

WEEK 7 REPORT

// 2016 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
FEBRUARY 22 - 26, 2016



// WEEK 7 (FEB 22 - 26)

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We are now two weeks away from the end of the 2016 Legislative Session. On February 26th, the House of Representatives and the Senate convened to start the budget conference process. The budget conference committees were held all weekend long and negotiations could go on into next week.

The “Anchoring Legislation” continues to move through the process. Senate Bill 1260 passed the Senate Appropriations Subcommittee on Transportation, Tourism and Economic Development on February 24th. The bill passed 8-1 without any amendments. Please note that the Senate Bill is substantially different than originally filed.

Some of the differences in the current Senate version from the originally filed bill are as follows:

Changes “recreational boating area” to “anchoring limitation areas”

Includes a 1.5 million population requirement for such areas

Deletes Crab Island

Provides an exemption for a vessel may anchor in a zone if mechanical failure poses harm for a certain number of days

Provides an exemption if weather conditions pose unreasonable risk of harm

Provides for an exemption for special events

Provides exemptions for government entities, law enforcement, firefighting, military or rescue

Allows for vessels actively engaged in fishing

CS/SB 1260 is now slated to be heard in the Senate Fiscal Policy Committee February 29th. This is the last committee stop for the bill and then it is ready for the Senate floor.

The House Bill related to anchoring, House Bill 1051 passed the House State Affairs this week with a strike everything amendment. The House Bill passed the committee 15-1 and is now ready for House floor. The strike everything adopted by the House State Affairs Committee conforms to

Continued on next page >>

the Senate Bill with the exceptions of the 1.5 million population reference and adds an expiration clause upon the adoption of the Mooring Pilot Program Recommendations.

Please note the bills are still not identical at this point.

Also, we must remain vigilant on any and all amendments during the next two weeks. The amendatory process is quick and amendments could surface at any moment.

House Bill 427 relating to Vessel Registration, also known as the "Emergency Position-Industry Radio Beacon" bill passed the House of Representatives this week 115-0. The Senate companion, Senate Bill 746, is scheduled to be heard in the Senate Appropriations Committee March 1st. This is the last committee stop for the Senate Bill.

At Risk Vessels, a major priority for MIAF, is well on its way to passing. HB 7025 passed the House of Representatives 116-1. Senate Bill 1300 passed the Senate Special Order this week and is scheduled to be heard on third reading March 2nd. We anticipate Senator Dean to take up the House Bill, HB 7025 on third reading and ask for final passage. HB 7025 will then have passed both chambers and be sent to the Governor for approval.

As reported during previous weeks, HB 703 and Senate Bill 1454, relating to Vessels are on their way to final passage. These are interesting bills, as they revise careless operation of a vessel and establish a safety inspection process and sticker for boats. House Bill 703 passed the House 104-13. The Senate Bill, SB 1454, passed the Senate Fiscal Policy Committee as a Committee Substitute 11-0. SB 1454 is now ready for the Senate floor.

Finally, Senate Bill 1506 and HB 1273 relating to Manatees were not heard in any Senate or House Committee last week.

Again, we thank you for your time and consideration.

In the following pages are just a few of the bills we have highlighted for your information.



Margaret M. Timmins
President
Timmins Consulting, LLC

// BUDGET

House Budget Proposal Highlights:

1758 SPECIAL CATEGORIES
BOAT RAMP MAINTENANCE CATEGORY
FROM GENERAL REVENUE FUND 750,000
FROM FEDERAL GRANTS TRUST FUND 431,250
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 181,878
FROM STATE GAME TRUST FUND 143,750
From the funds in Specific Appropriation 1758,
\$750,000 in nonrecurring funds from the General
Revenue Fund is allocated as follows:
Lauderdale Lakes Water Pollutant Reduction Boat
Ramp System. 250,000
Niceville Public Landing and Bayou Restoration
Access Facility 500,000

1762 SPECIAL CATEGORIES
BOATING AND WATERWAYS ACTIVITIES
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 1,926,025

1762A SPECIAL CATEGORIES
BOATING AND WATERWAYS GRANTS
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 50,000

1762B SPECIAL CATEGORIES
DERELICT VESSEL REMOVAL PROGRAM
FROM GENERAL REVENUE FUND 1,500,000

1766 SPECIAL CATEGORIES
BOATING SAFETY EDUCATION PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 850,650

1767 FIXED CAPITAL OUTLAY
BOATING INFRASTRUCTURE
FROM FEDERAL GRANTS TRUST FUND 3,900,000

1768 GRANTS AND AIDS TO LOCAL GOVERNMENTS AND
NONSTATE ENTITIES -
FIXED CAPITAL OUTLAY FLORIDA BOATING IMPROVEMENT
PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 592,600
FROM STATE GAME TRUST FUND 1,250,000

Senate Budget Proposal Highlights:

1758 SPECIAL CATEGORIES
BOAT RAMP MAINTENANCE CATEGORY
FROM FEDERAL GRANTS TRUST FUND 431,250
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 111,878
FROM STATE GAME TRUST FUND 143,750

1762 SPECIAL CATEGORIES
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PROGRAM
FROM MARINE RESOURCES CONSERVATION TRUST FUND .
. 592,600
FROM STATE GAME TRUST FUND 1,250,000

// ENVIRONMENTAL RESOURCES

Senate Bill 552 // Sen. Charlie Dean // Referred to: Environmental Preservation and Conservation; Appropriations

House Bill 7005 // State Affairs Committee // Referred to: Agriculture & Natural Resources Appropriations Subcommittee

CS/CS/Senate Bill 552 and CS/House Bill 7005 comprise the primary water policy legislation for 2016, and are identical. This week, SB 552 was passed by the Senate and the House, and has been sent to the Governor for his veto or approval. Specifically, SB 552:

- Creates the Florida Springs and Aquifer Protection Act to provide for the protection and restoration of Outstanding Florida Springs (OFSs);
- Codifies the Central Florida Water Initiative (CFWI) and ensures that the appropriate governmental entities continue to develop and implement uniform water supply planning, consumptive use permitting, and resource protection programs for the Central Florida Water Initiative;
- Updates and restructures the Northern Everglades and Estuaries Protection Program (NEEPP) to reflect and build upon the Department of Environmental Protection's (DEP) completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary, and the Department of Agriculture and Consumer Services' (DACS) implementation of best management practices (BMPs);
- Modifies water supply and resource planning and processes to make them more stringent;
- Requires the Office of Economic and Demographic Research to conduct an annual assessment of water resources and conservation lands;
- Requires the DEP to publish an online, publicly accessible database of conservation lands on which public access is compatible with conservation and recreation purposes;
- Requires the DEP to conduct a feasibility study for creating and maintaining a web-based, interactive map of the state's waterbodies as well as regulatory information about each waterbody;
- Creates a pilot program for alternative water supply in restricted allocation areas and a pilot program for innovative nutrient and sediment reduction and conservation; and
- Revises certain considerations for water resource permits

Senate Bill 552 passed the Environmental Preservation & Conservation Committee on Nov. 4th by a vote of 9-0, and passed the Appropriations Committee on Nov. 19th by a vote of 15-0. It passed the Senate on January 13th by a vote of 37-0, and it passed the House on January 14th.

