

1 A bill to be entitled
2 An act relating to beach management; amending s.
3 161.041, F.S.; specifying that demonstration to the
4 Department of Environmental Protection of the adequacy
5 of a project's design and construction is supported by
6 certain evidence; authorizing the department to issue
7 permits for an incidental take authorization under
8 certain circumstances; requiring the department to
9 adopt certain rules involving the excavation and
10 placement of sediment; requiring the department to
11 justify items listed in a request for additional
12 information; requiring the department to adopt
13 guidelines by rule; providing legislative intent with
14 regard to permitting for periodic maintenance of
15 certain beach nourishment and inlet management
16 projects; requiring the department to amend specified
17 rules to streamline such permitting; providing a
18 permit life for certain joint coastal permits;
19 amending s. 161.101, F.S.; requiring the department to
20 maintain certain beach management project information
21 on its website; requiring the department to notify the
22 Governor's Office and the Legislature concerning any
23 significant changes in project funding levels;
24 amending s. 403.813, F.S.; providing a permit
25 exemption for certain specified exploratory activities
26 relating to beach restoration and nourishment projects
27 and inlet management activities; providing an
28 effective date.

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Be It Enacted by the Legislature of the State of Florida:

Section 1. Section 161.041, Florida Statutes, is amended to read:

161.041 Permits required.—

(1) If a ~~any~~ person, firm, corporation, county, municipality, township, special district, or ~~any~~ public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures ~~if~~ of a solid or highly impermeable design, upon state sovereignty lands ~~of Florida,~~ below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the department before ~~prior to~~ the commencement of such work. The department may exempt interior tidal waters of the state from the permit requirements of this section. ~~No such development shall interfere,~~

(a) Except during construction, such development may not interfere with the public use ~~by the public~~ of any area of a beach seaward of the mean high-water line unless the department determines that the ~~such~~ interference is unavoidable for purposes of protecting the beach or an ~~any~~ endangered upland

57 structure. ~~The department may require,~~ As a condition of ~~to~~
58 granting permits under this section, the department may require
59 the provision of alternative access if ~~when~~ interference with
60 public access along the beach is unavoidable. The width of such
61 alternate access may not be required to exceed the width of the
62 access that will be obstructed as a result of the permit being
63 granted. ~~Application for coastal construction permits as defined~~
64 ~~above shall be made to the department upon such terms and~~
65 ~~conditions as set forth by rule of the department.~~

66 (b) Except for the deepwater ports identified in s.
67 403.021(9)(b), the department shall not issue a ~~any~~ permit for
68 the construction of a coastal inlet jetty or the excavation or
69 maintenance of such an inlet if the activity authorized by the
70 permit will have a significant adverse impact on the sandy
71 beaches of this state without a mitigation program approved by
72 the department. In evaluating the mitigation program, the
73 department shall consider ~~take into consideration~~ the benefits
74 of the long-term sand management plan of the permittee and the
75 overall public benefits of the inlet activity.

76 (2) The department may authorize an excavation or erection
77 of a structure at any coastal location upon receipt of an
78 application from a property or riparian owner and upon
79 consideration of facts and circumstances, including:

80 (a) Adequate engineering data concerning inlet and
81 shoreline stability and storm tides related to shoreline
82 topography;

83 (b) Design features of the proposed structures or
84 activities; and

85 (c) Potential effects ~~impacts~~ of the location of such
 86 structures or activities, including potential cumulative effects
 87 of any proposed structures or activities upon such beach-dune
 88 system or coastal inlet, which, in the opinion of the
 89 department, clearly justify such a permit.

90 (3) The department may require ~~such~~ engineer
 91 certifications as necessary to assure the adequacy of the design
 92 and construction of permitted projects. Reasonable assurance is
 93 demonstrated if the permit applicant provides competent
 94 substantial evidence based on plans, studies, and credible
 95 expertise that accounts for naturally occurring variables that
 96 might reasonably be expected.

97 (4) The department may, as a condition to ~~the~~ granting of
 98 a permit under this section, require mitigation, financial, or
 99 other assurances acceptable to the department as ~~may be~~
 100 necessary to assure performance of the conditions of a permit or
 101 enter into contractual agreements to best assure compliance with
 102 any permit conditions. Biological and environmental monitoring
 103 conditions included in the permit must ~~shall~~ be based upon
 104 clearly defined scientific principles. The department may also
 105 require notice of the required permit conditions ~~required~~ and
 106 the contractual agreements entered into pursuant to ~~the~~
 107 ~~provisions of~~ this subsection to be filed in the public records
 108 of the county in which the permitted activity is located.

109 (5) Notwithstanding any other provision of law, the
 110 department may issue permits pursuant to this part in advance of
 111 the issuance of an incidental take authorization provided under
 112 the Endangered Species Act and its implementing regulations if

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113 the permits and authorizations include a condition that requires
114 that such authorized activities not begin until the incidental
115 take authorization is issued.

