

Agriculture & Natural Resources Subcommittee

**Tuesday, February 02, 2016
10:30 AM
Reed Hall (102 HOB)**

Meeting Packet

**Steve Crisafulli
Speaker**

**Tom Goodson
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, February 02, 2016 10:30 am
End Date and Time: Tuesday, February 02, 2016 12:30 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 359 Sale of Surplus Lands by Porter
HB 773 Special Assessments on Agricultural Lands by Albritton
HB 795 Dredge and Fill Activities by Edwards
HB 987 Solid Waste Management by Drake
HB 1227 Crustaceans by Raschein
HB 1273 Manatees by Ahern

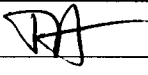
Consideration of the following proposed committee substitute(s):

PCS for HB 271 -- Florida Agricultural and Mechanical University Industrial Hemp Program

NOTICE FINALIZED on 01/29/2016 4:27PM by Love.John

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 359 Sale of Surplus Lands
SPONSOR(S): Porter and others
TIED BILLS: IDEN./SIM. BILLS:

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Gregory	Harrington 
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A water management district (WMD) may acquire, own, manage, and dispose of real property in its own name to further its goals and mission. When selling land, a WMD must follow the procedures set forth in ss. 373.056 and 373.089, F.S.

The bill makes several changes to the surplus procedures for WMDs to create efficiencies in the process. Specifically the bill:

- Extends the time a WMD may use appraisals from 120 to 360 days from the effective date of the contract for sale;
- Extends the time a WMD must publish in a newspaper notice of its intent to sell surplus land from no more than 45 days to no more than 360 days before the sale of the surplus land;
- Authorizes a WMD to sell lands acquired with Florida Forever funds without offering the land to the Board of Trustees of the Internal Improvement Trust Fund first if the land acquisition was determined to be surplus at the time of acquisition; and
- Authorizes a WMDs to sell surplus lands valued at \$25,000 or less:
 - By only publishing notice of intent once in a newspaper, publishing notice of intent on the WMD's website, and providing notice to the neighboring property owners by certified mail;
 - To neighboring property owners within 14 days of publication of notice. If two or more neighboring owners exist, the WMD may accept sealed bids and sell to the highest bidder. This gives property owners who neighbor surplus WMD lands valued at \$25,000 or less the opportunity to purchase the property before the rest of the public;
 - Within 30 days of publication of notice by accepting sealed bids and selling the property to the highest bidder; and
 - To restrict future use of the property as a condition of the sale.

The bill may have an indeterminate positive fiscal impact on state and local governments.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Nature and Extent of Water Management District Lands

A water management district (WMD) may acquire real property for flood control; water storage; water management; conservation and protection of water resources; aquifer recharge; water resource and water supply development; and preservation of wetlands, streams, and lakes.¹ Further, a WMD may accept real property from state and local governments when it is in the public interest and for public convenience and welfare, for the public benefit, necessary for carrying out the works or improvement of any WMD for the protection of property and the inhabitants in the WMD against the effects of water, and for assisting the WMD to acquire land at least public expense.² Unlike most state lands, these lands are held and conveyed in the name of the WMD, not the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).³

The five WMDs own approximately 2,441,013 acres of land.⁴ Approximately 1,710,894 acres are held in fee simple, while 730,260 acres are held in conservation easements.⁵ In addition to the purposes described above, WMDs manage their lands for recreation, camping, trial use, hunting, and revenue generation.⁶ Lands held by WMDs are not subject to taxes or special assessments so long as the title or rights remain held by the WMD.⁷

Sale of WMD Lands

WMD lands determined by the governing board to be surplus may be sold at any time by the WMD.⁸ If a WMD decides to sell its real property, or interest therein, it must follow the procedures in ss. 373.056 or 373.089, F.S.⁹ These lands must be sold at the highest price obtainable, but not less than the appraised value of the land determined by a certified appraiser 120 days before the sale.¹⁰ Such sales must be in cash and on the terms set by the governing board of the WMD.¹¹ The WMD must publish notice of its intent to sell the land in a newspaper in the county where the land is located.¹² The notice of intent must be published three times for three successive weeks at least 30 days, and not more than 45 days, before any sale.¹³ The notice of intent must describe the land to be sold or the interest or rights to be sold.¹⁴

¹ Section 373.139(2), F.S.

² Section 373.056(1)(a), F.S. State and local governments may require WMDs to return the land if the WMD ceases to use the land for the purposes described above. Section 373.056(2), F.S.

³ Section 373.099, F.S.

⁴ DEP and WMD Presentation on Management of State-Owned Lands, Agriculture and Natural Resources Subcommittee, October 21, 2015, available at:

<http://myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2852&Session=2016&DocumentType=Meeting%20Packets&FileName=anrs%2010-21-15.pdf>.

⁵ Id.

⁶ Id.

⁷ Section 373.056(5) and (6), F.S.

⁸ Section 373.089(1), F.S.

⁹ Section 373.139(6), F.S.

¹⁰ Section 373.089(1), F.S.

¹¹ Section 373.089(2), F.S.

¹² Section 373.089(3), F.S.

¹³ Id.

¹⁴ Id.

Public and private entities may request that WMD lands which are not essential or necessary to meet conservation purposes be made available for purchase when:

- The land is located in a county with a population of 75,000 or fewer or within a county with a population of 100,000 or fewer that is contiguous to a county with a population of 75,000 or fewer; and
- More than 50 percent of the lands within the county boundary are federal lands and lands titled in the name of the state, a state agency, a WMD, or a local government.¹⁵

When such a request is made, and the lands are determined to be surplus, priority consideration must be given to public or private buyers who are willing to return the property to productive use so long as the property can be reentered onto the county ad valorem tax roll.¹⁶

When deciding whether to sell lands designated as acquired for conservation purposes, the governing board of the WMD must determine by a two-thirds vote that the land is no longer needed for conservation purposes.¹⁷ For all other lands, the governing board of the WMD must determine by a majority vote that the land is no longer needed.¹⁸

Prior to selling land, a WMD must first offer title to lands acquired in whole or in part with Florida Forever funds to the Board of Trustees unless:

- The land will be used for linear facilities, including electric transmission and distribution facilities, telecommunication transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances;
- The WMD will sell the fee interest in the land and retain a conservation easement to fulfill the conservation objectives for which the land was acquired;
- The land will be exchanged for other lands that meet or exceed the conservation objectives for which the original land was acquired; or
- The land will be used by a governmental entity for a public purpose.¹⁹

If the Board of Trustees declines to accept title to the land, the land may be disposed of by the WMD.²⁰

Effect of Proposed Changes

The bill makes several changes to the surplus procedures for WMDs, specifically the bill:

- Extends the time WMDs may use appraisals to determine the lowest acceptable sale price for surplus lands from 120 to 360 days from the effective date of the contract for sale, by amending subsection 373.089(1), F.S.;
- Extends the time a WMD must publish notice of its intent to sell surplus land from no more than 45 days to no more than 360 days before the sale of the surplus land by amending subsection 373.089(3), F.S. Notice must still be published 3 times in a newspaper and at least 30 days before the sale;
- Authorizes WMDs to sell lands acquired with Florida Forever funds without first offering the land to the Board of Trustees if a portion of the land acquisition was determined to be surplus at the time of acquisition by creating paragraph 373.089(7)(e), F.S.;
- Authorizes a WMD to sell property valued at \$25,000 or less notwithstanding the rest of the provisions of s. 373.089, F.S., by creating subsection 373.089(8), F.S. Thus, it appears that the bill may authorize a WMD to sell land without following the appraisal and notice procedures or from offering land purchased with Florida Forever Funds to the Board of Trustees; and
- Authorizes a WMD to sell surplus lands valued at \$25,000 or less:

¹⁵ Section 373.089(5), F.S.

¹⁶ Id.

¹⁷ Section 373.089(6)(a), F.S.

¹⁸ Section 373.089(6)(b), F.S.

¹⁹ Section 373.089(7), F.S.

²⁰ Id.

- By only publishing notice of intent once in a newspaper (rather than three times), publishing notice of intent on the WMD's website, and providing notice to the neighboring property owners by certified mail by creating paragraph 373.089(8)(a), F.S.;
- To sell to neighboring property owners within 14 days of publication of notice by creating paragraph 373.089(8)(b), F.S. If two or more neighboring owners exist, the WMD may accept sealed bids and sell to the highest bidder. This gives property owners who neighbor surplus WMD lands valued at \$25,000 or less the opportunity to purchase the property before the rest of the public;
- Within 30 days of publication of notice by accepting sealed bids and selling the property to the highest bidder by creating 373.089(8)(c), F.S.; and
- To restrict future use of the property as a condition of sale by creating paragraph 373.089(8)(d), F.S.

B. SECTION DIRECTORY:

- Section 1.** Amends s. 373.089, F.S., relating to WMDs selling or exchanging lands, or the interests or rights in land.
- Section 2.** Reenacts s. 373.139, F.S., relating to WMDs acquisition of real property.
- Section 3.** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on WMDs by allowing more time for potential purchasers to perform due diligence on surplus WMD property. Thus, potential purchasers may increase their purchase price because there will likely be less unknown issues about the property at the time of purchase.

2. Expenditures:

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to use older appraisals to establish the lowest acceptable sale price for surplus lands rather than requiring WMDs to acquire new appraisals after 120 days.

The bill may have an indeterminate positive fiscal impact on WMDs by allowing them to publish notice of their intent to sell surplus lands no more than 360 days in advance as opposed to no more than 45 days in advance. Thus, WMDs will not have to publish a new notice of intent and extend the date of closing if closing extends beyond 45 days from the date of publication.

The bill may have an indeterminate positive fiscal impact on WMDs selling surplus lands valued at \$25,000 or less by only requiring them to publish notice of intent once, rather than three times, in the newspaper.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Lands owned by a WMD are exempt from taxes and special assessments.²¹ The bill may have an indeterminate positive fiscal impact in local governments if WMDs are able to more efficiently sell their surplus property to owners who may be taxed by local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate positive fiscal impact on property owners neighboring surplus WMD lands valued at \$25,000 or less by providing them with the first opportunity to buy the property before the general public has an opportunity to competitively bid for the land.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Drafting Issues: Priority Consideration

The requirement that land valued at \$25,000 or less must first be offered to neighboring property owners may conflict with the requirement to offer land purchased with Florida Forever funds to the Boards of Trustees if such lands were bought with those funds.

In addition, the bill provides that within 14 days of publication of the WMD's notice of intent to sell land, the WMD may sell the parcel to adjacent property owners, or accept sealed bids when there are two or more adjacent property owners. But the bill also provides that within 30 days of the notice, the WMD must accept sealed offers and may sell directly to the highest bidder. It is unclear whether the WMD must first consider bids from adjacent property owners or whether the WMD must accept the highest bidder, regardless of whether the bidder is an adjacent property owner.

²¹ Section 373.056(5) and (6), F.S.
STORAGE NAME: h0359.ANRS.DOCX
DATE: 1/29/2016

Drafting Issues: Timing of Sale

The bill requires a WMD to notice its intent to sell property valued at \$25,000 or less once in the newspaper, on the WMD's website, and by certified mail. Within 14 days of such notice, the WMD may sell the parcel to an adjacent owner; however, the provision may create difficulty when counting the days because these notices may occur on separate days.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the sale of surplus lands; amending
 3 s. 373.089, F.S.; extending the time within which a
 4 certified appraisal may be obtained for lands to be
 5 sold as surplus; revising the procedures that a water
 6 management district must follow for publishing a
 7 notice of intention to sell surplus lands; authorizing
 8 the governing board of a water management district to
 9 sell certain lands acquired with Florida Forever funds
 10 without first offering title to the lands to the Board
 11 of Trustees of the Internal Improvement Trust Fund;
 12 authorizing the governing board of a water management
 13 district to sell parcels of land no longer needed for
 14 conservation purposes and valued at or below a
 15 specified threshold as surplus; requiring certain
 16 notice before the sale of such parcels; providing
 17 procedures for the sale of such parcels; authorizing a
 18 restriction on future use as a condition of such sale;
 19 reenacting s. 373.139(6), F.S., relating to the
 20 disposition of certain lands acquired by a water
 21 management district, to incorporate the amendment made
 22 by the act to s. 373.089, F.S., in a reference
 23 thereto; providing an effective date.

24
 25 Be It Enacted by the Legislature of the State of Florida:
 26

27 Section 1. Subsections (1) and (3) of section 373.089,
 28 Florida Statutes, are amended, paragraph (e) is added to
 29 subsection (7), and subsection (8) is added to that section, to
 30 read:

31 373.089 Sale or exchange of lands, or interests or rights
 32 in lands.—The governing board of the district may sell lands, or
 33 interests or rights in lands, to which the district has acquired
 34 title or to which it may hereafter acquire title in the
 35 following manner:

36 (1) Any lands, or interests or rights in lands, determined
 37 by the governing board to be surplus may be sold by the
 38 district, at any time, for the highest price obtainable;
 39 however, in no case shall the selling price be less than the
 40 appraised value of the lands, or interests or rights in lands,
 41 as determined by a certified appraisal obtained within 360 ~~120~~
 42 days before the effective date of the contract for sale.

43 (3) Before selling any surplus land, or interests or
 44 rights in land, ~~it shall be the duty of the district~~ shall
 45 publish ~~to cause~~ a notice of intention to sell ~~to be published~~
 46 in a newspaper published in the county in which the land, or
 47 interests or rights in the land, is situated once each week for
 48 3 successive weeks. ~~(three insertions being sufficient)~~, The
 49 first publication of the required notice must occur at least
 50 ~~which shall be not less than~~ 30 days, but not ~~nor~~ more than 360
 51 ~~45 days,~~ before ~~prior to~~ any sale and must include, ~~which notice~~
 52 ~~shall set forth~~ a description of lands, or interests or rights

53 | in lands, to be offered for sale.

54 | (7) Notwithstanding other provisions of this section, the
 55 | governing board shall first offer title to lands acquired in
 56 | whole or in part with Florida Forever funds which are determined
 57 | to be no longer needed for conservation purposes to the Board of
 58 | Trustees of the Internal Improvement Trust Fund unless the
 59 | disposition of those lands is for the following purposes:

60 | (e) The portion of a land acquisition determined to be
 61 | surplus at the time of acquisition.

62 | (8)(a) Notwithstanding other provisions of this section,
 63 | if a parcel of land is no longer needed for conservation
 64 | purposes and is valued at \$25,000 or less as determined by a
 65 | certified appraisal obtained within 360 days before the
 66 | effective date of the contract for sale, the governing board may
 67 | sell the parcel as surplus. The governing board shall publish a
 68 | notice of intention to sell required under subsection (3) only
 69 | once. The notice shall be posted on the district's website and
 70 | provided to adjacent property owners by certified mail.

71 | (b) Within 14 days after the notice under paragraph (a),
 72 | the district may sell the parcel to an adjacent property owner
 73 | or, if there are two or more adjacent property owners, accept
 74 | sealed offers for the parcel and sell the parcel directly to the
 75 | highest bidder or reject all offers.

76 | (c) Within 30 days after the notice under paragraph (a),
 77 | the district shall accept sealed offers for the parcel and may
 78 | sell the parcel directly to the highest bidder or reject all

79 offers.

80 (d) The district may include a restriction on the future
 81 use of the parcel as a condition of the sale.

82
 83 In the event the Board of Trustees of the Internal Improvement
 84 Trust Fund declines to accept title to the lands offered under
 85 this section, the land may be disposed of by the district under
 86 the provisions of this section.

87 Section 2. For the purpose of incorporating the amendment
 88 made by this act to section 373.089, Florida Statutes, in a
 89 reference thereto, subsection (6) of section 373.139, Florida
 90 Statutes, is reenacted to read:

91 373.139 Acquisition of real property.—

92 (6) A district may dispose of land acquired under this
 93 section pursuant to s. 373.056 or s. 373.089. However, no such
 94 disposition of land shall be made if it would have the effect of
 95 causing all or any portion of the interest on any revenue bonds
 96 issued pursuant to s. 259.101 or s. 259.105 to fund the
 97 acquisition programs detailed in this section to lose the
 98 exclusion from gross income for purposes of federal income
 99 taxation. Revenue derived from such disposition may not be used
 100 for any purpose except the purchase of other lands meeting the
 101 criteria specified in this section or payment of debt service on
 102 revenue bonds or notes issued under s. 373.584.

103 Section 3. This act shall take effect July 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	_____	(Y/N)
ADOPTED AS AMENDED	_____	(Y/N)
ADOPTED W/O OBJECTION	_____	(Y/N)
FAILED TO ADOPT	_____	(Y/N)
WITHDRAWN	_____	(Y/N)
OTHER		

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Porter offered the following:

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:
7 Section 1. Subsections (1), (3), and (7) of section
8 373.089, Florida Statutes, are amended, and subsection (8) is
9 added to that section, to read:

10 373.089 Sale or exchange of lands, or interests or rights
11 in lands.—The governing board of the district may sell lands, or
12 interests or rights in lands, to which the district has acquired
13 title or to which it may hereafter acquire title in the
14 following manner:

15 (1) Any lands, or interests or rights in lands, determined
16 by the governing board to be surplus may be sold by the
17 district, at any time, for the highest price obtainable;



Amendment No.

18 however, in no case shall the selling price be less than the
19 appraised value of the lands, or interests or rights in lands,
20 as determined by a certified appraisal obtained within 360 ~~120~~
21 days before the effective date of a contract for sale.

22 (3) Before selling any surplus land, or interests or
23 rights in land, it shall be the duty of the district to cause a
24 notice of intention to sell to be published in a newspaper
25 published in the county in which the land, or interests or
26 rights in the land, is situated once each week for 3 successive
27 weeks, ~~(three insertions being sufficient.)~~, The first
28 publication of the required notice must occur at least ~~which~~
29 ~~shall be not less than 30 days, but not~~ ~~nor~~ more than 360 ~~45~~
30 days, before ~~prior to~~ any sale and must include, ~~which notice~~
31 ~~shall set forth~~ a description of lands, or interests or rights
32 in lands, to be offered for sale.

33 (7) Notwithstanding other provisions of this section, the
34 governing board shall first offer title to lands acquired in
35 whole or in part with Florida Forever funds which are determined
36 to be no longer needed for conservation purposes to the Board of
37 Trustees of the Internal Improvement Trust Fund unless the
38 disposition of those lands is for the following purposes:

39 (a) Linear facilities, including electric transmission and
40 distribution facilities, telecommunication transmission and
41 distribution facilities, pipeline transmission and distribution
42 facilities, public transportation corridors, and related
43 appurtenances.



Amendment No.

44 (b) The disposition of the fee interest in the land where
45 a conservation easement is retained by the district to fulfill
46 the conservation objectives for which the land was acquired.

47 (c) An exchange of the land for other lands that meet or
48 exceed the conservation objectives for which the original land
49 was acquired in accordance with subsection (4).

50 (d) To be used by a governmental entity for a public
51 purpose.

52 (e) The portion of an overall purchase deemed surplus at
53 the time of acquisition.

54
55 ~~If In the event~~ the Board of Trustees of the Internal
56 Improvement Trust Fund declines to accept title to the lands
57 offered under this section, the land may be disposed of by the
58 district under the provisions of this section.

59 (8) If a parcel of land is no longer essential or necessary
60 for conservation purposes and is valued at \$25,000 or less as
61 determined by a certified appraisal obtained within 360 days
62 before the effective date of the contract for sale, the
63 governing board may determine that the parcel of land is
64 surplus. The notice of intention to sell shall be published as
65 required under subsection (3), one time only. The governing
66 board shall send the notice of intention to sell the parcel to
67 adjacent property owners by certified mail and publish the
68 notice on its website.



Amendment No.

69 (a) Fourteen days after publication of such notice, the
70 district may sell the parcel to an adjacent property owner, or
71 if there are two or more owners of adjacent property, accept
72 sealed bids and sell the parcel to the highest bidder or reject
73 all offers.

74 (b) Thirty days after publication of such notice, the
75 district shall accept sealed bids and may sell the parcel to the
76 highest bidder or reject all offers.

77 Section 2. For the purpose of incorporating the amendment
78 made by this act to section 373.089, Florida Statutes, in a
79 reference thereto, subsection (6) of section 373.139, Florida
80 Statutes, is reenacted to read:

81 373.139 Acquisition of real property.-

82 (6) A district may dispose of land acquired under this
83 section pursuant to s. 373.056 or s. 373.089. However, no such
84 disposition of land shall be made if it would have the effect of
85 causing all or any portion of the interest on any revenue bonds
86 issued pursuant to s. 259.101 or s. 259.105 to fund the
87 acquisition programs detailed in this section to lose the
88 exclusion from gross income for purposes of federal income
89 taxation. Revenue derived from such disposition may not be used
90 for any purpose except the purchase of other lands meeting the
91 criteria specified in this section or payment of debt service on
92 revenue bonds or notes issued under s. 373.584.

93 Section 3. This act shall take effect July 1, 2016.

94



Amendment No.

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T I T L E A M E N D M E N T

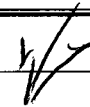

Remove everything before the enacting clause and insert:
An act relating to the sale or exchange of lands; amending s.
373.089, F.S.; extending the timeframe within which a certified
appraisal may be obtained for parcels of land to be sold as
surplus; revising the procedures a water management district
must follow for publishing a notice of intention to sell surplus
lands; providing an exception from such notice requirements if a
parcel of land is valued below a certain threshold; authorizing
such parcels to be sold directly to the highest bidder;
reenacting s. 373.139(6), F.S., relating to the disposition of
certain lands acquired by a water management district, to
incorporate the amendment made by the act to s. 373.089, F.S.,
in a reference thereto; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 773 Special Assessments on Agricultural Lands

SPONSOR(S): Albritton

TIED BILLS: **IDEN./SIM. BILLS:** SB 1664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Gregory 	Harrington 
2) Finance & Tax Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A special assessment is a compulsory assessment that confers a specific benefit upon the land burdened by the assessment and is reasonably apportioned among those who must pay the assessment. Special assessments are not taxes. Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities.

Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments for other uses.

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying or collecting a special assessment for the provision of fire protection on lands classified as agricultural under Florida's greenbelt law.

The bill will have a negative fiscal impact on local governments by eliminating the ability of counties and municipalities to collect special assessments for fire protection on lands classified as agricultural.

This bill may be a county or municipality mandate requiring a two-thirds vote of the membership of the House. See Section III.A.1 of the analysis.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Agricultural Land Classification

Section 193.461, F.S., also known as Florida's "greenbelt law" allows properties classified as a bona fide agricultural operation to be taxed according to the "use" value of the agricultural operation, rather than the development value. Generally, ad valorem tax assessments for qualifying lands are lower than tax assessments for other uses.

Revenue Sources Based on Home Rule Authority

Florida provides local governments with expansive home rule powers. Given these powers, local governments may impose proprietary fees, regulatory fees, and special assessments to pay the cost of providing a facility or service or regulating an activity. The validity of these fees and assessments depends on the context of requirements established in Florida case law.¹

Special Assessments

While similar, legally imposed special assessments are not taxes. The Florida Supreme Court explained:

Taxes and special assessments are distinguishable in that, while both are mandatory, there is no requirement that taxes provide any specific benefit to the property; instead, they may be levied throughout the particular taxing unit for the general benefit of residents and property. On the other hand, special assessments must confer a specific benefit upon the land burdened by the assessment.²

Counties and municipalities utilize special assessments as a home rule revenue source to fund certain services and to construct and maintain capital facilities. Section 125.01(1)(r), F.S., authorizes the levy of special assessments for county government. Chapter 170, F.S., authorizes the levy of special assessments for municipal governments. Special districts derive their authority to levy special assessments through general law or special act creating the district.³

Case law established two requirements for the imposition of a valid special assessment:

- 1) Property assessed must derive a special benefit from the improvement or service provided; and
- 2) The assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.⁴

To determine whether a special assessment confers a special benefit on property, local governments must evaluate whether there is a "logical relationship" between the services provided and the benefit to real property.⁵ Many assessed services and improvements have been upheld as providing the requisite special benefit. Such services and improvements include: garbage disposal,⁶ fire protection,⁷ fire and rescue services,⁸ and stormwater management services.⁹

¹ See Office of Economic and Demographic Research, Local Government Financial Information Handbook, at 9-15 (2013).

² City of Boca Raton v. State, 595 So. 2d 25, 29 (Fla. 1992).

³ For example, s. 153.73, F.S., for county water and sewer districts; s. 163.514, F.S., for neighborhood improvement districts; s. 190.021, F.S., for community development districts; and s. 191.009, F.S., for independent special fire control districts.

⁴ City of Boca Raton, at 29.

⁵ Whisnant v. Stringfellow, 50 So. 2d 885, 885 (Fla. 1951).

⁶ Harris v. Wilson, 693 So. 2d 945 (Fla 1997).

⁷ South Trail Fire Control Dist., Sarasota County v. State, 273 So. 2d 380 (Fla. 1973).

⁸ Lake County v. Water Oak Mgmt Corp., 695 So. 2d 667 (Fla. 1997).

Once an identified service or capital facility satisfies the special benefit test, the local government must fairly apportion the assessment among the benefited properties in a manner consistent with the logical relationship embodied in the special benefit requirement.¹⁰ An apportionment is considered reasonable unless it “so transcend[s] the limits of equality and reason” that it becomes extortion and confiscation of the property assessed.¹¹ “As long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts,” any method of apportioning the special benefits is valid and need not be mathematically precise.¹² Courts have accepted several apportionment methods.¹³

Generally, a special assessment is collected on an annual ad valorem tax bill. Under such statutory collection procedure, the special assessment is characterized as a “non-ad valorem assessment.”¹⁴

Assessments by Independent Fire Control Districts

An independent special fire control district may levy non-ad valorem assessments for district facilities, fire suppression services, fire protection services, fire prevention services, emergency rescue services, first response medical aid, emergency medical services, and emergency transport services.¹⁵ The provision of such services is recognized as constituting a benefit to real property.¹⁶ If a district levies a non-ad valorem assessment for emergency medical and emergency transport service, then the district must cease charging an ad valorem tax for the service.¹⁷

Effect of the Proposed Changes

The bill amends ss. 125.01 and 170.01, F.S., to prohibit counties and municipalities from levying or collecting a special assessment for the provision of fire protection on lands classified as agricultural under Florida’s greenbelt law.

B. SECTION DIRECTORY:

Section 1. Amends s. 125.01, F.S., relating to the powers and duties of counties.

Section 2. Amends s. 170.01, F.S., relating to municipalities’ authority to provide improvements and levy and collect special assessments.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁹ Sarasota County v. Sarasota Church of Christ, 667 So. 2d 180 (Fla. 1995).

¹⁰ City of Boca Raton, at 29.

¹¹ Atlantic Coast Line R.R. v. City of Winter Haven, 151 So. 321, 324 (Fla.1933).

¹² City of Boca Raton, at 31.

¹³ See Atlantic Coast Line R.R., at 323 (accepting front foot rule); Meyer v. City of Oakland Park, 219 So.2d 417, 419 (Fla.1969) (accepting area method); City of Naples v. Moon, 269 So. 2d 355, 358 (Fla.1972) (accepting market value method).

¹⁴ Section 197.3632(1)(d), F.S.

¹⁵ Section 191.009(2)(a) and (b), F.S.

¹⁶ Section 191.009(2)(b)2., F.S.

¹⁷ Section 191.00992)(b)1., F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill will have a negative fiscal impact on local governments by eliminating the ability of counties and municipalities to collect special assessments for fire protection on lands classified as agricultural. On January 29, 2016, the Revenue Estimating Impact Conference estimated that this bill will have a \$6.9 million impact on local governments.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Owners of lands classified as agricultural will benefit by being exempt from county and municipal special assessments for fire protection.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill reduces the authority of counties and municipalities to raise revenues by eliminating their ability to collect special assessments for fire protection on lands classified as agricultural. This bill does not appear to qualify under any exemption or exception. If this bill does qualify as a mandate, final passage must be approved by two-thirds of the membership of each house of the Legislature.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

While the bill prohibits counties and municipalities from levying and collecting special assessments for fire protection, it does not appear to capture special districts that derive their special assessment authority from separate statutes, such as independent fire control districts in s. 191.009, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
2 An act relating to special assessments on agricultural
3 lands; amending ss. 125.01 and 170.01, F.S.;
4 prohibiting counties and municipalities from levying
5 or collecting special assessments on certain
6 agricultural lands for the provision of fire
7 protection services; providing an effective date.

8
9 Be It Enacted by the Legislature of the State of Florida:

10
11 Section 1. Paragraph (r) of subsection (1) of section
12 125.01, Florida Statutes, is amended to read:

13 125.01 Powers and duties.—

14 (1) The legislative and governing body of a county shall
15 have the power to carry on county government. To the extent not
16 inconsistent with general or special law, this power includes,
17 but is not restricted to, the power to:

18 (r) Levy and collect taxes, both for county purposes and
19 for the providing of municipal services within any municipal
20 service taxing unit, and special assessments; borrow and expend
21 money; and issue bonds, revenue certificates, and other
22 obligations of indebtedness, which power shall be exercised in
23 such manner, and subject to such limitations, as may be provided
24 by general law. There shall be no referendum required for the
25 levy by a county of ad valorem taxes, both for county purposes
26 and for the providing of municipal services within any municipal

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27 | service taxing unit. Notwithstanding any other provision of law,
 28 | a county may not levy or collect special assessments for the
 29 | provision of fire protection services on lands classified as
 30 | agricultural lands under s. 193.461.

31 | Section 2. Subsection (4) is added to section 170.01,
 32 | Florida Statutes, to read:



33 | 170.01 Authority for providing improvements and levying
 34 | and collecting special assessments against property benefited.—

35 | (4) Notwithstanding any other provision of law, a
 36 | municipality may not levy or collect special assessments for the
 37 | provision of fire protection services on lands classified as
 38 | agricultural lands under s. 193.461.

39 | Section 3. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 795 Dredge and Fill Activities
SPONSOR(S): Edwards
TIED BILLS: IDEN./SIM. BILLS: CS/SB 1176

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. 	Harrington 
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Under Section 10 of the Rivers and Harbors Act of 1899, the United States Army Corps of Engineers (Corps) has regulatory jurisdiction over all obstructions or alterations of any navigable water of the U.S., the construction of any structures in or over any navigable water of the U.S., and any work affecting the course, location, condition, or capacity of navigable waters of the U.S. Under Section 404 of the Clean Water Act, the Corps has regulatory jurisdiction over the discharge of dredged or fill material into waters of the U.S. Under these authorizations, the Corps has authority to issue general permits on a statewide, regional, or nationwide basis for specific categories of work. However, a state may seek to administer a general permit for categories of work by applying to the Corps. If approved, the Corps will suspend its issuance of permits and the administration and enforcement of activities with respect to the activities authorized under the general permit to the state. A state may also seek assumption of the Clean Water Act to regulate the discharge of dredged or fill material into certain waters.

The Legislature has provided that it is the policy of the state to provide efficient government services by consolidating, to the maximum extent practicable, federal and state permitting regarding wetlands and navigable waters within the state. The Legislature has authorized the Department of Environmental Protection (DEP) and water management districts (WMDs) to implement a voluntary state programmatic general permit (SPGP) for all dredge and fill activities impacting 3 acres or less of wetlands or other surface waters, including navigable waters, subject to agreement with the Corps. The Legislature has also authorized DEP to pursue assumption of federal permitting programs regulating the discharge of dredged or fill material under the Clean Water Act.

The bill increases the acreage of wetland or other surface water impacts, including navigable waters, DEP or WMDs are authorized to implement through a SPGP, subject to agreement with the Corp, from 3 acres or less to 10 acres or less. The bill provides that by seeking to use a SPGP, an applicant consents to applicable federal wetland jurisdiction criteria and for the limited purpose of implementing the SPGP.

In addition, the bill allows DEP to seek delegation of, in addition to assumption of, federal permitting programs regulating the discharge of dredged or fill material pursuant to the Clean Water Act and the Rivers and Harbors Act, so long as the delegation encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

The bill may have an indeterminate negative fiscal impact on the state and a positive fiscal impact on the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Rivers and Harbors Act of 1899 and the Clean Water Act

Under Section 10 of the Rivers and Harbors Act of 1899, the United States Army Corps of Engineers (Corps) has regulatory jurisdiction over all obstructions or alterations of any navigable water of the U.S., the construction of any structures in or over any navigable water of the U.S., and any work affecting the course, location, condition, or capacity of navigable waters of the U.S.¹ Under Section 404 of the Clean Water Act, the Corps has regulatory jurisdiction over the discharge of dredged or fill material into waters of the U.S.²

General Permits

Under these authorizations, the Corps has authority to issue general permits on a statewide, regional, or nationwide basis for specific categories of work.³ General permits issued for activities involving discharges of dredged or fill material are authorized if:

- The category of activity is similar in nature;
- Will cause only minimal adverse impacts of the environment individually; and
- Will have only minimal cumulative adverse impacts on the environment.⁴

General permits are in effect for no more than five years. They may be revoked or modified if they are determined to have an adverse impact on the environment or are more appropriately authorized by individual permits.⁵

The Corps, Jacksonville District, administers the following general permits in Florida:

- SAJ-5, 4/5/2013 - 4/5/2018 Maintenance Dredging in Residential Canals;
- SAJ-13, 12/20/2013 -12/20/2018 Aerial Transmission Lines;
- SAJ-14, 12/20/2013 - 12/20/2018 Sub-aqueous Utility and Transmission Lines;
- SAJ-17, 4/08/2013 - 4/08/2018 Minor Structures;
- SAJ-20, 3/22/2013 - 3/22/2018 Private Single-Family Piers;
- SAJ-33, 4/08/2013 - 4/08/2018 Private Multi-Family or Government Piers;
- SAJ-34, 4/08/2013 - 4/08/2018 Private Commercial Piers;
- SAJ-72, 6/21/2013 - 6/21/2018 Residential Docks in Citrus County;
- SAJ-46, 3/21/2013 – 3/21/2018 Bulkheads and Backfill in Residential Canals;
- SAJ-82, 9/10/2014 - 9/10/2019 Single family residence projects including: lot fills, minor structures, riprap revetments, marginal docks, bulkheads and backfill in residential canals in Monroe County;
- SAJ-86, 3/25/2015 - 3/25/2020: Residential, Commercial, Recreational and Institutional Fill in the Choctawhatchee Bay, Lake Powell, and West Bay Basins, Bay and Walton Counties;
- SAJ-90, 4/05/11 - 4/05/16: Residential, Commercial & Institutional Developments in Northeast Florida;

¹ 33 U.S.C. §403.

² 33 U.S.C. §1344.

³ 33 U.S.C. §403 and §1344.

⁴ 33 U.S.C. §1344(e)(1).

⁵ 33 U.S.C. §1344(e)(2).

- SAJ-92, 4/08/2015 - 4/08/2020: Improvements to existing Florida Department of Transportation or Florida's Turnpike Enterprise FTE roadways, excluding Monroe County;
- SAJ-93, 2/16/11- 2/16/16: Maintenance dredging activities for the Atlantic Intracoastal Waterway, the Intracoastal Waterway, and the Okeechobee Waterway within the Florida Inland Navigation - East Coast;
- SAJ-103, 10/08/2010 - 10/08/15: Residential Fill in Holley By The Sea, a Subdivision in Santa Rosa County;
- SAJ-105, 11/12/2015 - 11/12/2020: Residential, Commercial, Recreational and Institutional Fill in the West Bay Watershed of Bay County; and
- SAJ-106, 2/14/2012 - 2/14/2017: Water Management services on ranchlands located within the Northern Everglades and Estuaries Region of Florida.⁶

A state desiring to administer a general permit may submit to the Corps a description of the program the state proposes to establish and administer under state law. The state must also submit a statement from the attorney general providing that the laws of the state provide adequate authority to carry out the program.⁷ If the state's program is approved, the Corps will suspend its issuance of permits and the administration and enforcement of activities with respect to the activities authorized under the general permit to the state.⁸

State Programmatic General Permit

The Legislature has provided that it is the policy of the state to provide efficient government services by consolidating, to the maximum extent practicable, federal and state permitting regarding wetlands⁹ and navigable waters within the state.¹⁰ It is the Legislature's intent, with regard to federal environmental permitting, to:

- Facilitate coordination and a more efficient process of implementing regulatory duties and functions between the Department of Environmental Protection (DEP), water management districts (WMDs),¹¹ the Corps, the U.S. Fish and Wildlife Service, the National Marine Fisheries Service, the U.S. Environmental Protection Agency, the Fish and Wildlife Conservation Commission, and other relevant federal and state agencies;
- Authorize DEP to obtain issuance by the Corps of an expanded state programmatic general permit (SPGP), or a series of regional general permits, for categories of activities in waters of the U.S. governed by the Clean Water Act, and in navigable waters under the Rivers and Harbors Act of 1899 which are similar in nature, which will cause only minimal adverse environmental effects when performed separately, and which will have only minimal cumulative adverse effects on the environment;
- Use the mechanism of a SPGP or regional general permit to eliminate overlapping federal regulations and state rules that seek to protect the same resource and to avoid duplication of permitting between the Corps and DEP for minor work located in waters of the U.S., including navigable waters, thus eliminating, in appropriate cases, the need for a separate individual approval from the Corps while ensuring the most stringent protection of wetland resources; and

⁶ Corps, Jacksonville District, available at <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>, last visited (Jan. 29, 2016).

⁷ 33 U.S.C. §1344(g)(1).

⁸ 33 U.S.C. §1344(h).

⁹ Section 373.019(27), F.S., provides this definition of "wetlands" for the sole purpose of serving as the basis for the unified statewide methodology adopted pursuant to s. 373.421(1), F.S., as amended. Wetlands are areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto.

¹⁰ Section 373.4143, F.S.

¹¹ Section 373.4145,(1)(c), F.S., provides that this includes the Northwest Florida WMD.

- Direct DEP to not issue or take action on a permit unless the conditions are at least as protective of the environment and natural resources as existing state and federal law.¹²

The Legislature has authorized DEP and WMDs to implement a voluntary SPGP for all dredge¹³ and fill¹⁴ activities impacting 3 acres or less of wetlands¹⁵ or other surface waters, including navigable waters, subject to agreement with the Corps, if the general permit is at least as protective of the environment and natural resources as existing state law and federal law.¹⁶

DEP is also authorized to pursue a series of regional general permits for construction activities in wetlands or surface waters or complete assumption of federal permitting programs regulating the discharge of dredged or fill material pursuant to the Clean Water Act, and the Rivers and Harbors Act of 1899, so long as the assumption encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.¹⁷

SPGP IV-R1

The state has been authorized by the Corps to implement a SPGP since the 1990s.¹⁸ In July 2011, the Corps issued a revised SPGP (SPGP IV-R1) to the state that authorizes DEP, a WMD,¹⁹ or a local government with delegated authority²⁰ to issue a permit on behalf of the Corps for certain types of projects with relatively minor impacts to wetlands or surface waters.²¹ The SPGP IV-R1 expanded the state's geographic coverage to include the counties in the panhandle area, the area encompassed by the Northwest Florida WMD. The SPGP IV-R1 now encompasses the entire state, except for Monroe County, and the locations listed in Special Condition 5.²²

¹² Section 373.4144(1)(a)-(d), F.S.

¹³ Section 373.403(13), F.S., defines "dredging" as excavation, by any means, in surface waters or wetlands. It also means the excavation, or creation, of a water body which is, or is to be, connected to surface waters or wetlands, directly or via an excavated water body or series of water bodies.

¹⁴ Section 373.403(14), F.S., defines "filling" as the deposition, by any means, of materials in surface waters or wetlands.

¹⁵ Section 373.019(27), F.S., defines "wetlands" as areas that are inundated or saturated by surface water or groundwater at a frequency and a duration sufficient to support, and under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soils. Florida wetlands generally include swamps, marshes, bayheads, bogs, cypress domes and strands, sloughs, wet prairies, riverine swamps and marshes, hydric seepage slopes, tidal marshes, mangrove swamps and other similar areas. Florida wetlands generally do not include longleaf or slash pine flatwoods with an understory dominated by saw palmetto; *See also* Section 373.421, F.S.

¹⁶ Section 373.4144(2), F.S.

¹⁷ Section 373.4144(3), F.S.

¹⁸ *DEP's Consolidation of State and Federal Wetland Permitting Programs Implementation of House Bill 759(Chapter 2005-273, Laws of Florida)* (Sept. 30, 2005), on file with the Agriculture & Natural Resources Subcommittee; DEP State Programmatic General Permit, available at <http://www.dep.state.fl.us/water/wetlands/erp/spgp.htm>, last visited (Jan. 29, 2016); The SPGP has gone through several iterations: SPGP I, SPGP II, SPGP III, SPGP III-R1, and SPGP IV.

¹⁹ In December 2013, the St. Johns River WMD entered into a coordination agreement with the Corps that allowed the WMD to issue permits on behalf of the Corps under the SPGP IV-R1.

²⁰ *See* Section 373.441, F.S.

²¹ SPGP IV-R1, available at

http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/permitting/general_permits/SPGP/SPGP_IV_Permit_Instrument.pdf; DEP's Coordination Agreement with the Corps, available at

http://www.dep.state.fl.us/water/wetlands/forms/spgp/SPGP_IV_Cooperative_Agreement.pdf.

²² Special Condition 5 of the SPGP IV-R1 provides that is not applicable in the geographical boundaries of: Monroe County; the Timucuan Ecological and Historical Preserve (Duval County); the St. Mary's River, from its headwaters to its confluence with the Bells River; the Wekiva River from its confluence with the St. Johns River to Wekiwa Springs, Rock Springs Run from its headwaters at Rock Springs to the confluence with the Wekiwa Springs Run, Black Water Creek from the outflow from Lake Norris to the confluence with the Wekiva River; canals at Garfield Point including Queens Cove (St. Lucie County); the Loxahatchee River from Riverbend Park downstream to Jonathan Dickinson State Park; the St. Lucie Impoundment (Martin County); all areas regulated under the Lake Okeechobee and Okeechobee Waterway Shoreline Management Plan, located between St. Lucie Lock (Martin County) and W.P. Franklin Lock (Lee County); American Crocodile designated critical habitat (Miami-Dade and Monroe Counties); Johnson's seagrass designated critical habitat (southeast Florida); piping plover designated critical habitat (throughout Florida); acroporid coral designated critical habitat (southeast Florida); Anastasia Island, Southeastern, Perdido Key, Choctawhatchee, or St. Andrews beach

The SPGP IV-R1 includes only the following categories of work:

- Shoreline stabilization;
- Boat ramps and boat launch areas and structures associated with such ramps or launch areas;
- Docks, piers, associated facilities, and other minor piling supported structures; and
- Maintenance dredging of canals and channels, including removal of organic detrital material from freshwater lakes and rivers.²³

Programmatic General Permit

Programmatic general permits are a type of general permit founded on an existing state, local or federal agency program that is designed to avoid duplication with that program.²⁴ The Corps has issued the following programmatic general permits in Florida that are administered by others:

- SAJ-42, Miami-Dade County, 4/29/2013 - 4/29/2018: Minor Activities in Miami-Dade County;
- SAJ-75, Palm Beach County, 5/01/2009 - 5/01/2014: Fill for residential Lots in Royal Palm Beach Subdivision;
- SAJ-80, Miccosukee Tribe, 8/09/2012 - 8/09/2017: Residential Fill - Miccosukee Tribe Reservation Lands;
- SAJ-83, Seminole Tribe of Florida, 3/15/15 - 3/15/20: Discharge of fill material for minor activities within the Big Cypress Seminole Indian Reservation;
- SAJ-87, Broward County, 12/14/2010 - 12/14/2015: Residential, Commercial & Institutional Fill in Plantation Acres;
- SAJ-91, City of Cape Coral, 2/28/2013 - 2/28/2018: Minor activities in the canal system of the city of Cape Coral;
- SAJ-96, Pinellas County, 7/17/2014 - 7/17/2019: Minor Activities in Pinellas County;
- SAJ-99, State of Florida, Department of Agriculture and Consumer Services, 11/09/2012 - 11/09/2017: Live Rock and Marine Bivalve Aquaculture; and
- SAJ-111, St. Johns River WMD, 10/31/2014 - 10/31/2019: Residential, Commercial & Institutional Developments in Northeast Florida.²⁵

SAJ-111

In October 2014, the Corps issued a programmatic general permit to the St. Johns River WMD authorizing the issuance of a permit on behalf of the Corps for certain types of projects with relatively minor impacts to wetlands or surface waters (SAJ-111).²⁶ The SAJ-111 authorization is limited to residential, commercial or institutional projects in Northeast Florida with up to 3 acres of impacts to low quality or urbanized non-tidal wetlands of the following four types:

- Wetlands in pine plantations with raised beds in production over 20 years;
- Wetlands in improved pasture;
- Wetlands on parcels bordered by at least 75 percent development; and
- Wetlands covered by greater than 80 percent invasive or exotic vegetation.²⁷

mice habitat (Florida east coast and panhandle coasts); the Biscayne Bay National Park Protection Zone (Miami-Dade County); Harbor Isles (Pinellas County); the Faka Union Canal (Collier County); the Florida panther consultation area (Southwest Florida), the Tampa Bypass Canal (Hillsborough County); canals in the Kings Bay/Crystal River/Homosassa/Salt River system (Citrus County); Lake Miccosukee (Jefferson County).

