

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 636

INTRODUCER: Senator Leek

SUBJECT: Beach Management

DATE: January 12, 2025

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2. _____	_____	<u>AEG</u>	_____
3. _____	_____	<u>FP</u>	_____

I. Summary:

SB 636 provides that, in designating beaches as critically eroded, the Department of Environmental Protection (DEP) must review data related to beaches that have been preemptively and repeatedly repaired to avoid complete erosion and for which private funding, local government funding, and state and federal grants have been expended to stop or mitigate such erosion.

The bill also provides that, if a local government with jurisdiction over a beach has a financial plan that ensures funding for inclusion in the state strategic beach management plan, such beach must be designated as critically eroded if (1) there is a perpetual easement requiring the local government to maintain shoreline parcels and ensure high value inland developments are protected, and (2) the beach has geological features that result in repeated inland flooding or structural damage.

The bill allows DEP to require coastal local governments to develop local strategic beach management plans and specifies what must be included in such plans.

In addition, the bill expands the types of areas that may be designated as an area of critical state concern to include low elevation sections immediately inland of the dune and beach which have been repeatedly breached or overtopped by seawater flowing into an interconnected stormwater system or which have been designated in a local emergency declaration for a prolonged period.

II. Present Situation:

Florida's Beaches

Beaches are dynamic landforms subject to both natural and human-induced erosion.¹ Sand moves along the shore due to wave-driven currents and tides. Coastal erosion is caused in part by the creation and maintenance of inlets, where the sand has historically been removed from the coastal system by dredging, and the natural drift of sand along the shore is blocked by jetties, trapped in channels, or moved into ebb and flood shoals. The development and the placement of infrastructure near the shore can also contribute to coastal erosion by limiting the amount of sand stored in dunes and hardening the shore for protection of upland property. Storms and changing sea levels can also contribute to coastal erosion along Florida's coastline. Coastal communities will need to plan for community resiliency in low-lying coastal zones to be prepared for coastal flooding, extreme high tides, sea level rise, or storm surges.²

Florida depends on its 825 miles of sandy beaches as a natural resource for the enjoyment of its residents and tourists.³ Beaches are Florida's primary tourist attraction, generating millions of dollars annually for Florida's economy. Nourished beaches contribute to the expanding federal, state, and local tax bases; increase sales, income, and employment opportunities from resident and visitor spending; and enhance property values by protecting the developed shorefront from storm surges, preventing loss of upland property, and protecting wildlife habitat. Beaches also provide habitat for many species, including endangered and threatened marine turtles, birds, and mammals.⁴

Critically Eroded Beaches

A critically eroded shoreline is a segment of the shoreline where natural processes or human activity have caused or contributed to erosion and recession of the beach or dune system to such a degree that upland development, recreational interests, wildlife habitat, or important cultural resources are threatened or lost.⁵ Critically eroded shorelines may also include peripheral segments or gaps between identified critically eroded areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects.⁶

To determine whether a segment of shoreline is critically eroded, DEP's coastal engineering staff investigates an area of concern using both qualitative assessments and quantitative data and analyses.⁷ When data are limited at the time of an investigation, staff utilizes professional engineering judgment based upon reasonably accepted standards and practices in evaluating the erosion condition of a shoreline. When new data is available, DEP updates the analysis

¹ Department of Environmental Protection (DEP), *Strategic Beach Management Plan: Introduction*, 1 (2023), available at https://floridadep.gov/sites/default/files/SBMP_Introduction_2023_2.pdf.

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ Fla. Admin. Code R. 62B-36.002(5).

