

Florida State University College of Law

Scholarship Repository

Staff Analysis

Florida Legislative Documents

1986

Session Law 86-138

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the [Legislation Commons](#)

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 86-138" (1986). *Staff Analysis*. 597.
<https://ir.law.fsu.edu/staff-analysis/597>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

Amendment Rationale

Scientific data indicates that significant beach erosion takes place "downdrift" from governmentally maintained coastal inlets. The reason for this erosion is that the governmental efforts to maintain a navigation channel to ports and other inlets, particularly the construction of jetties, has the effect of cutting off the natural flow of sand downdrift from the inlet.

This year several pieces of legislation have been introduced which would give some relief to the downdrift beach owners who are the victims of governmentally caused erosion of the beaches in front of their property. CS/SB 432 and its companion, HB 1133, give recognition to the downdrift beach phenomena and call for the government to place sand on the beaches where the government has caused the erosion.

The attached amendment would give downdrift property owners relief from governmentally caused erosion in a different way. The amendment allows the property owner to construct his project forward of the coastal construction control line so long as he meets the setback requirements of Chapter 161.052(1), "Coastal Construction and Evacuation". A person building structures must also provide protection to nesting sea turtles and native salt resistant vegetation and endangered plant communities.

The relief language is very narrow. It only applies to beaches which are a one mile distance downdrift from the commercial ports listed in Section 403.021(9)(b). These 12 ports are:

Jacksonville	Tampa
Port Everglades	Miami
Port Canaveral	Fort Pierce
Palm Beach	Port Manatee
Port St. Joe	Panama City
St. Petersburg	Pensacola

The amendment is further limited in that it only applies to islands which are "substantially created by the deposit of spoil". (Note: There is reason to believe that this amendment only applies to the Port of Miami.)

If questioned about the amendatory language, the following information may be useful.

The ports covered in Section 403.021(9)(b), F.S., are:

Jacksonville	Tampa
Port Everglades	Miami
Port Canaveral	Fort Pierce
Palm Beach	Port Manatee
Port St. Joe	Panama City
St. Petersburg	Pensacola

The amendment would exempt projects from "the permitting requirements and prohibitions" of the following subsections of 161.053:

Subsections (2) and (5): Department of Natural Resources permitting requirements for construction waterward of the coastal construction control line.

Subsection (6): Thirty year erosion prohibition zone.

It should be noted, however, that notwithstanding the exemption from state requirements, all construction covered by the exemption must meet 44 C.F.R. §59.1 et seq. FEMA requirements. These are the Federal Emergency Management Act requirements which guarantee proper building height and velocity-zone construction so as to enable the buildings to receive federal flood insurance.

SUBCHAPTER B—INSURANCE AND HAZARD MITIGATION

EDITORIAL NOTE: Nomenclature changes to Subchapter B appear at 44 FR 31177, May 31, 1979 and 44 FR 62517, October 31, 1979.

PARTS 50-54 [RESERVED]

NATIONAL INSURANCE
DEVELOPMENT PROGRAM

PARTS 55-58 [RESERVED]

NATIONAL FLOOD INSURANCE
PROGRAM

PART 59—GENERAL PROVISIONS

Subpart A—General

Sec.

- 59.1 Definitions.
- 59.2 Description of program.
- 59.3 Emergency program.
- 59.4 References.

Subpart B—Eligibility Requirements

- 59.21 Purpose of subpart.
- 59.22 Prerequisites for the sale of flood insurance.
- 59.23 Priorities for the sale of flood insurance under the regular program.
- 59.24 Suspension of community eligibility.

AUTHORITY: 42 U.S.C. 4001 et seq., Reorganization Plan No. 3 of 1978; E.O. 12127

Subpart A—General

§ 59.1 Definitions.

As used in this subchapter—

"Act" means the statutes authorizing the National Flood Insurance Program that are incorporated in 42 U.S.C. 4001-4128.

"Actuarial rates"—see "risk premium rates."

"Administrator" means the Federal Insurance Administrator.

"Agency" means the Federal Emergency Management Agency, Washington DC.

"Applicant" means a community which indicates a desire to participate in the Program.

"Appurtenant structure" means a structure which is on the same parcel of property as the principal structure to be insured and the use of which is

incidental to the use of the principal structure.

"Area of shallow flooding" means a designated AO, AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

"Area of special flood-related erosion hazard" is the land within a community which is most likely to be subject to severe flood-related erosion losses. The area may be designated as Zone E on the Flood Hazard Boundary Map (FHBM). After the detailed evaluation of the special flood-related erosion hazard area in preparation for publication of the FIRM, Zone E may be further refined.

"Area of special flood hazard" is the land in the flood plain within a community subject to a one percent or greater chance of flooding in any given year. The area may be designated as Zone A on the FHBM. After detailed ratemaking has been completed in preparation for publication of the FIRM, Zone A usually is refined into Zones A, AO, AH, AI-30, AE, A99, VO, or V1-30, VE, or V.

"Area of special mudslide (i.e., mudflow) hazard" is the land within a community most likely to be subject to severe mudslides (i.e., mudflows). The area may be designated as Zone M on the FHBM. After the detailed evaluation of the special mudslide (i.e., mudflow) hazard area in preparation for publication of the FIRM, Zone M may be further refined.

"Associate Director" means the Associate Director, State and Local Programs, and Support.

"Base flood" means the flood having a one percent chance of being equalled or exceeded in any given year.

insert: Bill No(s)

SB.

DO NOT USE FELT TIP PEN

Committee Amendment No. 1
(For committee use)

The Committee on **Appropriations**

offered the following amendment:

Amendment On page 18 , line 16-21, strike all of

said lines and insert:

(3) Construction waterward of the coastal construction control line on
downdrift coastal areas, on islands substantially created by the deposit of
spoil, located within one mile of the centerline of navigation channels or
inlets, providing access to ports listed in section 403.021 (9) (b), which
suffers or has suffered erosion caused by such navigation channel maintenance
or construction, shall be exempt from the permitting requirements and prohibitions
of subsections (2), (5) and (6) of section 161.053, F.S. The timing and sequence
of any construction in such coastal areas shall comply with 44 C.F.R. Sections 59.1
et seq. and shall provide protection to nesting sea turtles and hatchlings and
their habitats and to native salt resistant vegetation and endangered plant communities.

Grant	Kiser	Myers	Thurman
Grizzle	Malchon	Neal	Vogt
Hill	Mann	Plummer	Weinstein
Jennings	Margolis	Scott	
Johnson	McPherson	Stuart	
Kirkpatrick	Meek	Thomas	

Nays—None

Vote after roll call:

Yea—Jenne

Yea to Nay—Stuart

On motion by Senator McPherson, by two-thirds vote HB 210 was withdrawn from the Committee on Judiciary-Criminal.

On motions by Senator McPherson—

HB 210—A bill to be entitled An act relating to search warrants, amending s. 933.18, F.S., authorizing the issuance of search warrants to search a private dwelling for the unlawful sale, possession, or purchase of saltwater products, providing an effective date.

—a companion measure, was substituted for SB 72 and by two-thirds vote read the second time by title. On motion by Senator McPherson, by two-thirds vote HB 210 was read the third time by title, passed and certified to the House. The vote on passage was

Yeas—35

Mr. President	Frank	Kirkpatrick	Neal
Beard	Gersten	Kiser	Plummer
Castor	Girardeau	Langley	Scott
Childers, D.	Gordon	Malchon	Stuart
Childers, W. D.	Grant	Mann	Thomas
Crawford	Grizzle	Margolis	Thurman
Deratany	Hill	McPherson	Vogt
Dunn	Jenne	Meek	Weinstein
Fox	Johnson	Myers	

Nays—None

Vote after roll call:

Yea—Peterson

SB 72 was laid on the table.

Consideration of SB 689 was deferred.