²³ SPGP IV-R1, available at

http://www.saj.usace.army.mil/Portals/44/docs/regulatory/sourcebook/permitting/general_permits/SPGP/SPGP_IV_Permit_Instrument.pdf.

²⁴ Corps, Jacksonville District, available at <http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>, last visited (Jan. 29, 2016).

²⁵ *Id.*

²⁶ SAJ-111, available at http://floridaswater.com/permitting/USACEfiles/SAJ-111_Permit_Instrument.pdf.

²⁷ *Id.*

Assumption

A state may seek assumption of Section 404 of the Clean Water Act to regulate the discharge of dredged or fill material into certain waters.²⁸ The state program must regulate all discharges of dredged or fill material into waters regulated by the state, partial state programs are not approvable.²⁹ A state program may be more stringent and encompass a greater scope than required by federal law.³⁰ To apply, the state must submit to the U.S. Environmental Protection Agency at least three copies of the following:

- A letter from the Governor of the State requesting program approval;
- A complete program description;³¹
- An Attorney General's statement;³²
- A Memorandum of Agreement with the Regional Administrator;³³
- A Memorandum of Agreement with the Secretary;³⁴ and
- Copies of all applicable state statutes and regulations, including those governing applicable state administrative procedures.³⁵

Effect of Proposed Changes

The bill amends s. 373.4144, F.S., regarding federal environmental permitting to increase the acreage of wetland or other surface water impacts, including navigable waters, the state is authorized to implement through a SPGP, subject to agreement with the Corp. The bill increases the acreage from 3 acres or less to 10 acres or less.

The bill provides that by seeking to use a SPGP, an applicant consents to applicable federal wetland jurisdiction criteria, which are authorized by s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors Act of 1899 as required by the Corps, notwithstanding s. 373.4145, F.S.,³⁶ and for the limited purpose of implementing the SPGP.

The bill allows DEP to seek delegation of, in addition to assumption of, federal permitting programs regulating the discharge of dredged or fill material pursuant to the Clean Water Act and the Rivers and Harbors Act, so long as the delegation encompasses all dredge and fill activities in, on, or over jurisdictional wetlands or waters, including navigable waters, within the state.

B. SECTION DIRECTORY:

Section 1. Amends s. 373.4144(2), F.S., regarding federal environmental permitting.

Section 2. Provides an effective date.

²⁸ 40 C.F.R. §232.2(p); § 404(g)(1)

²⁹ 40 C.F.R. §233.1(b)

³⁰ 40 C.F.R. § 233.1(c)

³¹ 40 C.F.R. § 233.11

³² 40 C.F.R. § 233.12

³³ 40 C.F.R. § 233.13

³⁴ 40 C.F.R. § 233.14

³⁵ 40 C.F.R. § 233.10

³⁶ Section 373.4145(c), F.S., regards the environmental permitting program within the geographical jurisdiction of the Northwest Florida WMD.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on DEP if the SPGP is expanded, or the state is granted assumption or delegation of Section 404 of the Clean Water Act and DEP cannot implement the expanded authorization or assumption or delegation within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a positive fiscal impact on the private sector if the bill results in the Corps issuing an expanded SPGP, or the state is granted assumption or delegation of Section 404 of the Clean Water Act. An expanded SPGP or assumption or delegation of Section 404 of the Clean Water Act would result in a reduction of duplicative permitting processes.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to dredge and fill activities;
 3 amending s. 373.4144, F.S.; revising the acreage of
 4 wetlands and other surface waters subject to impact by
 5 dredge and fill activities under a state programmatic
 6 general permit; providing that seeking to use such a
 7 permit consents to specified federal wetland
 8 jurisdiction criteria; authorizing the Department of
 9 Environmental Protection to delegate federal
 10 permitting programs for the discharge of dredged or
 11 fill material under certain conditions; providing an
 12 effective date.

13
 14 Be It Enacted by the Legislature of the State of Florida:

15
 16 Section 1. Subsections (2) and (3) of section 373.4144,
 17 Florida Statutes, are amended to read:

18 373.4144 Federal environmental permitting.—

19 (2) (a) In order to effectuate efficient wetland permitting
 20 and avoid duplication, the department and water management
 21 districts are authorized to implement a voluntary state
 22 programmatic general permit for all dredge and fill activities
 23 impacting 10 ~~3~~ acres or less of wetlands or other surface
 24 waters, including navigable waters, subject to agreement with
 25 the United States Army Corps of Engineers, if the general permit
 26 is at least as protective of the environment and natural

27 resources as existing state law under this part and federal law
 28 under the Clean Water Act and the Rivers and Harbors Act of
 29 1899.



30 (b) By seeking to use a statewide programmatic general
 31 permit, an applicant consents to applicable federal wetland
 32 jurisdiction criteria, which are not included pursuant to this
 33 part, but which are authorized by the regulations implementing
 34 s. 404 of the Clean Water Act, Pub. L. No. 92-500, as amended,
 35 33 U.S.C. ss. 1251 et seq., and s. 10 of the Rivers and Harbors
 36 Act of 1899 as required by the United States Army Corps of
 37 Engineers, notwithstanding s. 373.4145 and for the limited
 38 purpose of implementing the state programmatic general permit
 39 authorized by this subsection.

40 (3) The department may pursue ~~This section may not~~
 41 ~~preclude the department from pursuing~~ a series of regional
 42 general permits for construction activities in wetlands or
 43 surface waters or delegation or ~~complete~~ assumption of federal
 44 permitting programs regulating the discharge of dredged or fill
 45 material pursuant to s. 404 of the Clean Water Act, Pub. L. No.
 46 92-500, as amended, 33 U.S.C. ss. 1251 et seq., and s. 10 of the
 47 Rivers and Harbors Act of 1899, so long as the delegation or
 48 assumption encompasses all dredge and fill activities in, on, or
 49 over jurisdictional wetlands or waters, including navigable
 50 waters, within the state.

51 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987 Solid Waste Management
SPONSOR(S): Drake
TIED BILLS: IDEN./SIM. BILLS: SB 922

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. 	Harrington 
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) is responsible for the implementation and enforcement of the state's solid waste management program. DEP also administers the Solid Waste Management Trust Fund (SWMTF) for the solid waste management grant program and the solid waste landfill closure account.

The solid waste management grant program consists of two grant programs: a consolidated grant program, which is responsible for solid waste management, litter prevention and control, and recycling and education programs for counties with populations fewer than 100,000, and a waste tire grant program.

The bill amends the SWMTF to:

- Include and provide funding for a waste tire abatement program that is to receive no more than five percent of the 37 percent traditionally used for the solid waste management grant program; and
- Expand the use of funds from the solid waste landfill closure account, as follows:
 - Allows funds from the account to be used on a facility that was not required to obtain a DEP permit to operate;
 - Allows a permittee to provide proof of financial assurance for closure by using an alternative form of financial assurance;
 - Allows DEP to accept sufficient documentation, rather than written documentation, as confirmation that the issuer of the insurance policy or alternative form of financial assurance will provide or reimburse funds required to complete closing and long-term care;
 - Allows DEP to use funds from the SWMTF to pay for or reimburse additional expenses needed for performing or completing closure or long-term care if the amount available under the insurance policy or alternative form of financial assurance is insufficient, or is otherwise unavailable, to perform or complete the facility closing or long-term care, and DEP has used all funds from the insurance policy or alternative form of financial assurance; and
 - Removes the account's expiration date of July 1, 2016.

The bill amends the solid waste management grant program by adding waste tire abatement as an allowable use of funds awarded under the consolidated grant program. The bill removes the waste tire grant program.

The bill appears to have an indeterminate negative fiscal impact on the state and a positive fiscal impact on small counties eligible for a solid waste management grant.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Department of Environmental Protection (DEP) is responsible for the implementation and enforcement of the state's solid waste management program.¹ DEP is authorized to adopt rules to implement and enforce the state's solid waste management program, which includes a waste tire² management program,³ administration of solid waste grant programs,⁴ and the classification, construction, operation, maintenance and closure⁵ of solid waste management facilities^{6,7}.

Solid Waste Management Trust Fund

The Solid Waste Management Trust Fund (SWMTF) is funded from registration fees, fines, and penalties imposed relating to used oil,⁸ penalties for littering,⁹ and waste tire fees.¹⁰ Annual revenues deposited into the SWMTF, unless otherwise specified in the General Appropriations Act, are to be administered by DEP as follows:

- Up to 40 percent for solid waste activities of DEP and other state agencies, including providing technical assistance to local governments and the private sector, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs;
- Up to 4.5 percent for research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management and other organizations that can reasonably demonstrate the capability to carry out the projects;
- Up to 14 percent to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control;
- Up to 4.5 percent to the Department of Transportation for litter prevention and control programs through a certified Keep America Beautiful Affiliate at the local level; and
- Up to 37 percent for a solid waste management grant program for activities relating to recycling and waste reduction, including waste tires requiring final disposal.¹¹

DEP must recover funds used from the SWMTF for the management of tires at illegal waste tire sites¹² from owners or persons responsible for the accumulation of the tires.¹³ DEP may decline to pursue

¹ Chapter 403, Part IV, F.S., Resource and Recovery Management; Section 403.705, F.S.

² Section 403.717(1)(e), F.S., defines a "waste tire" to mean a tire that has been removed from a motor vehicle and has not been retreaded or regrooved. It includes used tires and processed tires. It does not include solid rubber tires and tires that are inseparable from the rim.

³ Section 403.717, F.S.; ch. 62-701, F.A.C.

⁴ Section 403.7095, F.S.; ch. 62-716, F.A.C.

⁵ Section 403.703(5), F.S., defines "closure" as the cessation of operation of a solid waste management facility and the act of securing the facility so that it will pose no significant threat to human health or the environment and includes long-term monitoring and maintenance of a facility if required by DEP rule.

⁶ Section 403.703(35), F.S., defines a "solid waste management facility" as any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include recovered materials processing facilities that meet the requirements of s. 403.7046, F.S., except the portion of such facilities, if any, which is used for the management of solid waste.

⁷ Section 403.709(9), F.S.; chs. 62-701 through 62-722, F.A.C.

⁸ Section 403.759, F.S.; Section 403.75(7), F.S., defines "used oil" as any oil which has been refined from crude oil or synthetic oil and, as a result of use, storage, or handling, has become contaminated and unsuitable for its original purpose due to the presence of physical or chemical impurities or loss of original properties.

⁹ Section 403.413(6), F.S.

¹⁰ Section 403.718, F.S.

¹¹ Section 403.709(1)(a)-(e), F.S.

recovery if it determines that the amount involved is too small or the likelihood of recovery is too uncertain.¹⁴ A court may authorize DEP to take possession and control of a waste tire site to protect the health, safety, and welfare of the community and the environment if the court determines that the owner is unable or unwilling to comply with waste tire requirements^{15, 16} DEP may impose a lien on the real property where the waste tire site is located equal to the estimated cost to bring the tire site into compliance, including attorney's fees and court costs.¹⁷

Waste Tire Abatement Program

DEP's waste tire abatement program is used to identify, evaluate, and cleanup waste tire sites.¹⁸ Funding for DEP's waste tire abatement program has been discontinued since the 2009 Legislative Session.¹⁹ DEP has a list of more than 440,000 tires located at 26 waste tire sites within Florida. The number of tires at these sites range from 1,500 to over 250,000. Preliminary abatement cost estimates per site range from \$2,704 to \$570,900. DEP's preliminary abatement cost estimate for the 26 sites is \$961,390.²⁰

Solid Waste Management Consolidated Grant Program and Waste Tire Grant Program

The consolidated grant program serves small counties with populations fewer than 100,000, in solid waste management, litter prevention and control, and recycling and education programs.²¹ The consolidated grant program serves 33 counties.²²

The waste tire grant program is available to all counties; however, at least 25 percent of grant funding is to be equally distributed to each county having a population fewer than 100,000.²³ Remaining funds are to be distributed to counties having a population of 100,000 or greater, based on population.²⁴

SWMTF funds for the grant programs are to be distributed as follows:

- Up to 50 percent to the consolidated grant program; and
- Up to 50 percent to the waste tire grant program.²⁵

Funding for the waste tire grant program was last appropriated during the 2003 Legislative Session.²⁶

Closure and Long-term Care of Solid Waste Management Facilities

An owner or operator²⁷ of a landfill,²⁸ or any other solid waste management facility, must provide financial assurance to DEP for closure of the facility.²⁹ Financial assurance may include surety bonds,

¹² Section 403.717(1)(g), F.S., defines a "waste tire site" as a site where 1,500 or more waste tires are accumulated.

¹³ Section 403.709(2), F.S.

¹⁴ *Id.*

¹⁵ Section 403.717, F.S.; ch. 62-701, F.A.C.

¹⁶ Section 403.709(2), F.S.

¹⁷ Section 403.709(3), F.S.

¹⁸ DEP's Tires General Information, available at <http://www.dep.state.fl.us/waste/categories/tires/pages/info.htm> (last visited Jan. 26, 2016).

¹⁹ DEP's analysis of SB 922 (2016), on file with the Agriculture & Natural Resources Subcommittee.

²⁰ *Id.*

²¹ Section 403.7095(1), F.S.; chs. 62-701 and 62-716, F.A.C.

²² DEP's analysis of SB 922 (2016), on file with the Agriculture & Natural Resources Subcommittee.

²³ Section 403.7095(2), F.S.; chs. 62-701 and 62-716, F.A.C.

²⁴ *Id.*

²⁵ Sections 403.709(1)(e) and 403.7095(3), F.S.

²⁶ DEP's analysis of SB 922 (2016), on file with the Agriculture & Natural Resources Subcommittee.

²⁷ Section 403.7125(1), F.S., defines an "owner or operator" as any owner of record of any interest in land wherein a landfill is or has been located and any person or corporation that owns a majority interest in any other corporation that is the owner or operator of a landfill.

certificates of deposit, securities, letters of credit, or other documents showing that the owner or operator has sufficient financial resources to cover, at a minimum, the costs of complying with closure requirements.³⁰ An owner or operator must estimate costs to the satisfaction of DEP.³¹

Section 403.709(5), F.S.,³² provides for a solid waste landfill closure account within the SWMTF for the closure and long-term care³³ of certain solid waste management facilities.³⁴ DEP may use funds from the solid waste landfill closure account to contract with a third party for the closure and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate;
- The permittee provided proof of financial assurance for closure in the form of an insurance certificate;
- The facility is deemed abandoned or was ordered to close by DEP;
- Closure is accomplished in substantial accordance with a closure plan approved by DEP; and
- DEP has written documentation that the insurance company issuing the closure insurance policy will provide or reimburse the funds required to complete the closure and long-term care of the facility.³⁵

DEP is required to deposit funds received from an insurance company as reimbursement for the costs of closing or long-term care of the facility into the solid waste landfill closure account.³⁶ The solid waste landfill closure account is scheduled for repeal on July 1, 2016.³⁷

For fiscal year 2015-2016, \$2.34 million in nonrecurring funds were appropriated to DEP from the solid waste landfill closure account within SWMTF for the closing and long-term care of solid waste management facilities.³⁸ DEP is utilizing these funds to enter into contracts with a third party to close the following facilities:

- Williams Road (Hillsborough County);
- Coyote Navarre (Santa Rosa County);
- Coyote East (Walton County);
- Coyote West (Walton County); and
- Cerny Road (Escambia County).³⁹

Effect of Proposed Changes

The bill amends s. 403.709, F.S., regarding the SWMTF, to include and provide funding for a waste tire abatement program. The bill provides that no more than five percent of the 37 percent traditionally used for the solid waste management grant program may be used for the waste tire abatement program.

²⁸ Section 403.7125(17), F.S., defines a “landfill” as any solid waste land disposal area for which a permit, other than a general permit, is required by s. 403.707, F.S., and which receives solid waste for disposal in or upon land. It does not include a land-spreading site, an injection well, a surface impoundment, or a facility for the disposal of construction and demolition debris.

²⁹ Sections 403.707(9) and 403.7125(3), F.S.; Rule 62-701.630, F.A.C.

³⁰ *Id.*

³¹ *Id.*

³² Section 53, ch. 2015-222, Laws of Florida, created s. 403.709(5), F.S., in order to implement Specific Appropriation 1689A of the 2015-2016 General Appropriations Act.

³³ Rule 62-701.620, F.A.C., provides for the long-term care of solid waste management facilities.

³⁴ Section 403.703(35), F.S., defines a “solid waste management facility” as any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. It does not include recovered materials processing facilities that meet the requirements of s. 403.7046, F.S., except the portion of such facilities, if any, which is used for the management of solid waste.

³⁵ Section 403.709(5)(a), F.S.

³⁶ Section 403.709(5)(b), F.S.

³⁷ Section 403.709(5)(c), F.S.; Due to implementation of the section through the Implementing Bill.

³⁸ DEP’s analysis of SB 922 (2016), on file with the Agriculture & Natural Resources Subcommittee.

³⁹ *Id.*

The bill also expands the areas in which DEP can use funds from the solid waste landfill closure account within the SWMTF on closure and long-term care, as follows:

- Allows the use of funds from the account on a facility that was not required to obtain a DEP permit to operate;
- Allows a permittee, where required by rule or permit, to provide proof of financial assurance for closure by using an alternative form of financial assurance; and
- Allows DEP to accept sufficient documentation to confirm that the issuer of the insurance policy or alternative form of financial assurance will provide or reimburse the funds required to complete the closing and long-term care.

The bill provides that DEP must deposit funds received from an insurer or other party for reimbursement into the solid waste landfill closure account. The bill provides that if the amount available under the insurance policy or alternative form of financial assurance is insufficient, or is otherwise unavailable, to perform or complete the facility closing or long-term care, and DEP has used all funds from the insurance policy or alternative form of financial assurance, DEP may use funds from the SWMTF to pay for or reimburse the additional expenses needed for performing or completing the facility closure or long-term care. The bill deletes the account's repeal date of July 1, 2016.

The bill amends s. 403.7095, F.S., regarding the solid waste management grant program to add waste tire abatement as an allowable use of grant funds awarded under the consolidated grant program. The bill removes the waste tire grant program and the requirement for grant funds to be divided between the consolidated grant program and the waste tire grant program. The bill also removes an expired appropriation.

The bill reenacts ss. 403.413 and 403.7032, F.S., to incorporate the changes made by the bill to s. 403.7095, F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 403.709, F.S., regarding the Solid Waste Management Trust Fund.

Section 2. Amends s. 403.7095, F.S., regarding the solid waste management grant program.

Section 3. Reenacts s. 403.413, F.S., to incorporate the changes made to s. 403.7095, F.S.

Section 4. Reenacts s. 403.7032, F.S., to incorporate the changes made to s. 403.7095, F.S.

Section 5. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill modifies the authorized uses of funds under the SWMTF for solid waste management grants, but does not include a specific appropriation. Recent annual grants to the consolidated grant program have resulted in approximately \$90,000 per year for an eligible county.⁴⁰

⁴⁰ DEP's analysis of SB 922 (2016), on file with the Agriculture & Natural Resources Subcommittee.
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DATE: 1/28/2016

DEP, through its fiscal year 2016-2017 Legislative Budget Request, has requested an appropriation of \$1 million for the closure and long-term care of solid waste management facilities through the SWMTF. However, current law, and the bill, provides for reimbursement of funds expended from the SWMTF for these purposes.

