

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative Rouson offered the following:

Substitute Amendment to Amendment (922767) (with title amendment)

Between lines 125 and 126, insert:

Section 1. Subsections (3) and (9) of section 161.085, Florida Statutes, are amended to read:

161.085 Rigid coastal armoring structures.—

(3) If erosion occurs as a result of a storm event which threatens private structures or public infrastructure and a permit has not been issued pursuant to subsection (2), unless the authority has been revoked by order of the department pursuant to subsection (8), an agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of rigid coastal armoring structures, ~~exclusive of those authorized under subsection (9),~~

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17 for the protection of private structures or public
18 infrastructure, or take other measures to relieve the threat to
19 private structures or public infrastructure as long as the
20 following items are considered and incorporated into such
21 emergency measures:

22 (a) Protection of the beach-dune system.

23 (b) Siting and design criteria for the protective
24 structure.

25 (c) Impacts on adjacent properties.

26 (d) Preservation of public beach access.

27 (e) Protection of native coastal vegetation, nesting state
28 or federally threatened or endangered species, and nesting
29 marine turtles and their hatchlings.

30 (9) Notwithstanding any law or department rule to the
31 contrary, a general permit is created for ~~The department may~~
32 ~~authorize~~ dune restoration incorporating sand-filled geotextile
33 containers or similar structures proposed as the core of a
34 restored dune feature when the conditions of this subsection
35 ~~paragraphs (a) - (c) and the requirements of s. 161.053~~ are met.

36 (a) A general permit is transferable and shall ~~may~~ be
37 granted by the department under this subsection for construction
38 and maintenance of dune restoration incorporating geotextile
39 containers or similar structures provided that such projects:

40 1. Provide for the protection of an existing major
41 structure or public infrastructure, and, notwithstanding any
42 definition in department rule to the contrary, that major
43 structure or public infrastructure is vulnerable to damage from
44 frequent coastal storms, or is upland of a beach-dune system

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45 which has experienced significant beach erosion from such storm
46 events.

47 2. Are constructed using native or beach-quality sand and
48 native salt-tolerant vegetation suitable for dune stabilization
49 as approved by the department.

50 3. May include materials other than native or beach-
51 quality sand such as geotextile materials that are used to
52 contain beach-quality sand for the purposes of maintaining the
53 stability and longevity of the dune core.

54 4. Are ~~continuously~~ covered with 3 feet of native or
55 beach-quality sand and stabilized with native salt-tolerant
56 vegetation.

57 5. Are sited as far landward as practicable, balancing the
58 need to minimize excavation of the beach-dune system, impacts to
59 nesting marine turtles and other nesting state or federally
60 threatened or endangered species, and impacts to adjacent
61 properties.

62 6. Are designed and sited in a manner that will minimize
63 the potential for erosion.

64 7. Do not materially impede access by the public.

65 8. Are designed to minimize adverse effects to nesting
66 marine turtles and turtle hatchlings, consistent with s.
67 379.2431.

68 9. Are designed to facilitate easy removal of the
69 geotextile containers if needed.

70 10. The United States Fish and Wildlife Service has
71 approved an Incidental Take Permit for marine turtles and other
72 federally threatened or endangered species pursuant to s. 7 or
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73 s. 10 of the Endangered Species Act for the placement of the
74 structure, provided the United States Fish and Wildlife Service
75 has required if an Incidental Take Permit as a condition
76 precedent to placement of the structure is required.

77 (b) An applicant seeking a general permit shall provide
78 the department with the information set forth in rule 62B-
79 56.050(3)(a), (b), (c), (e), (g), (i), (j), (k)1-4, (l), and
80 (m), Florida Administrative Code. The information shall be
81 submitted under seal by a professional engineer licensed to
82 practice in this state. In addition, the applicant shall submit
83 a fee of \$2,500, which shall be refunded to the applicant if the
84 application is not approved pursuant to this subsection.

85 (c) The department shall grant or deny in writing each
86 request for a general permit pursuant to this subsection within
87 30 days after receipt of the documentation required under
88 paragraph (b), unless the applicant agrees to an extension.
89 Unless the applicant agrees to another date, if the department
90 fails to act on the request within the 30-day period, the
91 request is approved. The department's denial of a request for a
92 general permit is subject to review under chapter 120. If the
93 general permit is denied, the denial shall be set aside and the
94 permit shall be issued in response to any administrative or
95 judicial proceeding for review unless the department can
96 demonstrate by clear and convincing evidence that the applicant
97 has not submitted the required documentation.

