

**HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS**

**BILL #:** CS/HB 1369 Gulf County  
**SPONSOR(S):** Economic Development & Community Affairs Policy Council, Patronis  
**TIED BILLS:** **IDEN./SIM. BILLS:**

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	<b>REFERENCE</b>	<b>ACTION</b>	<b>ANALYST</b>	<b>STAFF DIRECTOR</b>
1)	<u>Economic Development &amp; Community Affairs Policy Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Fudge</u>	<u>Tinker</u>
2)	<u>Military &amp; Local Affairs Policy Committee</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
3)	<u>Civil Justice &amp; Courts Policy Committee</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
4)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>
5)	<u>_____</u>	<u>_____</u>	<u>_____</u>	<u>_____</u>

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**SUMMARY ANALYSIS**

The Department of Environmental Protection’s Coastal Construction Control Line Program (CCCL) protects the beach and dune system from improperly sited and designed structures which can destabilize or destroy the beach and dune system. The CCCL defines the portion of the beach-dune system affected by fluctuations caused by a 100 year storm surge, storm waves, or other forces such as wind, wave, or water level changes. The CCCL establishes an area of jurisdiction in which special siting and design criteria are applied for construction and related activities.

Current law prohibits the Department from issuing any permits for any new major structures that would be seaward of the seasonal high-water line within 30-years after the permit application date. However, the Department may issue a permit for a single-family dwelling for certain parcels platted or subdivided before October 1, 1985, and on which the dwelling will be located landward of the frontal dune structure and as landward as practicable without being located seaward of or on the frontal dune.

The bill provides that, in Gulf County, if the Department reestablishes a coastal control line after January 1, 2009, and s. 161.053(6)(b), F.S., would preclude the construction of a structure not previously subject to the jurisdiction of the program, the Department may issue a permit for a single-family dwelling if certain conditions are met.

**Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.**

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

The Florida Beach and Shore Preservation Act seeks to preserve and protect Florida's sandy beaches and adjacent beach and dune systems.<sup>1</sup> The beach and dune system protects upland properties from storm damage, provides recreation for Florida residents and visitors, and provides habitat for wildlife.<sup>2</sup> One component of the Act is the Coastal Construction Control Line Program (CCCL) which protects the beach and dune system from improperly sited and designed structures which can destabilize or destroy the beach and dune system. The CCCL defines the portion of the beach-dune system affected by fluctuations caused by a 100 year storm surge, storm waves, or other forces such as wind, wave, or water level changes. The CCCL establishes an area of jurisdiction in which special siting and design criteria are applied for construction and related activities.

Section 161.053, F.S., requires the Department of Environmental Protection (DEP) to restrict new development in designated portions of the shoreline to protect the beach dune system and reduce the loss of life and property from coastal storms.

Subsection 161.053(6)(b), F.S., prohibits the Department from issuing any permits for any structures which would be seaward of the seasonal high-water line within 30-years after the permit application date.<sup>3</sup> However, if subsection (b) would preclude the construction of a structure, the Department may issue a permit for a single-family dwelling for the parcel so long as:

1. The parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds before [October 1, 1985];
2. The owner of the parcel for which the single-family dwelling is proposed does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed;
3. The proposed single-family dwelling is located landward of the frontal dune structure; and
4. The proposed single-family dwelling will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune.<sup>4</sup>

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<sup>1</sup> Parts I and II of Chapter 161, F.S.

<sup>2</sup> *Frequently Asked Questions About the Coastal Construction Control Line*, updated 11/05, Florida Department of Environmental Protection, <http://www.dep.state.fl.us/beaches/data/worddoc/cccl-faq.doc>, accessed March 30, 2009.

<sup>3</sup> § 161.053(6)(b), F.S. only authorizes a permit for a shore protection structure, minor structure, pier or certain types of discharge pipe.

<sup>4</sup> § 161.053(6)(c), F.S.

## Effect of Proposed Changes

Due to the 2004 and 2005 hurricane seasons, then Governor Jeb Bush created the Coastal High Hazard Study Committee (CHHSC) to study and formulate recommendations for managing growth in Coastal High Hazard Areas, which are defined as Category 1 hurricane evacuation zones.<sup>5</sup> The CHHSC determined that "preliminary evaluation indicates the established CCCL no longer defines the impact of the 100-year return interval storm event in multiple areas of the panhandle, including Gulf County (most notably the St. Joe Peninsula)."<sup>6</sup>

In October, 2006, a Department engineering study -- *Coastal Control Line Review Study: Gulf County – St. Joe Spit (Ranges R75-R108)* -- recommended reestablishment of the CCCL along a 6 mile section of the St. Joseph Peninsula ranging southward from the south boundary of the State Park on St. Joseph Spit to the Federally owned land at the base of Cape San Blas. The proposed revisions to the CCCL would move the line landward affecting those landowners in Gulf County whose parcels were platted after October 1, 1985.

The bill provides that, in Gulf County, if the Department reestablishes a coastal control line after January 1, 2009, and s. 161.053(6)(b), F.S., would preclude the construction of a structure not previously subject to the jurisdiction of the program, the Department may issue a permit for a single-family dwelling. The permit applicant must show that the parcel for which the single-family dwelling is proposed was platted or subdivided by metes and bounds prior to January 1, 2009; that the owner of the proposed parcel does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed; the dwelling will be located landward of the frontal dune structure; and will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune.

### B. SECTION DIRECTORY:

Section 1: Authorizes the Department of Environmental Protection, notwithstanding s. 161.053, F.S., to issue a permit for a single-family dwelling under certain circumstances.

Section 2: Provides an effective date of upon becoming law.

## II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 29, 2009.

WHERE? In *The Star*, a weekly newspaper published in Gulf County, Florida.

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

The Economic Impact Statement indicates that the bill will allow for the completion of construction of single family dwellings in Gulf County.

<sup>5</sup> Executive Order 05-178.

<sup>6</sup> *Coastal High Hazard Study Committee Final Report*, issued February 1, 2006, available at <http://www.dca.state.fl.us/fdcp/dcp/publications/CoastalHighHazardFinalReport.pdf>, last accessed March 30, 2009.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### **Constitutional Notice Requirement for Local Bills**

Section 10, Art. III of the State Constitution provides that “[n]o special law shall be passed unless notice of intention to seek enactment thereof has been published in the manner provided by general law.”

Section 11.02, F.S., implements the constitutional notice requirement, and requires that such notice “...state the substance of the contemplated law as required by s. 10, Art III of the State Constitution.” The original advertisement provided with the bill specifically enumerated the criteria that must be satisfied before a permit would be issued. The advertisement “provided reasonable notice to a person whose interests may be directly affected by the proposed legislation so that he or she may inquire further into the details of the local bill . . . .”<sup>7</sup>

The amendment provides an additional criterion that the parcel be platted or subdivided prior to January 1, 2009. The additional criterion limits the availability of this exemption from general law.

#### B. RULE-MAKING AUTHORITY:

None.

#### C. DRAFTING ISSUES OR OTHER COMMENTS:

##### **Other Comments**

House Rule 5.5(b) states that a local bill that provides an exemption from general law may not be placed on the special Order Calendar in any section reserved for the expedited consideration of local bills. This bill appears to provide an exemption to s. 161.053, F.S.

### IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On April 1, 2009, the Economic Development & Community Affairs Policy Council adopted two amendments. The first amendment was a strike all that added an additional criterion. The second amendment was a technical amendment.

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<sup>7</sup> *Local Bill Policies and Procedures Manual 2008-2009*, pg. 6.