

STORAGE NAME: h1005s1.ep

DATE: March 16, 2000

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: CS/HB 1005

RELATING TO: Beach Management Funding

SPONSOR(S): Committee on Environmental Protection and
Representative(s) Jones; Suarez

TIED BILL(S):

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

- (1) ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

CS/HB 1005 amends various provisions of Chapter 161, F.S., which relates to beach and shore preservation. The bill is a result of the efforts of a working group that was created by legislation adopted in 1998 which created a permanent funding source for beach restoration projects.

Provisions of the bill:

- > change the term "beach renourishment" to "beach nourishment" and make the needed technical changes;
- > provide that inlets may now be eligible for funding under the program if they are associated with adjacent critically eroding beaches;
- > directs that priority be given to those projects that contribute most significantly to addressing the state's beach erosion problems; and
- > detail those projects that will be ineligible for the program, including: recreational structures; aesthetic vegetation; hard structures; and navigation.

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

The bill will take effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- 1. Less Government Yes No N/A
- 2. Lower Taxes Yes No N/A
- 3. Individual Freedom Yes No N/A
- 4. Personal Responsibility Yes No N/A
- 5. Family Empowerment Yes No N/A

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. The Legislature addressed this issue in 1998, by passing HB 3427 providing an annual \$30 - \$35 million dedicated funding source for state cost-sharing in erosion control projects. The legislative intent is to ensure that a long-term strategy will successfully target Florida's eroding beaches

in a cost-effective manner, resulting from the availability of increased state funding.

Two additional requirements of HB 3427 are that:

- 1) the department, when determining funding priorities, to consider whether local or regional sponsors have agreed to coordinate the planning, design, and construction of projects; and
- 2) the workshops be held with federal, state and local government representatives, and concerned interests with the objective being for members to submit a report with recommendations provided for consideration before the regular 2000 legislative session.

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 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.

C. EFFECT OF PROPOSED CHANGES:

The proposed changes found in CS/HB 1005 are a result of the beach management workshop's recommendations. In regard to the beach management program and its funding, CS/HB 1005 provides legislative intent in appropriating funds for the implementation of those projects that significantly address 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.

For the issuance of permits the DEP is now directed to ensure that any biological or environmental monitoring conditions included shall be 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 that direct any erosion project be consistent with a clearly identifiable 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.

Additional legislative intent is added to direct that priority be given to those projects that most significantly address the state's erosion problems.

Language is added to existing funding provisions to:

- > Allow for the DEP to enter into cooperative agreements for inlet management activities.
- > Clarify what services maybe covered in cost-sharing agreements, these include 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 stormwater 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 overwalks; and
 - navigation construction, operation, and maintenance activities (except those that keep sand on adjacent beaches).
- > Directs that when projects are equally qualified the DEP is to select the project that is ready to proceed.
- > Grant the DEP the necessary rulemaking authority to implement provisions of the funding section.

Finally, the bill makes numerous technical and conforming changes.

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 biological and environmental monitoring conditions, included in the permit, shall 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 technical changes.

Section 5: Amends s.161.082, F.S., to make technical 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 activities to have a beach erosion control or beach preservation benefit as well as identifying 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 technical changes.

Section 10: Amends section 161.161, F.S., in order to define the procedure for approval of projects and remove 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:

N/A

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

N/A

D. FISCAL COMMENTS:

N/A

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:

N/A

B. RULE-MAKING AUTHORITY:

N/A

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 offered and approved. The bill was then passed as a committee substitute. Changes made by the amendment to the bill include:

- > changing the term "beach renourishment" to "nourishment" within the definitions section;
- > clarifying that as a condition of receiving a permit that biological and environmental monitoring shall 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;
- > adding inlet management activities as an approved use of beach nourishment dollars;
- > removing language that only allowed the DEP to pay for construction and maintenance costs of projects when the state was the upland riparian owner;
- > amending the list of approved items the DEP may pay for concerning other approved projects;
- > 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.

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VII. SIGNATURES:

COMMITTEE ON ENVIRONMENTAL PROTECTION:

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