

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.)

BILL: CS/SB 2506

SPONSOR: Natural Resources Committee and Senator Bronson

SUBJECT: Beach Management

DATE: March 28, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gee	Voigt	NR	Favorable/CS
2.			FP	
3.				
4.				
5.				

I. Summary:

This bill revises provisions relating to beach management and nourishment. It replaces references to “beach renourishment” with the term “beach nourishment” and revises monitoring requirements relating to permits for beach nourishment. The bill gives the Department of Environmental Protection (DEP) authority over certain construction and revises a declaration of public policy regarding beach erosion control, restoration, renourishment, and inlet management. The bill provides legislative intent and revises criteria for state funding of certain projects and studies. The bill provides for the adoption of rules, revises provisions relating to the comprehensive long-term beach-management plan, and deletes certain project criteria and approval requirements for projects. In addition, obsolete and redundant provisions are deleted.

This bill amends ss. 161.021, 161.041, 161.042, 161.053, 161.082, 161.141, 161.088, 161.091, 161.111 and 161.161 of the Florida Statutes.

II. Present Situation:

Florida’s beaches, its leading tourist attraction, are eroding at a critical rate. The Department of Environmental Protection (DEP) estimates that over one-third 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 \$20 billion, creating over 455,000 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 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.

Section 161.142, F.S., provides a Legislative declaration recognizing the need for maintaining navigation inlets and provides guidance in doing so. Section 161.161(1)(b), F.S., requires the evaluation of improved coastal beach inlets to determine which are significant causes of beach erosion. With respect to each inlet determined to be a significant cause of beach erosion, the plan must include:

1. The extent to which such inlet causes beach erosion and recommendations to mitigate the erosive impact of the inlet, including, but not limited to, recommendations regarding inlet sediment bypassing; modifications to channel dredging, jetty design, and disposal of spoil material; establishment of feeder beaches; and beach restoration and beach renourishment; and
2. Cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet.

Much of the requirements relating to inlets have been completed and programs are ready for implementation. Local governments are seeking assurances that the state will share in the long-term programs for corrective action.

Section 161.111, F.S., authorizes the expenditure of funds to alleviate shore erosion in a declared emergency, and references the use of funds in the erosion control account. No such account exists at this time.

Pursuant to ch. 98-311, L.O.F., the 1998 Legislature provided \$30 million annually for a period of not less than 15 years to fund the development, implementation, and administration of the state's beach management plan. That legislation also provided that beach restoration and renourishment projects must be funded in a manner that encourages all cost-saving strategies, fosters regional coordination of projects, improves the performances of projects, and provides long-term solutions.

The 1999 Legislature, through appropriations proviso language, provided for beach management workshops to improve beach erosion control, project performance, and the cost-effectiveness of such projects. The purpose of this workshop series was to insure that the availability of increased state funding for beach management, following passage of the dedicated funding source in 1998,

results in a long-term strategy which successfully targets Florida's eroding beaches in the most cost-effective manner. The first workshop, October 4-5, 1999, on project performance examined eligible and ineligible types of activities, minimum requirements to compete for funding, project ranking criteria, and legislative performance policy. The second workshop, on December 13-14, 1999, focused on the growing cost of satisfying regulatory agencies, budgeting decisions, reducing project costs, contracting/bidding specification, and local government financial responsibilities -- all to insure that increased state funding does not result in escalating project costs. This bill implements the recommendations of workshop participants.

Pursuant to s. 161.161(6), F.S., the Board of Trustees of the Internal Improvement Trust Fund (Trustees) must approve or disapprove restoration projects affecting sovereignty lands and establish the erosion control line for approved projects. Also, the DEP is authorized to pay up to 75 percent of the cost of a project. Some of these provisions are obsolete and redundant.

III. Effect of Proposed Changes:

This bill revises or qualifies several terms extensively used in ch. 161, F.S., which governs beach management. These include replacing the term "renourishment" with "nourishment," describing Florida beaches as "fronting on the Atlantic Ocean, Gulf of Mexico, and Straits of Florida," replacing the term "eroding" with the term "eroded," and describing "inlets" or "navigation inlets" as "improved, modified or altered." The bill also revises obsolete provisions. Sections 1, 3, 4, 5, and 9 of the bill contain only such technical changes.

