
MEMORANDUM

TO: Town Council; Joseph F. Lo Bello, Town Manager

FROM: Mayor DD Halpern

DATE: October 19, 2022

SUBJECT: Discussion on Creating Metered and Resident Park and Beach Parking, and Creating Mars Way Resident Parking

BACKGROUND

While speaking to Juno Beach residents during my 2021 election campaign, many people expressed their frustration with not being able to find parking at Kagen Park, particularly during the snowbird season.

In June 2021, I began researching the process for creating free resident-only parking at Kagen Park from approximately November 15 - April 15.

To start researching this topic I spoke with Town Manager Lo Bello who stated that maintaining public access at Kagen Park is a condition of the grants the town has received for playground equipment and other amenities at the park. Thus, if the town were to *restrict public access*, we would be required to repay the grant(s). The public funds through which the grants are created must be used for the public good.

At a 2021 Town Council meeting, then Vice Mayor Jim Lyons suggested creating resident-only parking in the Town Center parking lot. He stated that people were parking there to go to the beach or walk around Pelican Lake, which resulted in a lack of parking for Town Staff and others needing to do business at Town Center. It has been observed that when Mercury Road beach parking spaces are full, people will park in the Town Center parking lot.


The residents of Mars Way have requested resident-only parking due to traffic concerns.

In the months since, I have had ongoing communications with Palm Beach County Environmental Management staff who are in charge of managing the County and Town beach nourishment funding calculations. Receipt of beach nourishment/restoration is contingent on our beaches having public access, as it is public funds that are used to fund the restoration projects.

My email communications with the County are attached as backup and further explain what parking conditions are allowable.

Note: These parking issues are primarily a problem during the winter months, however, there are times throughout the year when beach parking is in high demand and at full capacity at Mercury Road, Kagen Park, and Town Center.

DISCUSSION

- 1) Council to consider making separate motions to create paid metered parking at Kagen Park and Mercury Road.
 - 2) Council to consider providing Juno Beach residents a free resident parking pass/sticker for "ALL TOWN PARKS/BEACHES."
- 

3) Council to consider what criteria will be considered as proof of residency:

A) Proof of property ownership, or B) proof of homestead?

The four areas being addressed are - from south to north:

1) Kagen Park

GOAL: Resident parking and/or metered parking: While residents have asked for exclusive parking privileges, due to grants received this location may not be a good candidate for metered parking.

Beach Funding Status: Metered parking would not affect funding eligibility since the spaces remain open to the public at large.

Amenity Funding Criteria: This site has received state grants that would need to be repaid if parking were to be restricted to resident-only. Need to evaluate grant criteria to create metered parking.

2) Town Center

GOAL: Designate 5-6 parking spaces as "Town Business Only," during business hours on Monday - Friday.

Beach Funding Status: Confirmed with FDEP's BFMA program staff that a reduction in 5-6 public parking spaces for use by Town staff will not impact our ranking score in the funding process.

Amenity Funding Criteria: TBD by Town Staff.

3) Mercury Road

GOAL: Discuss metered public parking and free resident parking pass

Beach Funding Status from PBC: As long as the spaces remain available to the public, installation of meters would not conflict with funding eligibility. We have this same scenario at a number of other publicly eligible projects in Palm Beach, Boynton Beach, Delray Beach, and Boca Raton. As long as the spaces remain publicly accessible, metering with the option for Town resident passes shouldn't impact funding eligibility.

Amenity Funding Criteria: TBD by Town Staff

4) Mars Way

GOAL: Create resident-only parking.

Beach Funding Status from PBC: Mars Way isn't used in funding calculations because the Mercury Road and Loggerhead Park accesses provide enough shoreline coverage for 100% eligibility by State rule.

Town Amenity Funding Criteria: TBD by Town Staff

REQUEST FROM PBC:

If the Town does move forward with paid parking meters, I would ask that the County be permitted to park for free during our regular beach assessments as is typical at other municipalities with fee requirements.

Attachment(s):

- 1) Copy of Email Chain between Mayor Halpern and LMC President & CEO Andy DeHart dated October 7, 2022;
- 2) Copy of 2022 Florida Statutes Chapter 161;
- 3) Copy of FDEP's Chapter 62B-36 - Beach Management Funding Assistance Program; and
- 4) Copy of Email Chain between Mayor Halpern and PBC ERM Deputy Director Mike Stahl dated October 7, 2022.



ATTACHMENT #1

Caitlin Copeland <ccopeland@juno-beach.fl.us>

BACKUP 1 - Parking and Nourishment Funding Juno Beach

1 message

DD Halpern <dd_halpern@yahoo.com>
Reply-To: DD Halpern <dd_halpern@yahoo.com>
To: Caitlin Copeland <ccopeland@juno-beach.fl.us>

Fri, Oct 7, 2022 at 12:48 PM

Hi Caitlin,
I'd also like to add this item to the October 26 agenda.
Draft Memo attached, as well as two documents from ERM.

Please use this email chain as well. I have a second email chain as backup, that I'll send in a separate email "Backup 2."

Thank you,
DD Halpern
Mayor, Town of Juno Beach

----- Forwarded Message -----

From: Andy Studt <astudt@pbcgov.org>
To: DD Halpern <dd_halpern@yahoo.com>
Sent: Monday, October 3, 2022 at 02:28:59 PM EDT
Subject: RE: Parking and Nourishment Funding Juno Beach

DD,

I received confirmation from the State that as long as the spaces remain publicly accessible, metering with the option for Town resident passes shouldn't impact funding eligibility. The State funding rule is attached for reference if needed.

Best Regards,

-Andy

From: Andy Studt
Sent: Monday, October 3, 2022 2:07 PM
To: 'DD Halpern' <dd_halpern@yahoo.com>
Subject: RE: Parking and Nourishment Funding Juno Beach

Good Afternoon DD,

Please see below responses as noted in red.

Hope you had a good weekend,

-Andy

From: DD Halpern <dd_halpern@yahoo.com>
Sent: Monday, October 3, 2022 10:30 AM
To: Andy Studt <AStudt@pbcgov.org>
Subject: Re: Parking and Nourishment Funding Juno Beach

Hi Andy,

This IS great news on both topics.

I agree that last year's beach nourishment had a significant positive impact in protecting our shores.

Regarding the parking/funding topic, I have two further questions:

1) Has Mars Way ever been used as one of the streets figured into the parking calculations? (Residents of that stree are asking that it be made resident-nly parking.)

Mars Way isn't used in funding calculations because the Mercury Road and Loggerhead Park accesses provide enough shoreline coverage for 100% eligibility by State rule.

2) Regarding Mercury Road (a Secondary Access on the Eligibility List):

Can the Town of Juno Beach create **paid-meter parking for the public**, in addition to a **free resident parking permit** - while still keeping the road as as a funding-eligible location?

As long as the spaces remain available to the public, installation of meters would not conflict with funding eligibility. We have this same scenario at a number of other publicly eligible projects in Palm Beach, Boynton Beach, Delray Beach, and Boca Raton. I'll follow up with our FDEP funding contact on any potential conflict with issuance of free resident parking permits, but I don't think it will impact eligibility so long as the spaces remain publicly available.

If the Town does move forward with paid parking meters, I would ask that the County be permitted to park for free during our regular beach assessments as is typical at other municipalities with fee requirements.

Thank you!

DD Halpern
Mayor, Town of Juno Beach

On Monday, September 26, 2022 at 04:35:54 PM EDT, Andy Studt <astudt@pbcgov.org> wrote:

Good Afternoon DD,

Good news on multiple fronts. We completed our pre-storm staff-level beach assessments this morning as a typical precautionary measure prior to potential storm impacts, and the Town's shoreline within the County Shore Protection Protect area remains in excellent condition following the recent FY2021 nourishment project (aerial photos attached).

I was also able to confirm with FDEP's BFMA program staff that a reduction in 5-6 public parking spaces for use by Town staff as described below will not impact our ranking score in the funding process. We strive to keep as much public accessibility available for residents and visitors to our beautiful beaches, and greatly

appreciate your coordination to ensure the Town's needs don't negatively impact the all-important funding eligibility.

Best Regards,

-Andy

From: DD Halpern <dd_halpern@yahoo.com>
Sent: Monday, September 26, 2022 3:58 PM
To: Andy Studt <AStudt@pbcgov.org>
Subject: Re: Parking and Nourishment Funding Juno Beach

Hi Andy,

So what did you find out? Please let me know before close of business on September 28, as I'd like to report on this during our council meeting that afternoon.

Thank you,

DD Halpern
Mayor, Town of Juno Beach

561-972-1644

On Thursday, September 22, 2022 at 11:33:38 AM EDT, Andy Studt <astudt@pbcgov.org> wrote:

Good Morning DD,

I have a meeting scheduled with FDEP's Beach Management Funding Assistance Program staff (who actually process and rank our funding applications as exemplified in your attachment) this afternoon and should be able to nail down the parking situation with more clarity. I'll follow up with you tomorrow and let you know where we land. As previously described, the County understands and supports the Town's position here, we just want to make sure we're aware of any potential impacts to funding application ranking and availability.

Best Regards,

Andy Studt

Program Supervisor, Coastal Resources Management

Department of Environmental Resources Management

Palm Beach County

2300 North Jog Road, 4th Floor

West Palm Beach, FL 33411

(561) 233-2539

From: DD Halpern <dd_halpern@yahoo.com>
Sent: Wednesday, September 21, 2022 2:00 PM
To: Michael Stahl R. <MStahl@pbcgov.org>; Andy Studt <AStudt@pbcgov.org>
Subject: Parking and Nourishment Funding Juno Beach

Hi Mike/Andy,

I'd like to circle back on this issue of parking as it relates to counting toward Juno Beach's access to beach nourishment projects.

Attached is a document that one of our homeowners was able to find. It doesn't appear that our Town Center parking spaces contribute toward the funding formula count.

My goal is to get several (4-6) parking spaces at the Town Center designated as "Town Business Only," during business hours on Monday - Friday.

I believe we need this designation because during "snowbird season" beachgoers park in our town parking lot, making it sometimes impossible for our town staff to find parking after they return from lunch. It also prevents contractors, members of clubs and boards that use our library, and others who are doing business with the town from having easy access to parking.


Please let me know your thoughts on this.

Thank you,


DD Halpern
Mayor, Town of Juno Beach

561-972-1644

3 attachments

 **Chapter 161.pdf**
473K

 **62B-36 (3).doc**
111K

 **Beach Parking and Funding - Summary Memo October 2022.docx**
193K

October 3, 2022

Search Statutes:

2022

Search

Advanced Legislative
Search and Browse

Select Year:

2022

Go

The 2022 Florida Statutes

Title XI
COUNTY ORGANIZATION AND
INTERGOVERNMENTAL RELATIONS

Chapter 161
BEACH AND SHORE
PRESERVATION

[View Entire
Chapter](#)

CHAPTER 161

BEACH AND SHORE PRESERVATION

PART I

REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY

(ss. 161.011-161.242)

PART II

BEACH AND SHORE PRESERVATION DISTRICTS

(ss. 161.25-161.45)

PART III

COASTAL ZONE PROTECTION

(ss. 161.52-161.58)

PART IV

OCEANS AND COASTAL RESOURCES ACT

(ss. 161.70-161.76)

PART I

REGULATION OF CONSTRUCTION, RECONSTRUCTION, AND OTHER PHYSICAL ACTIVITY

- 161.011 Short title.
- 161.021 Definitions.
- 161.031 Personnel and facilities.
- 161.041 Permits required.
- 161.0415 Citation of rule.
- 161.042 Coastal construction and excavation in barrier beach inlets.
- 161.051 Coastal construction by persons, firms, corporations, or local authorities.
- 161.052 Coastal construction and excavation; regulation.
- 161.053 Coastal construction and excavation; regulation on county basis.
- 161.0531 Development agreements.
- 161.0535 Permits; fees, costs.

- Home
- Senate
- House
- Citator
- Statutes, Constitution,
& Laws of Florida
- Florida Statutes
- Search Statutes
- Search Tips
- Florida Constitution
- Laws of Florida
- Legislative & Executive
Branch Lobbyists
Information Center
- Joint Legislative
Committees &
Other Entities
- Historical Committees
- Florida Government
Efficiency Task Force
- Legislative Employment
- Legistore
- Links

Interpreter Services for the
Deaf and Hard of Hearing

**Finding
Florida** Grades
K-5

**LIFE AS A
LAWMAKER** Grades
6+

- 161.054 Administrative fines; liability for damage; liens.
- 161.055 Concurrent processing of permits.
- 161.061 Coastal construction serving no public purpose, endangering human life, health, or welfare, or becoming unnecessary or undesirable.
- 161.071 Prosecuting officers to assist enforcement of this part.
- 161.081 Powers of Department of Legal Affairs.
- 161.082 Review of innovative technologies for beach nourishment.
- 161.085 Rigid coastal armoring structures.
- 161.088 Declaration of public policy respecting beach erosion control and beach restoration and nourishment projects.
- 161.091 Beach management; funding; repair and maintenance strategy.
- 161.101 State and local participation in authorized projects and studies relating to beach management and erosion control.
- 161.111 Shore erosion emergency.
- 161.121 Penalty.
- 161.131 Construction of ss. 161.011-161.212.
- 161.141 Property rights of state and private upland owners in beach restoration project areas.
- 161.142 Declaration of public policy relating to improved navigation inlets.
- 161.143 Inlet management; planning, prioritizing, funding, approving, and implementing projects.
- 161.144 Policy guidance related to sand source management.
- 161.151 Definitions; ss. 161.141-161.211.
- 161.161 Procedure for approval of projects.
- 161.163 Coastal areas used by sea turtles; rules.
- 161.181 Recording of resolution and survey of board of trustees.
- 161.191 Vesting of title to lands.
- 161.201 Preservation of common-law rights.
- 161.211 Cancellation of resolution for nonperformance by board of trustees.
- 161.212 Judicial review relating to permits and licenses.
- 161.242 Harvesting of sea oats and sea grapes prohibited; possession prima facie evidence of violation.

161.011 Short title.—Parts I and II of this chapter may be known and cited as the “Dennis L. Jones Beach and Shore Preservation Act.”

History.—s. 1, ch. 65-408; s. 1, ch. 2012-65.

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

(1) “Access” or “public access” as used in ss. 161.041, 161.052, and 161.053 means the public’s right to laterally traverse the sandy beaches of this state where such access exists on or after July 1, 1987, or where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided.

(2) “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.

(3) “Beach nourishment” means the maintenance of a restored beach by the replacement of sand.

(4) “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.

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

(6) "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.

(7) "Department" means the Department of Environmental Protection.

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

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

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 43, ch. 71-377; s. 1, ch. 78-257; s. 1, ch. 86-138; s. 11, ch. 87-97; s. 17, ch. 94-356; s. 2, ch. 2000-346; s. 1, ch. 2007-99.

161.031 Personnel and facilities.—The Department of Environmental Protection may call to its assistance temporarily, any engineer or other employee in any state agency or department or in the University of Florida or other educational institution financed wholly or in part by the state, for the purpose of devising the most effective and economical method of averting and preventing erosion, hurricane, and storm damages. These employees shall not receive additional compensation, except for actual necessary expenses incurred while working under the direction of the department.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 18, ch. 94-356; s. 4, ch. 2000-197.

161.041 Permits required.—

(1) If a person, firm, corporation, county, municipality, township, special district, or public agency desires to make any coastal construction or reconstruction or change of existing structures, or any construction or physical activity undertaken specifically for shore protection purposes, or other structures and physical activity including groins, jetties, moles, breakwaters, seawalls, revetments, artificial nourishment, inlet sediment bypassing, excavation or maintenance dredging of inlet channels, or other deposition or removal of beach material, or construction of other structures of a solid or highly impermeable design upon state sovereignty lands below the mean high-water line of any tidal water of the state, a coastal construction permit must be obtained from the department before the commencement of such work. The department may exempt interior tidal waters of the state from the permit requirements of this section.

(a) Except during construction, such development may not interfere with the public use of any area of a beach seaward of the mean high-water line unless the department determines that the interference is unavoidable for purposes of protecting the beach or an endangered upland structure. As a condition of granting permits under this section, the department may require the provision of alternative access if interference with public access along the beach is unavoidable. The width of such alternate access may not be required to exceed the width of the access that will be obstructed as a result of the permit being granted.

(b) Except for the deepwater ports identified in s. 403.021(9)(b), the department shall not issue a permit for the construction of a coastal inlet jetty or the excavation or maintenance of such an inlet if the activity authorized by the permit will have a significant adverse impact on the sandy beaches of this state without a mitigation program approved by the department. In evaluating the mitigation program, the department shall consider the benefits of the long-term sand management plan of the permittee and the overall public benefits of the inlet activity.

(2) The department may authorize an excavation or erection of a structure at any coastal location upon receipt of an application from a property or riparian owner and upon consideration of facts and circumstances, including:

- (a) Adequate engineering data concerning inlet and shoreline stability and storm tides related to shoreline topography;
- (b) Design features of the proposed structures or activities; and
- (c) Potential effects of the location of such structures or activities, including potential cumulative effects of any proposed structures or activities upon such beach-dune system or coastal inlet, which, in the opinion of the department, clearly justify such permit.

(3) The department may require engineer certifications as necessary to assure the adequacy of the design and construction of permitted projects. Reasonable assurance is demonstrated if the permit applicant provides competent substantial evidence based on plans, studies, and credible expertise that accounts for naturally occurring variables that might reasonably be expected.

(4) The department may, as a condition to granting a permit under this section, require mitigation, financial, or other assurances acceptable to the department as necessary to assure performance of the conditions of a permit or enter into contractual agreements to best assure compliance with any permit conditions. Biological and environmental monitoring conditions included in the permit must be based upon clearly defined scientific principles. The department may also require notice of the required permit conditions and the contractual agreements entered into pursuant to this subsection to be filed in the public records of the county in which the permitted activity is located.

(5) Notwithstanding any other provision of law, the department may issue a permit pursuant to this part in advance of the issuance of an incidental take authorization as provided under the Endangered Species Act and its implementing regulations if the permit and authorization include a condition requiring that such authorized activities not begin until the incidental take authorization is issued.

(6) The department shall adopt rules to address standard mixing zone criteria and antidegradation requirements for turbidity generation for beach management and inlet bypassing permits that involve the excavation and placement of sediment in order to reduce or eliminate the need for variances. In processing variance requests, the department must consider the legislative declaration that, pursuant to s. 161.088, beach nourishment projects are in the public interest.

(7) Application for permits shall be made to the department upon such terms and conditions as set forth by rule.

(a) If, as part of the permit process, the department requests additional information, it must cite applicable statutory and rule provisions that justify any item listed in a request for additional information.

(b) The department may not issue guidelines that are enforceable as standards for beach management, inlet management, and other erosion control projects without adopting such guidelines by rule.

(8) The Legislature intends to simplify and expedite the permitting process for the periodic maintenance of previously permitted and constructed beach nourishment and inlet management projects under the joint coastal permit process. A detailed review of a previously permitted project is not required if there have been no substantial changes in project scope and past performance of the project indicates that the project has performed according to design expectations. The department shall amend chapters 62B-41 and 62B-49, Florida Administrative Code, to streamline the permitting process for periodic beach maintenance projects and inlet sand bypassing activities.

(9) Joint coastal permits issued for activities falling under this section and part IV of chapter 373 must allow for two maintenance or dredging disposal events or a permit life of 15 years, whichever is greater.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 2, ch. 78-257; s. 1, ch. 83-247; s. 12, ch. 87-97; s. 19, ch. 94-356; s. 3, ch. 2000-346; s. 2, ch. 2012-65; s. 2, ch. 2012-205.

161.0415 Citation of rule.—In addition to any other provisions within this chapter or any rules promulgated hereunder, the permitting agency shall, when requesting information for a permit application pursuant to this chapter or such rules promulgated hereunder, cite a specific rule or provision of the Florida Building Code. If a request for information cannot be accompanied by a rule citation, failure to provide such information cannot be grounds to deny a permit.

History.—s. 1, ch. 79-161; s. 4, ch. 2000-141; s. 34, ch. 2001-186; s. 3, ch. 2001-372.

161.042 Coastal construction and excavation in barrier beach inlets.—The department is authorized to direct any person, or any public body or agency, responsible for the excavation of sandy sediment as a result of any activity conducted to maintain navigable depths within or immediately adjacent to any coastal barrier beach inlet within sovereignty lands, after the department considers any limitations under chapters 253 and 403 on the deposition of spoil material from the excavation, and upon issuance of water quality certification by the department, to use such sediment for beach nourishment as prescribed by the department. For any construction or excavation within or immediately contiguous to any coastal barrier beach inlet which has been permitted pursuant to s. 161.041, the department may require the permittee to supply beach profiles and conduct hydrographic monitoring of the impacted area.

History.—s. 3, ch. 78-257; s. 1, ch. 80-183; s. 20, ch. 94-356; s. 4, ch. 2000-346.

161.051 Coastal construction by persons, firms, corporations, or local authorities.—Where any person, firm, corporation, county, municipality, township, special district, or any public agency shall construct and install projects when permits have been properly issued, such works and improvements shall be the property of said person, firm, corporation, county, municipality, township, special district, or any public agency where located, and shall thereafter be maintained by and at the expense of said person, firm, corporation, county, municipality, township, special district, or other public agency. No grant under this section shall affect title of the state to any lands below the mean high-water mark, and any additions or accretions to the upland caused by erection of such works or improvement shall remain the property of the state if not previously conveyed. The state shall in no way be liable for any damages as a result of erections of such works and improvements, or for any damages arising out of construction, reconstruction, maintenance, or repair thereof, or otherwise arising on account of such works or improvements.

History.—s. 1, ch. 65-408.

161.052 Coastal construction and excavation; regulation.—

(1) No person, firm, corporation, municipality, county, or other public agency shall excavate or construct any dwelling house, hotel, motel, apartment building, seawall, revetment, or other structure incidental to or related to such structure, including but not limited to such attendant structures or facilities as a patio, swimming pool, or garage, within 50 feet of the line of mean high water at any riparian coastal location fronting the Gulf of Mexico or Atlantic coast shoreline of the state, exclusive of bays, inlets, rivers, bayous, creeks, passes, and the like. In areas where an erosion control line has been established under the provisions of ss. 161.141-161.211, that line, or the presently existing mean high-water line, whichever is more landward, shall be considered to be the mean high-water line for the purposes of this section.

(2) A waiver or variance of the setback requirements may be authorized by the department in the following circumstances:

(a) The department may authorize an excavation or erection of a structure at any riparian coastal location as described in subsection (1) upon receipt of an application from a riparian owner and upon the consideration of facts and circumstances, including adequate engineering data concerning shoreline stability and storm tides related to shoreline topography, which, in the opinion of the department, clearly and unequivocally justify such a waiver or variance.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if said existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line on written authorization from the department if such proposed structure complies with the Florida Building Code and the rules of the department. However, the department shall not contravene setback requirements established by a county or municipality which are equal to, or more strict than, those setback requirements provided herein.

(c) The department may authorize the construction of pipelines or piers extending outward from the shoreline, unless it determines that the construction of such projects would cause erosion of the beach in the area of such structures.

(3) The provisions of this section shall not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction on June 27, 1970.

(4) The department may by regulation exempt specifically described portions of the coastline from the provisions of this section whenever in its judgment such portions of coastline, because of their nature, are not subject to erosion of a substantially damaging effect to the public.

(5) The setback requirements as defined herein shall not apply to any riparian coastal locations fronting the Atlantic Ocean or Gulf of Mexico which have vegetation-type nonsandy shores.