House Bill 7005 passed the Agriculture & Natural Resources Appropriations Subcommittee on Nov. 18th by a vote of 11-1. HB 7005 was laid on the table in lieu of SB 552 on the House floor.

Upcoming Consideration/Most Recent Action: SB 552ER Approved by Governor (signed into law), Chapter No. 2016-1

// VESSEL REGISTRATION

Senate Bill 746 // Sen. Joe Negron // Referred to: Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 427 // Rep. Mary Lynn Magar // Referred to: Highway & Waterway Safety Subcommittee; Transportation & Economic Development Appropriations Subcommittee; Economic Affairs Committee

SB 746 reduces state vessel registration fees for recreational vessels equipped with an Emergency Position Indicating Radio Beacon or whose owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. Annual base vessel registration fees are reduced by a minimum of \$2.55 and a maximum of \$48.60, depending on the length of the vessel.

The bill appropriates \$5 million in recurring funds from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the 2016-2017 fiscal year to offset the reduction in the base vessel registration fees.

Last Action: On Committee agenda - Appropriations, 03/01/16, 10:00 am

House Bill 427 reduces state vessel registration fees for recreational vessels equipped with an Emergency Position Indicating Radio Beacon, or for recreational vessels where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels. The reduced registration certificate fees provided in the bill apply to applicable vessels registered in Fiscal Year 2016-2017, between July 1, 2016, and June 30, 2017 only.

As provided in the bill, an Emergency Position-Indicating Radio Beacon means a device installed on the vessel being registered that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

A Personal Locator Beacon means a device designed to be carried by an individual that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

The Revenue Estimating Conference (REC) met on October 29, 2015, and determined that the original bill filed will have a negative recurring impact of \$500,000 to the General Revenue Fund. The bill as amended reduces this impact. The REC has not reviewed the bill as amended; however, using the data from the original REC estimate, House staff estimates that the reduced fees in the amended bill will have a negative nonrecurring impact of approximately \$250,000 in Fiscal Year 2016-2017. See fiscal section.

Last Action: Read Third Time; Passed House (Vote: 115 Yeas / 0 Nays)

Attached documents: SB 746 (as filed) + 1 amendment + staff analysis; CS/CS/HB 427 + staff analysis

// BOATING SAFETY

Senate Bill 644 // Sen. Jeremy Ring // Referred to: Environmental Preservation and Conservation; Commerce and Tourism; Rules

House Bill 863 // Rep. Richard Stark // Referred to: Criminal Justice Subcommittee; Highway & Waterway Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Economic Affairs Committee

SB 644 increases the age requirement for operating a personal watercraft on the waters of the state from 14 years of age to 16 years of age. The bill revises the requirements for boating safety identification cards by removing an exemption for a person who is accompanied in the vessel by a person who is otherwise exempt from the boating safety identification card requirements or who holds a valid identification card, is 18 years of age or older, and is attendant to the operation of the vessel and responsible for the vessel's safe operation.

Last Action: Temporarily Postponed by Environmental Preservation and Conservation

House Bill 863 provides requirements for operation of recreational vessels by persons younger than specified age; revises minimum age to operate personal watercraft; removes exemption from photographic identification & boating safety identification card requirement for person

accompanied in vessel by another person who meets certain criteria.

Last Action: Referred to Criminal Justice Subcommittee; Highway & Waterway Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Economic Affairs Committee

// IMPLEMENTATION OF WATER & LAND USE CONSERVATION CONSTITUTIONAL AMENDMENT 1 (2014 BALLOT)

Senate Bill 1168 // Sen. Joe Negron // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; Appropriations

House Bill 989 // Rep. Gayle Harrell // Referred to: Agriculture & Natural Resources Appropriations Subcommittee; Appropriations Committee

CS/SB 1168 requires specified minimum distributions from the Land Acquisition Trust Fund (LATF) to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan, including the Central Everglades Planning Project, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program. In addition, the bill requires a minimum distribution from the LATF to fund springs restoration, protection, and management projects.

The Revenue Estimating Conference for Documentary Stamp Tax Collection Distributions on January 19, 2016, determined that the bill would allocate a minimum of \$163,125,000 for Everglades projects and \$49,590,000 for springs projects (see Section V. Fiscal Impact Statement for a detailed analysis).

Last Action: On Committee agenda - Appropriations Subcommittee on General Government, 02/29/16, 11:30 am

House Bill 989 - In 2014, the voters of the state of Florida approved an amendment to the Florida Constitution to create Article X, Section 28, which requires that 33 percent of documentary stamp taxes collected be deposited into the Land Acquisition Trust Fund (LATF) and prohibits funds from the LATF from being used for a purpose not specified in the constitution. In 2015, chapter 2015-229, Laws of Florida, became law and amended the relevant statutes to comply with this constitutional requirement. The bill amended section 375.041, F.S., related to the Land Acquisition Trust Fund to require that funds be used for certain debt service obligations and to require that \$32 million be distributed to the South Florida Water Management District for the Long-Term Plan. The section further provides that any remaining moneys in the Land Acquisition Trust Fund that are not distributed as provided above may be appropriated from time to time for the purposes set forth in s. 28, Art. X of the State Constitution.

HB 989 amends s. 375.041, F.S. to provide for the distribution of funds deposited into the Land Acquisition Trust Fund. Of the funds remaining after the payment of certain debt service obligations, the Legislature will be required to appropriate a minimum of the lesser of 25 percent or \$200 million for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), including the Central Everglades Planning Project subject to congressional authorization, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program.

The bill requires that from these funds, \$32 million will be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District (SFWMD) for the Long-Term Plan. After deducting the \$32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or \$100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP.

The bill requires the Department of Environmental Protection (DEP) and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The House proposed Fiscal Year 2016-2017 General Appropriations Act fulfills the requirements of the bill by appropriating \$32 million for the Long-Term Plan, \$100 million for the CERP, and \$66 million for northern Everglades and estuaries protection, including \$15 million to the Department of Agriculture and Consumer Services for agricultural projects identified in the Lake Okeechobee Basin Management Action Plan and \$51 million to DEP to implement the Northern Everglades and Estuaries Protection Program.

HB 989 Last Action: Placed on Special Order Calendar, 03/01/16

Attached documents: CS/SB 1168 + 1 amendment + staff analysis; HB 989 (as filed) + staff analysis

// RECREATIONAL BOATING ZONES

Senate Bill 1260 // Sen. Wilton Simpson // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Fiscal Policy

House Bill 1051 // Rep. Matt Caldwell // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

CS/SB 1260 establishes anchoring limitation areas in sections of Broward and Miami-Dade Counties. The bill prohibits a person from anchoring a vessel at any time between the hours from one-half hour after sunset to one-half hour before sunrise in any such anchoring limitation area. The bill authorizes vessels under certain circumstances to anchor overnight in an anchoring limitation area and provides an exemption for certain vessels.