CS for CS for SB's 432 and 281—A bill to be entitled An act relating to beach management, amending s. 161.021, F.S.; transferring regulatory powers of Division of Marine Resources under ch. 161, F.S., to the Division of Beaches and Shores; defining "beach renourishment" and "beach restoration" and other terms; amending s. 161.041, F.S., placing restrictions on permits for construction of a coastal inlet jetty or excavation or maintenance of such an inlet, amending s. 161.053, F.S.; providing coastal construction and excavation regulation; amending s. 161.054, F.S.; providing liability for damage to sovereignty lands or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon, creating s. 161.088, F.S., declaring public policy relating to beach erosion control and beach restoration and renourishment projects; amending s. 161.091, F.S.; providing for use of moneys in the Beach Management Trust Fund; amending s. 161.101, F.S.; providing for state and local participation in federally authorized projects and studies relating to beach management and erosion control; amending s. 161.131, F.S.; providing for statutory construction of ss. 161.011-161.212, F.S., amending s. 161.141, F.S., providing property rights of state and private upland owners in beach restoration project areas, creating s. 161.142, F.S., declaring public policy relating to improved navigation inlets, regulating construction and maintenance dredging; requiring placement of sand on downdrift beaches; providing for a management plan to mitigate adverse impacts of coastal inlets on beaches; amending s. 161.161, F.S., providing for a management plan; providing procedures for approval of projects; amending s. 161.26, F.S., providing that local beach renourishment or restoration projects may not be undertaken without certain approvals; amending s. 253.03, F.S.; providing that the Board of Trustees of the Internal Improvement Trust Fund and other state agencies may levy a charge or attach a lien on materials dredged from certain lands, amending s. 315.03, F.S., authorizing counties, port districts, port authorities, and municipali-

ties to expend moneys to mitigate adverse impacts of inlets on beaches; amending s. 373.026, F.S.; providing powers and duties for the Department of Environmental Regulation with respect to plans or projects for coastal inlets, amending s. 403.813, F.S., providing for the Board of Trustees of the Internal Improvement Trust Fund to fix a charge for the removal of material to create or maintain a coastal inlet, amending s. 403.8163, F.S., providing for selection of sites for disposal of spoil from maintenance dredge operations; providing an effective date.

—was read the second time by title

Senator Gordon moved the following amendment which was adopted

Amendment 1—On page 26, between lines 6 and 7, insert:

(4) Construction waterward of the coastal construction control line in downdrift coastal areas on islands substantially created by the deposit of spoil located within one mile of the centerline of navigation channels or inlets providing access to ports listed in section 403.021(9)(b), which suffer or have suffered erosion caused by such navigation channel maintenance or construction, shall be exempt from the permitting requirements and prohibitions of subsections (2), (5) and (6) of section 161.053, F.S. The timing and sequence of any construction in such coastal areas shall comply with 44 C.F.R. Part 60 and shall provide protection to nesting sea turtles and hatchlings and their habitats and to native salt resistant vegetation and endangered plant communities

Senator Stuart moved the following amendment which was adopted

Amendment 2—On page 29, line 22, after "those" insert historically established

Senator Gordon moved the following amendment which was adopted

Amendment 3—In title, on page 2, line 6, after "beaches;" insert: exempting certain island downdrift coastal areas from several subsections of section 161.053;

On motion by Senator Stuart, by two-thirds vote CS for CS for SB's 432 and 281 as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Mr. President	Frank	Kiser	Plummer
Beard	Gersten	Langley	Scott
Castor	Girardeau	Malchon	Stuart
Childers, D.	Gordon	Mann	Thomas
Childers, W. D.	Grant	Margolis	Thurman
Crawford	Grizzle	McPherson	Vogt
Crenshaw	Hill	Meek	Weinstein
Deratany	Jenne	Myers	
Dunn	Jennings	Neal	
Fox	Johnson	Peterson	

Nays—None

Vote after roll call:

Yea—Hair, Kirkpatrick

Special Guest

The President introduced the Honorable Gary Hart, United States Senator from Colorado, who addressed the Senate.

Ruling on Point of Order

After a report from the chairman of the Appropriations Committee, the President ruled on the point of order by Senator Langley on CS for SB 1 as amended that the fiscal impact was not ascertainable and therefore the point was not well taken.

claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his property. If an requested and authorized beach restoration and renourishment project cannot reasonably be accomplished without the taking of private property, then such taking shall be made by the requesting authority by eminent domain proceedings.

(2) When the Department of Environmental Regulation has received all information necessary to evaluate the impact of the proposed project pursuant to ~~chapter chapters 253 and 403~~ and has concluded its evaluation, it shall notify the applicant within 10 days whether it intends to issue or deny the permit, regardless of whether the Board of Trustees of the Internal Improvement Trust Fund has given its consent to the use of state lands as required by s 253.77. However, no construction on any beach restoration or renourishment project may be initiated without complying with the provisions the Department of Environmental Regulation shall not issue any permit until the requirements of s 253.77 have been complied with, and the deadline imposed pursuant to s 120.60 shall not begin to run until s 253.77 has been complied with.

Section 8 Section 161.142, Florida Statutes, is created to read

161.142 Declaration of public policy respecting improved navigation inlets.—The Legislature hereby recognizes the need for maintaining navigation inlets to promote commercial and recreational uses of our coastal waters and their resources. The Legislature further recognizes that inlets alter the natural drift of beach-quality sand resources, which often results in these sand resources being deposited around shallow outer-bar areas instead of providing natural nourishment to the downdrift beaches. Therefore

(1) All construction and maintenance dredgings of beach-quality sand should be placed on the downdrift beaches, or, if placed elsewhere, an equivalent quality and quantity of sand from an alternate location should be placed on the downdrift beaches at no cost to the state and at a location acceptable to the department.

(2) On an average annual basis, a quantity of sand should be placed on the downdrift beaches equal to the natural net annual longshore sediment transport. This sand shall be placed at no cost to the state. The placement location and quantities based on natural net annual longshore transport shall be established by the department, and the sand quality must be acceptable to the department.

(3) Construction waterward of the coastal construction control line on downdrift coastal areas, on islands substantially created by the deposit of spoil, located within one mile of the centerline of navigation channels or inlets, providing access to ports listed in section 403.012(9)(b), which suffers or has suffered erosion caused by such navigation channel maintenance or construction, shall be exempt from the permitting requirements and prohibitions of subsections (2), (5) and (6) of section 161.053, F.S. The timing and sequence of any construction in such coastal areas shall comply with 44 C.F.R. Part 60 and shall provide protection to nesting sea turtles and hatchlings and their habitats and to native salt resistant vegetation and endangered plant communities.

(4) The provisions of paragraphs (1) and (2) of this section shall not be a requirement imposed upon ports listed in s 403.021(9)(b), F.S.

Section 9 Section 161.161, Florida Statutes, is amended to read

161.161 Procedure for approval of projects.—

(1) The division shall develop and maintain a comprehensive long-term management plan for the restoration of the state's critically eroding beaches. The beach restoration management plan shall

(a) Address long-term solutions to the problem of critically eroding beaches in this state;

(b) Evaluate each improved coastal beach inlet and determine whether the inlet is a significant cause of beach erosion. With respect to each inlet determined to be a significant cause of beach erosion, the plan must include recommendations to mitigate the erosive impact of the inlet, including, but not limited to, recommendations regarding inlet sediment bypassing, modifications to channel dredging, jetty design,

and disposal of spoil material; establishment of feeder beaches, and beach restoration and renourishment.

(c) Specify design criteria for beach restoration and renourishment projects, including, but not limited to:

1 Dune elevation and width and revegetation and stabilization requirements, and

2 Beach profile

(d) Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches and the source of beach-compatible sand.

(e) Establish a list of beach restoration and renourishment projects, arranged in order of priority, and the funding levels needed for such projects.

The beach restoration management plan may be prepared at the district level based upon areas of greatest need and probable federal funding. Such district plans shall be components of the state funding decisions upon approval in accordance with this act. In accordance with a schedule established for the submission of district plans by the department, any completed plan must be submitted to the head of the department for approval no later than March 1, of each year. These district level plans shall include, but shall not be limited to, recommendations of appropriate funding mechanisms for implementing projects in the beach restoration management plan, giving consideration to the use of single county and multi-county taxing districts, or other revenue generation measures by state and local governments and the private sector. Prior to presenting the plan to the head of the department, the department shall hold a public meeting in the areas or district for which the plan is prepared. The district plan submission schedule shall be submitted to the head of the department for approval by August 1, 1986. Any revisions to such schedule must be approved in like manner.