116 (6) The department shall adopt rules to address standard
117 mixing zone criteria and antidegradation requirements for
118 turbidity generation for beach management and inlet bypassing
119 permits that involve the excavation and placement of sediment in
120 order to reduce or eliminate the need for variances. In
121 processing variance requests, the department must consider the
122 legislative declaration that, pursuant to s. 161.088, beach
123 nourishment projects are in the public interest.

124 (7) Application for permits shall be made to the
125 department upon such terms and conditions as set forth by rule.

126 (a) If, as part of the permit process, the department
127 requests additional information, it must cite applicable
128 statutory and rule provisions that justify any item listed in a
129 request for additional information.

130 (b) The department may not issue guidelines that are
131 enforceable as standards for beach management, inlet management,
132 and other erosion control projects without adopting such
133 guidelines by rule.

134 (8) The Legislature intends to simplify and expedite the
135 permitting process for the periodic maintenance of previously
136 permitted and constructed beach nourishment and inlet management
137 projects under the joint coastal permit process. A detailed
138 review of a previously permitted project is not required if
139 there have been no substantial changes in project scope and past
140 performance of the project indicates that the project has

141 performed according to design expectations. The department shall
 142 amend chapters 62B-41 and 62B-49, Florida Administrative Code,
 143 to streamline the permitting process for periodic beach
 144 maintenance projects and inlet sand bypassing activities.

145 (9) Joint coastal permits issued for activities falling
 146 under this section and part IV of chapter 373 must allow for two
 147 maintenance or dredging disposal events or a permit life of 15
 148 years, whichever is greater.

149 Section 2. Subsection (20) of section 161.101, Florida
 150 Statutes, is amended to read:

151 161.101 State and local participation in authorized
 152 projects and studies relating to beach management and erosion
 153 control.—

154 (20) The department shall maintain active ~~a current~~
 155 project listings on its website by fiscal year in order to
 156 provide transparency regarding those projects receiving funding
 157 and the funding amounts, and to facilitate legislative reporting
 158 and oversight. In consideration of this intent: ~~listing and may,~~
 159 ~~in its discretion and dependent upon the availability of local~~
 160 ~~resources and changes in the criteria listed in subsection (14),~~
 161 ~~revise the project listing.~~

162 (a) The department shall notify the Executive Office of
 163 the Governor and the Legislature regarding any significant
 164 changes in the funding levels of a given project as initially
 165 requested in the department's budget submission and subsequently
 166 included in approved annual funding allocations. The term
 167 "significant change" means those changes exceeding 25 percent of
 168 a project's original allocation. If there is surplus funding,

169 notification shall be provided to the Executive Office of the
170 Governor and the Legislature to indicate whether additional
171 dollars are intended to be used for inlet management pursuant to
172 s. 161.143, offered for reversion as part of the next
173 appropriations process, or used for other specified priority
174 projects on active project lists.

175 (b) A summary of specific project activities for the
176 current fiscal year, funding status, and changes to annual
177 project lists shall be prepared by the department and included
178 with the department's submission of its annual legislative
179 budget request.

180 (c) A local project sponsor may at any time release, in
181 whole or in part, appropriated project dollars by formal
182 notification to the department, which shall notify the Executive
183 Office of the Governor and the Legislature. Notification must
184 indicate how the project dollars are intended to be used.

185 Section 3. Paragraph (v) is added to subsection (1) of
186 section 403.813, Florida Statutes, to read:

187 403.813 Permits issued at district centers; exceptions.—

188 (1) A permit is not required under this chapter, chapter
189 373, chapter 61-691, Laws of Florida, or chapter 25214 or
190 chapter 25270, 1949, Laws of Florida, for activities associated
191 with the following types of projects; however, except as
192 otherwise provided in this subsection, nothing in this
193 subsection relieves an applicant from any requirement to obtain
194 permission to use or occupy lands owned by the Board of Trustees
195 of the Internal Improvement Trust Fund or any water management
196 district in its governmental or proprietary capacity or from

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197 complying with applicable local pollution control programs
198 authorized under this chapter or other requirements of county
199 and municipal governments:

200 (v) Notwithstanding any other provision in this chapter,
201 chapter 373, or chapter 161, a permit or other authorization is
202 not required for the following exploratory activities associated
203 with beach restoration and nourishment projects and inlet
204 management activities:

205 1. The collection of geotechnical, geophysical, and
206 cultural resource data, including surveys, mapping, acoustic
207 soundings, benthic and other biologic sampling, and coring.

208 2. Oceanographic instrument deployment, including
209 temporary installation on the seabed of coastal and
210 oceanographic data collection equipment.

211 3. Incidental excavation associated with any of the
212 activities listed under subparagraph 1. or subparagraph 2.

213 Section 4. This act shall take effect July 1, 2012.