

1                   A bill to be entitled  
2           An act relating to beach management; amending s. 161.142,  
3           F.S.; providing legislative intent and findings; providing  
4           requirements concerning the quality and quantity of  
5           dredged sand placed on certain beaches adjacent to inlets;  
6           requiring an estimation of the requisite quantity of  
7           beach-quality sand by the Department of Environmental  
8           Protection and its consultants; revising exemptions from  
9           certain permitting requirements and prohibitions for  
10          certain construction activities; requiring compliance with  
11          the applicable Florida Building Code; requiring the  
12          protection of nesting shorebirds and marine turtles;  
13          specifying requirements of certain ports concerning the  
14          placement of dredged sand on adjacent eroding beaches;  
15          authorizing such ports to sponsor or cosponsor inlet  
16          management projects that are fully eligible for state  
17          cost-sharing; providing requirements and findings  
18          concerning the placement of dredged sand from federal  
19          navigation projects; providing for assignment of  
20          responsibility for the erosion caused by inlets;  
21          specifying actions to be taken by the department in  
22          disputes between local governments and property owners  
23          concerning how much sand should bypass an inlet; creating  
24          s. 161.143, F.S.; requiring that inlet management studies,  
25          projects, and activities be supported by certain plans;  
26          providing criteria governing the department's ranking of  
27          inlet management projects and activities; specifying  
28          conditions that must be met; requiring that the department

29 | establish funding priorities for projects and activities  
 30 | concerning inlet management; providing for input from  
 31 | interested governmental and private entities; providing  
 32 | criteria for establishing priorities; authorizing funding  
 33 | levels for inlet management projects under specified  
 34 | conditions; requiring that the department annually provide  
 35 | an inlet management project list to the Legislature;  
 36 | providing requirements for the list; requiring that the  
 37 | department make available certain moneys for projects on  
 38 | the list; requiring that the department make available  
 39 | certain moneys for projects on other legislatively  
 40 | approved inlet management project lists; requiring that  
 41 | the Legislature designate a certain inlet project as  
 42 | "Inlet of the Year"; requiring the department to provide  
 43 | an annual report to the Legislature concerning the success  
 44 | of projects so designated; requiring rulemaking by the  
 45 | department; providing an effective date.

46 |  
 47 | Be It Enacted by the Legislature of the State of Florida:  
 48 |

49 | Section 1. Section 161.142, Florida Statutes, is amended  
 50 | to read:

51 | 161.142 Declaration of public policy relating to improved  
 52 | navigation inlets.--The Legislature ~~hereby~~ recognizes the need  
 53 | for maintaining navigation inlets to promote commercial and  
 54 | recreational uses of our coastal waters and their resources. The  
 55 | Legislature further recognizes that inlets interrupt or alter  
 56 | the natural drift of beach-quality sand resources, which often

57 results in these sand resources being deposited in nearshore  
58 ~~around shallow outer bar~~ areas or in the inlet channel instead  
59 of providing natural nourishment to the adjacent eroding  
60 ~~downdrift~~ beaches. Accordingly, the Legislature finds it is in  
61 the public interest to replicate the natural drift of sand which  
62 is interrupted or altered by inlets to be replaced and for each  
63 level of government to undertake all reasonable efforts to  
64 maximize inlet sand bypassing to ensure that beach-quality sand  
65 is placed on adjacent eroding beaches. Such activities cannot  
66 make up for the historical sand deficits caused by inlets but  
67 shall be designed to balance the sediment budget of the inlet  
68 and adjacent beaches and extend the life of proximate beach-  
69 restoration projects so that periodic nourishment is needed less  
70 frequently. Therefore, in furtherance of this declaration of  
71 public policy and the Legislature's intent to redirect and  
72 recommit the state's comprehensive beach management efforts to  
73 address the beach erosion caused by inlets, the department shall  
74 ensure that:

75 (1) All construction and maintenance dredgings of beach-  
76 quality sand are ~~should be~~ placed on the adjacent eroding  
77 ~~downdrift~~ beaches unless, or, if placed elsewhere, an equivalent  
78 quality and quantity of sand from an alternate location is  
79 ~~should be~~ placed on the adjacent eroding ~~downdrift~~ beaches.

80 (2) On an average annual basis, a quantity of beach-  
81 quality sand is ~~should be~~ placed on the adjacent eroding  
82 ~~downdrift~~ beaches which is equal to the natural net annual  
83 longshore sediment transport. The department shall, with the  
84 assistance of university-based or other contractual resources

85 that it may employ or call upon, maintain a current estimate of  
 86 such quantities of sand for purposes of prioritizing, planning,  
 87 and permitting.

