

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Community Affairs

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BILL: CS/CS/SB 1072

INTRODUCER: Community Affairs Committee, Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Dredging and Beach Restoration Projects

DATE: April 6, 2023

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
3.	_____	_____	<u>RC</u>	_____

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**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

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**I. Summary:**

CS/CS/SB 1072 provides that, as a condition of a permit issued for beach restoration projects or maintenance dredging of deepwater ports, the Department of Environmental Protection (DEP) must require that any analysis to determine the adverse impacts of the activity on the natural habitat be conducted by an independent contractor selected by the local government in a manner prescribed by DEP.

The bill provides that the independent contractor for the analysis may not be associated with any project of the contractor performing the activity for the local government for a period of 5 years before or after commencement or completion of the analysis. The bill directs the local government to provide written notice of its intent to conduct an analysis to adjacent local governments that may be impacted by the activity. The bill provides an exception for deepwater port maintenance dredging.

The bill provides an effective date of July 1, 2023.

## II. Present Situation:

### Florida's Deepwater Ports

Florida is a top maritime trade state and is home to the world's leading cruise ports.<sup>1</sup> There are 16 deepwater ports, or seaports, in Florida: Port Canaveral, Port Citrus, Port Everglades, the Port of Fernandina, The Port of Fort Pierce, Jaxport, the Port of Key West, Port Manatee, Port Miami, the Port of Palm Beach, Port Putnam, Port Panama City, the Port of Pensacola, the Port of Port St. Joe, the Port of St. Petersburg, and the Port of Tampa Bay.<sup>2</sup> In 2022, 10 of these deepwater ports handled cargo, and eight handled passenger movements by cruise ship, ferry, and/or day-cruise vessel.<sup>3</sup> In total, the ports handled a record 112.5 million tons of cargo.<sup>4</sup> According to the Florida Seaport Transportation and Economic Development council, the ports contribute approximately \$117.6 billion to the state's economy, or 13.3 percent of Florida's gross domestic product, and directly or indirectly support approximately 900,000 jobs in the state.<sup>5</sup>

### Dredging

Dredging is the removal of material from the bottom of lakes, rivers, harbors and other water bodies. Most dredging is done to maintain or deepen navigation channels, anchorages or berthing areas for the safe passage of boats and ships. The disposal of dredged sediment is regulated under the Clean Water Act (CWA),<sup>6</sup> the Marine Protection, Research, and Sanctuaries Act (MPRSA or Ocean Dumping Act),<sup>7</sup> and Florida Environmental Resource Permit (ERP) program.<sup>8</sup>

DEP's Beaches, Inlets, and Ports Program (BIPP) processes ERPs for navigational dredging of deepwater ports.<sup>9</sup> The ERP review ensures that such construction activities do not degrade water quality (such as through the loss of wetlands, improper in-water construction techniques, or discharge of inadequately treated water from dredged material disposal sites) or damage marine resources (including corals, seagrasses, mangroves, or habitat for manatees or marine turtles).<sup>10</sup> According to DEP, maintenance dredging is generally authorized as part of the original ERP. A separate maintenance permit is rarely required.

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<sup>1</sup> Florida Seaport Transportation and Economic Development Council (FSTED Council), *2022-2023 Seaport Mission Plan*, 2 (2022), available at [https://flaports.org/wp-content/uploads/Florida-Seaports-Mission-Plan-2023\\_FINAL-2-27\\_web.pdf](https://flaports.org/wp-content/uploads/Florida-Seaports-Mission-Plan-2023_FINAL-2-27_web.pdf) (last visited Mar. 31, 2023).

<sup>2</sup> Section 311.09(1), F.S.; The Florida Department of Economic Opportunity (DEO), *Deepwater Ports*, available at <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/deepwater-ports> (last visited Mar. 31, 2023).

<sup>3</sup> FSTED Council, *2022-2023 Seaport Mission Plan* at 5.

<sup>4</sup> *Id.* at 25.

