five years after the date of issuance.
275 Such time may be extended five additional years upon a showing that all due efforts and
276 diligence toward the completion of the project have been made. If ~~a permit~~ the holder of
277 an unexpired permit sells, leases, rents, or otherwise conveys the land or any portion of the

278 land for which the permit was issued, such permit shall be continued in force in favor of
279 the new owner, lessee, tenant, or other assignee so long as there is no change in the use of
280 the land as set forth in the original application. The ~~permittee~~ new owner must notify the
281 ~~permit-issuing authority~~ committee within 30 days after change of ownership of ~~property~~
282 the land or any portion thereof.

283 (f) All plans, documents, and materials contained in any application for any permit
284 required by this part shall be made a part of the permit, if granted, and conformance to such
285 plans, documents, and materials shall be a condition of the permit. No change or deviation
286 from any such plans, documents, or materials shall be permitted without the prior
287 notification and approval of the ~~permit-issuing authority~~ committee.

288 (g) Compliance with all other federal, state, and local statutes, ordinances, and regulations
289 shall also be a condition of every permit issued pursuant to this part. If, prior to completion
290 of review of an application under this part the committee receives notice of the denial of
291 a permit or authorization necessary for the project, review of the project shall be suspended
292 and, if the denial becomes final, the application shall stand denied.

293 (h) All permit-issuing authorities may place such conditions on any permit issued under
294 this Code section as are necessary to carry out this part.

295 (i) In passing upon the application for a permit, the ~~permit-issuing authority~~ committee
296 shall consider the public interest which for purposes of this part shall be deemed to be the
297 following considerations:

298 (1) Whether or not unreasonably harmful, increased alteration of the dynamic dune field
299 or submerged lands, or function of the sand-sharing system will be created;

300 (2) Whether or not the granting of a permit and the completion of the applicant's proposal
301 will unreasonably interfere with the conservation of marine life, wildlife, or other
302 resources; and

303 (3) Whether or not the granting of a permit and the completion of the applicant's proposal
304 will unreasonably interfere with reasonable access by and recreational use and enjoyment
305 of public properties impacted by the project.

306 (j) Issuance of a permit under this part and construction of the permitted project shall not
307 remove the designated property from the jurisdiction of this part. All changes in permitted
308 uses which increase impacts to any land subject to the provisions of this part must be ruled
309 upon by the ~~permit-issuing authority~~ committee to determine if the proposed change is
310 consistent with this part and the permit. Each permitted alteration within the area of
311 operation of this part shall be reviewed by the ~~permit-issuing authority~~ committee on a
312 five-year basis or when noncompliance with the purpose for which the permit was issued
313 is evident to determine if the use within the area of operation of this part is consistent with
314 the intent of this part. If the permit holder is found not to be in compliance with this part,

315 the ~~permit-issuing authority~~ committee shall take action as authorized under Code Section
 316 12-5-247.

317 (k)(1) A permit granted by the ~~permit-issuing authority~~ committee becomes final
 318 immediately upon issuance, but no construction or alteration may commence until the
 319 expiration of 30 days following the date of the ~~permit-issuing authority~~ committee
 320 meeting at which the application is approved, except as otherwise provided in paragraph
 321 (2) of this subsection; provided, however, that if a timely appeal is filed, no construction
 322 or alteration may commence until all administrative proceedings are terminated except
 323 as otherwise provided in paragraph (2) of this subsection.

324 (2) If the ~~permit-issuing authority~~ committee, either at the request of the applicant or on
 325 its own motion, finds that an emergency exists in any particular geographic area or in
 326 regard to any particular permit issued by the ~~permit-issuing authority~~ committee, the
 327 ~~permit-issuing authority~~ committee is authorized to allow a permittee to commence
 328 immediately or to continue the construction or alteration authorized by the permit. The
 329 ~~permit-issuing authority~~ committee in determining an emergency shall base its
 330 determination on imminent peril to the public health, safety, or welfare or a grave danger
 331 to life, real property, structures, or shoreline engineering activities. If the ~~permit-issuing~~
 332 ~~authority~~ committee makes such a finding of an emergency, the permittee may commence
 333 immediately or continue the construction or alteration authorized by the permit, but such
 334 construction or alteration is undertaken at the risk to the permittee of an administrative
 335 or judicial order requiring the sand dunes, beaches, and submerged lands to be returned
 336 to their condition prior to such construction or alteration.

