

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

Date: April 10, 1998 Revised: _____

Subject: Funding for Beach Management

	<u>Analyst</u>	<u>Staff Director</u>	<u>Reference</u>	<u>Action</u>
1.	<u>Gee</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
2.	_____	_____	<u>WM</u>	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This bill provides funding for the state’s beach management plan through the Ecosystem Management and Restoration Trust Fund (EMRTF). It provides for the deposit of a portion of the documentary stamp tax revenues into the trust fund for that purpose and requires that funds in the trust fund be used to fully implement the Department of Environmental Protection’s (DEP) statewide beach management plan, prior to being used for any other purpose.

This bill also provides the scope of activities included in community redevelopment of coastal resort and tourist areas and redefines terms associated with those activities. The bill authorizes and provides criteria for establishing and administering a time-limited coastal resort area redevelopment pilot project in a specified geographic area.

This bill substantially amends sections 161.088, 161.091, 161.101, 161.161, 163.335, 163.340, 163.360, and 201.15, and creates section 161.336, Florida Statutes.

II. Present Situation:

Florida’s beaches, its leading tourist attraction, are eroding at a critical rate. The DEP estimates that over 300 miles of the state’s 787 miles of sandy beaches are seriously eroding and that one-third of the remaining beaches are experiencing erosion, as well. Florida’s beaches are a dynamic environment, constantly in motion, but the impact of human activities such as the creation and maintenance of inlets, coastal armoring, and other construction impedes the natural down-drift of sand, destroying beaches. To maintain eroding beaches requires the replacement of the sand that is lost through beach restoration and inlet sand transfer projects. Although the costs of such projects are high, the negative impact of beach erosion on Florida’s tourist-driven economy is higher.

The Office of Tourism, Trade, and Economic Development reports that of the estimated 43 million tourists visiting Florida in 1996, more than one-half visited the state's beaches and that beaches produced additional state sales and use tax revenues exceeding \$500 million in 1996. It is estimated that the total economic impact of beach-oriented tourism in 1996 was \$18.9 billion, creating over 442,000 beach-related jobs. Beaches also play a role in storm protection, protecting over \$150 billion in upland buildings. As an example, the U. S. Army Corps of Engineers estimates that 70 percent of Bay County's storm damage from hurricane Opal could have been avoided if Panama City's planned beach renourishment project had been completed prior to the storm.

The 1997 Legislature directed the DEP to work to identify a dedicated funding source for the state's beach management plan, and required that concurrent with any funding increase the department develop a multi-year repair and maintenance strategy, and required that elements to maximize the long-range effectiveness and efficiency of beach renourishment efforts be included in the beach management plan.

The Beach Erosion Control Assistance Program is a grant-in-aid and matching fund program administered by the DEP for the purpose of working with local, state, and federal government entities to protect, preserve, and restore the state's sandy coastal beach resources. Eligible governmental agencies include federal, state, county, and municipal governments, or special taxing districts having legal authority and responsibility for preserving and protecting coastal beaches. Proposed projects are reviewed by the DEP for eligibility and eligible projects are prioritized and recommended to the Legislature for funding. Projects are funded by line item appropriations, providing up to 50 percent of the non-federal share of funding for eligible projects.

Providing regular and sufficient funding has been an ongoing issue for beach erosion control efforts. As part of the 1986 Beach Management Act, the Legislature expressed intent to appropriate at least \$35 million annually to manage Florida's beaches. Since 1986, the appropriation for beach management has equaled or exceeded \$35 million once - \$46.9 million was appropriated for FY 96-97, with \$31.8 million of that total specifically appropriated for addressing damage resulting from Opal. The DEP has estimated that \$30-\$35 million annually will be needed on a continuing basis to restore and maintain the state's beaches.

Section 201.15, F.S., provides the allocations for documentary stamp tax revenues. More than one-half of these moneys is credited to the General Revenue Fund, with the remainder being distributed to the Land Acquisition Trust Fund, Water Management Lands Trust Fund, Conservation and Recreation Lands Trust Fund, State Housing Trust Fund, and the Local Government Housing Trust Fund.