(6) The setback requirements defined in subsection (1) shall not apply to any modification, maintenance, or repair to any existing structure within limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure.

(7) Any coastal structure erected, or excavation created, in violation of the provisions of this section is hereby declared to be a public nuisance, and such structure shall be forthwith removed or such excavation refilled after written notice by the department directing such removal or filling. In the event that the structure is not removed or the excavation refilled as directed within a reasonable time, the department may remove such structure or fill such excavation at its own expense. The cost thereof shall become a lien upon the property of the upland owner upon which such unauthorized structure or excavation is located.

(8) Any person violating any provision of this section is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.083. Such person shall be deemed guilty of a separate offense for each month during any portion of which any violation of this section is committed or continued.

(9) The secretary of the department may make recommendations to the Board of Trustees of the Internal Improvement Trust Fund concerning the purchase of the fee or any lesser interest in any lands seaward of the setback requirement as environmentally endangered lands or as outdoor recreation lands.

(10) A coastal county or municipality fronting on the Gulf of Mexico or the Atlantic Ocean shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located within 50 feet of the line of mean high water. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

(11) The department is authorized to adopt rules for the implementation of the following provisions of this section: excavation and construction; setback requirements; waivers or variances; exemptions; the removal of unauthorized structures or refilling of unauthorized excavations; and violations and penalties.

(12) In accordance with ss. 553.73 and 553.79, and upon the effective date of the Florida Building Code, the provisions of this section which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities shall be incorporated into the Florida Building Code. The Florida Building Commission shall have the authority to adopt rules pursuant to ss. 120.536 and 120.54 in order to implement those provisions. This subsection does not limit or abrogate the right and authority of the department to require permits or to adopt and enforce environmental standards, including but not limited to, standards for ensuring the protection of the beach-dune system, proposed or existing structures, adjacent properties, marine turtles, native salt-resistant vegetation, endangered plant communities, and the preservation of public beach access.

History.—s. 1, ch. 70-231; s. 82, ch. 71-136; s. 1, ch. 75-87; s. 4, ch. 78-257; s. 2, ch. 80-183; s. 66, ch. 81-259; s. 21, ch. 94-356; s. 1, ch. 98-131; s. 5, ch. 2000-141; s. 34, ch. 2001-186; s. 3, ch. 2001-372.

161.053 Coastal construction and excavation; regulation on county basis.—

(1)(a) The Legislature finds and declares that the beaches in this state and the coastal barrier dunes adjacent to such beaches, by their nature, are subject to frequent and severe fluctuations and represent one of the most valuable natural resources of Florida and that it is in the public interest to preserve and protect them from imprudent construction which can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access. In furtherance of these findings, it is the intent of the Legislature to provide that the department establish coastal construction control lines on a county basis along the sand beaches of the state fronting on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida. Such lines shall be established so as to define that portion of the beach-dune system which is subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions. However, the department may establish a segment or segments of a coastal construction control line further landward than the impact zone of a 100-year storm surge, provided such segment or segments do not extend beyond the landward toe of the coastal barrier dune structure that intercepts the 100-year storm surge. Such segment or segments shall not be established if adequate dune protection is provided by a state-approved dune management plan. Special siting and design considerations shall be necessary seaward of established coastal construction control lines to ensure the protection of the beach-dune system, proposed or existing structures, and adjacent properties and the preservation of public beach access.

(b) As used in this subsection:

1. When establishing coastal construction control lines as provided in this section, the definition of “sand beach” shall be expanded to include coastal barrier island ends contiguous to the sand beaches of the state fronting on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida.
2. “Coastal barrier island ends” means those areas on the ends of barrier islands fronting the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida, which are subject to severe fluctuations based on a 100-year storm surge, storm waves, or other predictable weather conditions.
3. “Coastal barrier islands” means geological features which are completely surrounded by marine waters that front upon the open waters of the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

(c) Coastal construction control lines shall be set on coastal barrier island ends only in conjunction with the resetting of the coastal construction control line throughout the entire county within which the barrier island end is located, and shall not be established on reaches of coastal barrier island ends where the shore is vegetated with mangroves.

(2)(a) Coastal construction control lines shall be established by the department only after it has been determined from a comprehensive engineering study and topographic survey that the establishment of such control lines is necessary for the protection of upland properties and the control of beach erosion. No such line shall be set until a public hearing has been held in each affected county. After the department has given consideration to the results of such public hearing, it shall, after considering ground elevations in relation to historical storm and hurricane tides, predicted maximum wave uprush, beach and offshore ground contours, the vegetation line, erosion trends, the dune or bluff line, if any exist, and existing upland development, set and establish a coastal construction control line and cause such line to be duly filed in the public records of any county affected and shall furnish the clerk of the circuit court in each county affected a survey of such line with references made to permanently installed monuments at such intervals and locations as may be considered necessary. However, no coastal construction control line shall be set until a public hearing has been held by the department and the affected persons have an opportunity to appear. The hearing shall constitute a public hearing and shall satisfy all requirements for a public hearing pursuant to s. 120.54(3). The hearing shall be noticed in the Florida Administrative Register in the same manner as a rule. Any coastal construction control line adopted pursuant to this section shall not be subject to a s. 120.56(2) rule challenge or a s. 120.54(3)(c)2. drawout proceeding, but, once adopted, shall be subject to a s. 120.56(3) invalidity challenge. The rule shall be adopted by the department and shall become effective upon filing with the Department of State, notwithstanding the provisions of s. 120.54(3)(e)6. Upon such filing with the Department of State, no person, firm, corporation, or governmental agency shall construct any structure whatsoever seaward thereof; make any excavation, remove any beach material, or otherwise alter existing ground elevations; drive any vehicle on, over, or across any sand dune; or damage or cause to be damaged such sand dune or the vegetation growing thereon seaward thereof, except as hereinafter provided. Control lines established under the provisions of this section shall be subject to review at the discretion of the department after consideration of hydrographic and topographic data that indicate shoreline changes that render established coastal construction control lines to be ineffective for the purposes of this act or at the written request of officials of affected counties or municipalities. Any riparian upland owner who feels that such line as established is unduly restrictive or prevents a legitimate use of the owner's property shall be granted a review of the line upon written request. After such review, the department shall decide if a change in the control line as established is justified and shall so notify the person or persons making the request. The decision of the department shall be subject to judicial review as provided in chapter 120.

(b)1. The department shall exempt construction proposed for a location seaward of a coastal construction control line and landward of existing armoring from certain siting and design criteria of this chapter, provided the armoring is capable of protecting the proposed construction from the effects of erosion from a 100-year storm surge. The exemption shall apply to proposed structures involving the foundation, siting, and excavation criteria of this section, except such structures shall be:

- a. Sited a sufficient distance landward of the armoring to allow for maintenance of the armoring.
- b. Located up to or landward of the established line of construction.
- c. Designed to comply with the windload requirements of this section.
- d. Sited and designed to protect marine turtles.

2. The applicant shall provide scientific and engineering evidence that the armoring has been designed, constructed, and maintained to survive the effects of the design storm and provide protection to existing and proposed structures from the erosion associated with that event. Evidence shall include a report with data and supporting analysis, and shall be certified by a professional engineer registered in this state, that the armoring was designed and constructed and is in adequate

condition to meet the following criteria:

a. The top must be at or above the still water level, including setup, for the design storm plus the breaking wave calculated at its highest achievable level based on the maximum eroded beach profile and highest surge level combination, and must be high enough to preclude runup overtopping.

b. The armoring must be stable under the design storm including maximum localized scour, with adequate penetration and toe protection to avoid settlement, toe failure, or loss of material from beneath or behind the armoring.

c. The armoring must have sufficient continuity or return walls to prevent flanking under the design storm from impacting the proposed construction.

d. The armoring must withstand the static and hydrodynamic forces of the design storm.

(3) A coastal county or coastal municipality may establish coastal construction zoning and building codes in lieu of the provisions of this section if such zones and codes are approved by the department as being adequate to preserve and protect the beaches and coastal barrier dunes adjacent to such beaches, which are under the jurisdiction of the department, from imprudent construction that will jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access. Exceptions to locally established coastal construction zoning and building codes may not be granted unless previously approved by the department. The intent of this subsection is to provide for the local administration of established coastal construction control lines through approved zoning and building codes if desired by local interests and where such local interests have, in the judgment of the department, sufficient funds and personnel to adequately administer the program. Should the department determine at any time that the program is inadequately administered, the department may revoke the authority granted to the county or municipality.

(4) Except in those areas where local zoning and building codes have been established pursuant to subsection (3), a permit to alter, excavate, or construct on property seaward of established coastal construction control lines may be granted by the department as follows:

(a) The department may authorize an excavation or erection of a structure at any coastal location as described in subsection (1) upon receipt of an application from a property or riparian owner and upon the consideration of facts and circumstances, including:

1. Adequate engineering data concerning shoreline stability and storm tides related to shoreline topography;
2. Design features of the proposed structures or activities; and
3. Potential effects of the location of the structures or activities, including potential cumulative effects of proposed structures or activities upon the beach-dune system, which, in the opinion of the department, clearly justify a permit.

(b) If in the immediate contiguous or adjacent area a number of existing structures have established a reasonably continuous and uniform construction line closer to the line of mean high water than the foregoing, and if the existing structures have not been unduly affected by erosion, a proposed structure may be permitted along such line on written authorization from the department if the structure is also approved by the department. However, the department may not contravene setback requirements or zoning or building codes established by a county or municipality which are equal to, or more strict than, the requirements provided in this subsection. This paragraph does not prohibit the department from requiring structures to meet design and siting criteria established in paragraph (a) or in subsection (1) or subsection (2).

(c) The department may condition the nature, timing, and sequence of construction of permitted activities to provide protection to nesting sea turtles and hatchlings and their habitat, pursuant to s. 379.2431, and to native salt-resistant vegetation and endangered plant communities.

(d) The department may require engineer certifications as necessary to ensure the adequacy of

the design and construction of permitted projects.

(e) The department shall limit the construction of structures that interfere with public access along the beach. However, the department may require, as a condition of granting permits, the provision of alternative access if interference with public access along the beach is unavoidable. The width of the alternate access may not be required to exceed the width of the access that will be obstructed.

(f) The department may, as a condition of granting a permit, require mitigation, financial, or other assurances acceptable to the department to ensure performance of conditions of a permit or enter into contractual agreements to best assure compliance with any permit conditions. The department may also require notice of the permit conditions required and the contractual agreements entered into to be filed in the public records of the county in which the permitted activity is located.

(5)(a) As used in this subsection, the term:

1. "Frontal dune" means the first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient vegetation, height, continuity, and configuration to offer protective value.

2. "Seasonal high-water line" means the line formed by the intersection of the rising shore and the elevation of 150 percent of the local mean tidal range above local mean high water.

(b) After October 1, 1985, and notwithstanding any other provision of this part, the department, or a local government to which the department has delegated permitting authority pursuant to subsections (3) and (15), may not issue a permit for any structure, other than a coastal or shore protection structure, minor structure, or pier, meeting the requirements of this part, or other than intake and discharge structures for a facility sited pursuant to part II of chapter 403, which is proposed for a location that, based on the department's projections of erosion in the area, will be seaward of the seasonal high-water line within 30 years after the date of application for the permit. The procedures for determining such erosion shall be established by rule. In determining the area that will be seaward of the seasonal high-water line in 30 years, the department may not include any areas landward of a coastal construction control line.

(c) If the application of paragraph (b) would preclude the construction of a structure, the department may issue a permit for a single-family dwelling for the parcel if:

1. The parcel was platted or subdivided by metes and bounds before the effective date of this section;

2. The owner of the parcel does not own another parcel immediately adjacent to and landward of the parcel for which the dwelling is proposed;

3. The proposed single-family dwelling is located landward of the frontal dune structure; and

4. The proposed single-family dwelling will be as far landward on its parcel as is practicable without being located seaward of or on the frontal dune.

(d) In determining the land areas that will be below the seasonal high-water line within 30 years after the permit application date, the department shall consider the effect on erosion rates of an existing beach nourishment or restoration project or of a beach nourishment or restoration project for which all funding arrangements have been made and all permits have been issued at the time the application is submitted. The department shall consider each year there is sand seaward of the erosion control line whether erosion took place that year. However, the seaward extent of the beach nourishment or restoration project beyond the erosion control line may not be considered in determining the applicable erosion rates. This subsection does not prohibit the department from requiring structures to meet the criteria established in subsection (1), subsection (2), or subsection (4) or to be further landward than required by this subsection based on the criteria established in subsection (1), subsection (2), or subsection (4).

(e) The department shall annually report to the Legislature the status of this program, including any changes to the previously adopted procedures for determining erosion projections.

(6) Any coastal structure erected, or excavation created, in violation of this section is declared to be a public nuisance and such structure shall be removed or such excavation shall be refilled after written notice by the department directing such removal or filling. If the structure is not removed or the excavation refilled within a reasonable time as directed, the department may remove such structure or fill such excavation at its own expense and the costs thereof shall become a lien on the property of the upland owner upon which the unauthorized structure or excavation is located.

(7) Any person, firm, corporation, or agent thereof who violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, except that a person driving a vehicle on, over, or across a sand dune and damaging or causing to be damaged such sand dune or the vegetation growing thereon in violation of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person, firm, corporation, or agent thereof commits a separate offense for each day during any portion of which a violation of this section is committed or continued.

(8) This section does not apply to structures intended for shore protection purposes which are regulated by s. 161.041 or to structures existing or under construction before the establishment of the coastal construction control line if the structures are not materially altered except as provided in subsection (4). Except for structures that have been materially altered, structures under construction at the time of the establishment or reestablishment of the coastal construction control line are exempt from the provisions of this section. However, unless such an exemption has been judicially confirmed to exist before April 10, 1992, the exemption shall last only for a period of 3 years from the date of the determination of the exemption or April 10, 1992, whichever occurs later. The department may extend the exemption period for structures that require longer periods for completion if construction during the initial exemption period is continuous. For purposes of this subsection, the term "continuous" means following a reasonable sequence of construction without significant or unreasonable periods of work stoppage.

(9) The department may exempt specifically described portions of the coastline from the provisions of this section if, in its judgment, such portions of coastline because of their nature are not subject to erosion of a substantially damaging effect to the public.

(10) Pending the establishment of coastal construction control lines as provided herein, the provisions of s. 161.052 shall remain in force. However, upon the establishment of coastal construction control lines, or the establishment of coastal construction zoning and building codes as provided in subsection (3), s. 161.052 shall be superseded by the provisions of this section.

(11)(a) The coastal construction control requirements defined in subsection (1) and the requirements of the erosion projections in subsection (5) do not apply to any modification, maintenance, or repair of any existing structure within the limits of the existing foundation which does not require, involve, or include any additions to, or repair or modification of, the existing foundation of that structure. Specifically excluded from this exemption are seawalls or other rigid coastal or shore protection structures and any additions or enclosures added, constructed, or installed below the first dwelling floor or lowest deck of the existing structure. The Florida Building Commission may not adopt any rule having the effect of limiting any exceptions or exemptions contained within this paragraph.

(b) Activities seaward of the coastal construction control line which are determined by the department not to cause a measurable interference with the natural functioning of the coastal system are exempt from the requirements of subsection (4).

(c) The department may establish exemptions from the requirements of this section for minor activities determined by the department not to have an adverse effect on the coastal system.

Examples of such activities include, but are not limited to:

1. Boat moorings;
2. Maintenance of existing beach-dune vegetation;
3. The burial of seaweed, dead fish, whales, or other marine animals on the unvegetated beach;
4. The removal of piers or other derelict structures from the unvegetated beach or seaward of mean high water;
5. Temporary emergency vehicular access, if the affected area is immediately restored;
6. The removal of any existing structures or debris from the upland, if there is no excavation or disturbance to the existing topography or to beach-dune vegetation;
7. Construction of a new roof overhang extending no more than 4 feet beyond the confines of the existing foundation during modification, renovation, or reconstruction of a habitable structure within the confines of the existing foundation of that structure which does not include any additions to or modification of the existing foundation of that structure;
8. Minor and temporary excavation for the purpose of repairs to existing subgrade residential service utilities (e.g., water and sewer lines, septic tanks and drainfields, electrical and telephone cables, and gas lines), if there is minimal disturbance and the grade is restored with fill compatible in both coloration and grain size to the onsite material and any damaged or destroyed vegetation is restored using similar vegetation; and
9. Any other minor construction that has an effect similar to the above activities.

(12)(a) Notwithstanding the coastal construction control requirements defined in subsection (1) or the erosion projection determined pursuant to subsection (5), the department may issue a permit for the repair or rebuilding within the confines of the original foundation of a major structure pursuant to subsection (4). Alternatively, the department may also issue a permit for a more landward relocation or rebuilding of a damaged or existing structure if such relocation or rebuilding would not cause further harm to the beach-dune system, and if, in the case of rebuilding, the rebuilding complies with subsection (4) and otherwise complies with this subsection.

(b) The department may not permit repairs or rebuilding that expands the capacity of the original structure seaward of the 30-year erosion projection established pursuant to subsection (5).

(c) In reviewing applications for relocation or rebuilding, the department shall specifically consider changes in shoreline conditions, the availability of other relocation or rebuilding options, and the design adequacy of the project sought to be rebuilt.

(d) Permits issued under this subsection are not considered precedential as to the issuance of subsequent permits.

(13) Concurrent with the establishment of a coastal construction control line and the ongoing administration of this chapter, the secretary of the department shall make recommendations to the Board of Trustees of the Internal Improvement Trust Fund concerning the purchase of the fee or any lesser interest in any lands seaward of the control line pursuant to the state's Save Our Coast, Conservation and Recreation Lands, or Outdoor Recreation Land acquisition programs; and, with respect to those control lines established pursuant to this section before June 14, 1978, the secretary may make such recommendations.

(14) A coastal county or municipality fronting on the Gulf of Mexico, the Atlantic Ocean, or the Straits of Florida shall advise the department within 5 days after receipt of any permit application for construction or other activities proposed to be located seaward of the line established by the department pursuant to this section. Within 5 days after receipt of such application, the county or municipality shall notify the applicant of the requirements for state permits.

(15) In keeping with the intent of subsection (3), authority for permitting certain types of activities that have been defined by the department may be delegated by the department to a coastal county or coastal municipality. Such partial delegation shall be narrowly construed to those

particular activities specifically named in the delegation and agreed to by the affected county or municipality. The delegation may be revoked by the department at any time if it is determined that the delegation is improperly or inadequately administered.

(16) The department may, at the request of a property owner, contract with the property owner for an agreement, or modify an existing contractual agreement regulating development activities landward of a coastal construction control line, if the contractual agreement is consistent with the design and siting provisions of this section. The contractual agreement may not bind either party for a period longer than 5 years following its date of execution. Before beginning a construction activity covered by the agreement, the property owner must obtain the necessary authorization required by the agreement. The agreement may not authorize construction for:

(a) Major habitable structures that require construction beyond the expiration of the agreement, unless such construction is above the completed foundation; or

(b) Nonhabitable major structures or minor structures, unless such construction is authorized at the same time as the habitable major structure.

(17) The department may grant areawide permits to local governments, other governmental agencies, and utility companies for special classes of activities in areas under their general jurisdiction or responsibility or for the construction of minor structures, if these activities or structures, due to the type, size, or temporary nature of the activity or structure, will not cause measurable interference with the natural functioning of the beach-dune system or with marine turtles or their nesting sites. Such activities or structures must comply with this section and may include, but are not limited to: road repairs, not including new construction; utility repairs and replacements, or other minor activities necessary to provide utility services; beach cleaning; dune restoration; on-grade walkovers for enhancing accessibility or use in compliance with the Americans with Disabilities Act; and emergency response. The department shall adopt rules to establish criteria and guidelines for permit applicants. The department shall consult with the Fish and Wildlife Conservation Commission on each proposed areawide permit and must require notice provisions appropriate to the type and nature of the activities for which the areawide permits are sought.

(18)(a) The department may grant general permits for projects, including dune restoration, dune walkovers, decks, fences, landscaping, sidewalks, driveways, pool resurfacing, minor pool repairs, and other nonhabitable structures, if the projects, due to type, size, or temporary nature, will not cause a measurable interference with the natural functioning of the beach-dune system or with marine turtles or their nesting sites. Multifamily habitable structures do not qualify for general permits. However, single-family habitable structures and swimming pools associated with such single-family habitable structures that do not advance the line of existing construction and satisfy all siting and design requirements of this section, and minor reconstruction for existing coastal armoring structures, may be eligible for a general permit.

(b) The department shall adopt rules to establish criteria and guidelines for permit applicants.

(c) Persons wishing to use the general permits must, at least 30 days before beginning any work, notify the department in writing on forms adopted by the department. The notice must include a description of the proposed project and supporting documents depicting the proposed project, its location, and other pertinent information as required by rule, to demonstrate that the proposed project qualifies for the requested general permit. Persons who undertake projects without proof of notice to the department, but whose projects would otherwise qualify for general permits, shall be considered to have undertaken a project without a permit and are subject to enforcement pursuant to s. 161.121.

(d) Persons wishing to use a general permit must provide notice as required by the applicable local building code where the project will be located. If a building code does not require notice, a person wishing to use a general permit must, at a minimum, post a sign describing the project on the

property at least 5 days before commencing construction. The sign must be at least 88 square inches, with letters no smaller than one-quarter inch.

(19)(a) The department may suspend or revoke the use of a general or areawide permit for good cause, including: submission of false or inaccurate information in the notification for use of a general or areawide permit; violation of law, department orders, or rules relating to permit conditions; deviation from the specified activity or project indicated or the conditions for undertaking the activity or project; refusal of lawful inspection; or any other act by the permittee which results or may result in harm or injury to human health or welfare, or which causes harm or injury to animal, plant, or aquatic life or to property.

(b) The department shall have access to the permitted activity or project at reasonable times to inspect and determine compliance with the permit and department rules.

(20) The department may adopt rules related to the establishment of coastal construction control lines; activities seaward of the coastal construction control line; exemptions; property owner agreements; delegation of the program; permitting programs; and violations and penalties.

(21) In accordance with ss. 553.73 and 553.79, and upon the effective date of the Florida Building Code, the provisions of this section which pertain to and govern the design, construction, erection, alteration, modification, repair, and demolition of public and private buildings, structures, and facilities shall be incorporated into the Florida Building Code. The Florida Building Commission may adopt rules pursuant to ss. 120.536 and 120.54 to administer those provisions. This subsection does not limit or abrogate the right and authority of the department to require permits or to adopt and enforce environmental standards, including, but not limited to, standards for ensuring the protection of the beach-dune system, proposed or existing structures, adjacent properties, marine turtles, native salt-resistant vegetation, endangered plant communities, and the preservation of public beach access.

History.—s. 1, ch. 71-280; s. 2, ch. 75-87; s. 1, ch. 77-12; s. 5, ch. 78-257; s. 29, ch. 79-164; s. 3, ch. 80-183; s. 67, ch. 81-259; s. 2, ch. 83-247; s. 33, ch. 85-55; s. 1, ch. 86-191; s. 13, ch. 87-97; s. 1, ch. 88-106; s. 1, ch. 88-349; s. 11, ch. 89-175; s. 9, ch. 91-224; s. 1, ch. 92-191; s. 22, ch. 94-356; s. 1437, ch. 95-147; s. 1, ch. 96-371; s. 21, ch. 96-410; s. 2, ch. 98-131; s. 6, ch. 2000-141; s. 5, ch. 2000-346; s. 34, ch. 2001-186; s. 3, ch. 2001-372; s. 186, ch. 2008-247; s. 39, ch. 2010-102; s. 2, ch. 2011-222; s. 16, ch. 2013-14; s. 12, ch. 2014-151.

