

**STATE OF FLORIDA STATUTES 2000**

**CHAPTER 187  
(STATE COMPREHENSIVE PLAN)  
Sections 20(5) TRANSPORTATION &  
22(13) THE ECONOMY**

**CHAPTER 163.3178  
(COASTAL MANAGEMENT)**

**CHAPTER 380 - PART II  
(COASTAL PLANNING AND MANAGEMENT)**

**CHAPTER 403.021 PART I  
(POLLUTION CONTROL)  
Sections 9(a) & 9(b)  
(LEGISLATIVE DECLARATION; PUBLIC POLICY)**

**CHAPTER 311.07 & 311.09  
(FLORIDA SEAPORT TRANSPORTATION &  
ECONOMIC DEVELOPMENT)**

**RULE 9J-5.012  
COASTAL MANAGEMENT ELEMENT, F.A.C.**

4. Allow flexibility in state and local participation in funding of public transit projects and encourage construction and use of toll facilities in order to meet transportation needs.
  5. Ensure that existing port facilities and airports are being used to the maximum extent possible before encouraging the expansion or development of new port facilities and airports to support economic growth.
  6. Promote timely resurfacing and repair of roads and bridges to minimize costly reconstruction and to enhance safety.
  7. Develop a revenue base for transportation which is consistent with the goals and policies of this plan.
  8. Encourage the construction and utilization of a public transit system, including, but not limited to, a high-speed rail system, in lieu of the expansion of the highway system, where appropriate.
  9. Ensure that the transportation system provides Florida's citizens and visitors with timely and efficient access to services, jobs, markets, and attractions.
  10. Promote ride sharing by public and private sector employees.
  11. Emphasize state transportation investments in major travel corridors and direct state transportation investments to contribute to efficient urban development.
  12. Avoid transportation improvements which encourage or subsidize increased development in coastal high-hazard areas or in identified environmentally sensitive areas such as wetlands, floodways, or productive marine areas.
  13. Coordinate transportation improvements with state, local, and regional plans.
  14. Acquire advanced rights-of-way for transportation projects in designated transportation corridors consistent with state, regional, and local plans.
  15. Promote effective coordination among various modes of transportation in urban areas to assist urban development and redevelopment efforts.
- (21) GOVERNMENTAL EFFICIENCY.—**
- (a) *Goal.*—Florida governments shall economically and efficiently provide the amount and quality of services required by the public.
  - (b) *Policies.*—
    1. Encourage greater cooperation between, among, and within all levels of Florida government through the use of appropriate interlocal agreements and mutual participation for mutual benefit.
    2. Allow the creation of independent special taxing districts which have uniform general law standards and procedures and do not overburden other governments and their taxpayers while preventing the proliferation of independent special taxing districts which do not meet these standards.
    3. Encourage the use of municipal services taxing units and other dependent special districts to provide needed infrastructure where the fiscal capacity exists to support such an approach.
    4. Eliminate regulatory activities that are not tied to specific public and natural resource protection needs.
    5. Eliminate needless duplication of, and promote cooperation in, governmental activities between, among, and within state, regional, county, city, and other governmental units.
6. Ensure, wherever possible, that the geographic boundaries of water management districts, regional planning councils, and substate districts of the executive departments shall be coterminous for related state or agency programs and functions and promote interagency agreements in order to reduce the number of districts and councils with jurisdiction in any one county.
7. Encourage and provide for the restructuring of city and county political jurisdictions with the goals of greater efficiency and high-quality and more equitable and responsive public service programs.
  8. Replace multiple, small scale, economically inefficient local public facilities with regional facilities where they are proven to be more economical, particularly in terms of energy efficiency, and yet can retain the quality of service expected by the public.
  9. Encourage greater efficiency and economy at all levels of government through adoption and implementation of effective records management, information management, and evaluation procedures.
  10. Throughout government, establish citizen management efficiency groups and internal management groups to make recommendations for greater operating efficiencies and improved management practices.
  11. Encourage governments to seek outside contracting on a competitive-bid basis when cost-effective and appropriate.
  12. Discourage undue expansion of state government and make every effort to streamline state government in a cost-effective manner.
  13. Encourage joint venture solutions to mutual problems between levels of government and private enterprise.
- (22) THE ECONOMY.—**
- (a) *Goal.*—Florida shall promote an economic climate which provides economic stability, maximizes job opportunities, and increases per capita income for its residents.
  - (b) *Policies.*—
    1. Attract new job-producing industries, corporate headquarters, distribution and service centers, regional offices, and research and development facilities to provide quality employment for the residents of Florida.
    2. Promote entrepreneurship and small and minority-owned business startup by providing technical and information resources, facilitating capital formation, and removing regulatory restraints which are unnecessary for the protection of consumers and society.
    3. Maintain, as one of the state's primary economic assets, the environment, including clean air and water, beaches, forests, historic landmarks, and agricultural and natural resources.
    4. Strengthen Florida's position in the world economy through attracting foreign investment and promoting international banking and trade.
    5. Build on the state's attractiveness to make it a leader in the visual and performing arts and in all phases of film, television, and recording production.

6. Promote economic development for Florida residents through partnerships among education, business, industry, agriculture, and the arts.

7. Provide increased opportunities for training Florida's workforce to provide skilled employees for new and expanding business.

8. Promote economic self-sufficiency through training and educational programs which result in productive employment.

9. Promote cooperative employment arrangements between private employers and public sector employment efforts to provide productive, permanent employment opportunities for public assistance recipients through provisions of education opportunities, tax incentives, and employment training.

10. Provide for nondiscriminatory employment opportunities.

11. Provide quality child day care for public assistance families and others who need it in order to work.

12. Encourage the development of a business climate that provides opportunities for the growth and expansion of existing state industries, particularly those industries which are compatible with Florida's environment.

13. Promote coordination among Florida's ports to increase their utilization.

14. Encourage the full utilization by businesses of the economic development enhancement programs implemented by the Legislature for the purpose of extensively involving private businesses in the development and expansion of permanent job opportunities, especially for the economically disadvantaged, through the utilization of enterprise zones, community development corporations, and other programs designed to enhance economic and employment opportunities.

#### (23) AGRICULTURE.—

(a) *Goal.*—Florida shall maintain and strive to expand its food, agriculture, ornamental horticulture, aquaculture, forestry, and related industries in order to be a healthy and competitive force in the national and international marketplace.

#### (b) *Policies.*—

1. Ensure that goals and policies contained in state and regional plans are not interpreted to permanently restrict the conversion of agricultural lands to other uses.

2. Encourage diversification within the agriculture industry, especially to reduce the vulnerability of communities that are largely reliant upon agriculture for either income or employment.

3. Promote and increase international agricultural marketing opportunities for all Florida agricultural producers.

4. Stimulate research, development, and application of agricultural technology to promote and enhance the conservation, production, and marketing techniques available to the agriculture industry.

5. Encourage conservation, wastewater recycling, and other appropriate measures to assure adequate water resources to meet agricultural and other beneficial needs.

6. Promote entrepreneurship in the agricultural sector by providing technical and informational services.

7. Stimulate continued productivity through investment in education and research.

8. Encourage development of biological pest controls to further the reduction in reliance on chemical controls.

9. Conserve soil resources to maintain the economic value of land for agricultural pursuits and to prevent sedimentation in state waters.

10. Promote the vitality of Florida's agricultural industry through continued funding of basic research, extension, inspection, and analysis services and of programs providing for marketing and technical assistance and the control and eradication of diseases and infestations.

11. Continue to promote the use of lands for agricultural purposes by maintaining preferential property tax treatment through the greenbelt law.

12. Ensure that coordinated state planning of road, rail, and waterborne transportation systems provides adequate facilities for the economical transport of agricultural products and supplies between producing areas and markets.

13. Eliminate the discharge of inadequately treated wastewater and stormwater runoff into waters of the state.

#### (24) TOURISM.—

(a) *Goal.*—Florida will attract at least 55 million tourists annually by 1995 and shall support efforts by all areas of the state wishing to develop or expand tourist-related economies.

#### (b) *Policies.*—

1. Promote statewide tourism and support promotional efforts in those parts of the state that desire to attract visitors.

2. Acquire and manage public lands to offer visitors and residents increased outdoor experiences.

3. Promote awareness of historic places and cultural and historical activities.

#### (25) EMPLOYMENT.—

(a) *Goal.*—Florida shall promote economic opportunities for its unemployed and economically disadvantaged residents.

#### (b) *Policies.*—

1. Achieve by 1995 a 70-percent job placement rate for state training program graduates and a 50-percent reduction in the gap between the unemployment rate for disadvantaged groups and the average state unemployment rate.

2. Provide training opportunities for the unemployed which are based upon documented labor market needs.

3. Provide training and job placement assistance to hard-to-employ groups encountering special barriers.

4. Encourage economic development in economically distressed areas.

5. Ensure that the transportation system provides maximum access to jobs and markets.

6. Promote interagency coordination and cooperation to maximize the impact of employment and training services on target groups.

