

1 A bill to be entitled
2 An act relating to beach management; amending s. 161.142,
3 F.S.; providing legislative intent and findings; providing
4 requirements concerning the quality and quantity of
5 dredged sand placed on certain beaches adjacent to inlets;
6 requiring an estimation of the requisite quantity of
7 beach-quality sand by the Department of Environmental
8 Protection and its consultants; removing exemptions from
9 permitting requirements and prohibitions for certain
10 construction activities; requiring the protection of
11 shorebirds and marine turtles; applying requirements
12 concerning the placement of dredged sand on adjacent
13 beaches to the inlet management projects of certain ports;
14 providing an exemption from such requirements; providing
15 that the inlet projects of such ports are eligible for
16 funding; providing requirements and findings concerning
17 the placement of dredged sand from federal navigation
18 projects; providing for assignment of responsibility for
19 the erosion caused by inlets; specifying actions to be
20 taken by the department in disputes between local
21 governments and property owners concerning how much sand
22 should bypass an inlet; creating s. 161.143, F.S.;
23 requiring that inlet management studies, projects, and
24 activities be supported by certain plans; providing
25 criteria governing the department's ranking of inlet
26 management projects and activities; specifying conditions
27 that must be met; requiring that the department establish
28 funding priorities for projects and activities concerning

HB 1427

2008

29 inlet management; providing for input from interested
30 governmental and private entities; providing criteria for
31 establishing priorities; authorizing funding levels for
32 inlet management projects under specified conditions;
33 requiring that the department annually provide an inlet
34 management project list to the Legislature; providing
35 requirements for the list; requiring that the department
36 make available certain moneys for projects on the list;
37 requiring that the department make available certain
38 moneys for projects on the list which are legislatively
39 approved; requiring that the Legislature designate a
40 certain inlet project as "Inlet of the Year"; requiring
41 the department to provide an annual report to the
42 Legislature concerning the success of projects so
43 designated; requiring rulemaking by the department;
44 providing an effective date.

45
46 Be It Enacted by the Legislature of the State of Florida:

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48 Section 1. Section 161.142, Florida Statutes, is amended
49 to read:

50 161.142 Declaration of public policy relating to improved
51 navigation inlets.--The Legislature ~~hereby~~ recognizes the need
52 for maintaining navigation inlets to promote commercial and
53 recreational uses of our coastal waters and their resources. The
54 Legislature further recognizes that inlets interrupt or alter
55 the natural drift of beach-quality sand resources, which often
56 results in these sand resources being deposited in nearshore

HB 1427

2008

57 ~~around shallow outer bar areas~~ or in the inlet channel instead
58 of providing natural nourishment to the adjacent eroding
59 ~~downdrift~~ beaches. Accordingly, the Legislature finds it is in
60 the public interest to replicate the natural drift of sand which
61 is interrupted or altered by inlets to be replaced and for each
62 level of government to undertake all reasonable efforts to
63 maximize inlet sand bypassing to ensure that beach-quality sand
64 is placed on adjacent eroding beaches. Such activities cannot
65 make up for the historical sand deficits caused by inlets but
66 shall be designed to reinstate longshore sand transport and
67 extend the life of proximate beach-restoration projects so that
68 periodic nourishment is needed less frequently. Therefore, in
69 furtherance of this declaration of public policy and the
70 Legislature's intent to redirect and recommit the state's
71 comprehensive beach management efforts to address the beach
72 erosion caused by inlets, the department shall ensure that:

73 (1) All construction and maintenance dredgings of beach-
74 quality sand are ~~should be~~ placed on the adjacent eroding
75 ~~downdrift~~ beaches unless, or, if placed elsewhere, an equivalent
76 quality and quantity of sand from an alternate location is
77 ~~should be~~ placed on the adjacent eroding ~~downdrift~~ beaches.

78 (2) On an average annual basis, a quantity of beach-
79 quality sand is ~~should be~~ placed on the adjacent eroding
80 ~~downdrift~~ beaches which is equal to the natural net annual
81 longshore sediment transport. The department shall, with the
82 assistance of university-based or other contractual resources
83 that it may employ or call upon, maintain a current estimate of

HB 1427

2008

84 such quantities of sand for purposes of prioritizing, planning,
85 and permitting.

