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# The State of South Carolina



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August 10, 1992

The Honorable William S. Houck, Jr., M.D.  
Member, House of Representatives  
701 Brockington Lane  
Florence, South Carolina 29501

Dear Representative Houck:

Pursuant to a letter to our Office and in a subsequent telephone conversation you ask the purpose of the South Carolina Coastal Council and the intent of the Legislature in creating it. You specifically mention provision of public access to the beaches, protection of beach wildlife, preservation of beachfront from improper development and construction and whether these considerations are in conflict.

The General Assembly in 1977 enacted the Coastal Tidelands and Wetlands Act in which it created the South Carolina Coastal Council. The Coastal Council is empowered by the legislature "with the responsibility of administering and enforcing" the 1977 Act which serves to "protect, preserve, restore, and enhance the coastal resources of South Carolina." See Regulation 30-1 (B) (Supp.); S.C. Code Ann. § 48-39-10 et seq. In 1988 and by amendments in 1990 the Beachfront Management Act was also enacted by the General Assembly to supplement the earlier provision and to enhance the ability of the Coastal Council in fulfilling legislative goals regarding South Carolina's beach front and dune system. See Act 634 of 1988; Act 607 of 1990; Regulation 30-1 (B) (Supp.); S.C. Code Ann. §§ 48-39-250 et seq.

The basic policy of the General Assembly in passing the Coastal Tidelands and Wetlands Act as declared in S.C. Code Ann. § 48-39-30 "is to protect the quality of the coastal environment and to promote the economic and social improvement of

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the coastal zone and all of the people of the State." The policy is to be implemented through the promotion of

economic and social improvement of the citizens of this State and ... encourag(ing the)... development of coastal resources in order to achieve such improvement with due consideration for the environment and within the framework of a coastal planning program that is designed to protect the sensitive and fragile areas from inappropriate development and provide adequate environmental safeguards ...

S.C. Code Ann. § 48-39-30. Among the findings of the General Assembly with regard to this act we find the following:

The General Assembly finds that:

- (A) The coastal zone is rich in a variety of natural, commercial, recreational and industrial resources of immediate and potential value to the present and future well-being of the State.
- (B) The increasing and competing demands upon the lands and waters of our coastal zone occasioned by population growth and economic development, ... have resulted in the decline or loss of living marine resources, wildlife, nutrient-rich areas, permanent and adverse changes to ecological systems, decreasing open space for public use and shoreline erosion.
- (C) ... South Carolina can only regain control of the regulation of its critical areas by developing its own management program. ...

- (D) The coastal zone and the fish, shellfish, other living marine resources and wildlife therein, may be ecologically fragile and consequently extremely vulnerable to destruction by man's alterations.
- (E) Important ecological, cultural, natural, geological and scenic characteristics, industrial, economic and historical values in the coastal zone are being irretrievably damaged or lost by ill-planned development that threatens to destroy these values.
- (F) In light of competing demands and the urgent need to protect and to give high priority to natural systems in the coastal zone while balancing economic interests, present state and local institutional arrangements for planning and regulating land and water uses in such areas are inadequate.

S.C. Code Ann. § 48-39-20.

As to the coastal beach/dune system with which you seemed specifically concerned, we note the following legislative findings in S.C. Code Ann. § 48-39-250:

The General Assembly finds that:

- (1) The beach/dune system along the coast of South Carolina is extremely important to the people of this State and serves the following functions:
  - (a) protects life and property by serving as a storm barrier which dissipates wave energy and contributes to shoreline stability in an economical and effective manner.

- (b) provides the basis for a tourism industry that generates approximately two-thirds of South Carolina's annual tourism industry revenue which constitutes a significant portion of the state's economy. The tourists who come to the South Carolina coast to enjoy the ocean and dry sand beach contribute significantly to state and local tax revenues;
  - (c) provides habitat for numerous species of plants and animals, several of which are threatened or endangered. Waters adjacent to the beach/dune system also provide habitat for many other marine species;
  - (d) provides a natural healthy environment for the citizens of South Carolina to spend leisure time which serves their physical and mental well-being.
- (2) Beach/dune system vegetation is unique and extremely important to the vitality and preservation of the system.
  - (3) Many miles of South Carolina's beaches have been identified as critically eroding.
  - (4) Chapter 39 of Title 48, Coastal Tidelands and Wetlands, prior to 1988, did not provide adequate jurisdiction to the South Carolina Coastal Council to enable it to effectively protect the integrity of the beach/dune system.