337 (l) When work has been completed in accordance with provisions of a permit, the
 338 permittee shall so notify the ~~permit-issuing authority~~ committee in writing within 30 days
 339 of such completion."

340

SECTION 6.

341 Said part is further amended by revising Code Section 12-5-240, relating to posting of
 342 permits, as follows:

343 "12-5-240.

344 A copy of every permit issued to an applicant shall be prominently displayed within the
 345 area of proposed activity. If the ~~permit-issuing authority~~ committee deems it advisable, the
 346 applicant may be required to cause a sign to be erected bearing the permit number, date of
 347 issuance, name of applicant, and such other information as the ~~permit-issuing authority~~
 348 committee may reasonably require. The ~~permit-issuing authority~~ committee may specify
 349 the type of and, within reasonable dimensions, the size of the sign."

350

SECTION 7.

351 Said part is further amended by revising Code Section 12-5-244, relating to administrative
352 and judicial review, as follows:

353 "12-5-244.

354 (a) Any person who is aggrieved or adversely affected by any order or action of the
355 committee shall, upon petition within 30 days after the issuance of such order or taking of
356 such action, have a right to a hearing before an administrative law judge appointed by the
357 board. The hearing before the administrative law judge shall be conducted in accordance
358 with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' and the rules and
359 regulations adopted by the board pursuant thereto. The decision of the administrative law
360 judge shall constitute the final decision of the board and any party to the hearing, including
361 the committee, shall have the right of judicial review thereof in accordance with Chapter 13
362 of Title 50.

363 ~~(b) Where a local unit of government has, pursuant to this part, granted, suspended,~~
364 ~~modified, extended, conditioned, or denied a permit, any person aggrieved or adversely~~
365 ~~affected by such action shall be afforded a right to administrative and judicial review of~~
366 ~~such action.~~

367 ~~(c)~~(b) Persons are 'aggrieved or adversely affected' where the challenged action has caused
368 or will cause them injury in fact and where the injury is to an interest within the zone of
369 interests to be protected or regulated by this part. In the event the committee or local unit
370 of government, as appropriate, asserts in response to the petition before the administrative
371 law judge that the petitioner is not aggrieved or adversely affected, the administrative law
372 judge shall take evidence and hear arguments on this issue and thereafter make a ruling on
373 this issue before continuing with the hearing. The burden of going forward with evidence
374 on this issue shall rest with the petitioner."

375

SECTION 8.

376 Said part is further amended by revising Code Section 12-5-247, relating to enforcement of
377 part and civil penalty, as follows:

378 "12-5-247.

379 (a) If the department determines that any person is violating any provision of this part or
380 any rule or regulation adopted pursuant to this part or the terms and conditions of any
381 permit issued under this part, ~~and such violation is in an area where the committee is the~~
382 ~~permit-issuing authority,~~ the department may employ ~~any one, or any combination of any~~
383 ~~or all,~~ of the enforcement methods specified in paragraphs (1) through (4) of this subsection
384 following:

- 385 (1) The department may issue an administrative order specifying the provision of this
386 part or the rule, or both, alleged to have been violated and require the person so ordered
387 to cease and desist from such activity and to take corrective action within a reasonable
388 period of time as prescribed in the order; provided, however, that the issuance of such
389 order shall not affect the availability of relief under Code Section 12-5-244. Such
390 corrective action may include, but shall not be limited to, requiring that the sand dunes,
391 beaches, and submerged lands be returned to their condition prior to the violation of this
392 part or a rule adopted pursuant to this part. Any such order shall become final unless the
393 person named therein requests in writing a hearing before a hearing officer appointed by
394 the board no later than ten days after the issuance of such order. Review of such order
395 shall be available as provided in subsection (a) of Code Section 12-5-244;
- 396 (2) Whenever the committee finds that an emergency exists requiring immediate action
397 to protect the public or private interest where the public interest is served, it may issue
398 an order reciting the existence of such an emergency and requiring or allowing that such
399 action be taken as it deems necessary to meet the emergency. Notwithstanding any other
400 provision of this part, such order shall be effective immediately. If an order requiring a
401 person to take action is issued pursuant to this paragraph, such person shall be entitled to
402 a hearing within ten days of the date of issuance of the order. Any person who is
403 aggrieved or adversely affected by an emergency order of the committee, upon petition
404 within ten days after issuance of such order, shall have a right to a hearing before an
405 administrative law judge appointed by the board. The committee shall hold a meeting no
406 sooner than 30 days after the issuance of an emergency order to review such order to
407 determine whether the order has been complied with, whether the order should continue
408 in force, and any possible effects of such order on the sand-sharing system;
- 409 (3) The committee may file in the appropriate superior court a certified copy of an
410 unappealed final order of the administrative law judge or of a final order of the
411 administrative law judge affirmed upon appeal or other orders of the committee,
412 whereupon the court shall render judgment in accordance therewith and notify the parties.
413 Such judgment shall have the same effect, and all proceedings in relation thereof shall
414 thereafter be the same, as though such judgment has been rendered in an action duly
415 heard and determined by the court; and
- 416 (4) The department may seek injunctive relief pursuant to Code Section 12-5-245.
- 417 (b) Any person who violates any provision of this part or any rule or regulation adopted
418 under this part, any permit issued under this part, or final or emergency order of the
419 department shall be subject to a civil penalty not to exceed \$10,000.00 for each act of
420 violation. Each day of continued violation shall subject ~~said~~ such person to a separate civil
421 penalty. An administrative law judge appointed by the board after a hearing conducted in