161.0531 Development agreements.—

(1) At the request of the property owner, the department is authorized to enter into a development agreement with such property owner, or modify or extend an existing development agreement, for activities seaward of a coastal construction control line. All such agreements must further the conservation, preservation, and protection of the beach-dune system and cause no measurable interference with marine turtles or their nesting sites.

(2) For purposes of this section, “development agreement” means contractual agreements between property owners and the department concerning siting and design criteria and the permitting requirements and environmental enhancements required by this chapter for a proposed construction activity seaward of the coastal construction control line.

(3) A development agreement shall include the following:

- (a) A legal description of the land subject to the agreement, and the names of the legal and equitable owners of the land.
- (b) The duration of the agreement.
- (c) A description of the siting and design features of the proposed development or activity.
- (d) Adequate engineering data concerning inlet and shoreline stability and storm tides related to shoreline topography.
- (e) A description of the permitting requirements and environmental enhancements of the development.
- (f) A description of any conditions, terms, restrictions, or other requirements determined to be

necessary by the department for the protection of the environment.

(g) A finding that the development permitted or proposed is consistent with the local government's comprehensive plan and land development regulations.

(h) A statement that all filing, processing, administration, and issuance fees have been paid.

(4) A development agreement shall not authorize construction for a period longer than 5 years from the date of execution.

(5) The department shall inspect land subject to a development agreement at least once every 12 months to determine that the project is in compliance with the terms of the development agreement, unless the department determines a lesser standard meets the intent of the terms of the development agreement.

(6) Within 14 days after the date for a request for a chapter 120 hearing has passed, or after a hearing has been held and a decision has been rendered, the developer shall record the development agreement with the clerk of the circuit court in the county where the development is located. A development agreement shall not be effective until it is properly recorded in the public records of the county.

(7) The department's approval of a development agreement, or modification or extension of an existing development agreement, pursuant to this section constitutes final agency action subject to the provisions of chapter 120. However, the property owner may not challenge the department's refusal to enter into a development agreement or modification or extension of an existing agreement.

*History.—*s. 2, ch. 96-371.

161.0535 Permits; fees, costs.—The department may establish by rule a fee schedule and may assess fees for the filing, processing, and issuance of permits issued under ss. 161.041 and 161.053. The fee schedule must contain categories of permits based on the varying costs of evaluating applications for different types of proposed construction. The fee schedule must be based on the actual costs of administering these permitting programs. Moneys from fees assessed under this section must be deposited into the Florida Permit Fee Trust Fund. The department may also assess the applicant for the costs of public notice by publication prior to the consideration of these permit applications; alternatively, the department may require an applicant to publish, at the applicant's expense, in a newspaper of general circulation within the affected area, a notice of receipt of the application and a notice of the intended agency action.

*History.—*s. 2, ch. 83-247; s. 34, ch. 85-55; s. 14, ch. 87-97; s. 486, ch. 94-356; s. 2, ch. 96-321.

161.054 Administrative fines; liability for damage; liens.—

(1) In addition to the penalties provided for in ss. 161.052, 161.053, and 161.121, any person, firm, corporation, or governmental agency, or agent thereof, refusing to comply with or willfully violating s. 161.041, s. 161.052, or s. 161.053, or any rule or order prescribed by the department thereunder, shall incur a fine for each offense in an amount up to \$15,000 to be fixed, imposed, and collected by the department. Each day during any portion of which such violation occurs constitutes a separate offense.

(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 or her violation.

(3) The imposition of a fine or an award of damages pursuant to this section shall create a lien upon the real and personal property of the violator, enforceable by the department as are statutory liens under chapter 85. The proceeds of such fines and awards of damages shall be deposited in the Florida Coastal Protection Trust Fund.

(4) Fines imposed by the department or damages awarded shall be of such amount so as to ensure immediate and continued compliance with the provisions of ss. 161.041, 161.052, and 161.053.

(5) Any applicant for a permit pursuant to s. 161.041, s. 161.052, or s. 161.053 shall be denied a permit if a lien imposed upon the property pursuant to the provisions of this section is outstanding against the applicant; however, the department may authorize a permit after the fact in accordance with s. 161.041, s. 161.052, or s. 161.053, conditioned upon a resolution of the violation.

History.—s. 4, ch. 80-183; s. 3, ch. 83-247; s. 35, ch. 85-55; s. 2, ch. 86-138; s. 15, ch. 87-97; s. 30, ch. 91-45; s. 894, ch. 95-147; s. 3, ch. 96-321; s. 6, ch. 2015-229; s. 4, ch. 2020-158.

161.055 Concurrent processing of permits.—

(1) When an activity for which a permit is required under this chapter also requires a permit, authorization, or approval described in paragraph (2)(b), including a port conceptual permit pursuant to s. 373.4133, the department may, by rule, provide that the activity may be undertaken only upon receipt of a single permit from the department called a “joint coastal permit,” as provided in this section.

(2) The department may adopt rules requiring concurrent application submittal and establishing a concurrent review and permitting procedure for any activity regulated under this chapter that also requires one or more of the permits, authorizations, or approvals described in paragraph (a) or paragraph (b). The rules must establish concurrent procedures for processing applications under this part with one or more of the permits, authorizations, or approvals described in paragraph (a) or paragraph (b). An applicant that proposes such an activity must submit, as part of the permit application under this chapter, all information necessary to satisfy the requirements for issuance of any required:

(a) Proprietary authorization under chapters 253 and 258 to use submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund; and

(b) Environmental resource permit or dredge and fill permit under part IV of chapter 373.

The timeframes for license approval or denial set forth in s. 120.60(1) do not commence until all required information is received. The rules authorized under this section may also require submittal of such information as is necessary to determine whether the proposed activity will occur on submerged lands owned by the Board of Trustees of the Internal Improvement Trust Fund, and shall contain provisions for permit processing and issuance of orders which are consistent with s. 373.427 and provisions for providing notice of applications which are consistent with s. 373.413. Authorization under this subsection may not be issued unless the requirements for issuance of any additional required authorizations, permits, waivers, variances, and approvals described in paragraph (a) or paragraph (b) are also satisfied.

(3) The review of agency action on an application for issuance of a joint coastal permit must be as provided in s. 373.4275.

History.—s. 485, ch. 94-356; s. 22, ch. 96-410; s. 6, ch. 2010-201.

161.061 Coastal construction serving no public purpose, endangering human life, health, or welfare, or becoming unnecessary or undesirable.—

(1) Any coastal construction, or any structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida, below the mean high-water line of any tidal water of the state, regardless of date of construction or whether a permit has been issued in accordance with this part, which serves no public

purpose, which is dangerous to or in any way endangers human life, health, or welfare, or which proves to be undesirable or becomes unnecessary, as determined by the department, shall be adjusted, altered, or removed by the abutting upland property owner after written notice by the division. Request for hearing must be filed by the owner with the department within 15 days after such notice. Adjustments, alterations, or removals required by this section shall be accomplished at no cost to the state. The decision of the department as to whether to adjust, alter, or remove such coastal construction or structure shall be final, and the department shall set a reasonable time within which the adjustment, alteration, or removal shall be accomplished.

(2) In the event that the upland property owner does not adjust, alter, or remove any coastal construction, or other structure including groins, jetties, moles, breakwaters, seawalls, revetments, or other structures if of a solid or highly impermeable design upon sovereignty lands of Florida, below the mean high-water line, when requested or directed by the department in accordance with subsection (1) of this section, the department may alter, adjust, or remove such coastal construction or structures at its own expense, and the costs thereof shall become a lien upon the property of said abutting upland property owner.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 23, ch. 78-95; s. 23, ch. 94-356.

161.071 Prosecuting officers to assist enforcement of this part.—State attorneys, or other prosecuting officers of the state or county, and sheriffs and their deputies of the several counties of this state, shall assist the department in enforcement of this part. The officers and their deputies shall, upon information that any persons, firms, or corporations are violating any of the provisions of this part, report the same, together with the information in their possession relating thereto, to the department and shall cooperate with the department in carrying out the provisions of this part. The state attorneys and other prosecuting officers of the state or any county, upon the request of the department, shall institute and maintain such legal proceedings as may be necessary to carry out the enforcement of the provisions of this part.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 24, ch. 94-356.

161.081 Powers of Department of Legal Affairs.—When a permit is required under this part and has not been issued as provided herein, any such project or physical activity shall be considered a public nuisance and the Department of Legal Affairs may at the request of the Department of Environmental Protection institute proceedings to enjoin or abate such nuisance.

History.—s. 1, ch. 65-408; ss. 11, 25, 35, ch. 69-106; s. 1, ch. 95-150.

161.082 Review of innovative technologies for beach nourishment.—The department is directed to periodically review innovative technologies for beach nourishment and, on a limited basis, authorize, through the permitting process, experimental projects that are alternatives to traditional dredge and fill projects to determine the most effective and less costly techniques for beach nourishment.

History.—s. 2, ch. 93-8; s. 25, ch. 94-356; s. 6, ch. 2000-346.

161.085 Rigid coastal armoring structures.—

(1) The state recognizes the need to protect private structures and public infrastructure from damage or destruction caused by coastal erosion. Until such time as the state takes measures to reduce erosion on a regional basis, this section is the state's policy on rigid coastal armoring structures, pursuant to ss. 161.041 and 161.053, for protection of private property and public infrastructure.

(2) In order to allow state and federal agencies, political subdivisions of the state, and municipalities to preplan for emergency response for the protection of private structures and public infrastructure, the department, pursuant to s. 161.041 or s. 161.053, may issue permits for the present or future installation of rigid coastal armoring structures or other emergency response

measures to protect private structures, public infrastructure, and private and public property.

(a) Permits for present installations may be issued if it is determined that private structures or public infrastructure is vulnerable to damage from frequent coastal storms.

(b) Permits for future installations of coastal armoring structures may be issued contingent upon the occurrence of specified changes to the coastal system which would leave upland structures vulnerable to damage from frequent coastal storms. The department may assist agencies, political subdivisions of the state, or municipalities, at their request, in identifying areas within their jurisdictions which may require permits for future installations of rigid coastal armoring structures.

(c) Permits for present installations of coastal armoring may be issued where such installation is between and adjoins at both ends rigid coastal armoring structures, follows a continuous and uniform armoring structure construction line with existing coastal armoring structures, and is no more than 250 feet in length.

Structures built pursuant to permits granted under this subsection may be ordered removed by the department only if such structures are determined to be unnecessary or to interfere with the installation of a beach restoration project.

(3) If erosion occurs as a result of a storm event which threatens private structures or public infrastructure and a permit has not been issued pursuant to subsection (2), unless the authority has been revoked by order of the department pursuant to subsection (8), an agency, political subdivision, or municipality having jurisdiction over the impacted area may install or authorize installation of rigid coastal armoring structures, exclusive of those authorized under subsection (9), for the protection of private structures or public infrastructure, or take other measures to relieve the threat to private structures or public infrastructure as long as the following items are considered and incorporated into such emergency measures:

(a) Protection of the beach-dune system.

(b) Siting and design criteria for the protective structure.

(c) Impacts on adjacent properties.

(d) Preservation of public beach access.

(e) Protection of native coastal vegetation, nesting state or federally threatened or endangered species, and nesting marine turtles and their hatchlings.

(4) The agency, political subdivision, or municipality shall notify the department if it installs or authorizes the installation of any rigid coastal armoring structures pursuant to its authority under subsection (3).

(5) The department shall adopt rules to implement the provisions of this section.

(6) A rigid coastal armoring structure or other structure constructed under the authority of subsection (3) shall be temporary, and the agency, political subdivision, municipality, or private property owner shall remove the structure or submit a permit application to the department for a permanent rigid coastal armoring structure, pursuant to s. 161.041 or s. 161.053, within 60 days after the emergency installation of the structure or other measure to relieve the threat to private structures or public infrastructure. Construction debris shall not be used in the construction of a rigid coastal armoring structure.

(7) The term "public infrastructure" means, for purposes of this section, public evacuation routes, public emergency facilities, bridges, power facilities, water or wastewater facilities, other utilities, or hospitals, or structures of local governmental, state, or national significance.

(8) If a political subdivision or municipality installs or authorizes installation of a rigid coastal armoring structure that does not comply with subsection (3), and if the department determines that the action harms or interferes with the protection of the beach dune system, adversely impacts adjacent properties, interferes with public beach access, or harms native coastal vegetation or nesting marine turtles or their hatchlings, the department may revoke by order the authority of the

political subdivision or municipality under subsection (3) to install or authorize the installation of rigid coastal armoring structures.

(9) The department may authorize dune restoration incorporating sand-filled geotextile containers or similar structures proposed as the core of a restored dune feature when the conditions of paragraphs (a)-(c) and the requirements of s. 161.053 are met.

(a) A permit may be granted by the department under this subsection for dune restoration incorporating geotextile containers or similar structures provided that such projects:

1. Provide for the protection of an existing major structure or public infrastructure, and, notwithstanding any definition in department rule to the contrary, that major structure or public infrastructure is vulnerable to damage from frequent coastal storms, or is upland of a beach-dune system which has experienced significant beach erosion from such storm events.
2. Are constructed using native or beach-quality sand and native salt-tolerant vegetation suitable for dune stabilization as approved by the department.
3. May include materials other than native or beach-quality sand such as geotextile materials that are used to contain beach-quality sand for the purposes of maintaining the stability and longevity of the dune core.
4. Are continuously covered with 3 feet of native or beach-quality sand and stabilized with native salt-tolerant vegetation.
5. Are sited as far landward as practicable, balancing the need to minimize excavation of the beach-dune system, impacts to nesting marine turtles and other nesting state or federally threatened or endangered species, and impacts to adjacent properties.
6. Are designed and sited in a manner that will minimize the potential for erosion.
7. Do not materially impede access by the public.
8. Are designed to minimize adverse effects to nesting marine turtles and turtle hatchlings, consistent with s. 379.2431.
9. Are designed to facilitate easy removal of the geotextile containers if needed.
10. The United States Fish and Wildlife Service has approved an Incidental Take Permit for marine turtles and other federally threatened or endangered species pursuant to s. 7 or s. 10 of the Endangered Species Act for the placement of the structure if an Incidental Take Permit is required.

(b) The applicant or successive property owners shall provide financial assurances in the form of surety or performance bonds or other financial responsibility mechanisms that the authorized geotextile containers will be removed if the requirements of this subsection and the permit conditions are not met. The permittee shall file a notice of formal permit conditions in the public records of the county where the permitted activity is located.

(c) The department shall order removal of the geotextile container if the conditions of subparagraph (a)4. are not met, if the project ceases to function due to irreparable damage, if the project is determined by the department to have caused a significant adverse impact to the beach-dune system, or if the United States Fish and Wildlife Service revokes the Incidental Take Permit required in subparagraph (a)10.

(d) The department may require any engineering certifications that are necessary to ensure the adequacy of the design and construction of the permitted project.

(e) Upon receipt of a permit application, the department must notify the applicant and agent of all the statutory provisions of this subsection.

(f) The department shall review, with third-party expert involvement, the performance of dune restoration incorporating geotextile sand-filled containers to determine whether such structures provide upland protection and to determine their impact on the beach-dune system and adjacent properties. Such structures shall continue to be evaluated to determine if they are a more effective form of dune restoration than beach-compatible sand and native vegetation. Based on such analysis

and peer review, the department shall recommend to the Governor, the President of the Senate, and the Speaker of the House of Representatives if the provisions of this subsection should be modified. It is the intent of the Legislature that until such recommendations are transmitted and considered by the Legislature, there shall be no changes in the requirements or conditions contained in this subsection.

(g) The department shall not include structures authorized under this subsection in the statewide comprehensive beach management plan or the annual list of local government funding requests submitted to the Legislature pursuant to ss. 161.091 and 161.161.

History.—s. 1, ch. 95-288; s. 4, ch. 99-247; s. 1, ch. 2006-68; s. 2, ch. 2007-99; s. 9, ch. 2009-21.

161.088 Declaration of public policy respecting beach erosion control and beach restoration and nourishment 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 fronting on the Atlantic Ocean, Gulf of Mexico, and Straits of Florida from erosion and that the Legislature make provision for beach restoration and nourishment projects, including inlet management projects that cost-effectively provide beach-quality material for adjacent critically eroded beaches. The Legislature declares that such beach restoration and nourishment projects, as approved pursuant to s. 161.161, are in the public interest; must be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; must have a clearly identifiable beach management benefit consistent with the state's beach management plan; and must be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development. Given the extent of the problem of critically eroded beaches, it is also declared that beach restoration and nourishment projects shall be funded in a manner that encourages all cost-saving strategies, fosters regional coordination of projects, improves the performance of projects, and provides long-term solutions. 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.

History.—s. 3, ch. 86-138; s. 1, ch. 98-311; s. 7, ch. 2000-346.

161.091 Beach management; funding; repair and maintenance strategy.—

(1) Subject to such appropriations as the Legislature may make therefor from time to time, disbursements from the Land Acquisition Trust Fund may be made by the department in order to carry out the proper state responsibilities in a comprehensive, long-range, statewide beach management plan for erosion control; beach preservation, restoration, and nourishment; storm and hurricane protection; and other activities authorized for beaches and shores pursuant to s. 28, Art. X of the State Constitution. Legislative intent in appropriating such funds is for the implementation of those projects that contribute most significantly to addressing the state's beach erosion problems.

(2) The department shall develop a multiyear repair and maintenance strategy that:

(a) Encourages regional approaches to ensure the geographic coordination and sequencing of prioritized projects;

(b) Reduces equipment mobilization and demobilization costs;

(c) Maximizes the infusion of beach-quality sand into the system;

(d) Extends the life of beach nourishment projects and reduces the frequency of nourishment; and

(e) Promotes inlet sand bypassing to replicate the natural flow of sand interrupted by improved, modified, or altered inlets and ports.

(3) In accordance with the intent expressed in s. 161.088 and the legislative finding that erosion of the beaches of this state is detrimental to tourism, the state's major industry, further exposes the state's highly developed coastline to severe storm damage, and threatens beach-related jobs, which, if not stopped, may significantly reduce state sales tax revenues, funds deposited into the State Treasury to the credit of the Land Acquisition Trust Fund shall be used to fund the development, implementation, and administration of the state's beach management plan, as provided in ss. 161.091-161.212 and as authorized in s. 28, Art. X of the State Constitution.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 1, ch. 71-182; s. 1, ch. 72-170; ss. 1-3, ch. 74-102; s. 1, ch. 75-288; s. 1, ch. 77-379; s. 6, ch. 78-257; s. 5, ch. 80-183; s. 4, ch. 86-138; ss. 16, 23, ch. 87-97; s. 1, ch. 91-79; s. 4, ch. 96-321; s. 1, ch. 97-187; s. 2, ch. 98-311; s. 5, ch. 99-247; s. 8, ch. 2000-346; s. 2, ch. 2008-114; s. 7, ch. 2015-229; s. 12, ch. 2016-10.

161.101 State and local participation in authorized projects and studies relating to beach management and erosion control.—

(1) The Legislature recognizes that beach erosion is a statewide problem that does not confine its effects to local governmental jurisdictions and that beach erosion can be adequately addressed most efficiently by a state-initiated program of beach restoration and beach nourishment. However, since local beach communities derive the primary benefits from the presence of adequate beaches, a program of beach restoration and beach nourishment should not be accomplished without a commitment of local funds to combat the problem of beach erosion. Accordingly, the Legislature declares that the state, through the department, shall determine those beaches which are critically eroded and in need of restoration and nourishment and may authorize appropriations to pay up to 75 percent of the actual costs for restoring and nourishing a critically eroded beach. The local government in which the beach is located shall be responsible for the balance of such costs.

(2) To carry out the beach and shore preservation programs, the department is hereby constituted as the beach and shore preservation authority for the state. In this capacity, the secretary of the department may at his or her own initiative take all necessary steps as soon as practicable and desirable to implement the provisions of this chapter.

(3) Whenever a beach erosion control project has been authorized by Congress for federal financial participation in accordance with any Act of Congress relating to beach erosion control in which nonfederal participation is required, it shall be the policy of the state to assist with an equitable share of such funds to the extent that funds are available, as determined by the department.

(4) The department, for itself or on behalf of any and all duly established beach and shore preservation districts and local governments within the state, may enter into cooperative agreements and otherwise cooperate with, and meet the requirements and conditions (including, but not limited to, execution of indemnification agreements) of, federal, state, and other local governments and political entities, or any agencies or representatives thereof, for the purpose of improving, furthering, and expediting the beach management program.

(5) The department is authorized, for and on behalf of the state, to accept such federal moneys for beach erosion control as are available and to sign all necessary agreements therefor and to do and perform all necessary acts in connection therewith to effectuate the intent and purposes of this act.

(6) The department is authorized to make application for federal participation in the cost of any beach and shore preservation project under any Acts of Congress and all amendments thereto.

(7) The department is authorized to implement regional components of the beach management plan pursuant to ss. 161.091 and 161.161 and, where appropriate, to enter into agreements with the Federal Government, inlet districts, port authorities, intercoastal waterway districts, and local governments to cost share and coordinate such activity.

(8) The department is authorized to sponsor or cosponsor demonstration projects of new or innovative technologies which have the potential to reduce project costs, conserve beach quality

sand, extend the life of beach nourishment projects, and improve inlet sand bypassing pursuant to s. 161.091.

(9)(a) Because improved, modified, or altered inlets are a significant cause of beach erosion, it is the Legislature's intent to manage the erosive impacts of inlets under the state's beach management program. Accordingly, it is the further intent of the Legislature for the state to cost share those components of inlet projects that minimize the erosive effects of the inlet or cost-effectively provide for the placement of beach-quality material on adjacent eroded beaches.

(b) The department is authorized to enter into cooperative agreements with local governments, including cities, counties, and special districts, for inlet management activities and to cost share those components of inlet projects that minimize the erosive effects of the inlet or cost-effectively provide for the placement of beach-quality material on adjacent eroded beaches.

(10) The department is authorized to pay up to 100 percent of the costs of approved beach erosion control projects when construction and maintenance are on lands of which the state is the upland riparian owner.

(11) With regard to a project approved in accordance with s. 161.161, the department is authorized to pay from legislative appropriations specifically provided for these purposes an amount up to 75 percent of the costs of contractual services, including, but not limited to, the costs for:

(a) Feasibility and related planning studies.

(b) Design.

(c) Construction.

(d) Monitoring. The state shall cost share in all biological and physical monitoring requirements which are based upon scientifically based criteria.

(12) A project, in order to receive state funds, shall provide for adequate public access, protect natural resources, and provide protection for endangered and threatened species.

(13) The department shall not fund projects that provide only recreational benefits. All funded activities must have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing sand in the system. Activities ineligible for cost sharing include, but are not limited to:

(a) Recreational structures such as piers, decks, and boardwalks.

(b) Park activities and facilities except for erosion control.

(c) Aesthetic vegetation.

(d) Water quality components of stormwater management systems.

(e) Experimental or demonstration projects unless favorably peer reviewed or scientifically documented.

(f) Hard structures unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.

(g) Operations and maintenance, with the exception of nourishment.

(h) Maintenance and repair of over-walks.

(i) Navigation construction, operation, and maintenance activities, except those elements whose purpose is to place or keep sand on adjacent beaches.