88 (3) Construction waterward of the coastal construction  
 89 control line on downdrift coastal areas, on islands  
 90 substantially created by the deposit of spoil, located within 1  
 91 mile of the centerline of navigation channels or inlets,  
 92 providing access to ports listed in s. 403.021(9)(b), which  
 93 suffers or has suffered erosion caused by such navigation  
 94 channel maintenance or construction shall be exempt from the  
 95 permitting requirements and prohibitions of ~~subsections (2),~~  
 96 ~~(5), and (6)~~ of s. 161.053(5) or (6); however, such construction  
 97 shall comply with the applicable Florida Building Code adopted  
 98 pursuant to s. 553.73. The timing and sequence of any  
 99 construction activities associated with inlet management  
 100 projects in such coastal areas shall comply with 44 C.F.R. part  
 101 ~~60~~ and shall provide protection to nesting sea turtles and their  
 102 hatchlings and their habitats, to nesting shorebirds, and to  
 103 native salt-resistant vegetation and endangered plant  
 104 communities. Beach-quality sand placed on the beach as part of  
 105 an inlet management project must be suitable for marine turtle  
 106 nesting.

107 (4) The provisions of subsections (1) and (2) shall not be  
 108 a requirement imposed upon ports listed in s. 403.021(9)(b);  
 109 however, such ports must demonstrate reasonable effort to place  
 110 beach-quality sand from construction and maintenance dredging  
 111 and port-development projects on adjacent eroding beaches in  
 112 accordance with port master plans approved by the Department of

113 Community Affairs, and permits approved and issued by the  
114 department, to ensure compliance with this section. Ports may  
115 sponsor or cosponsor inlet management projects that are fully  
116 eligible for state cost-sharing.

117 (5) The department shall ensure that any disposal of the  
118 beach-quality sand from federal projects in this state which  
119 involve dredging for the purpose of navigation is on, or in the  
120 nearshore area of, adjacent eroding beaches. The department may  
121 consider permitting nearshore or upland disposal of such beach-  
122 quality sand if emergency conditions exist. The state recognizes  
123 that due to the growing demand for beach-quality sand resources  
124 for beach restoration and nourishment projects, the limited  
125 supply of such sand resources, and the cost of such projects,  
126 beach or nearshore sand placement is the least-cost disposal  
127 method.

128 (6) If federal investigations and reports or state-  
129 approved inlet management plans do not specify the entity or  
130 entities responsible for the extent of erosion caused by an  
131 inlet, the department or local government, with the assistance  
132 of university-based or other contractual resources that they may  
133 employ or call upon, is encouraged to undertake assessments that  
134 aid in specifying the responsible entity or entities and in more  
135 accurately determining cost-sharing responsibilities for  
136 measures to correct such erosion. The entity that is responsible  
137 for maintenance dredging of an inlet may be deemed responsible  
138 for the erosion caused by the inlet if another responsible party  
139 is not specified in such an assessment, a shore-protection  
140 project investigation or report, or a state-approved inlet

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141 management plan.

142 (7) If the beneficiaries of the inlet, the local  
143 governments having jurisdiction of lands adjacent to the inlet,  
144 or the owners of property adjacent to the inlet are involved in  
145 a dispute concerning how much sand should be bypassed, the  
146 department shall protect its monetary investment in beach  
147 nourishment projects within the inlet's physical zone of  
148 influence by taking all reasonable actions to balance the  
149 sediment budget of the inlet and adjacent beaches, including  
150 implementation of inlet sand bypassing and other inlet  
151 management projects.

152 Section 2. Section 161.143, Florida Statutes, is created  
153 to read:

154 161.143 Inlet management; planning, prioritizing, funding,  
155 approving, and implementing projects.--

156 (1) Studies, projects, and activities for the purpose of  
157 mitigating the erosive effects of inlets and balancing the  
158 sediment budget of the inlet and adjacent beaches must be  
159 supported by separately approved inlet management plans or inlet  
160 components of the statewide comprehensive beach management plan.  
161 Such plans in support of individual inlet projects or activities  
162 must, pursuant to s. 161.161(1)(b), evaluate each inlet to  
163 determine the extent of the inlet's erosive effect on adjacent  
164 beaches and, if significant, make recommendations to mitigate  
165 such ongoing erosive effects and provide estimated costs for  
166 such mitigation.

167 (2) The department shall establish annual funding  
168 priorities for studies, activities, or other projects concerning

169 inlet management. Such inlet management projects include, but  
170 are not limited to, inlet sand bypassing, modifications to  
171 channel dredging, jetty redesign, jetty repair, disposal of  
172 spoil material, and the development, revision, adoption, or  
173 implementation of an inlet management plan. The funding  
174 priorities established by the department must be consistent with  
175 the requirements and legislative declaration in ss. 161.101(14),  
176 161.142, and 161.161(1)(b). In establishing funding priorities  
177 under this subsection and before transmitting the annual inlet  
178 project list to the Legislature under subsection (5), the  
179 department shall seek formal input from local coastal  
180 governments, beach and general government associations and other  
181 coastal interest groups, and university experts concerning  
182 annual funding priorities for inlet management projects. In  
183 order to maximize the benefits of efforts to address the inlet-  
184 caused beach erosion problems of this state, the ranking  
185 criteria used by the department to establish funding priorities  
186 for studies, activities, or other projects concerning inlet  
187 management must include consideration of:

188 (a) An estimate of the annual quantity of beach-quality  
189 sand reaching the updrift boundary of the improved jetty or  
190 inlet channel.

