

THE FLORIDA SENATE
2025 SUMMARY OF LEGISLATION PASSED
Committee on Judiciary

CS/SB 1622 — Beaches

by Rules Committee and Senators Trumbull, Rouson, and Berman

The bill repeals s. 163.035, F.S., which establishes procedures that a governmental entity must follow when attempting to establish a “recreational customary use of property,” and bypasses certain statutory procedures to declare the mean high water line to be the erosion control line (ECL) in certain specified counties.

The customary use doctrine establishes public use rights over certain dry sandy areas of privately-owned beaches. The statutory procedures repealed by the bill would have required:

- A public hearing to adopt a formal notice of intent to affected property owners, which notice alleges the existence of a recreational customary use on their properties.
- A judicial proceeding to consider whether the alleged customary use has been ancient, reasonable, without interruption, and free from dispute.

Repeal of the statute means a return to how customary use rights were determined prior to enactment of the statute:

- A governmental entity may declare the existence of a customary use and adopt a local customary use ordinance without following the procedures in s. 163.035, F.S.
- Property owners must file a lawsuit challenging the ordinance and demonstrate in court that the public does not enjoy customary use rights over their privately-owned beaches.
- Courts will apply the common law doctrine of customary use when ascertaining, on a case-by-case basis, whether the public enjoys customary use rights over privately-owned beaches.

The bill also declares the mean high water line to be the ECL in certain counties. Specifically, with respect to those counties adjacent to the Gulf of America having at least 3 municipalities

and an estimated population of less than 275,000, the bill:

- Bypasses certain existing statutory procedures for establishing the ECL on critically eroded beaches and declares the mean high water line to be the ECL.
- Directs the Board of the Internal Improvement Trust Fund to prepare and record, in the official and platting records of the counties subject to the bill, certain documents confirming the ECL’s location on critically eroded shorelines, but only if an ECL has not already been established.
- Authorizes the Department of Environmental Protection to proceed with beach restoration projects for areas it has designated as critically eroded, and provides that notwithstanding existing law, such projects do not require public easements.
- Includes legislative declarations that the state does not intend to extend its ownership claims beyond what it already owns, and that beach restoration projects for critically eroded beaches are in the public interest.

If approved by the Governor, or allowed to become law without the Governor's signature, these provisions take effect upon becoming law.

Vote: Senate 35-2; House 108-0