86 ~~(3) Construction waterward of the coastal construction~~
87 ~~control line on downdrift coastal areas, on islands~~
88 ~~substantially created by the deposit of spoil, located within 1~~
89 ~~mile of the centerline of navigation channels or inlets,~~
90 ~~providing access to ports listed in s. 403.021(9)(b), which~~
91 ~~suffers or has suffered erosion caused by such navigation~~
92 ~~channel maintenance or construction shall be exempt from the~~
93 ~~permitting requirements and prohibitions of subsections (2),~~
94 ~~(5), and (6) of s. 161.053. The timing and sequence of any~~
95 construction activities associated with inlet management
96 projects in such coastal areas shall comply with 44 C.F.R. part
97 60 and shall provide protection to nesting sea turtles and their
98 hatchlings and their habitats, to nesting shorebirds, and to
99 native salt-resistant vegetation and endangered plant
100 communities. Beach-quality sand placed on the beach as part of
101 an inlet management project must be suitable for marine turtle
102 nesting.

103 ~~(4) The provisions of subsections (1) and (2) shall not be~~
104 ~~a requirement imposed upon ports listed in s. 403.021(9)(b) are~~
105 subject to this section and may sponsor or cosponsor inlet
106 management projects that are fully eligible for state cost-
107 sharing. Such ports must demonstrate reasonable effort to place
108 beach-quality sand from construction and maintenance dredging
109 and port-development projects on adjacent eroding beaches;
110 however, if the department finds that the public interest would
111 be served, the department may permit such ports to place less

HB 1427

2008

112 than the annualized equivalent volume of sand on adjacent
113 eroding beaches as otherwise required under subsection (2).

114 (5) The department shall ensure that any disposal of the
115 beach-quality sand from federal projects in this state which
116 involve dredging for the purpose of navigation is on, or in the
117 nearshore area of, adjacent eroding beaches. The department may
118 consider permitting offshore or upland disposal of such beach-
119 quality sand if emergency conditions exist. The state recognizes
120 that due to the growing demand for beach-quality sand resources
121 for beach restoration and nourishment projects, the limited
122 supply of such sand resources, and the cost of such projects,
123 beach or nearshore sand placement is the least-cost disposal
124 method.

125 (6) If federal investigations and reports or state-
126 approved inlet management plans do not specify the entity or
127 entities responsible for the extent of erosion caused by an
128 inlet, the department or local government, with the assistance
129 of university-based or other contractual resources that they may
130 employ or call upon, is encouraged to undertake assessments that
131 aid in specifying the responsible entity or entities and in more
132 accurately determining cost-sharing responsibilities for
133 measures to correct such erosion. The entity that is responsible
134 for maintenance dredging of an inlet may be deemed responsible
135 for the erosion caused by the inlet if another responsible party
136 is not specified in such an assessment, a shore-protection
137 project investigation or report, or a state-approved inlet
138 management plan.

139 (7) If the beneficiaries of the inlet, the local

HB 1427

2008

140 governments having jurisdiction of lands adjacent to the inlet,
141 or the owners of property adjacent to the inlet are involved in
142 a dispute concerning how much sand should be bypassed, the
143 department shall protect its monetary investment in beach
144 nourishment projects within the inlet's physical zone of
145 influence by taking all reasonable actions to reinstate the
146 natural longshore transport of sand, including implementation of
147 inlet sand bypassing and other inlet management projects.

148 Section 2. Section 161.143, Florida Statutes, is created
149 to read:

150 161.143 Inlet management; planning, prioritizing, funding,
151 approving, and implementing projects.--

152 (1) Studies, projects, and activities for the purpose of
153 mitigating the erosive effects of inlets and reinstating the
154 natural longshore flow of sand to adjacent eroding beaches must
155 be supported by separately approved inlet management plans or
156 inlet components of the statewide comprehensive beach management
157 plan. Such plans in support of individual inlet projects or
158 activities must, pursuant to s. 161.161(1)(b), evaluate each
159 inlet to determine the extent of the inlet's erosive effect on
160 adjacent beaches and, if significant, make recommendations to
161 mitigate such ongoing erosive effects and provide estimated
162 costs for such mitigation.

163 (2) The department shall establish annual funding
164 priorities for studies, activities, or other projects concerning
165 inlet management. Such inlet management projects include, but
166 are not limited to, inlet sand bypassing, modifications to
167 channel dredging, jetty redesign, jetty repair, disposal of

168 spoil material, and the development, revision, adoption, or
169 implementation of an inlet management plan. The funding
170 priorities established by the department must be consistent with
171 the requirements and legislative declaration in ss. 161.101(14),
172 161.142, and 161.161(1)(b). In establishing funding priorities
173 under this subsection and before transmitting the annual inlet
174 project list to the Legislature under subsection (5), the
175 department shall seek formal input from local coastal
176 governments, beach and general government associations and other
177 coastal interest groups, and university experts concerning
178 annual funding priorities for inlet management projects. In
179 order to maximize the benefits of efforts to address the inlet-
180 caused beach erosion problems of this state, the ranking
181 criteria used by the department to establish funding priorities
182 for studies, activities, or other projects concerning inlet
183 management must include consideration of:

184 (a) An estimate of the annual quantity of beach-quality
185 sand reaching the updrift boundary of the improved jetty or
186 inlet channel.