The DEP regulates construction, development, and other physical activities along the state's sand beaches pursuant to Part I of ch. 161, F.S. The cornerstone of the regulatory program is the coastal construction control line (CCCL) which established by the DEP, by rule, in each county having sand beaches. Pursuant to s. 161.053(1), F.S., the line is intended to define that portion of

the beach-dune system which is subject to severe fluctuations due to a 100-year storm surge, storm waves, or other predictable weather conditions. Physical activities conducted seaward of the CCCL generally require a permit from the DEP. Any significant construction activity relating to structures must meet the department's design and siting requirements in order to be permitted.

Park III of ch. 161, F.S., provides standards for construction in the coastal zone. Pursuant to s. 161.54(1), F.S., the coastal building zone is the land area from the seasonal high-water line landward to a line 1,500 feet landward from the CCCL along sand beach areas, and in other coastal areas, the land area seaward of the most landward velocity zone line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.

Part III of ch. 163, F.S., is intended to promote and assist the redevelopment of slum and blighted areas. Although Park III provides strategies for the redevelopment of slum and blighted areas, it does not specifically address older tourist and resort areas that are economically underutilized due to such factors as outdated building density patterns, inadequate parking facilities, or faulty lot layout.

When the Natural Resources Committee met on October 8, 1997, to consider strategies leading to the creation of jobs, representatives of business interests in the Daytona Beach area made presentations to the committee. These presentations included concerns that the Daytona Beach area, an older resort community characterized by seawalls, small lots, and inadequate parking facilities, faces difficulties in modernizing to be competitive in the resort environment. They indicated that strict adherence to the DEP's design and siting requirements would not permit effective redevelopment.

III. Effect of Proposed Changes:

Section 1. Section 161.088, F.S., is amended to provide a legislative declaration that beach restoration and renourishment projects, as approved pursuant to s. 161.161, F.S., are in the public interest. Given the extent of the problem of critically eroding beaches, the legislature also declares that beach restoration and renourishment projects shall be funded in a manner that encourages all cost-saving strategies, fosters regional coordination of projects, improves the performance of projects, and provides long-term solutions.

Section 2. Section 161.091, F.S., is amended to change the source of funding for the state's statewide beach management plan from the Florida Permit Fee Trust Fund to the Ecosystem Management and Restoration Trust Fund (EMRTF) and to recognize the need for storm, as well as hurricane, protection. Obsolete provisions are deleted and a finding is provided that beach erosion is detrimental to tourism, further exposes the state's highly developed coastline to severe storm damage, and threatens beach-related jobs, which, if not stopped, could significantly reduce state sales tax revenues.

This section provides that for a period of not less than 15 years, the EMRTF will be used to fund the development, implementation, and administration of the state's beach management plan under

ss. 161.091-161.212, F.S., prior to the use of such funds deposited pursuant to s. 201.15(8), F.S., in that trust fund for any other purpose.

Section 3. Section 161.101, F.S., is amended to authorize the DEP to implement regional components of the beach management plan pursuant to ss. 161.091, F.S., and 161.161, F.S., and, where appropriate, to enter into agreements with the Federal Government, inlet districts, port authorities, intercoastal waterway districts, and local governments to cost-share and coordinate such activity.

The DEP is also authorized to sponsor or cosponsor demonstration projects of new or innovative technologies which have the potential to reduce project costs, conserve beach quality sand, extend the life of beach nourishment projects, and improve inlet sand bypassing pursuant to s. 161.091, F.S.

This section also revises criteria to be considered by the DEP in determining annual funding requirements to include:

- A long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance, to demonstrate a local government's commitment to a project.
- Proposed beach nourishment projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles.
- The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planing, design, and construction of their projects to take advantage of identifiable cost savings.

This section provides that, in order to encourage regional approaches that provide cost savings, actual cost savings that can be documented as resulting from geographic coordination and sequencing of two or more discrete erosion control projects shall proportionally reduce each local sponsor's cost share, as long as the state financial participation does not exceed 75 percent of the actual costs of the project.

