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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/11/2012	.	
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The Committee on Environmental Preservation and Conservation  
(Jones) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 161.041, Florida Statutes, is amended to  
read:

161.041 Permits required.—

(1) If a ~~any~~ person, firm, corporation, county,  
municipality, township, special district, or ~~any~~ public agency  
desires to make any coastal construction or reconstruction or  
change of existing structures, or any construction or physical  
activity undertaken specifically for shore protection purposes,



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13 or other structures and physical activity including groins,  
14 jetties, moles, breakwaters, seawalls, revetments, artificial  
15 nourishment, inlet sediment bypassing, excavation or maintenance  
16 dredging of inlet channels, or other deposition or removal of  
17 beach material, or construction of other structures ~~if~~ of a  
18 solid or highly impermeable design, ~~upon state~~ state sovereignty lands  
19 ~~of Florida,~~ below the mean high-water line of any tidal water of  
20 the state, a coastal construction permit must be obtained from  
21 the department before ~~prior to~~ the commencement of such work.  
22 The department may exempt interior tidal waters of the state  
23 from the permit requirements of this section. ~~No such~~  
24 ~~development shall interfere,~~

25 (a) Except during construction, such development may not  
26 interfere with the public use ~~by the public~~ of any area of a  
27 beach seaward of the mean high-water line unless the department  
28 determines that the ~~such~~ interference is unavoidable for  
29 purposes of protecting the beach or an ~~any~~ endangered upland  
30 structure. ~~The department may require,~~ As a condition of ~~to~~  
31 granting permits under this section, the department may require  
32 the provision of alternative access if ~~when~~ interference with  
33 public access along the beach is unavoidable. The width of such  
34 alternate access may not be required to exceed the width of the  
35 access that will be obstructed as a result of the permit being  
36 granted. ~~Application for coastal construction permits as defined~~  
37 ~~above shall be made to the department upon such terms and~~  
38 ~~conditions as set forth by rule of the department.~~

39 (b) Except for the deepwater ports identified in s.  
40 403.021(9)(b), the department shall not issue a ~~any~~ permit for  
41 the construction of a coastal inlet jetty or the excavation or



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42 maintenance of such an inlet if the activity authorized by the  
43 permit will have a significant adverse impact on the sandy  
44 beaches of this state without a mitigation program approved by  
45 the department. In evaluating the mitigation program, the  
46 department shall consider ~~take into consideration~~ the benefits  
47 of the long-term sand management plan of the permittee and the  
48 overall public benefits of the inlet activity.

49 (2) The department may authorize an excavation or erection  
50 of a structure at any coastal location upon receipt of an  
51 application from a property or riparian owner and upon  
52 consideration of facts and circumstances, including:

53 (a) Adequate engineering data concerning inlet and  
54 shoreline stability and storm tides related to shoreline  
55 topography;

56 (b) Design features of the proposed structures or  
57 activities; and

58 (c) Potential effects ~~impacts~~ of the location of such  
59 structures or activities, including potential cumulative effects  
60 of any proposed structures or activities upon such beach-dune  
61 system or coastal inlet, which, in the opinion of the  
62 department, clearly justify such a permit.

63 (3) The department may require ~~such~~ engineer certifications  
64 as necessary to assure the adequacy of the design and  
65 construction of permitted projects. Reasonable assurance is  
66 demonstrated if the permit applicant provides competent  
67 substantial evidence based on plans, studies, and credible  
68 expertise that accounts for naturally occurring variables that  
69 might reasonably be expected.

70 (4) The department may, as a condition to ~~the~~ granting of a



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71 permit under this section, require mitigation, financial, or  
72 other assurances acceptable to the department as ~~may be~~  
73 necessary to assure performance of the conditions of a permit or  
74 enter into contractual agreements to best assure compliance with  
75 any permit conditions. Biological and environmental monitoring  
76 conditions included in the permit must ~~shall~~ be based upon  
77 clearly defined scientific principles. The department may also  
78 require notice of the required permit conditions ~~required~~ and  
79 the contractual agreements entered into pursuant to ~~the~~  
80 ~~provisions of~~ this subsection to be filed in the public records  
81 of the county in which the permitted activity is located.

82 (5) Notwithstanding any other provision of law, the  
83 department may issue permits pursuant to this part in advance of  
84 the issuance of an incidental take authorization provided under  
85 the Endangered Species Act and its implementing regulations if  
86 the permits and authorizations include a condition that requires  
87 that such authorized activities not begin until the incidental  
88 take authorization is issued.

89 (6) The department shall adopt rules to address standard  
90 mixing zone criteria and antidegradation requirements for  
91 turbidity generation for beach management and inlet bypassing  
92 permits that involve the excavation and placement of sediment in  
93 order to reduce or eliminate the need for variances. In  
94 processing variance requests, the department must consider the  
95 legislative declaration that, pursuant to s. 161.088, beach  
96 nourishment projects are in the public interest.

97 (7) Application for permits shall be made to the department  
98 upon such terms and conditions as set forth by rule.

99 (a) If, as part of the permit process, the department



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100 requests additional information, it must cite applicable  
101 statutory and rule provisions that justify any item listed in a  
102 request for additional information.