(2) In establishing the recommended list of restoration and renourishment projects described in subsection (1), the division shall consider and balance the following criteria:

(a) The estimated demand user-occasions that would be served by increased beach area,

(b) The extent of existing and threatened damage to property from beach erosion,

(c) The prospect for long-term success of the restoration or renourishment project, as measured by the anticipated amount and frequency of future renourishment,

(d) The location of the beach relative to the statewide effort to control the erosion of the beaches,

(e) The total anticipated costs of the project, including the costs for restoration and for periodic renourishment,

(f) The proximity of an adequate source of beach compatible sand,

(g) The quality of the sand proposed to be used,

(h) The degree of public access to the beach, including adequate vehicle parking or consolidated public access points, taking into account existing access points and local public access needs,

(i) The extent of public support for the project;

(j) The anticipated impact of the project on natural resources, including, but not limited to, impacts on coral, worm and rock reefs, submerged and emergent vegetation, fishing resources, and turtle nesting.

(k) The extent to which the local governments in the area of the project have enacted ordinances or other regulations to protect sea turtles from the adverse effects of beachfront lighting.

The extent to which the foregoing criteria are addressed in a net positive manner shall result in a greater priority being assigned to those projects. In addition to consideration of criteria listed in this subsection, a project, in order to receive state funds, must provide for public access in substantial compliance with paragraph (h) and must provide for protection for those historically established habitats identified in paragraph (j) and for endangered and threatened species.

(3) Upon approval of the beach restoration management plan by the head of the department, the executive director shall present to the head of the department written recommendations for the funding of the beach

CS for CS for SB's 432 and 281—A bill to be entitled An act relating to beach management; amending s. 161 021, F.S.; transferring regulatory powers of Division of Marine Resources under ch. 161, F.S., to the Division of Beaches and Shores, defining "beach renourishment" and "beach restoration" and other terms, amending s. 161.041, F.S.; placing restrictions on permits for construction of a coastal inlet jetty or excavation or maintenance of such an inlet; amending s. 161.053, F.S., providing coastal construction and excavation regulation, amending s. 161 054, F.S.; providing liability for damage to sovereignty lands or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon, creating s. 161 088, F.S., declaring public policy relating to beach erosion control and beach restoration and renourishment projects, amending s. 161 091, F.S., providing for use of moneys in the Beach Management Trust Fund, amending s. 161 101, F.S., providing for state and local participation in federally authorized projects and studies relating to beach management and erosion control, amending s. 161 131, F.S., providing for statutory construction of ss. 161 011-161 212, F.S., amending s. 161 141, F.S., providing property rights of state and private upland owners in beach restoration project areas; creating s. 161 142, F.S., declaring public policy relating to improved navigation inlets, regulating construction and maintenance dredging; requiring placement of sand on downdrift beaches; providing for a management plan to mitigate adverse impacts of coastal inlets on beaches, exempting certain island downdrift coastal areas from several subsections of s. 161 053, F.S., amending s. 161 161, F.S., providing for a management plan, providing procedures for approval of projects, amending s. 161 26, F.S., providing that local beach renourishment or restoration projects may not be undertaken without certain approvals, amending s. 253 03, F.S., providing that the Board of Trustees of the Internal Improvement Trust Fund and other state agencies may levy a charge or attach a lien on materials dredged from certain lands, amending s. 315 03, F.S., authorizing counties, port districts, port authorities, and municipalities to expend moneys to mitigate adverse impacts of inlets on beaches, amending s. 373 026, F.S., providing powers and duties for the Department of Environmental Regulation with respect to plans or projects for coastal inlets, amending s. 403.813, F.S., providing for the Board of Trustees of the Internal Improvement Trust Fund to fix a charge for the removal of material to create or maintain a coastal inlet; amending s. 403 8163, F.S., providing for selection of sites for disposal of spoil from maintenance dredge operations, providing an effective date

—was taken up On motion by Rep Sansom, the rules were waived by two-thirds vote and the bill was read the second time by title

Representative Ward offered the following amendment

Amendment 1—On page 4, line 9, strike everything after the enacting clause and insert Section 1 Section 161 021, Florida Statutes, is amended to read

161 021 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term

(1) "Department" means the Department of Natural Resources

(2) "Division" means the Division of Marine Resources of the Department of Natural Resources

(1)(3) "Beach and shore preservation," "erosion control, beach preservation and hurricane protection," "beach erosion control" and "erosion control" includes, but is not limited to, erosion control, hurricane protection, coastal flood control, shoreline and offshore rehabilitation, and regulation of work and activities likely to affect the physical condition of the beach or shore

(2) "Beach renourishment" means the maintenance of a restored beach by the replacement of sand

(3) "Beach restoration" means the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties.

(4) "Board of trustees" means the Board of Trustees of the Internal Improvement Trust Fund.

(5)(4) "Coastal construction" includes any work or activity which is likely to have a material physical effect on existing coastal conditions or natural shore and inlet processes.

(6) "Department" means the Department of Natural Resources.

(7) "Division" means the Division of Beaches and Shores of the Department of Natural Resources

(8)(6) "Emergency" means any unusual incident resulting from natural or unnatural causes which endangers the health, safety, or resources of the residents of the state, including damages or erosion to any shoreline resulting from a hurricane, storm, or other such violent disturbance

(9)(6) "Inlet sediment bypassing" includes any transfer of sediment from an inlet or beach to another stretch of beach for the purpose of renourishment and beach erosion control

(10) "Local government" means a county, municipality, community development district, or an independent special taxing district.

Section 2 Subsection (2) of section 161 054, Florida Statutes, is amended to read

161 054 Administrative fines; liability for damage, liens.—

(2) Whenever any person, firm, corporation, or governmental agency, or agent thereof, knowingly or by gross negligence violates any of the provisions of s. 161 041, s. 161 052, or s. 161 053 so that damage is caused to sovereignty lands seaward of mean high water or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon, such violator shall be liable for such damage. If two or more persons, firms, corporations, or governmental agencies, or their agents, cause damage, and if liability for such damage cannot be apportioned, each violator shall be jointly and severally liable for the damage. If, however, liability for such damage can be apportioned, each violator is liable only for that portion of the damage and subject to that portion of the fine attributable to his violation.

Section 3 Section 161 088, Florida Statutes, is created to read:

161 088 Declaration of public policy respecting beach erosion control and beach restoration and renourishment projects—Because beach erosion is a serious menace to the economy and general welfare of the people of this state and has advanced to emergency proportions, it is hereby declared to be a necessary governmental responsibility to properly manage and protect Florida beaches from erosion and that the Legislature make provision for beach restoration and renourishment projects. The Legislature further declares that nothing herein is intended to reduce or amend the beach protection programs otherwise established in this chapter, or to result in local governments altering the coastal management elements of their local government comprehensive plans pursuant to chapter 163

Section 4. Section 161 091, Florida Statutes, is amended to read

161 091 Erosion Control Trust Fund Account —

(1) There is created in the State Treasury an account to be known as the "Erosion Control Trust Fund Account." Subject to such appropriations as the Legislature may make therefor from time to time, disbursements from this account may be made by the division of Marine Resources of the Department of Natural Resources subject to the approval of the department in order to carry out the proper state responsibilities in a comprehensive, long-range, statewide management plan for erosion control; beach preservation, restoration, and renourishment, and hurricane protection; in accordance with the following

(a) With regard to federal aid projects, the department is authorized to pay up to 75 percent of the nonfederal construction and maintenance costs of projects authorized for construction by the United States Congress, including biological monitoring costs, revegetation costs, and costs of monitoring postconstruction shoreline changes; provided local interests shall, as project sponsor, pay

Approved by the Governor June 24, 1986.