422 accordance with Chapter 13 of Title 50, the 'Georgia Administrative Procedure Act,' shall
 423 determine whether or not any person has violated any provision of this part, any rule or
 424 regulation adopted under this part, any permit, or any final or emergency order of the
 425 department or ~~permit-issuing authority~~ committee and shall upon proper finding issue an
 426 order imposing such civil penalties as provided in this subsection. Review of such order
 427 shall be available as provided in subsection (a) of Code Section 12-5-244. All civil
 428 penalties recovered by the department as provided in this subsection shall be paid into the
 429 state treasury to the credit of the general fund.

430 (c) Any person who causes or permits any removal, filling, or other alteration of the
 431 dynamic dune field or submerged lands in this state without first obtaining a permit from
 432 the ~~permit-issuing authority~~ committee shall be liable in damages to the state and any
 433 political subdivision of the state for any and all actual or projected costs and expenses and
 434 injuries occasioned by such alteration of the dynamic dune field or submerged lands. The
 435 amount of damages assessed pursuant to this Code section shall include, but shall not be
 436 limited to, any actual or projected costs and expenses incurred or to be incurred by the state
 437 or any political subdivision thereof in restoring as nearly as possible the natural topography
 438 of the sand-sharing system and replacing the vegetation destroyed by any alteration of the
 439 dynamic dune field or submerged lands. Damages to the state shall be recoverable in a civil
 440 action instituted by the department and shall be paid to the department to cover cost of
 441 restoration. Damages to a political subdivision shall be recoverable in a civil action
 442 instituted by ~~said~~ such subdivision.

443 (d) Owners of property with knowledge of unauthorized activities occurring thereon are
 444 responsible under this part."

445 SECTION 9.

446 Said part is further amended by revising Code Section 12-5-248, relating to criminal
 447 violations, as follows:

448 "12-5-248.

449 (a) It shall be unlawful for any person to:

450 (1) Operate any motorized vehicle or other motorized machine on, over, or across sand
 451 dunes or beaches except as authorized by the ~~permit-issuing authority~~ department or
 452 committee, except that individual disability vehicles, emergency vehicles, and
 453 governmental vehicles utilized for beach maintenance or research may operate within
 454 sand dunes and beaches without authorization from the ~~permit-issuing authority~~ as
 455 department or committee so long as those vehicles operate across existing cross-overs,
 456 paths, or drives; or

457 (2) Store or park sailboats, catamarans, or other commercial or recreational marine craft
458 on any sand dune.

459 (b) All such lawful activities conducted under this part shall provide protection to nesting
460 sea turtles and their hatchlings and habitats and to nesting shore birds and their hatchlings
461 and habitats.

462 (c) Any person violating the provisions of subsection (a) of this Code section shall be
463 guilty of a misdemeanor."

464 **SECTION 10.**

465 This Act shall become effective upon its approval by the Governor or upon its becoming law
466 without such approval for the purposes of promulgating rules and regulations necessary to
467 administer the provisions of this Act and shall become effective on December 31, 2019, for
468 all other purposes.

469 **SECTION 11.**

470 All laws and parts of laws in conflict with this Act are repealed.