



CS/CS/HB 791, Engrossed 1

2014

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.053, F.S.; revising permit requirements for
4 coastal construction and excavation; authorizing the
5 Department of Environmental Protection, in
6 consultation with the Fish and Wildlife Conservation
7 Commission, to grant areawide permits for certain
8 structures; requiring the department to adopt rules;
9 creating s. 258.435, F.S.; requiring the Department of
10 Environmental Protection to promote the public use of
11 aquatic preserves and their associated uplands;
12 authorizing the department to receive gifts and
13 donations for specified purposes; providing
14 restrictions for moneys received; authorizing the
15 department to grant privileges and concessions for
16 accommodation of visitors in and use of aquatic
17 preserves and their associated uplands; providing
18 criteria for granting such concessions; providing
19 restrictions on such privileges and concessions and
20 prohibiting them from being assigned or transferred
21 without the department's consent; requiring the
22 department to post descriptions of proposed privileges
23 and concessions on the department's website; requiring
24 the department to provide an opportunity for public
25 comment on agreements for such privileges and



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26 | concessions; amending s. 380.276, F.S.; authorizing
27 | the department to allow state agencies and local
28 | governments to use additional safety and warning
29 | devices at public beaches under certain conditions;
30 | providing an effective date.
31 |

32 | Be It Enacted by the Legislature of the State of Florida:
33 |

34 | Section 1. Subsections (17) and (18) of section 161.053,
35 | Florida Statutes, are amended to read:

36 | 161.053 Coastal construction and excavation; regulation on
37 | county basis.—

38 | (17) The department may grant areawide permits to local
39 | governments, other governmental agencies, and utility companies
40 | for special classes of activities in areas under their general
41 | jurisdiction or responsibility or for the construction of minor
42 | structures, if these activities or structures, due to the type,
43 | size, or temporary nature of the activity or structure, will not
44 | cause measurable interference with the natural functioning of
45 | the beach-dune system or with marine turtles or their nesting
46 | sites. Such activities or structures must comply with this
47 | section and may include, but are not limited to: road repairs,
48 | not including new construction; utility repairs and
49 | replacements, or other minor activities necessary to provide
50 | utility services; beach cleaning; dune restoration; on-grade



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51 | walkovers for enhancing accessibility or use in compliance with
52 | the Americans with Disabilities Act; and emergency response. The
53 | department shall ~~may~~ adopt rules to establish criteria and
54 | guidelines for permit applicants. The department shall consult
55 | with the Fish and Wildlife Conservation Commission on each
56 | proposed areawide permit and must require notice provisions
57 | appropriate to the type and nature of the activities for which
58 | the areawide permits are sought.

59 | (18) (a) The department may grant general permits for
60 | projects, including dune restoration, dune walkovers, decks,
61 | fences, landscaping, sidewalks, driveways, pool resurfacing,
62 | minor pool repairs, and other nonhabitable structures, if the
63 | projects, due to type, size, or temporary nature, will not cause
64 | a measurable interference with the natural functioning of the
65 | beach-dune system or with marine turtles or their nesting sites.
66 | Multifamily habitable structures do not qualify for general
67 | permits. However, single-family habitable structures and
68 | swimming pools associated with such single-family habitable
69 | structures that do not advance the line of existing construction
70 | and satisfy all siting and design requirements of this section,
71 | and minor reconstruction for existing coastal armoring
72 | structures, may be eligible for a general permit.

73 | (b) The department shall ~~may~~ adopt rules to establish
74 | criteria and guidelines for permit applicants.

75 | (c) ~~(a)~~ Persons wishing to use the general permits must, at



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76 | least 30 days before beginning any work, notify the department
77 | in writing on forms adopted by the department. The notice must
78 | include a description of the proposed project and supporting
79 | documents depicting the proposed project, its location, and
80 | other pertinent information as required by rule, to demonstrate
81 | that the proposed project qualifies for the requested general
82 | permit. Persons who undertake projects without proof of notice
83 | to the department, but whose projects would otherwise qualify
84 | for general permits, shall be considered to have undertaken a
85 | project without a permit and are subject to enforcement pursuant
86 | to s. 161.121.

87 | (d) ~~(b)~~ Persons wishing to use a general permit must
88 | provide notice as required by the applicable local building code
89 | where the project will be located. If a building code does not
90 | require ~~requires no~~ notice, a ~~any~~ person wishing to use a
91 | general permit must, at a minimum, post a sign describing the
92 | project on the property at least 5 days before commencing
93 | construction. The sign must be at least 88 square inches, with
94 | letters no smaller than one-quarter inch.

95 | Section 2. Section 258.435, Florida Statutes, is created
96 | to read:

97 | 258.435 Use of aquatic preserves for the accommodation of
98 | visitors.—

99 | (1) The Department of Environmental Protection shall
100 | promote the public use of aquatic preserves and their associated



101 uplands. The department may receive gifts and donations to carry
102 out the purpose of part II of this chapter. Moneys received in
103 trust by the department by gift, devise, appropriation, or
104 otherwise, subject to the terms of such trust, shall be
105 deposited into the Land Acquisition Trust Fund and appropriated
106 to the department for the administration, development,
107 improvement, promotion, and maintenance of aquatic preserves and
108 their associated uplands and for any future acquisition or
109 development of aquatic preserves and their associated uplands.

110 (2) The department may grant a privilege or concession for
111 the accommodation of visitors in and use of aquatic preserves
112 and their associated state-owned uplands if the privilege or
113 concession does not deny or interfere with the public's access
114 to such lands and is compatible with the aquatic preserve's
115 management plan as approved by the Acquisition and Restoration
116 Council. A concession must be granted based on business plans,
117 qualifications, approach, and specified expectations or
118 criteria. A privilege or concession may not be assigned or
119 transferred by the grantee without the consent of the
120 department.

121 (3) Upon submittal to the department of a proposed
122 concession or privilege, the department shall post a description
123 of the proposed concession or privilege on the department's
124 website, including a description of the activity to occur under
125 the proposed concession or privilege, the time of year that the



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126 activity would take place, and the location of the activity.
127 Once the description of the proposed privilege or concession is
128 posted on the department's website and at least 60 days before
129 execution of a privilege or concession agreement, the department
130 shall provide an opportunity for public comment on the proposed
131 privilege or concession agreement.

132 Section 3. Subsections (2) and (7) of section 380.276,
133 Florida Statutes, are amended to read:

134 380.276 Beaches and coastal areas; display of uniform
135 warning and safety flags at public beaches; placement of uniform
136 notification signs; beach safety education.—

137 (2) The Department of Environmental Protection, through
138 the Florida Coastal Management Program, shall direct and
139 coordinate the uniform warning and safety flag program. The
140 purpose of the program shall be to encourage the display of
141 uniform warning and safety flags at public beaches along the
142 coast of the state and to encourage the placement of uniform
143 notification signs that provide the meaning of such flags.
144 Unless additional safety and warning devices are authorized
145 pursuant to subsection (7), only warning and safety flags
146 developed by the department shall be displayed. Participation in
147 the program shall be open to any government having jurisdiction
148 over a public beach along the coast, whether or not the beach
149 has lifeguards.

150 (7) The Department of Environmental Protection, through



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151 | the Florida Coastal Management Program, may ~~also~~ develop and
152 | make available to the public other educational information and
153 | materials related to beach safety and may also authorize state
154 | agencies and local governments to use additional safety and
155 | warning devices in conjunction with the display of uniform
156 | warning and safety flags at public beaches.

157 | Section 4. This act shall take effect July 1, 2014.