

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCS for HB 847 Floating Vessel Platforms and Floating Boat Lifts

SPONSOR(S): Water Quality, Supply & Treatment Subcommittee

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Water Quality, Supply & Treatment Subcommittee		Gawin	Curtin

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, and any other activities that affect state waters. Current law provides exceptions from ERP permitting for certain types of projects. Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair, or replacement of existing structures. An exemption currently exists for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts that meet certain requirements.

The bill revises the ERP permitting exemption for floating vessel platforms and floating boat lifts to specify local governments may only require a one-time registration for a floating vessel platform where the owner of such platform self-certifies compliance with the ERP exemption criteria to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, which may not to be applied more stringently than, or inconsistent with, the ERP exemption criteria for certain floating vessel platforms.

The bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Environmental Resource Permits

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, and any other activities that affect state waters.¹ ERP applications are processed by either DEP or one of the state's water management districts (WMDs) in accordance with the division of responsibilities specified in operating agreements between DEP and the WMDs.²

ERP Exceptions

Current law provides exceptions from ERP³ permitting for certain types of projects.⁴ Generally, these permit exceptions restrict how the project is undertaken, provide size and location requirements, or provide for maintenance, repair, or replacement of existing structures.⁵ For example, state law provides exceptions from ERP permitting for the installation of overhead transmission lines with support structures that are not constructed in waters of the state and that do not create a navigational hazard; the installation and maintenance of certain boat ramps on artificial bodies of water where navigational access is provided; and the construction of private docks of 1,000 square feet or less of over-water surface area and seawalls in artificially created waterways when such construction will not violate existing water quality standards, impede navigation, or affect flood control.⁶ These exceptions do not relieve an applicant from obtaining permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Board) or a WMD or from complying with local pollution control programs or other requirements of local governments.⁷

ERP Exceptions for Docks

Included among the projects that are exempt from ERP permitting requirements is the installation and repair of mooring pilings and dolphins associated with private docking facilities or piers; the installation of private docks, piers, and recreational docking facilities; or the installation of piers and recreational docking facilities of local governmental entities when the entity's activities will not take place in any manatee habitat.⁸ This exemption applies when the dock:

- Has 500 square feet or less of over-water surface area and is located in an area designated as an Outstanding Florida Water or has 1,000 square feet or less of over-water surface area and is not located in an area that is designated as an Outstanding Florida Water;
- Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;
- Does not substantially impede the flow of water or create a navigational hazard;
- Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

¹ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Mar. 1, 2023).

² DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Mar. 1, 2023).

³ See chs. 373 and 403, F.S.

⁴ S. 403.813(1), F.S.

⁵ See s. 403.813(1)(a)-(v), F.S., see also r. 62-330.051, F.A.C.

⁶ *Id.*

⁷ S. 403.813(1), F.S.

⁸ S. 403.813(1)(b), F.S.

- Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per parcel or lot.⁹

ERP Exceptions for Floating Structures

Additionally, there is an ERP permit exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- Are wholly contained within a previously permitted boat slip or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt from ERP permitting or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;
- Are constructed and used so as to minimize the adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of an ERP permit or other form of authorization issued by a local government.¹⁰

Structures that qualify for this exemption are not required to obtain permission to use or occupy lands owned by the Board, and, with certain exceptions, may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government.¹¹ Local governments may require either permitting or one-time registration of floating vessel platforms.¹²

Effect of the Bill

The bill revises the ERP permitting exemption for floating vessel platforms and floating boat lifts to specify local governments may only require a one-time registration for a floating vessel platform where the owner of such platform self-certifies compliance with the ERP exemption criteria to ensure compliance with ordinances, codes, state-delegated or state-mandated plans or programs, which may not to be applied more stringently than, or inconsistent with, the ERP exemption criteria for certain floating vessel platforms.

B. SECTION DIRECTORY:

Section 1. Amends s. 403.813, F.S., to specify floating vessel platform ERP exemption criteria.

Section 2. Provides an effective date of July 1, 2023.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

⁹ *Id.*

¹⁰ S. 403.813(1)(s), F.S.; Rule 62-330.428, F.A.C.

¹¹ *Id.*

¹² S. 403.813(1)(s), 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. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues 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.