

By the Committee on Environmental Preservation and Conservation;  
and Senator Jones

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1                   A bill to be entitled  
2           An act relating to beach management; amending s.  
3           161.041, F.S.; specifying that demonstration to the  
4           Department of Environmental Protection of the adequacy  
5           of a project's design and construction is supported by  
6           certain evidence; authorizing the department to issue  
7           permits for an incidental take authorization under  
8           certain circumstances; requiring the department to  
9           adopt certain rules involving the excavation and  
10          placement of sediment; requiring the Department of  
11          Environmental Protection to justify items listed in a  
12          request for additional information; providing  
13          legislative intent; exempting certain previously  
14          permitted projects from detailed review; requiring  
15          that the department amend certain rules to streamline  
16          the permitting process for certain projects and  
17          activities; providing for the permit life of joint  
18          coastal permits; amending s. 161.101, F.S.; requiring  
19          the department to maintain certain beach management  
20          project information on its website; defining the term  
21          "significant change"; requiring the department to  
22          notify the Governor's Office and the Legislature  
23          concerning any significant changes in project funding  
24          levels; amending s. 403.813, F.S.; providing a permit  
25          exemption for certain specified exploratory activities  
26          relating to beach restoration and nourishment projects  
27          and inlet management activities; providing an  
28          effective date.  
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30 Be It Enacted by the Legislature of the State of Florida:

31  
32 Section 1. Section 161.041, Florida Statutes, is amended to  
33 read:

34 161.041 Permits required.—

35 (1) If a ~~any~~ person, firm, corporation, county,  
36 municipality, township, special district, or ~~any~~ public agency  
37 desires to make any coastal construction or reconstruction or  
38 change of existing structures, or any construction or physical  
39 activity undertaken specifically for shore protection purposes,  
40 or other structures and physical activity including groins,  
41 jetties, moles, breakwaters, seawalls, revetments, artificial  
42 nourishment, inlet sediment bypassing, excavation or maintenance  
43 dredging of inlet channels, or other deposition or removal of  
44 beach material, or construction of other structures ~~if~~ of a  
45 solid or highly impermeable design, upon state sovereignty lands  
46 ~~of Florida,~~ below the mean high-water line of any tidal water of  
47 the state, a coastal construction permit must be obtained from  
48 the department before ~~prior to~~ the commencement of such work.  
49 The department may exempt interior tidal waters of the state  
50 from the permit requirements of this section. ~~No such~~  
51 ~~development shall interfere,~~

52 (a) Except during construction, such development may not  
53 interfere with the public use ~~by the public~~ of any area of a  
54 beach seaward of the mean high-water line unless the department  
55 determines that the ~~such~~ interference is unavoidable for  
56 purposes of protecting the beach or an ~~any~~ endangered upland  
57 structure. ~~The department may require,~~ As a condition of ~~to~~  
58 granting permits under this section, the department may require

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59 the provision of alternative access if ~~when~~ interference with  
60 public access along the beach is unavoidable. The width of such  
61 alternate access may not be required to exceed the width of the  
62 access that will be obstructed as a result of the permit being  
63 granted. ~~Application for coastal construction permits as defined~~  
64 ~~above shall be made to the department upon such terms and~~  
65 ~~conditions as set forth by rule of the department.~~

66 (b) Except for the deepwater ports identified in s.  
67 403.021(9) (b), the department shall not issue a ~~any~~ permit for  
68 the construction of a coastal inlet jetty or the excavation or  
69 maintenance of such an inlet if the activity authorized by the  
70 permit will have a significant adverse impact on the sandy  
71 beaches of this state without a mitigation program approved by  
72 the department. In evaluating the mitigation program, the  
73 department shall consider ~~take into consideration~~ the benefits  
74 of the long-term sand management plan of the permittee and the  
75 overall public benefits of the inlet activity.

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

80 (a) Adequate engineering data concerning inlet and  
81 shoreline stability and storm tides related to shoreline  
82 topography;

83 (b) Design features of the proposed structures or  
84 activities; and

85 (c) Potential effects ~~impacts~~ of the location of such  
86 structures or activities, including potential cumulative effects  
87 of any proposed structures or activities upon such beach-dune

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88 system or coastal inlet, which, in the opinion of the  
89 department, clearly justify such a permit.

90 (3) The department may require ~~such~~ engineer certifications  
91 as necessary to assure the adequacy of the design and  
92 construction of permitted projects. Reasonable assurance is  
93 demonstrated if the permit applicant provides competent  
94 substantial evidence based on plans, studies, and credible  
95 expertise that accounts for naturally occurring variables that  
96 might reasonably be expected.

97 (4) The department may, as a condition to ~~the~~ granting of a  
98 permit under this section, require mitigation, financial, or  
99 other assurances acceptable to the department as ~~may be~~  
100 necessary to assure performance of the conditions of a permit or  
101 enter into contractual agreements to best assure compliance with  
102 any permit conditions. Biological and environmental monitoring  
103 conditions included in the permit must ~~shall~~ be based upon  
104 clearly defined scientific principles. The department may also  
105 require notice of the required permit conditions ~~required~~ and  
106 the contractual agreements entered into pursuant to ~~the~~  
107 ~~provisions of~~ this subsection to be filed in the public records  
108 of the county in which the permitted activity is located.

