

STORAGE NAME: h1005s2z.gg
DATE: July 24, 2000

****AS PASSED BY THE LEGISLATURE****
CHAPTER #2000-346, Laws of Florida

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
ENVIRONMENTAL PROTECTION
FINAL ANALYSIS**

BILL #: CS/CS/HB 1005

RELATING TO: Beach Management Funding

SPONSOR(S): Committee on General Government Appropriations (FRC), Committee on Environmental Protection, and Representatives Jones, Suarez, Sobel

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
- (2) GENERAL GOVERNMENT APPROPRIATIONS YEAS 9 NAYS 0
- (3)
- (4)
- (5)

I. SUMMARY:

CS/CS/HB 1005 amends various provisions of Chapter 161, F.S. The FY 1999-2000 General Appropriations Act provided for workshops to be held to address enhancement of beach erosion control project performance and improvements in the cost-effectiveness of such projects. A report was submitted to the Speaker of the House of Representatives, President of the Senate, and Executive Office of the Governor that included recommendations for changes to Ch. 161, F.S., addressing project performance measures, project eligibility, minimum performance standards, cost containment, and bidding/contracting procedures. The bill implements the recommendations contained in that report.

Specific provisions of the bill:

- o Revise obsolete terminology, delete obsolete or duplicative provisions, and update cross references;
- o Establish minimum criteria for beach restoration and nourishment projects;
- o Direct that priority be given to those projects that contribute most significantly to addressing the state's beach erosion problems;
- o Authorize cost-sharing for those components of inlet projects that minimize the inlet's erosive effects and cost-effectively place beach quality sand on adjacent critically eroding beaches;
- o Specify the contractual services that the Department of Environmental Protection (Department) may fund from legislative appropriations;
- o Specify that projects providing only recreational benefits are ineligible for program funding; and
- o Authorize the Department to adopt rules implementing the provisions of ss. 161.101 and 161.161, F.S.

The bill does not have a direct fiscal impact on state or local governments.

The act takes effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Florida has approximately 800 miles of sandy beaches, one-third of which are considered by the Department of Environmental Protection (DEP) to be in a state of critical erosion. There are two principal economic benefits of beach restoration and maintenance. First, Florida's beaches contribute to the tourism industry, generating over \$20 billion annually for the state's economy. Second, well-maintained beaches provide storm protection for real estate located along the coast.

The Beach Erosion Control Assistance Program is a grant-in-aid and matching fund program administered by the department for the purpose of working with local, state, and federal government entities to protect, preserve, and restore sandy coastal beach resources of the state. Projects are funded by line item appropriations, providing up to 50 percent of the non-federal share of funding for eligible projects. In 1998, the Legislature provided an annual \$30 million dedicated funding source for state cost-sharing in erosion control projects.

Under the provisions of the state's current beach management program, local government sponsors must propose a beach erosion control project or activity that meets all statutory requirements. Chapter 161, F.S., also references the types of projects that are eligible for funding, including beach restoration and nourishment, dune revegetation and stabilization, inlet management plan implementation, inlet sand transfer, beach disposal, permit preparation, monitoring and other activities (e.g., mitigation, studies and feasibility). At present, Chapter 161 does not define the types of projects that are ineligible for funding.

The following language was included in the FY 1999-2000 General Appropriations Act and Summary Statement of Intent:

"From the funds in Specific Appropriation 1223A, up to \$100,000 from the General Revenue Fund is provided for workshops by the Florida Institute of Government, in cooperation with the Florida Shore and Beach Preservation Association, to enhance beach erosion control project performance and to improve the cost-effectiveness of such projects, following the Legislature's provision of a dedicated funding source beginning in FY 1998-99. A report of the workshop results, including recommended changes to Chapter 161, Florida Statutes, relating to project performance measures, project eligibility, minimum performance standards, cost containment, and bidding/contracting procedures, shall be provided to the Speaker of the House of

Representatives, President of the Senate, and Executive Office of the Governor by February 1, 2000.”

C. EFFECT OF PROPOSED CHANGES:

The proposed changes in CS/CS/HB 1005 are a result of the beach management workshop’s recommendations. In regard to the beach management program and its funding, CS/CS/HB 1005 provides legislative intent that funds be appropriated for implementing those projects that contribute most significantly to addressing the state’s beach erosion problems.

The bill changes the term “beach renourishment” to “beach nourishment”, a term that better defines the activities undertaken by these projects. It also replaces obsolete references to “division” with “department.” In addition, cross references are updated and obsolete provisions are deleted.

CS/CS/HB 1005 directs the Department to include in permits only those biological or environmental monitoring conditions that are based upon clearly defined scientific principles.

Provisions that declare the state’s policy endorsing erosion control are amended to include inlet management projects that are adjacent to critically eroding beaches. In addition, further policy statements are created to direct that any erosion project be consistent with a clearly identified beach management plan and that projects be designed to reduce potential upland damage or mitigate adverse impacts caused by altered inlets, coastal armoring or existing upland development.

