

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: General Government Appropriations Committee

BILL: CS/CS/SB 2216

INTRODUCER: General Government Appropriations Committee, Environmental Preservation Committee, and Senator Clary

SUBJECT: Hurricane Damage Mitigation

DATE: April 25, 2006

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Pardue</u>	<u>Skelton</u>	<u>DS</u>	Favorable
2.	<u>Kiger</u>	<u>Kiger</u>	<u>EP</u>	Fav/CS
3.	<u>Tomkiewicz</u>	<u>Imhof</u>	<u>RI</u>	Favorable
4.	<u>DeLoach</u>	<u>Hayes</u>	<u>GA</u>	Fav/CS
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides for the revocation of an agency, political subdivision, or municipality's authority to install or permit the installation of a rigid coastal armoring structure. The bill authorizes the Department of Environmental Protection (DEP) to revoke such authority if installation would conflict with certain public policies regarding adjacent properties, public access, or damage to vegetation or nesting turtle populations.

This bill also:

- Allows a department, an agency, political subdivision, or municipality to authorize use of sand-filled tubes or other similar structures as the core of a restored sand dune feature under certain conditions.
- Adds further clarification to the meaning of the term coastal high hazard area.
- Allows a process for local government to elect to comply with Florida Administrative Code rules 9J-5.012(3)(b)(6) and 9J5-.012(3)(b)(7) regarding emergency evacuation goals for the coastal management element of the local comprehensive plan.
- Prohibits the location of certain new facilities such as adult congregate living facilities, community residential homes, hospitals, and nursing homes in coastal high-hazard zones.
- Requires each local government to amend its future land use map and coastal management element to include the new definition of coastal high-hazard area by July 1, 2008.
- Amends the coastal resort area redevelopment pilot project found in section 163.336, Florida Statutes, by extending its expiration date to December 31, 2014. DEP and local

governments are required to provide an independent analysis of the economic value and environmental impact of the project to the Legislature on or before February 1, 2008.

This bill substantially amends the following sections of the Florida Statutes: 161.085, 163.3178, 163.336, and 381.0065.

II. Present Situation:

Rigid Coastal Armoring Structures

Coastal armoring is a man-made structure designed to either prevent erosion of the upland property or protect eligible structures from the effects of coastal wave and current action. Examples include seawalls, revetments, bulkheads, retaining walls, sloped boulder revetments, sloped geotextile revetments, geotextile dune scour protection, or other similar structures.¹

Section 161.085, F.S., recognizes the need to protect private structures and public infrastructure from damage and destruction caused by coastal erosion. The section allows state and federal agencies, political subdivisions of the state, and municipalities to plan for emergency response for the protection of private structures and public infrastructure. Pursuant to ch. 161, F.S., the DEP is authorized to issue permits for the present or future installation of rigid coastal armoring structures or other emergency response measures to protect private structures, public infrastructure, and private and public property.

If erosion occurs as a result of a storm event and a permit has not been issued pursuant to s. 161.085(2), F.S., a state or federal agency, political subdivision, or municipality may install or authorize installation of rigid coastal armoring structures for the protection of private structures or public infrastructure. The following items must be considered and incorporated into such emergency measures:²

- Protection of the beach-dune system.
- Siting and design criteria for the protective structure.
- Impacts on adjacent properties.
- Preservation of public beach access.
- Protection of native coastal vegetation and nesting marine turtles and their hatchlings.

Regional Hurricane Evacuation Studies

Section 252.35, F.S., assigns responsibility to the Division of Emergency Management (division) for maintaining a comprehensive statewide program of emergency management. The division is required to prepare a comprehensive emergency management plan that is operations oriented. The plan shall include specific regional and interregional planning provisions and promote intergovernmental coordination of evacuation activities.

¹ Florida Department of Environmental Protection, "Coastal Armoring Policy and Guidelines," Nov. 22, 2005.

² Section 161.085 (3), F.S.

The division has the capability to conduct regional hurricane evacuation studies. Such studies include a computerized model run by the National Hurricane Center to estimate storm surge depths and winds resulting from historical, hypothetical, or predicted hurricanes taking into account:

- Pressure.
- Size.
- Forward speed.
- Track.
- Winds.

This model is known as SLOSH (Sea, Lake, and Overland Surges from Hurricanes). Calculations are applied to a specific locale's shoreline, incorporating the unique bay and river configurations, water depths, bridges, roads, and other physical features to estimate storm surge.³ According to division personnel, the National Hurricane Center is continuing to improve its technology in order to provide greater specificity in defining high-hazard coastal area evacuation zones.

Periodic hurricane evacuation studies are required because of changing population dynamics. Populations and the existing transportation network define the speed with which an evacuation may be conducted. Regional hurricane evacuation studies are able to determine recommended timing intervals used to control a sequenced evacuation by locality. They guide decision-makers in ordering an evacuation.

Onsite Sewage Treatment and Disposal Systems

Onsite sewage treatment and disposal systems are facilities constructed on individual sites used to provide wastewater disposal where municipal sewerage is not available. Such systems usually consist of a septic tank and a subsurface infiltration system. Within the septic tank, sedimentation and some anaerobic digestion of solids occur. The remaining partially treated wastewater, referred to as septic tank effluent, is then discharged to the subsurface infiltration system and percolates through the surrounding soil. As the effluent moves through the soil, it is further treated by naturally occurring chemical, biological, and physical processes.⁴

Section 381.0065, F.S., states that the intent of the Legislature is that, where a publicly-owned or investor-owned sewerage system is not available, the Department of Health (DOH) shall issue permits for the construction, installation, modification, abandonment, or repair of onsite sewage treatment and disposal systems. The section requires that a person may not perform any of these actions without first obtaining a permit from the DOH. The DOH shall not make issuance of such a permit contingent upon prior approval by the DEP.