The Florida Fish and Wildlife Conservation Commission (FWC) or other law enforcement agencies that monitor anchoring may experience an indeterminate positive fiscal impact resulting from the issuance of boating citations for violations relating to the unlawful anchoring of vessels in an anchoring limitation area. Additionally, the FWC or other law enforcement agencies may experience increased costs as a result of enforcing anchoring in these areas. It is expected that any enforcement costs will be covered within existing resources.

Last Action: Favorable by Appropriations Subcommittee on Transportation, Tourism, and Economic Development; 8 Yeas, 1 Nay ; On Committee agenda - Fiscal Policy, 02/29/16, 1:00 pm

House Bill 1051 - The public may use sovereignty submerged lands for navigation, commerce, fishing, bathing, and other public purposes. These rights are designed to promote the general welfare and are subject to lawful regulation by the state. The public's right to navigation entitles the public to the reasonable use of navigable waters for legitimate purposes of travel or transportation, boating or sailing for pleasure, carrying persons or property gratuitously for hire, and for uses which are consistent with other uses enjoyed in common. Anchoring is a right incidental to the public's right of navigation, which must be balanced against other public purposes. As such, the right to anchor must not unreasonably obstruct others' navigation rights and does not include the right to anchor indefinitely in a manner that impairs a riparian owner's use and enjoyment of their property.

Riparian owners are entitled to the same rights to use sovereignty submerged lands as the public, but also hold riparian rights, such as the right to access the water, the right to reasonably use the water, the right to accretion and reliction, and the right to an unobstructed view of the water. Riparian rights are necessary for the use and enjoyment of the upland property, but may not be exercised as to injure others in their lawful rights.

The bill creates s. 327.4107, F.S., providing for the anchoring or mooring of vessels in recreational boating zones. The bill prohibits a person from anchoring or mooring a vessel from one-half hour after sunset to one-half hour before sunrise in the following recreational boating zones:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island; and
 - San Marco Island and Biscayne Island.

The bill provides certain exceptions to the prohibition on anchoring in recreational boating zones and enforcement procedures. The bill also provides for the issuance of a uniform boating citation with tiered penalties and authorizes the removal and impoundment of a vessel for violating the prohibition on anchoring in a recreational boating zone in certain circumstances.

Last Action: Favorable with CS by State Affairs Committee; 15 Yeas, 1 Nay

Attached documents: CS/SB 1260 + staff analysis; CS/CS/HB 1051 = staff analysis

// DRIVING OR BOATING UNDER THE INFLUENCE

House Bill 161 // Rep. Dave Kerner // Referred to: Highway & Waterway Safety Subcommittee; Justice Appropriations Subcommittee; Judiciary Committee

House Bill 161 designates act “Naomi Pomerance Victim Safety Act”; provides that person with specified amount of delta 9-tetrahydrocannabinol per milliliter of blood commits offense of driving under influence or boating under influence.

Last Action: Referred to Highway & Waterway Safety Subcommittee; Justice Appropriations Subcommittee; Judiciary Committee

// MANATEES

Senate Bill 1506 // Sen. Jeff Brandes // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; Appropriations

House Bill 1273 // Rep. Larry Ahern // Referred to: Agriculture & Natural Resources Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Senate Bill 1506 - Exempting, until a specified date, certain revenue deposited in the Save the Manatee Trust Fund from a service charge assessed against state trust funds; requiring the Fish and Wildlife Conservation Commission to contract with an independent, qualified party to conduct a manatee speed zone effectiveness study, etc.

Last Action: Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; Appropriations

House Bill 1273 - 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.

Last Action: Favorable by Agriculture & Natural Resources Subcommittee; 12 Yeas, 0 Nays

// AT-RISK VESSELS

Senate Bill 1300 // Sen. Charlie Dean // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; Fiscal Policy

**House Bill 7025 // Highway & Waterway Safety Subcommittee & Rep. Holly Raschein
// Referred to: Agriculture & Natural Resources Appropriations Subcommittee;
Economic Affairs Committee**

SB 1300 creates s. 327.4107, F.S., to prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair. The bill:

- Prohibits vessels at risk of becoming derelict anchoring on, mooring on, or occupying the waters of the state;
- Provides conditions under which a vessel may be considered at risk of becoming derelict;
- Provides that violations may be enforced by a uniform boating citation mailed to the registered owner of the vessel;
- Provides civil penalties for vessel owners whose vessels are determined to be at risk of becoming derelict; and
- Provides an exemption for vessels that are moored to a private dock or wet slip with the consent of the owner for the purpose of being repaired.

The bill has an insignificant, positive fiscal impact on state funds.

Last Action: Read Second Time; Placed on Third Reading, 03/02/16

House Bill 7025 - Under current law, the Fish and Wildlife Conservation Commission (FWCC) does not have the authority to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a derelict condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

The bill provides the following regulations for vessels that are at risk of becoming derelict on the waters of this state:

- Prohibits a vessel that is at risk of becoming derelict to anchor on, moor on, or occupy the waters of this state.
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater.
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.

- The vessel has broken loose or is in danger of breaking loose from its anchor.
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel that is at risk of becoming derelict on the waters of this state or allows such a vessel to occupy the waters of this state commits a noncriminal infraction in which civil penalties may be assessed.
- Provides that a civil penalty for a violation of a vessel that is at risk of becoming derelict is in addition to other penalties provided by law.
- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.
- Provides that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is at risk of becoming derelict, which is anchored, aground, or moored on the waters of this state.
- Provides the following civil penalties for a violation of vessel laws relating to a vessel that is at risk of becoming derelict on waters of this state:
 - For a first offense, \$50;
 - For a second offense occurring 30 days or more after a first offense, \$100;
 - For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

The bill may have an indeterminate positive fiscal impact on state and local government revenues by establishing a new noncriminal infraction relating to vessels at risk of becoming derelict on waters of this state, and may have a negative impact on the private sector resulting from the assessment of these new civil penalties.

Last Action: Read Third Time; Passed House (Vote: 116 Yeas / 1 Nay)

Attached documents: SB 1300 (as filed) + staff analysis; HB 7025 + staff analysis

APPENDIX

// VESSEL REGISTRATION

SB 746 (as filed) + Amendment + Staff Analysis
CS/CS/HB 427 + Staff Analysis

// AMENDMENT 1

CS/SB 1168 + Amendment + Staff Analysis
HB 989 (as filed) + Staff Analysis

// RECREATIONAL BOATING ZONES

CS/SB 1260 + Staff Analysis
CS/CS/HB 1051 + Staff Analysis

// AT-RISK VESSELS

SB 1300 (as filed) + Staff Analysis
HB 7025 (as filed) + Staff Analysis

// CURRENT BILL TRACKING LIST

By Senator Negrón

32-00714-16

2016746__

1 A bill to be entitled
2 An act relating to vessel registrations; amending s.
3 328.72, F.S.; defining terms; reducing vessel
4 registration fees for recreational vessels equipped
5 with certain position indicating and locating beacons;
6 providing criteria for such reduction; amending s.
7 328.66, F.S.; clarifying county optional registration
8 fees; providing an appropriation; providing an
9 effective date.

