

By Senator Jones

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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; requiring the protection
9 of shorebirds and marine turtles; applying requirements
10 concerning the placement of dredged sand on adjacent
11 beaches to the inlet management projects of certain ports;
12 providing an exemption from such requirements; providing
13 that the inlet projects of such ports are eligible for
14 funding; providing requirements and findings concerning
15 the placement of dredged sand from federal navigation
16 projects; providing for assignment of responsibility for
17 the erosion caused by inlets; specifying actions to be
18 taken by the department in disputes between local
19 governments and property owners concerning how much sand
20 should bypass an inlet; creating s. 161.143, F.S.;
21 requiring that inlet management studies, projects, and
22 activities be supported by certain plans; providing
23 criteria governing the department's ranking of inlet
24 management projects and activities; specifying conditions
25 that must be met; requiring that the department establish
26 funding priorities for projects and activities concerning
27 inlet management; providing for input from interested
28 governmental and private entities; providing criteria for
29 establishing priorities; authorizing funding levels for

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30 inlet management projects under specified conditions;
31 requiring that the department annually provide an inlet
32 management project list to the Legislature; providing
33 requirements for the list; requiring that the department
34 make available certain moneys for projects on the list;
35 requiring that the department make available certain
36 moneys for projects on the list which are legislatively
37 approved; requiring that the Legislature designate certain
38 inlet projects as "Inlet of the Year"; requiring the
39 department to provide an annual report to the Legislature
40 concerning the success of projects so designated;
41 authorizing rulemaking by the department; providing an
42 effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

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46 Section 1. Section 161.142, Florida Statutes, is amended to
47 read:

48 161.142 Declaration of public policy relating to improved
49 navigation inlets.--The Legislature ~~hereby~~ recognizes the need
50 for maintaining navigation inlets to promote commercial and
51 recreational uses of our coastal waters and their resources. The
52 Legislature further recognizes that inlets interrupt or alter the
53 natural drift of beach-quality sand resources, which often
54 results in these sand resources being deposited in nearshore
55 ~~around shallow outer-bar~~ areas or in the inlet channel, instead
56 of providing natural nourishment to the adjacent eroding
57 ~~downdrift~~ beaches. Accordingly, the Legislature finds it is in
58 the public interest to replicate the natural drift of sand which

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59 is interrupted or altered by inlets to be replaced and for each
60 level of government to undertake all reasonable efforts to
61 maximize inlet sand bypassing to ensure that beach-quality sand
62 is placed on adjacent eroding beaches. Such activities cannot
63 make up for the historical sand deficits caused by inlets, but
64 shall be designed to reinstate longshore sand transport and
65 extend the life of proximate beach-restoration projects so that
66 periodic nourishment is needed less frequently. Therefore, in
67 furtherance of this declaration of public policy, and the
68 Legislature's intent to redirect and recommit the state's
69 comprehensive beach management efforts to address the beach
70 erosion caused by inlets, the department shall ensure that:

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

76 (2) On an average annual basis, a quantity of beach-quality
77 sand is ~~should be~~ placed on the adjacent eroding ~~downdrift~~
78 beaches which is equal to the natural net annual longshore
79 sediment transport. The department shall, with the assistance of
80 university-based or other contractual resources that it may
81 employ or call upon, maintain a current estimate of such
82 quantities of sand for purposes of prioritizing, planning, and
83 permitting.

84 (3) ~~Construction waterward of the coastal construction~~
85 ~~control line on downdrift coastal areas, on islands substantially~~
86 ~~created by the deposit of spoil, located within 1 mile of the~~
87 ~~centerline of navigation channels or inlets, providing access to~~

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88 ~~ports listed in s. 403.021(9)(b), which suffers or has suffered~~
89 ~~erosion caused by such navigation channel maintenance or~~
90 ~~construction shall be exempt from the permitting requirements and~~
91 ~~prohibitions of subsections (2), (5), and (6) of s. 161.053. The~~
92 ~~timing and sequence of any construction~~ activities associated
93 with inlet management projects in such coastal areas shall comply
94 with 44 C.F.R. part 60 and shall provide protection to nesting
95 sea turtles and their hatchlings and their habitats, to nesting
96 shorebirds, and to native salt-resistant vegetation and
97 endangered plant communities. Beach-quality sand placed on the
98 beach as part of an inlet management project must be suitable for
99 marine turtle nesting.