Section 2 amends s. 161.041, F.S., to provide that any biological and environmental monitoring conditions included in a permit for beach activities must be based upon clearly defined scientific principles.

Section 6 amends s. 161.088, F.S., to declare that the Legislature will make provision for inlet management projects that cost-effectively provide beach quality material for adjacent critically eroded beaches. This section also requires that approved beach restoration and nourishment projects be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.

Section 7 amends s. 161.091, F.S., to provide Legislative intent that funds be used for projects that contribute most significantly to addressing the state's beach erosion problems.

Section 8 amends s. 161.101, F.S., revises the types of contractual services that may be funded. The existing list includes the following:

- Project design engineering and construction supervision and inspection.
- Biological monitoring.
- Inlet sand transfer projects.
- Dune revegetation and stabilization.
- Restoration, renourishment, or feeder beach project costs.

- Construction easements, rights of way, public access easements, and vehicle parking spaces.
- Obtaining required permits.
- Establishing erosion control lines.
- Enhancement of marine turtle propagation.
- Sand source studies.

These activities have been revised, and the contractual services eligible for funding in this bill are:

- Feasibility and related planning studies
- Design
- Construction
- Monitoring. (The state must cost-share in all biological and physical monitoring requirements that are based upon scientifically based criteria).

The bill does not limit funding to the four activities listed above.

A provision authorizing the DEP to pay up to 100 percent of a project's construction and maintenance costs if the project is located on lands where the state is the upland riparian owner is revised to permit payment of all costs for approved beach erosion control projects located in such areas. The list of criteria to be evaluated in determining funding priorities is expanded to include the degree to which a project addresses the state's most significant beach erosion problems.

This section provides intent that erosive impacts of inlets be managed under the state's beach management program. It is the further intent of the Legislature for the state to cost-share those components of inlet projects that minimize the erosive effects of the inlet or cost-effectively provide for the placement of beach quality material on adjacent eroded beaches.

The DEP is also authorized to enter into cooperative agreements with local governments, including cities, counties, and special districts, for inlet management activities and to cost-share those components of inlet projects that minimize the erosive effects of the inlet or cost-effectively provide for the placement of beach quality material on adjacent eroded beaches.

This section requires that a project, in order to receive state funds, must provide for adequate public access, protect natural resources, and provide protection for endangered and threatened species.

The DEP may not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system. Activities ineligible for cost-sharing include:

- Recreational structures, such as piers, decks, and boardwalks.
- Park activities and facilities, except for erosion control.
- Aesthetic vegetation.
- Water quality components of stormwater management systems.
- Experimental or demonstration projects, unless favorably peer reviewed or scientifically documented.

- Hard structures, unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.
- Operations and maintenance, with the exception of nourishment.
- Maintenance and repair of over-walks.
- Navigation construction, operation, and maintenance activities, except those elements having the purpose of placing or keeping sand on adjacent beaches.

This section also requires that funding priority be given to those projects that are ready to proceed, if more than one project is equally qualified; deletes provisions authorizing the DEP to use funds from the Ecosystem Management and Restoration Trust Fund to alleviate emergency conditions, upon a declaration by the Governor and Cabinet that a shoreline emergency of state concern exists; and authorizes the adoption of rules to implement s. 161.101, F.S.

Section 10. Section 161.111, F.S., is amended to delete a reference to the non-existent erosion control account.

Section 11 amends s. 161.161, F.S., to delete the existing criteria for establishing the list of recommended projects. (Section 161.101(13), F.S., will be used for the annual ranking of projects for funding).

This section makes certain technical improvements to clarify references to the establishment of the erosion control line by the Trustees prior to a beach restoration project and deletes redundant and obsolete provisions.

Finally, a requirement that the DEP adopt rules for determining projects eligible for funding is revised to authorize, but not require, the adoption of rules to administer s. 161.161, F.S.

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:

None.

C. Government Sector Impact:

The bill has no direct fiscal impact; however it does clarify that the state is authorized to cost-share inlet management projects with local governments.

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.