The bill provides for a potential negative fiscal impact to the state by providing that if the amount available under the insurance policy or alternative form of financial assurance is insufficient, or is otherwise unavailable, to perform or complete the facility closing or long-term care, and DEP has used all funds from the insurance policy or alternative form of financial assurance, then DEP can use SWMTF funds to pay for or reimburse additional expenses needed for performing or completing closure or long-term care.⁴¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill would have a positive fiscal impact on small counties eligible for solid waste management grants that are in need of providing for waste tire abatement.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Other Comment: DEP

The expansion of the solid waste landfill closure account has the potential to increase the amount of land available for redevelopment and reuse, and expedite the process for closing landfills thereby

⁴¹ *Id.*

minimizing potential environmental impacts from an abandoned landfill. The expansion would accomplish purposes that benefit the public while supporting the continued availability of insurance policies or other financial assurance instruments as cost effective mechanisms.⁴²

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁴² *Id.*

1 A bill to be entitled
2 An act relating to solid waste management; amending s.
3 403.709, F.S.; providing for the funding of a waste
4 tire abatement program from the Solid Waste Management
5 Trust Fund up to a specified percentage of total
6 funds; establishing a solid waste landfill closure
7 account within the Solid Waste Management Trust Fund;
8 specifying the purpose of the account; authorizing the
9 Department of Environmental Protection to use account
10 funds to contract with a third party for the closing
11 and long-term care of solid waste management
12 facilities under specified circumstances; requiring
13 the department to deposit certain funds into the solid
14 waste landfill closure account; authorizing the
15 department to use funds from the account to pay for or
16 reimburse specified expenses under certain
17 circumstances; deleting a solid waste landfill closure
18 account within the Solid Waste Management Trust Fund;
19 amending s. 403.7095, F.S.; authorizing waste tire
20 abatement programs under the small county consolidated
21 grant program; removing the waste tire abatement
22 program supported by the solid waste management grant
23 program; removing distribution requirements; deleting
24 an obsolete provision; reenacting ss. 403.413(6)(a)
25 and 403.7032(5)(h), F.S., relating to the Florida
26 Litter Law and recycling, respectively, to incorporate

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

27 the amendments made to s. 403.7095, F.S., in
 28 references thereto; providing effective dates.

29

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

31

32 Section 1. Paragraph (e) of subsection (1) and subsection
 33 (5) of section 403.709, Florida Statutes, are amended, present
 34 subsections (2) through (4) of that section are redesignated as
 35 subsections (3) through (5), respectively, and a new subsection
 36 (2) is added to that section, to read:

37 403.709 Solid Waste Management Trust Fund; use of waste
 38 tire fees.—There is created the Solid Waste Management Trust
 39 Fund, to be administered by the department.

40 (1) From the annual revenues deposited in the trust fund,
 41 unless otherwise specified in the General Appropriations Act:

42 (e) Up to 37 percent shall be used for funding a waste
 43 tire abatement program and a solid waste management grant
 44 program pursuant to s. 403.7095 for activities relating to
 45 recycling and waste reduction, including waste tires requiring
 46 final disposal. Of the funding specified in this paragraph, no
 47 more than 5 percent of the total may be used for funding the
 48 waste tire abatement program.

49 (2) Notwithstanding subsection (1), a solid waste landfill
 50 closure account is established within the Solid Waste Management
 51 Trust Fund to provide funding for the closing and long-term care
 52 of solid waste management facilities.

53 (a) The department may use funds from the account to
54 contract with a third party for the closing and long-term care
55 of a solid waste management facility if:

56 1. The facility has, had, or was not required to obtain a
57 department permit to operate the facility;

58 2. The permittee, where required by permit or rule,
59 provided proof of financial assurance for closure in the form of
60 an insurance certificate or an alternative form of financial
61 assurance mechanism established pursuant to s. 403.7125;

62 3. The department has ordered the facility closed or has
63 deemed the facility abandoned;

64 4. The closure of the facility is accomplished in
65 substantial accordance with a closure plan approved by the
66 department; and

67 5. The department has sufficient documentation to confirm
68 that the issuer of the insurance policy or alternative form of
69 financial assurance will provide or reimburse the funds required
70 to complete the closing and long-term care of the facility.

71 (b) The department shall deposit all funds received from
72 the insurer or other parties for reimbursing the costs of
73 closing or long-term care of the facility under this subsection
74 into the solid waste landfill closure account.

75 (c) If the amount available under the insurance policy or
76 alternative form of financial assurance is insufficient, or is
77 otherwise unavailable, to perform or complete the facility
78 closing or long-term care under this subsection, and the

79 department has used all such funds from the insurance policy or
 80 alternative form of financial assurance, the department may use
 81 funds from the Solid Waste Management Trust Fund to pay for or
 82 reimburse additional expenses needed for performing or
 83 completing the approved facility closure or long-term care
 84 activities.

85 ~~(5)(a) Notwithstanding subsection (1), a solid waste~~
 86 ~~landfill closure account is established within the Solid Waste~~
 87 ~~Management Trust Fund to provide funding for the closing and~~
 88 ~~long-term care of solid waste management facilities. The~~
 89 ~~department may use funds from the account to contract with a~~
 90 ~~third party for the closing and long-term care of a solid waste~~
 91 ~~management facility if:~~

92 ~~1. The facility has or had a department permit to operate~~
 93 ~~the facility;~~

94 ~~2. The permittee provided proof of financial assurance for~~
 95 ~~closure in the form of an insurance certificate;~~

96 ~~3. The facility is deemed to be abandoned or was ordered~~
 97 ~~to close by the department;~~

98 ~~4. Closure is accomplished in substantial accordance with~~
 99 ~~a closure plan approved by the department; and~~

100 ~~5. The department has written documentation that the~~
 101 ~~insurance company issuing the closure insurance policy will~~
 102 ~~provide or reimburse the funds required to complete closing and~~
 103 ~~long-term care of the facility.~~

104 ~~(b) The department shall deposit the funds received from~~

105 ~~the insurance company as reimbursement for the costs of closing~~
 106 ~~or long-term care of the facility into the solid waste landfill~~
 107 ~~closure account.~~

108 ~~(c) This subsection expires July 1, 2016.~~

109 Section 2. Effective upon this act becoming a law, section
 110 403.7095, Florida Statutes, is amended to read:

111 403.7095 Solid waste management grant program.—

112 (1) The department shall develop a consolidated grant
 113 program for small counties having populations fewer than
 114 100,000, with grants to be distributed equally among eligible
 115 counties. Programs to be supported with the small-county
 116 consolidated grants include those for the purpose of general
 117 solid waste management, litter prevention and control, waste
 118 tire abatement, and recycling and education programs.

119 ~~(2) The department shall develop a waste tire grant~~
 120 ~~program making grants available to all counties. The department~~
 121 ~~shall ensure that at least 25 percent of the funding available~~
 122 ~~for waste tire grants is distributed equally to each county~~
 123 ~~having a population fewer than 100,000. Of the remaining funds~~
 124 ~~distributed to counties having a population of 100,000 or~~
 125 ~~greater, the department shall distribute those funds on the~~
 126 ~~basis of population.~~

127 ~~(3) From the funds made available pursuant to s.~~
 128 ~~403.709(1)(c) for the grant program created by this section, the~~
 129 ~~following distributions shall be made:~~

130 ~~(a) Up to 50 percent for the program described in~~

131 ~~subsection (1); and~~

132 ~~(b) Up to 50 percent for the program described in~~
133 ~~subsection (2).~~

134 (2)(4) The department may adopt rules necessary to
135 administer this section, including, but not limited to, rules
136 governing timeframes for submitting grant applications, criteria
137 for prioritizing, matching criteria, maximum grant amounts, and
138 allocation of appropriated funds based upon project and
139 applicant size.

140 ~~(5) Notwithstanding any other provision of this section,~~
141 ~~and for the 2014-2015 fiscal year only, the Department of~~
142 ~~Environmental Protection shall award the sum of \$3 million in~~
143 ~~grants equally to counties having populations of fewer than~~
144 ~~100,000 for waste tire and litter prevention, recycling~~
145 ~~education, and general solid waste programs. This subsection~~
146 ~~expires July 1, 2015.~~

147 Section 3. For the purpose of incorporating the amendments
148 made by this act to section 403.7095, Florida Statutes, in a
149 reference thereto, paragraph (a) of subsection (6) of section
150 403.413, Florida Statutes, is reenacted to read:

151 403.413 Florida Litter Law.—

152 (6) PENALTIES; ENFORCEMENT.—

153 (a) Any person who dumps litter in violation of subsection
154 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
155 feet in volume and not for commercial purposes is guilty of a
156 noncriminal infraction, punishable by a civil penalty of \$100,

157 | from which \$50 shall be deposited into the Solid Waste
 158 | Management Trust Fund to be used for the solid waste management
 159 | grant program pursuant to s. 403.7095. In addition, the court
 160 | may require the violator to pick up litter or perform other
 161 | labor commensurate with the offense committed.

162 | Section 4. For the purpose of incorporating the amendments
 163 | made by this act to section 403.7095, Florida Statutes, in a
 164 | reference thereto, paragraph (h) of subsection (5) of section
 165 | 403.7032, Florida Statutes, is reenacted to read:

166 | 403.7032 Recycling.—

167 | (5) The Department of Environmental Protection shall
 168 | create the Recycling Business Assistance Center by December 1,
 169 | 2010. In carrying out its duties under this subsection, the
 170 | department shall consult with state agency personnel appointed
 171 | to serve as economic development liaisons under s. 288.021 and
 172 | seek technical assistance from Enterprise Florida, Inc., to
 173 | ensure the Recycling Business Assistance Center is positioned to
 174 | succeed. The purpose of the center shall be to serve as the
 175 | mechanism for coordination among state agencies and the private
 176 | sector in order to coordinate policy and overall strategic
 177 | planning for developing new markets and expanding and enhancing
 178 | existing markets for recyclable materials in this state, other
 179 | states, and foreign countries. The duties of the center must
 180 | include, at a minimum:

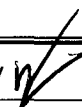
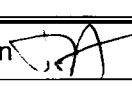
181 | (h) Providing evaluation of solid waste management grants,
 182 | pursuant to s. 403.7095, to reduce the flow of solid waste to

183 disposal facilities and encourage the sustainable recovery of
184 materials from Florida's waste stream.

185 Section 5. Except as otherwise expressly provided in this
186 act and except for this section, which shall take effect upon
187 this act becoming a law, this act shall take effect July 1,
188 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1227 Crustaceans
SPONSOR(S): Raschein
TIED BILLS: IDEN./SIM. BILLS: SB 1470

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Gregory 	Harrington 
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) regulates the commercial harvest of stone crabs and spiny lobster. Individuals who wish to commercially sell, purchase, or harvest stone crabs and spiny lobsters must obtain a saltwater products license and a restricted species endorsement for that particular species from FWC. In addition to the licensing requirements, individuals must obtain a certificate and tag for each stone crab and spiny lobster trap. It is unlawful to violate any of FWC's rules regulating stone crab and spiny lobster trap certificates and trap tags. Further, it is unlawful to harvest and possess undersized spiny lobster unless authorized by FWC. Violators of these regulations are subject to administrative fines, penalties, jail time, and license suspension or revocation.

The bill increases the penalties for commercial harvesters who violate FWC's rules for stone crab and spiny lobster trap certifications and trap tags. Specifically the bill:

- Authorizes prosecutors to charge a separate misdemeanor count for each untagged and unlawful trap for violations involving fewer than 100 stone crabs or spiny lobster traps. The bill restricts the total misdemeanor penalty to not exceed 4 years imprisonment and \$4000 in civil fines;
- Adds criminal penalties for violations of the trap tag and certificate regulations. These penalties will increase for subsequent violations; and
- Adds that violations involving 100 or more untagged stone crab or spiny lobster traps are punishable as a third degree felony. The bill also requires FWC to impose an administrative penalty of \$2,000 and authorizes FWC to suspend all of the violator's license privileges up to 12 months.

The bill also provides that possession of undersized lobsters is a major violation, unless authorized by FWC rule, and provides criminal penalties for such violation. The bill authorizes prosecutors to charge a separate misdemeanor count for each undersized spiny lobster. The bill restricts the total misdemeanor penalty to not exceed 4 years imprisonment and \$4000 in civil fines. For violations involving 100 or more undersized spiny lobster, the bill provides that such violation is punishable as a third degree felony. The bill also requires FWC to impose an administrative penalty of \$2,000 and authorizes FWC to suspend all of the violator's license privileges up to 12 months.

The bill may have an indeterminate fiscal impact on the state.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Fish and Wildlife Conservation Commission (FWC) regulates the commercial harvest of stone crabs and spiny lobsters. Harvesters set cage like traps under water and bait the traps to attract the crustaceans. FWC restricts the size, construction and design of the traps.¹ Buoys must be attached and traps must be placed so as not to impede navigation.² Individuals may only harvest stone crabs whose forearm are at least 2 ¾ inches in length.³ Individuals may only harvest spiny lobsters whose carapace is at least 3 inches long, if the tail is separated from the body, or whose tails are at least 5 ½ inches long.⁴ Harvesters pull up stone crab traps to collect their catch while harvesters snorkel or scuba dive to collect spiny lobster from their traps.⁵

Individuals who wish to commercially sell, purchase, or harvest saltwater products must obtain a saltwater products license from FWC.⁶ "Saltwater products" include any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.⁷ In addition to the saltwater products license, individuals who wish sell a "restricted species" must possess a restricted species endorsement for that particular species.⁸ FWC lists both stone crabs and spiny lobsters as restricted species.⁹ In addition to the licensing requirements, individuals must obtain a certificate and tag for each stone crab and spiny lobster trap.¹⁰

It is unlawful to violate any of FWC's rules regulating stone crab trap certificates and trap tags.¹¹ Additionally, it is unlawful to possess a spiny lobster trap without the appropriate number of certificates and trap tags.¹² Any violator of these regulations commits a Level 2 violation.¹³

¹ Rules 68B-13.008 and 68B-24.006, F.A.C.

² Id.

³ Rule 68B-13.007(1), F.A.C.

⁴ Rule 68B-24.003(1), F.A.C.

⁵ See FWC, Stone Crab, <http://myfwc.com/fishing/saltwater/commercial/stone-crab/> (last visited January 27, 2016) and FWC, Commercial Regulation of Spiny Lobster, <http://myfwc.com/fishing/saltwater/commercial/spiny-lobster/> (last visited January 27, 2016).

⁶ Section 379.361, F.S.

⁷ Section 379.101(36), F.S.

⁸ Section 379.361(2)(b), F.S.

⁹ Rules 68B-13.005 and 68B-24.001(4), F.A.C.

¹⁰ Sections 379.365(2)(a) and 379.3671(2)(c), F.S.

¹¹ Section 379.365(2)(a), F.S.

¹² Section 379.3671(2)(c)1. and 2., F.S.

¹³ Sections 379.365(2)(a)2. and 379.401(2)(a)13., 16., and 18., F.S.

Section 379.401, F.S., provides the following penalties for Level 2 violations:

Level 2 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1st offense ¹⁴	2nd Degree Misdemeanor	Max. \$500 or Max. 60 days	None
2nd offense within 3 years of previous Level 2 violation (or higher) ¹⁵	1st Degree Misdemeanor	Min. \$250; Max. \$1,000 or Max. 1 year	None
3rd offense within 5 years of two previous Level 2 violations (or higher) ¹⁶	1st Degree Misdemeanor	Min. \$500; Max. \$1,000 or Max. 1 year	Max. suspension of license for 1 year
4th offense within 10 years of three previous Level 2 violations (or higher) ¹⁷	1st Degree Misdemeanor	Min. \$750; Max. \$1,000 or Max. 1 year	Max. suspension of license for 3 years

Violators of these regulations are also subject to the penalties in s. 379.407, F.S. The base penalties for violations of these requirements are:

Section 379.407, F.S., Base Penalties ¹⁸	Fine or Jail Time
1st Conviction	Min. \$100; Max \$500 or Max 60 days in jail
2nd and Subsequent Convictions within 12 months	Min. \$250; Max \$1,000 or Max 6 months in jail

In addition to the base penalties, courts may assess additional penalties on commercial harvesters convicted of a major violation.¹⁹ For a violation involving more than 100 illegal stone crabs or spiny lobster, an additional penalty of \$10 for each stone crab or spiny lobster may be assessed.²⁰ For major violations involving stone crabs and spiny lobsters, license holder must show just cause why his or her license should not be suspended or revoked.²¹ For the purposes of suspension or revocation, a “major violation” is a major violation as prescribed for illegal stone crabs; any single violation involving possession of more than 25 stone crabs during the closed season or possession of 25 or more whole-bodied or egg-bearing stone crabs; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal stone crabs in the aggregate are involved.²² For the purposes of suspension or revocation, a “major violation” is a major violation as prescribed for illegal spiny lobster; any single violation involving possession of more than 25 spiny lobster during the closed season or possession of more than 25 wrung spiny lobster tails or more than 25 egg-bearing or stripped spiny lobster; any violation for trap molestation, trap robbing, or pulling traps at night; or any combination of violations in any 3-consecutive-year period wherein more than 75 illegal spiny lobster in the aggregate are involved.²³

¹⁴ Section 379.401(2)(b)1., F.S.

¹⁵ Section 379.401(2)(b)2., F.S.

¹⁶ Section 379.401(2)(b)3., F.S.

¹⁷ Section 379.401(2)(b)4., F.S.

¹⁸ Section 379.407(1), F.S.

¹⁹ Section 379.407(2), F.S.

²⁰ Section 379.407(2)(a), F.S.

²¹ Section 379.407(2)(i) and (j), F.S.

²² Section 379.407(2)(i), F.S.

²³ Section 379.407(2)(j), F.S.

FWC may suspend or revoke a commercial harvester's saltwater products license as follows:

Commercial License Suspension or Revocation²⁴	
Offense	Length
1st conviction	Max. 30 days
2nd conviction within 12 months of prior violation	Max. 90 days
3rd conviction within 24 months of prior violation	Max. 180 days
4th conviction within 36 months of prior violation	Min. 6 months; Max. 3 years

In addition to the penalties imposed by ss. 379.401 and 379.407, F.S., commercial harvesters who violate the FWC rules regulating stone crab trap certificates and trap tags are subject to the following administrative penalties:

Stone Crab Certificate and Trap Tag Penalties²⁵	Administrative Penalty	License Restrictions
1st violation	Max. \$1,000	None
2nd violation within 24 months of previous violation	Max. \$2,000	Max. suspension of stone crab endorsement 12 months
3rd violation within 36 months of two previous violations	Max. \$5,000	Max. suspension of stone crab endorsement 24 months
4th violation within 48 months of three previous violations	None specified	Permanent revocation of saltwater fishing privileges including saltwater products license

In addition to the penalties imposed by ss. 379.401 and 379.407, F.S., commercial harvesters who violate the FWC rules regulating spiny lobster traps are subject to the following administrative penalties:

Spiny Lobster Trap Penalties²⁶	Administrative Penalty	License Restrictions
1st violation	Max. \$1,000 for violations involving certificates and tags Max. \$500 for all other violations	None
2nd violation within 24 months of previous violation of certificate and tag requirements	Max. \$2,000	Suspension of spiny lobster endorsement for remainder of current license year
3rd violation within 36 months of two previous violations of certificate and tag requirements and prohibition of taking or emptying another person's trap	Max. \$5,000	Max. suspension of spiny lobster endorsement 24 months and FWC may suspend or revoke saltwater products license

Further, an individual commits a major violation when they possess spiny lobster during the closed season or, while on the water, possesses spiny lobster tails that have been wrung or separated from the body, unless such possession is allowed by FWC rule.²⁷ Such violations are punishable as follows:

²⁴ Section 379.407(2)(h), F.S.

²⁵ Section 379.365(2)(a)1., F.S.

²⁶ Section 379.3671(2)(c)4., F.S.

²⁷ Section 379.407(5), F.S.

Penalties for Possession of Spiny Lobster ²⁸	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1st violation	2nd Degree Misdemeanor	Max. \$500 or Max. 60 days	None
1st violation involving 25 or more lobsters	1st Degree Misdemeanor	Max. \$1,000 or Max. 1 year	None
2nd violation	1st Degree Misdemeanor	Max. \$1,000 or Max. 1 year	Max. suspension of license for 90 days
3rd violation	1st Degree Misdemeanor	Max. \$2,500 or Min. 6 months Max. 1 year	Max. suspension of license for 6 months
3rd violation within 1 year of 2 nd violation	3rd Degree Felony	\$5,000 or Min. 1 year; Max. 5 years	All FWC Licenses Permanently Revoked
4th offense	3rd Degree Felony	\$5,000 or Min. 1 year; Max. 5 year	All FWC Licenses Permanently Revoked

The illegal harvest of undersized and out of season spiny lobsters and stone crabs places negative pressure on the crustacean populations.²⁹

Effect of Proposed Changes

The bill increases the penalties for commercial harvesters who violate FWC's rules for stone crab and spiny lobster trap certifications and trap tags.

For violations of stone crab certificate and trap tag requirements, the bill:

- Authorizes prosecutors to charge a separate misdemeanor count for each untagged trap for violations involving fewer than 100 stone crab traps by amending paragraph 379.365(2)(a), F.S. The bill restricts the total misdemeanor penalty to not exceed 4 years imprisonment and \$4,000 in civil fines;
- Revises the current penalties that apply to commercial harvesters as follows:
 - Adds to the current penalties that a violator commits a second degree misdemeanor for the first violation by amending sub-subparagraph 379.365(2)(a)1.a., F.S. Such violations may be punished with a maximum civil penalty of \$500 or up to 60 days in jail,³⁰
 - Adds to the current penalties that a violator commits a first degree misdemeanor for the second violation by amending sub-subparagraph 379.365(2)(a)1.b., F.S. Such violations may be punished with a maximum civil penalty of \$1,000 or up to 1 year in jail.³¹ The bill removes the requirement that the second violation must occur within 24 months of the previous violation. The bill requires FWC to suspend all of the violator's licenses issued by FWC up to 12 months;
 - Adds to the current penalties that a violator commits a first degree misdemeanor for the third violation by amending sub-subparagraph 379.365(2)(a)1.c., F.S. Such violations

²⁸ Id.

²⁹ See examples of recent arrests: *3 locals had illegal lobster, crab claws*, keynews.com (August 28, 2010) <http://keynews.com/node/25889>; Keysinfonet, *Two Keys men busted for illegal lobster haul a week before mini-season*, Keysinfonet (July 23, 2014) <http://www.keysnet.com/2014/07/23/497892/two-keys-men-busted-for-illegal.html>; Keysinfonet, *Three busted in two separate lobster cases*, Keysinfonet (August 6, 2014) http://www.keysnet.com/2014/08/06/498100_three-busted-in-two-separate-lobster.html?rh=1; Kevin Wadlow, *Law enforcement cracking down harder on lobster mobsters*, Keysinfonet (July 22, 2015) http://www.keysnet.com/2015/07/22/503743_law-enforcement-cracking-down.html?rh=1, *Convicted lobster poacher gets jail time, \$28K in fines*, keynews.com (April 7, 2015) <http://keynews.com/node/65465>.