10
11 Be It Enacted by the Legislature of the State of Florida:

12
13 Section 1. Subsection (1) of section 328.72, Florida
14 Statutes, is amended, and subsection (18) is added to that
15 section, to read:

16 328.72 Classification; registration; fees and charges;
17 surcharge; disposition of fees; fines; marine turtle stickers.-

18 (1) VESSEL REGISTRATION FEE.—Vessels that are required to
19 be registered shall be classified for registration purposes
20 according to the following schedule~~7~~ and, except as provided in
21 subsection (18), the registration certificate fee shall be in
22 the following amounts:

23 (a) Class A-1—Less than 12 feet in length, and all canoes
24 to which propulsion motors have been attached, regardless of
25 length: \$5.50 for each 12-month period registered.

26 (b) Class A-2—12 feet or more and less than 16 feet in
27 length: \$16.25 for each 12-month period registered.

28 (To county): 2.85 for each 12-month period registered.

29 (c) Class 1—16 feet or more and less than 26 feet in

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30 length: \$28.75 for each 12-month period registered.

31 (To county): 8.85 for each 12-month period registered.

32 (d) Class 2-26 feet or more and less than 40 feet in
33 length: \$78.25 for each 12-month period registered.

34 (To county): 32.85 for each 12-month period registered.

35 (e) Class 3-40 feet or more and less than 65 feet in
36 length: \$127.75 for each 12-month period registered.

37 (To county): 56.85 for each 12-month period registered.

38 (f) Class 4-65 feet or more and less than 110 feet in
39 length: \$152.75 for each 12-month period registered.

40 (To county): 68.85 for each 12-month period registered.

41 (g) Class 5-110 feet or more in length: \$189.75 for each
42 12-month period registered.

43 (To county): 86.85 for each 12-month period registered.

44 (h) Dealer registration certificate: \$25.50 for each 12-
45 month period registered.

46 The county portion of the vessel registration fee is derived
47 from recreational vessels only.

48 (18) REDUCED VESSEL REGISTRATION FEE.-

49 (a) For the purposes of this subsection, the term:

50 1. "Emergency Position Indicating Radio Beacon" means an
51 electronic device designed to be installed on a vessel which,
52 when activated, transmits a distress call on a designated
53 emergency frequency to a satellite receiver and is used by
54 rescue personnel to locate the position of the signal.

55 2. "Personal Locator Beacon" means an electronic device
56 designed to be carried on a person which, when activated, will
57 transmit a distress call on a designated emergency frequency to
58 a satellite receiver and is used by rescue personnel to locate

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59 the position of the signal.

60 (b) The registration certificate fee imposed pursuant to
61 subsection (1) for a recreational vessel equipped with an
62 Emergency Position Indicating Radio Beacon or for a recreational
63 vessel whose owner owns a Personal Locator Beacon shall be
64 reduced to the following amounts:

- 65 1. Class A-1: \$2.95 for each 12-month period registered.
- 66 2. Class A-2: \$11.00 for each 12-month period registered.
- 67 3. Class 1: \$20.40 for each 12-month period registered.
- 68 4. Class 2: \$57.50 for each 12-month period registered.
- 69 5. Class 3: \$94.65 for each 12-month period registered.
- 70 6. Class 4: \$113.40 for each 12-month period registered.
- 71 7. Class 5: \$141.15 for each 12-month period registered.

72 (c) A person who owns a Personal Locator Beacon and who
73 owns more than one recreational vessel may only apply the
74 applicable reduced fee pursuant to this subsection to one
75 vessel.

76 (d) In order to qualify for reduced vessel registration
77 fees pursuant to this subsection, a vessel owner must
78 demonstrate that the Emergency Position Indicating Radio Beacon
79 or Personal Locator Beacon is registered with the National
80 Oceanic and Atmospheric Administration under 47 C.F.R. part 80
81 or part 95. The owner must provide proof of registration from
82 the National Oceanic and Atmospheric Administration.

83 Section 2. Subsection (1) of section 328.66, Florida
84 Statutes, is amended to read:

85 328.66 County and municipality optional registration fee.—

86 (1) Any county may impose an annual registration fee on
87 vessels registered, operated, used, or stored on the waters of

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88 this state within its jurisdiction. This fee shall be 50 percent
89 of the applicable state registration fee as listed in the s.
90 328.72(1)(a)-(g) fee schedule, without considering the reduced
91 vessel registration fee provisions as specified in s.
92 328.72(18). However, the first \$1 of every registration imposed
93 under this subsection shall be remitted to the state for deposit
94 in the Save the Manatee Trust Fund created within the Fish and
95 Wildlife Conservation Commission, and shall be used only for the
96 purposes specified in s. 379.2431(4). All other moneys received
97 from such fee shall be expended for the patrol, regulation, and
98 maintenance of the lakes, rivers, and waters and for other
99 boating-related activities of such municipality or county. A
100 municipality that was imposing a registration fee before April
101 1, 1984, may continue to levy such fee, notwithstanding the
102 provisions of this section.

103 Section 3. For the 2016-2017 fiscal year, the sum of \$5
104 million in recurring funds is appropriated from the General
105 Revenue Fund to the Department of Highway Safety and Motor
106 Vehicles for the purpose of offsetting the reduction in the base
107 vessel registration fees as provided by this act.

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



322510

LEGISLATIVE ACTION

Senate

.
. .
. .
. .
. .

House

The Committee on Appropriations (Negron) recommended the following:

Senate Amendment

Delete lines 103 - 104

and insert:

Section 3. For the 2016-2017 fiscal year, the sum of \$500,000 in recurring funds is appropriated from the General

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Committee

BILL: SB 746

INTRODUCER: Senators Negron and Sachs

SUBJECT: Vessel Registrations

DATE: February 29, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Jones</u>	<u>Eichin</u>	<u>TR</u>	<u>Favorable</u>
2.	<u>Gusky</u>	<u>Miller</u>	<u>ATD</u>	<u>Recommended: Favorable</u>
3.	<u>Gusky</u>	<u>Kynoch</u>	<u>AP</u>	<u>Pre-meeting</u>

I. Summary:

SB 746 reduces state vessel registration fees for recreational vessels equipped with an Emergency Position Indicating Radio Beacon or whose owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. Annual base vessel registration fees are reduced by a minimum of \$2.55 and a maximum of \$48.60, depending on the length of the vessel.

The bill appropriates \$5 million in recurring funds from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the 2016-2017 fiscal year to offset the reduction in the base vessel registration fees.

The bill has an effective date of July 1, 2016.

II. Present Situation:

Vessel Registration

The term “vessel” is synonymous with boat and includes every description of watercraft, barge, or airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.¹ Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational² vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;

¹ Section 327.02(43), F.S.