109 (5) Notwithstanding any other provision of law, the  
110 department may issue permits pursuant to this part in advance of  
111 the issuance of an incidental take authorization provided under  
112 the Endangered Species Act and its implementing regulations if  
113 the permits and authorizations include a condition that requires  
114 that such authorized activities not begin until the incidental  
115 take authorization is issued.

116 (6) The department shall adopt rules to address standard

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117 mixing zone criteria and antidegradation requirements for  
118 turbidity generation for beach management and inlet bypassing  
119 permits that involve the excavation and placement of sediment in  
120 order to reduce or eliminate the need for variances. In  
121 processing variance requests, the department must consider the  
122 legislative declaration that, pursuant to s. 161.088, beach  
123 nourishment projects are in the public interest.

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

126 (a) If, as part of the permit process, the department  
127 requests additional information, it must cite applicable  
128 statutory and rule provisions that justify any item listed in a  
129 request for additional information.

130 (b) The department may not issue guidelines that are  
131 enforceable as standards for beach management, inlet management,  
132 and other erosion control projects without adopting such  
133 guidelines by rule.

134 (8) The Legislature intends to simplify and expedite the  
135 permitting process for the periodic maintenance of previously  
136 permitted and constructed beach nourishment and inlet management  
137 projects under the joint coastal permit process. A detailed  
138 review of a previously permitted project is not required if  
139 there have been no substantial changes in project scope and past  
140 performance of the project indicates that the project has  
141 performed according to design expectations. The department shall  
142 amend chapters 62B-41 and 62B-49, Florida Administrative Code,  
143 to streamline the permitting process for periodic beach  
144 maintenance projects and inlet sand bypassing activities.

145 (9) Joint coastal permits issued for activities falling

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146 under this section and part IV of chapter 373 must allow for two  
147 maintenance or dredging disposal events or a permit life of 15  
148 years, whichever is greater.

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

151 161.101 State and local participation in authorized  
152 projects and studies relating to beach management and erosion  
153 control.-

154 (20) The department shall maintain active ~~a current~~ project  
155 listings on its website by fiscal year in order to provide  
156 transparency regarding those projects receiving funding and the  
157 funding amounts, and to facilitate legislative reporting and  
158 oversight. In consideration of this intent: listing and may, in  
159 ~~its discretion and dependent upon the availability of local~~  
160 ~~resources and changes in the criteria listed in subsection (14),~~  
161 ~~revise the project listing.~~

162 (a) The department shall notify the Executive Office of the  
163 Governor and the Legislature regarding any significant changes  
164 in the funding levels of a given project as initially requested  
165 in the department's budget submission and subsequently included  
166 in approved annual funding allocations. The term "significant  
167 change" means those changes exceeding 25 percent of a project's  
168 original allocation. If there is surplus funding, notification  
169 shall be provided to the Executive Office of the Governor and  
170 the Legislature to indicate whether additional dollars are  
171 intended to be used for inlet management pursuant to s. 161.143,  
172 offered for reversion as part of the next appropriations  
173 process, or used for other specified priority projects on active  
174 project lists.

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175 (b) A summary of specific project activities for the  
176 current fiscal year, funding status, and changes to annual  
177 project lists shall be prepared by the department and included  
178 with the department's submission of its annual legislative  
179 budget request.

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

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

187 403.813 Permits issued at district centers; exceptions.—

188 (1) A permit is not required under this chapter, chapter  
189 373, chapter 61-691, Laws of Florida, or chapter 25214 or  
190 chapter 25270, 1949, Laws of Florida, for activities associated  
191 with the following types of projects; however, except as  
192 otherwise provided in this subsection, nothing in this  
193 subsection relieves an applicant from any requirement to obtain  
194 permission to use or occupy lands owned by the Board of Trustees  
195 of the Internal Improvement Trust Fund or any water management  
196 district in its governmental or proprietary capacity or from  
197 complying with applicable local pollution control programs  
198 authorized under this chapter or other requirements of county  
199 and municipal governments:

200 (v) Notwithstanding any other provision in this chapter,  
201 chapter 373, or chapter 161, a permit or other authorization is  
202 not required for the following exploratory activities associated  
203 with beach restoration and nourishment projects and inlet

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204 management activities:

205 1. The collection of geotechnical, geophysical, and  
206 cultural resource data, including surveys, mapping, acoustic  
207 soundings, benthic and other biologic sampling, and coring.

208 2. Oceanographic instrument deployment, including temporary  
209 installation on the seabed of coastal and oceanographic data  
210 collection equipment.

211 3. Incidental excavation associated with any of the  
212 activities listed under subparagraph 1. or subparagraph 2.

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