Filed in Office Secretary of State June 24, 1986.

CHAPTER 86-138

Committee Substitute for Committee Substitute
for Senate Bill Nos. 432 and 281

An act relating to environmental protection; amending s. 161.021, F.S.; transferring regulatory powers of Division of Marine Resources under ch. 161, F.S., to the Division of Beaches and Shores; defining "beach renourishment" and "beach restoration" and other terms; amending s. 161.054, F.S.; providing liability for damage to sovereignty lands or to beaches, shores, or beach-dune systems, including animal, plant, or aquatic life thereon; creating s. 161.088, F.S.; declaring public policy respecting beach erosion control and beach restoration and renourishment projects; amending s. 161.091, F.S.; providing for use of moneys in the Erosion Control Trust Fund; amending s. 161.101, F.S.; providing for state and local participation in federally authorized projects and studies relating to beach erosion control; amending s. 161.131, F.S.; providing for statutory construction of ss. 161.011-161.212, F.S.; amending s. 161.141, F.S.; providing property rights of state and private upland owners in beach restoration project areas; creating s. 161.142, F.S.; declaring public policy respecting improved navigation inlets; amending s. 161.161, F.S.; providing for a management plan for beach restoration; providing procedures for approval of projects; amending s. 315.03, F.S.; authorizing counties, port districts, port authorities, and municipalities to expend moneys to mitigate adverse impacts of inlets on beaches; amending s. 373.026, F.S.; providing powers and duties for the Department of Environmental Regulation with respect to plans or projects for coastal inlets; amending s. 403.813, F.S.; relating to permits issued at district centers; amending s. 403.816, F.S.; providing for permits for maintenance dredging of beach restoration projects; amending s. 403.8163, F.S.; providing for selection of sites for disposal of spoil from maintenance dredge operations; directing the Department of Natural Resources to adopt certain rules with respect to nesting sea turtles; creating an Environmental Efficiency Study Commission; providing for public hearings and a report to the Legislature; requiring specified state and regional environmental agencies to submit reports; providing an effective date.

WHEREAS, the Department of Natural Resources prepared a report entitled "Beach Restoration: A State Initiative" and submitted the report to the Legislature in April 1985, and

WHEREAS, the Governor and Cabinet as head of the Department of Natural Resources recognize that beach restoration and renourishment should be further pursued as a state initiative in recognition that; for highly developed urban and resort areas where existing buildings

GENERAL ACTS
RESOLUTIONS AND MEMORIALS
ADOPTED BY THE
NINTH LEGISLATURE OF FLORIDA
UNDER THE CONSTITUTION
AS REVISED IN 1968

During the Regular Session
April 8, 1986 through June 7, 1986
and the Special Session
June 19, 1986



Volume I, Part One
Published by Authority of Law
Under Direction of the
JOINT LEGISLATIVE MANAGEMENT
COMMITTEE
TALLAHASSEE

1986

Please return to:
FLORIDA LEGISLATIVE LIBRARY
700 North Capitol
Tallahassee, Florida 32303

quality sand resources, which often results in these sand resources being deposited around shallow outer-bar areas instead of providing natural nourishment to the downdrift beaches. Therefore:

(1) All construction and maintenance dredgings of beach-quality sand should be placed on the downdrift beaches; or, if placed elsewhere, an equivalent quality and quantity of sand from an alternate location should be placed on the downdrift beaches at no cost to the state and at a location acceptable to the department.

(2) On an average annual basis, a quantity of sand should be placed on the downdrift beaches equal to the natural net annual longshore sediment transport. This sand shall be placed at no cost to the state. The placement location and quantities based on natural net annual longshore transport shall be established by the department, and the sand quality must be acceptable to the department.

(3) Construction waterward of the coastal construction control line on downdrift coastal areas, on islands substantially created by the deposit of spoil, located within one mile of the centerline of navigation channels or inlets, providing access to ports listed in section 403.021(9)(b), which suffers or has suffered erosion caused by such navigation channel maintenance or construction, shall be exempt from the permitting requirements and prohibitions of subsections (2), (5) and (6) of section 161.053, F.S. The timing and sequence of any construction in such coastal areas shall comply with 44 C.F.R. Part 60 and shall provide protection to nesting sea turtles and hatchlings and their habitats and to native salt resistant vegetation and endangered plant communities.

(4) The provisions of paragraphs (1) and (2) of this section shall not be a requirement imposed upon ports listed in s. 403.021(9)(b), F.S.

Section 9. Section 161.161, Florida Statutes, is amended to read:

161.161 Procedure for approval of projects.--

(1) The division shall develop and maintain a comprehensive long-term management plan for the restoration of the state's critically eroding beaches. The beach restoration management plan shall:

(a) Address long-term solutions to the problem of critically eroding beaches in this state;

(b) Evaluate each improved coastal beach inlet and determine whether the inlet is a significant cause of beach erosion. With respect to each inlet determined to be a significant cause of beach erosion, the plan must include recommendations to mitigate the erosive impact of the inlet, including, but not limited to, recommendations regarding inlet sediment bypassing; modifications to channel dredging, jetty design, and disposal of spoil material; establishment of feeder beaches; and beach restoration and renourishment.

(c) Specify design criteria for beach restoration and renourishment projects, including, but not limited to:

1. Dune elevation and width and revegetation and stabilization requirements; and

(1) Beach erosion being a serious menace to the economy and general welfare of the people of this state and having advanced to emergency proportions, it is hereby declared to be in the public interest that appropriate steps be taken to enhance and protect Florida beaches from erosion and that the Legislature make provision for beach nourishment and restoration and erosion control projects and establish and clarify the property rights of the state and private upland owners arising from or created by such projects. The Legislature hereby declares that it is the public policy of the state to cause to be fixed and determined, pursuant to beach restoration nourishment and renourishment restoration and erosion control projects, the boundary line between sovereignty lands of the state bordering on the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons, and other tidal reaches thereof, and the upland properties adjacent thereto; except that such boundary line shall not be fixed for beach restoration nourishment projects that result from inlet or navigation channel maintenance dredging projects unless such projects involve the construction of authorized beach restoration projects. However, prior to construction of such beach restoration nourishment project, the board of trustees local sponsor shall establish the line of mean high water for the area to be restored nourished; and any additions to the upland property landward seaward of the established line of mean high water which result from the restoration nourishment project shall remain become the property of the upland owner subject to all governmental regulations and shall not be used to justify increased density or the relocation of the coastal construction control line as may be in effect for such upland property. Such resulting additions to upland property shall also be subject to a public easement for traditional uses of the sandy beach consistent with uses which would have been allowed prior to the need for such restoration nourishment project. It is further declared that there is no intention on the part of the state to extend its claims to lands not already held by it or to deprive any upland or submerged land owner of the legitimate and constitutional use and enjoyment of his property. If an a-requested-and authorized beach restoration and renourishment nourishment-and-restoration and erosion control project cannot reasonably be accomplished without the taking of private property, then such taking shall be made by the requesting authority by eminent domain proceedings.

(2) When the Department of Environmental Regulation has received all information necessary to evaluate the impact of the proposed project pursuant to chapter chapters-253-and 403 and has concluded its evaluation, it shall notify the applicant within 10 days whether it intends to issue or deny the permit, regardless of whether the Board of Trustees of the Internal Improvement Trust Fund has given its consent to the use of state lands as required by s. 253.77. However, no construction on any beach restoration or renourishment project may be initiated without complying with the provisions the Department of Environmental Regulation shall not issue any permit until the requirements of s. 253.77 have been complied with, and the deadline imposed pursuant to s. 120.60 shall not begin to run until s. 253.77 has been complied with.