(14) The intent of the Legislature in preserving and protecting Florida's sandy beaches pursuant to this act is to direct beach erosion control appropriations to the state's most severely eroded beaches and to prevent further adverse impact caused by improved, modified, or altered inlets, coastal armoring, or existing upland development. In establishing annual project funding priorities, the department shall seek formal input from local coastal governments, beach and general government interest groups, and university experts. The department shall implement a scoring system for annual project funding priorities that consists of criteria equally weighted within the following specified tiers:

(a) Tier 1 must account for 20 percent of the total score and consist of the tourism-related return on investment and the economic impact of the project. The return on investment of the project is the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project. The economic impact of the project is the ratio of the tourism-related tax revenues for the most recent year to all county tax revenues for the most recent year. The department must calculate these ratios using state sales tax and tourism development tax data of the county having jurisdiction over the project area. If multiple counties have jurisdiction over the project area, the department must assess each county individually using these ratios. The department shall calculate the mean average of these ratios to determine the final overall assessment for the multicounty project.

(b) Tier 2 must account for 45 percent of the total score and consist of all of the following criteria:

1. The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award.

2. The storm damage reduction benefits of the project based on the following considerations:

a. The current condition of the project area, including any recent storm damage impact, as a percentage of volume of sand lost since the most recent beach nourishment event or most recent beach surveys. If the project area has not been previously restored, the department must use the historical background erosion rate;

b. The overall potential threat to existing upland development, including public and private structures and infrastructure, based on the percentage of vulnerable shoreline that exists within the project boundaries; and

c. The value of upland property benefiting from the protection provided by the project and its subsequent maintenance. A property must be within one-quarter mile of the project boundaries to be considered under the criterion specified in this sub-subparagraph.

3. The cost-effectiveness of the project based on the yearly cost per volume per mile of proposed beach fill placement. The department shall also consider the following when assessing cost-effectiveness pursuant to this subparagraph:

a. The existence of projects with proposed structural or design components that could extend the beach nourishment interval;

b. Existing beach nourishment projects that reduce upland storm damage costs by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;

c. Proposed innovative technologies designed to reduce project costs; and

d. Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.

(c) Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

1. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

2. The recreational benefits of the project based on:

a. The accessible beach area added by the project; and

b. The percentage of linear footage within the project boundaries which is zoned:

(I) As recreational or open space;

(II) For commercial use; or

(III) To otherwise allow for public lodging establishments.

3. The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches.

4. The degree to which the project addresses the state's most significant beach erosion problems as a function of the linear footage of the project shoreline and the cubic yards of sand placed per mile per year.

(d) Tier 4 must account for 15 percent of the total score and consist of all of the following criteria:

1. Increased prioritization of projects that have been on the department's ranked project list for successive years and that have not previously secured state funding for project implementation.

2. Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species which may be subject to extensive shoreline armoring, or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. Turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation may also be considered.

3. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line. If the department identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, the department may choose not to include the project in the annual funding priorities submitted to the Legislature.

If more than one project qualifies equally under the provisions of this subsection, the department shall assign funding priority to those projects shown to be most ready to proceed.

(15) Until the unmet demand for repairing Florida's damaged beaches and dunes is satisfied, it is the further intent of the Legislature to cost share such projects equally between the state and local sponsors.

(16) In order to encourage regional approaches that provide cost savings, and notwithstanding subsection (15), actual cost savings that can be documented as resulting from geographic coordination and sequencing of two or more discrete erosion control projects shall proportionally reduce each local sponsor's cost share as long as the state financial participation does not exceed 75 percent.

(17) The selection of a project engineer acceptable to the department by local government as project sponsor shall be on the basis of competitive negotiation as provided in chapter 287. The project sponsor shall assume full responsibility for all project costs in excess of the state cost limitation.

(18) A local government desiring to initiate and pay the entire cost of designing, constructing, and maintaining an erosion control project prior to the state's initiating such construction may be reimbursed from state funds on the basis of the procedures set forth in s. 161.161, provided the project is approved by the department before initiation of construction and based on legislative appropriations and whether it furthers the provisions of s. 161.161. Such local interests shall, as project sponsor, be responsible for obtaining federal reimbursement in the case of federal-aid projects.

(19) Twenty-five percent of any funds appropriated for implementation of this section shall be held by the department until the last quarter of the fiscal year for which the appropriation is made. This amount shall be used to meet emergencies prescribed in s. 161.111. If no such emergencies occur, then these funds may be released in the last quarter of the fiscal year in which the appropriation is made for projects.

(20) The department shall maintain active project lists, updated at least quarterly, on its website by fiscal year in order to provide transparency regarding those projects receiving funding and the funding amounts and to facilitate legislative reporting and oversight. In consideration of this intent:

(a) The department shall notify the Executive Office of the Governor and the Legislature regarding any significant changes in the funding levels of a given project as initially requested in the department's budget submission and subsequently included in approved annual funding allocations. The term "significant change" means a project-specific change or cumulative changes that exceed the project's original allocation by \$500,000 or that exceed 25 percent of the project's original allocation.

1. Except as provided in subparagraph 2., if there is surplus funding, the department must notify and provide supporting justification to the Executive Office of the Governor and the Legislature to indicate whether surplus dollars are intended to be used for inlet management projects pursuant to s. 161.143 or for beach restoration and beach nourishment projects, offered for reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

2. The department may use surplus funds for projects identified in subparagraph 1. that do not have a significant change. The department must post the uses of such funds on the project listing web page of its website. The department is not required to post any other notice or supporting justification before it uses the surplus funds for a project that does not have a significant change.

(b) The department shall prepare a summary of project activities, their funding status, and changes to annual project lists for the current and preceding fiscal year. The department shall include the summary with the department's submission of its annual legislative budget request.

(c) Funding for specific projects on annual project lists approved by the Legislature must remain available for such projects for 18 months. A local project sponsor may at any time release, in whole or in part, appropriated project dollars by formal notification to the department. The department shall notify the Executive Office of the Governor and the Legislature of such release and indicate in the notification how the project dollars are recommended to be used after such release.

(21) The department may adopt rules to implement this section.

(22) Notwithstanding subsections (1), (15), and (16), and for the 2021-2022 fiscal year, in the event that beaches are impacted by hurricanes or other storm events within communities with a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the United States Census Bureau of the United States Department of Commerce which includes both measurements, the department may waive or reduce the match requirements. This subsection expires July 1, 2022.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 7, ch. 78-257; s. 5, ch. 86-138; s. 17, ch. 87-97; s. 26, ch. 94-356; s. 1438, ch. 95-147; s. 5, ch. 96-321; s. 3, ch. 98-311; s. 9, ch. 2000-346; s. 3, ch. 2012-65; ss. 1, 2, ch. 2019-122; s. 46, ch. 2021-37.

161.111 Shore erosion emergency.—If a shore erosion emergency is declared by the Governor, the state, acting through the department, may spend whatever state funds are available to alleviate shore erosion.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 27, ch. 94-356; s. 10, ch. 2000-346.

161.121 Penalty.—Unless otherwise provided in this chapter, whoever shall fail to comply with the provisions of this part is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 65-408; s. 83, ch. 71-136; s. 2, ch. 77-12; s. 10, ch. 91-224.

161.131 Construction of ss. 161.011-161.212.—The provisions of ss. 161.011-161.212 shall be liberally construed by all concerned in a manner to best accomplish the beach and shore preservation purposes and programs.

History.—s. 3, ch. 65-408; s. 6, ch. 86-138.

161.141 Property rights of state and private upland owners in beach restoration project areas.—The Legislature declares that it is the public policy of the state to cause to be fixed and

determined, pursuant to beach restoration, beach nourishment, and erosion control projects, the boundary line between sovereignty lands of the state bordering on the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida, 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 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 a beach restoration project, the board of trustees must establish the line of mean high water for the area to be restored; and any additions to the upland property landward of the established line of mean high water which result from the restoration project remain the property of the upland owner subject to all governmental regulations and are not to be used to justify increased density or the relocation of the coastal construction control line as may be in effect for such upland property. The resulting additions to upland property are also subject to a public easement for traditional uses of the sandy beach consistent with uses that would have been allowed prior to the need for the restoration 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 or her property. If an authorized beach restoration, beach nourishment, and erosion control project cannot reasonably be accomplished without the taking of private property, the taking must be made by the requesting authority by eminent domain proceedings. In any action alleging a taking of all or part of a property or property right as a result of a beach restoration project, in determining whether such taking has occurred or the value of any damage alleged with respect to the owner's remaining upland property adjoining the beach restoration project, the enhancement, if any, in value of the owner's remaining adjoining property of the upland property owner by reason of the beach restoration project shall be considered. If a taking is judicially determined to have occurred as a result of a beach restoration project, the enhancement in value to the owner's remaining adjoining property by reason of the beach restoration project shall be offset against the value of the damage, if any, resulting to such remaining adjoining property of the upland property owner by reason of the beach restoration project, but such enhancement in the value shall not be offset against the value of the property or property right alleged to have been taken. If the enhancement in value shall exceed the value of the damage, if any, to the remaining adjoining property, there shall be no recovery over against the property owner for such excess.

History.—s. 1, ch. 70-276; s. 1, ch. 79-233; s. 1, ch. 82-144; s. 7, ch. 86-138; s. 18, ch. 87-97; ss. 28, 487, ch. 94-356; s. 1439, ch. 95-147; s. 11, ch. 2000-346; s. 3, ch. 2007-99.

161.142 Declaration of public policy relating to improved navigation inlets.—The Legislature 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 interrupt or alter the natural drift of beach-quality sand resources, which often results in these sand resources being deposited in nearshore areas or in the inlet channel, or in the inland waterway adjacent to the inlet, instead of providing natural nourishment to the adjacent eroding beaches. Accordingly, the Legislature finds it is in the public interest to replicate the natural drift of sand which is interrupted or altered by inlets to be replaced and for each level of government to undertake all reasonable efforts to maximize inlet sand bypassing to ensure that beach-quality sand is placed on adjacent eroding beaches. Such activities cannot make up for the historical sand deficits caused by inlets but shall be designed to balance the sediment budget of the inlet and adjacent beaches and extend the life of proximate beach-restoration projects so that periodic nourishment is needed less frequently. Therefore, in furtherance of this declaration of public policy and the Legislature's intent to redirect and recommit the state's comprehensive beach management efforts to address the beach erosion caused by inlets, the department shall ensure that:

(1) All construction and maintenance dredgings of beach-quality sand are placed on the adjacent eroding beaches unless, if placed elsewhere, an equivalent quality and quantity of sand from an alternate location is placed on the adjacent eroding beaches.

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

(3) Construction waterward of the coastal construction control line on downdrift coastal areas, on islands substantially created by the deposit of spoil, located within 1 mile of the centerline of navigation channels or inlets, providing access to ports listed in s. 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 s. 161.053(4) or (5); however, such construction shall comply with the applicable Florida Building Code adopted pursuant to s. 553.73. The timing and sequence of any construction activities associated with inlet management projects shall provide protection to nesting sea turtles and their hatchlings and habitats, to nesting shorebirds, and to native salt-resistant vegetation and endangered plant communities. Beach-quality sand placed on the beach as part of an inlet management project must be suitable for marine turtle nesting.

(4) The provisions of subsections (1) and (2) shall not be a requirement imposed upon ports listed in s. 403.021(9)(b); however, such ports must demonstrate reasonable effort to place beach-quality sand from construction and maintenance dredging and port-development projects on adjacent eroding beaches in accordance with port master plans approved by the Department of Economic Opportunity, and permits approved and issued by the department, to ensure compliance with this section. Ports may sponsor or cosponsor inlet management projects that are fully eligible for state cost sharing.

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

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

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

History.—s. 8, ch. 86-138; s. 19, ch. 87-97; s. 1, ch. 2008-242; s. 184, ch. 2010-102; s. 56, ch. 2011-142.

161.143 Inlet management; planning, prioritizing, funding, approving, and implementing projects.—

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

(2) The department shall establish annual funding priorities for studies, activities, or other projects concerning inlet management. Such inlet management projects constitute the intended scope of this section and s. 161.142 and consist of inlet sand bypassing, improvement of infrastructure to facilitate sand bypassing, modifications to channel dredging, jetty redesign, jetty repair, disposal of spoil material, and the development, revision, adoption, or implementation of an inlet management plan. Projects considered for funding pursuant to this section must be considered separate and apart from projects reviewed and prioritized in s. 161.101(14). The funding priorities established by the department under this section must be consistent with the requirements and legislative declaration in ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing funding priorities under this subsection and before transmitting the annual inlet project list to the Legislature under subsection (4), the department shall seek formal input from local coastal governments, beach and general government associations and other coastal interest groups, and university experts concerning annual funding priorities for inlet management projects. In order to maximize the benefits of efforts to address the inlet-caused beach erosion problems of this state, the ranking criteria used by the department to establish funding priorities for studies, activities, or other projects concerning inlet management must include equal consideration of:

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

(b) The severity of the erosion to the adjacent beaches caused by the inlet.

(c) The overall significance and anticipated success of the proposed project in mitigating the erosive effects of the inlet, balancing the sediment budget of the inlet and adjacent beaches, and addressing the sand deficit along the inlet-affected shorelines.

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

(e) The cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that would be used to address inlet-caused beach erosion.

(f) The existence of a proposed or recently updated inlet management plan or a local-government-sponsored inlet study addressing the mitigation of an inlet's erosive effects on adjacent beaches.

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

(h) The project-ranking criteria in s. 161.101(14) to the extent such criteria are applicable to inlet management studies, projects, and activities and are distinct from, and not duplicative of, the criteria listed in paragraphs (a)-(g).

(3) The department may pay from legislative appropriations up to 75 percent of the construction

costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing the sediment budget. The remaining balance of such construction costs must be paid from other funding sources, such as local sponsors. All project costs not associated with an initial major inlet management project component must be shared equally by state and local sponsors in accordance with s. 161.101(15).

(4) The department shall annually provide an inlet management project list, in priority order, to the Legislature as part of the department's budget request.

(a) The department shall designate for projects on the current year's inlet management project list, in priority order, an amount that is at least equal to the greater of:

1. Ten percent of the total amount that the Legislature appropriates in the fiscal year for statewide beach management; or
2. The percentage of inlet management funding requests from local sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year.

(b) The department shall include inlet monitoring activities ranked on the inlet management project list as one aggregated subcategory on the overall inlet management project list.

(5) The department shall update and maintain an annual report on its website concerning the extent to which each inlet project has succeeded in balancing the sediment budget of the inlet and adjacent beaches and in mitigating the inlet's erosive effects on adjacent beaches. The report must estimate the quantity of sediment bypassed, transferred, or otherwise placed on adjacent eroding beaches, or in such beaches' nearshore area, for the purpose of offsetting the erosive effects of inlets on the beaches of this state.

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

History.—s. 2, ch. 2008-242; s. 19, ch. 2013-41; s. 31, ch. 2014-53; s. 46, ch. 2015-222; s. 81, ch. 2016-62; s. 2, ch. 2018-111; s. 3, ch. 2019-122.

161.144 Policy guidance related to sand source management.—The Legislature recognizes that beach-quality sand for the nourishment of the state's critically eroded beaches is an exhaustible resource, in ever-decreasing supply, and must be carefully managed for the systemwide benefit of the state's beaches. Therefore, the Department of Environmental Protection, pursuant to s. 161.161 and in cooperation with federal and local government agencies, shall develop and maintain an inventory of identified offshore sand sources as part of the regional elements of its comprehensive long-term beach management plan. Offshore sand sources in state or federal waters which are identified for potential, proposed, or permitted use shall be clearly mapped or otherwise noted and readily available for public review. In addition, boards of county commissioners of coastal counties adjacent to sand sources proposed for use outside of the region or subregion shall be provided written notice by the department and an opportunity to comment during a specific project's planning and permitting stages. The department shall identify in its annual list of local government funding requests submitted to the Legislature, pursuant to s. 161.091, those projects that propose to use sand sources from another region or subregion at the time the list is submitted.

History.—s. 4, ch. 2007-99.

161.151 Definitions; ss. 161.141-161.211.—As used in ss. 161.141-161.211:

- (1) "Board of trustees" means the Board of Trustees of the Internal Improvement Trust Fund.
- (2) "Requesting authority" means any coastal county, municipality, or beach erosion control district which requests a survey by the board of trustees under the provisions of ss. 161.141-161.211.
- (3) "Erosion control line" means the line determined in accordance with the provisions of ss. 161.141-161.211 which represents the landward extent of the claims of the state in its capacity as sovereign titleholder of the submerged bottoms and shores of the Atlantic Ocean, the Gulf of Mexico, and the bays, lagoons and other tidal reaches thereof on the date of the recording of the survey as authorized in s. 161.181.

(4) "Authorized beach restoration project" means a beach project authorized by the United States Congress or the department which involves a specific project engineering design and a project maintenance program for a period of not less than 10 years.

History.—s. 2, ch. 70-276; s. 1, ch. 70-439; s. 2, ch. 82-144.

161.161 Procedure for approval of projects.—

(1) The department shall develop and maintain a comprehensive long-term beach management plan for the restoration and maintenance of the state's critically eroded beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits of Florida. In developing and maintaining this plan, the department shall:

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

(b) Evaluate each improved, modified, or altered 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 shall include the extent to which such inlet causes beach erosion and recommendations to mitigate the erosive impact of the inlet, including, but not limited to, inlet sediment bypassing; improvement of infrastructure to facilitate sand bypassing; modifications to channel dredging, jetty design, and disposal of spoil material; establishment of feeder beaches; and beach restoration and beach nourishment.

(c) Evaluate criteria for beach restoration and beach nourishment projects, including, but not limited to, dune elevation and width and revegetation and stabilization requirements and beach profiles.

(d) Consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration when appropriate and cost-effective, and recommend the location of such regional sediment management alternatives and the source of beach-compatible sand.

(e) Identify causes of shoreline erosion and change, determine erosion rates, and maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions.

(f) Assess impacts of development and coastal protection structures on shoreline change and erosion.

(g) Identify short-term and long-term economic costs and benefits of beaches to the state and individual beach communities.

(h) Study dune and vegetation conditions, identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events.

(i) Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and nesting locations.

(j) Identify alternative management responses to preserve undeveloped beach and dune systems and to restore damaged beach and dune systems. In identifying such management responses, the department shall consider, at a minimum, beach restoration and nourishment, armoring, relocation, dune and vegetation restoration, and acquisition.

(k) Document procedures and policies for preparing poststorm damage assessments and corresponding recovery plans, including repair cost estimates.

(l) Identify and assess appropriate management measures for all of the state's critically eroded sandy beaches.

(2) The comprehensive long-term management plan developed and maintained by the department pursuant to subsection (1) must include, at a minimum, a strategic beach management plan, a critically eroded beaches report, and a statewide long-range budget plan. The long-range budget plan must include a 3-year work plan for beach restoration, beach nourishment, and inlet management

projects that lists planned projects for each of the 3 fiscal years addressed in the work plan.

(a) The strategic beach management plan must identify and recommend appropriate measures for all of the state's critically eroded sandy beaches and may incorporate plans prepared at the regional level, taking into account areas of greatest need and probable federal and local funding. Upon approval in accordance with this section, such regional plans, along with the 3-year work plan identified in subparagraph (c)1., must serve as the basis for state funding decisions. Before finalizing the strategic beach management plan, the department shall hold a public meeting in the region for which the plan is prepared or hold a publicly noticed webinar.

(b) The critically eroded beaches report must be developed and maintained based primarily on the requirements specified in paragraph (1)(e).

(c) The statewide long-range budget plan must include at least 5 years of planned beach restoration, beach nourishment, and inlet management project funding needs as identified, and subsequently refined, by local government sponsors. This plan must consist of two components:

1. A 3-year work plan that identifies beach restoration, beach nourishment, and inlet management projects viable for implementation during the next 3 fiscal years, as determined by available cost-sharing, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled. The 3-year work plan must, for each fiscal year, identify proposed projects and their current development status, listing them in priority order based on the applicable criteria established in ss. 161.101(14) and 161.143(2). Specific funding requests and criteria ranking, pursuant to ss. 161.101(14) and 161.143(2), may be modified as warranted in each successive fiscal year, and such modifications must be documented and submitted to the Legislature with each 3-year work plan. Year one projects shall consist of those projects identified for funding consideration in the ensuing fiscal year.

2. A long-range plan that identifies projects for inclusion in the fourth and fifth ensuing fiscal years. These projects may be presented by region and do not need to be presented in priority order; however, the department should identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the 3-year work plan.

(3) The secretary shall present the 3-year work plan to the Legislature annually. The work plan must be accompanied by a 3-year financial forecast for the availability of funding for the projects.

(4) Once a project is determined to be undertaken, a survey of all or part of the shoreline within the jurisdiction of the local government in which the beach is located shall be conducted in order to establish the area of beach to be protected by the project and locate an erosion control line. No provision of ss. 161.141-161.211 shall be construed as preventing a local government from participating in the funding of erosion control projects or surveys undertaken in accordance with the provisions of ss. 161.141-161.211. In lieu of conducting a survey, the board of trustees may accept and approve a survey as initiated, conducted, and submitted by the appropriate local government if said survey is made in conformity with the appropriate principles set forth in ss. 161.141-161.211.

(5) Upon completion of the survey depicting the area of the beach erosion control project and the proposed location of the erosion control line, the board of trustees shall give notice of the survey and the date on which the board of trustees will hold a public hearing for the purpose of receiving evidence on the merits of the proposed erosion control line and, if approval is granted, of locating and establishing such requested erosion control line. Such notice shall be by publication in a newspaper of general circulation published in the county or counties in which the proposed beach erosion control project shall be located not less than once a week for 3 consecutive weeks and by mailing copies of such notice by certified or registered mail to each riparian owner of record of upland property lying within 1,000 feet (radial distance) of the shoreline to be extended through construction of the proposed beach erosion control project, as his or her name and address appear

upon the latest tax assessment roll, in order that any persons who have an interest in the location of such requested erosion control line can be present at such hearing to submit their views concerning the precise location of the proposed erosion control line. Such notice shall be in addition to any notice requirement in chapter 120.

(6) The board of trustees shall approve or disapprove the erosion control line for a beach restoration project. In locating said line, the board of trustees shall be guided by the existing line of mean high water, bearing in mind the requirements of proper engineering in the beach restoration project, the extent to which erosion or avulsion has occurred, and the need to protect existing ownership of as much upland as is reasonably possible.

(7) In no event shall the department undertake a beach restoration or beach nourishment project where a local share is required without the approval of the local government or governments responsible for that local share.

(8) The department may adopt rules to administer this section.

History.—s. 3, ch. 70-276; s. 1, ch. 70-439; s. 23, ch. 78-95; s. 2, ch. 79-233; s. 9, ch. 86-138; s. 20, ch. 87-97; s. 29, ch. 94-356; s. 1440, ch. 95-147; s. 6, ch. 96-321; s. 3, ch. 96-371; s. 4, ch. 98-311; s. 12, ch. 2000-346; s. 40, ch. 2010-102; s. 4, ch. 2019-122.

161.163 Coastal areas used by sea turtles; rules.—The department shall adopt by rule a designation of coastal areas which are utilized, or are likely to be utilized, by sea turtles for nesting. The department shall also adopt by rule guidelines for local government regulations that control beachfront lighting to protect hatching sea turtles.

History.—s. 15, ch. 86-138; s. 1, ch. 2000-211.

