

By the Committees on Community Affairs; Environmental
Preservation and Conservation; and Senators Jones and Gaetz

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20081672c2

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

578-06655-08

20081672c2

30 inlet management; providing for input from interested
31 governmental and private entities; providing criteria for
32 establishing priorities; authorizing funding levels for
33 inlet management projects under specified conditions;
34 requiring that the department annually provide an inlet
35 management project list to the Legislature; providing
36 requirements for the list; requiring that the department
37 make available certain moneys for projects on the list;
38 requiring that the department make available certain
39 moneys for projects on the list which are legislatively
40 approved; requiring that the Legislature designate certain
41 inlet projects as "Inlet of the Year"; requiring the
42 department to provide an annual report to the Legislature
43 concerning the success of projects so designated;
44 authorizing rulemaking by the department; providing an
45 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 to
50 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 the
56 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, in the inlet channel, or in the

578-06655-08

20081672c2

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

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

578-06655-08

20081672c2

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

106 (4) The provisions of subsections (1) and (2) are shall not
107 ~~be~~ a requirement imposed upon ports listed in s. 403.021(9)(b).
108 However, such ports must demonstrate reasonable efforts to place
109 beach-quality sand from construction and maintenance dredging and
110 port-development projects on adjacent eroding beaches in
111 accordance with port master plans approved by the Department of
112 Community Affairs and with permits approved and issued by the
113 Department of Environmental Protection in order to ensure
114 compliance with this section. A port may sponsor or cosponsor
115 inlet management projects that are fully eligible for state cost
116 sharing.

578-06655-08

20081672c2

117 (5) The department shall ensure that the disposal of beach-
118 quality sand from federal projects in this state which involve
119 dredging for the purpose of navigation is placed 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-approved
129 inlet management plans do not specify the entity or entities
130 responsible for the extent of erosion caused by an inlet, the
131 department or local government, with the assistance of
132 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 measures
136 to correct such erosion. The entity that is responsible for
137 maintenance dredging of an inlet may be deemed responsible for
138 the erosion caused by the inlet if another responsible party is
139 not specified in such an assessment, a shore-protection project
140 investigation or report, or a state-approved inlet management
141 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

578-06655-08

20081672c2

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 management
151 projects.

152 Section 2. Section 161.143, Florida Statutes, is created to
153 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 such
166 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 are
170 not limited to, inlet sand bypassing, modifications to channel
171 dredging, jetty redesign, jetty repair, disposal of spoil
172 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

578-06655-08

20081672c2

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 annual
182 funding priorities for inlet management projects. In order to
183 maximize the benefits of efforts to address the inlet-caused
184 beach erosion problems of this state, the ranking criteria used
185 by the department to establish funding priorities for studies,
186 activities, or other projects concerning inlet management must
187 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 inlet
190 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 the
195 proposed project in balancing the sediment budget of the inlet
196 and adjacent beaches and addressing the sand deficit along the
197 inlet-affected shorelines.

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

578-06655-08

20081672c2

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-share
208 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 study,
228 activity, or other project concerning the management of an inlet.
229 The balance must be paid by the local governments or special
230 districts having jurisdiction over the property where the inlet
231 is located.

232 (4) Using the legislative appropriation to the statewide

578-06655-08

20081672c2

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 percent
236 of the costs of studies that are consistent with the legislative
237 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 as
247 part of the department's budget request. The list must include
248 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 percent
252 of the total amount that the Legislature appropriates in each
253 fiscal year for statewide beach management for the three highest-
254 ranked projects on the current year's inlet management project
255 list.

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

578-06655-08

20081672c2

262 (c) The department shall make available all statewide beach
263 management funds that remain unencumbered or are allocated to
264 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 will
270 not be ready to proceed during this 18-month period, such funds
271 shall be used for inlet management projects on legislatively
272 approved lists.

273 (d) The Legislature shall designate one of the three
274 highest projects on the inlet management project list in any year
275 as the Inlet of the Year. The department shall annually report to
276 the Legislature concerning the extent to which each inlet project
277 designated by the Legislature as Inlet of the Year has succeeded
278 in balancing the sediment budget of the inlet and adjacent
279 beaches, mitigating the inlet's erosive effects on adjacent
280 beaches, and transferring or otherwise placing beach-quality sand
281 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.