² Section 327.02(37), F.S. defines a “recreational vessel” as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

- The vessel is used exclusively as a ship's lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.³

Section 328.72(12), F.S., provides that vessel registration periods are for 12 or 24 months. An individual who owns a vessel is eligible to register the vessel for a 12 or 24 month period that begins the first day of the birth month of the owner and ends the last day of the month preceding the owner's birth month. The registration period for vessels owned by companies, corporations, governmental entities, and registrations issued to dealers and manufacturers is July 1 to June 30.⁴

The base registration fee for vessels is determined by the length of the vessel. The vessel registration fee for a 12-month period is as follows:

- *Class A-1*: Less than 12 feet in length and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer Registration Certificate*: \$25.50.

Additionally, any county may impose an annual registration fee on vessels registered, operated, used, or stored on waters within its jurisdiction. This fee is 50 percent of the applicable state registration fee, and the first \$1 of every registration must be remitted to the state for deposit into the Save the Manatee Trust Fund.⁵ The Optional County Fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the county.⁶ According to the DHSMV, the counties of Broward, Charlotte, Collier, Dade, Hillsborough, Lee, Manatee, Martin, Monroe, Palm Beach, Pinellas, Polk, Sarasota, and Volusia charge the Optional County Fee.⁷

NOAA Search and Rescue Satellite Aided Tracking

The National Oceanic and Atmospheric Administration (NOAA) operates the nation's Search and Rescue Satellite Aided Tracking (SARSAT) system to detect mariners, aviators, and others all over the globe by using satellites in low-earth and geostationary orbits to detect and locate beacon-users in distress.⁸

³ Section 328.48(2), F.S.

⁴ Section 328.72(12)(c)2., F.S.

⁵ Section 328.66, F.S.

⁶ *Id.*

⁷ See Department of Highway Safety and Motor Vehicles, *Vessel Registration Chart*, available at: <http://www3.flhsmv.gov/dmv/proc/fees/fees-04.pdf> (last visited Nov. 24, 2015).

⁸ See the NOAA SARSAT website: <http://www.sarsat.noaa.gov/index.html>. (last visited Dec. 14, 2015).

The United States and the governments of Canada, France, and Russia have an agreement to provide for long-term operation of the COSPAS-SARSAT⁹ (C-S) Program, which also provides space-based relay of distress signals or alerts from emergency beacons. The program provides alerts to search and rescue authorities internationally.

Ground stations are called Local User Terminals (LUTs), which are satellite receiving units. LUTs are fully automated and unmanned. When an LUT receives a distress signal detected by satellite, it is transmitted to the mission control center (MCC) that operates that particular LUT. The MCC collects, stores, and sorts alerts from LUTs and other MCCs and distributes the alerts to search and rescue authorities and other MCCs.¹⁰

Locator Beacons

The emergency beacons used to detect those in distress operate only in the 406.0 to 406.1 megahertz (MHz) frequency band to transmit digital messages to satellites for transmission to the appropriate LUT. The frequency is restricted to low power satellite emergency position-indicating beacons in the mobile satellite service. According to NOAA, two types of 406 MHz emergency beacons are:

- *Emergency Position-Indicating Radio Beacons*, or EPIRBs:
 - An EPIRB is an emergency position-indicating radio beacon used in maritime watercraft that can be automatically or manually activated to transmit a distress signal to a satellite. EPIRBs that activate automatically typically have a hydro-static release mechanism that, when immersed, allows the beacon to release from its bracket, float to the surface and start transmitting. The beacon, along with the bracket, has to sink to approximately 3 meters before it will activate automatically. This should be taken into account when mounting an automatic EPIRB; and
- *Personal Locator Beacons*, or PLBs:
 - A PLB is a personal locator beacon designed to be carried by an individual that can only be activated manually. PLBs can be used by people operating in remote areas.¹¹

According to NOAA, the average cost of a global positioning system (GPS)-equipped EPIRB is \$800; the average cost of a PLB is \$300.¹²

Registration of Beacons with NOAA

Registration of a 406 MHz emergency beacon, and subsequent updating if the information changes, is free and required by Title 47 of the Code of Federal Regulations, part 80 for EPIRBs and part 95 for PLBs. Information provided in a registration is used by search and rescue authorities, along with the distress signal from the beacon, solely to help locate and rescue those

⁹ COSPAS is a Russian acronym for “Space System for Search of Vessels in Distress.” See the SARSAT FAQ website: <http://www.sarsat.noaa.gov/faq%202.html>. (last visited Nov. 24, 2015).

¹⁰ *Id.*

¹¹ *Id.*

¹² See *supra*, note 8.

in distress. NOAA provides an online system for initial and updated beacon registrations, and registration must be renewed every two years.¹³

NOAA indicated, as of October 6, 2015, 12,295 EPIRBs were registered indicating the vessel was registered in Florida, and 26,078 PLBs were registered indicating boat usage with a Florida mailing addresses.¹⁴ Based on this data, approximately 10 percent of vessels currently registered in Florida would qualify for the reduced registration fee.

III. Effect of Proposed Changes:

Section 1 of the bill reduces vessel registration fees for recreational vessels that are equipped with an EPIRB registered with NOAA or whose owner owns a PLB registered with NOAA. A person who owns a PLB and more than one recreational vessel may only receive a reduced registration fee for one vessel.

This reduction in fees may increase the amount of vessels or owners of vessels equipped with locator beacons. The registration fees are reduced as follows:

Recreational Vessel Registration Fees for Each 12-Month Period		
<i>Class of Vessel</i>	<i>Current Base Fee</i>	<i>Reduced Base Fee</i>
Class A-1	\$5.50	\$2.95
Class A-2	\$16.25	\$11.00
Class 1	\$28.75	\$20.40
Class 2	\$78.25	\$57.50
Class 3	\$127.75	\$94.65
Class 4	\$152.75	\$113.40
Class 5	\$189.75	\$141.15

Section 2 provides that the County Optional Fee for vessel registrations remains 50 percent of the applicable state registration fee *without* consideration of the reduced fees.

Section 3 appropriates \$5 million in recurring funds from the General Revenue Fund to the DHSMV for the 2016-2017 fiscal year to offset the reduction in base vessel registration fees.

Section 4 provides that the bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹³ *Id.*, NOAA prefers owners register beacons online at www.beaconregistration.noaa.gov, however individuals may also mail or fax signed registration forms.

¹⁴ Revenue Estimating Conference, *Analysis of HB 427 - Vessel Registration Location Indicating Services* (Oct. 29, 2015) available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf (last visited Nov. 25, 2015).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

SB 746 reduces recreational vessel registration fees for vessels equipped with or whose owner owns certain registered locator beacons. The Revenue Estimating Conference (REC) reviewed the related bill, HB 427, on October 29, 2015, and estimated the bill will reduce the total sum of recreational vessel registration fees collected by the DHSMV as follows:

Fiscal Year 2016-2017 – (\$500,000)
Fiscal Year 2017-2018 – (\$600,000)
Fiscal Year 2018-2019 – (\$600,000)
Fiscal Year 2019-2020 – (\$700,000)
Fiscal Year 2020-2021 – (\$800,000).¹⁵

The actual reduction in fees collected will depend on the number of vessel owners and the size of their vessels that qualify for the reduced fee.