161.181 Recording of resolution and survey of board of trustees.—If no review is taken within the time prescribed from the decision of the board of trustees or, if review be timely taken, in the absence of a final decision of a court of competent jurisdiction preventing the implementation of a beach erosion control project or invalidating, abolishing, or otherwise preventing the establishment and recordation of the erosion control line as provided herein, the board of trustees shall file in the public records of the county or counties in which the erosion control line lies, a copy of its resolution approving the beach erosion control project and locating the erosion control line and shall also file and cause to be recorded in the book of plats of said county or counties a survey showing the area of beach to be protected and the location of the erosion control line.

History.—s. 5, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

161.191 Vesting of title to lands.—

(1) Upon the filing of a copy of the board of trustees' resolution and the recording of the survey showing the location of the erosion control line and the area of beach to be protected as provided in s. 161.181, title to all lands seaward of the erosion control line shall be deemed to be vested in the state by right of its sovereignty, and title to all lands landward of such line shall be vested in the riparian upland owners whose lands either abut the erosion control line or would have abutted the line if it had been located directly on the line of mean high water on the date the board of trustees' survey was recorded.

(2) Once the erosion control line along any segment of the shoreline has been established in accordance with the provisions of ss. 161.141-161.211, the common law shall no longer operate to increase or decrease the proportions of any upland property lying landward of such line, either by accretion or erosion or by any other natural or artificial process, except as provided in s. 161.211(2) and (3). However, the state shall not extend, or permit to be extended through artificial means, that portion of the protected beach lying seaward of the erosion control line beyond the limits set forth in the survey recorded by the board of trustees unless the state first obtains the written consent of all riparian upland owners whose view or access to the water's edge would be altered or impaired.

History.—s. 6, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

161.201 Preservation of common-law rights.—Any upland owner or lessee who by operation of ss. 161.141-161.211 ceases to be a holder of title to the mean high-water line shall, nonetheless, continue to be entitled to all common-law riparian rights except as otherwise provided in s. 161.191(2), including but not limited to rights of ingress, egress, view, boating, bathing, and fishing. In addition the state shall not allow any structure to be erected upon lands created, either naturally or artificially, seaward of any erosion control line fixed in accordance with the provisions of ss. 161.141-161.211, except such structures required for the prevention of erosion. Neither shall such use be permitted by the state as may be injurious to the person, business, or property of the upland owner or lessee; and the several municipalities, counties and special districts are authorized and directed to enforce this provision through the exercise of their respective police powers.

History.—s. 7, ch. 70-276.

161.211 Cancellation of resolution for nonperformance by board of trustees.—

(1) If for any reason construction of the beach erosion control project authorized by the board of trustees is not commenced within 2 years from the date of the recording of the board of trustees' survey, as provided in s. 161.181, or in the event construction is commenced but halted for a period exceeding 6 months from commencement, then, upon receipt of a written petition signed by those owners or lessees of a majority of the lineal feet of riparian property which either abuts or would have abutted the erosion control line if the same had been located at the line of mean high water on the date the board of trustees' survey was recorded, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

(2) If the state, county, municipality, erosion control district, or other governmental agency charged with the responsibility of maintaining the protected beach fails to maintain the same and as a result thereof the shoreline gradually recedes to a point or points landward of the erosion control line as established herein, the provisions of s. 161.191(2) shall cease to be operative as to the affected upland.

(3) In the event a substantial portion of the shoreline encompassed within the erosion control project recedes landward of the erosion control line, the board of trustees, on its own initiative, may direct or request, or, upon receipt of a written petition signed by the owners or lessees of a majority of the lineal feet of riparian property lying within the erosion control project, shall direct or request, the agency charged with the responsibility of maintaining the beach to restore the same to the extent provided for in the board of trustees' recorded survey. If the beach is not restored as directed or requested by the board of trustees within a period of 1 year from the date of the directive or request, the board of trustees shall forthwith cause to be canceled and vacated of record the resolution authorizing the beach erosion control project and the survey locating the erosion control line, and the erosion control line shall be null and void and of no further force or effect.

History.—s. 8, ch. 70-276; s. 1, ch. 70-439; s. 3, ch. 79-233.

161.212 Judicial review relating to permits and licenses.—

(1) As used in this section, unless the context otherwise requires:

(a) "Agency" means any official, officer, commission, authority, council, committee, department, division, bureau, board, section, or other unit or entity of state government.

(b) "Permit" means any permit or license required by this chapter.

(2) Any person substantially affected by a final action of any agency with respect to a permit may seek review within 90 days of the rendering of such decision and request monetary damages and other relief in the circuit court in the judicial circuit in which the affected property is located; however, circuit court review shall be confined solely to determining whether final agency action is an

unreasonable exercise of the state's police power constituting a taking without just compensation. Review of final agency action for the purpose of determining whether the action is in accordance with existing statutes or rules and based on competent substantial evidence shall proceed in accordance with chapter 120.

(3) If the court determines the decision reviewed is an unreasonable exercise of the state's police power constituting a taking without just compensation, the court shall remand the matter to the agency which shall, within a reasonable time:

(a) Agree to issue the permit;

(b) Agree to pay appropriate monetary damages; however, in determining the amount of compensation to be paid, consideration shall be given by the court to any enhancement to the value of the land attributable to governmental action; or

(c) Agree to modify its decision to avoid an unreasonable exercise of police power.

(4) The agency shall submit a statement of its agreed-upon action to the court in the form of a proposed order. If the action is a reasonable exercise of police power, the court shall enter its final order approving the proposed order. If the agency fails to submit a proposed order within a reasonable time not to exceed 90 days which specifies an action that is a reasonable exercise of police power, the court may order the agency to perform any of the alternatives specified in subsection (3).

(5) The court shall award reasonable attorney's fees and court costs to the agency or substantially affected person, whichever prevails.

(6) The provisions of this section are cumulative and shall not be deemed to abrogate any other remedies provided by law.

History.—ss. 1, 2, 3, 4, 5, 6, ch. 78-85.

161.242 Harvesting of sea oats and sea grapes prohibited; possession prima facie evidence of violation.—

(1) The purpose of this section is to protect the beaches and shores of the state from erosion by preserving natural vegetative cover to bind the sand.

(2) It is unlawful for any purpose to cut, harvest, remove, or eradicate any of the grass commonly known as sea oats or *Uniola paniculata* and *Coccolobis uvifera* commonly known as sea grapes from any public land or from any private land without consent of the owner of such land or person having lawful possession thereof. Possession of either *Uniola paniculata* or *Coccolobis uvifera* by other than the owner of such land shall constitute prima facie evidence of violation of this section. However, licensed, certified nurserymen who grow any of the native plants listed in this section from seeds or by vegetative propagation are specifically permitted to sell these commercially grown plants and shall not be in violation of this section of the law if they do so, as it is the intent of the law to preserve and encourage the growth of these native plants which are rapidly disappearing from the state.

History.—s. 1, ch. 65-458; s. 1, ch. 67-150; s. 280, ch. 71-136; s. 1, ch. 71-153; s. 1, ch. 73-258; s. 16, ch. 85-234; s. 11, ch. 2000-197.

Note.—Former s. 370.041.

**PART II
BEACH AND SHORE PRESERVATION
DISTRICTS**

161.25 County beach and shore preservation authority; board of county commissioners.

161.26 Expenses; use of county funds.

161.27 Personnel and facilities.

161.28 Comprehensive county beach and shore preservation program.

161.29 Benefit categories or zones.

- 161.31 Establishment of districts.
- 161.32 Existing erosion prevention district.
- 161.33 Cooperation with federal, state, and other governmental entities.
- 161.34 Coordination of county preservation activities.
- 161.35 County shoreline; supervisory and regulatory powers of board of county commissioners.
- 161.36 General powers of authority.
- 161.37 Capital, operation and maintenance costs; district benefits tax levy.
- 161.38 Issuance of bonds.
- 161.39 Cooperation between two or more counties.
- 161.40 Tax exemptions.
- 161.41 Construction of ss. 161.25-161.40.
- 161.45 Effect of repeal of chapter 158 on districts created prior to repeal.

161.25 County beach and shore preservation authority; board of county commissioners.—To carry out the beach and shore preservation program, the board of county commissioners of any county and its successors in office, as an ex officio duty, are hereby severally constituted as the beach and shore preservation authority for their county. In this capacity, any such board of county commissioners may at its own initiative take all necessary steps as soon as practicable and desirable to implement the provisions of this chapter.

History.—s. 1, ch. 65-408.

161.26 Expenses; use of county funds.—The board of county commissioners of any of the counties is authorized to use any available county funds to meet necessary expenses of its beach and shore preservation program. This may include, among other things, costs of studies, surveys, planning, engineering, coordination, negotiation, acquisition of lands, construction of works and facilities, operation and maintenance, and other activities incidental to acquisition and construction to the extent considered proper and desirable by the board of county commissioners.

History.—s. 1, ch. 65-408.

161.27 Personnel and facilities.—In carrying out the purposes of this part, the board of county commissioners may use to the extent feasible any personnel or facilities employed by or available to the county. In addition, the board of county commissioners may hire such personnel and contract for such services as may prove necessary or desirable.

History.—s. 1, ch. 65-408.

161.28 Comprehensive county beach and shore preservation program.—The board of county commissioners of any of the counties may, by assignments to legally qualified personnel, whose services are made available as provided in s. 161.27, initiate and carry on such studies and investigations as may be necessary to plan a logical and suitable program for comprehensive beach and shore preservation within its county. This program may incorporate all or part of the recommendations of the United States Army Corps of Engineers concerning beach and shore restoration and erosion control, if there be any, and may additionally provide to an appropriate extent for the other aspects of beach and shore preservation. In conducting its studies and making its plans for a beach and shore preservation program, the board of county commissioners shall hold sufficient public hearings to ascertain the views and feelings of affected property owners in the various localities of the county regarding the needs to be served and manner in which they should best be served. The board of county commissioners shall give proper and reasonable consideration to all evidence received in planning the beach and shore preservation program.

History.—s. 1, ch. 65-408.

161.29 Benefit categories or zones.—Upon adoption of a reasonably final plan of improvement

for the beach and shore preservation program for the entire county, the board of county commissioners shall conduct, through the use of personnel competent and qualified in this field, an economic analysis of the proposed program, determining the nature and extent of benefits expected to accrue from the program and allocating these benefits to their proper recipients by categories or zones of comparable benefits, and place in the same zone areas of equal benefit, or follow such other method as may be deemed suitable for the purposes of this section. From time to time, the board of county commissioners shall conduct in the same or similar manner a new analysis to better determine and allocate actual or expected benefits.

History.—s. 1, ch. 65-408.

161.31 Establishment of districts.—

(1) Districts established under the provisions of this part shall constitute public bodies corporate and politic, exercising public powers and all other powers and duties incident to such bodies.

(2) The board of county commissioners shall serve as the governing body for all districts created under this authority and shall proceed as expeditiously as possible to determine and implement policy and program for each such district in accordance with the overall county program, except that the board of county commissioners may receive guidance in these matters for each district from an advisory group, consisting of not less than three nor more than five persons, which the board of county commissioners may appoint from any or each such district. Members of such advisory group shall have no definite term of office but shall serve at the pleasure of the board of county commissioners.

(3) To further provide for efficient administration of the district program, the board of county commissioners may hire such additional personnel or contract for such additional services as it considers necessary or desirable in each case.

(4) A uniform ad valorem tax not to exceed 1 mill per year on all nonexempt taxable property within the district may be levied for a period of not more than 2 years to defray organizational and administrative costs of said district.

History.—s. 1, ch. 65-408; s. 3, ch. 71-14.

161.32 Existing erosion prevention district.—This part shall not be construed to impair the existence, powers or functions of any existing erosion prevention, beach or shore preservation districts created by special or local act; provided, however, that any such existing district may re-create and reestablish itself under the provisions of this act as if originally created and established hereunder in all respects, by resolution of its governing body adopting the provisions of chapter 161, in their entirety and thereafter shall function as a beach and shore preservation district created and established under the provisions of this part.

History.—s. 1, ch. 65-408.

161.33 Cooperation with federal, state, and other governmental entities.—

(1) The board of county commissioners, for itself or on behalf of any and all duly established beach and shore preservation districts within the county, may enter into cooperative agreements and otherwise cooperate with, and meet the requirements and conditions of, federal, state and other local governments and political entities, or any agencies or representative thereof, for the purpose of improving, furthering and expediting the beach and shore preservation program.

(2) The board of county commissioners and the department, for and on behalf of each or any district created in accordance with parts I and II of this chapter, are authorized to receive and accept from any federal agency, grants for or in aid of any beach and shore preservation program contemplated by this part, and to receive and accept aid or contributions from any source, of money, property and other things of value. The board of county commissioners is authorized to make application for federal participation in the cost of any beach and shore preservation program under

any Acts of Congress and all amendments thereto.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 30, ch. 94-356.

161.34 Coordination of county preservation activities.—The board of county commissioners shall coordinate the work and activity of all districts established hereunder within the county and, to further ensure harmony and consistency with the overall county beach and shore preservation plan, shall establish working liaison with each municipality and other agencies and groups involved in beach and shore preservation activity within the county.

History.—s. 1, ch. 65-408.

161.35 County shoreline; supervisory and regulatory powers of board of county commissioners.—

(1) With the consent of the department and of any municipality or other political authority involved, the board of county commissioners may regulate and supervise all physical work or activity along the county shoreline which is likely to have a material physical effect on existing coastal conditions or natural shore processes. This regulatory and supervisory authority shall specifically include, but not be limited to, installation of groins, jetties, moles, breakwaters, seawalls, revetments, and other coastal construction as defined herein. For this purpose, the board of county commissioners, with assistance as required from its professional personnel, may develop standards and criteria, issue permits and conduct inspections.

(2) All regulations and requirements prescribed by the board of county commissioners pursuant to this part may be enforced by mandatory injunction or other appropriate action in any court of competent jurisdiction. Such regulations and requirements shall in no way affect the regulatory authority of the department.

History.—s. 1, ch. 65-408; ss. 25, 35, ch. 69-106; s. 31, ch. 94-356.

161.36 General powers of authority.—In order to most effectively carry out the purposes of this part, the board of county commissioners, as the county beach and shore preservation authority and as the governing body of each beach and shore preservation district established thereby, shall be possessed of broad powers to do all manner of things necessary or desirable in pursuance of this end; provided, however, nothing herein shall diminish or impair the regulatory authority of the Department of Environmental Protection under part I of this chapter or the Board of Trustees of the Internal Improvement Trust Fund under chapter 253. Such powers shall specifically include, but not be limited to, the following:

- (1) To make contracts and enter into agreements;
- (2) To sue and be sued;
- (3) To acquire and hold lands and property by any lawful means;
- (4) To exercise the power of eminent domain;
- (5) To enter upon private property for purposes of making surveys, soundings, drillings and examinations, and such entry shall not be deemed a trespass;
- (6) To construct, acquire, operate and maintain works and facilities;
- (7) To make rules and regulations; and
- (8) To do any and all other things specified or implied in this part.

History.—s. 1, ch. 65-408; ss. 25, 27, 35, ch. 69-106; s. 32, ch. 94-356; s. 60, ch. 99-2; s. 5, ch. 2000-197.

161.37 Capital, operation and maintenance costs; district benefits tax levy.—

(1) To provide for the capital, operation and maintenance cost of the beach and shore preservation program, either by debt service or direct expenditure, the board of county commissioners as the governing body of each district created in accordance with this part may levy upon all taxable property within each district an ad valorem benefits tax in any amount necessary to meet the requirements of the program but not exceeding the reasonable ability of the district to pay.

(2) The tax shall be levied upon each taxable property in proportion to benefits said property will receive as determined by the most recent economic analysis of the program as provided for under s. 161.29. General benefits shall be uniformly applied on an ad valorem basis to the entire assessed valuation of each district, while special benefits shall be assigned to groups of specific properties which shall constitute zones because of the equal or comparable benefits each included property will receive.

(3) Where the board of county commissioners levies any special benefits taxes, it shall consider the value of the property, its kind, susceptibility to improvement and the maximum annual benefits to be conferred thereon by the works or improvements in the district.

(4) The owner of lands where a special benefits tax is proposed to be levied shall be given written notice and an opportunity to be heard upon the amount of special benefits tax to be levied upon his or her lands. If the special benefits to all properties within any district are found to be equal or comparable, then the said district shall comprise only one tax zone. The proportional tax rate which each property within a district shall pay shall be determined by adding the general and special benefits assigned to its zone. The actual tax levy for any particular year shall depend on the revenue needs for that year.

(5) The board of county commissioners shall levy sufficient ad valorem and special benefits taxes to pay off debt service on any bonds issued. It shall be the duty of the board each year, sufficiently in advance of the preparation of the county tax roll, to establish the revenue requirements for each individual district for the fiscal year in question and certify this figure to the county property appraiser who shall then assign shares of this total to each zone within the respective district according to the proportion of total benefits previously assigned. The share of total required revenue assigned each zone shall then be collected by an ad valorem levy on each taxable property within the zone.

(6) All taxes provided for in this part shall be levied and collected by the county in the same manner as other county taxes, and while unpaid shall constitute a lien of equal stature and dignity with other county taxes.

History.—s. 1, ch. 65-408; s. 1, ch. 77-102; s. 895, ch. 95-147.

161.38 Issuance of bonds.—

(1) The board of county commissioners, for and on behalf of each or any district created in accordance with this part, is authorized to provide from time to time for the issuance of bonds to obtain funds to meet the costs of the beach and shore preservation program; provided, however, that such issuance shall have first been approved at a duly conducted referendum election by freeholders within the subject district as provided for by law. The bonds of each issue shall be dated, shall bear interest at rates not to exceed 7.5 percent which mature at such time not to exceed 40 years from the date of issuance as determined by the board of county commissioners, and at the option of the board of county commissioners may be made redeemable before maturity under such terms and conditions and at such prices as fixed by the board of county commissioners prior to issuance.

(2) The board of county commissioners shall determine the form of such bonds, including any interest coupons to be attached thereto, the denomination of the bonds, and the place of payment of principal and interest which may be at any bank or trust company within or without the state.

(a) The resolution authorizing the issue may further provide that such bonds may be executed manually or by engraved, lithographed or facsimile signature.

(b) The appropriate seal may be affixed or lithographed, engraved or otherwise reproduced in facsimile on such bonds and shall be attested by the manual or facsimile signature of the county clerk; provided, however, that at least one of the signatures of executing officials on the bonds shall be manual. Signatures, manual or facsimile, of executing officials shall continue to be valid for all purposes whatsoever regardless of whether or not signing officials are still in office at the time bonds

are actually delivered.

(c) Bonds may be issued in coupon or registered form as the board of county commissioners may decide and provision may be made for the registration of any coupon bonds as to principal alone or as to principal and interest, and for the reconversion of coupon bonds or any bond registered as to principal and interest.

(d) No sale of bonds shall be made at a price so low as to require the payment of interest on money received therefor at a rate in excess of 6 percent per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding from such computation, however, the amount of any premium to be paid for the redemption of any bonds prior to maturity.

(e) Prior to the preparation or issuance of definitive bonds, the board of county commissioners may under like restrictions issue interim receipts or temporary notes or other forms of such temporary obligations with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. Such bonds may be issued under the provisions of this part without obtaining the consent of any commission, board, bureau or agency of this state, and without any other proceeding or happening than specifically required by this chapter.

(3) All bonds issued under this part shall constitute, and have all the qualities and incidents of, negotiable instruments under the law merchant and the negotiable instruments law of Florida, and shall not be invalid for any irregularity or defect in the proceedings for the issuance and sale thereof and shall be incontestable in the hands of bona fide purchasers for value.

(4) The provisions of this part shall constitute an irrevocable contract between the board of county commissioners and the holders of such bonds or coupons thereof issued pursuant to the provisions hereof.

(5) Any holder of such bonds issued under the provisions of this part, and the trustee under any trustee agreement, except to the extent the rights herein given may be restricted by such trust agreement, may either at law or in equity, by suit, action, or mandamus, force and compel the performance of the duties required by this part or of any of the officers or persons herein mentioned in relation to said bonds, or the levy, assessment, collection and enforcement and application of the taxes pledged for the principal and interest thereof as provided for in s. 161.37.

(6) Bonds issued under the provisions of this part shall not be subject to the consent or approval of any state board, commission, or agency, but such bonds shall be validated in accordance with the provisions of chapter 75.

History.—s. 1, ch. 65-408; s. 11, ch. 73-302; s. 5, ch. 80-98.

161.39 Cooperation between two or more counties.—

(1) When two or more counties have created one or more beach preservation districts as provided for under this part or any other law with same or like intent, or desire to carry out programs of beach and shore preservation, and find it to be mutually beneficial, the boards of county commissioners of such counties may cooperate to any extent necessary or desirable to carry out the intent of this part or any other law with same or like intent, in the implementation of any beach or shore preservation plan or project as defined herein. This cooperation may include but shall not be limited to cooperative participation in the nonfederal costs of federally authorized projects affecting one or more of the cooperating counties, plans or projects resulting from investigation, or studies made by any or all such counties, or other such plans or projects, which by their nature would prove to be beneficial to each such cooperating county as determined by the boards of county commissioners of each such county.

(2) The costs of any such plan or project shall be borne by each of the cooperating counties in accordance with the benefits expected to accrue to each county as determined in accordance with s. 161.29, or as determined and agreed upon by the boards of county commissioners of each such

cooperating county.

(3) Any county may expend funds in any other county for the purposes provided herein if in the opinion of the board of county commissioners of one county such expenditure of its funds in other counties would be beneficial to the beaches and shores of that county.

History.—s. 1, ch. 65-408.

161.40 Tax exemptions.—All properties, revenues and other assets of the board of county commissioners acting as the beach and shore preservation authority, or of any of the districts created thereby, shall, by recognition of its essential public function, be exempt from all taxation by the state or any political subdivision, agency or instrumentality thereof. The exemption granted by this section shall not apply to any tax imposed by chapter 220 on interest, income, or profits on debt obligations owned by corporations.

History.—s. 1, ch. 65-408; s. 51, ch. 89-356.

161.41 Construction of ss. 161.25-161.40.—The provisions of ss. 161.25-161.40 shall be liberally construed by all concerned in a manner to best accomplish the beach and shore preservation purposes and programs.

History.—s. 3, ch. 65-408.

161.45 Effect of repeal of chapter 158 on districts created prior to repeal.—The county erosion districts created under the provisions of chapter 158, and presently in existence shall not be affected by the repeal of chapter 158.

History.—s. 2, ch. 65-126.

PART III COASTAL ZONE PROTECTION

161.52 Short title.

161.53 Legislative intent.

161.54 Definitions.

161.55 Requirements for activities or construction within the coastal building zone.

161.551 Public financing of construction projects within the coastal building zone.

161.56 Establishment of local enforcement.

161.57 Coastal properties disclosure statement.

161.58 Vehicular traffic on coastal beaches.

161.52 Short title.—Sections 161.52-161.58 may be cited as the “Coastal Zone Protection Act of 1985.”

History.—s. 36, ch. 85-55.

161.53 Legislative intent.—

(1) The Legislature recognizes that coastal areas play an important role in protecting the ecology and the public health, safety, and welfare of the citizens of the state; that in recent years the coastal areas have been subjected to increasing growth pressures; and that unless these pressures are controlled, the very features which make coastal areas economically, aesthetically, and ecologically rich will be destroyed.

(2) The Legislature further recognizes that coastal areas form the first line of defense for the mainland against both winter storms and hurricanes, that the dunes of coastal areas perform valuable protective functions for public and private property, and that placement of permanent structures in these protective areas may lead to increased risks to life and property and increased costs to the public. Coastal areas often protect lagoons, salt marshes, estuaries, bays, marine habitats, and the mainland from the direct action of ocean waves or storm surges; absorb the forces of oceanic activity

on their seaward sides and protect calmer waters and stable shores to their landward sides; and are dynamic geologic systems with topography that is subject to alteration by waves, storm surges, flooding, or littoral currents.