100 (4) ~~The provisions of subsections (1) and (2) shall not be~~
101 ~~a requirement imposed upon ports listed in s. 403.021(9)(b) are~~
102 subject to this section and may sponsor or cosponsor inlet
103 management projects that are fully eligible for state cost-
104 sharing. Such ports must demonstrate reasonable effort to place
105 beach-quality sand from construction and maintenance dredging and
106 port-development projects on adjacent eroding beaches; however,
107 if the department finds that the public interest would be served,
108 the department may permit such ports to place less than the
109 annualized equivalent volume of sand on adjacent eroding beaches
110 as otherwise required under subsection (2).

111 (5) The department shall ensure that any disposal of the
112 beach-quality sand from federal projects in this state which
113 involve dredging for the purpose of navigation is on, or in the
114 nearshore area of, adjacent eroding beaches. The department may
115 consider permitting offshore or upland disposal of such beach-
116 quality sand if emergency conditions exist. The state recognizes

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117 that due to the growing demand for beach-quality sand resources
118 for beach restoration and nourishment projects, the limited
119 supply of such sand resources, and the cost of such projects,
120 beach or nearshore sand placement is the least-cost disposal
121 method.

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

136 (7) If the beneficiaries of the inlet, the local
137 governments having jurisdiction of lands adjacent to the inlet,
138 or the owners of property adjacent to the inlet, are involved in
139 a dispute concerning how much sand should be bypassed, the
140 department shall protect its monetary investment in beach
141 nourishment projects within the inlet's physical zone of
142 influence by taking all reasonable actions to reinstate the
143 natural longshore transport of sand, including implementation of
144 inlet sand bypassing and other inlet management projects.

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145 Section 2. Section 161.143, Florida Statutes, is created to
146 read:

147 161.143 Inlet management; planning, prioritizing, funding,
148 approving, and implementing projects.--

149 (1) Studies, projects, and activities for the purpose of
150 mitigating the erosive effects of inlets and reinstating the
151 natural longshore flow of sand to adjacent eroding beaches must
152 be supported by separately approved inlet management plans or
153 inlet components of the statewide comprehensive beach management
154 plan. Such plans in support of individual inlet projects or
155 activities must, pursuant to s. 161.161(1)(b), evaluate each
156 inlet to determine the extent of the inlet's erosive effect on
157 adjacent beaches, and if significant, make recommendations to
158 mitigate such ongoing erosive effects and provide estimated costs
159 for such mitigation.

160 (2) The department shall establish annual funding
161 priorities for studies, activities, or other projects concerning
162 inlet management. Such inlet management projects include, but are
163 not limited to, inlet sand bypassing, modifications to channel
164 dredging, jetty redesign, jetty repair, disposal of spoil
165 material, and the development, revision, adoption, or
166 implementation of an inlet management plan. The funding
167 priorities established by the department must be consistent with
168 the requirements and legislative declaration in ss. 161.101(14),
169 161.142, and 161.161(1)(b). In establishing funding priorities
170 under this subsection and before transmitting the annual inlet
171 project list to the Legislature under subsection (5), the
172 department shall seek formal input from local coastal
173 governments, beach and general government associations and other

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174 coastal interest groups, and university experts concerning annual
175 funding priorities for inlet management projects. In order to
176 maximize the benefits of efforts to address the inlet-caused
177 beach erosion problems of this state, the ranking criteria used
178 by the department to establish funding priorities for studies,
179 activities, or other projects concerning inlet management must
180 include consideration of:

181 (a) An estimate of the annual quantity of beach-quality
182 sand reaching the updrift boundary of the improved jetty or inlet
183 channel.