7. Provide services which assist students to make informed career decisions.

with other public facilities such as parks, libraries, and community centers; an analysis of the need for supporting public facilities for existing and future schools; an analysis of opportunities to locate schools to serve as community focal points; projected future population and associated demographics, including development patterns year by year for the upcoming 5-year and long-term planning periods; and anticipated educational and ancillary plants with land area requirements.

(b) The element shall contain one or more goals which establish the long-term end toward which public school programs and activities are ultimately directed.

(c) The element shall contain one or more objectives for each goal, setting specific, measurable, intermediate ends that are achievable and mark progress toward the goal.

(d) The element shall contain one or more policies for each objective which establish the way in which programs and activities will be conducted to achieve an identified goal.

(e) The objectives and policies shall address items such as: the procedure for an annual update process; the procedure for school site selection; the procedure for school permitting; provision of supporting infrastructure; location of future school sites so they serve as community focal points; measures to ensure compatibility of school sites and surrounding land uses; coordination with adjacent local governments and the school district on emergency preparedness issues; and coordination with the future land use element.

(f) The element shall include one or more future conditions maps which depict the anticipated location of educational and ancillary plants. The maps will of necessity be general for the long-term planning period and more specific for the 5-year period.

*History.*—s. 7, ch. 75-257; s. 1, ch. 77-174; s. 1, ch. 80-154; s. 6, ch. 83-308; s. 1, ch. 85-42; s. 6, ch. 85-55; s. 1, ch. 85-309; s. 7, ch. 86-191; s. 5, ch. 92-129; s. 6, ch. 93-206; s. 898, ch. 95-147; s. 3, ch. 95-257; s. 4, ch. 95-322; s. 10, ch. 95-341; s. 10, ch. 96-320; s. 24, ch. 96-410; s. 2, ch. 96-416; s. 2, ch. 98-146; s. 4, ch. 98-176; s. 4, ch. 98-258; s. 90, ch. 99-251; s. 3, ch. 99-378.

**163.31775 Intergovernmental coordination element criteria and rule.**—The state land planning agency shall evaluate statutory provisions relating to the intergovernmental coordination element, and shall consider changes to its intergovernmental coordination element rules, in consultation with a technical committee of 15 members, appointed by the secretary of the state land planning agency. The membership shall be representative of local governments, regional planning councils, the private sector, and environmental organizations. On or before December 15, 1995, the state land planning agency shall report to the Governor, the Speaker of the House of Representatives, and the President of the Senate on its recommendations for appropriate changes to the intergovernmental coordination element criteria in this chapter and shall submit its draft of a new intergovernmental coordination element rule. The Legislature shall review the draft rule and may approve, approve and modify, disapprove, or take no action on the rule. If the Legislature approves the draft rule, or approves and modifies the draft rule, the draft rule shall become effective as the intergovernmental coordination element rule. If the

Legislature takes no action on the draft rule, the state land planning agency shall promulgate the rule according to chapter 120. If the Legislature disapproves the draft rule, it shall specify the guidelines to be used by the state land planning agency in redrafting the rule. When the intergovernmental coordination element rule is effective as provided by this section, or has been promulgated according to chapter 120, the intergovernmental coordination element rules promulgated by the state land planning agency prior to June 30, 1995, shall stand repealed.

*History.*—s. 5, ch. 95-322.

**163.3178 Coastal management.**—

(1) The Legislature recognizes there is significant interest in the resources of the coastal zone of the state. Further, the Legislature recognizes that, in the event of a natural disaster, the state may provide financial assistance to local governments for the reconstruction of roads, sewer systems, and other public facilities. Therefore, it is the intent of the Legislature that local government comprehensive plans restrict development activities where such activities would damage or destroy coastal resources, and that such plans protect human life and limit public expenditures in areas that are subject to destruction by natural disaster.

(2) Each coastal management element required by s. 163.3177(6)(g) shall be based on studies, surveys, and data; be consistent with coastal resource plans prepared and adopted pursuant to general or special law; and contain:

(a) A land use and inventory map of existing coastal uses, wildlife habitat, wetland and other vegetative communities, undeveloped areas, areas subject to coastal flooding, public access routes to beach and shore resources, historic preservation areas, and other areas of special concern to local government.

(b) An analysis of the environmental, socioeconomic, and fiscal impact of development and redevelopment proposed in the future land use plan, with required infrastructure to support this development or redevelopment, on the natural and historical resources of the coast and the plans and principles to be used to control development and redevelopment to eliminate or mitigate the adverse impacts on coastal wetlands; living marine resources; barrier islands, including beach and dune systems; unique wildlife habitat; historical and archaeological sites; and other fragile coastal resources.

(c) An analysis of the effects of existing drainage systems and the impact of point source and nonpoint source pollution on estuarine water quality and the plans and principles, including existing state and regional regulatory programs, which shall be used to maintain or upgrade water quality while maintaining sufficient quantities of water flow.

(d) A component which outlines principles for hazard mitigation and protection of human life against the effects of natural disaster, including population evacuation, which take into consideration the capability to safely evacuate the density of coastal population proposed in the future land use plan element in the event of an impending natural disaster.

(e) A component which outlines principles for protecting existing beach and dune systems from human-induced erosion and for restoring altered beach and dune systems.

(f) A redevelopment component which outlines the principles which shall be used to eliminate inappropriate and unsafe development in the coastal areas when opportunities arise.

(g) A shoreline use component which identifies public access to beach and shoreline areas and addresses the need for water-dependent and water-related facilities, including marinas, along shoreline areas.

(h) Designation of high-hazard coastal areas, which for uniformity and planning purposes herein, are defined as category 1 evacuation zones. However, application of mitigation and redevelopment policies, pursuant to s. 380.27(2), and any rules adopted thereunder, shall be at the discretion of local government.

(i) A component which outlines principles for providing that financial assurances are made that required public facilities will be in place to meet the demand imposed by the completed development or redevelopment. Such public facilities will be scheduled for phased completion to coincide with demands generated by the development or redevelopment.

(j) An identification of regulatory and management techniques that the local government plans to adopt or has adopted in order to mitigate the threat to human life and to control proposed development and redevelopment in order to protect the coastal environment and give consideration to cumulative impacts.

(k) A component which includes the comprehensive master plan prepared by each deepwater port listed in s. 311.09(1), which addresses existing port facilities and any proposed expansions, and which adequately addresses the applicable requirements of paragraphs (a)-(k) for areas within the port and proposed expansion areas. Such component shall be submitted to the appropriate local government at least 6 months prior to the due date of the local plan and shall be integrated with, and shall meet all criteria specified in, the coastal management element. "The appropriate local government" means the municipality having the responsibility for the area in which the deepwater port lies, except that where no municipality has responsibility, where a municipality and a county each have responsibility, or where two or more municipalities each have responsibility for the area in which the deepwater port lies, "the appropriate local government" means the county which has responsibility for the area in which the deepwater port lies. Failure by a deepwater port which is not part of a local government to submit its component to the appropriate local government shall not result in a local government being subject to sanctions pursuant to ss. 163.3167 and 163.3184. However, a deepwater port which is not part of a local government shall be subject to sanctions pursuant to s. 163.3184.

(3) Expansions to port harbors, spoil disposal sites, navigation channels, turning basins, harbor berths, and other related inwater-harbor facilities of ports listed in s. 403.021(9); port transportation facilities and projects listed in s. 311.07(3)(b); and intermodal transportation

facilities identified pursuant to s. 311.09(3) shall not be developments of regional impact where such expansions, projects, or facilities are consistent with comprehensive master plans that are in compliance with this section.

(4) Improvements and maintenance of federal and state highways that have been approved as part of a plan approved pursuant to s. 380.045 or s. 380.05 shall be exempt from the provisions of s. 380.27(2).

(5) The appropriate dispute resolution process provided under s. 186.509 must be used to reconcile inconsistencies between port master plans and local comprehensive plans. In recognition of the state's commitment to deepwater ports, the state comprehensive plan must include goals, objectives, and policies that establish a statewide strategy for enhancement of existing deepwater ports, ensuring that priority is given to water-dependent land uses. As an incentive for promoting plan consistency, port facilities as defined in s. 315.02(6) on lands owned or controlled by a deepwater port as defined in s. 311.09(1), as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port either successfully completes an alternative comprehensive development agreement with a local government pursuant to ss. 163.3220-163.3243 or successfully enters into a development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a development agreement with the state land planning agency pursuant to s. 380.032. Port facilities as defined in s. 315.02(6) on lands not owned or controlled by a deepwater port as defined in s. 311.09(1) as of the effective date of this act shall not be subject to development-of-regional-impact review provided the port successfully enters into a development agreement with the state land planning agency and applicable local government pursuant to s. 380.032 or, where the port is a department of a local government, successfully enters into a development agreement with the state land planning agency pursuant to s. 380.032.

(6) Local governments are encouraged to adopt countywide marina siting plans to designate sites for existing and future marinas. The Coastal Resources Interagency Management Committee, at the direction of the Legislature, shall identify incentives to encourage local governments to adopt such siting plans and uniform criteria and standards to be used by local governments to implement state goals, objectives, and policies relating to marina siting. These criteria must ensure that priority is given to water-dependent land uses. The Coastal Resources Interagency Management Committee shall submit its recommendations regarding local government incentives to the Legislature by December 1, 1993. Countywide marina siting plans must be consistent with state and regional environmental planning policies and standards. Each local government in the coastal area which participates in adoption of a countywide marina siting plan shall incorporate the plan into the coastal management element of its local comprehensive plan.

