CHAPTER 40

Beach Restoration and Improvement Trust Act

**SECTION 48‑40‑10.** Citation of chapter.

 This chapter may be cited as the “South Carolina Beach Restoration and Improvement Trust Act”.

HISTORY: 1999 Act No. 100, Part II, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

NOTES OF DECISIONS

In general 1

Review 2

1. In general

Bureau of Ocean and Coastal Resource Management (OCRM) was proper party to present arguments before Coastal Zone Management Appeal Panel or circuit court on appeal as to proper implementation and interpretation of regulations OCRM was charged with administering in dispute over dock permit; while OCRM did not appeal the ALJ’s order, it remained party at all levels to represent its policy stance. Dorman v. Department of Health and Environmental Control (S.C.App. 2002) 350 S.C. 159, 565 S.E.2d 119. Zoning And Planning 1436; Zoning And Planning 1601

2. Review

Constitutional arguments arising out of dispute over dock permit were not preserved for appellate review, where none of the constitutional arguments were presented to the ALJ. Dorman v. Department of Health and Environmental Control (S.C.App. 2002) 350 S.C. 159, 565 S.E.2d 119. Zoning And Planning 1592

**SECTION 48‑40‑20.** Definitions.

 As used in this chapter:

 (1) “Trust fund” means the South Carolina Beach Restoration and Improvement Trust Fund.

 (2) “Office” means the Office of Ocean and Coastal Resource Management of the Department of Health and Environment Control.

 (3) “Beach renourishment” means the artificial establishment and periodic renourishment of a beach with sand that is compatible with the existing beach in a way so as to create a dry sand beach at all stages of the tide, as described in Section 48‑39‑270, to include where considered appropriate and necessary by the office, groin construction and maintenance to extend the life of such projects.

HISTORY: 1999 Act No. 100, Part II, Section 8.

**SECTION 48‑40‑30.** South Carolina Beach Restoration and Improvement Fund established.

 There is established the South Carolina Beach Restoration and Improvement Trust Fund for the purposes of:

 (1) providing matching funds to qualifying municipal and county governments for the restoration of eroded public beaches and improvement and enhancement of public beach access;

 (2) restoring beaches and protective sand dunes on an emergency basis after significant storm damage; and

 (3) evaluating erosion rates and hazard areas annually for all state beaches.

HISTORY: 1999 Act No. 100, Part II, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑40‑40.** Trust fund appropriation; carry‑over and interest; administration.

 (A) The trust fund must be funded by annual appropriations from general tax revenues. The appropriated monies must be credited to the trust fund account and maintained separately from the general fund and other funds.

 The monies credited to the account may be retained and carried forward, along with all interest earned.

 (B) The trust fund must be administered by the Office of Ocean and Coastal Resource Management of the Department of Health and Environmental Control pursuant to this chapter and its regulations governing application, review, ranking, and approval procedures for grants.

HISTORY: 1999 Act No. 100, Part II, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑40‑50.** Appropriation and designation of funds; local matching; project approval and administration.

 (A) Beginning in fiscal year 1999‑2000 and each fiscal year after that, the General Assembly must appropriate from general tax revenues an amount it considers appropriate for credit to the trust fund. The monies must be designated for funding:

 (1) public beach restoration and maintenance projects; or

 (2) improvement and enhancement of public beach access.

 (B) Allocations of trust fund monies for public beach restoration and maintenance or improvement and enhancement of public beach access must be matched equally by municipal and county jurisdictions which are the sites of the projects.

 (1) The local cost must be financed by all municipal and county jurisdictions in which the trust fund monies are applied, in proportion to the area of beach located within the respective jurisdictions.

 (2) The matching requirement of this subsection does not apply to beach renourishment projects within state parks or other state‑owned beachfront property.

 (C) Trust fund allocations for a public beach restoration or maintenance project or project to improve and enhance public beach access may be made only to a project approved by the office pursuant to the application, review, ranking, and approval regulations promulgated, and procedures adopted, by the office.

 (D) Municipal and county jurisdictions which apply for matching funds for proposed projects must be:

 (1) ranked in relation to all other qualifying local government project applications; and

 (2) approved according to the minimum regulatory criteria for construction within the beach and dune critical area.

 (E) An application for trust fund monies for a public beach restoration or maintenance project or project to improve and enhance public beach access may be accepted by the office only from a municipal or county government with a Local Beach Management Plan approved by the office.

 (F) An application pursuant to this section for matching funds for a public beach renourishment project may be accepted and ranked by the office only if the project first has been fully permitted and approved as otherwise provided by law.

 (G) Allocations of trust fund monies may be made to approved public beach restoration or maintenance projects or projects for improvement and enhancement of public beach access only through properly executed written agreements between the office and all the municipal and county project sponsors. All the trust fund monies and the nonstate matching funds required for financing the projects must be deposited in an escrow account within five business days of the execution of the agreement and receipt of the monies from the trust fund. The office must be given quarterly financial status reports of this account and annual and final audit reports throughout the project’s duration and at completion.

 (H) State funds appropriated and designated for funding local efforts pursuant to this section may be used only for the purposes of public beach access improvement and enhancement and public beach restoration and maintenance projects.

HISTORY: 1999 Act No. 100, Part II, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑40‑60.** Emergency reserve fund; administration; purpose.

 (A) The initial capitalization of the trust fund in fiscal year 1999‑2000 must include an additional appropriation of an amount considered appropriate by the General Assembly from general tax revenues for credit to the trust fund and designated for use to establish an emergency reserve fund for emergency response by the State in rebuilding the beach and dune systems for qualifying public beach areas damaged by storm events.

 (B) This emergency reserve fund must be administered by the office in consultation with the State Emergency Management Division and impacted municipal, county, and federal officials.

 (C) Monies in the emergency reserve fund may be carried forward with earned interest. Upon the allocation and commitment of all available emergency reserve funds, the fund must be recapitalized through future appropriations as needed.

 (D) State funds appropriated for credit to the emergency reserve fund and designated for emergency rebuilding of beach and dune systems damaged by storm events may be used only for that purpose.

 (E) Funding of emergency projects pursuant to this section does not require matching funds from local entities.

HISTORY: 1999 Act No. 100, Part II, Section 8; 2002 Act No. 190, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.

**SECTION 48‑40‑70.** Annual analysis of accumulated data from monitoring and evaluation of erosion rates; funding.

 (A) The accumulated data from annual monitoring and evaluation of erosion rates and hazard areas for all beach areas as required of the office in Sections 48‑39‑280, 48‑39‑320, and 48‑39‑330 must be analyzed and used in the determination of priorities of need for storm damage reduction, property protection, recreational beach restoration, and public notification of erosion and hazardous conditions.

 (B) The annual analysis must be funded by the trust fund, in an annual amount not to exceed two hundred fifty thousand dollars to provide for comprehensive beach profile monitoring of all beach areas to establish annual erosion rates and to identify sand loss or accretion.

 (C) In seriously eroding areas or after storms, surveys must be conducted twice annually, or more frequently as needed.

 (D) The monitoring data produced pursuant to this section must be made available to the public.

 (E) The office and local governments must use the annual analysis to document beach restoration needs and for restoration project design.

HISTORY: 1999 Act No. 100, Part II, Section 8.

Library References

Environmental Law 125, 132.

Westlaw Topic No. 149E.

C.J.S. Health and Environment Section 173.