³⁰ Sections 775.082(4)(b) and 775.083(1)(e), F.S.

³¹ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

may be punished with a maximum civil penalty of \$1,000 or up to 1 year in jail.³² The bill removes the requirement that the third violation must occur within 36 months of the previous violations. The bill also requires FWC to suspend all of the violator's licenses issued by FWC up to 24 months;

- Removes a redundant penalty provision that authorized FWC to proceed against the commercial harvester's saltwater products license for a fourth violation by amending sub-subparagraph 379.365(2)(a)1.d., F.S.;
- Adds to the current penalties that commercial harvesters commits a third degree felony for violations involving 100 or more untagged stone crab traps by adding sub-subparagraph 379.365(2)(a)1.e., F.S. Such violations may be punished with a maximum civil penalty of \$5,000 or up to 5 years in jail.³³ The bill makes this violation a level 5 offense on the offense severity ranking chart for the purposes of sentencing by amending paragraph 921.0022(3)(e), F.S. The bill also requires FWC to impose an administrative penalty of \$2,000 and authorizes FWC to suspend all of the violator's license privileges up to 12 months; and
- Increases the violation for "possession or removal of the contents of another harvester's stone crab trap" and "violation of rules relating to molestation of stone crab traps, lines, or buoys; or rules relating to stone crab trap tags" from unranked third degree felonies to level 5 offenses on the offense severity ranking chart for the purposes of sentencing by amending paragraph 921.0022(3)(e), F.S.

For violations of spiny lobster certificate and trap tag requirements, the bill:

- Authorizes prosecutors to charge a separate misdemeanor count for each untagged and unlawful trap for violations involving fewer than 100 spiny lobster traps by amending subparagraphs 379.3671(2)(c)1. and 2., F.S. The bill restricts the total misdemeanor penalty to not exceed 4 years imprisonment and \$4000 in civil fines;
- Revises the current penalties that apply to commercial harvesters as follows:
 - Adds to the current penalties that a violator commits a second degree misdemeanor for the first violation by amending sub-subparagraph 379.3671(2)(c)4.a., F.S. Such violations may be punished with a maximum fine of \$500 or up to 60 days in jail;³⁴
 - Adds to the current penalties that a violator commits a first degree misdemeanor for the second violation by amending sub-subparagraph 379.3671(2)(c)4.b., F.S. Such violations may be punished with a maximum fine of \$1000 or up to 1 year in jail.³⁵ The bill removes the requirement that the second violation must occur within 24 months of the previous violation. The bill also requires FWC to suspend the violator's license privileges for up to 12 months. The statute previous only required suspension for the remainder for the license year;
 - Adds to the current penalties that a violator commits a first degree misdemeanor for the third violation by amending sub-subparagraph 379.3671(2)(c)4.c., F.S. Such violations may be punished with a maximum fine of \$1,000 or up to 1 year in jail. The bill removes the requirement that the third violation must occur within 36 months of the previous violations. The bill also requires FWC to suspend all of the violators licenses issued by FWC up to 24 months or revoke the violator's spiny lobster endorsement; and
 - Adds to the current penalties that a violator commits a third degree felony for violations involving 100 or more untagged spiny lobster traps or unlawful trap tags by adding sub-subparagraph 379.3671(2)(c)4.d., F.S. Such violations may be punished with a mandatory civil penalty of \$500 and maximum fine of \$5,000 or up to 5 years in jail.³⁶ The bill makes this violation a level 5 offense on the offense severity ranking chart for the purposes of sentencing by amending paragraph 921.0022(3)(e), F.S. The bill also

³² Id.

³³ Section 775.082(3)(e) and 775.083(1)(c), F.S.

³⁴ Sections 775.082(4)(b) and 775.083(1)(e), F.S.

³⁵ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

³⁶ Section 775.082(3)(e) and 775.083(1)(c), F.S.

requires FWC to impose an administrative penalty of up to \$2,000 and authorizes FWC to suspend all of the violator's license privileges up to 12 months.

The bill makes possession of undersized spiny lobster a major violation for recreational and commercial harvesters, unless authorized by FWC rule by adding paragraph 379.407(5)(b), F.S.³⁷ Specifically the bill:

- Authorizes prosecutors to charge a separate misdemeanor count for each undersized spiny lobster for violations involving fewer than 100 spiny lobster traps. The bill restricts the total misdemeanor penalty to not exceed 4 years imprisonment and \$4000 in civil fines; and
- Provides the following criminal penalties for recreational and commercial harvesters:
 - For the first violation, a second degree misdemeanor. Such violations may be punished with a maximum fine of \$500 or up to 60 days in jail;³⁸
 - For the second violation, a first degree misdemeanor. Such violations may be punished with a maximum fine of \$1000 or up to 1 year in jail;³⁹ and
 - For violations involving 100 or more undersized spiny lobsters, a third degree felony. Such violations may be punished with a mandatory civil penalty of \$500 and maximum fine of \$5,000 or up to 5 years in prison.⁴⁰ The bill makes this violation a level 5 offense on the offense severity ranking chart for the purposes of sentencing by amending paragraph 921.0022(3)(e), F.S. The bill also requires FWC to impose an administrative penalty of up to \$2,000 and authorizes FWC to suspend all of the violator's license privileges up to 12 months.

B. SECTION DIRECTORY:

Section 1. Amends s. 379.365, F.S., relating to stone crab regulation.

Section 2. Amends s. 379.3671, F.S., relating to the spiny lobster trap certification program.

Section 3. Amends s. 379.407, F.S., relating to penalties for possession of spiny lobster.

Section 4. Amends s. 921.0022, F.S., relating to the offense severity ranking chart for criminal sentencing.

Section 5. Providing an effective date of October 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on FWC by adding and raising civil penalties and administrative fines for violations of stone crab and spiny lobster harvest regulations.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on the state because the bill creates a third degree felony for the possession of 100 or more undersized spiny lobsters and for violations involving 100 or more untagged stone crab traps, which may have a fiscal impact on the state. The bill makes these violations a level 5 offense on the offense severity ranking chart for the purposes

³⁷ Rule 68B-24.003(3), F.A.C., authorizes commercial harvesters to possess 50 undersized lobsters per boat and one lobster per trap if used exclusively for luring, decoying, or otherwise attracting noncaptive spiny lobster into traps.

³⁸ Sections 775.082(4)(b) and 775.083(1)(e), F.S.

³⁹ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁴⁰ Section 775.082(3)(e) and 775.083(1)(c), F.S.

of sentencing. The bill also increases the violation for “possession or removal of the contents of another harvester’s stone crab trap” and “violation of rules relating to molestation of stone crab traps, lines, or buoys; or rules relating to stone crab trap tags” from unranked third degree felonies to level 5 offenses on the offense severity ranking chart for the purposes of sentencing. As a result, the criminal justice estimating conference estimates that the bill will have a positive indeterminate fiscal impact on prison beds.⁴¹

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill may have an indeterminate negative fiscal impact on commercial harvesters who violate FWC’s rules for stone crab and spiny lobster trap certifications and trap tags. Further, bill may have an indeterminate negative fiscal impact on recreational and commercial harvesters who harvest undersized spiny lobsters.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

⁴¹ Criminal Justice Estimating Conference, January 29, 2016 Conference Report.
STORAGE NAME: h1227.ANRS.DOCX
DATE: 1/29/2016

1 A bill to be entitled

2 An act relating to crustaceans; amending s. 379.365,

3 F.S.; specifying that for violations related to stone

4 crab traps which involve fewer than 100 traps, each

5 untagged trap may be charged as a separate count;

6 specifying maximum penalties for such violations;

7 revising the criminal and administrative penalties for

8 violations related to stone crab traps; amending s.

9 379.3671, F.S.; specifying that for violations related

10 to spiny lobster traps involving fewer than 100 traps,

11 each untagged trap or unlawful trap tag may be charged

12 as a separate count; specifying maximum penalties for

13 such violations; revising the criminal and

14 administrative penalties for violations related to

15 spiny lobster traps; amending s. 379.407, F.S.;

16 prohibiting certain persons from being in the

17 possession of undersized spiny lobsters; specifying

18 that for violations related to undersized spiny

19 lobsters in which fewer than 100 lobsters are

20 involved, each undersized lobster may be charged as a

21 separate count; specifying maximum penalties for such

22 violations; specifying the criminal and administrative

23 penalties for violations related to undersized spiny

24 lobsters; amending s. 921.0022, F.S.; revising the

25 offense severity ranking chart to include certain

26 violations related to stone crabs and spiny lobsters;

27 providing an effective date.

28

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

30

31 Section 1. Paragraph (a) of subsection (2) of section
32 379.365, Florida Statutes, is amended to read:

33 379.365 Stone crab; regulation.—

34 (2) PENALTIES.—For purposes of this subsection, conviction
35 is any disposition other than acquittal or dismissal, regardless
36 of whether the violation was adjudicated under any state or
37 federal law.

38 (a) It is unlawful to violate commission rules regulating
39 stone crab trap certificates and trap tags. No person may use an
40 expired tag or a stone crab trap tag not issued by the
41 commission or possess or use a stone crab trap in or on state
42 waters or adjacent federal waters without having a trap tag
43 required by the commission firmly attached thereto. For
44 violations involving fewer than 100 stone crab traps, each
45 untagged trap may be charged as a separate misdemeanor count
46 under sub-subparagraphs 1.a.-1.d. However, the total misdemeanor
47 penalty for any one scheme or course of conduct may not exceed 4
48 years' imprisonment and a civil fine of \$4,000 under such
49 subparagraphs.

50 1. In addition to any other penalties provided in s.
51 379.407, for any commercial harvester who violates this
52 paragraph, the following ~~administrative~~ penalties apply:—

53 | a. ~~For~~ A first violation is a misdemeanor of the second
 54 | degree, punishable as provided in s. 775.082 or s. 775.083. In
 55 | addition, the commission shall impose ,~~the commission shall~~
 56 | ~~assess~~ an administrative penalty of up to \$1,000 on the
 57 | violator.

58 | b. ~~For~~ A second violation is a misdemeanor of the first
 59 | degree, punishable as provided in s. 775.082 or s. 775.083. In
 60 | addition, the commission shall impose ~~that occurs within 24~~
 61 | ~~months of any previous such violation, the commission shall~~
 62 | ~~assess~~ an administrative penalty of up to \$2,000 on the violator
 63 | and shall suspend all of the violator's license privileges under
 64 | this chapter ~~and the stone crab endorsement under which the~~
 65 | ~~violation was committed may be suspended~~ for a period of up to
 66 | 12 calendar months.

67 | c. ~~For~~ A third or subsequent violation is a misdemeanor of
 68 | the first degree, punishable as provided in s. 775.082 or s.
 69 | 775.083. In addition, the commission shall impose ~~that occurs~~
 70 | ~~within 36 months of any previous two such violations, the~~
 71 | ~~commission shall assess~~ an administrative penalty of up to
 72 | \$5,000 on the violator and shall suspend all of the violator's
 73 | license privileges under this chapter ~~and the stone crab~~
 74 | ~~endorsement under which the violation was committed may be~~
 75 | ~~suspended~~ for a period of up to 24 calendar months.

76 | d. A fourth violation that occurs within 48 months of any
 77 | three previous such violations, shall be punished by ~~shall~~
 78 | ~~result in~~ permanent revocation of ~~all of the violator's~~ license

79 privileges under this chapter ~~saltwater fishing privileges,~~
 80 ~~including having the commission proceed against the endorsement~~
 81 ~~holder's saltwater products license in accordance with s.~~
 82 ~~379.407.~~

83 e. Any violation involving 100 or more untagged stone crab
 84 traps is a felony of the third degree, punishable as provided in
 85 s. 775.082, s. 775.083, or s. 775.084 and a mandatory civil fine
 86 of at least \$500. In addition, the commission shall impose an
 87 administrative penalty of up to \$2,000 against the violator and
 88 may suspend the violator's license privileges under this chapter
 89 for a period of up to 12 months. The administrative penalty and
 90 suspension may be assessed in addition to the penalties
 91 specified in sub-subparagraphs a.-d.

92 2. Any other person who violates ~~the provisions~~ of this
 93 paragraph commits a Level Two violation under s. 379.401.

94
 95 Within 30 days after notification, a ~~Any~~ commercial harvester
 96 assessed an administrative penalty under this paragraph shall
 97 ~~within 30 calendar days after notification,~~ pay the
 98 administrative penalty to the commission, or request an
 99 administrative hearing under ss. 120.569 and 120.57. The
 100 proceeds of ~~all~~ administrative penalties collected under this
 101 paragraph shall be deposited in the Marine Resources
 102 Conservation Trust Fund.

103 Section 2. Paragraph (c) of subsection (2) of section
 104 379.3671, Florida Statutes, is amended to read:

105 | 379.3671 Spiny lobster trap certificate program.—

106 | (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
 107 | PENALTIES.—The Fish and Wildlife Conservation Commission shall
 108 | establish a trap certificate program for the spiny lobster
 109 | fishery of this state and shall be responsible for its
 110 | administration and enforcement as follows:

111 | (c) *Prohibitions; penalties.*—

112 | 1. It is unlawful for a person to possess or use a spiny
 113 | lobster trap in or on state waters or adjacent federal waters
 114 | without having affixed thereto the trap tag required by this
 115 | section. It is unlawful for a person to possess or use any other
 116 | gear or device designed to attract and enclose or otherwise aid
 117 | in the taking of spiny lobster by trapping that is not a trap as
 118 | defined by commission rule. For violations involving fewer than
 119 | 100 spiny lobster traps, each untagged trap may be charged as a
 120 | separate misdemeanor count. However the total misdemeanor
 121 | penalty for any one scheme or course of conduct may not exceed 4
 122 | years' imprisonment and a civil fine of \$4,000.

123 | 2. It is unlawful for a person to possess or use spiny
 124 | lobster trap tags without having the necessary number of
 125 | certificates on record as required by this section. For
 126 | violations involving fewer than 100 spiny lobster trap tags,
 127 | each unlawful trap tag may be charged as a separate misdemeanor
 128 | count. However, the total misdemeanor penalty for any one scheme
 129 | or course of conduct may not exceed 4 years' imprisonment and a
 130 | civil fine of \$4,000.

131 3. It is unlawful for any person to willfully molest, take
 132 possession of, or remove the contents of another harvester's
 133 spiny lobster trap without the express written consent of the
 134 trap owner available for immediate inspection. Unauthorized
 135 possession of another's trap gear or removal of trap contents
 136 constitutes theft.

137 a. A commercial harvester who violates this subparagraph
 138 shall be punished under ss. 379.367 and 379.407. Any commercial
 139 harvester receiving a judicial disposition other than dismissal
 140 or acquittal on a charge of theft of or from a trap pursuant to
 141 this subparagraph or s. 379.402 shall, in addition to the
 142 penalties specified in ss. 379.367 and 379.407 and the
 143 provisions of this section, permanently lose all his or her
 144 saltwater fishing privileges, including his or her saltwater
 145 products license, spiny lobster endorsement, and all trap
 146 certificates allotted to him or her through this program. In
 147 such cases, trap certificates and endorsements are
 148 nontransferable.

149 b. Any commercial harvester receiving a judicial
 150 disposition other than dismissal or acquittal on a charge of
 151 willful molestation of a trap, in addition to the penalties
 152 specified in ss. 379.367 and 379.407, shall lose all saltwater
 153 fishing privileges for a period of 24 ~~calendar~~ months.

154 c. In addition, any commercial harvester charged with
 155 violating this subparagraph and receiving a judicial disposition
 156 other than dismissal or acquittal for violating this

157 | subparagraph or s. 379.402 shall also be assessed an
 158 | administrative penalty of up to \$5,000.

159 |

160 | Immediately upon receiving a citation for a violation involving
 161 | theft of or from a trap, or molestation of a trap, and until
 162 | adjudicated for such a violation or, upon receipt of a judicial
 163 | disposition other than dismissal or acquittal of such a
 164 | violation, the commercial harvester committing the violation is
 165 | prohibited from transferring any spiny lobster trap certificates
 166 | and endorsements.

167 | 4. In addition to any other penalties provided in s.
 168 | 379.407, a commercial harvester who violates the provisions of
 169 | this section or commission rules relating to spiny lobster traps
 170 | shall be punished as follows:

171 | a. A ~~If the first violation is a misdemeanor of the second~~
 172 | ~~degree, punishable as provided in s. 775.082 or s. 775.083. In~~
 173 | ~~addition, the commission shall impose an~~ is for violation of
 174 | ~~subparagraph 1. or subparagraph 2., the commission shall assess~~
 175 | ~~an additional~~ administrative penalty of up to \$1,000 on the
 176 | violation. ~~For all other first violations, the commission shall~~
 177 | ~~assess an additional administrative penalty of up to \$500.~~

178 | b. ~~For~~ A second violation is a misdemeanor of the first
 179 | degree, punishable as provided in s. 775.082 or s. 775.083. In
 180 | addition, the commission shall impose an ~~of subparagraph 1. or~~
 181 | ~~subparagraph 2. which occurs within 24 months of any previous~~
 182 | ~~such violation, the commission shall assess an additional~~

183 administrative penalty of up to \$2,000 on the violator and shall
 184 suspend the violator's license privileges under this chapter for
 185 a period of up to 12 months and the spiny lobster endorsement
 186 issued under s. 379.367(2) or (6) may be suspended for the
 187 remainder of the current license year.

188 c. ~~For~~ A third or subsequent violation is a misdemeanor of
 189 the first degree, punishable as provided in s. 775.082 or s.
 190 775.083. In addition, the commission shall impose an ~~of~~
 191 subparagraph 1., subparagraph 2., or subparagraph 3. which
 192 occurs within 36 months of any previous two such violations, the
 193 commission shall assess an additional administrative penalty of
 194 up to \$5,000 on the violator and shall suspend the violator's
 195 license privileges under this chapter and may suspend the spiny
 196 lobster endorsement issued under s. 379.367(2) or (6) for a
 197 period of up to 24 months or may revoke the spiny lobster
 198 endorsement issued under s. 379.367(2) or (6) and, if revoking
 199 the spiny lobster endorsement, may also proceed against the
 200 licenseholder's saltwater products license in accordance with
 201 the provisions of s. 379.407(2)(h).

202 d. A violation that involves 100 or more untagged spiny
 203 lobster traps or unlawful trap tags is a felony of the third
 204 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 205 775.084 and by a mandatory civil fine of at least \$500. In
 206 addition, the commission shall impose an administrative penalty
 207 of up to \$2,000 on the violator and may suspend the violator's
 208 license privileges under this chapter for an additional period

209 | of up to 12 months.

210 | e.d. Within 30 days after notification, a ~~Any~~ person
 211 | assessed an additional administrative penalty pursuant to this
 212 | section shall ~~within 30 calendar days after notification:~~

213 | (I) Pay the administrative penalty to the commission; or

214 | (II) Request an administrative hearing pursuant to the
 215 | provisions of ss. 120.569 and 120.57.

216 | f.e. The commission shall suspend the spiny lobster
 217 | endorsement issued under s. 379.367(2) or (6) of ~~for~~ any person
 218 | failing to comply with ~~the provisions of~~ sub-subparagraph e. d.

219 | 5.a. It is unlawful for any person to make, alter, forge,
 220 | counterfeit, or reproduce a spiny lobster trap tag or
 221 | certificate.

222 | b. It is unlawful for any person to knowingly have in his
 223 | or her possession a forged, counterfeit, or imitation spiny
 224 | lobster trap tag or certificate.

225 | c. It is unlawful for any person to barter, trade, sell,
 226 | supply, agree to supply, aid in supplying, or give away a spiny
 227 | lobster trap tag or certificate or to conspire to barter, trade,
 228 | sell, supply, aid in supplying, or give away a spiny lobster
 229 | trap tag or certificate unless such action is duly authorized by
 230 | the commission as provided in this chapter or in the rules of
 231 | the commission.

232 | 6.a. Any commercial harvester who violates the provisions
 233 | of subparagraph 5., or any commercial harvester who engages in
 234 | the commercial harvest, trapping, or possession of spiny lobster

235 without a spiny lobster endorsement as required by s. 379.367(2)
 236 or (6) or during any period while such spiny lobster endorsement
 237 is under suspension or revocation, commits a felony of the third
 238 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 239 775.084.

240 b. In addition to any penalty imposed pursuant to sub-
 241 subparagraph a., the commission shall levy a fine of up to twice
 242 the amount of the appropriate surcharge to be paid on the fair
 243 market value of the transferred certificates, as provided in
 244 subparagraph (a)1., on any commercial harvester who violates the
 245 provisions of sub-subparagraph 5.c.

246 c. In addition to any penalty imposed pursuant to sub-
 247 subparagraph a., any commercial harvester receiving any judicial
 248 disposition other than acquittal or dismissal for a violation of
 249 subparagraph 5. shall be assessed an administrative penalty of
 250 up to \$5,000, and the spiny lobster endorsement under which the
 251 violation was committed may be suspended for up to 24 ~~calendar~~
 252 months. Immediately upon issuance of a citation involving a
 253 violation of subparagraph 5. and until adjudication of such a
 254 violation, and after receipt of any judicial disposition other
 255 than acquittal or dismissal for such a violation, the commercial
 256 harvester holding the spiny lobster endorsement listed on the
 257 citation is prohibited from transferring any spiny lobster trap
 258 certificates.

259 d. Any other person who violates the provisions of
 260 subparagraph 5. commits a Level Four violation under s. 379.401.