191 (b) The severity of the erosion to the adjacent beaches  
192 caused by the inlet and the extent to which the proposed project  
193 mitigates the erosive effects of the inlet.

194 (c) The overall significance and anticipated success of  
195 the proposed project in balancing the sediment budget of the  
196 inlet and adjacent beaches and addressing the sand deficit along

197 the inlet-affected shorelines.

198 (d) The extent to which existing bypassing activities at  
199 an inlet would benefit from modest, cost-effective improvements  
200 when considering the volumetric increases from the proposed  
201 project, the availability of beach-quality sand currently not  
202 being bypassed to adjacent eroding beaches, and the ease with  
203 which such beach-quality sand may be obtained.

204 (e) The interest and commitment of local governments as  
205 demonstrated by their willingness to coordinate the planning,  
206 design, construction, and maintenance of an inlet management  
207 project and their financial plan for funding the local cost-  
208 share for initial construction, ongoing sand bypassing, channel  
209 dredging, and maintenance.

210 (f) The previous completion or approval of a state-  
211 sponsored inlet management plan or local-government-sponsored  
212 inlet study concerning the inlet addressed by the proposed  
213 project, the ease of updating and revising any such plan or  
214 study, and the adequacy and specificity of the plan's or study's  
215 recommendations concerning the mitigation of an inlet's erosive  
216 effects on adjacent beaches.

217 (g) The degree to which the proposed project will enhance  
218 the performance and longevity of proximate beach nourishment  
219 projects, thereby reducing the frequency of such periodic  
220 nourishment projects.

221 (h) The project-ranking criteria in s. 161.101(14) to the  
222 extent such criteria are applicable to inlet management studies,  
223 projects, and activities.

224 (3) The department may, pursuant to s. 161.101 and



225 notwithstanding s. 161.101(15), pay from legislative  
226 appropriations provided for these purposes 75 percent of the  
227 total costs, or, if applicable, the nonfederal costs, of a  
228 study, activity, or other project concerning the management of  
229 an inlet. The balance must be paid by the local governments or  
230 special districts having jurisdiction over the property where  
231 the inlet is located.

232 (4) Using the legislative appropriation to the statewide  
233 beach-management-support category of the department's fixed  
234 capital outlay funding request, the department may employ  
235 university-based or other contractual sources and pay 100  
236 percent of the costs of studies that are consistent with the  
237 legislative declaration in s. 161.142 and that:

238 (a) Determine, calculate, refine, and achieve general  
239 consensus regarding net annual sediment transport volumes to be  
240 used for the purpose of planning and prioritizing inlet  
241 management projects; and

242 (b) Appropriate, assign, and apportion responsibilities  
243 between inlet beneficiaries for the erosion caused by a  
244 particular inlet on adjacent beaches.

245 (5) The department shall annually provide an inlet  
246 management project list, in priority order, to the Legislature  
247 as part of the department's budget request. The list must  
248 include studies, projects, or other activities that address the  
249 management of at least 10 separate inlets and that are ranked  
250 according to the criteria established under subsection (2).

251 (a) The department shall make available at least 10  
252 percent of the total amount that the Legislature appropriates in

253 each fiscal year for statewide beach management for the three  
254 highest-ranked projects on the current year's inlet management  
255 project list.

256 (b) The department shall make available at least 50  
257 percent of the funds appropriated for the feasibility and design  
258 category in the department's fixed capital outlay funding  
259 request for projects on the current year's inlet management  
260 project list which involve the study for, or design or  
261 development of, an inlet management project.

262 (c) The department shall make available all statewide  
263 beach management funds that remain unencumbered or are allocated  
264 to non-project-specific activities for projects on legislatively  
265 approved inlet management project lists. Funding for local-  
266 government-specific projects on annual project lists approved by  
267 the Legislature must remain available for such purposes for a  
268 period of 18 months pursuant to s. 216.301(2) (a). Based on an  
269 assessment and the department's determination that a project  
270 will not be ready to proceed during this 18-month period, such  
271 funds shall be used for inlet management projects on  
272 legislatively approved lists.

273 (d) The Legislature shall designate one of the three  
274 highest projects on the inlet management project list in any  
275 year as the Inlet of the Year. The department shall annually  
276 report to the Legislature concerning the extent to which each  
277 inlet project designated by the Legislature as Inlet of the Year  
278 has succeeded in balancing the sediment budget of the inlet and  
279 adjacent beaches, mitigating the inlet's erosive effects on  
280 adjacent beaches, and transferring or otherwise placing beach-

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281 quality sand on adjacent eroding beaches.

282 (6) The department shall adopt rules under ss. 120.536(1)  
283 and 120.54 to administer this section.

284 Section 3. This act shall take effect July 1, 2008.