

Bill No. CS for SB 2008

Barcode 465396

CHAMBER ACTION

Senate

House

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Comm: RCS
04/27/2007 12:31 PM

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The Committee on General Government Appropriations (Jones)
recommended the following amendment:

Senate Amendment (with title amendment)

On page 1, between lines 21 and 22,

and insert:

Section 1. Subsection (1) of section 161.021, Florida
Statutes, is amended to read:

161.021 Definitions.--In construing these statutes,
where the context does not clearly indicate otherwise, the
word, phrase, or term:

(1) "Access" or "public access" as used in ss.
161.041, 161.052, and 161.053 means the public's right to
laterally traverse the sandy beaches of this state where such
access exists on or after July 1, 1987, or where the public
has established an accessway through private lands to lands
seaward of the mean high tide or water line by prescription,
prescriptive easement, or any other legal means, development
or construction shall not interfere with such right of public
access unless a comparable alternative accessway is provided.

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1 Section 2. Section 161.141, Florida Statutes, is
2 amended to read:

3 161.141 Property rights of state and private upland
4 owners in beach restoration project areas.--The Legislature
5 declares that it is the public policy of the state to cause to
6 be fixed and determined, pursuant to beach restoration, beach
7 nourishment, and erosion control projects, the boundary line
8 between sovereignty lands of the state bordering on the
9 Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida,
10 and the bays, lagoons, and other tidal reaches thereof, and
11 the upland properties adjacent thereto; except that such
12 boundary line shall not be fixed for beach restoration
13 projects that result from inlet or navigation channel
14 maintenance dredging projects unless such projects involve the
15 construction of authorized beach restoration projects.
16 However, prior to construction of such a beach restoration
17 project, the board of trustees must establish the line of mean
18 high water for the area to be restored; and any additions to
19 the upland property landward of the established line of mean
20 high water which result from the restoration project remain
21 the property of the upland owner subject to all governmental
22 regulations and are not to be used to justify increased
23 density or the relocation of the coastal construction control
24 line as may be in effect for such upland property. The
25 resulting additions to upland property are also subject to a
26 public easement for traditional uses of the sandy beach
27 consistent with uses that would have been allowed prior to the
28 need for the restoration project. It is further declared that
29 there is no intention on the part of the state to extend its
30 claims to lands not already held by it or to deprive any
31 upland or submerged land owner of the legitimate and

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1 constitutional use and enjoyment of his or her property. If an
2 authorized beach restoration, beach nourishment, and erosion
3 control project cannot reasonably be accomplished without the
4 taking of private property, the taking must be made by the
5 requesting authority by eminent domain proceedings. In any
6 action alleging a taking of all or part of a property or
7 property right as a result of a beach restoration project, in
8 determining whether such taking has occurred or the value of
9 any damage alleged with respect to the owner's remaining
10 upland property adjoining the beach restoration project, the
11 enhancement, if any, in value of the owner's remaining
12 adjoining property of the upland property owner by reason of
13 the beach restoration project shall be considered. If a taking
14 is judicially determined to have occurred as a result of a
15 beach restoration project, the enhancement in value to the
16 owner's remaining adjoining property by reason of the beach
17 restoration project shall be offset against the value of the
18 damage, if any, resulting to such remaining adjoining property
19 of the upland property owner by reason of the beach
20 restoration project, but such enhancement in the value shall
21 not be offset against the value of the property or property
22 right alleged to have been taken. If the enhancement in value
23 shall exceed the value of the damage, if any, to the remaining
24 adjoining property, there shall be no recovery over against
25 the property owner for such excess.

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27 (Redesignate subsequent sections.)
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30 ===== T I T L E A M E N D M E N T =====

31 And the title is amended as follows:

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1 On page 1, line 2, delete that line

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3 and insert:

4 An act relating to beaches and shores; amending

5 s. 161.021, F.S.; amending a definition;

6 amending s. 161.141, F.S.; providing additional

7 legislative intent;

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