261 7. Prior to the 2010-2011 license year, any certificates
 262 for which the annual certificate fee is not paid for a period of
 263 3 years shall be considered abandoned and shall revert to the
 264 commission. Beginning with the 2010-2011 license year, any
 265 certificate for which the annual certificate fee is not paid for
 266 a period of 2 consecutive years shall be considered abandoned
 267 and shall revert to the commission. During any period of trap
 268 reduction, any certificates reverting to the commission shall
 269 become permanently unavailable and be considered in that amount
 270 to be reduced during the next license-year period. Otherwise,
 271 any certificates that revert to the commission are to be
 272 reallocated in such manner as provided by the commission.

273 8. The proceeds of all administrative penalties collected
 274 pursuant to subparagraph 4. and all fines collected pursuant to
 275 sub-subparagraph 6.b. shall be deposited into the Marine
 276 Resources Conservation Trust Fund.

277 9. All traps shall be removed from the water during any
 278 period of suspension or revocation.

279 10. Except as otherwise provided, any person who violates
 280 this paragraph commits a Level Two violation under s. 379.401.

281 Section 3. Subsection (5) of section 379.407, Florida
 282 Statutes, is amended to read:

283 379.407 Administration; rules, publications, records;
 284 penalties; injunctions.—

285 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED
 286 SEASON AND WRUNG TAILS.—

287 | (a) It is a major violation under this section for any
 288 | person, firm, or corporation to be in possession of spiny
 289 | lobster during the closed season or, while on the water, to be
 290 | in possession of spiny lobster tails that have been wrung or
 291 | separated from the body, unless such possession is allowed by
 292 | commission rule. Any person, firm, or corporation that violates
 293 | this paragraph ~~subsection~~ is subject to penalties as follows:

294 | 1.~~(a)~~ A first violation is a misdemeanor of the second
 295 | degree, punishable as provided in s. 775.082 or s. 775.083. If
 296 | the violation involves 25 or more lobster, the violation is a
 297 | misdemeanor of the first degree, punishable as provided in s.
 298 | 775.082 or s. 775.083.

299 | 2.~~(b)~~ A second violation is a misdemeanor of the first
 300 | degree, punishable as provided in s. 775.082 or s. 775.083, and
 301 | such person is subject to a suspension of his or her ~~all~~ license
 302 | privileges under this chapter for a period not to exceed 90
 303 | days.

304 | 3.~~(c)~~ A third violation is a misdemeanor of the first
 305 | degree, punishable as provided in s. 775.082 or s. 775.083, with
 306 | a mandatory minimum term of imprisonment of 6 months, and such
 307 | person may be assessed a civil penalty of up to \$2,500 and is
 308 | subject to a suspension of all license privileges under this
 309 | chapter for a period not to exceed 6 months.

310 | 4.~~(d)~~ A third violation within 1 year after a second
 311 | violation is a felony of the third degree, punishable as
 312 | provided in s. 775.082 or s. 775.083, with a mandatory minimum

313 term of imprisonment of 1 year, and such person shall be
 314 assessed a civil penalty of \$5,000 and all license privileges
 315 under this chapter shall be permanently revoked.

316 5.(e) A fourth or subsequent violation is a felony of the
 317 third degree, punishable as provided in s. 775.082 or s.
 318 775.083, with a mandatory minimum term of imprisonment of 1
 319 year, and such person shall be assessed a civil penalty of
 320 \$5,000 and all license privileges under this chapter shall be
 321 permanently revoked.

322 (b) It is a major violation under this section for a
 323 recreational or commercial harvester to be in possession of an
 324 undersized spiny lobster, unless authorized to do so by
 325 commission rule. For violations of this paragraph involving
 326 fewer than 100 lobsters, each undersized spiny lobster may be
 327 charged as a separate misdemeanor count under subparagraphs 1.
 328 and 2. However, the total misdemeanor penalty for any one scheme
 329 or course of conduct may not exceed 4 years' imprisonment and a
 330 civil fine of \$4,000 under such subparagraphs. Any person that
 331 violates this paragraph is subject to the following penalties:

332 1. A first violation is a misdemeanor of the second
 333 degree, punishable as provided in s. 775.082 or s. 775.083.

334 2. A second violation is a misdemeanor of the first
 335 degree, punishable as provided in s. 775.082 or s. 775.083.

336 3. If a violation involves more than 100 spiny lobsters,
 337 the violation is a felony of the third degree, punishable as
 338 provided in s. 775.082, s. 775.083, or s. 775.084 and a

339 mandatory civil fine of at least \$500. In addition, the
 340 commission shall assess the violator with an administrative
 341 penalty of up to \$2,000 and may suspend the violator's license
 342 privileges under this chapter for a period of up to 12 months.

343 Section 4. Paragraph (e) of subsection (3) of section
 344 921.0022, Florida Statutes, is amended to read:

345 921.0022 Criminal Punishment Code; offense severity
 346 ranking chart.—

347 (3) OFFENSE SEVERITY RANKING CHART

348 (e) LEVEL 5

349

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license,

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353			resulting in death or serious bodily injury.
354	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
355	<u>379.365</u> <u>(2)(a)1.e.</u>	<u>3rd</u>	<u>Possession or use of more than 100 untagged stone crab traps.</u>
356	<u>379.365(2)(b)</u>	<u>3rd</u>	<u>Possession or removal of the contents of another harvester's stone crab trap.</u>
357	<u>379.365</u> <u>(2)(c)1.</u>	<u>3rd</u>	<u>Violation of rules relating to molestation of stone crab traps, lines, or buoys; or rules relating to stone crab trap tags.</u>
	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line,

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358	379.3671 (2) (c) 3.	3rd	or buoy. Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
359	<u>379.3671</u> <u>(2) (c) 4.d.</u>	<u>3rd</u>	<u>Possession or use of more than 100 untagged spiny lobster traps or unlawful trap tags.</u>
360	<u>379.407</u> <u>(5) (b) 3.</u>	<u>3rd</u>	<u>Possession of more than 100 undersized spiny lobsters.</u>
361	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
362	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
363	440.105 (5)	2nd	Unlawful solicitation for the purpose of making

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364	440.381(2)	2nd	workers' compensation claims. Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
365	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
366	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
367	790.01(2)	3rd	Carrying a concealed firearm.
368	790.162	2nd	Threat to throw or discharge destructive device.

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369	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
370	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
371	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
372	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
373	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
374	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
375	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with

376			intent to damage any structure or property.
	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
377			
	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
378			
	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
379			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
380			
	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
381			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
382			

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383	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
384	817.2341 (1) , (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
385	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or

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386			reencoder.
825.1025 (4)	3rd		Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
387			
827.071 (4)	2nd		Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
388			
827.071 (5)	3rd		Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
389			
839.13 (2) (b)	2nd		Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
390			
843.01	3rd		Resist officer with violence

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391			to person; resist arrest with violence.
392	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
393	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
394	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
395	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
396	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
	893.13 (1) (a) 1.	2nd	Sell, manufacture, or

397	893.13(1)(c)2.	2nd	<p>deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p> <p>Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</p>
398	893.13(1)(d)1.	1st	<p>Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.</p>

399

893.13(1)(e)2.

2nd

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

400

893.13(1)(f)1.

1st

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.

401

893.13(4)(b)

2nd

Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5.,

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(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or
(4) drugs).

402

893.1351(1)

3rd

Ownership, lease, or rental
for trafficking in or
manufacturing of controlled
substance.

403

404

Section 5. This act shall take effect October 1, 2016.



Amendment No.

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED _____ (Y/N)
 ADOPTED AS AMENDED _____ (Y/N)
 ADOPTED W/O OBJECTION _____ (Y/N)
 FAILED TO ADOPT _____ (Y/N)
 WITHDRAWN _____ (Y/N)
 OTHER _____

1 Committee/Subcommittee hearing bill: Agriculture & Natural
 2 Resources Subcommittee
 3 Representative Raschein offered the following:
 4

Amendment (with title amendment)

6 Remove everything after the enacting clause and insert:

7 Section 1. Paragraph (a) of subsection (2) of section
 8 379.365, Florida Statutes, is amended to read:

9 379.365 Stone crab; regulation.—

10 (2) PENALTIES.—For purposes of this subsection, conviction
 11 is any disposition other than acquittal or dismissal, regardless
 12 of whether the violation was adjudicated under any state or
 13 federal law.

14 (a) It is unlawful to violate commission rules regulating
 15 stone crab trap certificates and trap tags. No person may use an
 16 expired tag or a stone crab trap tag not issued by the
 17 commission or possess or use a stone crab trap in or on state



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18 waters or adjacent federal waters without having a trap tag
19 required by the commission firmly attached thereto.

20 1. In addition to any other penalties provided in s.
21 379.407, for any commercial harvester who violates this
22 paragraph, the following administrative penalties apply:-

23 a. For a first violation, the commission shall assess an
24 additional administrative penalty of up to \$1,000.

25 b. For a second violation that occurs within 24 months of
26 any previous such violation, the commission shall assess an
27 additional administrative penalty of up to \$2,000 and the stone
28 crab endorsement under which the violation was committed may be
29 suspended for 12 ~~ealendar~~ months.

30 c. For a third violation that occurs within 36 months of
31 any previous two such violations, the commission shall assess an
32 additional administrative penalty of up to \$5,000 and the stone
33 crab endorsement under which the violation was committed may be
34 suspended for 24 ~~ealendar~~ months.

35 d. A fourth violation that occurs within 48 months of any
36 three previous such violations, shall result in permanent
37 revocation of all of the violator's saltwater fishing
38 privileges, including having the commission proceed against the
39 endorsement holder's saltwater products license in accordance
40 with s. 379.407.

41 2. Any other person who violates ~~the provisions of~~ this
42 paragraph commits a Level Two violation under s. 379.401.



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44 Any commercial harvester assessed an administrative penalty
45 under this paragraph shall, within 30 calendar days after
46 notification, pay the administrative penalty to the commission,
47 or request an administrative hearing under ss. 120.569 and
48 120.57. The proceeds of all administrative penalties collected
49 under this paragraph shall be deposited in the Marine Resources
50 Conservation Trust Fund.

51 Section 2. Paragraph (c) of subsection (2) of section
52 379.3671, Florida Statutes, is amended to read:

53 379.3671 Spiny lobster trap certificate program.—

54 (2) TRANSFERABLE TRAP CERTIFICATES; TRAP TAGS; FEES;
55 PENALTIES.—The Fish and Wildlife Conservation Commission shall
56 establish a trap certificate program for the spiny lobster
57 fishery of this state and shall be responsible for its
58 administration and enforcement as follows:

59 (c) *Prohibitions; penalties.*—

60 1. It is unlawful for a person to possess or use a spiny
61 lobster trap in or on state waters or adjacent federal waters
62 without having affixed thereto the trap tag required by this
63 section. It is unlawful for a person to possess or use any other
64 gear or device designed to attract and enclose or otherwise aid
65 in the taking of spiny lobster by trapping that is not a trap as
66 defined by commission rule.

67 2. It is unlawful for a person to possess or use spiny
68 lobster trap tags without having the necessary number of
69 certificates on record as required by this section.



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70 3. It is unlawful for any person to willfully molest, take
71 possession of, or remove the contents of another harvester's
72 spiny lobster trap without the express written consent of the
73 trap owner available for immediate inspection. Unauthorized
74 possession of another's trap gear or removal of trap contents
75 constitutes theft.

76 a. A commercial harvester who violates this subparagraph
77 shall be punished under ss. 379.367 and 379.407. Any commercial
78 harvester receiving a judicial disposition other than dismissal
79 or acquittal on a charge of theft of or from a trap pursuant to
80 this subparagraph or s. 379.402 shall, in addition to the
81 penalties specified in ss. 379.367 and 379.407 and the
82 provisions of this section, permanently lose all his or her
83 saltwater fishing privileges, including his or her saltwater
84 products license, spiny lobster endorsement, and all trap
85 certificates allotted to him or her through this program. In
86 such cases, trap certificates and endorsements are
87 nontransferable.

88 b. Any commercial harvester receiving a judicial
89 disposition other than dismissal or acquittal on a charge of
90 willful molestation of a trap, in addition to the penalties
91 specified in ss. 379.367 and 379.407, shall lose all saltwater
92 fishing privileges for a period of 24 ~~calendar~~ months.

93 c. In addition, any commercial harvester charged with
94 violating this subparagraph and receiving a judicial disposition
95 other than dismissal or acquittal for violating this



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96 subparagraph or s. 379.402 shall also be assessed an
97 administrative penalty of up to \$5,000.

98
99 Immediately upon receiving a citation for a violation involving
100 theft of or from a trap, or molestation of a trap, and until
101 adjudicated for such a violation or, upon receipt of a judicial
102 disposition other than dismissal or acquittal of such a
103 violation, the commercial harvester committing the violation is
104 prohibited from transferring any spiny lobster trap certificates
105 and endorsements.

106 4. In addition to any other penalties provided in s.
107 379.407, a commercial harvester who violates the provisions of
108 this section or commission rules relating to spiny lobster traps
109 shall be punished as follows:

110 a. If the first violation is for a violation of
111 subparagraph 1. or subparagraph 2., the commission shall assess
112 an additional administrative penalty of up to \$1,000. For all
113 other first violations, the commission shall assess an
114 additional administrative penalty of up to \$500.

115 b. For a second violation of subparagraph 1. or
116 subparagraph 2. which occurs within 24 months of any previous
117 such violation, the commission shall assess an additional
118 administrative penalty of up to \$2,000 and the spiny lobster
119 endorsement issued under s. 379.367(2) or (6) may be suspended
120 for 12 months ~~the remainder of the current license year.~~



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121 c. For a third ~~or subsequent~~ violation of subparagraph 1.
122 ~~or, subparagraph 2., or subparagraph 3.~~ which occurs within 36
123 months of any previous two such violations, the commission shall
124 assess an additional administrative penalty of up to \$5,000 and
125 ~~may suspend~~ the spiny lobster endorsement issued under s.
126 379.367(2) or (6) may be suspended for a ~~period of up to~~ 24
127 months ~~or may revoke the spiny lobster endorsement and, if~~
128 ~~revoking the spiny lobster endorsement, may also proceed against~~
129 ~~the licenseholder's saltwater products license in accordance~~
130 ~~with the provisions of s. 379.407(2)(h).~~

131 d. A fourth violation that occurs within 48 months of any
132 three previous such violations, shall result in permanent
133 revocation of all of the violator's saltwater fishing
134 privileges, including having the commission proceed against the
135 endorsement holder's saltwater products license in accordance
136 with s. 379.407.

137 ~~e.d.~~ Any person assessed an additional administrative
138 penalty pursuant to this section shall within 30 calendar days
139 after notification:

140 (I) Pay the administrative penalty to the commission; or

141 (II) Request an administrative hearing pursuant to the
142 provisions of ss. 120.569 and 120.57.

143 ~~f.e.~~ The commission shall suspend the spiny lobster
144 endorsement issued under s. 379.367(2) or (6) of ~~for~~ any person
145 failing to comply with ~~the provisions of sub-subparagraph e. d.~~



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146 5.a. It is unlawful for any person to make, alter, forge,
147 counterfeit, or reproduce a spiny lobster trap tag or
148 certificate.

149 b. It is unlawful for any person to knowingly have in his
150 or her possession a forged, counterfeit, or imitation spiny
151 lobster trap tag or certificate.

152 c. It is unlawful for any person to barter, trade, sell,
153 supply, agree to supply, aid in supplying, or give away a spiny
154 lobster trap tag or certificate or to conspire to barter, trade,
155 sell, supply, aid in supplying, or give away a spiny lobster
156 trap tag or certificate unless such action is duly authorized by
157 the commission as provided in this chapter or in the rules of
158 the commission.

159 6.a. Any commercial harvester who violates the provisions
160 of subparagraph 5., or any commercial harvester who engages in
161 the commercial harvest, trapping, or possession of spiny lobster
162 without a spiny lobster endorsement as required by s. 379.367(2)
163 or (6) or during any period while such spiny lobster endorsement
164 is under suspension or revocation, commits a felony of the third
165 degree, punishable as provided in s. 775.082, s. 775.083, or s.
166 775.084.

167 b. In addition to any penalty imposed pursuant to sub-
168 subparagraph a., the commission shall levy a fine of up to twice
169 the amount of the appropriate surcharge to be paid on the fair
170 market value of the transferred certificates, as provided in



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171 subparagraph (a)1., on any commercial harvester who violates the
172 provisions of sub-subparagraph 5.c.

173 c. In addition to any penalty imposed pursuant to sub-
174 subparagraph a., any commercial harvester receiving any judicial
175 disposition other than acquittal or dismissal for a violation of
176 subparagraph 5. shall be assessed an administrative penalty of
177 up to \$5,000, and the spiny lobster endorsement under which the
178 violation was committed may be suspended for up to 24 ~~calendar~~
179 months. Immediately upon issuance of a citation involving a
180 violation of subparagraph 5. and until adjudication of such a
181 violation, and after receipt of any judicial disposition other
182 than acquittal or dismissal for such a violation, the commercial
183 harvester holding the spiny lobster endorsement listed on the
184 citation is prohibited from transferring any spiny lobster trap
185 certificates.

186 d. Any other person who violates the provisions of
187 subparagraph 5. commits a Level Four violation under s. 379.401.

188 7. Prior to the 2010-2011 license year, any certificates
189 for which the annual certificate fee is not paid for a period of
190 3 years shall be considered abandoned and shall revert to the
191 commission. Beginning with the 2010-2011 license year, any
192 certificate for which the annual certificate fee is not paid for
193 a period of 2 consecutive years shall be considered abandoned
194 and shall revert to the commission. During any period of trap
195 reduction, any certificates reverting to the commission shall
196 become permanently unavailable and be considered in that amount



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197 to be reduced during the next license-year period. Otherwise,
198 any certificates that revert to the commission are to be
199 reallocated in such manner as provided by the commission.

200 8. The proceeds of all administrative penalties collected
201 pursuant to subparagraph 4. and all fines collected pursuant to
202 sub-subparagraph 6.b. shall be deposited into the Marine
203 Resources Conservation Trust Fund.

204 9. All traps shall be removed from the water during any
205 period of suspension or revocation.

206 10. Except as otherwise provided, any person who violates
207 this paragraph commits a Level Two violation under s. 379.401.

208 Section 3. Subsection (5) of section 379.407, Florida
209 Statutes, is amended to read:

210 379.407 Administration; rules, publications, records;
211 penalties; injunctions.-

212 (5) PENALTIES FOR POSSESSION OF SPINY LOBSTER; CLOSED
213 SEASON AND WRUNG TAILS.-

214 (a) It is a major violation under this section for any
215 person, firm, or corporation to be in possession of spiny
216 lobster during the closed season or, while on the water, to be
217 in possession of spiny lobster tails that have been wrung or
218 separated from the body, unless such possession is allowed by
219 commission rule. Any person, firm, or corporation that violates
220 this paragraph ~~subsection~~ is subject to penalties as follows:

221 1.(a) A first violation is a misdemeanor of the second
222 degree, punishable as provided in s. 775.082 or s. 775.083. If



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223 the violation involves 25 or more lobster, the violation is a
224 misdemeanor of the first degree, punishable as provided in s.
225 775.082 or s. 775.083.

226 2.(b) A second violation is a misdemeanor of the first
227 degree, punishable as provided in s. 775.082 or s. 775.083, and
228 such person is subject to a suspension of all license privileges
229 under this chapter for a period not to exceed 90 days.

230 3.(e) A third violation is a misdemeanor of the first
231 degree, punishable as provided in s. 775.082 or s. 775.083, with
232 a mandatory minimum term of imprisonment of 6 months, and such
233 person may be assessed a civil penalty of up to \$2,500 and is
234 subject to a suspension of all license privileges under this
235 chapter for a period not to exceed 6 months.

236 4.(d) A third violation within 1 year after a second
237 violation is a felony of the third degree, punishable as
238 provided in s. 775.082 or s. 775.083, with a mandatory minimum
239 term of imprisonment of 1 year, and such person shall be
240 assessed a civil penalty of \$5,000 and all license privileges
241 under this chapter shall be permanently revoked.

242 5.(e) A fourth or subsequent violation is a felony of the
243 third degree, punishable as provided in s. 775.082 or s.
244 775.083, with a mandatory minimum term of imprisonment of 1
245 year, and such person shall be assessed a civil penalty of
246 \$5,000 and all license privileges under this chapter shall be
247 permanently revoked.



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248 (b) It is a major violation under this section for a
249 recreational or commercial harvester to be in possession of an
250 undersized spiny lobster, unless authorized to do so by
251 commission rule. For violations of this paragraph involving
252 fewer than 100 undersized lobsters, each undersized spiny
253 lobster may be charged as a separate misdemeanor count under
254 subparagraphs 1. and 2. However, the total misdemeanor penalty
255 for any one scheme or course of conduct may not exceed 4 years'
256 imprisonment and a fine of \$4,000 under such subparagraphs. Any
257 person that violates this paragraph is subject to the following
258 penalties:

259 1. A first violation is a misdemeanor of the second
260 degree, punishable as provided in s. 775.082 or s. 775.083.

261 2. A second or subsequent violation is a misdemeanor of
262 the first degree, punishable as provided in s. 775.082 or s.
263 775.083.

264 3. If a violation involves 100 or more undersized spiny
265 lobsters, the violation is a felony of the third degree,
266 punishable as provided in s. 775.082, s. 775.083, or s. 775.084
267 and a mandatory fine of at least \$500. In addition, the
268 commission shall assess the violator with an administrative
269 penalty of up to \$2,000 and may suspend the violator's license
270 privileges under this chapter for a period of up to 12 months.

271 Section 4. Paragraph (e) of subsection (3) of section
272 921.0022, Florida Statutes, is amended to read:



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273 921.0022 Criminal Punishment Code; offense severity

274 ranking chart.-

275 (3) OFFENSE SEVERITY RANKING CHART

276 (e) LEVEL 5

277

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.

278

279

280

281



Amendment No.

282

379.365
(2) (c) 1.