(7) Each port listed in s. 311.09(1) and each local government in the coastal area which has spoil disposal responsibilities shall provide for or identify disposal sites for dredged materials in the future land use and port elements of the local comprehensive plan as needed to assure proper long-term management of material dredged from navigation channels, sufficient long-range disposal capacity, environmental sensitivity and compatibility, and reasonable cost and transportation. The disposal site selection criteria shall be developed in consultation with navigation and inlet districts and other appropriate state and federal agencies and the public. For areas owned or controlled by ports listed in s. 311.09(1) and proposed port expansion areas, compliance with the provisions of this subsection shall be achieved through comprehensive master plans prepared by each port and integrated with the appropriate local plan pursuant to paragraph (2)(k).

(8) Each county shall establish a county-based process for identifying and prioritizing coastal properties so they may be acquired as part of the state's land acquisition programs. This process must include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

*History.—s. 7, ch. 85-85; s. 8, ch. 86-191; s. 24, ch. 87-224; s. 7, ch. 93-206; s. 699, ch. 95-147; s. 11, ch. 96-320; s. 65, ch. 99-251.*

**163.3179 Family homestead.**—A local government may include in its comprehensive plan a provision allowing the use of a parcel of property solely as a homestead by an individual who is the grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the person who conveyed the parcel to said individual, notwithstanding the density or intensity of use assigned to the parcel in the plan. Such a provision shall apply only once to any individual.

*History.—s. 6, ch. 92-129.*

**163.3180 Concurrency.**—

(1)(a) Sanitary sewer, solid waste, drainage, potable water, parks and recreation, and transportation facilities, including mass transit, where applicable, are the only public facilities and services subject to the concurrency requirement on a statewide basis. Additional public facilities and services may not be made subject to concurrency on a statewide basis without appropriate study and approval by the Legislature; however, any local government may extend the concurrency requirement so that it applies to additional public facilities within its jurisdiction.

(b) Local governments shall use professionally accepted techniques for measuring level of service for automobiles, bicycles, pedestrians, transit, and trucks. These techniques may be used to evaluate increased accessibility by multiple modes and reductions in vehicle miles of travel in an area or zone. The Department of Transportation shall develop methodologies to assist local governments in implementing this multimodal

level-of-service analysis. The Department of Community Affairs and the Department of Transportation shall provide technical assistance to local governments in applying these methodologies.

(2)(a) Consistent with public health and safety, sanitary sewer, solid waste, drainage, and potable water facilities shall be in place and available to serve new development no later than the issuance by the local government of a certificate of occupancy or its functional equivalent.

(b) Consistent with the public welfare, and except as otherwise provided in this section, parks and recreation facilities to serve new development shall be in place or under actual construction no later than 1 year after issuance by the local government of a certificate of occupancy or its functional equivalent. However, the acreage for such facilities shall be dedicated or be acquired by the local government prior to issuance by the local government of a certificate of occupancy or its functional equivalent, or funds in the amount of the developer's fair share shall be committed prior to issuance by the local government of a certificate of occupancy or its functional equivalent.

(c) Consistent with the public welfare, and except as otherwise provided in this section, transportation facilities needed to serve new development shall be in place or under actual construction no more than 3 years after issuance by the local government of a certificate of occupancy or its functional equivalent.

(3) Governmental entities that are not responsible for providing, financing, operating, or regulating public facilities needed to serve development may not establish binding level-of-service standards on governmental entities that do bear those responsibilities. This subsection does not limit the authority of any agency to recommend or make objections, recommendations, comments, or determinations during reviews conducted under s. 163.3184.

(4)(a) The concurrency requirement as implemented in local comprehensive plans applies to state and other public facilities and development to the same extent that it applies to all other facilities and development, as provided by law.

(b) The concurrency requirement as implemented in local comprehensive plans does not apply to public transit facilities. For the purposes of this paragraph, public transit facilities include transit stations and terminals, transit station parking, park-and-ride lots, intermodal public transit connection or transfer facilities, and fixed bus, guideway, and rail stations. As used in this paragraph, the terms "terminals" and "transit facilities" do not include airports or seaports or commercial or residential development constructed in conjunction with a public transit facility.

(5)(a) The Legislature finds that under limited circumstances dealing with transportation facilities, countervailing planning and public policy goals may come into conflict with the requirement that adequate public facilities and services be available concurrent with the impacts of such development. The Legislature further finds that often the unintended result of the concurrency requirement for transportation facilities is the discouragement of urban infill development and

3. To require the governmental agency to properly administer critical area regulations.

(d) The state land planning agency may institute an administrative proceeding against any developer or responsible party to obtain compliance with s. 380.06 and binding letters, agreements, rules, orders, or development orders issued pursuant to s. 380.032(3), s. 380.05, s. 380.06, or s. 380.07. The state land planning agency may seek enforcement of its final agency action in accordance with s. 120.69 or by written agreement with the alleged violator pursuant to s. 380.032(3).

*History.*—s. 3, ch. 74-326; s. 129, ch. 79-190; s. 34, ch. 81-167; s. 34, ch. 83-55; s. 5, ch. 83-308; s. 48, ch. 85-55; s. 57, ch. 93-206; s. 14, ch. 96-416

**380.12 Rights unaffected by ch. 75-22.**—Nothing in chapter 75-22, Laws of Florida, shall alter or affect rights previously vested under this chapter.

*History.*—s. 23, ch. 75-22.

## PART II

### COASTAL PLANNING AND MANAGEMENT

- 380.20 Short title.
- 380.205 Definitions.
- 380.21 Legislative intent.
- 380.22 Lead agency authority and duties.
- 380.23 Federal consistency.
- 380.24 Local government participation.
- 380.25 Previous coastal zone atlases rejected.
- 380.26 Establishment of coastal building zone for certain counties.
- 380.27 Coastal infrastructure policy.

**380.20 Short title.**—Sections 380.205-380.24 may be cited as the "Florida Coastal Management Act."

*History.*—s. 5, ch. 78-287; s. 1, ch. 92-276; s. 188, ch. 99-13

**380.205 Definitions.**—As used in ss. 380.21-380.24:

(1) "Department" means the Department of Community Affairs.

(2) "Coastal zone" means that area of land and water from the territorial limits seaward to the most inland extent of marine influences. However, for planning and developing coordinated projects and initiatives for coastal resource protection and management, the department shall consider the coastal zone to be the geographical area encompassed by the 35 Florida coastal counties listed in the Final Environmental Impact Statement for the Florida Coastal Management Program and the adjoining territorial sea. It is not the intent of this definition to limit the authority currently exercised under the federal law and the federally approved Florida Coastal Management Program by which projects landward and seaward of the 35 coastal counties are reviewed for consistency with the Florida Coastal Management Program.

*History.*—s. 2, ch. 92-276; s. 58, ch. 93-206; s. 187, ch. 99-13.

**380.21 Legislative intent.**—

(1) The Legislature finds that:

(a) The coast is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic

resources, including, but not limited to, "energy facilities," as that term is defined in s. 304(5) of the federal Coastal Zone Management Act of 1972, of immediate potential value to the present and future well-being of the residents of this state.

(b) It is in the state and national interest to protect, maintain, and develop these resources through coordinated management.

(c) State land and water management policies should, to the maximum possible extent, be implemented by local governments through existing processes for the guidance of growth and development.

(2) The Legislature therefore grants authorization for the department to compile a program based on existing statutes and existing rules and submit an application to the appropriate federal agency as a basis for receiving administrative funds under the federal Coastal Zone Management Act of 1972. It is the further intent of the Legislature that enactment of this legislation shall not amend existing statutes or provide additional regulatory authority to any governmental body except as otherwise provided by s. 380.23. The enactment of this legislation shall not in any other way affect any existing statutory or regulatory authority.

(3)(a) The Legislature finds that the coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the residents of this state which will be irretrievably lost or damaged if not properly managed. The participation by citizens of the state will be an important factor in developing a plan for management of the coastal zone, and management of the state's coastal zone will require a highly coordinated effort among state, regional, and local officials and agencies.

(b) The state coastal zone management plan shall be a part of the state comprehensive plan. It shall contain a boundary, policies, goals, and programs necessary to comply with the requirements of the federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464), specifically delineating the role of state, regional, and local agencies in implementing the plan; and it shall provide that the appeal of any regulatory decision, other than those appeals provided for by existing law, shall be to the Governor and Cabinet.

(4) The Legislature recognizes that land acquisition has great potential to support the state's coastal management and regulatory efforts. Removing coastal properties from the pool of developable acreage reduces the adverse land use and environmental impacts the state coastal zone management program is attempting to eliminate or diminish, while at the same time minimizing public expenditures and reducing risk to life and property in storm-prone coastal areas. To this end, the acquisition of coastal lands shall be an important component of the coastal zone management program.

