

CHAPTER 419

S.B. No. 683

AN ACT

relating to the responsibilities of the Texas Water Commission, the Texas Water Development Board, and the Parks and Wildlife Department for the bays and estuaries.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 11.149, Water Code, as added by Section 4.02, Chapter 133, Acts of the 69th Legislature, Regular Session, 1985, is renumbered as Section 11.1491 and amended to read as follows:

Sec. 11.1491 [11.149]. ~~EVALUATION [COLLECTION] OF BAYS AND ESTUARIES DATA [CONDUCT OF STUDIES, AND ESTABLISHMENT OF BAYS AND ESTUARIES ADVISORY COUNCILS].~~ (a) The Parks and Wildlife Department and the *commission* [department] shall have joint responsibility to review the studies prepared under Section 16.058 of this code, to determine inflow conditions necessary for the bays and estuaries, and, ~~in cooperation with other appropriate governmental agencies, to establish and maintain on a continuous basis a bay and estuary data collection program and shall conduct studies and analyses,~~ to provide information necessary for water resources [planning and] management. Each agency shall designate an employee to share equally in the oversight of the program [studies and analyses]. Other responsibilities shall be divided between the Parks and Wildlife Department and the *commission* [department] to maximize present in-house capabilities of personnel [and equipment] and to minimize costs to the state. Each agency shall have reasonable access to all [data, studies, analyses,] information[, and reports] produced by the other agency. ~~[The studies shall be completed no later than December 31, 1989.]~~ Publication of reports [studies] completed under this section [subsection] shall be submitted for comment to both the *commission* [department] and the Parks and Wildlife Department.

(b) For purposes of guiding data collection and studies specified under Subsection (a) of this section, an advisory council may be established by the executive directors of the *commission* [department] and the Parks and Wildlife Department and the executive administrator of the Water Development Board for each principal bay and estuary. Each advisory council shall be composed of representatives of the *commission* [department], Parks and Wildlife Department, the Water Development Board, Texas Department of Health, General Land Office, one representative of commercial fishing groups, one representative of [and] recreational fishing and hunting groups, one representative of conservation groups, and representatives of conservation and reclamation districts or river authorities having responsibilities and operations in river basins or watersheds contributing to the bay or estuary. The advisory councils may develop recommendations to the executive directors and to entities and organizations having operational responsibilities or holding major water rights in the contributing watersheds regarding alternative water management methods that may be used in maintaining the sound environment of the bays and estuaries.

(c) The board may authorize the use of money from the research and planning fund established by Chapter 15 of this code to accomplish the purposes of this section. These funds shall be used by the *commission* [department] in cooperation with the Parks and Wildlife Department for interagency contracts with cooperating agencies and universities, and contracts with private sector establishments, as necessary, to accomplish the purposes of this section.

SECTION 2. Section 16.058, Water Code, as amended, is amended to read as follows:

Sec. 16.058. *COLLECTION [STUDIES] OF BAYS AND ESTUARIES DATA; CONDUCT OF STUDIES.* (a) *The Parks and Wildlife Department and the board shall have joint responsibility, in cooperation with other appropriate governmental agencies, to establish and maintain on a continuous basis a bay and estuary data collection and evaluation program and conduct studies and analyses to determine bay conditions necessary to support a sound ecological environment.*

(b) *The Parks and Wildlife Department and the board each shall designate an employee to share equally in the oversight of the program studies. Other responsibilities shall be divided between the Parks and Wildlife Department and the board to maximize present in-house capabilities of personnel and equipment and to minimize costs to the state.*

(c) *The Parks and Wildlife Department and the board each shall have reasonable access to all data, studies, analyses, information, and reports produced by the other agency.*

(d) *The studies shall be completed not later than December 31, 1989. Publication of completed studies shall be submitted for comment to both the board and the Parks and Wildlife Department.*

(e) *The board may authorize the use of money from the research and planning fund established by Chapter 15 of this code to accomplish the purposes of this section. That money shall be used by the board in cooperation with the Parks and Wildlife Department for interagency contracts with cooperating agencies and universities and contracts with private sector establishments, as necessary, to accomplish the purposes of this section.*

~~[The executive director shall carry out comprehensive studies of the effects of fresh water inflows upon the bays and estuaries of Texas. The studies shall include the development of methods of providing and maintaining the ecological environment thereof suitable to their living marine resources. The studies shall be completed and the results published by December 31, 1979. The General Land Office, the Parks and Wildlife Department, and the Texas Coastal and Marine Council are authorized and directed to assist and cooperate in all possible ways with the commission in this undertaking.]~~

SECTION 3. Subsection (c), Section 11.147, Water Code, is amended to read as follows:

(c) For the purposes of making a determination under Subsection (b) of this section, the commission shall consider among other factors:

(1) the need for periodic freshwater inflows to supply nutrients and modify salinity to preserve the sound environment of the bay or estuary, using any available information, including studies and plans specified in Section 11.1491 [11.149] of this code and other studies considered by the commission to be reliable; together with existing circumstances, natural or otherwise, that might prevent the conditions imposed from producing benefits;

(2) the ecology and productivity of the affected bay and estuary system;

(3) the expected effects on the public welfare of not including in the permit some or all of the conditions considered necessary to maintain the beneficial inflows to the affected bay or estuary system;

(4) the quantity of water requested and the proposed use of water by the applicant, as well as the needs of those who would be served by the applicant;

(5) the expected effects on the public welfare of the failure to issue all or part of the permit being considered; and

(6) for purposes of this section, the declarations as to preferences for competing uses of water as found in Sections 11.024 and 11.033, Water Code, as well as the public policy statement in Section 1.003, Water Code.

SECTION 4. This Act takes effect September 1, 1987.

SECTION 5. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on March 26, 1987, by a viva-voce vote. Passed the House on May 21, 1987, by a non-record vote.

Approved June 17, 1987.

Effective Sept. 1, 1987.