

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 979 Dredging and Beach Restoration Projects  
**SPONSOR(S):** Water Quality, Supply & Treatment Subcommittee, Gossett-Seidman  
**TIED BILLS:** IDEN./SIM. **BILLS:** CS/CS/SB 1072

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Water Quality, Supply & Treatment Subcommittee	16 Y, 0 N, As CS	Curtin	Curtin
2) Agriculture & Natural Resources Appropriations Subcommittee	14 Y, 0 N	Byrd	Pigott
3) Infrastructure Strategies Committee			

### SUMMARY ANALYSIS

Dredging involves the removal of sediment and debris from the bottom of waterbodies. Dredging is necessary to protect fish, wildlife, and humans from contaminants, and also to maintain or deepen navigation channels and to restore and nourish Florida's coastline.

The bill directs the Department of Environmental Protection (DEP), as a condition of a permit issued for maintenance dredging of deepwater ports and beach restoration projects pursuant to section 403.816, F.S., to 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. The bill also requires the analysis to be conducted in a manner prescribed by DEP.

The bill prohibits an independent contractor who conducts an analysis from being associated with any project of the contractor performing the activity for the local government for five years prior to the commencement of an analysis or for five years after the completion of the analysis.

The bill requires the local government to provide written notice of its intent to have an analysis conducted to adjacent local governments that may be impacted by the activity.

The bill may have an indeterminate negative fiscal impact on the private sector.

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

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

Florida is a leading maritime trade state, with a long and rich history of maritime trade, and is home to the world's leading cruise ports.<sup>1</sup> There are 16 publicly-owned 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>

According to the latest Economic Impact Study for Florida Seaports, these 16 seaports contribute 13.3% of Florida's Gross Domestic Product, representing \$117.6B in economic value, and they directly and indirectly support 900,000 jobs in the state.<sup>3</sup> Maritime trade in Florida continues to grow.<sup>4</sup> "In 2022, the total tonnage across all Florida seaports reached a new record high, totaling 112.5 million tons of cargo, a 6% increase over 2021, and a 0.5% increase over 2019, the previous record-holding year."<sup>5</sup>

Florida boasts 825 miles of coastline which are home to "more than 30 plants and animals considered rare within the state that inhabit the beach and adjacent habitats," and millions of tourists visit the state each year to enjoy Florida's beautiful beaches.<sup>6</sup> Recognizing the importance of Florida's beaches, the Legislature created several programs to protect them and the DEP administers those programs.<sup>7</sup>

Dredging involves the removal of sediment and debris from the bottom of waterbodies.<sup>8</sup> Dredging is necessary to protect fish, wildlife, and humans from contaminants, and also to maintain or deepen navigation channels and to restore and nourish Florida's coastline.<sup>9</sup> The disposal of dredged sediment is regulated under the Clean Water Act,<sup>10</sup> the Marine Protection, Research, and Sanctuaries Act,<sup>11</sup> and the Florida Environmental Resource Permit (ERP) program.<sup>12</sup>

ERP applications for navigational dredging of deepwater ports are reviewed and processed by the Beaches, Inlets and Ports Program within DEP.<sup>13</sup> The ERP review ensures that activities do not degrade water quality or damage marine resources, and helps ensure that in-water construction techniques are appropriate and wetlands, corals, and habitat are protected.<sup>14</sup>

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<sup>1</sup> Florida Seaport Transportation and Economic Development Council (FSTED Council), 2022-2023 Seaport Mission Plan, at 2 (2022), [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).

<sup>2</sup> S. 311.09(1), F.S.

<sup>3</sup> FSTED Council, *supra* note 1, at 4.

<sup>4</sup> FSTED Council, *supra* note 1, at 25.

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

<sup>6</sup> Florida Department of Environmental Protection (DEP), *Beaches*, <https://floridadep.gov/rcp/beaches> (last visited March 29, 2023). (The primary mission of DEP's beaches programs is to protect, restore, and manage Florida's coastal system.)