Consequently, without adequate controls, development unwisely has been sited too close to the system. This type of development has jeopardized the stability of the beach/dune system, accelerated erosion, and endangered adjacent property. It is in both the public and private interests to protect the system from this unwise development.

....

- (8) It is in the state's best interest to protect and to promote increased public access to South Carolina's beaches for out-of-state tourists and South Carolina residents alike.

....

- (11) A long-range comprehensive beach management plan is needed for the entire coast of South Carolina to protect and manage effectively the beach/dune system, thus preventing unwise development and minimizing man's adverse impact on the system.

The General Assembly also set forth the following as its policy specifically for the South Carolina beach/dune system:

- (1) protect, preserve, restore, and enhance the beach/dune system, the highest and best uses of which are declared to provide:
  - (a) protection of life and property by acting as a buffer from high tides, storm surge, hurricanes, and normal erosion;
  - (b) a source for the preservation of dry sand beaches which provide recreation and a major source of state and local business revenue;

- (c) an environment which harbors natural beauty and enhances the well-being of the citizens of this State and its visitors;
  - (d) natural habitat or indigenous flora and fauna including endangered species;
- (2) create a comprehensive, long-range beach management plan and require local comprehensive beach management plans for the protection, preservation, restoration, and enhancement of the beach/dune system. These plans must promote wise use of the state's beachfront to include a gradual retreat from the system over a forty-year period;
  - (3) severely restrict the use of hard erosion control devices to armor the beach/dune system and to encourage the replacement of hard erosion control devices with soft technologies as approved by the South Carolina Coastal Council which will provide for the protection of the shoreline without long-term adverse effects;
  - (4) encourage the use of erosion-inhibiting techniques which do not adversely impact the long-term well-being of the beach/dune system;
  - (5) promote carefully planned nourishment as a means of beach preservation and restoration where economically feasible;
  - (6) preserve existing public access and promote the enhancement of public access to assure full enjoyment of the beach by all our citizens including the handicapped and encourage the purchase of lands adjacent to the Atlantic Ocean to enhance public access.

- (7) involve local governments in long-range comprehensive planning and management of the beach/dune system in which they have a vested interest;
- (8) establish procedures and guidelines for the emergency management of the beach/dune system following a significant storm event.

S.C. Code Ann. § 48-39-260. Also, the General Assembly requires that Coastal Council develop a comprehensive, long-range beach management plan which must include:

- (1) development of the data base for the state's coastal areas to provide essential information necessary to make informed and scientifically based decisions concerning the maintenance or enhancement of the beach/dune system;
- (2) development of guidelines and their coordination with appropriate agencies and local governments for the accomplishment of:
  - (a) beach/dune restoration and nourishment, including the projected impact on coastal erosion rates, cost/benefit of the project, impact on flora and fauna, and funding alternatives;
  - (b) development of a beach access program to preserve the existing public access and enhance public access to assure full enjoyment of the beach by all residents of this State;
  - (c) maintenance of a dry sand and ecologically stable beach;
  - (d) protection of all sand dunes seaward of the setback line;

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- (e) protection of endangered species, threatened species, and important habitats such as nesting grounds;
  - (f) regulation of vehicular traffic upon the beaches and the beach/dune system which includes the prohibition of vehicles upon public beaches for nonessential uses;
  - (g) development of a mitigation policy for construction allowed seaward of the setback line, which must include public access ways, nourishment, vegetation, and other appropriate means;
- (3) formulation of recommendations for funding programs which may achieve the goals set forth in the State Comprehensive Beach Management Plan;
  - (4) development of a program on public education and awareness of the importance of the beach/dune system, the project to be coordinated with the South Carolina Educational Television Network and Department of Parks, Recreation and Tourism;
  - (5) assistance to local governments in developing the local comprehensive beach management plans.

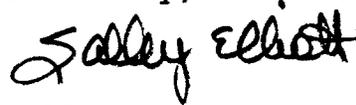
Also, regulations 30-11(D)(3), 30-12(C)(1)(e), 30-13(R), 30-20 stress the importance of enhancing public parking and access to South Carolina beaches while 30-13(G) requires that any additional lighting to be provided at the beaches located "seaward of the setback line shall be designed to shield the beach from illumination. Further S.C. Code Ann. 48-39-120(E) allows the State, through council, after the declaration of a beach or shore emergency, to expend state funds to address erosion in those areas to which the public has complete access.

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As outlined, the General Assembly has expressly established its goal, policy, and intent regarding Coastal Council, requiring the consideration and sensitive balancing by the Council of the factors about which you inquire.

With kind regards, I am

Sincerely,



Salley W. Elliott  
Assistant Attorney General

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REVIEWED AND APPROVED BY:



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