Section 8. Section 161.142, Florida Statutes, is created to read:

161.142 Declaration of public policy respecting improved navigation inlets.--The Legislature hereby recognizes the need for maintaining navigation inlets to promote commercial and recreational uses of our coastal waters and their resources. The Legislature further recognizes that inlets alter the natural drift of beach-

REVISED: May 2, 1986

DATE: April 3, 1986

BILL NO. CS/SB 432 &

SE 281

Page 1

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Voigt</u>	<u>Voigt</u> <i>W</i>	1. <u>NRC</u>	<u>C/S</u>
2. _____	_____	2. <u>FTC</u>	_____
3. _____	_____	3. <u>AP</u>	_____

SUBJECT:

BILL NO. AND SPONSOR:

Beach management & restoration

CS/SB 432 & 281 by
NR&C & Senators Neal & Hair

I. SUMMARY:

A. Present Situation:

Under existing state law (Ch. 161, F.S.) there are provisions for the restoration and renourishment of the state's beaches. The Florida Legislature has declared as a matter of public policy that:

"Beach erosion being a serious menace to the economy and general welfare of the people of this state and having advanced to emergency proportions it is hereby declared to be in the public interest that appropriate steps be taken to enhance and protect Florida beaches from erosion and that the Legislature make provisions for beach nourishment and restoration and erosion control projects...." S. 161.141 (1)

As a result of the so-called Thanksgiving Day storm of 1984, which caused extensive beach erosion and property damage along Florida's east coast, the Department of Natural Resources was inundated with requests by property owners to allow them to take steps to armor the shoreline in front of their property. The staff of the Division of Beaches and Shores reacted to this rash of requests by proposing that the Governor and Cabinet, as head of the department, adopt a policy against the armoring of Florida's coastline. The Governor and Cabinet chose not to adopt such a policy but instead on March 19, 1985 directed the Division of Beaches and Shores to develop a recommendation relative to a "proactive, long-term plan for beach nourishment." At the same time the Governor and Cabinet created the Restore Our Coast Task Force to provide input and guidance to the Division staff.

In response to this directive the Division began work on a report entitled "Beach Restoration: A State Initiative." The Task Force, made up principally of coastal engineers, scientists, and government regulatory personnel, provided technical guidance to the division and made several recommendations which were incorporated into the report.

The report was submitted to the Governor and Cabinet on April 10, 1985. The report addresses several deficiencies in the current beach restoration program and makes recommendations which if implemented would cure those deficiencies.

By resolution dated May 7, 1985, the Governor and Cabinet urged the Legislature to consider the report's recommendations. Among the recommendations presented in the report the division recommends:

1. Establishing a stable source of funding for the Erosion Control Trust Fund in sufficient amounts for the state to undertake a comprehensive beach erosion control program.

2. Granting responsibility for Florida's beach erosion control program to a single agency in lieu of the existing grant-in-aid to local government concept, which based on local initiative precludes the establishment of statewide priorities.

One of the problems faced by the existing program is the instability of the funding. Under the current beach restoration program, restoration or renourishment projects are broken down into two categories; those that are federally funded and those that are not federally funded. For projects that are federally funded the state is authorized to pay up to 75 percent of the non-federal construction and maintenance costs. The remaining 25 percent of the non-federal costs are paid by the local sponsor. For projects that are non-federal aid projects, the state is authorized to pay up to 75 percent of the costs with the local sponsor paying the remaining 25 percent.

The report noted that since 1965 a total of approximately \$92.7 million have been spent in this state to restore 51.12 miles of beach. The state has contributed approximately \$26.2 million to this total with the federal government and local sponsors contributing the balance. A total of approximately \$22.9 million have been spent to renourish (maintain) 16.18 miles of the restored beaches. The state's share of that cost was approximately \$7.2 million.

The report states that approximately 140 miles of the state's beaches are critically eroded and in need of restoration or renourishment. However, due to potential cutbacks in the federal budget, the state can no longer count on receiving federal funds for future beach restoration/renourishment projects. Under the current law the state's portion of the project costs comes from the Erosion Control Trust Fund which in turn receives its money as appropriated by the legislature from general revenue. This source of funding is thought to be too unstable and inadequate to allow the state to undertake a comprehensive beach erosion control program.

It has been estimated by the division that a 10 year beach restoration/renourishment program would cost a total of approximately \$470 million. If 50 percent of this cost is born by the local interests, the state would be required to provide approximately \$205 million or \$23.5 million per year for the 10 year period.

Apart from the funding issue the report recognizes the problem inherent under the existing law in choosing projects to be funded. The root of the problem is that a beach restoration/renourishment project is dependent upon the initiative of a local sponsor who must make a formal request to the Board of Trustees for approval of the project. This process can result in the funding of projects which may not be the most compatible with areas identified as most in need.

In January 1986, the Division issued another report entitled, "A Proposed Comprehensive Beach Management Plan for Florida's Beaches." This report was intended to be a refinement and update of the report published in April 1985. Most notably, this last report makes recommendations for establishing a comprehensive planning program using a system of seven geomorphic districts. The Division would be responsible for developing and maintaining a beach management plan for each of

the seven districts. The statewide management plan would, if funded, be presented to the 1987 session.

B. Effect of Proposed Bill:

The major purpose of the bill is to establish a process for the preparation and maintenance of a comprehensive management plan for the long-term management of the state's beaches (see Section 11). The plan is to include several features:

- (1) long term causes and solutions to erosion of beaches,
- (2) evaluate each coastal beach inlet and determine how to mitigate impacts from the ones causing the greatest problems,
- (3) identify alternative management responses to preserve undeveloped beaches and dune systems, and to prevent inappropriate development on migrating beaches.
- (4) evaluate the establishment of a system of feeder beaches as an alternative to direct beach renourishment efforts,
- (5) establish a priority list of projects and funding levels needed for restoration and renourishment of beaches,
- (6) and others.

In establishing the priority list for projects, the division must consider and balance certain legislatively established criteria. For a project to receive funds, it must provide for substantial compliance with the public access criteria and it must protect certain specified habitats. Prior to presenting the plan to the head of the DNR (no later than March 1, 1987), the department shall hold a minimum of 5 public hearings in various locations around the state where public comment and input shall be received. Every July after the plan is approved, the executive director of the DNR is to present recommendations for the funding of those projects that need restoration and renourishment. The Governor and Cabinet, sitting as head of the DNR, would authorize expenditure from the Beach Management Trust Fund necessary to pay up to 50 percent of project costs. This cost sharing percentage would not be effective until October 1, 1987.

Other major features of the bill are:

Section 3. Habitable structures shall not be constructed along any artificially renourished beach more seaward of a line that is 50 feet landward of an erosion control line or that is more seaward of a line of construction depicted by the mathematical average of other habitable structures within 1,000 feet in each direction from the habitable structure proposed for construction, whichever is greater, and more landward calculated at the time of permit application. These provisions should operate to prevent habitable structures from encroaching closer to shoreline areas. Also, this section contains language to clarify the area to which the 30-year erosion projection line is to apply. Such 30-year erosion projection lines would not apply landward of a coastal construction control line if such line has been established or re-established since June 30, 1980. In all cases where the department computes the 30-year seasonal high water line, the 30-year erosion projection shall be referenced to the existing seasonal high water line or the line as it would exist after a beach renourishment project for which all funding arrangements have been made and all permits have been issued at the time the application is submitted.

Section 4. Liability for damages for noncompliance with provisions of this act are broadened to include violations involving negligence, as opposed to the current situation which is limited to the agency having to prove the violation was knowingly committed.

Section 7. Specifies that county governments are responsible for 50 percent of project costs. Eligible project costs are listed in this section, but essentially includes aspects of a project from design, engineering, and construction. This section does not take effect until October 1, 1987.

Section 10. Specifies a new policy relating to improved navigation inlets. The legislature recognizes that inlets alter the natural drift of beach quality sand and interfere with the natural nourishment of downdrift beaches. Provisions in this section would require, on an average annual basis, a quantity of sand to be placed on the downdrift beaches equal to the natural net annual longshore sediment transport at no cost to the state. The placement location would be established by the Department of Natural Resources. The department is authorized to direct any public body with jurisdiction over a coastal inlet jetty to implement recommendations in the approved management plan to mitigate the adverse impacts of coastal inlets on the beaches in the state. If the public body does not provide assurances that it will implement these recommendations within 180 days, the department is authorized to implement the recommendations with funds from the Erosion Control Trust Fund and seek reimbursement from the public body. This section does not take effect until October 1, 1987.