3rd

Violation of rules
relating to: molestation
of stone crab traps,
lines, or buoys; illegal
trade, sale, or
supplying of stone crab
trap tags or
certificates; making,
altering, forging,
counterfeiting, or
reproducing stone crab
trap tags; possession of
forged, counterfeit, or
imitation stone crab
trap tags; commercial
harvest of stone crabs
while license is
suspended or revoked.

283

379.367(4)

3rd

Willful molestation of a
commercial harvester's
spiny lobster trap, line,
or buoy.

284

~~379.3671~~

~~3rd~~

~~Willful molestation,~~



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285

~~(2)(c)3.~~

~~possession, or removal of a
commercial harvester's trap
contents or trap gear by
another harvester.~~

286

379.407

3rd

Possession of 100 or more
undersized spiny lobsters.

(5)(b)3.

287

381.0041(11)(b)

3rd

Donate blood,
plasma, or organs
knowing HIV
positive.

288

440.10(1)(g)

2nd

Failure to obtain workers'
compensation coverage.

289

440.105(5)

2nd

Unlawful solicitation for
the purpose of making
workers' compensation
claims.

290

440.381(2)

2nd

Submission of false,
misleading, or incomplete
information with the purpose



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			of avoiding or reducing workers' compensation premiums.
291	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
292	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
293	790.01(2)	3rd	Carrying a concealed firearm.
294	790.162	2nd	Threat to throw or discharge destructive device.
295	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
296	790.221(1)	2nd	Possession of short-



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297			barreled shotgun or machine gun.
298	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
299	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.
300	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
301	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
302	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or



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			more but less than \$50,000.
303	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
304	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
305	812.131(2)(b)	3rd	Robbery by sudden snatching.
306	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
307	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
308	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
309	817.2341(1),	3rd	Filing false financial



Amendment No.

(2) (a) & (3) (a)

statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.

310

817.568 (2) (b)

2nd

Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.

311

817.625 (2) (b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

312

825.1025 (4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.



Amendment No.

313	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
314	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
315	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
316	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
317	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18



Amendment No.

years or older.

318	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
319	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
320	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
321	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.
322	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
323	893.13(1)(c)2.	2nd	Sell, manufacture, or



Amendment No.

deliver cannabis (or other
s. 893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,
(2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4)
drugs) within 1,000 feet
of a child care facility,
school, or state, county,
or municipal park or
publicly owned
recreational facility or
community center.

324

893.13(1)(d)1.

1st

Sell, manufacture, or
deliver cocaine (or other
s. 893.03(1)(a), (1)(b),
(1)(d), (2)(a), (2)(b), or
(2)(c)4. drugs) within
1,000 feet of university.

325

893.13(1)(e)2.

2nd

Sell, manufacture, or
deliver cannabis or other
drug prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3.,



COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. HB 1227 (2016)

Amendment No.

326

893.13(1)(f)1.

1st

(2)(c)5., (2)(c)6.,
(2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4)
within 1,000 feet of
property used for
religious services or a
specified business site.

Sell, manufacture, or
deliver cocaine (or other
s. 893.03(1)(a), (1)(b),
(1)(d), or (2)(a), (2)(b),
or (2)(c)4. drugs) within
1,000 feet of public
housing facility.

327

893.13(4)(b)

2nd

Deliver to minor cannabis
(or other s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or
(4) drugs).

328

893.1351(1)

3rd

Ownership, lease, or rental
for trafficking in or



Amendment No.

manufacturing of controlled
substance.

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Section 5. This act shall take effect October 1, 2016.

T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled

An act relating to crustaceans; amending s. 379.365,
F.S.; revising the administrative penalties for
violations related to stone crab traps; amending s.
379.3671, F.S.; revising the administrative penalties
for violations related to spiny lobster traps;
amending s. 379.407, F.S.; prohibiting certain persons
from being in the possession of undersized spiny
lobsters; specifying that for violations related to
undersized spiny lobsters in which fewer than 100
undersized lobsters are involved, each undersized
lobster may be charged as a separate count; specifying
maximum penalties for such violations; specifying the
criminal and administrative penalties for violations
related to undersized spiny lobsters; amending s.
921.0022, F.S.; revising the offense severity ranking
chart to include certain violations related to stone
crabs and spiny lobsters; providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1273 Manatees
SPONSOR(S): Ahern
TIED BILLS: IDEN./SIM. BILLS: SB 1506

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Moore, R. <i>fol</i>	Harrington <i>[Signature]</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Manatees are listed as an endangered species under the Endangered Species Act. Florida's Manatee Sanctuary Act (Act) declares the state to be a refuge and sanctuary for the manatee. The Act provides that the Florida Fish and Wildlife Conservation Commission (FWC) must adopt rules regulating the operation and speed of motorboat traffic where there are manatee sightings based upon best available scientific information and allows local governments to adopt ordinances regulating the same within its jurisdiction if approved by FWC. FWC has established manatee protection rules restricting the speed and operation of vessels where necessary to protect manatees from harassment and harmful collisions with vessels. FWC also conducts aerial distribution and synoptic surveys to acquire information on manatee distribution, abundance, and use of habitat. The Save the Manatee Trust Fund (STMTF) is administered by FWC and its funds are used for a yearly impartial scientific benchmark census of the manatee population in the state and programs to protect and enhance the recovery of the manatee and other species of marine mammals.

The bill:

- Requires FWC to contract with an independent, qualified party to conduct a study evaluating the effectiveness of manatee speed zones including if, and to what extent, risks to manatees are reduced by these zones and to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, detailing the findings of the study;
- Requires FWC to conduct a statewide manatee distribution and abundance survey and report by July 1, 2018, that achieves a scientifically reliable population estimate, and allows FWC to repeat the survey as necessary to determine best practices until at least July 1, 2026;
- Allows funds from the STMTF to be used for the manatee speed zone effectiveness study and statewide manatee distribution and abundance survey and report to the extent that funding is not available from other sources; and
- Exempts the STMTF from a service charge assessed against state trust funds until July 1, 2026.

The bill may have a negative fiscal impact on the state by exempting the STMTF from the requirement to contribute to the General Revenue Fund.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The West Indian manatee, *Trichechus manatus*, is a large aquatic mammal consisting of two subspecies: the Antillean manatee, *Trichechus manatus manatus*, and the Florida manatee, *Trichechus manatus latirostris*.¹ Manatees are protected under the Endangered Species Act (ESA) and the Marine Mammal Protection Act. Under the ESA, species are listed as either endangered² or threatened.³ Manatees are currently listed as an endangered species under the ESA.⁴ The ultimate goal of the ESA is to recover species so they no longer need protection.⁵

Manatees are found throughout the Caribbean, including the southeastern United States, eastern Mexico, eastern Central America, northeastern South America, and the Greater Antilles.⁶ The range wide population is estimated to be at least 13,000, with more than 6,500 in the southeastern United States and Puerto Rico. When aerial surveys began in 1991, there were an estimated 1,267 manatees in Florida.⁷ Today there are more than 6,000, representing a significant increase over the past 25 years.⁸ On January 8, 2016, the United States Fish and Wildlife Service proposed reclassifying the manatee from endangered to threatened.⁹

Florida's Endangered and Threatened Species Act

Florida's Endangered and Threatened Species Act (FETSA) recognizes that the state harbors a wide diversity of fish and wildlife and provides that it is the policy of the state to conserve and wisely manage these resources, with particular attention to species defined by the Fish and Wildlife Conservation Commission (FWC), the Department of Environmental Protection, or the United States Department of Interior, or successor agencies, as being endangered¹⁰ or threatened^{11, 12}. The FETSA also recognizes

¹ U.S. Fish & Wildlife Service Southeast Region West Indian Manatee, available at <http://www.fws.gov/southeast/wildlife/mammal/manatee/> (last visited Jan. 27, 2016).

² "Endangered" means a species is in danger of extinction throughout all or a significant portion of its range.; ESA Fact Sheet available at http://www.fws.gov/endangered/esa-library/pdf/ESA_basics.pdf.

³ "Threatened" means a species is likely to become endangered within the foreseeable future.; ESA Fact Sheet available at http://www.fws.gov/endangered/esa-library/pdf/ESA_basics.pdf.

⁴ U.S. Fish & Wildlife Service Southeast Region West Indian Manatee, available at <http://www.fws.gov/southeast/wildlife/mammal/manatee/> (last visited Jan. 27, 2016).

⁵ ESA Fact Sheet available at http://www.fws.gov/endangered/esa-library/pdf/ESA_basics.pdf.

⁶ U.S. Fish & Wildlife Service Southeast Region West Indian Manatee, available at <http://www.fws.gov/southeast/wildlife/mammal/manatee/> (last visited Jan. 27, 2016).

⁷ U.S. Fish & Wildlife Service Southeast Region West Indian Manatee, available at <http://www.fws.gov/southeast/wildlife/mammal/manatee/> (last visited Jan. 27, 2016); FWC's website available at <http://myfwc.com/research/manatee/research/population-monitoring/synoptic-surveys/> (last visited Jan. 27, 2016).

⁸ *Id.*

⁹ U.S. Fish & Wildlife Service Southeast Region West Indian Manatee, available at <http://www.fws.gov/southeast/wildlife/mammal/manatee/> (last visited Jan. 27, 2016).

¹⁰ Section 379.2291(3)(b), F.S., defines an "endangered species" as any species of fish and wildlife naturally occurring in Florida, whose prospects of survival are in jeopardy due to modification or loss of habitat; overutilization for commercial, sporting, scientific, or educational purposes; disease; predation; inadequacy of regulatory mechanisms; or other natural or manmade factors affecting its continued existence.

¹¹ Section 379.2291(3)(c), F.S., defines a "threatened species" as any species of fish and wildlife naturally occurring in Florida which may not be in immediate danger of extinction, but which exists in such small populations as to become endangered if it is subjected to increased stress as a result of further modification of its environment.

¹² Section 379.2291(1)-(2), F.S.

that Florida has more endangered and threatened species than any other continental state, and provides that it is the intent of the Legislature to provide for research and management to conserve and protect these species as a natural resource.¹³ The FETSA provides that FWC is responsible for research and management of freshwater, upland, and marine species.¹⁴

Manatee Protection

FWC must ensure that manatees receive the maximum protection possible.¹⁵ Recognizing that manatee protection depends upon consistently achieving a high degree of compliance with existing and future rules, FWC must:

- Conduct standardized studies to determine levels of compliance with manatee protection rules;
- Use the results of the studies, and other relevant information, to develop and implement law enforcement initiatives and boater education plans; and
- Identify impediments in consistently achieving high levels of compliance, and adjust enforcement and boater education efforts accordingly.¹⁶

Florida Manatee Sanctuary Act

Florida's Manatee Sanctuary Act (Act) declares the state to be a refuge and sanctuary for the manatee¹⁷ and provides that the protections extended to and authorized on behalf of the manatee are independent of, and are not contingent upon, its status as a state or federal listed species.¹⁸ The Act provides that:

- FWC may grant a special permit to possess a manatee for scientific or propagational purposes, which specifies the exact number to be maintained in captivity;¹⁹
- A person may not, at any time, by any means, or in any manner intentionally or negligently annoy, molest, harass, or disturb or attempt to molest, harass, or disturb any manatee; injure or harm or attempt to injure or harm any manatee; capture or collect or attempt to capture or collect any manatee; pursue, hunt, wound, or kill or attempt to pursue, hunt, wound, or kill any manatee; or possess, literally or constructively, any manatee or any part of any manatee.²⁰ Any gun, net, trap, spear, harpoon, boat of any kind, aircraft, automobile of any kind, other motorized vehicle, chemical, explosive, electrical equipment, scuba or other subaquatic gear, or other instrument, device, or apparatus of any kind or description used in annoying, harassing or disturbing a manatee may be forfeited upon conviction;²¹
- FWC may provide another permitting agency with comments regarding the expansion of existing, or the construction of new, marine facilities and mooring or docking slips, which propose to add or construct five or more powerboat slips;²²
- FWC must adopt rules regulating the operation and speed of motorboat traffic:
 - Only where manatee sightings are frequent and the best available scientific information supports the conclusions that manatees inhabit these areas on a *regular* basis in designated areas of the state;²³

¹³ Section 379.291(2), F.S.

¹⁴ Section 379.2291(4)(a), F.S.

¹⁵ Section 379.2432, F.S.

¹⁶ *Id.*

¹⁷ Section 15.038(1), F.S., designates the manatee as the state's marine mammal.

¹⁸ Section 379.2431(2)(b).

¹⁹ Section 379.2431(2)(c), F.S.

²⁰ Section 379.2431(2)(d), F.S.

²¹ Section 379.2431(2)(e), F.S.

²² Section 379.2431(2)(g), F.S.

²³ Section 379.2431(2)(g)-(i), F.S.

- All year within Turkey Creek and its tributaries and within Manatee Cove in Brevard County;²⁴
- Within an area of any new power plant or other source of warm water discharge that attracts a concentration of manatees, which designates a zone of sufficient size, and for a duration sufficient to protect the manatees;²⁵ and
- In port waters with due regard to the safety requirements of motorboat traffic and the navigational hazards related to the movement of commercial vessels;²⁶
- FWC may post and regulate boat speeds:
 - Only where the best available scientific information supports the conclusion that manatees inhabit areas on a *periodic* basis;²⁷ and
 - In designated limited lanes or corridors whenever the lanes and corridors are consistent with manatee protection;²⁸
- Local governments may regulate motorboat speed and operation on waters within its jurisdiction where the best scientific information supports the conclusion that manatees inhabit areas on a regular basis if approved by FWC;²⁹
- FWC may adopt rules to protect manatee habitat (e.g., seagrass beds) from destruction by boats or other human activity;³⁰ and
- FWC may adopt rules designating limited areas as a safe haven for manatees to rest, feed, reproduce, give birth, or nurse undisturbed by human activity.³¹

FWC, pursuant to the Act, has established manatee protection rules restricting the speed and operation of vessels where necessary to protect manatees from harassment and harmful collisions with vessels.³²

Florida's counties with manatee protection zones, with some zones that vary by season, are.³³

- Brevard;³⁴
- Hillsborough;³⁵
- Citrus (includes parts of Levy and Hernando counties);³⁶
- Flagler;³⁷
- Hillsborough;³⁸
- Indian River;³⁹
- Lee;⁴⁰
- Miami-Dade;⁴¹
- Palm Beach;⁴²
- Pinellas-East;⁴³

²⁴ Section 379.2431(2)(l), F.S.

²⁵ Section 379.2431(2)(j), F.S.

²⁶ Section 379.2431(2)(m), F.S.

²⁷ Section 379.2431(2)(k) and (n), F.S.

²⁸ Section 379.2431(2)(k), F.S.

²⁹ Section 379.2431(2)(p), F.S.

³⁰ Section 379.2431(2)(n), F.S.

³¹ Section 379.2431(2)(o), F.S.

³² Chapter 68C-22, F.A.C.

³³ FWC Data and Maps, available at <http://myfwc.com/media/2944209/MPZStatewideMap.pdf>.

³⁴ Rule 68C-22.006, F.A.C.

³⁵ Rule 68C-22.010, F.A.C.

³⁶ Rule 68C-22.011, F.A.C.

³⁷ Rule 68C-22.028, F.A.C.

³⁸ Rule 68C-22.013, F.A.C.

³⁹ Rule 68C-22.007, F.A.C.

⁴⁰ Rule 68C-22.005, F.A.C.

⁴¹ Rule 68C-22.025, F.A.C.

⁴² Rule 68C-22.009, F.A.C.

⁴³ Rule 68C-22.016, F.A.C.

- Sarasota;⁴⁴
- St. Lucie;⁴⁵ and
- Volusia (includes parts of Lake, Marion, Putnam, and Seminole counties along the St. Johns River).⁴⁶

The following Florida counties have year round manatee protection zones:

- Charlotte (includes part of DeSoto County along the Peace River);⁴⁷
- Collier;⁴⁸
- Duval (includes parts of Clay and St. Johns County along the St. Johns River);⁴⁹
- Manatee,⁵⁰ and
- Martin.⁵¹

Manatee Distribution and Abundance Surveys

FWC conducts aerial surveys to acquire information on manatee distribution, abundance, and use of habitat.⁵² The two main types are distribution and synoptic surveys.

FWC's distribution surveys are designed to maximize manatee counts by concentrating on shallow nearshore waters, where manatees and their primary food source are located. These surveys are:

- Between four to six hours in length;
- Flown every two weeks over a two year period;
- Conducted at a height of 500 feet at a speed of 80 miles per hour; and
- Flown in paths parallel to the shoreline.⁵³

In urban areas or where waters are opaque, some surveys are made using helicopters. Surveys are also being conducted by the following research groups:

- Jacksonville University surveys Duval County;
- Kennedy Space Center surveys the upper Banana River;
- Dade County Department of Environmental Resource Management, Mote Marine Lab surveys Sarasota and Charlotte counties; and
- Chassahowitzka National Wildlife Refuge surveys the Crystal River and Big Bend areas.⁵⁴

All aerial data are recorded on maps and entered into the Fish and Wildlife Research Institute's Marine Resources Geographic Information System (MRGIS) for spatial analysis. Survey data in the MRGIS are used as a primary source of data for management planning and decisions. FWC's Atlas of Marine Resources CD-ROM includes 31 data sets of manatee aerial distribution survey sightings, detailed aerial flight paths, and related coverages of bathymetry, shorelines, seagrasses, county boundaries, and aids to navigation.⁵⁵

⁴⁴ Rule 68C-22.026, F.A.C.

⁴⁵ Rule 68C-22.008, F.A.C.

⁴⁶ Rule 68C-22.012, F.A.C.

⁴⁷ Rule 68C-22.015, F.A.C.

⁴⁸ Rule 68C-22.023, F.A.C.

⁴⁹ Rule 68C-22.027, F.A.C.

⁵⁰ Rule 68C-22.014, F.A.C.

⁵¹ Rule 68C-22.024, F.A.C.

⁵² FWC Manatee Aerial Surveys, available at <http://myfwc.com/research/manatee/research/population-monitoring/aerial-surveys/> (last visited Jan. 27, 2016).

⁵³ *Id.*

⁵⁴ FWC Manatee Aerial Surveys, available at <http://myfwc.com/research/manatee/research/population-monitoring/aerial-surveys/> (last visited Jan. 27, 2016).

⁵⁵ *Id.*

FWC also coordinates an interagency team to conduct synoptic surveys each winter. These aerial surveys are conducted after cold fronts pass through Florida and cover areas of known warm water sites (e.g., natural springs, power plants, and deep canals) where manatees congregate after temperatures drop. These counts are believed to be most accurate just after a cold front, because manatees move to the surface to warm in the sun, making them more visible. These surveys are useful in determining minimum estimates of manatee populations.⁵⁶ Results of synoptic surveys of Florida are as follows:⁵⁷

Year	Date	East	West	Total
1991	January 23-24	687	580	1,267
1991	February 17-18	828	650	1,478
1992	January 17-18	904	940	1,844
1995	January 21-22	669	787	1,456
1995	February 06-07	917	906	1,823
1996	January 09-10	1,223	1,054	2,277
1996	February 18-19	1,452	1,178	2,630
1997	January 19-20	906	1,335	2,241
1997	February 13	797	918	1,715
1998	January 29-30	1,110	908	2,018
1999	January 06	842	1,023	1,865
1999	February 23	900	1,123	2,023
1999	March 06	960	1,400	2,360
2000	January 16-17	634	1,012	1,646
2000	January 26-27	1,138	1,085	2,223
2001	January 05-06	1,559	1,741	3,300
2002	March 01	864	894	1,758
2003	January 09	1703	1140	2,843
2003	January 21-22	1813	1314	3,127
2003	January 26-28	1,705	1,311	3,016
2004	February 20	1,198	1,307	2,505
2005	January 26	1,594	1,549	3,143
2006	February 13-17	1,639	1,474	3,113
2007	January 30-February 1	1,414	1,403	2,817
2009	January 19-23	2,148	1,654	3,802
2010	January 12-15	2,780	2,297	5,077
2011	January 20 and 24	2,432	2,402	4,834
2014	January 24 and 27	2,315	2,509	4,824
2015	February 16, 20, 23	3,333	2,730	6,063

⁵⁶ *Id.*

⁵⁷ FWC's website available at <http://myfwc.com/research/manatee/research/population-monitoring/synoptic-surveys/> (last visited Jan. 27, 2016); Surveys were not conducted in 2012 or 2013, due to warmer than average weather.

Save the Manatee Trust Fund

The Save the Manatee Trust Fund (STMTF) is administered by FWC.⁵⁸ Funds credited to the trust fund include:

- Annual use fees for a manatee license plate;⁵⁹
- Annual vessel registration fees;⁶⁰
- Voluntary contributions associated with boat registration;⁶¹
- Purchases of stickers or emblems signifying support of the trust fund;⁶²
- Transfers from the Marine Resources Conservation Trust Fund;⁶³ and
- Donations received by FWC for deposit into the trust fund.⁶⁴

Each fiscal year funds from the STMTF are made available for:

- An impartial scientific benchmark census of the manatee population in the state.⁶⁵ Weather permitting, the study is conducted annually by FWC and the results made available to the President of the Senate, the Speaker of the House of Representatives, and the Governor and Cabinet for use in the evaluation and development of manatee protection measures;
- Activities of public and private organizations and those of the FWC intended to provide manatee and marine mammal protection and recovery effort;
- Manufacture and erection of informational and regulatory signs;
- Production, publication, and distribution of educational materials;
- Participation in manatee and marine mammal research programs, including carcass salvage and other programs;
- Programs intended to assist the recovery of the manatee as an endangered species, assist the recovery of the endangered or threatened marine mammals, and prevent the endangerment of other species of marine mammals; and
- Other similar programs intended to protect and enhance the recovery of the manatee and other species of marine mammals.⁶⁶

A balance in the trust fund at the end of any fiscal year must remain in the trust fund at the end of the year and be available for carrying out the purposes of the trust fund.⁶⁷ Trust funds, except those enumerated in s. 215.22, F.S.,⁶⁸ must contribute 8 percent from income of a revenue nature⁶⁹ to the General Revenue Fund.⁷⁰

⁵⁸ Section 379.213(1), F.S.