B. Private Sector Impact:

Individuals who have certain locator beacons registered with NOAA will receive a discount in recreational vessel registration fees.

C. Government Sector Impact:

The bill appropriates \$5 million in recurring funds from the General Revenue Fund to the DHSMV for the purpose of offsetting the reduction in recreational vessel registration fees. According to the DHSMV, reducing the registration fees will solely reduce the funds distributed to the Marine Resources Conservation Trust Fund.¹⁶

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁵ *Id.*

¹⁶ Department of Highway Safety and Motor Vehicles, *SB 746 Agency Bill Analysis* (December 4, 2015) (on file with the Senate Appropriations Subcommittee on Transportation, Tourism, and Economic Development).

VIII. Statutes Affected:

This bill substantially amends sections 328.72 and 328.66 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

1 A bill to be entitled

2 An act relating to recreational vessel registration;
3 amending s. 328.72, F.S.; providing definitions;
4 providing a reduced recreational vessel registration
5 fee schedule for vessels registered during a specified
6 period which are equipped with an emergency position
7 indicating radio beacon or for which the owner of the
8 vessel owns a personal locator beacon; limiting
9 application to one vessel per owner; authorizing the
10 Department of Highway Safety and Motor Vehicles to
11 adopt rules relating to proof of qualification;
12 providing for certain funds to supplement the reduced
13 amounts collected; providing for expiration of the
14 reduced fee schedule; amending s. 328.76, F.S.,
15 relating to the Marine Resources Conservation Trust
16 Fund; providing for use of the supplemental funds;
17 amending s. 328.66, F.S., relating to county and
18 municipality optional registration fees; specifying
19 that the reduced fees do not apply to the limitation
20 on registration fees charged by a county; providing an
21 effective date.

22
23 Be It Enacted by the Legislature of the State of Florida:

24
25 Section 1. Subsection (1) of section 328.72, Florida
26 Statutes, is amended, and subsection (18) is added to that

27 section, to read:

28 328.72 Classification; registration; fees and charges;
 29 surcharge; disposition of fees; fines; marine turtle stickers.-

30 (1) VESSEL REGISTRATION FEE.-

31 (a) Vessels that are required to be registered shall be
 32 classified for registration purposes according to the following
 33 schedule, ~~and,~~ except as provided in subsection (18), the
 34 registration certificate fee shall be in the following amounts:

35 1. Class A-1-Less than 12 feet in length, and all canoes
 36 to which propulsion motors have been attached, regardless of
 37 length: \$5.50 for each 12-month period registered.

38 2. Class A-2-12 feet or more and less than 16 feet in
 39 length: \$16.25 for each 12-month period registered. ~~(To county):~~
 40 2.85 for each 12-month period registered.

41 3. Class 1-16 feet or more and less than 26 feet in length:
 42 \$28.75 for each 12-month period registered. ~~(To county):~~ 8.85
 43 for each 12-month period registered.

44 4. Class 2-26 feet or more and less than 40 feet in
 45 length: \$78.25 for each 12-month period registered. ~~(To county):~~
 46 32.85 for each 12-month period registered.

47 5. Class 3-40 feet or more and less than 65 feet in
 48 length: \$127.75 for each 12-month period registered. ~~(To~~
 49 ~~county):~~ 56.85 for each 12-month period registered.

50 6. Class 4-65 feet or more and less than 110 feet in
 51 length: \$152.75 for each 12-month period registered. ~~(To~~
 52 ~~county):~~ 68.85 for each 12-month period registered.

53 7. Class 5–110 feet or more in length: \$189.75 for each
 54 12-month period registered. ~~+(To county): 86.85 for each 12-month~~
 55 period registered.

56 8. Dealer registration certificate: \$25.50 for each 12-
 57 month period registered.

58 (b) The county portion of the vessel registration fee is
 59 derived from recreational vessels only.

60 (18) REDUCED VESSEL REGISTRATION FEE.—

61 (a) As used in this subsection, the term:

62 1. "Emergency position-indicating radio beacon" means a
 63 device installed on the vessel being registered that:

64 a. Transmits distress signals at a frequency between 406.0
 65 and 406.1 MHz;

66 b. Is manufactured by a company approved to manufacture
 67 beacons by the International Cospas-Sarsat Programme; and

68 c. Is registered with the United States National Oceanic
 69 and Atmospheric Administration.

70 2. "Full registration fee amount" means the registration
 71 fee as provided in subsection (1) and not the reduced vessel
 72 registration fee specified in this subsection.

73 3. "Personal locator beacon" means a device designed to be
 74 carried by an individual that:

75 a. Transmits distress signals at a frequency between 406.0
 76 and 406.1 MHz;

77 b. Is manufactured by a company approved to manufacture
 78 beacons by the International Cospas-Sarsat Programme; and

79 c. Is registered with the United States National Oceanic
 80 and Atmospheric Administration.

81 (b) The registration certificate fee imposed under
 82 subsection (1) for a recreational vessel equipped with an
 83 emergency position-indicating radio beacon, or for a
 84 recreational vessel the owner of which owns a personal locator
 85 beacon, shall be reduced to the following amounts for each 12-
 86 month period registered:

87 1. Class A-1-\$4.24.

88 2. Class A-2-\$13.77.

89 3. Class 1-\$24.83.

90 4. Class 2-\$68.56.

91 5. Class 3-\$112.31.

92 6. Class 4-\$134.41.

93 7. Class 5-\$167.11.

94 (c) A person who owns a personal locator beacon and who
 95 owns more than one recreational vessel qualifies to pay the
 96 reduced fee under paragraph (b) for only one such vessel.

97 (d) In order to qualify for reduced registration fees
 98 under this subsection, a vessel owner must, at the time of
 99 registration, demonstrate that the vessel is equipped with an
 100 emergency position-indicating radio beacon or that the vessel
 101 owner owns a personal locator beacon. The Department of Highway
 102 Safety and Motor Vehicles may adopt rules specifying what
 103 constitutes sufficient proof to qualify for reduced registration
 104 fees under this subsection, but such proof must contain, at a

105 minimum, the following:

- 106 1. The name of the beacon owner.
- 107 2. The expiration date of the beacon's registration.
- 108 3. The unique identification number of the beacon.
- 109 4. For vessels equipped with an emergency position-
 110 indicating radio beacon, identification of the vessel equipped
 111 with the beacon.

112 (e) For each vessel registration qualifying for reduced
 113 registration fees under this subsection, an amount equal to the
 114 difference between the full registration fee amount and the
 115 actual amount of registration fee paid for such vessel
 116 registration shall be transferred from the General Revenue Fund
 117 to the Department of Highway Safety and Motor Vehicles and shall
 118 be distributed pursuant to s. 328.76.

119 (f) The reduced registration certificate fee amounts
 120 provided in this subsection apply only to applicable vessels
 121 registered during the period beginning July 1, 2016, and ending
 122 June 30, 2017.

123 (g) This subsection expires July 1, 2017.