⁶ *Id.*

⁷ DEP, *Critically Eroded Beaches in Florida*, 6 (2025), available at https://floridadep.gov/sites/default/files/FDEP_Critically%20Eroded%20Beaches_08-2025_FINAL_1.pdf.

accordingly. The type of quantitative data and analyses considered includes beach and offshore profiles, upland topography, nearshore and offshore bathymetry, historical shoreline position changes, storm tide frequency, beach and dune erosion, recent storm damage, design adequacy, and proximity of upland development, infrastructure, wildlife habitat, and important cultural resources to the anticipated effects of a 25-year storm event.⁸



Many designated critically eroded beaches have been restored through the placement of beach and dune fill material.⁹ These shorelines have improved compared to their pre-project condition when they were designated as being critically eroded. Although these beach management projects and their subsequent maintenance have mitigated the original critical erosion conditions, these shorelines retain their critical erosion designation in order to retain their state of Florida funding eligibility for long-term management and beach project maintenance and monitoring.¹⁰

⁸ *Id.*

⁹ DEP, *Critically Eroded Beaches in Florida*, 1 (2025), available at https://floridadep.gov/sites/default/files/FDEP_Critically%20Eroded%20Beaches_08-2025_FINAL_1.pdf.

¹⁰ *Id.*

Roughly half of the designated critically eroded beaches are currently managed.¹¹ Many areas have significant historic or contemporary erosion conditions, yet the erosion processes do not currently threaten public or private interests. These areas are therefore designated as *non-critically* eroded beaches and require close monitoring in case the conditions become critical.¹²

As of August 2025, 55 percent (approximately 451 miles) of the state's sandy shorelines are designated as critically eroded.¹³ An additional 88.9 miles are designated as non-critically eroded.¹⁴

Beach Management

Beach management activities in Florida are governed by the Dennis L. Jones Beach and Shore Preservation Act.¹⁵ DEP is the beach and shore preservation authority for the state and is charged with identifying beaches which are critically eroding and developing a comprehensive long-term management plan for their restoration.¹⁶ DEP's long-term management plan has several components, including a critically eroded beaches report, a statewide long-range budget plan, and a strategic beach management plan.¹⁷

DEP's strategic beach management plan identifies and recommends appropriate measures for the state's critically eroded beaches and incorporates plans prepared at the regional level, taking into account areas of greatest need and probable federal and local funding.¹⁸ The plan also describes the historical and current beach nourishment activities taken to restore and manage Florida's beaches to protect upland property, restore habitat for wildlife, and provide recreational opportunities.¹⁹ The plan contains strategies to:

- Maximize the infusion of beach-quality sand into the coastal system;
- Implement those projects that contribute most significantly to addressing the state's beach erosion problems;
- Promote inlet sand bypassing to replicate the natural flow of sand interrupted by improved, modified or altered inlets and ports;
- Extend the life of beach restoration projects and reduce the frequency of nourishment;
- Encourage regional approaches to ensure the geographic coordination and sequencing of projects; and
- Reduce equipment mobilization and demobilization costs.²⁰

¹¹ *Id.* at 1.

¹² *Id.*

¹³ DEP, *Critically Eroded Beaches Report* at 20.

¹⁴ *Id.*

¹⁵ DEP, *Strategic Beach Management Plan: Introduction*, 2 (2023), available at https://floridadep.gov/sites/default/files/SBMP_Introduction_2023_2.pdf. See chapter 161, F.S.

¹⁶ See section 161.101(1) and (2), F.S., and DEP, *Strategic Beach Management Plan* at 2.

¹⁷ DEP, *Strategic Beach Management Plan* at 2; section 161.161(2), F.S.

¹⁸ Section 161.161(2)(a), F.S.

¹⁹ DEP, *Strategic Beach Management Plan* at 40.

²⁰ DEP, *Strategic Beach Management Plan* at 2; section 161.091(2), F.S.