Section 13. The Board of Trustees of the Internal Improvement Trust Fund may levy a charge or attach a lien on any and all material dredged from state-sovereignty tidal lands or submerged bottom lands except for the deepwater ports identified in s. 403.816(3), F.S. These provisions would enable the state to more effectively deal with the practice by the Corps of Engineers to haul such material off-shore rather than deposit it on near-by beaches.

Section 15. In reviewing the annual public works proposals to Congress, the Department of Environmental Regulation would have to consult with the Department of Natural Resources on projects involving coastal inlets. If DNR determines that a project will have a significant adverse impact on the sandy beaches, the DER shall not approve the project unless it is revised to mitigate those impacts in accordance with recommendations of DNR.

Section 18. Within two years of the effective date of this act, the DNR must adopt a rule designating coastal areas utilized or likely to be utilized by sea turtles for nesting. The department must adopt rules to guide local government regulations that control beachfront lighting to protect hatching sea turtles.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

A 1983 visitor study indicated that the majority of visitors to the State of Florida specifically came to enjoy our beach resources. The 1983 study by the Department of Commerce found that tourists visiting in Florida generated \$23 billion in expenditures and 661,000 jobs, that tourism generated a job payroll of \$4.7 billion and state tax revenues of \$1.05 billion. A more recent study entitled "An Economic Analysis of

the Importance of Saltwater Beaches in Florida" by the Department of Economics at Florida State University in July 1985, found that in total, beach using tourists create over \$3.4 billion in sales supporting 142,638 jobs with an annual payroll of over \$860 million. Furthermore, total estimated state taxes generated from beach-related tourist economic activity are nearly \$99 million. In a report by the Division of Beaches and Shores entitled "A Proposed Comprehensive Beach Management Plan for Florida's Beaches", it was noted that, the just value of real property in the 26 coastal counties with sandy beaches for calendar 1984, amounted to over \$252 billion, or about 74 percent of all just value of real property in Florida.

B. Government:

The Division of Beaches and Shores estimates they would need two additional positions and \$67,000 to implement the new provisions of this law. Additionally, the Division is requesting \$1,000,000 for preparation of the comprehensive beach management plan, and another \$1,230,000 for several special studies related to the plan, such as sand search studies.

III. COMMENTS:

In spite of project priorities recommended by the Department heretofore, the Legislature has specified other projects to be funded in the appropriations bill. To the extent that the agency can identify the segments of critically eroded beaches and prioritize projects based on need, funding should be awarded on the bases of specified legislative criteria and projects ranked in accordance with that criteria.

IV. AMENDMENTS:

None.

STORAGE NAME: 86SRHB1

Date: April 17, 1986

Revised: _____

Final: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

BILL #: HB 1133

RELATING TO: Beach renourishment and restoration programs

SPONSOR(S): Representative Dixie Sansom

EFFECTIVE DATE: October 1, 1986

COMPANION BILL(S): SB 432, HB 499, SB 0281

OTHER COMMITTEES OF REFERENCE: (1) _____

(2) _____

I. SUMMARY:

Under current legislation, all beach renourishment and restoration projects must be initiated by the local government as project sponsor. If the Federal Government is participating financially in a project the Legislature may appropriate up to 75 percent of the non-Federal share of eligible project costs with local government sponsors required to contribute 25 percent of the non-Federal project cost. If Federal participation is not available, the Legislature may appropriate up to 75 percent of the total eligible project activity cost. The State pays 100 percent of all sand source studies as well as all costs for erosion control projects of which the state is the upland owner.

This bill amends portions of Chapters 161, 315, 215, 373, and 403 and creates some new language to achieve the following objectives:

- (1) To shift the primary focus of the beach renourishment and restoration project initiative to the state; and
- (2) To require the establishment of a comprehensive beach restoration plan to address the long term erosion problems of the state's beaches and inlets; and
- (3) To provide a funding mechanism to establish a more reliable source of revenue for beach restoration and renourishment projects.

These objectives are detailed within the bill, but some of the major points are listed below.

- (1) Though the state is made primarily responsible for project initiation, local governments are still required to participate financially (25 percent of the project cost). They may still elect

to initiate a project and pay the entire cost of the project. If the project is approved by the department before construction, the local government will be reimbursed by the state for the state's normal portion of the cost. If the project is a Federal concern, the local government will be responsible for obtaining Federal reimbursement.

(2) Approval of a project is dependent upon the consistency with the approved beach restoration plan, the approval of the department and approval of the board of trustees. The plan must address a number of concerns. Five are listed below:

- (a) long-term causes and solutions to erosion of beaches;
- (b) evaluate each coastal beach inlet and determine how to mitigate existing erosive impacts;
- (c) address the design criteria for beach restoration projects;
- (d) evaluate the establishment of a system of feeder beaches as an alternative to direct beach renourishment efforts;
- (e) establish a priority list of projects and funding levels need for restoration and renourishment of beaches.

(3) Once a beach renourishment and restoration project has been approved, local governments will be required to provide the Board with assurances that they will bear their financial portion of the project costs. The department will hold all permit applications for any of the various methods for armoring that area of the beach that is to be renourished or restored if they do not provide these assurances.

(4) The state will pay up to 100 percent for sand source studies. They will also pay the costs in emergency erosion situations as well as construction and maintenance costs occurring in projects where the state is the upland riparian owner, and where a system of feeder beaches and shoals is being established.

(5) To establish a reliable funding source for this program, the bill levies a tourism promotion surcharge of .0025% on the total taxable sales of privileges such as bars, public food service establishments, public lodging establishments, transient rentals, places charging admissions, and short-term automobile rentals. These proceeds will be deposited in the Erosion Control Trust Fund to be appropriated for projects upon approval or declaration of emergency status, or in the other cases listed above.

(6) 25 percent of the funds collected will be withheld until the beginning of the fourth quarter as emergency revenue. If no emergency presents itself by the beginning of the fourth quarter, the funds will be used for projects slated for implementation during that year.

(7) A prioritized list of beach renourishment and/or restoration projects will be established by the department and updated yearly to reflect completed projects and new areas of concern.

(8) Improved navigation inlets will be maintained on an annual basis at no cost to the state by replacing the sand normally lost within one year's time.

II. ECONOMIC IMPACT:

A. Public:

It is estimated that the .0025 percent tourist surcharge on total taxable sales of selected privileges will net 35 million annually. While this cost will be passed on to the public, it will affect a net benefit to all as the tourism industry increases with the beach improvements. By stimulating the economy, more job opportunities will become available.

B. Government:

For the local governments, the degree of financial participation required remains as in current law, though the primary project initiation responsibility is transferred to the state. There is a net gain to the local government with relation to beach renourishment and restoration since improved beach conditions will stimulate the local economy.

The Department of Natural Resources that the administration of this program will have the following economic impact:

OCO	\$ 3,000	\$ 1,000	\$ ---
Personnel	59,000	59,000	59,000
Expenses	10,000	10,000	10,000
TOTAL	\$72,000	\$70,000	\$ 69,000

In addition, the Department is requesting \$2.73 million to implement an indepth assessment of the condition of the beaches to determine which shoreline treatment is most appropriate for which areas.

DNR estimates that the implementation of this program will be \$13.75 million for the first four year, \$36.25 million for each of the following three years and \$43.75 million for each of the following three years maintenance costs after the completion of the 10-year program is estimated at \$2.75 million per year.

The Department of Revenue's costs of collecting and enforcement transfer are not yet available.

III. STATE COMPREHENSIVE PLAN IMPACT:

By providing a funding mechanism, dedicating the resulting moneys to beach renourishment and restoraton and requiring the development of a state comprehensive beach restoration plan, HB 1133 addresses the following portion of the state comprehensive plan:

(9) COASTAL AND MARINE RESOURCES.--

(a) Goal.--Florida shall ensure that development and marine resource use and beach access improvements in coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's populatrion additonal beaches and marine environment, consistent with sound environmental planning.