98 (d) ~~(b)~~ Subsequent to issuance of the general permit, but
99 prior to commencement of construction, the permittee shall
100 submit to the department a fee of \$1,500 and the information set

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101 forth in rule 62B-56.050(3)(h), (k)5-7, and (n), Florida
102 Administrative Code, certified by a professional engineer
103 licensed to practice in this state. In addition, the permittee
104 ~~The applicant or successive property owners shall provide~~
105 financial assurances in the form of surety or performance bonds
106 or other financial responsibility mechanisms that the authorized
107 geotextile containers will be removed if the requirements of
108 this subsection cannot reasonably be maintained ~~and the permit~~
109 ~~conditions are not met.~~ The permittee shall file a notice of the
110 general formal permit conditions in the public records of the
111 county where the permitted activity is located. Project
112 construction shall be undertaken by a contractor licensed in
113 this state.

114 (e) ~~(e)~~ The department shall order removal of the
115 geotextile container ~~if the conditions of subparagraph (a)4. are~~
116 ~~not met,~~ if the project can no longer ceases to function as
117 designed due to irreparable damage, ~~if the project is determined~~
118 ~~by the department to have caused a significant adverse impact to~~
119 ~~the beach-dune system,~~ or if the United States Fish and Wildlife
120 Service revokes the Incidental Take Permit required in
121 subparagraph (a)10.

122 (f) In addition to paragraphs (a)-(e), a general permit is
123 granted for dune restoration incorporating geotextile containers
124 or similar structures approved by any state or local agency
125 pursuant to subsection (3) and constructed prior to July 2007 if
126 the applicant demonstrates that the project was designed by a
127 professional engineer licensed in this state and installed by a
128 contractor licensed in this state. The department shall order

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129 removal of the geotextile containers only if the permittee fails
130 to meet the conditions of paragraph (e).

131 ~~(d) The department may require any engineering~~
132 ~~certifications that are necessary to ensure the adequacy of the~~
133 ~~design and construction of the permitted project.~~

134 ~~(e) Upon receipt of a permit application, the department~~
135 ~~must notify the applicant and agent of all the statutory~~
136 ~~provisions of this subsection.~~

137 ~~(f) The department shall review, with third party expert~~
138 ~~involvement, the performance of dune restoration incorporating~~
139 ~~geotextile sand-filled containers to determine whether such~~
140 ~~structures provide upland protection and to determine their~~
141 ~~impact on the beach-dune system and adjacent properties. Such~~
142 ~~structures shall continue to be evaluated to determine if they~~
143 ~~are a more effective form of dune restoration than beach-~~
144 ~~compatible sand and native vegetation. Based on such analysis~~
145 ~~and peer review, the department shall recommend to the Governor,~~
146 ~~the President of the Senate, and the Speaker of the House of~~
147 ~~Representatives if the provisions of this subsection should be~~
148 ~~modified. It is the intent of the Legislature that until such~~
149 ~~recommendations are transmitted and considered by the~~
150 ~~Legislature, there shall be no changes in the requirements or~~
151 ~~conditions contained in this subsection.~~

152 (g) The department shall not include structures authorized
153 under this subsection in the statewide comprehensive beach
154 management plan or the annual list of local government funding
155 requests submitted to the Legislature pursuant to ss. 161.091
156 and 161.161.

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157 (h) Any rules of the department inconsistent with this
158 subsection are repealed.

163 **T I T L E A M E N D M E N T**

164 Remove line 2 and insert:

165 An act relating to environmental control; amending s.
166 161.085, F.S.; creating a general permit for dune
167 restoration incorporating sand-filled geotextile
168 containers or similar structures; providing application
169 and issuance requirements for such permits; requiring the
170 Department of Environmental Protection to issue permits
171 for construction and maintenance of dune restoration
172 structures; requiring permittees to submit specified fees;
173 providing that permit denial is subject to review under
174 ch. 120; revising provisions relating to the removal of
175 geotextile containers; granting a permit for dune
176 restoration incorporating geotextile containers or similar
177 structures approved by any state or local agency meeting
178 specified criteria; deleting a provision authorizing the
179 department to require certain engineering certifications;
180 deleting a provision requiring the department to provide
181 certain notice; deleting a provision requiring the
182 department to conduct reviews of dune restoration
183 activities and to provide recommendations to the Governor

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184 and the Legislature; repealing specified rules of the
185 department; amending s.