The statewide plan includes seven separate regional plans.²¹ Such regional plans, along with the long-range budget plan, serve as the basis for state funding decisions.²² The state, through DEP, may authorize appropriations to pay up to 75 percent of the actual costs for restoring and nourishing a critically eroded beach.²³ The local government in which such a beach is located is responsible for the balance of such costs.²⁴ In order to receive state funds, a project must provide for adequate public access, protect natural resources, and provide protection for endangered and threatened species.²⁵ DEP will not fund projects that provide only recreational benefits; all funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system.²⁶

Areas of Critical State Concern

The Areas of Critical State Concern Program was created by the Florida Environmental Land and Water Management Act of 1972.²⁷ The program is intended to protect resources and public facilities of major statewide significance within designated geographic areas from uncontrolled development that would cause substantial deterioration of such resources.²⁸ State law specifies which areas may be considered for designation and establishes the process for doing so.

The Administration Commission²⁹ may designate an area of critical state concern for the following areas:

- An area containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance. This includes state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters, and aquifer recharge areas, the uncontrolled private or public development of which would cause substantial deterioration of such resources.³⁰
- An area containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, the private or public development of which would cause substantial deterioration or complete loss of such resources, sites, or districts.³¹

²¹ See DEP, *Strategic Planning and Coordination*, <https://floridadep.gov/rcp/beaches-inlets-ports/content/strategic-planning-and-coordination#SBMP> (last visited Dec. 17, 2025).

²² Section 161.161(2)(a), F.S.

²³ Section 161.101(1), F.S.

²⁴ *Id.* DEP is authorized to pay up to 100 percent of the costs of approved beach erosion control projects when construction and maintenance are on lands of which the state is the upland riparian owner. Section 161.101(10), F.S.

²⁵ Section 161.101(12), F.S.

²⁶ Section 161.101(13), F.S.

²⁷ Florida Department of Commerce, *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Dec. 17, 2025). See also Ch. 72-317, s. 5, Laws of Fla.; section 380.05, F.S.

²⁸ Florida Department of Commerce, *Areas of Critical State Concern Program*. The term “development” means the carrying out of any building activity or mining operation, the making of any material change in the use or appearance of any structure or land, or the dividing of land into three or more parcels. Section 380.04(1), F.S.

²⁹ The Administration Commission consists of the Governor and the Cabinet. Section 380.031(1), F.S.

³⁰ Section 380.05(2)(a), F.S.

³¹ Section 380.05(2)(b), F.S.

- An area having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment, such as highways, ports, airports, energy facilities, and water management projects.³²

The Florida Department of Commerce, the state land planning agency,³³ may recommend an area for designation as an area of critical state concern.³⁴ In its recommendations, the department must include:

- Recommendations for the purchase of land within the boundaries of the proposed area as environmentally endangered lands and outdoor recreation lands under the Land Conservation Program;
- Any report or recommendation of a resource planning and management committee;³⁵
- The dangers that would result from uncontrolled or inadequate development of the area and the advantages of developing the area in a coordinated manner;
- A detailed boundary description of the proposed area;
- Specific principles for guiding development within the area;³⁶
- An inventory of lands owned by the federal, state, and local governments within the proposed area; and
- A list of the state agencies with programs that affect the purpose of the designation.³⁷

If the Administration Commission adopts a recommendation, it will designate the area of critical state concern and applicable principles for guiding development by rule.³⁸ Such rules must be submitted to the Legislature for review.³⁹

Following the designation of the area of critical state concern, any local government that is wholly or partially located within the area must conform its previously adopted comprehensive plan to the principles for guiding development of the area of critical state concern.⁴⁰ In addition, all state agencies with rulemaking authority for programs that affect a designated area of critical state concern must review those programs for consistency with the purpose of the designation and principles for guiding development, and must adopt specific permitting standards and criteria applicable in the designated area, or otherwise amend the program, as necessary to further the purpose of the designation.⁴¹

³² Section 380.05(2)(c), F.S.

³³ Section 380.031(18), F.S.

³⁴ Local governments and regional planning agencies may submit recommendations to the department the areas within their jurisdictions that meet the statutory criteria for designation. Section 380.05(3), F.S.

