

**INDIAN RIVER COUNTY, FLORIDA
MEMORANDUM**

TO: Jason E. Brown, County Administrator
FROM: Richard B. Szyrka, P.E., Public Works Director
SUBJECT: Senate Bill 804 and House Bill 631
DATE: January 22, 2018

DESCRIPTION AND CONDITIONS

Currently there are two Bills proposed in the 2018 Legislative session the preempt counties from adopting or enforcing any ordinance or regulation that purports to establish a common law customary use of property.

What does this mean.....

In brief, what is at issue is the public right to use the soft sand beach that is privately owned. This right of use is the means to access when the public does not own the soft sand beach or has not acquired an easement by plat or other conveyance. Without a customary right, the public can be restricted to sovereign owned land, the so-called wet sand beach, or prevented from accessing that sovereign land.

What has occurred in a few communities is that private property owners have erected barriers that extend along their property line (toward the beach) where the public has customarily traversed. The language added to **SB 804** and **HB 631** would preclude counties from establishing customary use ordinances that allow the public access to these areas.

Why is this a potential issue?

- Beaches provide economic development and tourism and provide critical nesting habitat to protected sea turtles. The County partners with the State of Florida on various beach projects using all taxpayer funds.
 - The Florida judicial branch has already determined that the Customary Use Doctrine requires court to make a determination in certain circumstances. This legislation would require the court to make a determination in every circumstance.
 - Beach Nourishment and State funding could greatly be impacted by this legislation if the public is restricted public access.

The County Attorney and Public Works staff have prepared a letter opposing this legislation for Board discussion and consideration.

FUNDING

Funding is not necessary for this item.

RECOMMENDATION

Staff recommends that the Board approve and authorize the Chairman to sign the letter on behalf of the County.

DISTRIBUTION

APPROVED AGENDA ITEM FOR JANUARY 23, 2018