

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.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1072

INTRODUCER: Senator Rodriguez

SUBJECT: Deepwater Port Dredging

DATE: March 13, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 1072 directs the Department of Environmental Protection (DEP) to require a habitat equivalency analysis as a condition of a permit issued for maintenance dredging of deepwater ports. The analysis will determine the adverse impacts of the dredging activity on the natural habitat.

The bill requires the analysis to be conducted by an independent contractor selected by the local government in a manner prescribed by DEP. The contractor for the analysis may not be associated with any project of the contractor for the dredging activity. The local government must provide written notice of its intent to conduct a habitat equivalency analysis to adjacent local governments that may be impacted by the dredging activity.

II. Present Situation:

Florida's Deepwater Ports

Florida is a top maritime trade state and is home to the world's leading cruise ports.¹ 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.² In 2022, 10 of these deepwater ports handled cargo, and eight handled passenger movements by cruise ship, ferry, and/or day-

¹ 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

² Section 311.09(1), F.S.; The Florida Department of Economic Opportunity (DEO), *Deepwater Ports*, <https://floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/deepwater-ports> (last visited Mar. 9, 2023).

cruise vessel.³ In total, the ports handled a record 112.5 million tons of cargo.⁴ 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.⁵

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),⁶ the Marine Protection, Research, and Sanctuaries Act (MPRSA or Ocean Dumping Act),⁷ and Florida Environmental Resource Permit (ERP) program.⁸

DEP's Beaches, Inlets, and Ports Program (BIPP) processes ERPs for navigational dredging of deepwater ports.⁹ 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).¹⁰ According to DEP, maintenance dredging is generally authorized as part of the original ERP. A separate maintenance permit is rarely required.

Habitat Equivalency Analysis

The Uniform Mitigation Assessment Method (UMAM)¹¹ is the method of assessment for habitat mitigation programs in Florida.¹² Section 373.414(18), F.S., directed DEP to create UMAM to provide "an exclusive and consistent process for determining the amount of mitigation needed to offset impacts to wetlands and other surface waters."¹³

A habitat equivalency analysis is another method used to determine how much restoration is needed to compensate for habitat injuries.¹⁴ This analysis method assumes that equivalent habitats will provide equivalent services, meaning that compensation for years of lost services is measured in acres of additional habitat. This method provides measurements in discounted-

³ FSTED Council, *2022-2023 Seaport Mission Plan* at 5.

⁴ *Id.* at 25.

⁵ *Id.* at 4.

⁶ 33 U.S.C. §1251 et seq.

⁷ 16 USC § 1431 et seq. and 33 USC §1401 et seq.

⁸ See ss. 403.021(9), 403.061(27) and 403.816, F.S.

⁹ DEP, *Beaches, Inlets and Ports Program*, available at [Beaches, Inlets and Ports Program | Florida Department of Environmental Protection](#) (last visited March 11, 2023).

¹⁰ *Id.*

¹¹ The UMAM provides a standardized procedure for assessing the ecological values and functions of wetlands and other surface waters. DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited Mar. 12, 2023).

¹² See DEP, *The Uniform Mitigation Assessment Method (UMAM)*.

¹³ See also ch. 62-345, F.A.C.

¹⁴ National Oceanic and Atmospheric Administration (NOAA), Damage Assessment, Remediation, and Restoration Program, *Habitat Equivalency Analysis*, <https://darrp.noaa.gov/economics/habitat-equivalency-analysis> (last visited Mar. 9, 2023).

service-acre-years (DSAYs), which represent the value of all the ecosystem services provided by one acre of habitat in one year. Restoration projects must offset DSAYs by providing acres of restored habitat.¹⁵

III. Effect of Proposed Changes:

Section 1 amends s. 403.816, F.S., to provide that, as a condition of a permit issued for maintenance dredging of deepwater ports, the Department of Environmental Protection (DEP) must require a habitat equivalency analysis to determine the adverse impacts of the dredging activity on the natural habitat.

The bill requires the analysis to be conducted by an independent contractor selected by the local government in a manner prescribed by DEP. Further, the independent contractor for the analysis may not be associated with any project of the contractor performing the dredging activity for the local government. The bill directs the local government to provide written notice of its intent to conduct a habitat equivalency analysis to adjacent local governments that may be impacted by the dredging activity.

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

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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.

¹⁵ *Id.*

B. Private Sector Impact:

None.

C. Government Sector Impact:

Local governments may incur costs if they are required to obtain a separate maintenance permit, and for the completion of the habitat equivalency analysis.

VI. Technical Deficiencies:

The Uniform Mitigation Assessment Method is the method required by s. 373.414(18), F.S., not a habitat equivalency analysis.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.816 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.