(b) Policies.--

1. Accelerate public acquisition of coastal and beachfront land where necessary to protect coastal and marine resources to meet projected piublic demand.

2. Ensure the public's right to reasonable access to beaches.

5. Develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas.

IV. COMMENTS:

26 of Florida's 67 counties are coastal and a 1983 visitor study indicated that the majority of visitors to the State of Florida specifically came to enjoy our beach resources. The Department of Commerce study (1983) found that tourists visiting in Florida generated \$23 billion in expenditures and 661,000 jobs, that tourism generated a job payroll of \$4.7 billion and state tax revenues of \$1.05 billion. A 1985 study conducted by FSU found that beach-using tourists create over \$3.4 billion in sales, supporting 142,638 jobs with an annual payrol of over \$860 million. Beach related tourist economic activity generates nearly \$99 million.

The Department of Natural Resources would prefer to substitute "county government" for "local government" so that they would potentially deal with 26 entities instead of over 200.

In addition, it is the opinion of the department that the bill should direct them to develop a comprehensive beach management plan rather than comprehensive beach restoration plan. Other treatments may be more appropriate for some areas.

V. AMENDMENTS:

None

VI. PREPARED BY: Paula L. Allen *PLA*

VII. STAFF DIRECTOR: G. Alan Whidby *GAW*

STORAGE NAME: 86SRCS/HB 1133

Date: April 17, 1986

Revised: April 28, 1986

Final: _____

HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

BILL #: CS/HB 1133

RELATING TO: Beach renourishment and restoration programs

SPONSOR(S): Representative Dixie Sansom

EFFECTIVE DATE: October 1, 1986

COMPANION BILL(S): SB 432, HB 499, SB 0281

OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation

(2) Appropriations

I. SUMMARY:

Under current legislation, all beach renourishment and restoration projects must be initiated by the local government as project sponsor. If the Federal Government is participating financially in a project the Legislature may appropriate up to 75 percent of the non-Federal share of eligible project costs with local government sponsors required to contribute 25 percent of the non-Federal project cost. If Federal participation is not available, the Legislature may appropriate up to 75 percent of the total eligible project activity cost. The State pays 100 percent of all sand source studies as well as all costs for erosion control projects of which the state is the upland owner.

This bill amends portions of Chapters 161, 315, 215, 373, and 403, Florida Statutes, and creates some new language to achieve the following objectives:

(1) To shift the primary focus of the beach renourishment and restoration project initiative to the state; and

(2) To require the establishment of a comprehensive beach restoration plan to address the long term erosion problems of the state's beaches and inlets.

These objectives are detailed within the bill, but some of the major points are listed below.

(1) Though the state is made primarily responsible for project initiation, local governments are still required to participate financially (25 percent of the project cost). They may still elect to initiate a project and pay the entire cost of the project. If the project is approved by the department before construction, the local

government will be reimbursed by the state for the state's normal portion of the cost. If the project is a Federal concern, the local government will be responsible for obtaining Federal reimbursement.

(2) Approval of a project is dependent upon the consistency with the approved beach restoration plan, the approval of the department and approval of the board of trustees. The plan must address a number of concerns. Five are listed below:

(a) the long-term causes and solutions to erosion of beaches;

(b) an evaluation of the existing or potential erosive impacts of coastal beach inlets, identifying strategies that mitigate the erosive impacts;

(c) the design criteria for beach restoration projects;

(d) the establishment of a system of feeder beaches as an alternative to direct beach renourishment efforts;

(e) the establishment of a prioritized list of projects, with funding requirements, needed for restoration and renourishment of beaches. These priorities are to be established after considering physical and fiscal concerns, user demand and local government actions on behalf of sea turtles.

(3) Once a beach renourishment and restoration project has been approved, local governments will be required to provide the Board with assurances that they will bear their financial portion of the project costs. The department will hold all permit applications for any of the various methods for armoring that area of the beach that is to be renourished or restored if they do not provide these assurances.

(4) The state will pay up to 100 percent for sand source studies. They will also pay the costs in emergency erosion situations as well as construction and maintenance costs occurring in projects where the state is the upland riparian owner, and where a system of feeder beaches and shoals is being established.

(5) A prioritized list of beach renourishment and/or restoration projects will be established by the department and updated yearly to reflect completed projects and new areas of concern.

(6) Improved navigation inlets will be maintained on an annual basis at no cost to the state by replacing the sand normally lost within one year's time.

In coordination with the criteria considered when prioritizing restoration/renourishment projects, within 2 years of the effective date of the act, DNR will designate coastal sea turtle nesting areas and adopt rule guidelines for local government regulations that control beachfront lighting to protect hatchling sea turtles.

II. ECONOMIC IMPACT:

A. Public:

This bill would have a positive impact on the public since the tourism industry increases with the beach improvements. Stimulating the economy will result in greater job opportunities.

B. Government:

For the local governments, the degree of financial participation required remains as in current law, though the primary project initiation responsibility is transferred to the state. There is a net gain to the local government with relation to beach renourishment and restoration since improved beach conditions will stimulate the local economy.

The Department of Natural Resources that the administration of this program will have the following economic impact:

	Year 1	Year 2	Year 3
OCO	\$ 3,000	\$ 1,000	\$ ---
Personnel	59,000	59,000	59,000
Expenses	10,000	10,000	10,000
TOTAL	\$72,000	\$70,000	\$ 69,000

In addition, the Department is requesting \$2.23 million to implement an indepth assessment of the condition of the beaches to determine which shoreline treatment is most appropriate for which areas.

DNR estimates that the implementation of this program will be \$13.75 million for each of the first four years, \$36.25 million for each of the following three years and \$43.75 million for each of the following three years. Maintenance costs after the completion of the 10-year program is estimated at \$2.75 million per year.

III. STATE COMPREHENSIVE PLAN IMPACT:

By requiring the development of a state comprehensive beach restoration plan, HB 1133 addresses the following portion of the state comprehensive plan:

(9) COASTAL AND MARINE RESOURCES.--

(a) Goal.--Florida shall ensure that development and marine resource use and beach access improvements in coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's population additional beaches and marine environment, consistent with sound environmental planning.

(b) Policies.--

5. Develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas.

IV. COMMENTS:

26 of Florida's 67 counties are coastal and a 1983 visitor study indicated that the majority of visitors to the State of Florida specifically came to enjoy our beach resources. The Department of Commerce study (1983) found that tourists visiting in Florida generated \$23 billion in expenditures and 661,000 jobs, that tourism generated a job payroll of \$4.7 billion and state tax revenues of \$1.05 billion. A 1985 study conducted by FSU found that beach-using tourists create over \$3.4 billion in sales, supporting 142,638 jobs with an annual payroll of over \$860 million. Beach related tourist economic activity generates nearly \$99 million.

V. AMENDMENTS:

None

VI. PREPARED BY: Paula L. Allen RA

VII. STAFF DIRECTOR: G. Alan Whidby GAW

STATE OF FLORIDA
HOUSE OF REPRESENTATIVESPrepared 6/2/86
by the Committee on
Appropriations—1986
FISCAL NOTECS/HB 1133
Bill Number
~~As Amended~~

In compliance with Rule 7.16, there is hereby submitted a fiscal note on the above listed bill relative to the effect on revenues, expenditures, or fiscal liability of the State, and of Local Governments as a whole.

I. DESCRIPTION OF BILL

A. Fund or Tax Affected

General Revenue

B. Principal Agency Affected

Department of Natural Resources

C. Narrative Summary

This bill amends Chapters 161, 215, 315, 373, and 403, Florida Statutes, regarding beach renourishment and restoration programs.

This bill would provide for a State-initiated program of beach restoration and renourishment. The bill further provides that such a program would be accomplished with a commitment of local funds (25 percent of the project cost).

