

CHAPTER 2019-122

Committee Substitute for House Bill No. 325

An act relating to coastal management; amending s. 161.101, F.S.; revising the criteria the Department of Environmental Protection must consider in determining and assigning annual funding priorities for beach management and erosion control projects; specifying tiers for such criteria; requiring tiers to be given certain weight; requiring the department to update active project lists on its website; redefining the term “significant change”; revising the department’s reporting requirements; specifying allowable uses for certain surplus funds; revising the requirements for a specified summary; requiring that funding for certain projects remain available for a specified period; amending s. 161.143, F.S.; specifying the scope of certain projects; revising the list of projects included as inlet management projects; requiring that certain projects be considered separate and apart from other specified projects; revising the ranking criteria to be used by the department to establish certain funding priorities for certain inlet-caused beach erosion projects; revising provisions authorizing the department to spend certain appropriated funds for the management of inlets; deleting a provision authorizing the department to spend certain appropriated funds for specified inlet studies; revising the required elements of the department’s report of prioritized inlet management projects; revising the funds that the department must make available to certain inlet management projects; requiring the department to include specified activities on the inlet management project list; deleting provisions requiring the department to make available funding for specified projects; deleting a requirement that the Legislature designate a project as an Inlet of the Year; requiring the department to update and maintain a report regarding the progress of certain inlet management projects; deleting certain temporary provisions relating to specified appropriations; revising the requirements for the report; amending s. 161.161, F.S.; revising requirements for the comprehensive long-term management plan; requiring the plan to include a strategic beach management plan, a critically eroded beaches report, and a statewide long-range budget plan; providing for the development and maintenance of such plans; deleting a requirement that the department submit a certain beach management plan on a certain date each year; requiring the department to hold a public meeting before finalization of the strategic beach management plan; requiring the department to submit a 3-year work plan and a related forecast for the availability of funding to the Legislature; providing effective dates.

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

Section 1. Effective July 1, 2020, subsection (14) of section 161.101, Florida Statutes, is amended to read:

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

(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 ~~criteria to be considered by the department in determining annual funding priorities shall include:~~

(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 ~~the severity of erosion conditions, the threat to existing upland development, and recreational and/or economic benefits.~~

(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: The extent of local government sponsor financial and administrative commitment to the project, including a long-term financial plan with a designated funding source or sources for initial construction and periodic maintenance.~~

1.(d) 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.

~~(e) The anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment.~~

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

~~(g) Innovative, cost-effective, and environmentally sensitive applications to reduce erosion.~~

~~(h) Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles.~~

~~(i) The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings.~~

4.(j) 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 In the event that 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 that are ready to proceed.~~

Section 2. Subsection (20) of section 161.101, Florida Statutes, is amended to read:

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

(20) The department shall maintain active project lists, updated at least quarterly, listings 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 those changes exceeding 25 percent of the a project's original allocation.

1. Except as provided in subparagraph 2., if there is surplus funding, the department must notify and provide supporting justification notification shall be provided to the Executive Office of the Governor and the Legislature to indicate whether surplus additional 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 specific project activities for the current fiscal year, their funding status, and changes to annual project lists for the current and preceding fiscal year. shall be prepared by The department shall include the summary and included 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, which shall notify the Executive Office of the Governor and the Legislature of such release and. Notification must indicate in the notification how the project dollars are recommended intended to be used after such release.

Section 3. Subsections (2) through (5) of section 161.143, Florida Statutes, are amended to read:

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

(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 include, but are not limited to, 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) ~~(5)~~, 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 ~~and the extent to which the proposed project mitigates the erosive effects of 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 ~~existing~~ 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 ~~The interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance.~~

~~(f) The existence of a proposed or recently updated~~ The previous completion or approval of a state-sponsored inlet management plan or a local-government-sponsored inlet study addressing concerning the inlet addressed by the proposed project, the ease of updating and revising any such plan or study, and the adequacy and specificity of the plan's or study's recommendations concerning 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, pursuant to s. 161.101 and notwithstanding s. 161.101(15), pay from legislative appropriations provided for these purposes 75 percent of the total costs, or, if applicable, the nonfederal costs, of a study, activity, or other project concerning the management of an inlet. The balance must be paid by the local governments or special districts having jurisdiction over the property where the inlet is located.

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

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

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

~~(4)(5)~~ The department shall annually provide an inlet management project list, in priority order, to the Legislature as part of the department's budget request. The list must include studies, projects, or other activities that address the management of at least 10 separate inlets and that are ranked according to the criteria established under subsection (2).

(a) The department shall designate for ~~make available at least 10 percent of the total amount that the Legislature appropriates in each fiscal year for statewide beach management for the three highest-ranked 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 ~~make available at least 50 percent of the funds appropriated for the feasibility and design category in the department’s fixed capital outlay funding request for projects on the current year’s inlet management project list which involve the study for, or design or development of, an inlet management project.~~

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

(5)(d) The Legislature shall designate one of the three highest projects on the inlet management project list in any year as the Inlet of the Year. The department shall update and maintain an annual annually report on its website to the Legislature concerning the extent to which each inlet project designated by the Legislature as Inlet of the Year 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, and transferring or otherwise placed placing beach-quality sand 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.

Section 4. Effective July 1, 2020, subsections (2) through (7) of section 161.161, Florida Statutes, are renumbered as subsections (3) through (8), respectively, subsection (1) and present subsection (2) are amended, and a new subsection (2) is added to that section, to read:

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 the beach management 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:

1. the extent to which such inlet causes beach erosion and recommendations to mitigate the erosive impact of the inlet, including, but not limited to, recommendations regarding 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; and

~~2. Cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet.~~

(c) Evaluate Design criteria for beach restoration and beach nourishment projects, including, but not limited to,:

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

2. beach profiles ~~profile~~.

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

(e) Identify causes of shoreline erosion and change, determine ~~calculate~~ erosion rates, and maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions and project long-term erosion for all major beach and dune systems by surveys and profiles.

(f) ~~Identify shoreline development and degree of density and~~ Assess impacts of development and coastal protection ~~shoreline protective 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, including recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs.~~

~~(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, and to prevent inappropriate development and redevelopment on migrating beaches, and consider beach restoration and nourishment, armoring, relocation and abandonment, dune and vegetation restoration, and acquisition.~~

~~(k) Document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates. Establish criteria, including costs and specific implementation actions, for alternative management techniques.~~

~~(l) Identify and assess. Select and recommend appropriate management measures for all of the state's critically eroded sandy beaches in a beach management program.~~

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

~~(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 be prepared at the regional level, taking into account based upon 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 shall be components of the statewide beach management plan and shall serve as the basis for state funding decisions upon approval in accordance with chapter 86-138, Laws of Florida. Before finalizing the strategic beach~~

~~management plan~~ In accordance with a schedule established for the submission of regional plans by the department, any completed plan must be submitted to the secretary of the department for approval no later than March 1 of each year. These regional plans shall include, but shall not be limited to, recommendations of appropriate funding mechanisms for implementing projects in the beach management plan, giving consideration to the use of single-county and multicounty taxing districts or other revenue generation measures by state and local governments and the private sector. Prior to presenting the plan to the secretary of the department, the department shall hold a public meeting in the region areas for which the plan is prepared or hold a publicly noticed webinar. The plan submission schedule shall be submitted to the secretary for approval. Any revisions to such schedule must be approved in like manner.

(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)(2) Annually, 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 recommendations for funding beach erosion control projects prioritized according to the criteria established in s. 161.101(14).

Section 5. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

Approved by the Governor June 24, 2019.

Filed in Office Secretary of State June 24, 2019.