*History.*—s. 6, ch. 78-287; s. 5, ch. 84-257; s. 3, ch. 92-276; s. 59, ch. 93-206.

**380.22 Lead agency authority and duties.**—

(1) The department shall be the lead agency pursuant to 16 U.S.C. ss. 1451 et seq., and shall compile and

submit to the appropriate federal agency an application to receive funds pursuant to s. 306 of the federal Coastal Zone Management Act of 1972, as amended (16 U.S.C. ss. 1451-1464). The application for federal approval of the state's program shall include program policies that only reference existing statutes and existing implementing administrative rules. In the event the application or the program submitted pursuant to this subsection is rejected by the appropriate federal agency because of failure of this act, the existing statutes, or the existing implementing administrative rules to comply with the requirements of the federal Coastal Zone Management Act of 1972, as amended, no state coastal management program shall become effective without prior legislative approval. The coastal management application or program may be amended from time to time to include changes in statutes and rules adopted pursuant to statutory authority other than this act.

(2) The department shall also have authority to:

(a) Establish advisory councils with sufficient geographic balance to ensure statewide representation.

(b) Coordinate central files and clearinghouse procedures for coastal resource data information and encourage the use of compatible information and standards.

(c) Provide to the extent practicable financial, technical, research, and legal assistance to effectuate the purposes of this act.

(d) Review rules of other affected agencies to determine consistency with the program and to report any inconsistencies to the Legislature.

(3) The department shall adopt by rule procedures and criteria for the evaluation of subgrant applications that seek to receive a portion of those funds allotted to the state under the federal Coastal Zone Management Act.

(4) The department shall establish a county-based process for identifying, and setting priorities for acquiring, coastal properties in coordination with the Land Acquisition and Management Advisory Council, or its successor, so these properties may be acquired as part of the state's land acquisition programs. This process shall include the establishment of criteria for prioritizing coastal acquisitions which, in addition to recognizing pristine coastal properties and coastal properties of significant or important environmental sensitivity, recognize hazard mitigation, beach access, beach management, urban recreation, and other policies necessary for effective coastal management.

(5) In addition to other criteria established by statute or rule, the following criteria shall be considered when establishing priorities for public acquisition of coastal property:

(a) The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

(b) The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

(c) The value of acquiring identified parcels the development of which would adversely affect coastal resources.

(6) The department, in coordination with the Florida Coastal Management Citizen's Advisory Committee, shall develop and implement a strategy to enhance citizen awareness and involvement in Florida's coastal management programs.

*History.—*s. 7, ch. 78-267; s. 4, ch. 92-276; s. 60, ch. 93-206; s. 11, ch. 98-146; s. 188, ch. 99-13; s. 42, ch. 99-247.

### 380.23 Federal consistency.—

(1) When an activity requires a permit or license subject to federal consistency review, the issuance or renewal of a state license shall automatically constitute the state's concurrence that the licensed activity or use, as licensed, is consistent with the federally approved program. When an activity requires a permit or license subject to federal consistency review, the denial of a state license shall automatically constitute the state's finding that the proposed activity or use is not consistent with the state's federally approved program, unless the United States Secretary of Commerce determines that such activity or use is in the national interest as provided in the federal Coastal Zone Management Act of 1972.

(2)(a) Where federal licenses, permits, activities, and projects listed in subsection (3) are subject to federal consistency review and are seaward of the jurisdiction of the state, or there is no state agency with sole jurisdiction, the department shall be responsible for the consistency review and determination; however, the department shall not make a determination that the license, permit, activity, or project is consistent if any other state agency with significant analogous responsibility makes a determination of inconsistency. All decisions and determinations under this subsection shall be appealable to the Governor and Cabinet.

(b) However, effective October 1, 1992, if a finding or recommendation of inconsistency has been made by a state agency with regard to federal activities and projects listed under paragraphs (3)(a) and (b) and the inconsistency cannot be resolved by the department, the department shall refer such finding or recommendation to the Governor for final determination. The Governor shall review the comments, findings, or recommendations of all participating agencies and shall affirm the finding or recommendation of inconsistency unless the Governor determines that the federal activity or project is consistent with the enforceable social, economic, and environmental policies of the coastal management program. Any permitting, licensing, or proprietary authority of an agency shall not be preempted or otherwise limited by any provision of this paragraph. Consistency determinations made pursuant to this paragraph shall not be appealable to the Governor or Cabinet.

(3) Consistency review shall be limited to review of the following activities, uses, and projects to ensure that such activities and uses are conducted in accordance with the state's coastal management program:

(a) Federal development projects and activities of federal agencies which significantly affect coastal waters and the adjacent shorelands of the state.

(b) Federal assistance projects which significantly affect coastal waters and the adjacent shorelands of the state and which are reviewed as part of the review process developed pursuant to OMB Circular A-95.

(c) Federally licensed or permitted activities affecting land or water uses when such activities are in or seaward of the jurisdiction of local governments required to develop a coastal zone protection element as provided in s. 380.24 and when such activities involve:

1. Permits required under ss. 10 and 11 of the Rivers and Harbors Act of 1899, as amended.

2. Permits required under s. 103 of the Marine Protection, Research and Sanctuaries Act of 1972, as amended.

3. Permits required under ss. 201, 402, 403, 404, and 405 of the Federal Water Pollution Control Act of 1972, as amended, unless such permitting activities pursuant to such sections have been delegated to the state pursuant to said act.

4. Permits required under the Marine Protection, Research and Sanctuaries Act of 1972, as amended, 33 U.S.C. ss. 1401, 1402, 1411-1421, and 1441-1444.

5. Permits for the construction of bridges and causeways in navigable waters required pursuant to 33 U.S.C. s. 401, as amended.

6. Permits relating to the transportation of hazardous substance materials or transportation and dumping which are issued pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. ss. 1801-1812, as amended, or 33 U.S.C. s. 419, as amended.

7. Permits and licenses required under 43 U.S.C. s. 717 for construction and operation of interstate gas pipelines and storage facilities.

8. Permits required under 15 U.S.C. s. 717, as amended, for construction and operation of facilities needed to import and export natural gas.

9. Permits and licenses required for the siting and construction of any new electrical power plants as defined in s. 403.503(12), as amended.

10. Permits and licenses required for drilling and mining on public lands.

11. Permits for areas leased under the OCS Lands Act, as amended, including leases and approvals under 43 U.S.C. s. 1331, as amended, of exploration, development, and production plans.

12. Permits for pipeline rights-of-way for oil and gas transmissions.

13. Permits and licenses required for deepwater ports under 33 U.S.C. s. 1503, as amended.

14. Permits required for the taking of marine mammals under the Marine Mammal Protection Act of 1972, as amended, 16 U.S.C. 1374 s. 104.

(d) Federal activities within the territorial limits of neighboring states when the Governor and the department determine that significant individual or cumulative impact to the land or water resources of the state would result from the activities.

(4) The department shall by rule adopt procedures for the expeditious handling of emergency repairs to existing facilities for which consistency review is required pursuant to subsections (1), (2), and (3).

(5) In any coastal management program submitted to the appropriate federal agency for its approval pursuant to this act, the department shall specifically waive its right to determine the consistency with the coastal management program of all federally licensed or permitted activities not specifically listed in subsection (3).

(6) Agencies shall not review for federal consistency purposes an application for a federally licensed or permitted activity if the activity is vested, exempted, or excepted under its own regulatory authority.

(7) The department shall review the items listed in subsection (3) to determine if in certain circumstances such items would constitute minor permit activities. If the department determines that the list contains minor permit activities, it may by rule establish a program of general concurrence pursuant to federal regulation which shall allow similar minor activities, in the same geographic area, to proceed without prior department review for federal consistency.

(8) This section shall not apply to the review of federally licensed or permitted activities for which permit applications are filed with the appropriate federal agency prior to approval of the state coastal management program by the appropriate federal agency pursuant to 16 U.S.C. ss. 1451 et seq.

*History.*—s. 8, ch. 78-287; s. 1, ch. 90-220; s. 53, ch. 90-331; s. 5, ch. 92-276; s. 61, ch. 93-208; s. 29, ch. 98-176.

*Note.*—Repealed by Pub. L. No. 94-579.

**380.24 Local government participation.**—Units of local government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the state where marine species of vegetation listed by rule as ratified in s. 373.4211 constitute the dominant plant community, shall develop a coastal zone protection element pursuant to s. 163.3177. Such units of local government shall be eligible to receive technical assistance from the state in preparing coastal zone protection elements and shall be the only units of local government eligible to apply to the department for available financial assistance. Local government participation in the coastal management program authorized by this act shall be voluntary. All permitting and enforcement of dredged-material management and other related activities subject to permit under the provisions of chapters 161 and 253 and part IV of chapter 373 for deepwater ports identified in s. 403.021(9)(b) shall be done through the Department of Environmental Protection consistent with the provisions of s. 403.021(9).

*History.*—s. 9, ch. 78-287; s. 11, ch. 94-122; s. 142, ch. 96-320

**380.25 Previous coastal zone atlases rejected.**—The legislative draft of the coastal management program submitted to the Legislature by the department dated March 1, 1978, and the previously prepared coastal zone atlases are expressly rejected as the state's coastal management program. The department shall not divide areas of the state into vital, conservation, and development areas.