(3) The Legislature further recognizes that these coastal areas are among Florida's most valuable resources and have extremely high recreational and aesthetic value which should be preserved and enhanced. Coastal areas provide a unique habitat for birds, wildlife, marine life, and plant life and protect waters that are vital to the food chain.

(4) The Legislature further recognizes that there is a tremendous cost to the state for postdisaster redevelopment in the coastal areas and that preventive measures should be taken on a continuing basis in order to reduce the harmful consequences of natural and manmade disasters or emergencies.

(5) It is, therefore, the intent of the Legislature that the most sensitive portion of the coastal area shall be managed through the imposition of strict construction standards in order to minimize damage to the natural environment, private property, and life.

History.—s. 36, ch. 85-55.

161.54 Definitions.—In construing ss. 161.52-161.58:

(1) "Coastal building zone" means the land area from the seasonal high-water line landward to a line 1,500 feet landward from the coastal construction control line as established pursuant to s. 161.053, and, for those coastal areas fronting on the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and not included under s. 161.053, the land area seaward of the most landward velocity zone (V-zone) line as established by the Federal Emergency Management Agency and shown on flood insurance rate maps.

(2) "Coastal barrier islands" means geological features which are completely surrounded by marine waters that front upon the open waters of the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida and are composed of quartz sands, clays, limestone, oolites, rock, coral, coquina, sediment, or other material, including spoil disposal, which features lie above the line of mean high water. Mainland areas which were separated from the mainland by artificial channelization for the purpose of assisting marine commerce shall not be considered coastal barrier islands.

(3) "Beach" means the zone of unconsolidated material that extends landward from the mean low-water line to the place where there is marked change in material or physiographic form, or to the line of permanent vegetation, usually the effective limit of storm waves. "Beach" is alternatively termed "shore."

(4) "Dune" means a mound or ridge of loose sediments, usually sand-sized sediments, lying landward of the beach and deposited by any natural or artificial mechanism.

(5) "Construction" means the carrying out of any building, clearing, filling, excavation, or substantial improvement in the size or use of any structure or the appearance of any land. When appropriate to the context, "construction" refers to the act of construction or the result of construction.

(6)(a) "Major structure" means houses, mobile homes, apartment buildings, condominiums, motels, hotels, restaurants, towers, other types of residential, commercial, or public buildings, and other construction having the potential for substantial impact on coastal zones.

(b) "Minor structure" means pile-supported, elevated dune and beach walkover structures; beach access ramps and walkways; stairways; pile-supported, elevated viewing platforms, gazebos, and boardwalks; lifeguard support stands; public and private bathhouses; sidewalks, driveways, parking areas, shuffleboard courts, tennis courts, handball courts, racquetball courts, and other uncovered paved areas; earth retaining walls; and sand fences, privacy fences, ornamental walls, ornamental garden structures, aviaries, and other ornamental construction. It shall be a characteristic of minor structures that they are considered to be expendable under design wind, wave, and storm forces.

(c) "Nonhabitable major structure" means swimming pools; parking garages; pipelines; piers;

canals, lakes, ditches, drainage structures, and other water retention structures; water and sewage treatment plants; electrical power plants, and all related structures or facilities, transmission lines, distribution lines, transformer pads, vaults, and substations; roads, bridges, streets, and highways; and underground storage tanks.

(d) "Coastal or shore protection structure" means shore-hardening structures, such as seawalls, bulkheads, revetments, rubble mound structures, groins, breakwaters, and aggregates of materials other than beach sand used for shoreline protection; beach and dune restoration; and other structures which are intended to prevent erosion or protect other structures from wave and hydrodynamic forces.

The enumeration of types of structures in this subsection shall not be construed as excluding from the operation of ss. 161.52-161.58 any other structure which by its usage, design, dimensions, or structural configuration would require engineering consideration similar to the listed structures.

(7) "Building support structure" means any structure which supports floor, wall, or column loads and transmits such loads to the foundation, and includes beams, grade beams, or joists and the lowest horizontal structural member exclusive of piles, columns, or footings.

(8) "Breakaway wall" or "frangible wall" means a partition independent of supporting structural members that will withstand design wind forces, but will fail under hydrostatic, wave, and runup forces associated with the design storm surge. Under such conditions, the wall will fail in a manner such that it dissolves or breaks up into components that will not act as potentially damaging missiles.

(9) "Department" means the Department of Environmental Protection.

(10) "State land planning agency" means the Department of Economic Opportunity.

(11) "State minimum building codes" means the Florida Building Code as identified in s. 553.73.

(12) "Substantial improvement" means any repair, reconstruction, rehabilitation, or improvement of a structure when the actual cost of the improvement or repair of the structure to its pre-damage condition equals or exceeds 50 percent of the market value of the structure either:

(a) Before the improvement or repair is started; or

(b) If the structure has been damaged and is being restored, before the damage occurred.

The total cost does not include nonstructural interior finishings, including, but not limited to, finish flooring and floor coverings, base molding, nonstructural substrates, drywall, plaster, paneling, wall covering, tapestries, window treatments, decorative masonry, paint, interior doors, tile, cabinets, moldings and millwork, decorative metal work, vanities, electrical receptacles, electrical switches, electrical fixtures, intercoms, communications and sound systems, security systems, HVAC grills and decorative trim, freestanding metal fireplaces, appliances, water closets, tubs and shower enclosures, lavatories, and water heaters, or roof coverings, except when determining whether the structure has been substantially improved as a result of a single improvement or repair.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include either any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions or any alteration of a structure listed on the National Register of Historic Places or the State Inventory of Historic Places.

(13) When used in ss. 161.52-161.58, the terms defined in s. 177.27 have the same meanings as provided in that section.

History.—s. 36, ch. 85-55; s. 2, ch. 86-191; s. 1, ch. 91-56; s. 1, ch. 92-7; s. 33, ch. 94-356; s. 1, ch. 97-32; s. 1, ch. 98-269; s. 2, ch. 98-287; s. 1, ch. 99-211; s. 114, ch. 2000-141; s. 35, ch. 2001-186; s. 4, ch. 2001-372; s. 57, ch. 2011-142.

161.55 Requirements for activities or construction within the coastal building zone.—The following requirements shall apply beginning March 1, 1986, to construction within the coastal building zone and shall be minimum standards for construction in this area:

(1) **REGULATION OF COASTAL MINOR STRUCTURES.**—Minor structures shall be designed to produce the minimum adverse impact on the beach and the dune system and adjacent properties and to reduce the potential for water or wind blown material. Construction of a rigid coastal or shore protection structure designed primarily to protect a minor structure shall not be permitted.

(2) **REGULATION OF COASTAL NONHABITABLE MAJOR STRUCTURES.**—Nonhabitable major structures shall be designed to produce the minimum adverse impact on the beach and dune system. All sewage treatment plants and public water supply systems shall be flood proofed to prevent infiltration of surface water from a 100-year storm event. Underground utilities, excluding pad transformers and vaults, shall be flood proofed to prevent infiltration of surface water from a 100-year storm event or shall otherwise be designed so as to function when submerged by such storm event.

(3) **LOCATION OF CONSTRUCTION.**—Construction, except for elevated walkways, lifeguard support stands, piers, beach access ramps, gazebos, and coastal or shore protection structures, shall be located a sufficient distance landward of the beach to permit natural shoreline fluctuations and to preserve dune stability.

(4) **APPLICATION TO COASTAL BARRIER ISLANDS.**—All requirements of this part which are applicable to the coastal building zone shall also apply to coastal barrier islands. The coastal building zone on coastal barrier islands shall be the land area from the seasonal high-water line to a line 5,000 feet landward from the coastal construction control line established pursuant to s. 161.053, or the entire island, whichever is less. For coastal barrier islands on which a coastal construction control line has not been established pursuant to s. 161.053, the coastal building zone shall be the land area seaward of the most landward velocity zone (V-zone) boundary line fronting upon the Gulf of Mexico, Atlantic Ocean, Florida Bay, or Straits of Florida. All land area in the Florida Keys located within Monroe County shall be included in the coastal building zone. The coastal building zone on any coastal barrier island between Sebastian Inlet and Fort Pierce Inlet may be reduced in size upon approval of the Land and Water Adjudicatory Commission, if it determines that the local government with jurisdiction has provided adequate protection for the barrier island. In no case, however, shall the coastal building zone be reduced to an area less than a line 2,500 feet landward of the coastal construction control line. The Land and Water Adjudicatory Commission shall withdraw its approval for a reduced coastal building zone if it determines that 6 months after a local government comprehensive plan is due for submission to the state land planning agency pursuant to s. 163.3167 the local government with jurisdiction has not adopted a coastal management element which is in compliance with s. 163.3178.

(5) **PUBLIC ACCESS.**—Where the public has established an accessway through private lands to lands seaward of the mean high tide or water line by prescription, prescriptive easement, or any other legal means, development or construction shall not interfere with such right of public access unless a comparable alternative accessway is provided. The developer shall have the right to improve, consolidate, or relocate such public accessways so long as the accessways provided by the developer are:

- (a) Of substantially similar quality and convenience to the public;
- (b) Approved by the local government;
- (c) Approved by the department whenever improvements are involved seaward of the coastal construction control line; and
- (d) Consistent with the coastal management element of the local comprehensive plan adopted pursuant to s. 163.3178.

History.—s. 36, ch. 85-55; s. 3, ch. 86-191; s. 8, ch. 2000-141; s. 34, ch. 2001-186; s. 3, ch. 2001-372.

161.551 Public financing of construction projects within the coastal building zone.—

(1) As used in this section, the term:

(a) “Coastal structure” means a major structure or nonhabitable major structure within the coastal building zone.

(b) “Public entity” means the state or any of its political subdivisions, or any municipality, county, agency, special district, authority, or other public body corporate of the state which is demonstrated to perform a public function or to serve a governmental purpose that could properly be performed or served by an appropriate governmental unit.

(c) “SLIP study” means a sea level impact projection study as established by the department pursuant to subsection (3).

(d) “State-financed constructor” means a public entity that commissions or manages a construction project using funds appropriated from the state.

(e) “Substantial flood damage” means flood, inundation, or wave action damage resulting from a single event, such as a flood or tropical weather system, where such damage exceeds 25 percent of the market value of the coastal structure at the time of the event.

(2) Beginning 1 year after the date the rule developed by the department pursuant to subsection (3) is finalized and is otherwise in effect, a state-financed constructor may not commence construction of a coastal structure without:

(a) Conducting a SLIP study that meets the requirements established by the department;

(b) Submitting the study to the department; and

(c) Receiving notification from the department that the study was received and that it has been published on the department’s website pursuant to paragraph (6)(a) for at least 30 days. The state-financed constructor is solely responsible for ensuring that the study submitted to the department for publication meets the requirements under subsection (3).

(3) The department shall develop by rule a standard by which a state-financed constructor must conduct a SLIP study and may require that a professional engineer sign off on the study. The rule must be effective 1 year after the date it is finalized and applies only to projects not yet commenced as of the date the rule is finalized. The rule may not apply retroactively to projects that commenced before the date the rule is finalized. At a minimum, the standard must require that a state-financed constructor do all of the following:

(a) Use a systematic, interdisciplinary, and scientifically accepted approach in the natural sciences and construction design in conducting the study.

(b) Assess the flooding, inundation, and wave action damage risks relating to the coastal structure over its expected life or 50 years, whichever is less.

1. The assessment must take into account potential relative local sea-level rise and increased storm risk during the expected life of the coastal structure or 50 years, whichever is less, and, to the extent possible, account for the contribution of sea-level rise versus land subsidence to the relative local sea-level rise.

2. The assessment must provide scientific and engineering evidence of the risk to the coastal structure and methods used to mitigate, adapt to, or reduce this risk.

3. The assessment must use and consider available scientific research and generally accepted industry practices.

4. The assessment must provide the mean average annual chance of substantial flood damage over the expected life of the coastal structure or 50 years, whichever is less.

5. The assessment must analyze potential public safety and environmental impacts resulting from damage to the coastal structure, including, but not limited to, leakage of pollutants, electrocution and explosion hazards, and hazards resulting from floating or flying structural debris.

(c) Provide alternatives for the coastal structure's design and siting, and how such alternatives would impact the risks specified in subparagraph (b)5, as well as the risk and cost associated with maintaining, repairing, and constructing the coastal structure.

If multiple coastal structures are to be built concurrently within one project, a state-financed constructor may conduct and submit one SLIP study for the entire project for publication by the department.

(4) If a state-financed constructor commences construction of a coastal structure but has not complied with the SLIP study requirement under subsection (2), the department may institute a civil action in a court of competent jurisdiction to:

(a) Seek injunctive relief to cease further construction of the coastal structure or enforce compliance with this section or with rules adopted by the department pursuant to this section.

(b) If the coastal structure has been completed or has been substantially completed, seek recovery of all or a portion of state funds expended on the coastal structure.

(5) This section may not be construed to create a cause of action for damages or otherwise authorize the imposition of penalties by a public entity for failure to implement what is contained in the SLIP study.

(6) The department:

(a) Shall publish and maintain a copy of all SLIP studies submitted pursuant to this section on its website for at least 10 years after receipt. However, any portion of a study containing information that is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution must be redacted by the department before publication.

(b) Shall adopt rules as necessary to administer this section.

(7) The department may enforce the requirements of this section.

History.—s. 1, ch. 2020-119.

161.56 Establishment of local enforcement.—

(1) Nothing in ss. 161.52-161.58 shall be construed to limit or abrogate the right and power of the department to require permits or to adopt and enforce standards pursuant to s. 161.041 or s. 161.053 for construction seaward of the coastal construction control line that are as restrictive as, or more restrictive than, the requirements provided in s. 161.55 or the rights or powers of local governments to enact and enforce setback requirements or zoning or building codes that are as restrictive as, or more restrictive than, the requirements provided in s. 161.55.

(2) To assist local governments in the implementation and enforcement of s. 161.55, the state land planning agency shall develop and maintain a biennial coastal building zone construction training program for the local enforcement agencies specified in subsection (1). The state land planning agency shall provide an initial training program not later than April 1, 1987, and on a recurring biennial basis shall provide a continuing education program beginning July 1, 1989. Registration fees, as determined appropriate by the state land planning agency, may be charged to defray the cost of the program if general revenue funds are not provided for this purpose.

History.—s. 36, ch. 85-55; s. 4, ch. 86-191; s. 1, ch. 89-249; s. 3, ch. 98-287; ss. 9, 10, ch. 2000-141; s. 14, ch. 2000-158; s. 2, ch. 2000-211; s. 34, ch. 2001-186; s. 3, ch. 2001-372.

161.57 Coastal properties disclosure statement.—

(1) The Legislature finds that it is necessary to ensure that the purchasers of interests in real property located in coastal areas partially or totally seaward of the coastal construction control line as defined in s. 161.053 are fully apprised of the character of the regulation of the real property in such coastal areas and, in particular, that such lands are subject to frequent and severe fluctuations.

(2) At or prior to the time a seller and a purchaser both execute a contract for sale and purchase of any interest in real property located partially or totally seaward of the coastal construction control

line as defined in s. 161.053, the seller must give a written disclosure statement in the following form to the prospective purchaser which may be set forth in the contract or in a separate writing:

The property being purchased may be subject to coastal erosion and to federal, state, or local regulations that govern coastal property, including the delineation of the coastal construction control line, rigid coastal protection structures, beach nourishment, and the protection of marine turtles. Additional information can be obtained from the Florida Department of Environmental Protection, including whether there are significant erosion conditions associated with the shoreline of the property being purchased.

(3) Unless otherwise waived in writing by the purchaser, at or prior to the closing of any transaction where an interest in real property located either partially or totally seaward of the coastal construction control line as defined in s. 161.053 is being transferred, the seller shall provide to the purchaser an affidavit, or a survey meeting the requirements of chapter 472, delineating the location of the coastal construction control line on the property being transferred.

(4) A seller's failure to deliver the disclosure, affidavit, or survey required by this section does not impair the enforceability of the sale and purchase contract by either party, create any right of rescission by the purchaser, or impair the title to any such real property conveyed by the seller to the purchaser.

History.—s. 36, ch. 85-55; s. 22, ch. 87-224; s. 1, ch. 2006-273.

161.58 Vehicular traffic on coastal beaches.—

(1) Vehicular traffic, except that which is necessary for cleanup, repair, or public safety, and except for traffic upon authorized local or state dune crossovers, is prohibited on the dunes or native stabilizing vegetation of the dune system of coastal beaches. Except as otherwise provided in this section, any person driving any vehicle on, over, or across any dune or native stabilizing vegetation of the dune system shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Vehicular traffic, except that which is necessary for cleanup, repair, or public safety, or for the purpose of maintaining existing licensed and permitted traditional commercial fishing activities or existing authorized public accessways, is prohibited on coastal beaches except where a local government with jurisdiction over a coastal beach or portions of a coastal beach has:

(a) Authorized such traffic, by at least a three-fifths vote of its governing body, on all or portions of the beaches under its jurisdiction prior to the effective date of this act; and

(b) Determined, by October 1, 1989, in accordance with the rules of the department, that less than 50 percent of the peak user demand for off-beach parking is available. However, the requirements and department rulemaking authority provided in this paragraph shall not apply to counties that have adopted, prior to January 1, 1988, unified countywide beach regulations pursuant to a county home rule charter.

(3) A local government authorizing such vehicular traffic on all or portions of its beaches pursuant to subsection (2) may later prohibit, by a vote of at least three-fifths of its governing body, such vehicular traffic on all or portions of the beaches under its jurisdiction. Any such local government shall be authorized by a three-fifths vote of its governing body to charge a reasonable fee for vehicular traffic access. The revenues from any such fees shall be used only for beach maintenance; beach-related traffic management and parking; beach-related law enforcement and liability insurance; or beach-related sanitation, lifeguard, or other staff purposes. Except where authorized by the local government, any person driving any vehicle on, over, or across the beach shall be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 36, ch. 85-55; s. 5, ch. 86-191; s. 23, ch. 87-224; s. 2, ch. 88-106; s. 2, ch. 89-249.

OCEANS AND COASTAL RESOURCES ACT

- 161.70 Short title.
- 161.71 Definitions.
- 161.72 Findings and intent.
- 161.73 Composition.
- 161.74 Responsibilities.
- 161.76 Preservation of authority.

161.70 Short title.—This part may be cited as the “Oceans and Coastal Resources Act.”
History.—s. 1, ch. 2005-166.

161.71 Definitions.—As used in this part, the term:

- (1) “Commission” means the Fish and Wildlife Conservation Commission created in s. 9, Art. IV of the State Constitution.
- (2) “Council” means the Florida Oceans and Coastal Council created by this act.
- (3) “Department” means the Department of Environmental Protection.
- (4) “Executive director” means the executive director of the Fish and Wildlife Conservation Commission.
- (5) “Oceans” means those waters from the mean high-water line outward to the state’s jurisdictional boundary and those United States waters in which this state has an interest.
- (6) “Secretary” means the secretary of the Department of Environmental Protection.

History.—s. 1, ch. 2005-166.

161.72 Findings and intent.—

- (1) The Legislature finds that:
 - (a) The oceans and coastal resources of the United States are of national importance;
 - (b) The United States Commission on Ocean Policy has made 212 recommendations, and the President has responded with an Ocean Action Plan to better protect and preserve our oceans;
 - (c) Florida’s ocean and coastal resources contribute significantly to the state economy by supporting multiple beneficial uses and a wide range of economic value that requires balancing of competing considerations;
 - (d) Florida’s oceans and coastal resources comprise habitats that support endangered and threatened species and extraordinary marine biodiversity;
 - (e) The coral reefs of southeast Florida and the barrier reef of the Florida Keys, the only barrier reef in the United States, are a national treasure and must continue to be protected;
 - (f) It is Florida’s responsibility to be a national leader on oceans and coastal protection;
 - (g) It is in the state’s best interest to ensure the productivity and health of our oceans and coastal resources;
 - (h) Florida’s marine biodiversity at the species, natural community, seascape, and regional levels must be protected by restoring, rehabilitating, and maintaining the quality and natural function of oceans and coastal resources through an ecosystem-based management approach, as recommended by the United States Commission on Ocean Policy;
 - (i) The quality of our beaches and fisheries resources must be protected to ensure the public health;
 - (j) Protection must be provided to highly migratory marine species, such as sea turtles and sea birds;
 - (k) Opportunities must be increased to provide natural resource-based recreation and encourage responsibility and stewardship through educational opportunities;
 - (l) Oceans and coastal research must be prioritized to ensure coordination among researchers and

managers and long-term programs to observe, monitor, and assess oceans, and coastal resources must be developed and implemented;

(m) Development of coastal areas should be both economically and environmentally sustainable, and inappropriate growth in ecologically fragile or hazard-prone areas should be discouraged; and

(n) Conservation and restoration of coastal habitat could be enhanced through the development of regional and local goals, the institution of a program dedicated to coastal and estuarine conservation, better coordination of the state's activities relating to habitat, and improved research, monitoring, and assessment.

(2) It is the intent of the Legislature to create the Oceans and Coastal Council to assist the state in identifying new management strategies to achieve the goal of maximizing the protection and conservation of ocean and coastal resources while recognizing their economic benefits.

(3) It is further the intent of the Legislature that the council shall encourage and support the development of creative public-private partnerships, pursue opportunities to leverage funds, and work in coordination with federal agencies and programs to maximize opportunities for the state's receipt of federal funds.

History.—s. 1, ch. 2005-166; s. 16, ch. 2006-1.

161.73 Composition.—The Florida Oceans and Coastal Council is created within the Department of Environmental Protection and shall consist of 18 members. The secretary, the executive director, and the commissioner of the Department of Agriculture and Consumer Services, or their designees, shall serve as ex officio members of the council. The council shall be jointly chaired by the secretary and the executive director. The 15 voting members of the council shall be appointed, within 60 days after this act becomes law, in the following manner:

(1) Five members shall be appointed by the secretary of the Department of Environmental Protection which will be comprised of one scientist specializing in each of the following fields: wetlands and watersheds; nearshore waters or estuaries; offshore waters or open oceans; hydrology and aquatic systems; and coastal geology or coastal erosion and shorelines.

(2) Five members shall be appointed by the executive director of the Fish and Wildlife Conservation Commission which will be comprised of one scientist specializing in each of the following fields: resource management; wildlife habitat management; fishery habitat management; coastal and pelagic birdlife; and marine biotechnology.

(3) Five members shall be appointed by the commissioner of the Department of Agriculture and Consumer Services. These appointments shall be selected from a list of at least eight individuals submitted to the commissioner by the Florida Ocean Alliance. The individuals selected by the Florida Ocean Alliance shall be chosen from the following disciplines or groups: sportfishing; ports; cruise industry; energy industry; ecotourism; private marine research institutes; universities; aquaculture; maritime law; commercial fisheries; socioeconomics; marine science education; and environmental groups.

(4) Appointments made by the secretary and executive director shall be to terms of 4 years each. Appointments made by the commissioner of the Department of Agriculture and Consumer Services shall be to terms of 2 years. Members shall serve until their successors are appointed. Vacancies shall be filled in the manner of the original appointment for the remainder of the term that is vacated.

(5) Members shall serve without compensation, but are entitled to reimbursement of travel and per diem expenses pursuant to s. 112.061, relating to completing their duties and responsibilities.