³⁵ Prior to recommending the designation of an area of critical state concern, the Governor, acting as chief planning officer of the state, must appoint a resource planning and management committee for the area under study by the Florida Department of Commerce. The committee must organize a voluntary, cooperative resource planning and management program to resolve any problems which might endanger the area's resources and facilities. Section 380.045(1), F.S.

³⁶ The department must recommend actions which state and regional agencies and local governments must accomplish to implement these principles, such as revisions of the local comprehensive plan and adoption of land development regulations, density requirements, and special permitting requirements. Section 380.05(1)(a), F.S.

³⁷ Section 380.05(1)(a), F.S.

³⁸ Section 380.05(1)(b), F.S.

³⁹ Section 380.05(1)(c), F.S. The Legislature may reject, modify, or take no action relative to the adopted rule. *Id.*

⁴⁰ Section 380.05(14), F.S.

⁴¹ Section 380.05(22), F.S.

The current designated areas of critical state concern include:

- Big Cypress Area (portions of Collier, Miami-Dade, and Monroe Counties);⁴²
- Green Swamp Area (portions of Polk and Lake Counties);⁴³
- City of Key West and the Florida Keys Areas (Monroe County);⁴⁴
- Apalachicola Bay Area (Franklin County);⁴⁵ and
- Brevard Barrier Island Area (portions of Brevard and Indian River Counties).⁴⁶

III. Effect of Proposed Changes:

Section 1 amends s. 161.101, F.S., regarding state and local participation in authorized projects and studies on beach management and erosion control. The bill provides that, in designating beaches as critically eroded, the Department of Environmental Protection (DEP) must review data related to beaches that have been preemptively and repeatedly repaired to avoid complete erosion and for which private funding, local government funding, and state and federal grants have been expended to stop or mitigate such erosion.

The bill also provides that, if a local government with jurisdiction over a beach that possesses all of the following features has a financial plan that ensures the preservation of funding for inclusion in the state strategic beach management plan, such beach must be designated as critically eroded:

- A perpetual easement that contains language stating that the local government with jurisdiction over the beach must assume maintenance responsibilities for shoreline parcels and must develop and implement a design whereby shoreline retreat is sufficiently managed to protect high value inland developments; and
- Geological features of the dune, beach, and seabed combined with insufficient spacing between the erosion control line to upland assets, which results in repeated inland flooding or structural damage.

The bill provides that the secretary of DEP may, as he or she deems necessary, require coastal local governments to develop local strategic beach management plans. Local strategic beach management plans must include, but are not limited to, an identification of the most visited shoreline recreational facilities, university research centers, and shoreline protection areas and an analysis of all of the following:

- Compound flooding near the county's beaches.
- Assessed values of upland properties and developments.
- Environmentally sensitive lands and waters.
- Any recommendation from a certified coastal engineer or coastal engineering specialist.
- Any recommendation from the United States Army Corps of Engineers.

⁴² Section 380.055, F.S.

⁴³ Section 380.0551, F.S.

⁴⁴ Section 380.0552, F.S.

⁴⁵ Section 380.0555, F.S.

⁴⁶ Section 380.0553, F.S. *See also* Department of Commerce, *Areas of Critical State Concern Program*, <https://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Dec. 17, 2025).

Section 2 amends s. 161.161, F.S., regarding the procedure for approval of projects in DEP's long-term beach management plans. The bill provides that DEP's strategic beach management plan may incorporate local strategic beach management plans.

Section 3 amends s. 380.05, F.S., regarding areas of critical state concern. The bill expands the types of areas that may be designated as an area of critical state concern to include low elevation sections immediately inland of the dune and beach which have been repeatedly breached or overtopped by seawater flowing into an interconnected stormwater system or which have been designated in a local emergency declaration for a prolonged period.

Section 4 reenacts s. 380.045, F.S., for the purpose of incorporating the amendment made by this bill to s. 380.05, F.S.

Section 5 provides an effective date of July 1, 2026.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 161.161, 380.05, and 380.045.

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.