*History.*—s. 10, ch. 78-287.

**380.26 Establishment of coastal building zone for certain counties.**—The coastal building zone for coun-

ties not subject to s. 161.053 shall be as described in s. 161.54(1), after a public hearing is held in the affected county by the state land planning agency or its designee. The state land planning agency 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 necessary.

*History.—s. 37, ch. 85-55*

**380.27 Coastal infrastructure policy.—**

(1) No state funds shall be used for the purpose of constructing bridges or causeways to coastal barrier islands, as defined in s. 161.54(2), which are not accessible by bridges or causeways on October 1, 1985.

(2) After a local government has an approved coastal management element pursuant to s. 163.3178, no state funds which are unobligated at the time the element is approved shall be expended for the purpose of planning, designing, excavating for, preparing foundations for, or constructing projects which increase the capacity of infrastructure unless such expenditure is consistent with the approved coastal management element.

*History.—s. 38, ch. 85-55; s. 38, ch. 95-196.*

**PART III**

**FLORIDA COMMUNITIES TRUST**

- 380.501 Short title.
- 380.502 Legislative findings and intent.
- 380.503 Definitions.
- 380.504 Florida Communities Trust; creation; membership; expenses.
- 380.505 Meetings; quorum; voting.
- 380.506 Support services.
- 380.507 Powers of the trust.
- 380.508 Projects; development, review, and approval.
- 380.510 Conditions of grants and loans.
- 380.511 Florida Communities Trust Fund.
- 380.5115 Florida Forever Program Trust Fund of the Department of Community Affairs.
- 380.512 Annual report.
- 380.513 Corporate existence.
- 380.514 Inconsistent provisions of other laws superseded.
- 380.515 Construction.

**380.501 Short title.—**This part may be cited as the "Florida Communities Trust Act."

*History.—s. 28, ch. 89-175; s. 2, ch. 90-192; s. 4, ch. 91-192; s. 5, ch. 91-429*

**380.502 Legislative findings and intent.—**

(1) The Legislature finds that the conservation of natural areas is vital to the state's economy and ecology. The Legislature further finds that rapid increases in population and development throughout Florida threaten the integrity of the environment and limit opportunities for citizens and visitors to enjoy the state's natural areas. The Legislature further finds that inappropriate and poorly planned land uses overburden natural resources and disrupt the state's ecology.

Finally, the Legislature finds that the quality of life, environmental quality, as well as the viability and vitality of the urban areas of this state are directly linked to urban open space and greenways. The creation of greenways; expansion of green spaces; enhancement of recreation areas; and protection and restoration of urban lakes, rivers, and watersheds in the urban areas of this state are necessary to link populated areas with natural areas, preserve unique cultural and heritage sites, provide land for recreational opportunities to enhance the health and well-being of the urban residents of this state, improve water quality, reduce the level of urban crime and violence, and build confidence and self-esteem among the urban youth of this state.

(2) The Legislature recognizes that the primary responsibility for establishing well-planned land use rests at the local government level through the implementation of comprehensive plans. The Legislature also recognizes that many of the goals and objectives of these comprehensive plans will not be met through regulation, but require creative and innovative action to ensure their accomplishment.

(3) It is the intent of the Legislature to establish a nonregulatory agency that will assist local governments in bringing local comprehensive plans into compliance and implementing the goals, objectives, and policies of the conservation, recreation and open space, and coastal elements of local comprehensive plans, or in conserving natural resources and resolving land use conflicts by:

(a) Responding promptly and creatively to opportunities to correct undesirable development patterns, restore degraded natural areas, enhance resource values, restore deteriorated or deteriorating urban waterfronts, reserve lands for later purchase, participate in and promote the use of innovative land acquisition methods, and provide public access to surface waters.

(b) Providing financial and technical assistance to local governments, state agencies, and nonprofit organizations to carry out projects and activities and to develop programs authorized by this part.

(c) Involving local governments and private interests in voluntarily resolving land use conflicts and issues.

*History.—s. 28, ch. 89-175; s. 2, ch. 90-192; s. 5, ch. 91-192; s. 5, ch. 91-429; s. 85, ch. 93-208; s. 19, ch. 96-389.*

**380.503 Definitions.—**As used in ss. 380.501-380.515, unless the context indicates a different meaning or intent:

(1) "Comprehensive plan" means a plan that meets the requirements of ss. 163.3177, 163.3178, and 163.3191.

(2) "Department" means the Department of Community Affairs.

(3) "Local government" means a county or municipality.

(4) "Metropolitan" means a population area consisting of a central city with adjacent cities and smaller surrounding communities: a major urban area and its environs.

(5) "Nonprofit organization" means any private nonprofit organization, existing under the provisions of

- 403.111 Confidential records.  
 403.121 Enforcement: procedure; remedies.  
 403.131 Injunctive relief, cumulative remedies.  
 403.135 Persons who accept wastewater for spray irrigation; civil liability.  
 403.141 Civil liability; joint and several liability.  
 403.151 Compliance with rules or orders of department.  
 403.161 Prohibitions, violation, penalty, intent.  
 403.1651 Ecosystem Management and Restoration Trust Fund.  
 403.1655 Environmental short-term emergency response program.  
 403.1815 Construction of water distribution mains and sewage collection and transmission systems; local regulation.  
 403.182 Local pollution control programs.  
 403.1821 Water pollution control and sewage treatment.  
 403.1822 Definitions for ss. 403.1821-403.1832.  
 403.1823 Department of Environmental Protection; rulemaking authority; administration of funds.  
 403.1826 Grants, requirements for eligibility.  
 403.1829 Funding of projects; priorities.  
 403.1832 Department to accept federal aid; Grants and Donations Trust Fund.  
 403.1834 State bonds to finance or refinance facilities; exemption from taxation.  
 403.1835 Water pollution control financial assistance.  
 403.1837 Florida Water Pollution Control Financing Corporation.  
 403.1838 Small Community Sewer Construction Assistance Act.  
 403.191 Construction in relation to other law.  
 403.201 Variances.  
 403.231 Department of Legal Affairs to represent the state.  
 403.251 Safety clause.  
 403.265 Peat mining; permitting.  
 403.281 Definitions; weather modification law.  
 403.291 Purpose of weather modification law.  
 403.301 Artificial weather modification operation; license required.  
 403.311 Application for weather modification licensing; fee.  
 403.321 Proof of financial responsibility.  
 403.331 Issuance of license; suspension or revocation; renewal.  
 403.341 Filing and publication of notice of intention to operate; limitation on area and time.  
 403.351 Contents of notice of intention.  
 403.361 Publication of notice of intention.  
 403.371 Proof of publication.  
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 403.391 Emergency licenses.  
 403.401 Suspension or revocation of license.  
 403.411 Penalty.  
 403.412 Environmental Protection Act.  
 403.413 Florida Litter Law.  
 403.4131 "Keep Florida Beautiful, Incorporated"; placement of signs.  
 403.41315 Comprehensive illegal dumping, litter, and marine debris control and prevention.  
 403.4132 Litter pickup and removal.  
 403.4133 Adopt-a-Shore Program.  
 403.4135 Litter receptacles.  
 403.414 Environmental award program.  
 403.415 Motor vehicle noise.  
 403.4151 Exempt motor vehicles.  
 403.4153 Federal preemption.  
 403.4154 Phosphogypsum management program.  
 403.4155 Phosphogypsum management; rulemaking authority.  
 403.42 Florida Clean Fuel Act.
- 403.011 Short title.**—This act shall be known and cited as the "Florida Air and Water Pollution Control Act."  
*History.*—s. 2, ch. 67-436
- 403.021 Legislative declaration; public policy.**—  
 (1) The pollution of the air and waters of this state constitutes a menace to public health and welfare; creates public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air and water.  
 (2) It is declared to be the public policy of this state to conserve the waters of the state and to protect, maintain, and improve the quality thereof for public water supplies, for the propagation of wildlife and fish and other aquatic life, and for domestic, agricultural, industrial, recreational, and other beneficial uses and to provide that no wastes be discharged into any waters of the state without first being given the degree of treatment necessary to protect the beneficial uses of such water.  
 (3) It is declared to be the public policy of this state and the purpose of this act to achieve and maintain such levels of air quality as will protect human health and safety and, to the greatest degree practicable, prevent injury to plant and animal life and property, foster the comfort and convenience of the people, promote the economic and social development of this state, and facilitate the enjoyment of the natural attractions of this state. In accordance with the public policy established herein, the Legislature further declares that the citizens of this state should be afforded reasonable protection from the dangers inherent in the release of toxic or otherwise hazardous vapors, gases, or highly volatile liquids into the environment.  
 (4) It is declared that local and regional air and water pollution control programs are to be supported to the extent practicable as essential instruments to provide for a coordinated statewide program of air and water pollution prevention, abatement, and control for the securing and maintenance of appropriate levels of air and water quality.  
 (5) It is hereby declared that the prevention, abatement, and control of the pollution of the air and waters of this state are affected with a public interest, and the provisions of this act are enacted in the exercise of the police powers of this state for the purpose of protecting the health, peace, safety, and general welfare of the people of this state.