History.—s. 1, ch. 2005-166.

161.74 Responsibilities.—

(1) **RESEARCH REVIEW.**—Prior to the development of the research plan, the council shall review and compile the existing, ongoing, and planned ocean and coastal research and monitoring activities

relevant to this state. Included in this review shall be the "Florida's Ocean Strategies Final Report to the Governor" by the Florida Governor's Oceans Committee dated June 1999. To aid the council in fulfilling this requirement, all public agencies must submit the information requested by the council, and private research institutes are encouraged to submit relevant information to the maximum extent practicable. Upon receiving the information required by this subsection, the council shall develop a library to serve as a repository of information for use by those involved in ocean and coastal research. The council shall develop an index of this information to assist researchers in accessing the information.

(2) RESEARCH PLAN.—The council must complete a Florida Oceans and Coastal Scientific Research Plan which shall be used by the Legislature in making funding decisions. The plan must recommend priorities for scientific research projects. Annual updates to the plan must be submitted to the President of the Senate and the Speaker of the House of Representatives by February 1 of each year. The research projects contained in the plan must meet at least one of the following objectives:

- (a) Exploring opportunities to improve coastal ecosystem functioning and health through watershed approaches to managing freshwater and improving water quality.
- (b) Evaluating current habitat conservation, restoring and maintaining programs, and recommending improvements in the areas of research, monitoring, and assessment.
- (c) Promoting marine biomedical or biotechnology research and product discovery and development to enhance Florida's opportunity to maximize the beneficial uses of marine-derived bioproducts and reduce negative health impacts of marine organisms.
- (d) Creating consensus and strategies on how Florida can contribute to sustainable management of ocean wildlife and habitat.
- (e) Documenting through examination of existing and new research the impact of marine and coastal debris and current best practices to reduce debris.
- (f) Providing methods to achieve sustainable fisheries through better science, governance, stock enhancements and consideration of habitat and secondary impacts such as bycatch.
- (g) Documenting gaps in current protection strategies for marine mammals.
- (h) Promoting research and new methods to preserve and restore coral reefs and other coral communities.
- (i) Achieving sustainable marine aquaculture.
- (j) Reviewing existing and ongoing studies on preventing and responding to the spread of invasive and nonnative marine and estuarine species.
- (k) Exploring ocean-based renewable energy technologies and climate change-related impacts to Florida's coastal area.
- (l) Enhancing science education opportunities such as virtual marine technology centers.
- (m) Sustaining abundant birdlife and encouraging the recreational and economic benefits associated with ocean and coastal wildlife observation and photography.
- (n) Developing a statewide analysis of the economic value associated with ocean and coastal resources, developing economic baseline data, methodologies, and consistent measures of oceans and coastal resource economic activity and value, and developing reports that educate Floridians, the United States Commission on Ocean Policy, local, state, and federal agencies and others on the importance of ocean and coastal resources.

(3) RESOURCE ASSESSMENT.—The council shall prepare a comprehensive oceans and coastal resource assessment that shall serve as a baseline of information to be used in assisting in its research plan. The resource assessment must include:

- (a) Patterns of use of oceans and coastal resources;
- (b) Natural resource features, including, but not limited to, habitat, bathymetry, surficial geology, circulation, and tidal currents;

- (c) The location of current and proposed oceans and coastal research and monitoring infrastructure;
- (d) Industrial, commercial, coastal observing system, ships, subs, and recreational transit patterns; and
- (e) Socioeconomic trends of the state's oceans and coastal resources and oceans and coastal economy.

History.—s. 1, ch. 2005-166; s. 17, ch. 2006-1; s. 26, ch. 2020-2.

161.76 Preservation of authority.—This part does not restrict or limit the authority otherwise granted to the commission, or other state agencies by law.

History.—s. 1, ch. 2005-166.

**CHAPTER 62B-36
BEACH MANAGEMENT FUNDING ASSISTANCE PROGRAM**

62B-36.001	Purpose
62B-36.002	Definitions
62B-36.003	General
62B-36.005	Annual Funding Requests
62B-36.006	Project Ranking Procedure
62B-36.007	Project Cost Sharing
62B-36.009	Project Agreements

62B-36.001 Purpose.

The Beach Management Funding Assistance Program works in concert with local sponsors to achieve protection, preservation, restoration, and nourishment of the sandy beaches fronting the Atlantic Ocean, the Gulf of Mexico and the Straits of Florida, and for the management of inlets to replicate the natural drift of sand interrupted by improved, modified, or altered inlets. Annually, the Department requests funding from the Legislature to implement the program and when appropriations are made by the legislature, enters into cost sharing agreements with local sponsors for the implementation of beach and inlet management projects. This rule chapter establishes funding request procedures, project ranking criteria, cost sharing procedures and project agreement requirements pursuant to sections 161.088, 161.091, 161.101, 161.142, 161.143, and 161.161, F.S.

Rulemaking Authority 161.101(21), 161.143(6) 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1),(2), (8), (9), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.142(1), (2), (4), (5), (6), (7), 161.143(1), (2), (3), (4), (5), 161.161(1), (2), (6) FS. History—New 6-10-83, Formerly 16B-36.01, 16B-36.001, Amended 12-25-03, 8-5-13.

62B-36.002 Definitions.

(1) "Annual Funding Request" is the document submitted by a local sponsor which includes a detailed description for the next fiscal year's funding request and a schedule for the disbursement of funds to be requested for beach or inlet management projects or related activities over a given period of time. Only projects consistent with the Strategic Beach Management Plan will be considered for funding. These projects will be ranked and placed on either the beach or inlet management list submitted to the Legislature for funding consideration.

(2) "Area of Inlet Influence" is the distance along the adjacent sandy shorelines where sediment transfer and shoreline location are physically altered due to the presence of the inlet and any associated structures or improvements which alter the natural functioning of the inlet. The area of inlet influence will be determined using a feasibility or an inlet management study.

(3) "Beach Management" is protecting, maintaining, preserving, or enhancing Florida's beaches. Activities included are restoring or nourishing beach and dune systems, dune protection and restoration, restoration of natural shoreline processes, removal of derelict structures and obstacles to natural shoreline process in conjunction with restoration or nourishment, and construction of erosion control structures. These activities include feasibility, engineering, design and environmental studies, post-construction monitoring and mitigation to support such activities.

(4) "Contractual Services" are the provision of engineering, professional, or scientific services for eligible activities as otherwise described in this chapter. Such activities may be performed by a private company or individual, or, if approved by the Department, pursuant to subsection 62B-36.007(6), F.A.C., the local sponsor.

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

(6) "Department" is the Department of Environmental Protection.

(7) "Inlet" is a coastal barrier waterway connecting a bay, lagoon, or similar body of water with the Gulf of Mexico, the Straits of Florida, or the Atlantic Ocean and all related flood and ebb tidal shoals and the inlet shorelines. Improved, altered or modified inlets are those where stabilizing rigid coastal structures have been constructed, or where inlet related structures or features such as

channels have been constructed or are actively maintained and the channel depth is greater than the inlet system would support in a natural state.

(8) "Inlet Management" is comprised of actions taken to minimize, eliminate, or mitigate the effects of the inlet on the adjacent shorelines including feasibility, engineering, design, environmental studies, construction, and post-construction monitoring to support such activities.

(9) "Local Sponsor" is any state, county, municipality, township, or special district created pursuant to part II, chapter 161, F.S., having authority and responsibility for preserving and protecting the coastal system, and any state, county, municipality, township, and inlet and navigational districts having authority and responsibility for management of an inlet. The local sponsor is responsible for the balance of the non-state cost share.

(10) "Local Long Range Budget Plan" is a document that projects the ten-year planning needs for federal, state, and local governments necessary to implement the strategies outlined in the Strategic Beach Management Plan for a specific project. The document lists five years of anticipated project costs followed by the next five years of anticipated planning phases. The document is submitted by local sponsors to the Department along with annual funding requests.

(11) "Project Agreement" is a contract executed between the Department and the local sponsor that explicitly defines the terms and conditions under which the project shall be conducted.

(12) "Project Boundary" for ranking purposes, means the sandy shoreline fronting the Atlantic Ocean, Gulf of Mexico, or the Straits of Florida, of the beach management project and the first row of residential or commercial development immediately landward of the beach vegetation line or beach erosion control line (ECL), whichever is further landward. The first row of development may be separated from the shoreline by recreational amenities, roadways or parking areas as long as there is dedicated public access. The area of inlet influence shall be the project boundary for inlet projects.

(13) "Project Length" is the along-shore length of shoreline in the project design, including tapers, or as otherwise delineated by the ECL.

(14) "Project Phase" is a step required in developing and implementing a project. The following phases will be considered for funding:

(a) "Feasibility" – is the characterization of the erosion problem and constraints on remediation alternatives, development and analysis of alternatives to address the problem, including taking no action, data collection in support of the analysis, and selection of the cost-effective, environmentally sound alternative that avoids or minimizes adverse impacts.

(b) "Design" – is the development of design studies, data collection, plans, specifications, permit applications, and financial planning for the project.

(c) "Construction" – is the execution of the selected project, including contractor services, contract management, construction oversight, and construction-related monitoring required by permit or contract.

(d) "Post-Construction Monitoring" – is the collection and analysis of physical and biological data required by state or federal permits on an annual or periodic basis following the completion of the construction phase.

(15) "Public Beach Access" is an entry zone and associated parking under public ownership or control which is specifically used for providing access to the adjacent sandy beach for the general public. The access must be signed, maintained and clearly visible from the adjacent roadway. The parking spaces counted for eligibility must be within one-quarter mile walking distance of a lateral entry zone and available to the general public. The types of public beach access sites are:

(a) "Primary Beach Access" is a site with at least 100 units, as defined in subsection 62B-36.007(1), F.A.C., and public restrooms;

(b) "Secondary Beach Access" is a site that may have parking and amenities, but does not qualify as a primary beach access.

(16) "Public Lodging Establishment" is any business currently licensed by the Department of Business and Professional Regulation in the classification of "hotel," "motel," or "vacation rental condominium" with six or more units as designated by the Department of Business and Professional Regulation, or campgrounds. Public Lodging Establishments must be located on the beachfront or within one-quarter mile walking distance of a public access.

(17) "Rank Score" is calculated by dividing a project's rank (n_i), or position of its value in a sequential list of all project values, by the total number of values included in the evaluation (N), then multiplying by the maximum points available for the metric, such that:

$$\text{rank score} = \frac{n_i}{N} \times \text{maximum points.}$$

The list of values shall be in an order (e.g., ascending or descending, depending on the metric) that assigns the value worth the most points as N. If two or more projects have an equal value, these projects will receive the same score.

(18) "Sediment Budget" is the mass balance between inputs and outputs of sediment in the inlet system, including all related flood and ebb tidal shoals, inlet shorelines and inland waterways, and the adjacent open coast beaches within the area of inlet influence.

(19) "Statewide Long Range Budget Plan" is the document produced by the Department that projects the ten-year planning needs for federal, state, and local governments necessary to implement the Strategic Beach Management Plan. The document lists five years of anticipated project costs followed by the next five years of anticipated planning phases for all beach and inlet management projects statewide. It is developed in coordination with local sponsors based on their Local Long Range Budget Plans and is submitted to the Legislature annually as a companion document to the Local Government Funding Request.

(20) "Strategic Beach Management Plan" is the Department's adopted plan for management of the critically eroded shoreline of the state and those components of feasibility or inlet management studies that minimize the erosive effects of inlets.

(21) "Threatened or endangered species" is an animal species that is identified as threatened or endangered by the United States Fish and Wildlife Service or National Marine Fisheries Service.

Rulemaking Authority 161.101(21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.142(1), (2), (4), (5), (6), (7), 161.143(1), (2), (3), (4), (5), 161.161(1), (2), (6) FS. History—New 6-10-83, Formerly 16B-36.02, 16B-36.002, Amended 12-25-03, 8-5-13, 8-26-20.

62B-36.003 General.

(1) The Beach Management Program is established to develop and execute a comprehensive, long range, statewide beach management plan for erosion control, beach preservation, restoration, nourishment and storm protection for the critically eroded shoreline of the State of Florida. This comprehensive program includes the Strategic Beach Management Plan, the Critical Erosion Report, shoreline change reports, inlet management studies, state and federal feasibility and design studies, the Statewide Long Range Budget Plan, and other reports as the Department may find necessary for a multiyear maintenance and repair strategy. The comprehensive program is implemented through projects consistent with the Strategic Beach Management Plan and included in the Statewide Long Range Budget Plan.

(2) The Department shall annually review available information and revise the designations of critically eroded shoreline in the Critical Erosion Report. Local sponsors shall be notified of any proposed changes and be given an opportunity to submit additional information to justify or refute proposed revisions.

(3) Beach and inlet management projects funded by the Department shall be conducted in a manner that encourages cost-savings, fosters regional coordination of projects, optimizes management of sediments and project performance, protects the environment, and provides long-term solutions. Appropriate feasibility studies or analyses shall be required before design or construction of new projects.

(4) Beach and dune restoration and nourishment projects funded by the Department shall be accessible to the general public and access used to calculate eligibility shall be maintained for at least ten years following completion of each construction event. Shoreline segments shall be evaluated for public access as set forth in subsection 62B-36.007(1), F.A.C.

(5) Beach management projects will be evaluated on a case by case basis and may be cost shared, pursuant to Rules 62B-36.006 and 62B-36.007, F.A.C., when determined to avoid or minimize adverse impacts and be cost effective as demonstrated by feasibility and design studies.

(6) The goal of inlet management projects is to balance the sediment budget of the inlet system and the adjacent shorelines within the area of inlet influence. Inlet management projects will be evaluated based upon the criteria in Rules 62B-36.006 and 62B-36.007, F.A.C., and may be cost-shared with the local sponsor for up to 75 percent of the non-federal share.

(7) Activities primarily related to navigation or other infrastructure improvements at inlets are, generally, not eligible for cost sharing. However, components of projects which mitigate critically eroded shoreline caused by alterations, modifications or improvements to inlets, implement components of the Strategic Beach Management Plan, and which do not increase impacts, are eligible for cost sharing for those components which:

(a) Are designed to minimize the erosive effects to the downdrift shoreline caused by the inlet by improving or facilitating the efficiency of sand bypassing, such as the construction of sand bypassing facilities, sand traps and jetty alterations, or

(b) Cost effectively place beach quality sand on the adjacent eroded beaches, such as the incremental cost of placing sand on the

beach rather than in an offshore disposal area. The Department will cost share only in the incremental cost of placement of the material. The Department will not cost share in activities normal to the operation and maintenance of the inlet, such as mobilization of equipment and design studies.

(8) Local sponsors are encouraged to consider existing inlet navigation maintenance activities as potential sources of sand when developing beach restoration or nourishment projects.

(9) Non-federal beach management projects shall be cost shared up to 50 percent of the total project cost. Projects authorized by Congress for federal financial participation in the Civil Works program of the United States Army Corps of Engineers shall be cost shared up to 50 percent of the non-federal share. Beach management projects approved to receive Federal Emergency Management Agency Public Assistance funding (Category G or equivalent subsequent program for designed, constructed and routinely maintained beaches) shall be cost-shared up to 50 percent of the local share after state and federal emergency funds are applied. Local sponsors shall pursue federal appropriations to the maximum extent possible in order to proportionally reduce state and local project costs.

(10) Upon notification from the Department of the 60-day submittal period, local sponsors shall submit an updated Annual Funding Request and Local Long Range Budget Plan. Annual funding shall only be requested for projects expected to be initiated or continued in that fiscal year.

(11) The Department shall annually review and rank all projects requested by local sponsors for the next fiscal year on either the beach management or inlet management project lists, and maintain current project listings in priority order. As part of the review, the Department shall seek formal input from local coastal governments, beach and general government associations, and other coastal interest groups, and university experts. The project listings shall also identify funds needed for statewide and regional management activities, state sponsored or co-sponsored demonstration projects, new feasibility and design studies, and a consolidated category for post-construction monitoring required by state and federal permits. Funding that may become available due to savings or scheduling changes shall be made available to projects on approved inlet management lists and for emergency situations as determined by the Governor pursuant to Section 161.111, F.S.

(12) Local sponsors may design and construct beach management projects prior to the receipt of funding from the state and may subsequently apply for reimbursement from the Department pursuant to the procedure in subsection 62B-36.009(3), F.A.C.

Rulemaking Authority 161.101(13), (21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (11), (12), (13), (14), (15), (16), (17), (18), (19), (20), 161.111, 161.142(1), (2), (4), (5), (6), (7), 161.143(1), (2), (3), (4), (5), 161.161(1), (2), (6), 216.181 FS. History—New 6-10-83, Formerly 16B-36.03, Amended 4-27-86, Formerly 16B-36.003, Amended 12-25-03, 8-5-13.

62B-36.005 Annual Funding Requests.

(1) Annual funding requests for cost sharing of beach management projects shall be submitted by the local sponsor to the Department. Projects previously submitted, but not funded, and projects with cost overruns may be included. Local sponsors who have received funding for projects in past fiscal years and who anticipate requesting funding in subsequent years shall update the Local Long Range Budget Plan as to costs and scheduling. The Local Long Range Budget Plan shall be consistent with the Strategic Beach Management Plan and have a 10-year minimum time frame. The annual funding request submittal shall be in electronic format and include:

(a) A detailed project description, including project boundaries by Department range monuments, methods used in conducting the project, and data or analysis to apply the ranking criteria required by Rule 62B-36.006, F.A.C.

(b) A map of the project area depicting the public beach access, public parking within one quarter mile of each beach access, public restroom facilities, public lodging establishments, comprehensive plan designations for current land use of commercial and recreational properties within the project boundary, and the one-quarter mile buffer and the values of properties that are enclosed or intersected by the buffer.

(c) Current license documentation on public lodging establishments within the project boundaries, including the number of units available, if used to document public access.

(d) A current or updated resolution from the local sponsor's governing board which includes statements of their support of the project, willingness to serve as the local sponsor, and a statement of the extent of their ability and willingness to provide the necessary local funding share to implement the project. For projects proposing regionalization, local sponsors must provide an executed interlocal agreement, or comparable documentation, outlining the nature of regionalization.

(e) A schedule of activities by project phase.

(f) The annual project cost estimates indicating the federal, state, and local cost share, with sufficient supporting detail depicting costs of project phases. For projects with federal involvement, documentation to verify authorization, cost share, and funding status must be provided. For projects proposing cost-effectiveness, a project design analysis must be provided.

(g) The estimated volume of advanced nourishment lost since the last sand placement event of a beach restoration or nourishment project as measured landward of the Mean High Water Line (MHWL), and for construction projects, the proposed volume of beach fill placement.

(2) Annual funding requests for cost sharing of inlet management projects shall be submitted by the local sponsor to the Department. Projects previously submitted, but not funded, and projects with cost overruns may be included. Local sponsors who have received funding for projects in past fiscal years and who anticipate requesting funding in subsequent years shall update the Local Long Range Budget Plan as to costs and scheduling. The Local Long Range Budget Plan shall be consistent with the Strategic Beach Management Plan and have a 10-year minimum time frame. The annual funding request submittal shall be in electronic format and include:

(a) A map depicting the inlet.

(b) A description of the sediment budget and area of inlet influence from an adopted Inlet Management Plan or feasibility-level study.

(c) A detailed project description, including project boundaries by Department range monuments, methods used in conducting the project, and data or analysis to apply the ranking criteria required by Rule 62B-36.006, F.A.C.

(d) A current or updated resolution from the local sponsor's governing board which includes statements of their support of the project, willingness to serve as the local sponsor, and a statement of the extent of their ability and willingness to provide the necessary local funding share to implement the project.

(e) A schedule of activities by project phase.

(f) The annual project cost estimates indicating the federal, state, and local cost share, with sufficient supporting detail depicting costs of project phases. For projects with federal involvement, documentation to verify funding status must be provided.

(g) For projects that propose cost-effectiveness for increased bypassing, a project design analysis to demonstrate the anticipated increase in bypassing must be provided. For projects that propose cost-effectiveness of using inlet sand, an opinion of probable cost per unit volume of the inlet and all other sand sources, certified by a licensed professional engineer must be provided.

(3) The Department shall evaluate projects submitted to determine consistency with the Strategic Beach Management Plan project ranking, and the extent of cost sharing. Upon completion of the evaluation process, all eligible projects will be incorporated into the Department's Statewide Long Range Budget Plan, which will be submitted to the Legislature along with the Department's Local Government Funding Request that annually prioritizes projects according to the criteria in Rule 62B-36.006, F.A.C.

(4) Funding requests shall be evaluated and ranked on the basis of information provided by the eligible governmental entity, except where such data is superseded by better quality information obtained by the Department. Local sponsors will be provided 21 days to review the project's proposed ranking and provide clarification to support their requested award of scores. Failure to provide all required information and documentation relating to eligibility and ranking criteria will result in the request being declared ineligible or receiving reduced ranking points. Failure to provide accurate information will lead to termination of the project's eligibility for funding for the requested fiscal year.

Rulemaking Authority 161.101(21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.142(1), (2), (4), (5), (6), (7), 161.143(1), (2), (3), (4), (5) 161.161(1), (2), (6) FS. History—New 6-10-83, Formerly 16B-36.05, Amended 4-27-86, Formerly 16B-36.005, Amended 12-25-03, 8-5-13, 8-26-20.

62B-36.006 Project Ranking Procedure.

(1) Beach Management Projects. Eligible projects will receive a total point score by the Department based on the following criteria, equally weighted within the following specified tiers:

(a) Tier 1 accounts for 20 percent of the total score and consists of the tourism-related return on investment and the economic impact of the project.

1. Return on investment. This criteria consists of the ratio of the sum of the county-wide tourist development tax and tourism-related sales tax revenue for the most recent calendar year to the amount of state funding requested for the proposed construction project. Tourist development tax and tourism-related sales tax data will be derived from the Department of Revenue for the county that has jurisdiction over the project area. Tourism-related sales tax revenue is defined as taxes on hotel/motel accommodations, rooming houses, camps, and other lodging places. The calculation includes the amount of state funds requested for the construction

and first year post-construction monitoring phases of the project. If the proposed project does not request construction funds, then the project is not eligible for points. The rank score shall be calculated using the ratios of all projects, for a maximum score of 10 points, with greater return on investment ratios receiving a higher score.

2. Economic impact. This criteria consists of the ratio of the sum of the county-wide tourist development tax and tourism-related sales tax revenue for the most recent calendar year to all county-wide sales tax revenues for the most recent calendar year. Tax data will be derived from the Department of Revenue for the county that has jurisdiction over the project area. Tourism-related sales tax revenue is defined as the taxes on hotel/motel accommodations, rooming houses, camps, and other lodging places. The rank score shall be calculated using the ratios of all projects, for a maximum score of 10 points, with greater economic impact ratios receiving a higher score.

(b) Tier 2 accounts for 45 percent of the total score and consists of the following criteria:

1. The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award.

a. Federal authorization. Projects with a United States Army Corps of Engineers (USACE) Civil Works congressional authorization for the requested project phase shall receive five points. Projects with a signed USACE Chief's report for authorization of the requested project phase shall receive three points.

b. Federal cost share. Projects with a federal cost share percentage by the USACE for the proposed project phase(s). The federal cost share percentage for each project shall be divided by the highest cost share percentage of all projects, and multiplied by five, for a maximum score of five points. Federal cost share percentages from the Flood Control and Coastal Emergency funds or Federal Emergency Management Agency (FEMA) funds are not included.

c. Federal funds available. Projects with a current USACE project agreement executed for the requested project phase, projects listed in a USACE work plan, or FEMA projects with an approved Project Worksheet shall receive five points. Projects that are included in the Congressional Appropriations Act shall receive two points.