Language is added to existing funding provisions to:

- > Allow for the Department to enter into cooperative agreements for inlet management activities that minimize the inlet’s erosive effects and cost-effectively place beach quality sand on adjacent critically eroding beaches;
- > Specify contractual services that may be covered in cost-sharing agreements, including design, construction and monitoring.
- > Identify those activities that are ineligible for funding. Those activities include, but are not limited to:
 - recreational structures (piers, decks, boardwalks);
 - park activities and facilities (except erosion control facilities);
 - aesthetic vegetation;
 - traditional local government treatment-related-only components of storm water discharge systems;
 - experimental or demonstration projects (unless projects are favorably peer-reviewed or scientifically documented);
 - hard structures (unless structures are designed for erosion control or to enhance beach nourishment or inlet sand bypassing performance);
 - operations and maintenance (with exception of beach nourishment); maintenance and repair of over walks; and
 - navigation construction, operation, and maintenance activities (except those that keep sand on adjacent beaches).

STORAGE NAME: h1005s2z.gg

DATE: July 24, 2000

PAGE 4

- > Direct that when projects are equally qualified the Department is to select the project that is ready to proceed.
- > Grant the Department rulemaking authority to implement provisions of Ch. 161, F.S.

The bill provides that the act shall take effect July 1, 2000.

D. **SECTION-BY-SECTION ANALYSIS:**

Section 1: Amends s. 161.021, F.S., to change the term “renourishment” to “nourishment.”

Section 2: Amends s. 161.041, F.S., to require that biological and environmental monitoring conditions included in a permit, be based upon scientific principles.

Section 3: Amends s. 161.042, F.S., to make technical changes.

Section 4: Amends s. 161.053, F.S., to make conforming changes.

Section 5: Amends s. 161.082, F.S., to make conforming changes.

Section 6: Amends s. 161.088, F.S., to declare public policy, to include inlets as eligible for the program and clarify what overall goals a project must meet.

Section 7: Amends s. 161.091, F.S., to add legislative intent.

Section 8: Amends s. 161.101, F.S., to require projects to have a beach erosion control or beach preservation benefit and specifies projects or activities that are ineligible for cost-sharing. In addition, redundant language is removed.

Section 9: Amends s. 161.141, F.S., to make conforming changes.

Section 10: Amends section 161.161, F.S., to modify the procedure for approval of projects and removes language that has been moved to another section of law.

Section 11: To provide that the act shall take effect July 1, 2000.

III. **FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:**

A. **FISCAL IMPACT ON STATE GOVERNMENT:**

1. **Revenues:**

None.

2. **Expenditures:**

None.

STORAGE NAME: h1005s2z.gg

DATE: July 24, 2000

PAGE 5

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

The bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

CS/CS/HB 1005 authorizes the Department to adopt rules implementing the provisions of ss. 161.101 and 161.161, F.S.

C. OTHER COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 14, 2000, the Committee on Environmental Protection heard HB 1005. A strike-everything amendment was adopted, making the following changes to the bill:

- > changing the term "beach renourishment" to "nourishment";
- > requiring that permit conditions requiring biological and environmental monitoring be based upon clearly defined science;
- > adding provisions to better define the public policy directives concerning beach management. Specifically to: include inlets; that it be consistent with existing plans; and that it be designed to reduce upland damage or mitigate adverse impacts;
- > providing that components of inlet management projects that minimize the inlet's erosive effects and cost-effectively place beach quality sand on adjacent critically eroding beaches; activities may be funded;
- > directing the Department to assign greater priority to projects that are ready to proceed if all other conditions are equal; and
- > make technical and clarifying changes.

HB 1005 was then adopted as a committee substitute.

On April 5, 2000, the Committee on General Government Appropriations heard CS/HB 1005. The Committee adopted two amendments that deleted a reference to an obsolete erosion control account and restored provisions relating to erosion control lines that had been inadvertently deleted. CS/HB 1005 was then adopted as a committee substitute.

On April 19, 2000, the House adopted one amendment to CS/CS/HB 1005, which it had taken up on second reading. This amendment added a title, the "Dennis L. Jones Beach Management Act." On April 24, 2000, the House adopted CS/CS/HB 1005 as amended by a vote of 103 yeas to 0 nays. On April 28, 2000, the Senate took up CS/CS/HB 1005 in lieu of the Senate companion, CS/SB 2506, and adopted CS/CS/HB 1005 by a vote of 40 yeas to 0 nays.

VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Beatriz Ramos

Staff Director:

Wayne S. Kiger

STORAGE NAME: h1005s2z.gg

DATE: July 24, 2000

PAGE 7

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Cynthia P. Kelly

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FINAL ANALYSIS PREPARED BY THE COMMITTEE ON ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

W. Ray Scott

Wayne S. Kiger