124 Section 2. Subsection (1) of section 328.76, Florida
 125 Statutes, is amended to read:

126 328.76 Marine Resources Conservation Trust Fund; vessel
 127 registration funds; appropriation and distribution.—

128 (1) Except as otherwise specified in this subsection and
 129 less the amount equal to any administrative costs which shall be
 130 deposited in the Highway Safety Operating Trust Fund, in each

131 fiscal year beginning on or after July 1, 2001, all funds
132 collected from the registration of vessels through the
133 Department of Highway Safety and Motor Vehicles and the tax
134 collectors of the state and funds transferred from the General
135 Revenue Fund pursuant to s. 328.72(18), except for those funds
136 designated as the county portion pursuant to s. 328.72(1), shall
137 be deposited in the Marine Resources Conservation Trust Fund for
138 recreational channel marking; public launching facilities; law
139 enforcement and quality control programs; aquatic weed control;
140 manatee protection, recovery, rescue, rehabilitation, and
141 release; and marine mammal protection and recovery. The funds
142 collected pursuant to s. 328.72(1) shall be transferred as
143 follows:

144 (a) In each fiscal year, an amount equal to \$1.50 for each
145 commercial and recreational vessel registered in this state
146 shall be transferred by the Department of Highway Safety and
147 Motor Vehicles to the Save the Manatee Trust Fund and shall be
148 used only for the purposes specified in s. 379.2431(4).

149 (b) An amount equal to \$2 from each recreational vessel
150 registration fee, except that for class A-1 vessels, shall be
151 transferred by the Department of Highway Safety and Motor
152 Vehicles to the Invasive Plant Control Trust Fund in the Fish
153 and Wildlife Conservation Commission for aquatic weed research
154 and control.

155 (c) An amount equal to 40 percent of the registration fees
156 from commercial vessels shall be transferred by the Department

157 of Highway Safety and Motor Vehicles to the Invasive Plant
 158 Control Trust Fund in the Fish and Wildlife Conservation
 159 Commission for aquatic plant research and control.

160 (d) An amount equal to 40 percent of the registration fees
 161 from commercial vessels shall be transferred by the Department
 162 of Highway Safety and Motor Vehicles, on a monthly basis, to the
 163 General Inspection Trust Fund of the Department of Agriculture
 164 and Consumer Services. These funds shall be used for shellfish
 165 and aquaculture development and quality control programs.

166 (e) After all administrative costs are funded and the
 167 distributions in paragraphs (a)-(d) have been made, up to
 168 \$400,000 shall be transferred by the Department of Highway
 169 Safety and Motor Vehicles to the General Inspection Trust Fund
 170 of the Department of Agriculture and Consumer Services to fund
 171 activities relating to the protection, restoration, and research
 172 of the natural oyster reefs and beds of the state. This
 173 paragraph expires July 1, 2017.

174 (f) After all administrative costs are funded and the
 175 distributions in paragraphs (a)-(d) have been made, up to
 176 \$300,000 may be used by the Fish and Wildlife Conservation
 177 Commission for boating safety education. This paragraph expires
 178 July 1, 2017.

179 Section 3. Subsection (1) of section 328.66, Florida
 180 Statutes, is amended to read:

181 328.66 County and municipality optional registration fee.-

182 (1) Any county may impose an annual registration fee on

183 vessels registered, operated, used, or stored on the waters of
184 this state within its jurisdiction. This fee shall be 50 percent
185 of the applicable state registration fee as provided in s.
186 328.72(1) and not the reduced vessel registration fee specified
187 in s. 328.72(18). However, the first \$1 of every registration
188 imposed under this subsection shall be remitted to the state for
189 deposit in the Save the Manatee Trust Fund created within the
190 Fish and Wildlife Conservation Commission, and shall be used
191 only for the purposes specified in s. 379.2431(4). All other
192 moneys received from such fee shall be expended for the patrol,
193 regulation, and maintenance of the lakes, rivers, and waters and
194 for other boating-related activities of such municipality or
195 county. A municipality that was imposing a registration fee
196 before April 1, 1984, may continue to levy such fee,
197 notwithstanding the provisions of this section.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 427 Recreational Vessel Registration

SPONSOR(S): Transportation & Economic Development Appropriations Subcommittee; Magar and others

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

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Highway & Waterway Safety Subcommittee	11 Y, 0 N, As CS	Whittaker	Smith
2) Transportation & Economic Development Appropriations Subcommittee	12 Y, 0 N, As CS	Cobb	Davis
3) Economic Affairs Committee			

SUMMARY ANALYSIS

The bill reduces state vessel registration fees for recreational vessels equipped with an Emergency Position-Indicating Radio Beacon, or for recreational vessels where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels. The reduced registration certificate fees provided in the bill apply to applicable vessels registered in Fiscal Year 2016-2017, between July 1, 2016, and June 30, 2017 only.

As provided in the bill, an **Emergency Position-Indicating Radio Beacon** means a device installed on the vessel being registered that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

A **Personal Locator Beacon** means a device designed to be carried by an individual that:

- Transmits distress signals at a frequency between 406.0 and 406.1 MHz;
- Is manufactured by a company approved to manufacture beacons by the International Cospas-Sarsat Programme; and
- Is registered with the United States National Oceanic and Atmospheric Administration.

The Revenue Estimating Conference (REC) met on October 29, 2015, and determined that the original bill filed will have a negative recurring impact of \$500,000 to the General Revenue Fund. The bill as amended reduces this impact. The REC has not reviewed the bill as amended; however, using the data from the original REC estimate, House staff estimates that the reduced fees in the amended bill will have a negative nonrecurring impact of approximately \$250,000 in Fiscal Year 2016-2017. See fiscal section.

The bill provides an effective date of July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Vessel Registration

Vessels operated, used, or stored on the waters of this state must be registered with the Department of Highway Safety and Motor Vehicles (DHSMV) as a commercial or recreational¹ vessel, unless:

- The vessel is operated, used, and stored exclusively on private lakes and ponds;
- The vessel is owned by the U.S. Government;
- The vessel is used exclusively as a ship's lifeboat; or
- The vessel is non-motor-powered and less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.²

Vessels are classified by their length which determines the base registration fee. The vessel registration fee for a 12-month period is as follows:

- *Class A-1*: Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: \$5.50;
- *Class A-2*: 12 feet or more and less than 16 feet in length: \$16.25;
- *Class 1*: 16 feet or more and less than 26 feet in length: \$28.75;
- *Class 2*: 26 feet or more and less than 40 feet in length: \$78.25;
- *Class 3*: 40 feet or more and less than 65 feet in length: \$127.75;
- *Class 4*: 65 feet or more and less than 110 feet in length: \$152.75;
- *Class 5*: 110 feet or more in length: \$189.75; and
- *Dealer registration certificate*: \$25.50.³

Additionally, any county may impose an annual registration fee on vessels registered, operated, used, or stored on the waters of this state within its jurisdiction. This fee is 50 percent of the applicable state registration fee, however the first \$1 of every registration must be remitted to the state for deposit in the Save the Manatee Trust Fund.⁴ This optional county fee is retained by the county where the vessel is registered and is to be used for patrol, regulation, and maintenance of the lakes, rivers, and waters and for other boating-related activities within the municipality or county.⁵

NOAA Search and Rescue Satellite Aided Tracking

The National Oceanic and Atmospheric Administration (NOAA) operates the nation's Search and Rescue Satellite Aided Tracking (SARSAT) system to detect mariners, aviators, and others throughout the world using satellites in low-earth and geostationary orbits to detect and locate beacon-users in distress.⁶

The United States and the governments of Canada, France, and Russia have an agreement to provide for long-term operation of the COSPAS-SARSAT⁷ (C-S) Program, which also provides space-based relay of distress signals or alerts from emergency beacons. The program provides alerts to search and rescue authorities internationally.