³ http://www.nhc.noaa.gov/HAW2/english/surge/slosh_printer.shtml

⁴ Ayres Associates. *Onsite Sewage Disposal System Research in Florida: An Evaluation of Current OSDS Practices in Florida*. Tampa: Florida Department of Health and Rehabilitative Services, Environmental Health Program: 1993.

Coastal Resort Area Redevelopment Pilot Project

In 1998, the Legislature directed the DEP to administer a pilot project for redeveloping economically distressed coastal resort and tourist areas. This Coastal Resort Area Redevelopment Pilot Project is limited to the coastal areas of Florida's Atlantic coast between the St. Johns River entrance and the Ponce de Leon Inlet. For a particular area to be eligible, all or part of the area must be: (1) within the coastal building zone as defined by s. 161.54, F.S., and (2) an economically deprived area as designated by a local government with jurisdiction over the area. Local governments are encouraged to use the full range of available economic and tax incentives within the areas of the pilot project.

Construction activities seaward of a coastal construction control line (CCCL) and landward of existing armoring within the area of the pilot project are exempted from certain coastal construction permitting criteria pursuant to s. 161.053, F.S., provided that the construction is fronted by 1,000 feet of continuous, viable seawall or rigid coastal armoring structure. All applicable local land development regulations continue to apply to such construction.

The DEP is authorized to grant the necessary permits to close any gap that does not exceed 100 feet in an existing line of rigid coastal armoring structure. Such structures must not cause flooding of or result in adverse impacts to existing upland structures or properties. In addition, permits are granted where there exists a continuous line of viable rigid coastal armoring structure on either side of a non-viable rigid coastal armoring structure. However, such permitting does not apply to rigid coastal armoring structures constructed after May 1, 1998, unless permitted pursuant to s. 161.085(2), F.S.

Construction projects continue to be reviewed under s. 161.053, F.S., except for those structures that are not subject to specific shore parallel coverage requirements (e.g., a building located on a 100-foot wide lot being able to exceed 60 feet in width) and are allowed to exceed the 50-percent impervious surface requirement.⁵ Stormwater discharges onto or seaward of the frontal dune are specifically prohibited. Structures approved under s. 163.336, F.S., shall not cause flooding or result in adverse impacts to existing upland structures or properties.

Structures are not bound by restrictions on excavation if the construction does not adversely impact the existing armoring structure or the existing beach and dune system. The act specifically contemplates that underground structures, including garages, will be permitted. All beach-compatible material that is excavated must be maintained on the site seaward of the CCCL.

The authorization for this pilot project was set to expire on December 31, 2002. In 2002, the Legislature extended the pilot project expiration date to December 2006.

⁵ The term "impervious surface" refers to the total surface coverage on a lot that does not allow water to pass through to the ground below, including any structures as well as other impervious surface coverings such as parking lots.

III. Effect of Proposed Changes:

Section 1 provides for the revocation of an agency, political subdivision, or municipality's authority to install or permit the installation of a rigid coastal armoring structure. Such structures are normally installed to protect private and public property from erosion. The bill authorizes the Department of Environmental Protection to revoke such authority if installation would conflict with certain public policies regarding adjacent properties, public access, or damage to vegetation or nesting turtle populations.

This section also allows a department, an agency, political subdivision, or municipality to authorize use of sand-filled tubes or other similar structures as the core of a restored sand dune feature. The applicant applying for the use of such structures must demonstrate: that the shoreline where the structure will be placed has an approved habitat conservation plan and that placement will not interfere with the beach dune system as rigid coastal armoring; that placement will not adversely impact marine turtle nesting; and there is reasonable assurance the structure will be removed if adequate sand cover proves to be not feasible.

Section 2 adds further clarification to the meaning of the term "coastal high hazard area" by describing it as the area below the elevation of the category 1 storm surge line as established by the Sea, Lake and Overland Surges from Hurricanes computerized model.

A process allowing a local government to elect to comply with Florida Administrative Code rules 9J-5.012(3)(b)(6) and 9J5-.012(3)(b)(7) regarding emergency evacuation goals for the coastal management element of the local comprehensive plan. Under this bill, a proposed comprehensive plan amendment is considered in compliance with state coastal high-hazard provisions if the adopted level of service for out-of-county hurricane evacuation is maintained for a category 5 storm event; a 12-hour evacuation time-to-shelter is maintained for a category 5 storm event; and shelter space reasonably needed for such an event is available; and, as provided for in statute, appropriate mitigation relating to development is provided.

This section prohibits the location of certain new facilities such as adult congregate living facilities, community residential homes, hospitals, and nursing homes in coastal high-hazard zones.

It also requires each local government to amend its future land use map and coastal management element to include the new definition of coastal high-hazard area by July 1, 2008.

Section 3 provides that DEP may favorably consider authorizing placement of excavated sand beyond the coastal construction control line on adjacent properties. The permittee must demonstrate reasonable effort to effectively use all beach-quality material on-site to enhance the beach and dune system, and must prepare a comprehensive plan for beach and dune nourishment for the adjoining area.

The section further amends the coastal resort area redevelopment pilot project found in s. 163.336, F.S., by extending its expiration date to December 31, 2014. DEP and local governments are required to provide an independent analysis of the economic value and environmental impact of the project to the Legislature on or before February 1, 2008.

Section 4 allows exception to s. 381.0065, F.S., that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053, F.S., shall be contingent upon receipt of any required coastal construction control line permit from DEP.

Section 5 provides for the act to take effect upon becoming a law.

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 Division of Emergency Management currently conducts the type of studies required by this bill. Such studies are usually funded through existing federal sources and recurring state funding is not usually provided.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
