

By Senator Bean

4-00930-14

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1                   A bill to be entitled  
2       An act relating to the Department of Environmental  
3       Protection; amending s. 161.053, F.S.; authorizing the  
4       department to grant areawide permits for the  
5       construction of minor structures; requiring that such  
6       activities and structures comply with this section;  
7       authorizing certain swimming pools and maintenance  
8       projects to be eligible for a general permit; creating  
9       s. 258.435, F.S.; requiring the department to promote  
10      the public use of aquatic preserves and their  
11      associated uplands; authorizing the department to  
12      grant privileges, leases, or concessions for the  
13      accommodation of visitors in and use of aquatic  
14      preserves and their associated uplands; authorizing  
15      the department to grant a privilege, lease, or  
16      concession without advertisement or without using a  
17      competitive bidding process and prohibiting a  
18      privilege, lease, or concession from being assigned or  
19      transferred without the department's consent;  
20      authorizing the department to receive gifts and  
21      donations; providing restrictions for such moneys  
22      received; providing an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Subsections (17) and (18) of section 161.053,  
27       Florida Statutes, are amended to read:

28       161.053 Coastal construction and excavation; regulation on  
29       county basis.—

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30 (17) The department may grant areawide permits to local  
31 governments, other governmental agencies, and utility companies  
32 for special classes of activities in areas under their general  
33 jurisdiction or responsibility or for the construction of minor  
34 structures, if these activities or structures, due to the type,  
35 size, or temporary nature of the activity or structure, will not  
36 cause measurable interference with the natural functioning of  
37 the beach-dune system or with marine turtles or their nesting  
38 sites. Such activities or structures must comply with this  
39 section and may include, but are not limited to: road repairs,  
40 not including new construction; utility repairs and  
41 replacements, or other minor activities necessary to provide  
42 utility services; beach cleaning; dune restoration; on-grade  
43 walkovers for enhancing accessibility or usage in compliance  
44 with the Americans with Disabilities Act; and emergency  
45 response. The department may adopt rules to establish criteria  
46 and guidelines for permit applicants. The department must  
47 require notice provisions appropriate to the type and nature of  
48 the activities for which the areawide permits are sought.

49 (18) (a) The department may grant general permits for  
50 projects, including dune walkovers, decks, fences, landscaping,  
51 sidewalks, driveways, pool resurfacing, minor pool repairs, and  
52 other nonhabitable structures, if the projects, due to type,  
53 size, or temporary nature, will not cause a measurable  
54 interference with the natural functioning of the beach-dune  
55 system or with marine turtles or their nesting sites.  
56 Multifamily habitable structures do not qualify for general  
57 permits. However, single-family habitable structures or swimming  
58 pools that do not advance the line of existing construction and

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59 satisfy all siting and design requirements of this section, and  
60 maintenance projects for existing coastal armoring structures  
61 may be eligible for a general permit.

62 (b) The department may adopt rules to establish criteria  
63 and guidelines for permit applicants.

64 (c) ~~(a)~~ Persons wishing to use the general permits must, at  
65 least 30 days before beginning any work, notify the department  
66 in writing on forms adopted by the department. The notice must  
67 include a description of the proposed project and supporting  
68 documents depicting the proposed project, its location, and  
69 other pertinent information as required by rule, to demonstrate  
70 that the proposed project qualifies for the requested general  
71 permit. Persons who undertake projects without proof of notice  
72 to the department, but whose projects would otherwise qualify  
73 for general permits, shall be considered to have undertaken a  
74 project without a permit and are subject to enforcement pursuant  
75 to s. 161.121.

76 (d) ~~(b)~~ Persons wishing to use a general permit must provide  
77 notice as required by the applicable local building code where  
78 the project will be located. If a building code does not require  
79 ~~requires no~~ notice, a ~~any~~ person wishing to use a general permit  
80 must, at a minimum, post a sign describing the project on the  
81 property at least 5 days before commencing construction. The  
82 sign must be at least 88 square inches, with letters no smaller  
83 than one-quarter inch.

84 Section 2. Section 258.435, Florida Statutes, is created to  
85 read:

86 258.435 Use of aquatic preserves and their associated  
87 uplands.—The Department of Environmental Protection shall

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88 promote the public use of aquatic preserves and their associated  
89 uplands.

90 (1) The department may grant a privilege, lease, or  
91 concession for the accommodation of visitors in and use of  
92 aquatic preserves and their associated uplands if the privilege,  
93 lease, or concession does not deny or interfere with the  
94 public's access to such lands.

95 (2) A privilege, lease, or concession may be granted  
96 without advertisement or without using a competitive bidding  
97 process. A privilege, lease, or concession may not be assigned  
98 or transferred by the grantee without the consent of the  
99 department.

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

109 Section 3. This act shall take effect July 1, 2014.