

By the Committee on Environmental Preservation and Conservation;
and Senators Jones and Gaetz

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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; requiring the protection
9 of shorebirds and marine turtles; applying requirements
10 concerning the placement of dredged sand on adjacent
11 beaches to the inlet management projects of certain ports;
12 providing an exemption from such requirements; providing
13 that the inlet projects of such ports are eligible for
14 funding; providing requirements and findings concerning
15 the placement of dredged sand from federal navigation
16 projects; providing for assignment of responsibility for
17 the erosion caused by inlets; specifying actions to be
18 taken by the department in disputes between local
19 governments and property owners concerning how much sand
20 should bypass an inlet; creating s. 161.143, F.S.;
21 requiring that inlet management studies, projects, and
22 activities be supported by certain plans; providing
23 criteria governing the department's ranking of inlet
24 management projects and activities; specifying conditions
25 that must be met; requiring that the department establish
26 funding priorities for projects and activities concerning
27 inlet management; providing for input from interested
28 governmental and private entities; providing criteria for
29 establishing priorities; authorizing funding levels for

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30 inlet management projects under specified conditions;
31 requiring that the department annually provide an inlet
32 management project list to the Legislature; providing
33 requirements for the list; requiring that the department
34 make available certain moneys for projects on the list;
35 requiring that the department make available certain
36 moneys for projects on the list which are legislatively
37 approved; requiring that the Legislature designate certain
38 inlet projects as "Inlet of the Year"; requiring the
39 department to provide an annual report to the Legislature
40 concerning the success of projects so designated;
41 authorizing rulemaking by the department; providing an
42 effective date.

43
44 Be It Enacted by the Legislature of the State of Florida:

45
46 Section 1. Section 161.142, Florida Statutes, is amended to
47 read:

48 161.142 Declaration of public policy relating to improved
49 navigation inlets.--The Legislature ~~hereby~~ recognizes the need
50 for maintaining navigation inlets to promote commercial and
51 recreational uses of our coastal waters and their resources. The
52 Legislature further recognizes that inlets interrupt or alter the
53 natural drift of beach-quality sand resources, which often
54 results in these sand resources being deposited in nearshore
55 ~~around shallow outer-bar~~ areas or in the inlet channel, instead
56 of providing natural nourishment to the adjacent eroding
57 ~~downdrift~~ beaches. Accordingly, the Legislature finds it is in
58 the public interest to replicate the natural drift of sand which

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59 is interrupted or altered by inlets to be replaced and for each
60 level of government to undertake all reasonable efforts to
61 maximize inlet sand bypassing to ensure that beach-quality sand
62 is placed on adjacent eroding beaches. Such activities cannot
63 make up for the historical sand deficits caused by inlets, but
64 shall be designed to balance the sediment budget of the inlet and
65 adjacent beaches and extend the life of proximate beach-
66 restoration projects so that periodic nourishment is needed less
67 frequently. Therefore, in furtherance of this declaration of
68 public policy, and the Legislature's intent to redirect and
69 recommit the state's comprehensive beach management efforts to
70 address the beach erosion caused by inlets, the department shall
71 ensure that:

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

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

85 (3) ~~Construction waterward of the coastal construction~~
86 ~~control line on downdrift coastal areas, on islands substantially~~
87 ~~created by the deposit of spoil, located within 1 mile of the~~

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

101 (4) The provisions of subsections (1) and (2) are shall not
102 ~~be~~ a requirement imposed upon ports listed in s. 403.021(9)(b).
103 However, such ports must demonstrate reasonable efforts to place
104 beach-quality sand from construction and maintenance dredging and
105 port-development projects on adjacent eroding beaches in
106 accordance with port master plans approved by the Department of
107 Community Affairs and with permits approved and issued by the
108 Department of Environmental Protection in order to ensure
109 compliance with this section. A port may sponsor or cosponsor
110 inlet management projects that are fully eligible for state cost
111 sharing.

112 (5) The department shall ensure that the disposal of beach-
113 quality sand from federal projects in this state which involve
114 dredging for the purpose of navigation is placed on, or in the
115 nearshore area of, adjacent eroding beaches. The department may
116 consider permitting nearshore or upland disposal of such beach-

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117 quality sand if emergency conditions exist. The state recognizes
118 that due to the growing demand for beach-quality sand resources
119 for beach restoration and nourishment projects, the limited
120 supply of such sand resources, and the cost of such projects,
121 beach or nearshore sand placement is the least-cost disposal
122 method.

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

137 (7) If the beneficiaries of the inlet, the local
138 governments having jurisdiction of lands adjacent to the inlet,
139 or the owners of property adjacent to the inlet, are involved in
140 a dispute concerning how much sand should be bypassed, the
141 department shall protect its monetary investment in beach
142 nourishment projects within the inlet's physical zone of
143 influence by taking all reasonable actions to balance the
144 sediment budget of the inlet and adjacent beaches, including
145 implementation of inlet sand bypassing and other inlet management

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146 projects.

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

149 161.143 Inlet management; planning, prioritizing, funding,
150 approving, and implementing projects.--

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

162 (2) The department shall establish annual funding
163 priorities for studies, activities, or other projects concerning
164 inlet management. Such inlet management projects include, but are
165 not limited to, inlet sand bypassing, modifications to channel
166 dredging, jetty redesign, jetty repair, disposal of spoil
167 material, and the development, revision, adoption, or
168 implementation of an inlet management plan. The funding
169 priorities established by the department must be consistent with
170 the requirements and legislative declaration in ss. 161.101(14),
171 161.142, and 161.161(1)(b). In establishing funding priorities
172 under this subsection and before transmitting the annual inlet
173 project list to the Legislature under subsection (5), the
174 department shall seek formal input from local coastal

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175 governments, beach and general government associations and other
176 coastal interest groups, and university experts concerning annual
177 funding priorities for inlet management projects. In order to
178 maximize the benefits of efforts to address the inlet-caused
179 beach erosion problems of this state, the ranking criteria used
180 by the department to establish funding priorities for studies,
181 activities, or other projects concerning inlet management must
182 include consideration of:

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

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

189 (c) The overall significance and anticipated success of the
190 proposed project in balancing the sediment budget of the inlet
191 and adjacent beaches and addressing the sand deficit along the
192 inlet-affected shorelines.

193 (d) The extent to which existing bypassing activities at an
194 inlet would benefit from modest, cost-effective improvements when
195 considering the volumetric increases from the proposed project,
196 the availability of beach-quality sand currently not being
197 bypassed to adjacent eroding beaches, and the ease with which
198 such beach-quality sand may be obtained.

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

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204 dredging, and maintenance.

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

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

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

219 (3) The department may, pursuant to s. 161.101 and
220 notwithstanding s. 161.101(15), pay from legislative
221 appropriations provided for these purposes 75 percent of the
222 total costs or, if applicable, the nonfederal costs, of a study,
223 activity, or other project concerning the management of an inlet.
224 The balance must be paid by the local governments or special
225 districts having jurisdiction over the property where the inlet
226 is located.

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

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

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

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

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

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

257 (c) The department shall make available all statewide beach
258 management funds that remain unencumbered or are allocated to
259 non-project-specific activities for projects on legislatively
260 approved inlet management project lists. Funding for local-
261 government-specific projects on annual project lists approved by

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262 the Legislature must remain available for such purposes for a
263 period of 18 months, pursuant to s. 216.301(2) (a). Based on an
264 assessment and the department's determination that a project will
265 not be ready to proceed during this 18-month period, such funds
266 shall be used for inlet management projects on legislatively
267 approved lists.

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

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

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