Section 4. Section 161.161, F.S., is amended to replace references to district level planning with regional planning requirements and to require the DEP Secretary, upon approval of the department's beach management plan, to present prioritized funding recommendations for beach erosion control projects to the President of the Senate, the Speaker of the House of Representatives, and the chairs of the legislative appropriations committees. This section also deletes obsolete provisions.

Section 5. Section 201.15, F.S., is amended to revise the distribution of documentary stamp tax proceeds and provides that, from the moneys specified in ss. 201.15(1)(c) and 201.15(2)(a), F.S., and prior to the deposit of any moneys into the General Revenue Fund, \$10 million shall be paid into the State Treasury to the credit of the EMRTF in fiscal year 1998-1999, \$20 million in fiscal

year 1999-2000, and \$30 million in fiscal year 2000-2001 and each fiscal year thereafter, to be used for the preservation and repair of the state's beaches as provided in ss. 161.091-161.212, F.S.

Section 6. Section 6 amends s. 163.335, F.S., to provide a finding that coastal resort and tourist areas or portions thereof which are deteriorating and economically distressed due to building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout, could, through the means provided in part III of ch. 163, F.S., be revitalized and redeveloped in a manner that will vastly improve the economic and social conditions of the community.

Section 7. Section 163.340, F.S., is amended to revise the following definitions:

- "Blighted area" is redefined to include economic distress as a consequence of the presence of slum, deteriorated, or deteriorating structures and conditions as well as to include inadequate and outdated building density patterns and inadequate transportation and parking facilities as factors leading to blight.
- "Community redevelopment" or "redevelopment" is redefined to include rehabilitation and revitalization of coastal resort and tourist areas that are deteriorating and economically distressed as appropriate subjects of redevelopment.
- "Community redevelopment area" is redefined to include a coastal and tourist area that is deteriorating and economically distressed due to outdated building density patterns, inadequate transportation and parking facilities, faulty lot layout, or inadequate street layout.

Section 8. Section 163.360, F.S., is amended to provide that the community redevelopment plan and resulting revitalization and redevelopment for a coastal tourist area that is deteriorating and economically distressed will reduce or maintain evacuation time and ensure protection for property against exposure to natural disasters.

Section 9. Section 163.336, F.S., is created to provide a finding that some coastal resort and tourist areas are deteriorating and declining as recreation and tourist centers, that it is appropriate to undertake a pilot project to determine the feasibility of encouraging redevelopment of economically distressed coastal properties to allow full utilization of existing urban infrastructure such as roads and utility lines, and that such activities can have a beneficial impact on local and state economies and provide job opportunities and revitalization of urban areas.

The DEP is directed to administer a pilot project for redevelopment of economically distressed coastal resort and tourist areas. The pilot project is to be administered in the coastal areas of Florida's Atlantic Coast between the St. Johns River entrance and Ponce de Leon Inlet. In order to participate in the project, all or a portion of the area must be in the coastal building zone defined in s. 161.54, F.S., and must be designated a community redevelopment area, enterprise zone, brownfield area, empowerment zone, or other economically deprived area by the county or

municipality having jurisdiction over the area. This section encourages local governments to use the full range of economic and tax incentives available to facilitate and promote redevelopment and revitalization within the pilot project areas.

The Office of the Governor, the DEP, and the Department of Community Affairs (DCA) must provide technical assistance to expedite permitting for redevelopment projects and construction activities within the pilot project area, consistent with the principles, processes, and time frames provided in s. 403.973, F.S.