⁵⁹ Section 320.08058, F.S.

⁶⁰ Section 328.66, F.S.

⁶¹ Section 328.72, F.S.

⁶² Section 328.74, F.S.

⁶³ Section 328.76, F.S.

⁶⁴ Section 379.213(2), F.S.

⁶⁵ Section 379.2431(4)(a), F.S.

⁶⁶ Section 379.2431(4)(a), F.S.

⁶⁷ Section 379.213(3), F.S., provides notwithstanding the provisions of s. 216.301, F.S., regarding appropriations and undisbursed balances, and s. 216.351, F.S., regarding inconsistent laws.

⁶⁸ Section 215.22, F.S., provides for certain income and certain trust funds that are exempt from appropriations requirements to the General Revenue Fund.

⁶⁹ Section 215.20(1), F.S. provides that income of a revenue nature includes all earnings received or credited by trust funds, including the interest or benefit received from the investment of the principal of the trust fund.

⁷⁰ Section 215.20(1), F.S.

Effect of Proposed Changes

The bill creates s. 379.2434, F.S., providing for a manatee speed zone effectiveness study and a statewide manatee distribution and abundance survey and report. Specifically, the bill:

- Requires FWC to contract with an independent, qualified party to conduct a study evaluating the effectiveness of manatee speed zones including if, and to what extent, risks to manatees are reduced by these zones, and for FWC to submit a report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2019, detailing the findings of the study;
- Requires FWC to conduct a statewide manatee distribution and abundance survey and report by July 1, 2018, which achieves a scientifically reliable population estimate, and allows FWC to repeat the statewide manatee distribution and abundance survey and report until at least July 1, 2026, as necessary to determine best practices;
- Exempts the STMTF from the requirement to contribute to the General Revenue Fund⁷¹ until July 1, 2026, to provide additional funding for the speed zone effectiveness study and manatee distribution and abundance surveys and reports; and
- Provides that funds to implement the study, surveys, and reports may be appropriated from the STMTF to the extent that funding is not available from other sources.

The bill amends s. 379.2431, F.S., regarding the STMTF, to require that trust funds are made available for the manatee speed zone effectiveness study and manatee distribution and abundance survey and report. In addition, the bill amends s. 215.22, F.S., exempting the STMTF from contributing a service charge of eight percent to the General Revenue Fund until July 1, 2026.

B. SECTION DIRECTORY:

Section 1. Amends s. 215.22, F.S., regarding the Save the Manatee Trust Fund.

Section 2. Amends s. 379.2431, F.S., regarding marine animals.

Section 3. Creates s. 379.2434, F.S., regarding a manatee speed zone effectiveness study and a statewide manatee distribution and abundance report.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a negative fiscal impact on the state by exempting the STMTF from the service charge assessed against state trust funds.

⁷¹ Section 215.20, F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

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A bill to be entitled
 An act relating to manatees; amending s. 215.22, F.S.;
 exempting, until a specified date, certain revenue
 deposited in the Save the Manatee Trust Fund from a
 service charge assessed against state trust funds;
 amending s. 379.2431, F.S.; authorizing the
 expenditure of funds from the Save the Manatee Trust
 Fund to conduct a manatee speed zone study and
 statewide manatee distribution and abundance surveys
 and reports; creating s. 379.2434, F.S.; requiring the
 Fish and Wildlife Conservation Commission to contract
 with an independent, qualified party to conduct a
 manatee speed zone effectiveness study; requiring the
 commission to submit a report detailing the findings
 of the study to the Governor and Legislature by a
 specified date; requiring the commission to conduct a
 statewide manatee distribution and abundance survey
 and report; authorizing the commission to conduct
 additional surveys and reports as necessary;
 authorizing the expenditure of funds from the Save the
 Manatee Trust Fund to conduct the manatee speed zone
 study and statewide manatee distribution and abundance
 surveys and reports; providing an effective date.

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

27 Section 1. Paragraph (w) is added to subsection (1) of
 28 section 215.22, Florida Statutes, to read:

29 215.22 Certain income and certain trust funds exempt.—

30 (1) The following income of a revenue nature or the
 31 following trust funds shall be exempt from the appropriation
 32 required by s. 215.20(1):

33 (w) Until July 1, 2026, the Save the Manatee Trust Fund.

34 Section 2. Subsection (4) of section 379.2431, Florida
 35 Statutes, is amended to read:

36 379.2431 Marine animals; regulation.—

37 (4) ~~ANNUAL~~ FUNDING OF PROGRAMS FOR MARINE ANIMALS.—

38 (a) Each fiscal year the Save the Manatee Trust Fund shall
 39 be available to fund an impartial scientific benchmark census of
 40 the manatee population in the state. Weather permitting, the
 41 study shall be conducted annually by the Fish and Wildlife
 42 Conservation Commission and the results shall be made available
 43 to the President of the Senate, the Speaker of the House of
 44 Representatives, and the Governor and Cabinet for use in the
 45 evaluation and development of manatee protection measures. In
 46 addition, the Save the Manatee Trust Fund shall be available for
 47 annual funding of the provisions specified in s. 379.2434;
 48 activities of public and private organizations and those of the
 49 commission intended to provide manatee and marine mammal
 50 protection and recovery effort; manufacture and erection of
 51 informational and regulatory signs; production, publication, and
 52 distribution of educational materials; participation in manatee

53 and marine mammal research programs, including carcass salvage
 54 and other programs; programs intended to assist the recovery of
 55 the manatee as an endangered species, assist the recovery of the
 56 endangered or threatened marine mammals, and prevent the
 57 endangerment of other species of marine mammals; and other
 58 similar programs intended to protect and enhance the recovery of
 59 the manatee and other species of marine mammals.

60 (b) By December 1 each year, the Fish and Wildlife
 61 Conservation Commission shall provide the President of the
 62 Senate and the Speaker of the House of Representatives a written
 63 report, enumerating the amounts and purposes for which all
 64 proceeds in the Save the Manatee Trust Fund for the previous
 65 fiscal year are expended, in a manner consistent with those
 66 recovery tasks enumerated within the manatee recovery plan as
 67 required by the Endangered Species Act.

68 (c) When the federal and state governments remove the
 69 manatee from status as an endangered or threatened species, the
 70 annual allocation may be reduced.

71 (d) Up to 10 percent of the annual use fee deposited in
 72 the Save the Manatee Trust Fund from the sale of the manatee
 73 license plate authorized in s. 320.08058 may be used to promote
 74 and market the license plate issued by the Department of Highway
 75 Safety and Motor Vehicles after June 30, 2007.

76 Section 3. Section 379.2434, Florida Statutes, is created
 77 to read:

78 379.2434 Manatee speed zone effectiveness study; manatee

79 | distribution and abundance survey and report.-

80 | (1) The commission shall contract with an independent,
81 | qualified party to conduct a study evaluating the effectiveness
82 | of manatee speed zones including if, and to what extent, risks
83 | to manatees are reduced by such zones. The commission shall
84 | submit a report to the Governor, the President of the Senate,
85 | and the Speaker of the House of Representatives by January 1,
86 | 2019, detailing the findings of the study.

87 | (2) By July 1, 2018, the commission shall conduct a
88 | statewide manatee distribution and abundance survey and report.

89 | (a) The survey and report must achieve a scientifically
90 | reliable population estimate.

91 | (b) The commission may repeat, as necessary to determine
92 | best practices, the statewide manatee distribution and abundance
93 | survey and report until at least July 1, 2026.

94 | (3) To provide additional funding for the speed zone
95 | effectiveness study and the manatee distribution and abundance
96 | surveys and reports, the Save the Manatee Trust Fund is exempted
97 | until July 1, 2026, from the requirement to contribute a service
98 | charge to the General Revenue Fund under s. 215.20. Funds
99 | required to implement the study, surveys, and reports may be
100 | appropriated from the Save the Manatee Trust Fund to the extent
101 | that funding is not available from other sources.

102 | Section 4. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 271 Florida Agricultural and Mechanical University Industrial Hemp Program
SPONSOR(S): Agriculture & Natural Resources Subcommittee
TIED BILLS: IDEN./SIM. BILLS: SB 1608

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Agriculture & Natural Resources Subcommittee		Moore, R. <i>RL</i>	Harrington <i>DA</i>

SUMMARY ANALYSIS

The bill creates s. 1004.4473, F.S., establishing the Florida Agricultural and Mechanical University (FAMU) Industrial Hemp Program (Program). The bill:

- Provides that it is the Legislature's intent to authorize FAMU, upon approval by its board of trustees, to engage in industrial hemp research in accordance with state and federal law;
- Requires an affirmative vote of FAMU's board of trustees to create the Program;
- Provides that the Program is to conduct and disseminate research related to the cultivating, harvesting, processing, and uses of industrial hemp;
- Defines the terms:
 - "Hemp material" to mean any substance containing hemp stems, leaves, fibers, seeds, extracts, or oil, or any other substance derived or harvested from any species of the cannabis plant; and
 - "Qualified program personnel" to mean persons certified by the Office of Hemp Research Compliance to work in the Program. At a minimum, a person applying for certification must be 18 years of age or older, pass a criminal background check, and be either employed by, or enrolled in, FAMU;
- Requires FAMU to establish the Office of Hemp Research Compliance to manage the Program and enforce the rules regulating the Program;
- Requires FAMU to adopt rules to ensure the proper operation and security of the Program that:
 - Designate the physical location of the industrial hemp research facility;
 - Designate areas within the facility as general access or limited access;
 - Designate an area where industrial hemp is cultivated, processed, stored, or packaged, or where industrial hemp research is conducted as limited access;
 - Restrict access to limited access areas to qualified program personnel and to authorized visitors, who must be accompanied at all times by qualified program personnel;
 - Designate all other areas of the facility as general access and open to authorized visitors, with or without being accompanied by qualified program personnel;
 - Establish minimum security standards for the handling of industrial hemp, including:
 - Processing and disposal requirements for any waste containing hemp material;
 - Storage, testing, research, and transportation requirements for hemp materials; and
 - Packaging, labeling, and tracking requirements for hemp materials;
 - Facilitate coordination with local and state law enforcement agencies to ensure that the Program is in compliance with s. 1004.4473, F.S., and with state and federal law; and
 - Establish a testing program and protocols to ensure the proper labeling of hemp material.

The bill may have a negative fiscal impact on the state if the establishment of the Program cannot be accomplished within existing state resources.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Industrial hemp is an agricultural commodity grown for its fiber and seed in more than 30 nations.¹ It has long been cultivated for production of industrial and other goods. Today industrial hemp is used in more than 25,000 products, including foods and beverages, nutritional supplements, cosmetics and other personal care products, fabrics and textiles, yarns and spun fibers, paper, construction and insulation materials, and fuel.² The United States' market is dependent on imports, both as finished hemp containing products and as ingredients for use in further processing.³

Industrial hemp was historically grown in the United States. Production peaked in the 1940's during World War II, where it was primarily used for military purposes.⁴ Currently, all cannabis varieties, including industrial hemp,⁵ are considered Schedule I controlled substances under the Controlled Substances Act.⁶

During the 1990's, there was a resurgence of interest in allowing industrial hemp production in the United States.⁷ The Agricultural Act of 2014 (2014 Farm Bill), notwithstanding the Controlled Substances Act, allows universities and state departments of agriculture to grow or cultivate industrial hemp if:

- The industrial hemp is grown or cultivated for research conducted under an agricultural pilot program or other agricultural or academic research; and
- The growing or cultivating of industrial hemp is allowed under state law where the university or state department of agriculture is located.⁸

The 2014 Farm Bill defines "industrial hemp" as the plant *Cannabis sativa L.* and any part thereof, whether growing or not, with a delta-9 tetrahydrocannabinol concentration of no more than 0.3 percent on a dry weight basis.⁹

Since the passage of the 2014 Farm Bill, legislatures in at least 27 states¹⁰ have enacted laws regarding industrial hemp production. These laws have generally taken three approaches:

- Establishing commercial industrial hemp programs;
- Establishing industrial hemp research programs; or
- Authorizing studies of industrial hemp or the industrial hemp industry.¹¹

¹ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee; The countries include China, Canada, and several European countries.; *Hemp as an Agricultural Commodity*, available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

² *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>; UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee.

³ *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁴ UF/IFAS Research, *The Potential for Industrial Hemp Production in Florida*, (Sept. 15, 2015), on file with the Agriculture & Natural Resource Subcommittee; *Hemp as an Agricultural Commodity*. available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁵ Industrial hemp contains trace amounts of tetrahydrocannabinol.

⁶ 21 U.S.C. §§801 et seq.; Title 21 C.F.R. Part 1308.11.

⁷ *Hemp as an Agricultural Commodity*. (Feb. 2, 2015), available at <https://fas.org/sgp/crs/misc/RL32725.pdf>.

⁸ Public Law 113-79.

⁹ *Id.*

¹⁰ National Conference of State Legislatures State Industrial Hemp Statutes, available at <http://www.ncsl.org/research/agriculture-and-rural-development/state-industrial-hemp-statutes.aspx> (last visited Jan. 26, 2016); The states are Washington, Oregon, California, Hawaii, Nevada, Utah, Colorado, Montana, North Dakota, Nebraska, Oklahoma, Illinois, Michigan, Indiana, Kentucky, Tennessee, South Carolina, North Carolina, Virginia, West Virginia, Delaware, Maryland, Vermont, New Hampshire, Connecticut, New York, and Maine.

Effect of Proposed Changes

The bill creates s. 1004.4473, F.S., establishing the Florida Agricultural and Mechanical University (FAMU) Industrial Hemp Program (Program). The bill:

- Provides that it is the Legislature's intent to authorize FAMU, upon approval by its board of trustees, to engage in industrial hemp research in accordance with state and federal law;
- Requires an affirmative vote of FAMU's board of trustees to create the Program;
- Provides that the Program is to conduct and disseminate research related to the cultivating, harvesting, processing, and uses of industrial hemp;
- Defines the terms:
 - "Hemp material" to mean any substance containing hemp stems, leaves, fibers, seeds, extracts, or oil, or any other substance derived or harvested from any species of the cannabis plant; and
 - "Qualified program personnel" to mean persons certified by the Office of Hemp Research Compliance to work in the Program. At a minimum, a person applying for certification must be 18 years of age or older, pass a criminal background check, and be either employed by, or enrolled in, FAMU;
- Requires FAMU to establish the Office of Hemp Research Compliance to manage the Program and enforce the rules regulating the Program;
- Requires FAMU to adopt rules to ensure the proper operation and security of the Program that:
 - Designate the physical location of the industrial hemp research facility;
 - Designate areas within the facility as general access or limited access;
 - Designate an area where industrial hemp is cultivated, processed, stored, or packaged, or where industrial hemp research is conducted as limited access;
 - Restrict access to limited access areas to qualified program personnel and to authorized visitors, who must be accompanied at all times by qualified program personnel;
 - Designate all other areas of the facility as general access and open to authorized visitors, with or without being accompanied by qualified program personnel;
 - Establish minimum security standards for the handling of industrial hemp, including:
 - Processing and disposal requirements for any waste containing hemp material;
 - Storage, testing, research, and transportation requirements for hemp materials; and
 - Packaging, labeling, and tracking requirements for hemp materials;
 - Facilitate coordination local and state law enforcement agencies to ensure that the Program is in compliance with s. 1004.4473, F.S., and with state and federal law; and
 - Establish a testing program and protocols to ensure the proper labeling of hemp material.

B. SECTION DIRECTORY:

Section 1. Creates s. 1004.4473, F.S., establishing the Florida Agricultural and Mechanical University Industrial Hemp Program.

Section 2. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

¹¹ *Id.*

2. Expenditures:

The bill may have a negative fiscal impact on FAMU if the Program cannot be established within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FAMU to adopt rules to ensure the proper operation and security of the Program.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the Florida Agricultural and
 3 Mechanical University Industrial Hemp Program;
 4 creating s. 1004.4473, F.S.; authorizing the Florida
 5 Agricultural and Mechanical University to engage in
 6 certain research related to industrial hemp under
 7 certain conditions; creating the Industrial Hemp
 8 Program upon approval by the Board of Trustees of the
 9 Florida Agricultural and Mechanical University;
 10 providing definitions; providing the purpose of the
 11 program; requiring the university to establish an
 12 Office of Hemp Research Compliance to manage the
 13 program and enforce rules regulating the program;
 14 requiring the university to adopt certain rules;
 15 providing an effective date.

16
 17 Be It Enacted by the Legislature of the State of Florida:

18
 19 Section 1. Section 1004.4473, Florida Statutes, is created
 20 to read:

21 1004.4473 Florida Agricultural and Mechanical University
 22 Industrial Hemp Program.—

23 (1) The Legislature authorizes the Florida Agricultural
 24 and Mechanical University, upon approval by its board of
 25 trustees, to engage in industrial hemp research in accordance
 26 with this section and all other state and federal law.

27 (2) Subject to an affirmative vote of the Board of
 28 Trustees of the Florida Agricultural and Mechanical University
 29 as specified in subsection (1), there is created the Industrial
 30 Hemp Program at the university. The purpose of this program is
 31 to conduct and disseminate research related to the cultivating,
 32 harvesting, processing, and uses of industrial hemp.

33 (3) As used in this section, the term:

34 (a) "Hemp material" means any substance containing hemp
 35 stems, leaves, fibers, seeds, extracts, or oil, or any other
 36 substance derived or harvested from any species of the cannabis
 37 plant.

38 (b) "Qualified program personnel" means persons certified
 39 by the Office of Hemp Research Compliance to work in the
 40 Industrial Hemp Program. At a minimum, a person applying for
 41 certification must be 18 years of age or older, pass a criminal
 42 background check, and be either employed by, or enrolled in, the
 43 Florida Agricultural and Mechanical University.

44 (4) In implementing the program, the university shall
 45 establish the Office of Hemp Research Compliance. The office
 46 shall manage the program and enforce rules regulating the
 47 program. The university shall also adopt rules to ensure the
 48 proper operation and security of the program. At minimum, these
 49 rules must:

50 (a) Designate the physical location of the industrial hemp
 51 research facility. Areas must be designated within the facility
 52 as general access or limited access. An area where industrial

53 hemp is cultivated, processed, stored, or packaged, or where
54 industrial hemp research is conducted, must be designated as
55 limited access. Access to limited access areas is restricted to
56 qualified program personnel and to authorized visitors, who must
57 be accompanied at all times by qualified program personnel. All
58 other areas of the facility may be designated as general access
59 and open to authorized visitors, with or without being
60 accompanied by qualified program personnel.

61 (b) Establish minimum security standards for the handling
62 of industrial hemp, including:

63 1. Processing and disposal requirements for any waste
64 containing hemp material.

65 2. Storage, testing, research, and transportation
66 requirements for hemp materials.

67 3. Packaging, labeling, and tracking requirements for hemp
68 materials.

69 (c) Facilitate coordination with local and state law
70 enforcement agencies to ensure that the program is in compliance
71 with this section and other state and federal law.

72 (d) Establish a testing program and protocols to ensure
73 the proper labeling of hemp material.

74 Section 2. This act shall take effect upon becoming a law.



Amendment No. /

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Rehwinkel Vasilinda offered the following:

Amendment (with title amendment)

Remove lines 19-43 and insert:

7 Section 1. Section 1004.4473, Florida Statutes, is created
8 to read:

9 1004.4473 University of Florida and Florida Agricultural
10 and Mechanical University Industrial Hemp Programs.-

11 (1) The Legislature authorizes the Institute of Food and
12 Agricultural Sciences at the University of Florida and the
13 Florida Agricultural and Mechanical University, upon approval by
14 its board of trustees, to engage in industrial hemp research in
15 accordance with this section and all other state and federal
16 law.



Amendment No. 1

17 (2) Subject to an affirmative vote of the Board of
18 Trustees of the University of Florida and the Florida
19 Agricultural and Mechanical University as specified in
20 subsection (1), there is created the Industrial Hemp Program at
21 the university. The purpose of this program is to conduct and
22 disseminate research related to the cultivating, harvesting,
23 processing, and uses of industrial hemp.

24 (3) As used in this section, the term:

25 (a) "Hemp material" means any substance containing hemp
26 stems, leaves, fibers, seeds, extracts, or oil, or any other
27 substance derived or harvested from any species of the cannabis
28 plant.

29 (b) "Qualified program personnel" means persons certified
30 by the Office of Hemp Research Compliance to work in the
31 Industrial Hemp Program. At a minimum, a person applying for
32 certification must be 18 years of age or older, pass a criminal
33 background check, and be either employed by, or enrolled in, the
34 university.

37 -----

38 **T I T L E A M E N D M E N T**

39 Remove lines 2-9 and insert:
40 An act relating to the Industrial Hemp Program; creating s.
41 1004.4473, F.S.; authorizing the University of Florida and the
42 Florida Agricultural and Mechanical University to engage in



Amendment No. 1

43 certain research related to industrial hemp under certain
44 conditions; creating the Industrial Hemp Program upon approval
45 by the Board of Trustees of the university;



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Committee/Subcommittee hearing bill: Agriculture & Natural
2 Resources Subcommittee
3 Representative Goodson offered the following:

Amendment (with title amendment)

Between lines 73 and 74, insert:

7 (5) If the Board of Trustees of the university
8 affirmatively vote to create the Industrial Hemp Program, the
9 university shall submit a report to the Governor, the President
10 of the Senate, and the Speaker of the House of Representatives
11 on the status of the program and research related to the
12 cultivation, harvesting, processing, and uses of industrial
13 hemp. The report shall be prepared and submitted within 2 years
14 after the program's creation.

15 -----
16
17 **T I T L E A M E N D M E N T**



Amendment No. *2*

18 | Between lines 14 and 15, insert:
19 | requiring the university to provide a report;