2. The storm damage reduction benefits of the project based on the following considerations:

a. Current conditions. Projects where the volume of advanced nourishment lost since the most recent beach nourishment, as measured above the mean high water elevation, shall receive a score equal to the following: $-\log(1 - L) \times 8$, where L = the fraction of advance fill loss, for a maximum score of eight points. If the project area has not been restored, the Department will use historical mean high water data files contained in the Department's Historic Shoreline Database to calculate the average rate of erosion during a representative period after 1972, but prior to any beach fill placement in the project area. Projects shall receive four points for one foot-per-year of erosion and one point for each additional half-foot of annual erosion up to a maximum score of eight points.

b. Threat to upland development. Projects where existing upland development is at or seaward of the projected erosion limit of a 25-year return interval storm event shall receive points based on the percentage of threatened properties within the project boundaries, multiplied by 10, for a maximum score of two points. Upland development on properties where the mean high water shoreline is seaward of the project design template, or where coastal armoring exists on a property, shall not be deemed threatened.

c. Value of upland property. The total value of all upland properties within one-quarter mile landward of the project's ECL or, if not available, the MHWL, or a proposed project boundary alternative. The values of properties that are enclosed or intersected by the one-quarter mile buffer shall be retrieved from the Department of Revenue's most current statewide database and the total value will be calculated in ArcGIS. Property values to be used are established by the property appraiser for ad valorem purposes (i.e., market value). The rank score shall be calculated using the total values of all projects, for a maximum score of five points, with greater total property value receiving a higher score.

3. The cost-effectiveness of the project based on the following considerations:

a. Cost-effectiveness as a function of cost per volume per mile per year. Cost calculations for the proposed construction event will include the construction phase costs of beach restoration or beach nourishment. Associated project mitigation and post-construction monitoring costs will not be included. The rank score shall be calculated using the costs for all projects requesting construction funds for the current funding year, for a maximum score of 10 points, with lower costs receiving a higher score.

b. Cost-effectiveness as a function of enhanced longevity; dune addition; innovative technology; and regionalization. Projects that have one of the following shall receive three points and projects that have two or more of the following shall receive five points: 1. propose structural or design components that could extend the beach nourishment interval; 2. incorporate new or enhanced dune structures or new or existing dune restoration and revegetation projects that reduce upland storm damage costs; 3. propose

innovative technologies designed to reduce project costs; or 4. two or more local sponsors manage their projects together to conserve sand resources or reduce contracting cost, or projects that propose regional sediment management strategies and coordinate to conserve sand source resources and reduce project costs for scheduled beach nourishment purposes. Projects permitted under Rule 62B-41.0075, F.A.C., for Experimental Coastal Construction will qualify for innovative technology points.

(c) Tier 3 accounts for 20 percent of the total score and consists of the following criteria:

1. Previous state commitment and involvement in the project:

a. Previously funded phases. Projects where the Department has previously cost shared, reviewed, and approved a feasibility or design phase shall receive one point.

b. Total amount of previous funding. The total amount of state funding appropriated for projects from the Department's Beach Management Funding Assistance Program through annual legislative and hurricane appropriations shall be summed for the previous 10 years. The rank score shall be calculated using the total amounts for all projects, for a maximum score of three points, with greater amounts of previous funding receiving a higher score.

c. Previous partial appropriation. Projects that have received a partial appropriation for the proposed project phase(s) within three years of completion shall receive one point.

2. The recreational benefits of the project based on the accessible beach area added by the project and public accessibility:

a. Accessible beach area. The accessible beach area (square feet) added or maintained by the project shall be defined as the alongshore length and cross-shore width, which are bound by the ECL along the landward edge and the MHWL contour along the seaward edge of the design profile. If the project does not incorporate a design profile, then the cross-shore width of accessible beach area shall be bound by the ECL along the landward edge and the historic pre-construction MHWL contour along the seaward edge. If an ECL does not exist, the pre-project MHWL used in the engineering and design of the beach restoration will be used as an alternative. Project area shall be divided by the average for all projects in their region (Gulf coast or Atlantic coast), multiplied by two, for a maximum score of two points.

b. Recreational benefits. The percentage of linear footage of property within the total project boundary that is zoned as recreational or open space, for commercial use, or to allow for public lodging establishment, or the equivalent, in the current local government land use map. Only properties fronting the project shoreline will be considered. Un-designated properties will be considered designated or zoned the same as the adjacent property designations. Street ends will be considered recreational if they provide access to the beach, in accordance with subsection 62B-36.002(15), F.A.C. The percentage shall be multiplied by three, for a maximum score of three points.

3. The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches: Projects that provide supplemental nourishment to adjacent beaches needed to mitigate deficiencies in the annual target inlet sand bypassing quantity supplied by inlet management activities shall receive points based on the percent of the target quantity to be achieved by the supplemental nourishment, multiplied by five, for a maximum score of five points.

4. The degree to which the project addresses the state's most significant beach erosion problems as a function of the linear footage of the project shoreline and the cubic yards of sand placed per mile per year: The volume per mile per year for projects requesting construction funds in a given year shall be compared by project region (Gulf coast or Atlantic coast). The calculation includes the volume of sand placement for the proposed project, the project length, and nourishment interval. The rank score shall be calculated using all project values within a given region, for a maximum score of five points, with greater volume per mile per year receiving a higher score.

(d) Tier 4 accounts for 15 percent of the total score and consists of the following criteria:

1. Increased prioritization of projects that have been on the Department's ranked project list for successive years and that have not previously secured state funding for project implementation: Projects requesting funds for the same project phase(s) as the previous year, in which the request did not secure state funding, shall be awarded three points for the first successive request and five points for two or more years of successive requests, respectively. If the successive request adds the construction phase, then only one point shall be awarded.

2. Environmental habitat enhancement: Projects within designated critical habitat areas for threatened or endangered species that are subject to extensive shoreline armoring or non-designated areas where extensive armoring threatens the habitat of such species shall receive three points. Critical habitat areas shall include Endangered Species Act federally-designated critical habitat (including critical habitat units excluded from federal designation due to inclusion in a Habitat Conservation Plan) for threatened and endangered species pursuant to subsection 62B-36.002(21), F.A.C. Armoring along projects within designated critical habitat

areas shall be considered extensive if existing armoring and shoreline that is subject to armoring based on a 25-year storm threat is at least 30 percent of the project's length. Armoring along projects within non-designated areas shall be considered extensive if at least 50 percent of the project's length has existing armoring that threatens the habitat of such species. Projects that are eligible for three points as defined above may be eligible for an additional two points if the project exceeds best management practices to incorporate turtle-friendly designs and management strategies to protect resources or benefit critical habitat preservation.

3. The overall readiness of the project to proceed in a timely manner based on the following considerations:

a. Readiness to construct. Projects that have all of the following shall receive one point: active state and federal permits, acquired necessary easements, secured local funding, and an established ECL.

b. Active permits. Projects that have active state and federal permits as required for the proposed project phase(s) shall receive one point.

c. Easements acquired. Projects that have acquired all necessary easements for construction of the project shall receive one point.

d. Secured local funds. Projects that have secured the local funding necessary for the project shall receive one point.

e. Established ECL. Projects that have an established ECL shall receive one point.

If more than one project qualifies equally under the provisions of this subsection, the Department shall assign funding priority to those projects shown to be most ready to proceed.

(2) Inlet Management Projects. Local sponsors requesting funding for inlet management projects for the upcoming fiscal year will be ranked in priority order for the Department's Local Government Funding Request. Eligible projects will be assigned a total point score by the Department based on the following criteria:

a. Sand reaching the inlet. Estimate of the annual quantity of beach-compatible sand reaching the updrift boundary of the improved jetty or inlet channel, quantified at the rate of one point per 20,000 cubic yards per year for the Atlantic coast inlets and one point per 10,000 cubic yards per year for the Gulf coast inlets, for a maximum score of 10 points.

b. Severity of erosion. The target inlet sand bypassing quantity, as adopted in an Inlet Management Plan (IMP) or an inlet component of the statewide Strategic Beach Management Plan, is a volumetric estimate of the severity of erosion to the adjacent beaches caused by the inlet. Projects shall receive one point per 10,000 cubic yards per year of the target inlet sand bypassing quantity for Atlantic coast inlets and one point per 5,000 cubic yards for Gulf coast inlets, for a maximum score of 10 points.

c. Balancing the sediment budget. Annual average bypassing volume to be placed on the adjacent eroding shorelines, divided by the annual bypassing objective, as determined by the IMP or a Department-approved study, will be multiplied by 10, for a maximum score of 10 points.

d. Increased bypassing improvements. The proposed annualized increase in bypassing of material from within the inlet system divided by the unmet annual bypassing objective, will be multiplied by 10, for a maximum score of 10 points. The unmet annual bypassing objective is equal to the volume of the annual bypassing objective less the current annualized bypassing volume using material from within the inlet system. Projects requesting construction phase funds for modest, cost-effective improvements are eligible for points in this category.

e. Cost-effectiveness of a proposed project using inlet sand. Cost-effectiveness is the difference in the cost per unit volume of sand made available by a proposed inlet management project versus an alternative source (such as an offshore source, or an inland source, whichever costs less). The cost-effectiveness is equal to one minus the unit cost of the proposed project divided by the alternate source, multiplied by 15, for a maximum score of 10 points. Projects requesting construction phase funds for a major inlet management project component are eligible for points in this category.

f. Inlet Management Plan.

1. Existing IMP. Projects that have an existing IMP or a Department-approved local-government-sponsored inlet study addressing the mitigation of an inlet's erosive effects on adjacent beaches shall receive five points.

2. Updated IMP. Projects that have an updated IMP or Department-approved local-government-sponsored inlet study addressing the mitigation of an inlet's erosive effects on adjacent beaches within the last five years shall receive five points.

3. New IMP. Projects proposing to develop a new inlet management study to be submitted to the Department for adoption of an IMP shall receive 10 points.

g. Enhanced longevity of proximate beach projects. Projects that enhance and maintain the performance and longevity of proximate beach nourishment projects within the area of inlet influence shall receive points based on the percentage of the annualized beach nourishment volume supplied by the average annual volume of inlet sand bypassing, multiplied by 10, for a

maximum score of 10 points.

h. Criteria in 161.101(14) applicable to inlets.

1. Projects that have active state and federal permits as required for the proposed project activity shall receive one point.

2. Projects that have federal funds available for the proposed activities pursuant to the IMP shall receive three points.

3. The total amount of state funding appropriated for projects from the Department's Beach Management Funding Assistance Program through annual legislative appropriations shall be summed for the previous 10 years. The rank score shall be calculated using the total amounts for all projects, for a maximum score of four points, with greater amounts of previous funding receiving a higher score.

4. Projects that have secured the local funding necessary for the project shall receive two points.

i. Inlet management studies will be ranked using only the criteria listed in subsections (a), (f), and (h). Ranking of inlet management studies will be a normalization based on the total point value of the above referenced criteria.

Rulemaking Authority 161.101(21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.142(1), (2), (4), (5), (6), (7), 161.143(1), (2), (3), (4), (5), 161.161(1), (2), (6) FS. History—New 6-10-83, Formerly 16B-36.06, 16B-36.006, Amended 12-25-03, 8-5-13, 8-26-20.

62B-36.007 Project Cost Sharing.

(1) Until the unsatisfied demand for restoring and repairing Florida's beaches is met, the Department intends to share in the costs of beach management projects with local sponsors. Cost sharing will only be applied to the portion of the project necessary to benefit shoreline designated by the Department as critically eroded. The Department shall cost share up to 50 percent of the total costs for non-federal beach management projects. The Department shall cost share up to 50 percent of the non-federal share of U.S. Army Corps of Engineers Civil Works projects. The Department shall cost share up to 50 percent of the non-federal and state emergency fund share for projects approved to receive Federal Emergency Management Agency Public Assistance funding (Category G or equivalent subsequent program for designed, constructed and routinely maintained beaches). State cost share is subject to adjustment for the level of public accessibility calculated for beach management projects. Project shoreline lengths eligible for cost sharing are quantified at the rate of 100 units of eligibility per mile (5,280 feet) or 52.8 feet per unit. A unit is defined as one automobile parking space, one rental unit in a Public Lodging Establishment, one mass transit stop, or 4 bicycle parking spots. Eligible shoreline lengths are calculated using the following criteria:

(a) Primary beach access sites shall be granted eligibility for the shoreline length of the access site. Additional eligibility shall be granted at a rate of 52.8 linear feet per unit for one-half mile in each shore parallel direction for the following units;

1. Automobile parking spaces located within one quarter mile of a primary access site may be granted eligibility for that public access site at the rate of one unit, or 52.8 feet, per parking space.

2. Bicycle parking located within one quarter mile of a primary access site may be granted eligibility at the rate of one-quarter of a unit, or 13.2 feet, per designated bicycle parking spot. Bicycle parking spots used for eligibility may not exceed 211.2 feet per public access site.

3. Mass transit, such as buses or trolleys, may be granted eligibility at the rate of one unit, or 52.8 feet, per bus stop located within one quarter mile of the public access site. Bus stops used for eligibility may not exceed 211.2 feet per public access. In order to qualify, mass transit must be accessible to the general public and operational year round.

(b) Beachfront public lodging establishments shall be granted eligibility based upon 52.8 feet of shoreline eligibility per unit available to the public. Maximum eligibility may not exceed the beach front width of the property.

(c) Secondary beach access sites shall be granted eligibility for the shoreline length of the access site. Additional eligibility shall be granted at a rate of 52.8 linear feet per unit for up to one-quarter mile in either shore parallel direction, for the following units:

1. Public lodging establishments not located on the beach front but located within one quarter mile of a secondary public access point may contribute to the eligibility for that public access site at the rate of 52.8 feet of shoreline eligibility per rental unit available to the public. Maximum eligibility may not exceed the street-side frontal width of the property.

2. Bicycle parking located within one quarter mile of a secondary access site may be granted eligibility at the rate of 13.2 feet per designated bicycle parking spot. Bicycle parking spots used for eligibility may not exceed 211.2 feet per public access site.

3. Mass transit, such as buses or trolleys, may be granted eligibility for that public access site at the rate of one unit, or 52.8 feet, per bus stop located within one quarter mile of the public access site. Bus stops used for eligibility may not exceed 211.2 feet per public access. In order to qualify, mass transit must be accessible to the general public and operational year round.

4. Automobile parking spaces located within one quarter mile of a secondary access site may be granted eligibility for that public access site at the rate of one unit, or 52.8 feet, per parking space.

(d) Eligible shoreline lengths cannot overlap.

(e) The sum of the eligible shoreline lengths, as defined above, is divided by the total project length to determine the percentage of the total project that is eligible for cost sharing.

(f) The Department shall pay up to 100 percent of the costs of approved beach management projects when construction and maintenance are on lands with public beach access of which the state is the upland riparian owner and such lands are managed by the state.

(2) For inlet management projects, the Department shall cost-share 75 percent of the non-federal cost with the local sponsor for eligible components, pursuant to section 161.143(3), F.S.

(3) Cost savings which occur due to the planned geographic coordination or sequencing of two or more projects between local sponsors, may qualify for additional reimbursement. Geographic sequencing means combining two projects together for the purpose of contracting. In order to determine the increase in the state's cost share the projects shall demonstrate the cost savings of combining the projects and request reimbursement for the demonstrated cost savings following completion of the project phase. The cost share shall be adjusted not to exceed the state's maximum cost share amount of 75 percent of the eligible costs.

(4) All costs of physical and biological monitoring required by state and federal permits are eligible for cost sharing.

(5) A local sponsor may voluntarily agree at any time that an appropriation cannot be used and provide the Department with written agreement that such funds shall be available for reallocation.

(6) The Department will cost share for private contractual services necessary to conduct the project. Services may be contracted to a local sponsor if the Department is shown evidence that the local sponsor's proposal is cost effective, of sufficient professional quality, and otherwise in the general public interest. In determining whether contractual services are cost effective, the Department shall consider cost estimates provided by the local sponsor from fully qualified private companies or individuals. Specific contractual services performed by or for local governments shall be subject to specific accountability measures and audit requirements and be consistent with the principles of chapter 287, F.S., for competitive bidding and opportunity.

Rulemaking Authority 161.101(21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.142(1), (2), (4), (5), (6), (7), 161.143(1)-(5), 161.161(1), (2), (6) FS. History—New 6-10-83, Formerly 16B-36.07, Amended 4-27-86, Formerly 16B-36.007, Amended 12-25-03, 8-5-13.

62B-36.009 Project Agreements.

(1) The Department and the local sponsor will execute a project agreement when funds are available and the project is ready to proceed. The project agreement shall include the following:

(a) The estimated costs for each eligible project item, including the amount of the local sponsor's share, the Department's share, and when applicable, the federal share;

(b) A scope of work and estimated date of completion for each eligible project item; and,

(c) A periodic reporting and billing schedule.

(2) The Department's annual financial obligation under the agreement shall be contingent upon a legislative appropriation and continued availability of funds. Funds not expended in a timely manner are subject to reversion or re-appropriation.

(3) Local sponsors may design and construct beach management projects which are consistent with this rule and chapter 161, F.S., prior to the receipt of funding from the state pursuant to sections 161.101 and 161.161, F.S., and may subsequently apply for reimbursement from the state within three years of the completion of the project pursuant to section 161.101, F.S., provided that:

(a) The local sponsor has obtained from the Department approval for cost-sharing for all scopes of work related to the project and has established the basis for reimbursement before the project phase commences. No reimbursement shall be granted for work accomplished prior to the date of the agreement unless specifically set forth in the agreement;

(b) The project has been subject to review by the Department in the design or construction phases and the project has been found to be consistent with the intent of chapter 161, F.S., for project eligibility and cost effectiveness;

(c) Reimbursement shall be limited to eligible project costs as specified in the written agreement referenced in paragraph (a), above, and this rule;

(d) The project has been prioritized as required in sections 161.101(14) and 161.143(2), F.S., and is subject to legislative appropriation; and,

(e) Documentation of costs are provided to the Department, pursuant to the requirements of the State's Auditor General.

Rulemaking Authority 161.101(21), 161.143(6), 161.161(7) FS. Law Implemented 161.088, 161.091(1), 161.101(1), (2), (8), (9), (10), (11), (12), (14), (15), (16), (17), (18), (19), (20), 161.143(2), (3), (4), 161.161(1), (2), (6), 216.181, 287.057 FS. History—New 6-10-83, Formerly 16B-36.09, 16B-36.009, Amended 12-25-03, 8-5-13.



ATTACHMENT #4
Caitlin Copeland <ccopeland@juno-beach.fl.us>

BACKUP 2 - Question - Park Funding and Parking - June 22, 2021

1 message

DD Halpern <dd_halpern@yahoo.com>
Reply-To: DD Halpern <dd_halpern@yahoo.com>
To: Caitlin Copeland <ccopeland@juno-beach.fl.us>

Fri, Oct 7, 2022 at 12:49 PM

Hi Caitlin,
Below is the second email chain to include as backup.

Thanks!
DD Halpern
Mayor, Town of Juno Beach

----- Forwarded Message -----

From: Michael Stahl R. <mstahl@pbcgov.org>
To: DD Halpern <dd_halpern@yahoo.com>
Cc: Joseph Lo Bello <jlobello@juno-beach.fl.us>
Sent: Tuesday, June 22, 2021 at 09:48:49 AM EDT
Subject: RE: Question - Park Funding and Parking

Good Morning DD,

I've reviewed the last 10 years of the County's Beach Management Funding Assistance (BMFA) applications for the Juno Project and do not see Kagen Park included in the public access calculations. Under the current criteria for State funding, Kagen Park would be considered a secondary beach access and given the access is a half-mile south of the current project boundary, would not have any influence on the existing project ranking. That said, the Park is the southern most public access until MacArthur Park and could be strategically significant (for funding) if this stretch of beach experiences substantial storm impacts that require emergency sand placement.

To summarize, under the current criteria for the BMFA, restricted parking at Kagen would not impact State funding for the Juno segment of the North County Comprehensive Shore Protection Project, but would limit the ability for the State or County to participate in any future sand placement along this stretch of beach.

Thanks,

Mike

Michael Stahl, Deputy Director

Environmental Resources Management

Palm Beach County

(561) 233-2433

From: DD Halpern [mailto:dd_halpern@yahoo.com]
Sent: Thursday, June 17, 2021 10:40 AM
To: Michael Stahl R. <MStahl@pbcgov.org>
Subject: Question - Park Funding and Parking

Hi Mike,

Regarding beach renourishment, could you tell me if this is contingent on Juno Beach having public parking at Kagen Park and/or other beach parking areas being public?

Beach access would always be public, it's the parking that I'm looking at - to see if the town can create some free resident-only parking without losing County funding for renourishment and other projects.

See my email below for more details.

Thank you,

DD Halpern

516-313-9541 (cell)

----- Forwarded Message -----

From: Jennifer Cirillo <jcirillo@pbcgov.org>

To: DD Halpern <dd_halpern@yahoo.com>

Cc: Michael Stahl R. <mstahl@pbcgov.org>

Sent: Monday, June 14, 2021, 4:32:58 PM EDT

Subject: RE: Question - Park Funding and Parking

Hi DD:

I am cc:ing Mike Stahl as Beach Renourishment falls under ERM.

But, generally speaking yes, if PBC Parks fund a municipal park project (through Bond funding for example) the park must be open to all County residents equally and not be discriminatory based on residency location. Therefor if a fee is charged for public use, it must be charged to all County residents equally. If it is free, it must be free to all County residents equally. This is true where County funding is used but may also be when another funding entity prevents the practice of different pricing for different people (some other grants/funders may require this as well).

If only Town funding is used for a park then the Town can dictate it's pricing strategy for both parking and programs.

Hope your well -

Jennifer

Jennifer Cirillo, MBA, CPRE

Assistant Director Parks & Recreation

Pronouns: she, her, hers (Why Pronouns Matter) [mypronouns.org]

Palm Beach County Parks and Recreation Department

2700 6th Avenue South | Lake Worth | Florida 33461

T: 561.963.6732 | F: 561.963.6734 | jcirillo@pbcgov.org

From: DD Halpern <dd_halpern@yahoo.com>

Sent: Monday, June 14, 2021 4:22 PM

To: Jennifer Cirillo <JCirillo@pbcgov.org>

Subject: Question - Park Funding and Parking

Hi Jennifer,

Regarding parking at Juno Beach's Kagen Park [google.com] - I've been researching whether it's possible to make this park "Resident Parking Only" for the winter season. During the Council election campaign many residents told me they are frequently unable to find beach parking in Juno and Jupiter during the winter, and asked for some resident-only parking in Juno.

When I spoke to our Town Manager he told me that if the town were to make Kagen Park a resident-only parking, the town would lose assistance it receives from the County. He stated that a stipulation of County-funded beach renourishment is that the park be public access because of the parking lot's proximity to the southern-most ocean beach access in town. He seemed to say that if the parking were made for Juno residents only, that funding would need to be paid back and, on a County level, it could make it difficult for the town to receive other funds as well, because funding for public projects is linked to access being available for the public.

My idea was to create free resident-only parking at Kagen Park from November 15 - April 15, however, the park facilities would be unrestricted, for anyone who arrived by bicycle or on foot. However, a cost-benefit analysis may not work for this location.

Am I understanding the project funding dynamic correctly?

Is this a topic you can help with? If not, please let me know who to contact.

Thank you,

DD Halpern

516-313-9541 (cell)