<sup>7</sup> *See, e.g.*, ss. 161.101, 161.053, F.S.

<sup>8</sup> National Oceanic and Atmospheric Administration (NOAA), National Ocean Service, *What is dredging?* (last updated Jan. 20, 2023), <https://oceanservice.noaa.gov/facts/dredging.html> (last visited March 20, 2023).

<sup>9</sup> *Id.*; *see also* DEP, *supra* note 6.

<sup>10</sup> 33 U.S.C. § 1251 et seq.

<sup>11</sup> 16 U.S.C. § 1431 et seq. and 33 U.S.C. § 1401 et seq.

<sup>12</sup> *See* ss. 403.021(9), 403.061(27) and 403.816, F.S.

<sup>13</sup> DEP, *Beaches, Inlets and Ports Program*, <https://floridadep.gov/rcp/beaches-inlets-ports> (last visited March 29, 2023) (The mission of the Program is to "protect[] coastal resources and the public's common interest through strategic planning, coordination, and the permitting of projects.")

<sup>14</sup> *Id.*

Beach erosion is a statewide problem and beach restoration/nourishment projects are used to restore affected coastal habitat.<sup>15</sup> Beach restoration and nourishment projects require a joint coastal permit<sup>16</sup> from DEP's Beaches, Inlets and Ports Program.<sup>17</sup> Dredging navigation channels when dredged material will be disposed of onto the beach or in the nearshore area and the construction of erosion control structures are among those projects which require a joint coastal permit.<sup>18</sup>

### **Effect of the Bill**

The bill directs DEP, as a condition of a permit issued for maintenance dredging of deepwater ports and beach restoration projects pursuant to section 403.816, F.S., to 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 and that the analysis be conducted in a manner prescribed by DEP.

The bill prohibits the independent contractor conducting the analysis from being associated with any project of the contractor performing the activity for the local government for a period of five years prior to the commencement of the analysis or for a period of five years after the completion of the analysis.

The bill requires the local government to provide written notice of its intent to have an analysis conducted to adjacent local governments that may be impacted by the activity.

#### **B. SECTION DIRECTORY:**

Section 1. Amends s. 403.816, F.S., related to permits for maintenance dredging of deepwater ports and beach restoration projects.

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

### **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

None.

#### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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<sup>15</sup> DEP, *supra* note 6.

<sup>16</sup> DEP, *supra* note 13. (In 1995, DEP implemented s. 161.055, F.S., "initiating concurrent processing of applications for coastal construction permits, environmental resource permits and sovereign submerged lands authorizations. These permits and authorizations, which were previously issued separately and by different state agencies, have now been consolidated into a joint coastal permit, or JCP. The consolidation of these reviews and the assignment of responsibility into a single program has eliminated the potential for conflict between permitting agencies and helped ensure that reviews are conducted in a timely manner.")

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate negative fiscal impact on independent contractors selected by the local government to conduct the analysis of adverse impacts of the activity on the natural habitat. These contractors may not be associated with any project of the party performing the activity for the local government for a period of five years prior to the commencement of the analysis or for a period of five years after the completion of the analysis.

D. FISCAL COMMENTS:

None.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On March 29, 2023, the Water Quality, Supply & Treatment Subcommittee adopted a proposed committee substitute (PCS) and an amendment to the PCS. The PCS and amendment:

- Changed the relating to clause from an act relating to “deepwater port dredging” to an act relating to “dredging and beach restoration projects;”
- Provided that the contractor doing the analysis may not be associated with any project of the contractor performing the activity for the local government for a period of five years prior to the commencement of the analysis or for a period of five years after the completion of the analysis; and
- Exempted any deepwater port maintenance dredging currently permitted or maintained by the United States Army Corps of Engineers.

The staff analysis has been updated to reflect the committee substitute.