The DEP is directed to exempt construction activities within the pilot project area in locations seaward of a coastal construction control line (CCCL) and landward of existing armoring from certain siting and design criteria pursuant to s. 161.053, F.S. However, such an exemption may not exempt property within the pilot project area from applicable local land development regulations, including but not limited to, set back, side lot line, and lot coverage requirements. The exemption will also apply to construction and redevelopment of structures involving the coverage, excavation, and impervious surface criteria of s. 161.053, F.S., and related adopted rules, as follows:

- The DEP's review of applications for permits for coastal construction within the pilot project area must apply to construction and redevelopment of structures subject to the coverage, excavation, and impervious surface criteria of s. 161.053, F.S., and related adopted rules. Intent is provided that the pilot project area be enabled to redevelop in a manner which meets the economic needs of the area while preserving public safety and existing resources, including natural resources.
- The criteria for review under s. 161.053, F.S., are applicable within the pilot project area except that the structures within the pilot project area will not be subject to specific shore parallel coverage requirements and may exceed the 50 percent impervious surface requirement. In no case may stormwater discharges be allowed onto, or seaward of, the frontal dune. Structures are also not bound by the restrictions on excavation unless the construction will adversely affect the integrity of the existing seawall or rigid coastal armoring structure or stability of the existing beach and dune system. It is specifically contemplated that underground structures, including garages, will be permitted. All beach-compatible material excavated under this authority must be maintained on site, seaward of the CCCL.
- The review criteria set out above will apply to all construction within the pilot project area lying seaward of the CCCL and landward of an existing viable seawall or rigid coastal armoring structure, if the construction is fronted by a seawall or rigid coastal armoring structure extending at least 1,000 feet without any interruptions other than beach access points. For these purposes, a viable seawall or rigid coastal armoring structure is a structure that has not deteriorated, become dilapidated, or been damaged to such a degree that it no longer provides adequate protection to the upland property when considering the following criteria, including, but not limited to:

- The top must be at or above the still-water level, including setup, for the design storm of 30-year return storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination, and must be high enough to preclude runup overtopping;
- The armoring must be stable under the design storm of 30-year return storm including maximum localized scour, with adequate penetration; and
- The armoring must have sufficient continuity or return walls to prevent flooding under the design storm of 30-year return storm from impacting the proposed construction.

This section provides that where a continuous line of rigid coastal armoring structure exists on either side of unarmored property, and the adjacent lines of rigid coastal armoring structures are having an adverse effect on or threaten the unarmored property, and the gap does not exceed 100 feet, the department may grant the necessary permits under s. 161.085, F.S., to close the gap. This section further requires the department to grant the necessary permits to replace non-viable coastal armoring where there exists a continuous line of viable rigid coastal armoring on either side of the non-viable armoring; however this does not apply to rigid coastal armoring structures constructed after May 1, 1998, unless they have been permitted under s. 161.085(2), F.S.

Structures approved pursuant to this section must not cause flooding of or result in adverse impacts to existing upland structures or properties and must comply with all other requirements of s. 161.053, F.S., and its implementing rules.

The authorization for the pilot project and the provisions of s. 163.336, F.S., expire December 31, 2002. The Legislature will review these requirements before their scheduled expiration.

Section 10. The act will take effect July 1, 1998.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

By providing funding to restore critically-eroding beaches, the bill should protect and enhance private sector investment and tourist-oriented business enterprises. The restoration of eroded beaches will also provide storm protection for upland development.

If enactment of this bill results in redevelopment that enhances economic conditions and opportunities in the pilot project area, businesses and others could benefit from increased tourism and resort expenditures.

C. Government Sector Impact:

This bill would reduce general revenue deposits by \$10 million in FY 1998-1999, \$20 million in FY 1999-2000, and \$30 million annually and thereafter. However, as beach restoration has normally been funded from general revenue, the net reduction is less drastic.

Local governments that can document cost savings from geographical coordination of beach restoration projects will have their local sponsor's cost share reduced proportionately, so long as the state's share does not exceed 75% of the project costs.

The DEP reports a need for 10 professional positions at an annual cost of \$527,484 for planning, design review, and construction management to implement the statewide beach management plan and \$300,000 annually in OPS support to acquire technical consulting capabilities.

The DEP reports that implementing sections 6-9 of the bill will require no direct expenditures by the department, and the requirement that the DEP, DCA, and Governor's Office provide technical assistance to expedite permitting are not expected to impose significant workload requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