<sup>5</sup> *Id.* at 4.

<sup>6</sup> 33 U.S.C. §1251 et seq.

<sup>7</sup> 16 USC § 1431 et seq. and 33 USC §1401 et seq.

<sup>8</sup> See ss. 403.021(9), 403.061(27) and 403.816, F.S.

<sup>9</sup> DEP, *Beaches, Inlets and Ports Program*, <https://floridadep.gov/rcp/beaches-inlets-ports> (last visited Mar. 31, 2023).

<sup>10</sup> *Id.*

## Beach Restoration

Florida has 825 miles of sandy coastline fronting the Atlantic Ocean, the Gulf of Mexico, and the Straits of Florida.<sup>11</sup> Beaches are one of Florida's most valuable natural resources and are vital to maintaining the health of the state's economy and environment. The Florida Beach and Shore Preservation Act provides three interrelated programs that DEP administers to protect the state's sandy beaches: the Coastal Construction Control Line Program, the Beach Management Funding Assistance Program, and BIPP.<sup>12</sup>

Beach erosion is a statewide problem and beach restoration/nourishment projects are used to restore affected coastal habitat.<sup>13</sup> Beach restoration projects require a joint coastal permit through the BIPP. A joint coastal permit is a consolidation of coastal construction permits, ERPs, and sovereign submerged lands authorizations.<sup>14</sup> Projects that require a joint coastal permit include:

- Construction of erosion control structures;
- Public fishing piers;
- Maintenance of inlets and inlet-related structures; and
- Dredging navigation channels when dredged material will be disposed of onto the beach or in the nearshore area.<sup>15</sup>

### III. Effect of Proposed Changes:

**Section 1** amends s. 403.816, F.S., to provide that, as a condition of a permit issued for beach restoration projects or maintenance dredging of deepwater ports, the Department of Environmental Protection (DEP) must require that any analysis to determine the adverse impacts of the activity on the natural habitat be conducted by an independent contractor selected by the local government in a manner prescribed by DEP.

The bill provides that the independent contractor may not be associated with any project of the contractor performing the activity for the local government for a period of 5 years before and after commencement or completion of the analysis. The bill directs the local government to provide written notice of its intent to conduct an analysis to adjacent local governments that may be impacted by the activity.

The bill provisions do not apply to any deepwater port maintenance dredging.

**Section 2** provides an effective date of July 1, 2023.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

None.

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<sup>11</sup> DEP, *Beaches*, available at <https://floridadep.gov/rcp/beaches> (last visited Mar. 31, 2023).

<sup>12</sup> *Id.*; Sections 161.011-161.45, F.S.

<sup>13</sup> DEP, *Beaches*.

<sup>14</sup> DEP, *Beaches, Inlets and Ports Program*.

<sup>15</sup> DEP, *Beaches*.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

According to DEP, the bill provisions may be more appropriately placed in s. 373.414, F.S., which regulates the permitting for port dredging and beach restoration projects.

**VIII. Statutes Affected:**

This bill substantially amends section 403.816 of the Florida Statutes.

**IX. Additional Information:**

- A. Committee Substitute – Statement of Substantial Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS/CS by Community Affairs on April 5, 2023:**

- Specifies that the independent contractor conducting an analysis may not be associated with any project of the contractor performing the activity for a local government within 5 years before the commencement of the analysis and for 5 years after the completion of the analysis.
- Excludes deepwater port maintenance dredging from the bill provisions.
- Removes the provision stating that the bill does not apply to permits issued before July 1, 2024.

**CS by Environment and Natural Resources on March 14, 2023:**

- Broadens the scope of the permit condition so that it applies to permits for maintenance dredging of deepwater ports and beach restoration projects.
- Directs the Department of Environmental Protection to require that any analysis to determine the adverse impacts of the permitted activity on the natural habitat be conducted by an independent contractor.
- Provides that this permit condition will not apply to permits issued before July 1, 2024.

**B. Amendments:**

None.