(6) The Legislature finds and declares that control, regulation, and abatement of the activities which are causing or may cause pollution of the air or water resources in the state and which are or may be detrimental to human, animal, aquatic, or plant life, or to property, or unreasonably interfere with the comfortable enjoyment of life or property be increased to ensure conservation of natural resources; to ensure a continued safe environment; to ensure purity of air and water; to ensure domestic water supplies; to ensure protection and preservation of the public health, safety, welfare, and economic well-being; to ensure and provide for recreational and wildlife needs as the population increases and the economy expands; and to ensure a continuing growth of the economy and industrial development.

(7) The Legislature further finds and declares that:

(a) Compliance with this law will require capital outlays of hundreds of millions of dollars for the installation of machinery, equipment, and facilities for the treatment of industrial wastes which are not productive assets and increased operating expenses to owners without any financial return and should be separately classified for assessment purposes.

(b) Industry should be encouraged to install new machinery, equipment, and facilities as technology in environmental matters advances, thereby improving the quality of the air and waters of the state and benefiting the citizens of the state without pecuniary benefit to the owners of industries; and the Legislature should prescribe methods whereby just valuation may be secured to such owners and exemptions from certain excise taxes should be offered with respect to such installations.

(c) Facilities as herein defined should be classified separately from other real and personal property of any manufacturing or processing plant or installation, as such facilities contribute only to general welfare and health and are assets producing no profit return to owners.

(d) In existing manufacturing or processing plants it is more difficult to obtain satisfactory results in treating industrial wastes than in new plants being now planned or constructed and that with respect to existing plants in many instances it will be necessary to demolish and remove substantial portions thereof and replace the same with new and more modern equipment in order to more effectively treat, eliminate, or reduce the objectionable characteristics of any industrial wastes and that such replacements should be classified and assessed differently from replacements made in the ordinary course of business.

(8) The Legislature further finds and declares that the public health, welfare, and safety may be affected by disease-carrying vectors and pests. The department shall assist all governmental units charged with the control of such vectors and pests. Furthermore, in reviewing applications for permits, the department shall consider the total well-being of the public and shall not consider solely the ambient pollution standards when exercising its powers, if there may be danger of a public health hazard.

(9)(a) The Legislature finds and declares that it is essential to preserve and maintain authorized water depth in the existing navigation channels, port harbor turning basins, and harbor berths of this state in order to provide for the continued safe navigation of deepwater shipping commerce. The department shall recognize that maintenance of authorized water depths consistent with port master plans developed pursuant to s. 163.3178(2)(k) is an ongoing, continuous, beneficial, and necessary activity that is in the public interest; and it shall develop a regulatory process that shall enable the ports of this state to conduct such activities in an environmentally sound, safe, expeditious, and cost-efficient manner. It is the further intent of the Legislature that the permitting and enforcement of dredging, dredged-material management, and other related activities for Florida's deepwater ports pursuant to this chapter and chapters 161, 253, and 373 shall be consolidated within the department's Division of Water Resource Management and, with the concurrence of the affected deepwater port or ports, may be administered by a district office of the department or delegated to an approved local environmental program.

(b) The provisions of paragraph (a) apply only to the port waters, dredged-material management sites, port harbors, navigation channels, turning basins, and harbor berths used for deepwater commercial navigation in the ports of Jacksonville, Tampa, Port Everglades, Miami, Port Canaveral, Ft. Pierce, Palm Beach, Port Manatee, Port St. Joe, Panama City, St. Petersburg, Pensacola, Fernandina, and Key West.

(10) It is the policy of the state to ensure that existing and potential drinking water resources of the state remain free from harmful quantities of contaminants. The department, as the state water quality protection agency, shall compile, correlate, and disseminate available information on any contaminant which endangers or may endanger existing or potential drinking water resources. It shall also coordinate its regulatory program with the regulatory programs of other agencies to assure adequate protection of the drinking water resources of the state.

(11) It is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature. The department shall recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The department shall also recognize that some deviations from water quality standards occur as the result of natural background conditions. The department shall not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced discharges or alterations to the water body.

*History.*—s. 3, ch. 67-436; s. 1, ch. 78-98; ss. 1, 5, ch. 81-222; s. 4, ch. 84-79; s. 46, ch. 84-338; s. 11, ch. 85-269; s. 1, ch. 85-277; s. 8, ch. 86-186; s. 3, ch. 86-213; s. 143, ch. 96-320; s. 1004, ch. 97-103; s. 4, ch. 99-353.

**403.031 Definitions.**—In construing this chapter, rules and regulations adopted pursuant hereto, the following words, phrases, or terms, unless the context otherwise indicates, have the following meanings:

(1) "Contaminant" is any substance which is harmful to plant, animal, or human life.

## CHAPTER 311

## FLORIDA SEAPORT TRANSPORTATION AND ECONOMIC DEVELOPMENT

- 311.07 Florida seaport transportation and economic development funding.
- 311.09 Florida Seaport Transportation and Economic Development Council.
- 311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.
- 311.11 Seaport Employment Training Grant Program.
- 311.12 Seaport security.
- 311.13 Certain information exempt from disclosure.
- 311.14 Seaport freight-mobility planning.

**311.07 Florida seaport transportation and economic development funding.—**

(1) There is created the Florida Seaport Transportation and Economic Development Program within the Department of Transportation to finance port transportation or port facilities projects that will improve the movement and intermodal transportation of cargo or passengers in commerce and trade and that will support the interests, purposes, and requirements of ports located in this state.

(2) A minimum of \$8 million per year shall be made available from the State Transportation Trust Fund to fund the Florida Seaport Transportation and Economic Development Program.

(3)(a) Program funds shall be used to fund approved projects on a 50-50 matching basis with any of the deepwater ports, as listed in s. 403.021(9)(b), which is governed by a public body or any other deepwater port which is governed by a public body and which complies with the water quality provisions of s. 403.061, the comprehensive master plan requirements of s. 163.3178(2)(k), the local financial management and reporting provisions of part III of chapter 218, and the auditing provisions of s. 11.45(3)(a)5. Program funds also may be used by the Seaport Transportation and Economic Development Council to develop with the Florida Trade Data Center such trade data information products which will assist Florida's seaports and international trade.

(b) Projects eligible for funding by grants under the program are limited to the following port facilities or port transportation projects:

1. Transportation facilities within the jurisdiction of the port.
2. The dredging or deepening of channels, turning basins, or harbors.
3. The construction or rehabilitation of wharves, docks, structures, jetties, piers, storage facilities, cruise terminals, automated people mover systems, or any facilities necessary or useful in connection with any of the foregoing.
4. The acquisition of container cranes or other mechanized equipment used in the movement of cargo or passengers in international commerce.
5. The acquisition of land to be used for port purposes.
6. The acquisition, improvement, enlargement, or extension of existing port facilities.

7. Environmental protection projects which are necessary because of requirements imposed by a state agency as a condition of a permit or other form of state approval; which are necessary for environmental mitigation required as a condition of a state, federal, or local environmental permit; which are necessary for the acquisition of spoil disposal sites and improvements to existing and future spoil sites; or which result from the funding of eligible projects listed herein.

8. Transportation facilities as defined in s. 334.03(31) which are not otherwise part of the Department of Transportation's adopted work program.

9. Seaport intermodal access projects identified in the 5-year Florida Seaport Mission Plan as provided in s. 311.09(3).

10. Construction or rehabilitation of port facilities as defined in s. 315.02, excluding any park or recreational facilities, in ports listed in s. 311.09(1) with operating revenues of \$5 million or less, provided that such projects create economic development opportunities, capital improvements, and positive financial returns to such ports.

(c) To be eligible for consideration by the council pursuant to this section, a project must be consistent with the port comprehensive master plan which is incorporated as part of the approved local government comprehensive plan as required by s. 163.3178(2)(k) or other provisions of the Local Government Comprehensive Planning and Land Development Regulation Act, part II of chapter 163.

(4) A port eligible for matching funds under the program may receive a distribution of not more than \$7 million during any 1 calendar year and a distribution of not more than \$30 million during any 5-calendar-year period.

(5) Any port which receives funding under the program shall institute procedures to ensure that jobs created as a result of the state funding shall be subject to equal opportunity hiring practices in the manner provided in s. 110.112.

(6) The Department of Transportation shall subject any project that receives funds pursuant to this section and s. 320.20 to a final audit. The department may adopt rules and perform such other acts as are necessary or convenient to ensure that the final audits are conducted and that any deficiency or questioned costs noted by the audit are resolved.

*History.—*s. 65, ch. 90-136; s. 5, ch. 91-429; s. 55, ch. 93-120; s. 20, ch. 94-237; s. 130, ch. 96-320; s. 43, ch. 97-278; s. 5, ch. 97-280; s. 40, ch. 2000-152; s. 3, ch. 2000-266.

