WES-01 BEACH RESTORATION EASEMENTS
STAFF ANALYSIS

PROPOSAL INFORMATION			
SUBMITTING COUNTY:	Flagler		
SPONSOR CONTACT:	Andy Dance, Commissioner; adance@flaglercounty.gov; 386-627-5600		
FAC COMMITTEE:	WES	**CROSS-CLAIMS:**	CUA
FAC STAFF:	Peter Abello	**DATE:**	October 19th, 2026

This staff analysis is based on the proposal as submitted and does not reflect an adopted position of the Florida Association of Counties.

POLICY PROPOSAL:

FAC SUPPORTS legislation to ensure limited construction activities on private property can proceed without a temporary construction easement for beach and dune construction projects when a private property owner cannot be contacted in order to reduce project delays, prevent gaps in shoreline protection systems, and strengthen coastal resilience statewide.

I. SUMMARY:

Flagler County asks FAC to support legislation allowing limited beach and dune construction activities to proceed on private property without a temporary construction easement when the property owner cannot be contacted. The goal is to reduce project delays, prevent gaps in shoreline protection, and strengthen coastal resilience statewide. A county would send formal notice, allow a set response period, and publish notice in a local newspaper. If the owner objects, the county would follow the normal process. If no response is received, the county would hold a hearing to determine the value of the easement, post a bond for damage claims, and perform only the limited work needed to complete the project. The approach would not treat silence as consent or create permanent public access, and it would preserve the owner's right to seek compensation if damages exceed the special benefits to the property.

II. PRESENT SITUATION:

Under current law, chapter 161, F.S., governs beach and shore preservation in Florida. When a beach restoration project is undertaken, an erosion control line is set. Land seaward of that line becomes state sovereignty land, while upland owners keep their common-law riparian rights (ss. 161.141 and 161.161, F.S.). The U.S. Supreme Court upheld this framework against a takings challenge in Stop the Beach

Renourishment, Inc. v. Florida Department of Environmental Protection, 560 U.S. 702 (2010).

That framework does not cover work on the private side of the line. When a project needs to place sand or build dunes on private upland property, the county must first obtain the owner's agreement, usually through a temporary construction or storm protection easement. Without it, the county has two choices. It can acquire the easement through eminent domain and pay full compensation, as Art. X, s. 6, Fla. Const., requires, or it can skip the property and leave a gap in the project, which significantly weakens flood protection for that parcel and the area around it.

Some owners refuse to sign an easement. Others cannot be reached because their property is tied up in probate, they cannot be located, or they never respond. Current law makes no distinction between these cases. An owner who does not respond is treated the same as one who refuses, and the county must either pursue eminent domain or skip the property. Because these projects protect critically eroded areas and are time-sensitive, the resulting delays can lead to catastrophic damage if a storm strikes before construction is complete. No statute currently addresses these limited circumstances.

III. EFFECT OF THE PROPOSAL:

The proposal would create a limited process allowing beach and dune construction to proceed on private property when the owner cannot be located or does not respond. The sponsor is developing this narrower approach, which would amend chapter 161, F.S., and statutory language is being drafted with coastal stakeholders and the county attorney.

Under the approach, the county would first send formal notice to the owner and allow a set response period, such as 60 days. If the owner objects, the county would stop and follow the normal easement process. If no response is received, the county would hold a hearing, determine the value of the easement using statutory guidelines, make findings, and notify the owner that work is scheduled. The county would also publish an estimated construction timetable in a newspaper of general circulation in the area, with specific language directed to nonresponsive owners. Before beginning, the county would post a good-faith bond for damage claims and then perform only the limited work needed to complete the project.

The process would include several protections for property owners. It would not treat silence as consent, would not create permanent public access, and would preserve the owner's right to seek compensation if damages exceed the value of the special benefits the parcel receives from the project.

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IV. COUNTY IMPACT:

This proposal would give counties a way to complete beach and dune projects without leaving gaps where property owners cannot be located or do not respond. Today, those properties force a county to either pursue eminent domain, adding time and cost to a time-sensitive project, or skip the parcel and accept weaker flood protection for that property and the area around it. Under the proposal, a county could instead follow a defined notice, hearing, and bonding process and proceed with only the limited work needed to finish the project. This would help counties keep shoreline protection continuous, reduce project delays, and lower the risk that a storm strikes a critically eroded area before construction is complete.

Counties choosing to use the process would need to send formal notice, allow a set response period, hold a hearing to determine the value of the easement, publish an estimated construction timetable in a local newspaper, and post a good-faith bond before beginning work. If an owner objects, the county would follow the normal easement process, and the proposal would not change how counties handle owners who refuse to sign. Owners would keep the right to seek compensation if damages exceed the special benefits to their property, so counties should be prepared for those claims.

Protective of Home Rule: Yes.

V. FISCAL IMPACT:

- No Revenue Estimating Conference estimate exists.

Unfunded Mandate (Art. VII, s. 18, Fla. Const.): No.

VI. LEGISLATIVE & FAC HISTORY:

- 2025: CS/SB 1622 (Trumbull), ch. 2025-178, Beaches, passed the Senate 35-2 and the House unanimously.
- 2026: the prior FAC statement did not advance in the Legislature.
- Past FAC statements: 2026 cycle—Beach Renourishment and Shoreline Protection (Flagler County), which the WES Policy Committee recommended for adoption.
- Guiding Principles coverage: Water and Environmental Sustainability
- BoCC action: No action.

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