The Department of Natural Resources, Division of Beaches and Shores, would be responsible for developing a beach management plan for each of the seven planning districts and for maintaining each management plan by updating on an annual basis. Each management plan would be used as a basis for a comprehensive statewide plan that would identify the critical needs of each district, compare those needs on a relative basis, and identify statewide priorities. Once statewide priorities are identified, the Department would then make an annual report to the Legislature together with recommended funding priorities.

Effective Date: October 1, 1986

II. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS

<u>Appropriations Consequences</u>	<u>1986-87</u>	<u>1987-88</u>	<u>1988-89</u>
General Revenue			
Beach Management Plan Preparation	\$2,230,000	\$100,000	\$100,000

Anticipated long term effects would involve approximately \$100,000 per year for maintaining and updating the Comprehensive Beach Management Plan.

III. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE

A. Non-Recurring or First Year Start-up Effects

None

B. Recurring or Annualized Continuation Effects

The degree of financial responsibility required by local governments would remain as in current law.

C. Long Run Effects other than Normal Growth

None

STATE OF FLORIDA
HOUSE OF REPRESENTATIVES

Prepared 6/2/86
by the Committee on
Appropriations

1986
FISCAL NOTE

CS/HB 1133
Bill Number
As Amended

IV. COMMENTS

The Appropriations Committee adopted an amendment which strikes subparagraph (3) of Section 161.142, F.S., and inserts a new subparagraph (3). The new language provides that construction waterward of the coastal construction control line on downdrift coastal areas, located within one mile of the centerline of navigation channels or inlets, providing access to ports listed in s. 403.021(9)(b), F.S., which suffers or has suffered erosion caused by such navigation channel maintenance or construction, shall be exempt from the permitting requirements and prohibitions of Subsections (2), (5) and (6) of s. 161.053, F.S.

It also provides that the timing and sequence of any construction in such coastal areas shall comply with 44 C.F.R. Sections 59.1 et. seq. and shall provide protection to nesting sea turtles and hatchlings and their habitats and to native salt resistant vegetation and endangered plant communities.


Staff Director


Staff Analyst

Date: April 17, 1986
Revised: April 28, 1986
Final: June 9, 1986

HOUSE OF REPRESENTATIVES
COMMITTEE ON NATURAL RESOURCES
STAFF ANALYSIS

BILL #: CS/HB 1133
RELATING TO: Beach renourishment and restoration programs
SPONSOR(S): Representative Dixie Sansom
EFFECTIVE DATE: October 1, 1986
COMPANION BILL(S): SB 432, HB 499, SB 0281
OTHER COMMITTEES OF REFERENCE: (1) Finance and Taxation
(2) Appropriations

I. SUMMARY:

Under current legislation, all beach renourishment and restoration projects must be initiated by the local government as project sponsor. If the Federal Government is participating financially in a project the Legislature may appropriate up to 75 percent of the non-Federal share of eligible project costs with local government sponsors required to contribute 25 percent of the non-Federal project cost. If Federal participation is not available, the Legislature may appropriate up to 75 percent of the total eligible project activity cost. The State pays 100 percent of all sand source studies as well as all costs for erosion control projects of which the state is the upland owner.

This bill amends portions of Chapters 161, 315, 215, 373, and 403, Florida Statutes, and creates some new language to achieve the following objectives:

- (1) To shift the primary focus of the beach renourishment and restoration project initiative to the state; and
- (2) To require the establishment of a comprehensive beach restoration plan to address the long term erosion problems of the state's beaches and inlets.

These objectives are detailed within the bill, but some of the major points are listed below.

- (1) Though the state is made primarily responsible for project initiation, local governments are still required to participate financially (25 percent of the project cost). They may still elect to initiate a project and pay the entire cost of the project. If the project is approved by the department before construction, the local

government will be reimbursed by the state for the state's normal portion of the cost. If the project is a Federal concern, the local government will be responsible for obtaining Federal reimbursement.

(2) Approval of a project is dependent upon the consistency with the approved beach restoration plan, the approval of the department and approval of the board of trustees. The plan must address a number of concerns. Five are listed below:

(a) the long-term causes and solutions to erosion of beaches;

(b) an evaluation of the existing or potential erosive impacts of coastal beach inlets, identifying strategies that mitigate the erosive impacts;

(c) the design criteria for beach restoration projects;

(d) the establishment of a system of feeder beaches as an alternative to direct beach renourishment efforts;

(e) the establishment of a prioritized list of projects, with funding requirements, needed for restoration and renourishment of beaches. These priorities are to be established after considering physical and fiscal concerns, user demand and local government actions on behalf of sea turtles.

(3) Once a beach renourishment and restoration project has been approved, local governments will be required to provide the Board with assurances that they will bear their financial portion of the project costs. The department will hold all permit applications for any of the various methods for armoring that area of the beach that is to be renourished or restored if they do not provide these assurances.

(4) The state will pay up to 100 percent for sand source studies. They will also pay the costs in emergency erosion situations as well as construction and maintenance costs occurring in projects where the state is the upland riparian owner, and where a system of feeder beaches and shoals is being established.

(5) A prioritized list of beach renourishment and/or restoration projects will be established by the department and updated yearly to reflect completed projects and new areas of concern.

(6) Improved navigation inlets will be maintained on an annual basis at no cost to the state by replacing the sand normally lost within one year's time.

In coordination with the criteria considered when prioritizing restoration/renourishment projects, within 2 years of the effective date of the act, DNR will designate coastal sea turtle nesting areas and adopt rule guidelines for local government regulations that control beachfront lighting to protect hatchling sea turtles.

II. ECONOMIC IMPACT:

A. Public:

This bill would have a positive impact on the public since the tourism industry increases with the beach improvements. Stimulating the economy will result in greater job opportunities.

B. Government:

For the local governments, the degree of financial participation required remains as in current law, though the primary project initiation responsibility is transferred to the state. There is a net gain to the local government with relation to beach renourishment and restoration since improved beach conditions will stimulate the local economy.

The Department of Natural Resources that the administration of this program will have the following economic impact:

	Year 1	Year 2	Year 3
OCO	\$ 3,000	\$ 1,000	\$ ---
Personnel	59,000	59,000	59,000
Expenses	10,000	10,000	10,000
TOTAL	\$72,000	\$70,000	\$ 69,000

In addition, the Department is requesting \$2.23 million to implement an indepth assessment of the condition of the beaches to determine which shoreline treatment is most appropriate for which areas.

DNR estimates that the implementation of this program will be \$13.75 million for each of the first four years, \$36.25 million for each of the following three years and \$43.75 million for each of the following three years. Maintenance costs after the completion of the 10-year program is estimated at \$2.75 million per year.

III. STATE COMPREHENSIVE PLAN IMPACT:

By requiring the development of a state comprehensive beach restoration plan, HB 1133 addresses the following portion of the state comprehensive plan:

(9) COASTAL AND MARINE RESOURCES.--

(a) Goal.--Florida shall ensure that development and marine resource use and beach access improvements in coastal areas do not endanger public safety or important natural resources. Florida shall, through acquisition and access improvements, make available to the state's population additional beaches and marine environment, consistent with sound environmental planning.

(b) Policies.--

5. Develop and implement a comprehensive system of coordinated planning, management, and land acquisition to ensure the integrity and continued attractive image of coastal areas.

IV. COMMENTS:

26 of Florida's 67 counties are coastal and a 1983 visitor study indicated that the majority of visitors to the State of Florida specifically came to enjoy our beach resources. The Department of Commerce study (1983) found that tourists visiting in Florida generated \$23 billion in expenditures and 661,000 jobs, that tourism generated a job payroll of \$4.7 billion and state tax revenues of \$1.05 billion. A 1985 study conducted by FSU found that beach-using tourists create over \$3.4 billion in sales, supporting 142,638 jobs with an annual payroll of over \$860 million. Beach related tourist economic activity generates nearly \$99 million.

V. AMENDMENTS:

None

VI. PREPARED BY: Paula L. Allen *PLA*

VII. STAFF DIRECTOR: G. Alan Whidby *GAW*

/gi

ADDENDUM

Incorporated with amendments as substitute to CS/CS for SB's 432 and 281.
Passed in House and Senate as Senate bill.