**311.09 Florida Seaport Transportation and Economic Development Council.—**

(1) The Florida Seaport Transportation and Economic Development Council is created within the Department of Transportation. The council consists of the following 17 members: the port director, or the port director's designee, of each of the ports of Jacksonville, Port Canaveral, Fort Pierce, Palm Beach, Port Everglades, Miami, Port Manatee, St. Petersburg, Tampa,

Port St. Joe, Panama City, Pensacola, Key West, and Fernandina; the secretary of the Department of Transportation or his or her designee; the director of the Office of Tourism, Trade, and Economic Development or his or her designee; and the secretary of the Department of Community Affairs or his or her designee.

(2) The council shall adopt bylaws governing the manner in which the business of the council will be conducted. The bylaws shall specify the procedure by which the chairperson of the council is elected.

(3) The council shall prepare a 5-year Florida Seaport Mission Plan defining the goals and objectives of the council concerning the development of port facilities and an intermodal transportation system consistent with the goals of the Florida Transportation Plan developed pursuant to s. 339.155. The Florida Seaport Mission Plan shall include specific recommendations for the construction of transportation facilities connecting any port to another transportation mode and for the efficient, cost-effective development of transportation facilities or port facilities for the purpose of enhancing international trade, promoting cargo flow, increasing cruise passenger movements, increasing port revenues, and providing economic benefits to the state. The council shall update the 5-year Florida Seaport Mission Plan annually and shall submit the plan no later than February 1 of each year to the President of the Senate; the Speaker of the House of Representatives; the Office of Tourism, Trade, and Economic Development; the Department of Transportation; and the Department of Community Affairs. The council shall develop programs, based on an examination of existing programs in Florida and other states, for the training of minorities and secondary school students in job skills associated with employment opportunities in the maritime industry, and report on progress and recommendations for further action to the President of the Senate and the Speaker of the House of Representatives annually.

(4) The council shall adopt rules for evaluating projects which may be funded under ss. 311.07 and 320.20. The rules shall provide criteria for evaluating the economic benefit of the project, measured by the potential for the proposed project to maintain or increase cargo flow, cruise passenger movement, international commerce, port revenues, and the number of jobs for the port's local community.

(5) The council shall review and approve or disapprove each project eligible to be funded pursuant to the Florida Seaport Transportation and Economic Development Program. The council shall annually submit to the Secretary of Transportation; the director of the Office of Tourism, Trade, and Economic Development; and the Secretary of Community Affairs a list of projects which have been approved by the council. The list shall specify the recommended funding level for each project; and, if staged implementation of the project is appropriate, the funding requirements for each stage shall be specified.

(6) The Department of Community Affairs shall review the list of projects approved by the council to determine consistency with approved local government comprehensive plans of the units of local government in which the port is located and consistency with the

port master plan. The Department of Community Affairs shall identify and notify the council of those projects which are not consistent, to the maximum extent feasible, with such comprehensive plans and port master plans.

(7) The Department of Transportation shall review the list of projects approved by the council for consistency with the Florida Transportation Plan and the department's adopted work program. In evaluating the consistency of a project, the department shall determine whether the transportation impact of the proposed project is adequately handled by existing state-owned transportation facilities or by the construction of additional state-owned transportation facilities as identified in the Florida Transportation Plan and the department's adopted work program. In reviewing for consistency a transportation facility project as defined in s. 334.03(31) which is not otherwise part of the department's work program, the department shall evaluate whether the project is needed to provide for projected movement of cargo or passengers from the port to a state transportation facility or local road. If the project is needed to provide for projected movement of cargo or passengers, the project shall be approved for consistency as a consideration to facilitate the economic development and growth of the state in a timely manner. The Department of Transportation shall identify those projects which are inconsistent with the Florida Transportation Plan and the adopted work program and shall notify the council of projects found to be inconsistent.

(8) The Office of Tourism, Trade, and Economic Development, in consultation with Enterprise Florida, Inc., shall review the list of projects approved by the council to evaluate the economic benefit of the project and to determine whether the project is consistent with the Florida Seaport Mission Plan. The Office of Tourism, Trade, and Economic Development shall review the economic benefits of each project based upon the rules adopted pursuant to subsection (4). The Office of Tourism, Trade, and Economic Development shall identify those projects which it has determined do not offer an economic benefit to the state or are not consistent with the Florida Seaport Mission Plan and shall notify the council of its findings.

(9) The council shall review the findings of the Department of Community Affairs; the Office of Tourism, Trade, and Economic Development; and the Department of Transportation. Projects found to be inconsistent pursuant to subsections (6), (7), and (8) and projects which have been determined not to offer an economic benefit to the state pursuant to subsection (8) shall not be included in the list of projects to be funded.

(10) The Department of Transportation shall include in its annual legislative budget request a Florida Seaport Transportation and Economic Development grant program for expenditure of funds of not less than \$8 million per year. Such budget shall include funding for projects approved by the council which have been determined by each agency to be consistent and which have been determined by the Office of Tourism, Trade, and Economic Development to be economically benefi-

cial. The council may submit to the department a list of approved projects that could be made production-ready within the next 2 years. The list shall be submitted as part of the needs and project list prepared pursuant to s. 339.135.

(11) The council shall meet at the call of its chairperson, at the request of a majority of its membership, or at such times as may be prescribed in its bylaws. However, the council must meet at least semi-annually. A majority of voting members of the council constitutes a quorum for the purpose of transacting the business of the council. All members of the council are voting members. A vote of the majority of the voting members present is sufficient for any action of the council, except that a member representing the Department of Transportation, the Department of Community Affairs, or the Office of Tourism, Trade, and Economic Development may vote to overrule any action of the council approving a project pursuant to subsection (5). The bylaws of the council may require a greater vote for a particular action.

(12) Members of the council shall serve without compensation but are entitled to receive reimbursement for per diem and travel expenses as provided in s. 112.061. The council may elect to provide an administrative staff to provide services to the council on matters relating to the Florida Seaport Transportation and Economic Development Program and the council. The cost for such administrative services shall be paid by all ports that receive funding from the Florida Seaport Transportation and Economic Development Program, based upon a pro rata formula measured by each recipient's share of the funds as compared to the total funds disbursed to all recipients during the year. The share of costs for administrative services shall be paid in its total amount by the recipient port upon execution by the port and the Department of Transportation of a joint participation agreement for each council-approved project, and such payment is in addition to the matching funds required to be paid by the recipient port. Except as otherwise exempted by law, all moneys derived from the Florida Seaport Transportation and Economic Development Program shall be expended in accordance with the provisions of s. 287.057. Seaports subject to competitive negotiation requirements of a local governing body shall be exempt from this requirement.

*History.—*s. 65, ch. 90-136; s. 26, ch. 90-227; s. 5, ch. 91-429; s. 56, ch. 93-120; s. 4, ch. 93-164; s. 4, ch. 93-262; s. 21, ch. 94-237; s. 87, ch. 95-143; s. 892, ch. 95-148; s. 10, ch. 95-257; s. 131, ch. 96-320; s. 71, ch. 99-385; s. 4, ch. 2000-266.

### **311.105 Florida Seaport Environmental Management Committee; permitting; mitigation.—**

(1)(a) There is created the Florida Seaport Environmental Management Committee, which shall be under the direction of the Florida Seaport Transportation and Economic Development Council.

(b) The committee shall consist of the following members: the Secretary of Environmental Protection, or his or her designee, as an ex officio, nonvoting member; a designee from the United States Army Corps of Engineers, as an ex officio, nonvoting member; a designee from the Florida Inland Navigation District, as an ex officio, nonvoting member; the Secretary of Community Affairs, or his or her designee, as an ex officio,

nonvoting member; and five or more port directors, as voting members, appointed to the committee by the council chair, who shall also designate one such member as committee chair.

(c) The committee shall meet at the call of the chair but must meet at least semiannually. A majority of the voting members constitutes a quorum for the purpose of transacting business of the committee, and a vote of the majority of the voting members present is required for official action by the committee.

(d) The committee shall provide a forum for discussion of environmental issues, including, but not limited to, those relating to maintenance dredging and dredged-material management; environmental mitigation; air and water quality permitting; and the maintenance of navigation channels, port harbors, turning basins, harbor berths, and associated facilities.

(e) The committee shall work closely with the Department of Environmental Protection, United States Army Corps of Engineers, and ports listed in s. 403.021(9)(b) to ensure that suitable dredged material is deposited on Florida's beaches to the extent the committee determines to be economically feasible and consistent with beach restoration and other beneficial uses criteria of the Department of Environmental Protection.

(2) Each application for a permit authorized pursuant to s. 403.061(37) must include:

(a) A description of maintenance dredging activities to be conducted and proposed methods of dredged-material management.

(b) A characterization of the materials to be dredged and the materials within dredged-material management sites.

(c) A description of dredged-material management sites and plans.

(d) A description of measures to be undertaken, including environmental compliance monitoring, to minimize adverse environmental effects of maintenance dredging and dredged-material management.

(e) Such scheduling information as is required to facilitate state supplementary funding of federal maintenance dredging and dredged-material management programs consistent with beach restoration criteria of the Department of Environmental Protection.