184 (b) The severity of the erosion to the adjacent beaches
185 caused by the inlet, and the extent to which the proposed project
186 mitigates the erosive effects of the inlet.

187 (c) The overall significance and anticipated success of the
188 proposed project in reinstating the natural longshore transport
189 of sand and addressing the sand deficit along the inlet-affected
190 shorelines.

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

197 (e) The interest and commitment of local governments as
198 demonstrated by their willingness to coordinate the planning,
199 design, construction, and maintenance of an inlet management
200 project and their financial plan for funding the local cost-share
201 for initial construction, ongoing sand bypassing, channel
202 dredging, and maintenance.

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203 (f) The previous completion or approval of a state-
204 sponsored inlet management plan or local-government-sponsored
205 inlet study concerning the inlet addressed by the proposed
206 project, the ease of updating and revising any such plan or
207 study, and the adequacy and specificity of the plan's or study's
208 recommendations concerning the mitigation of an inlet's erosive
209 effects on adjacent beaches.

210 (g) The degree to which the proposed project will enhance
211 the performance and longevity of proximate beach nourishment
212 projects, thereby reducing the frequency of such periodic
213 nourishment projects.

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

217 (3) The department may, pursuant to s. 161.101 and
218 notwithstanding s. 161.101(15), pay from legislative
219 appropriations provided for these purposes 75 percent of the
220 total costs or, if applicable, the nonfederal costs, of a study,
221 activity, or other project concerning the management of an inlet.
222 The balance must be paid by the local governments or special
223 districts having jurisdiction over the property where the inlet
224 is located.

225 (4) Using the legislative appropriation to the statewide
226 beach-management-support category of the department's fixed
227 capital outlay funding request, the department may employ
228 university-based or other contractual sources and pay 100 percent
229 of the costs of studies that are consistent with the legislative
230 declaration in s. 161.142 and that:

231 (a) Determine, calculate, refine, and achieve general

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232 consensus regarding net annual sediment transport volumes to be
233 used for the purpose of planning and prioritizing inlet
234 management projects; and

235 (b) Appropriate, assign, and apportion responsibilities
236 between inlet beneficiaries for the erosion caused by a
237 particular inlet on adjacent beaches.

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

244 (a) The department shall make available at least 10 percent
245 of the total amount that the Legislature appropriates in each
246 fiscal year for statewide beach management for the three highest-
247 ranked projects on the current year's inlet management project
248 list.

249 (b) The department shall make available at least 50 percent
250 of the funds appropriated for the feasibility and design category
251 in the department's fixed capital outlay funding request for
252 projects on the current year's inlet management project list
253 which involve the study for, or design or development of, an
254 inlet management project.

255 (c) The department shall make available all statewide beach
256 management funds that remain unencumbered or are allocated to
257 non-project-specific activities for projects on legislatively
258 approved inlet management project lists. Funding for local-
259 government-specific projects on annual project lists approved by
260 the Legislature must remain available for such purposes for a

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261 period of 18 months, pursuant to s. 216.301(2) (a). Based on an
262 assessment and the department's determination that a project will
263 not be ready to proceed during this 18-month period, such funds
264 shall be used for inlet management projects on legislatively
265 approved lists.

266 (d) The Legislature shall designate one of the three
267 highest projects on the inlet management project list in any year
268 as the Inlet of the Year. The department shall annually report to
269 the Legislature concerning the extent to which each inlet project
270 designated by the Legislature as Inlet of the Year has succeeded
271 in reinstating the natural longshore transport of sand around
272 inlets, mitigating the inlet's erosive effects on adjacent
273 beaches, and transferring or otherwise placing beach-quality sand
274 on adjacent eroding beaches.

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

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