187 (b) The severity of the erosion to the adjacent beaches
188 caused by the inlet and the extent to which the proposed project
189 mitigates the erosive effects of the inlet.

190 (c) The overall significance and anticipated success of
191 the proposed project in reinstating the natural longshore
192 transport of sand and addressing the sand deficit along the
193 inlet-affected shorelines.

194 (d) The extent to which existing bypassing activities at
195 an inlet would benefit from modest, cost-effective improvements

196 when considering the volumetric increases from the proposed
197 project, the availability of beach-quality sand currently not
198 being bypassed to adjacent eroding beaches, and the ease with
199 which such beach-quality sand may be obtained.

200 (e) The interest and commitment of local governments as
201 demonstrated by their willingness to coordinate the planning,
202 design, construction, and maintenance of an inlet management
203 project and their financial plan for funding the local cost-
204 share for initial construction, ongoing sand bypassing, channel
205 dredging, and maintenance.

206 (f) The previous completion or approval of a state-
207 sponsored inlet management plan or local-government-sponsored
208 inlet study concerning the inlet addressed by the proposed
209 project, the ease of updating and revising any such plan or
210 study, and the adequacy and specificity of the plan's or study's
211 recommendations concerning the mitigation of an inlet's erosive
212 effects on adjacent beaches.

213 (g) The degree to which the proposed project will enhance
214 the performance and longevity of proximate beach nourishment
215 projects, thereby reducing the frequency of such periodic
216 nourishment projects.

217 (h) The project-ranking criteria in s. 161.101(14) to the
218 extent such criteria are applicable to inlet management studies,
219 projects, and activities.

220 (3) The department may, pursuant to s. 161.101 and
221 notwithstanding s. 161.101(15), pay from legislative
222 appropriations provided for these purposes 75 percent of the
223 total costs, or, if applicable, the nonfederal costs, of a

HB 1427

2008

224 study, activity, or other project concerning the management of
225 an inlet. The balance must be paid by the local governments or
226 special districts having jurisdiction over the property where
227 the inlet is located.

228 (4) Using the legislative appropriation to the statewide
229 beach-management-support category of the department's fixed
230 capital outlay funding request, the department may employ
231 university-based or other contractual sources and pay 100
232 percent of the costs of studies that are consistent with the
233 legislative declaration in s. 161.142 and that:

234 (a) Determine, calculate, refine, and achieve general
235 consensus regarding net annual sediment transport volumes to be
236 used for the purpose of planning and prioritizing inlet
237 management projects; and

238 (b) Appropriate, assign, and apportion responsibilities
239 between inlet beneficiaries for the erosion caused by a
240 particular inlet on adjacent beaches.

241 (5) The department shall annually provide an inlet
242 management project list, in priority order, to the Legislature
243 as part of the department's budget request. The list must
244 include studies, projects, or other activities that address the
245 management of at least 10 separate inlets and that are ranked
246 according to the criteria established under subsection (2).

247 (a) The department shall make available at least 10
248 percent of the total amount that the Legislature appropriates in
249 each fiscal year for statewide beach management for the three
250 highest-ranked projects on the current year's inlet management
251 project list.

252 (b) The department shall make available at least 50
253 percent of the funds appropriated for the feasibility and design
254 category in the department's fixed capital outlay funding
255 request for projects on the current year's inlet management
256 project list which involve the study for, or design or
257 development of, an inlet management project.

258 (c) The department shall make available all statewide
259 beach management funds that remain unencumbered or are allocated
260 to non-project-specific activities for projects on legislatively
261 approved inlet management project lists. Funding for local-
262 government-specific projects on annual project lists approved by
263 the Legislature must remain available for such purposes for a
264 period of 18 months pursuant to s. 216.301(2) (a). Based on an
265 assessment and the department's determination that a project
266 will not be ready to proceed during this 18-month period, such
267 funds shall be used for inlet management projects on
268 legislatively approved lists.

269 (d) The Legislature shall designate one of the three
270 highest projects on the inlet management project list in any
271 year as the Inlet of the Year. The department shall annually
272 report to the Legislature concerning the extent to which each
273 inlet project designated by the Legislature as Inlet of the Year
274 has succeeded in reinstating the natural longshore transport of
275 sand around inlets, mitigating the inlet's erosive effects on
276 adjacent beaches, and transferring or otherwise placing beach-
277 quality sand on adjacent eroding beaches.

278 (6) The department shall adopt rules under ss. 120.536(1)
279 and 120.54 to administer this section.

HB 1427

2008

280

Section 3. This act shall take effect July 1, 2008.