(3) Each application for a permit authorized pursuant to s. 403.061(38) must include the provisions of paragraphs (2)(b)-(e) and the following:

(a) A description of dredging and dredged-material management and other related activities associated with port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(b) A discussion of environmental mitigation as is proposed for dredging and dredged-material management for port development, including the expansion of navigation channels, dredged-material management sites, port harbors, turning basins, harbor berths, and associated facilities.

(4) Environmental mitigation is not required for dredging and dredged-material management for the maintenance of port harbors, navigation channels,

## Attachment A

Rule 9J-5.012, Coastal Management Element, F.A.C.

| Subsection      | Requirements Relating to Deepwater Ports   |
|-----------------|--|
| (2) (a)         | Inventory/analysis of existing land uses, including a discussion of conflicts among shoreline uses, water-dependent and water-related uses.  |
| (2) (b)         | Inventory/analysis of natural resources, including vegetative cover, coastal flooding, wildlife habitats, living marine resources.   |
| (2) (c)         | Impacts of proposed development and redevelopment on historic resources.   |
| (2) (d)         | Estuarine pollution conditions, and actions needed to maintain estuaries, including identification of known point and non-point source pollution problems; and identification of state, regional, and local regulatory programs to maintain environmental quality. |
| (2) (e) 1.      | Natural disaster planning concerns: Hurricane evacuation planning;   |
| (2) (e) 2.      | Natural disaster planning concerns: Post-disaster redevelopment;   |
| (2) (e) 3.      | Natural disaster planning concerns: Coastal high-hazard areas.   |
| (2) (f)         | Beach and dune systems.  |
| (2) (g)         | Public access facilities inventory.  |
| (2) (g)         | Capacity and need for public access facilities.  |
| (2) (h)         | Existing infrastructure inventory and analysis.  |
| (2) (h)         | Analysis of future infrastructure facility needs.  |
| (3) (a) (b) (c) | Master Plan Goals, Objectives, and Policies.   |
| (5) (b)         | Landside transportation needs to support the deepwater port.   |
| (5) (b)         | Maintenance of in-water facilities.  |
| (5) (b)         | Management of dredged material.  |
| (5) (b)         | Hazardous material handling and cleanup.   |
| (5) (b)         | Handling and cleanup of petroleum products.  |
| (5) (b)         | Location and boundary of port owned or administered lands.   |
| (5) (c)         | Goals, objectives and policies.  |
| (5) (d)         | Port maintenance and expansion plans.  |
| (5) (d)         | Impacts of port expansion and maintenance.   |

renourished at public expense; enforcing the public access requirements of the Coastal Zone Protection Act of 1985; and providing transportation or parking facilities for beach and shoreline access;

11. Historic resource protection, including historic site identification and establishing performance standards for development and sensitive reuse of historic resources;

12. The orderly development and use of deepwater ports, if applicable, including how the local government shall cooperate with the deepwater port to resolve problems in transportation, land use, natural and man-made hazards, and protection of natural resources. Include a procedure to resolve inconsistencies between the local government comprehensive plan and the deepwater port master plan through the dispute resolution process as provided under s. 186.509, Florida Statutes, which is to be utilized in the event the local government and a deepwater port are unable to resolve the inconsistencies;

13. Ensuring that required infrastructure is available to serve the development or redevelopment in the coastal planning area at the densities proposed by the future land use plan, consistent with coastal resource protection and safe evacuation, by assuring that funding for infrastructure will be phased to coincide with the demands generated by development or redevelopment;

14. Protecting estuaries which are within the jurisdiction of more than one local government, including methods for coordinating with other local governments to ensure adequate sites for water-dependent uses, prevent estuarine pollution, control surface water runoff, protect living marine resources, reduce exposure to natural hazards, and ensure public access; and

15. Demonstrating how the local government will coordinate with existing resource protection plans such as resource planning and management plans, aquatic preserve management plans, and estuarine sanctuary plans.

(4) Local governments within the coastal area that participate in a countywide marina siting plan shall include the marina siting plan as part of this element.

(5) Port Master Plans for Deepwater Ports. A port master plan shall be prepared by or for each deepwater port for the purposes of coordinating the activities of the port

with the plans of the appropriate local government; determination of compliance does not imply conceptual approval by the State for permitting purposes.

(a) Deepwater ports shall prepare a port master plan and submit it to the appropriate local government for incorporation as a part of the coastal management element at least six months prior to the due date of the local government's comprehensive plan established pursuant to law. This port master plan shall be incorporated as a part of the coastal management element, and be consistent with the goals, objectives, and policies of the coastal management element. The port master plan of a deepwater port, as it appears in the coastal management element, shall be reviewed for compliance with the criteria below. Failure of a deepwater port which is not a part of the local government to submit a deepwater port master plan shall not cause the local government to be subject to the sanctions in Sections 163.3184 or 163.3167, Florida Statutes, nor cause the regional planning council to prepare the missing port master plan. In this case the deepwater port shall not have its in-water facilities exempted from the provisions of Section 380.06, Florida Statutes, and the port shall be subject to the sanctions in Sections 163.3184 and 163.3167, Florida Statutes. The failure of a deepwater port which is an agency of a local government to prepare a deepwater port master plan may result in the sanctions in Section 163.3184, Florida Statutes, being applied and the missing deepwater port master plan being prepared by the regional planning council. Regardless of whether a deepwater port has prepared a port master plan, any port development shall be consistent with the goals, objectives and policies of the coastal management element of the jurisdiction in which the development occurs.

(b) Inventories and Analyses. The deepwater port shall prepare all applicable inventories and analyses listed in Subsection (2) for the areas they own or administer. Furthermore, the deepwater port shall inventory and analyze: landside transportation needed to support the deepwater port, in-water facilities, maintenance of in-water facilities, management of dredged material, hazardous material handling and cleanup, and handling and cleanup of petroleum products. In addition, the deepwater port shall prepare a map showing the location and boundaries of port owned or administered lands.

(c) Goals, Objectives, and Policies. The deepwater port shall develop goals, objectives, and policies to address the applicable issues listed in Subsection (3). The goals, objectives, and policies shall be con-

sistent with the goals adopted in the remainder of the coastal management element.

(d) Port Maintenance and Expansion. The deepwater port shall set forth its plans for future port expansion for an initial five-year period and in-water facility maintenance for at least a ten-year period, and these plans shall show the economic assumptions used, the foreseeable changes in shipping technologies and port operations, the estimates of types and volumes of commodities to be handled, the needed expansions to in-water and on-land facilities, and the infrastructure required. The plan shall set forth requirements for maintaining in-water facilities and for the management of dredged material from both maintenance and expansion. The plan shall assess the impact of port expansion and maintenance on wetlands, beaches and dunes, submerged lands, floodplains, wildlife habitat, living marine resources, water quality, water quantity, public access, historic resources, and the land use and infrastructure of adjacent areas.

(e) Port Master Plan Integration into the Coastal Management Element. If a port master plan is prepared by a deepwater port, then the appropriate local government shall include the port master plan's goals, objectives, and policies and port maintenance and expansion sections in the coastal management element of its comprehensive plan. The data and analyses shall be summarized as required in Subsection 9J-5.012(2), and shall be submitted in support of the comprehensive plan.

*Specific Authority 163.3177(9), (10) FS.*

*Law Implemented 163.3177(1), (5), (6)(g), (8), (9), (10), 163.3178 FS.*

*History—New 3-6-86, Amended 10-20-86, 3-23-94.*

### 9J-5.013 Conservation Element.

The purpose of the conservation element is to promote the conservation, use and protection of natural resources.

(1) Conservation Data and Analysis Requirements. The element shall be based upon the following data and analyses requirements pursuant to Subsection 9J-5.005(2).

(a) The following natural resources, where present within the local government's boundaries, shall be identified and analyzed:

1. Rivers, bays, lakes, wetlands including estuarine marshes, groundwaters and air, including information on quality of the resource avail-

able from and classified by the Florida Department of Environmental Regulation:

2. Floodplains;
3. Known sources of commercially valuable minerals;
4. Areas known by the local soil and water conservation district to have experienced soil erosion problems; and
5. Areas which are the location of recreationally and commercially important fish or shellfish, wildlife, marine habitats, and vegetative communities including forests, indicating known dominant species present and species listed by federal, state, or local government agencies as endangered, threatened or species of special concern.

(b) For each of the above natural resources, existing commercial, recreational or conservation uses, known pollution problems including hazardous wastes and the potential for conservation, use or protection shall be identified.

(c) Current and projected water needs and sources for the next ten-year period based on the demands for industrial, agricultural, and potable water use and the quality and quantity of water available to meet these demands shall be analyzed. The analysis shall consider existing levels of water conservation, use and protection and applicable policies of the regional water management district.

(2) Requirements for Conservation Goals, Objectives and Policies.

(a) The element shall contain one or more goal statements which establish the long-term end toward which conservation programs and activities are ultimately directed.

(b) The element shall contain one or more specific objectives for each goal statement which address the requirements of Paragraph 163.3177(6)(d), Florida Statutes, and which:

1. Protect air quality;
2. Conserve, appropriately use and protect the quality and quantity of current and projected water sources and waters that flow into estuarine waters or oceanic waters;