103 (b) The department may not issue guidelines that are  
104 enforceable as standards for beach management, inlet management,  
105 and other erosion control projects without adopting such  
106 guidelines by rule.

107 (8) The Legislature intends to simplify and expedite the  
108 permitting process for the periodic maintenance of previously  
109 permitted and constructed beach nourishment and inlet management  
110 projects under the joint coastal permit process. A detailed  
111 review of a previously permitted project is not required if  
112 there have been no substantial changes in project scope and past  
113 performance of the project indicates that the project has  
114 performed according to design expectations. The department shall  
115 amend chapters 62B-41 and 62B-49, Florida Administrative Code,  
116 to streamline the permitting process for periodic beach  
117 maintenance projects and inlet sand bypassing activities.

118 (9) Joint coastal permits issued for activities falling  
119 under this section and part IV of chapter 373 must allow for two  
120 maintenance or dredging disposal events or a permit life of 15  
121 years, whichever is greater.

122 Section 2. Subsection (20) of section 161.101, Florida  
123 Statutes, is amended to read:

124 161.101 State and local participation in authorized  
125 projects and studies relating to beach management and erosion  
126 control.—

127 (20) The department shall maintain active ~~a current~~ project  
128 listings on its website by fiscal year in order to provide



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129 transparency regarding those projects receiving funding and the  
130 funding amounts, and to facilitate legislative reporting and  
131 oversight. In consideration of this intent: listing and may, in  
132 its discretion and dependent upon the availability of local  
133 resources and changes in the criteria listed in subsection (14),  
134 revise the project listing.

135 (a) The department shall notify the Executive Office of the  
136 Governor and the Legislature regarding any significant changes  
137 in the funding levels of a given project as initially requested  
138 in the department's budget submission and subsequently included  
139 in approved annual funding allocations. The term "significant  
140 change" means those changes exceeding 25 percent of a project's  
141 original allocation. If there is surplus funding, notification  
142 shall be provided to the Executive Office of the Governor and  
143 the Legislature to indicate whether additional dollars are  
144 intended to be used for inlet management pursuant to s. 161.143,  
145 offered for reversion as part of the next appropriations  
146 process, or used for other specified priority projects on active  
147 project lists.

148 (b) A summary of specific project activities for the  
149 current fiscal year, funding status, and changes to annual  
150 project lists shall be prepared by the department and included  
151 with the department's submission of its annual legislative  
152 budget request.

153 (c) A local project sponsor may at any time release, in  
154 whole or in part, appropriated project dollars by formal  
155 notification to the department, which shall notify the Executive  
156 Office of the Governor and the Legislature. Notification must  
157 indicate how the project dollars are intended to be used.



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158 Section 3. Paragraph (v) is added to subsection (1) of  
159 section 403.813, Florida Statutes, to read:

160 403.813 Permits issued at district centers; exceptions.—

161 (1) A permit is not required under this chapter, chapter  
162 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
163 chapter 25270, 1949, Laws of Florida, for activities associated  
164 with the following types of projects; however, except as  
165 otherwise provided in this subsection, nothing in this  
166 subsection relieves an applicant from any requirement to obtain  
167 permission to use or occupy lands owned by the Board of Trustees  
168 of the Internal Improvement Trust Fund or any water management  
169 district in its governmental or proprietary capacity or from  
170 complying with applicable local pollution control programs  
171 authorized under this chapter or other requirements of county  
172 and municipal governments:

173 (v) Notwithstanding any other provision in this chapter,  
174 chapter 373, or chapter 161, a permit or other authorization is  
175 not required for the following exploratory activities associated  
176 with beach restoration and nourishment projects and inlet  
177 management activities:

178 1. The collection of geotechnical, geophysical, and  
179 cultural resource data, including surveys, mapping, acoustic  
180 soundings, benthic and other biologic sampling, and coring.

181 2. Oceanographic instrument deployment, including temporary  
182 installation on the seabed of coastal and oceanographic data  
183 collection equipment.

184 3. Incidental excavation associated with any of the  
185 activities listed under paragraph (a) or paragraph (b).

186 Section 4. This act shall take effect July 1, 2012.



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===== T I T L E A M E N D M E N T =====

And the title is amended as follows:

Delete everything before the enacting clause  
and insert:

A bill to be entitled

An act relating to beach management; amending s.  
161.041, F.S.; specifying that demonstration to the  
Department of Environmental Protection of the adequacy  
of a project's design and construction is supported by  
certain evidence; authorizing the department to issue  
permits for an incidental take authorization under  
certain circumstances; requiring the department to  
adopt certain rules involving the excavation and  
placement of sediment; requiring the Department of  
Environmental Protection to justify items listed in a  
request for additional information; providing  
legislative intent; exempting certain previously  
permitted projects from detailed review; requiring  
that the department amend certain rules to streamline  
the permitting process for certain projects and  
activities; providing for the permit life of joint  
coastal permits; amending s. 161.101, F.S.; requiring  
the department to maintain certain beach management  
project information on its website; defining the term  
"significant change"; requiring the department to  
notify the Governor's Office and the Legislature  
concerning any significant changes in project funding  
levels; amending s. 403.813, F.S.; providing a permit



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216 exemption for certain specified exploratory activities  
217 relating to beach restoration and nourishment projects  
218 and inlet management activities; providing an  
219 effective date.