¹ s. 327.02(37), F.S. defines a "recreational vessel" as a vessel manufactured and used primarily for noncommercial purposes, or a vessel leased, rented, or chartered to a person for his or her noncommercial use.

² s. 328.48(2), F.S.

³ s. 328.72(1), F.S.

⁴ s. 328.66, F.S.

⁵ *Id.*

⁶ NOAA, *Welcome to SARSAT*, <http://www.sarsat.noaa.gov/index.html>. (last visited January 5, 2016).

⁷ COSPAS is a Russian acronym for "Space System for Search of Vessels in Distress." See the SARSAT FAQ website:

<http://www.sarsat.noaa.gov/faq%202.html>. (last visited January 5, 2016).

Ground stations, called Local User Terminals (LUTs), are satellite receiving units. LUTs are fully automated and unmanned. When an LUT receives a distress signal detected by satellite, it is transmitted to the mission control center (MCC) that operates that particular LUT. The MCC collects, stores, and sorts alerts from LUTs and other MCCs and distributes the alerts to search and rescue authorities and other MCCs.⁸

Locator Beacons

The emergency beacons used to detect those in distress operate only in the 406.0 to 406.1 megahertz (MHz) frequency band to transmit digital messages to satellites for transmission to the appropriate LUT. The frequency is restricted to low power satellite emergency position-indicating beacons in the mobile satellite service. According to NOAA, two types of 406 MHz emergency beacons are:

- *Emergency Position-Indicating Radio Beacons*, or EPIRBs:
An EPIRB is an emergency position-indicating radio beacon used in maritime watercraft that can be automatically or manually activated to transmit a distress signal to a satellite. EPIRBs that activate automatically typically have a hydro-static release mechanism that, when immersed, allows the beacon to release from its bracket, float to the surface and start transmitting. The beacon, along with the bracket, has to sink to approximately 3 meters before it will activate automatically. This should be taken into account when mounting an automatic EPIRB; and
- *Personal Locator Beacons*, or PLBs:
A PLB is a personal locator beacon designed to be carried by an individual that can only be activated manually. PLBs can be used by people operating in remote areas.⁹

Registration of Beacons with NOAA

Registration of a 406 MHz emergency beacon, and subsequent updating if the information changes, is free and required by Title 47 of the Code of Federal Regulations, part 80 for EPIRBs and part 95 for PLBs. Information provided in the registration of such a device, along with the distress signal from the device, is used by search and rescue authorities solely to help locate and rescue those in distress. NOAA provides an online system for initial and updated beacon registrations, and registration must be renewed every two years.¹⁰

NOAA indicated, as of October 6, 2015, 12,295 EPIRBs were registered indicating the vessel was registered in Florida, and 26,078 PLBs were registered indicating boat usage with a Florida mailing addresses.¹¹ Based on this data, approximately 10 percent of vessels currently registered in Florida would qualify for the reduced registration fees.

Proposed Change

Section 1 of the bill amends s. 328.72, F.S., reducing state vessel registration fees for recreational vessels equipped with an Emergency Position-Indicating Radio Beacon, or for a recreational vessel where the owner owns a Personal Locator Beacon. The beacon must be registered with the National Oceanic and Atmospheric Administration in order for the owner to qualify for the reduced registration fee. A person who owns a personal locator beacon and more than one recreational vessel qualifies to pay the reduced fee for only one of their vessels. The registration fees are reduced as follows:

Recreational Vessel Registration Fees for Fiscal Year 2016-2017		
<i>Class of Vessel</i>	<i>Current Base Fee</i>	<i>Reduced Base Fee</i>

⁸ Id.

⁹ Id.

¹⁰ Id., NOAA prefers owners register beacons online at www.beaconregistration.noaa.gov, however individuals may also mail or fax signed registration forms.

¹¹ Revenue Estimating Conference, *Analysis of HB 427 – Vessel Registration Location Indicating Devices* (Oct. 29, 2015) available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf (last visited January 5, 2016).

Class A-1	\$5.50	\$4.24
Class A-2	\$16.25	\$13.77
Class 1	\$28.75	\$24.83
Class 2	\$78.25	\$68.56
Class 3	\$127.75	\$112.31
Class 4	\$152.75	\$134.41
Class 5	\$189.75	\$167.11

The Department of Highway Safety and Motor Vehicles (DHSMV) may adopt rules specifying what constitutes sufficient proof to qualify for the reduced registration fees, but the proof must contain at least:

- The name of the beacon owner.
- The expiration date of the beacon's registration.
- The unique identification number of the beacon.
- For vessels equipped with an emergency position-indicating radio beacon, identification of the vessel equipped with the beacon.

For each vessel registration qualifying for reduced registration fees, an amount equal to the difference between the full registration fee amount and the actual amount of the registration fee paid for such vessel registration shall be transferred from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles and shall be distributed pursuant to s. 328.76, F.S..

Reduced registration certificate fees provided in subsection 328.72(18), F.S., shall only apply to applicable vessels registered between July 1, 2016, and June 30, 2017. Subsection 328.72(18), F.S., expires July 1, 2017.

Section 2 provides that the funds transferred from the General Revenue Fund shall be deposited as specified in the Marine Resources Conservation Trust Fund.

Section 3 provides that the County Optional Fee for vessel registration remains 50 percent of the applicable state registration fee *without* consideration of the reduced fees.

Section 4 provides that the bill has an effective date of July 1, 2016.

B. SECTION DIRECTORY:

Section 1 Amends s. 328.72, F.S., providing definitions; providing for a reduced recreational vessel registration fee when the vessel is equipped with an emergency position indicating radio beacon or the owner of the vessel owns a personal locator beacon; limiting application to one vessel per owner; authorizing the Department of Highway Safety and Motor Vehicles to adopt rules relating to proof of qualification; providing for certain funds to supplement the reduced amounts collected; providing for a time limitation for a reduced recreational vessel fee and an expiration of provisions.

Section 2 Amends s. 328.76, F.S., relating to the Marine Resources Conservation Trust Fund; providing for use of the supplemental funds.

Section 3 Amends s. 328.66, F.S., relating to county and municipality optional registration fees; specifying that the reduced fees do not apply to the limitation on registration fees charged by a county.

Section 4 Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The Revenue Estimating Conference (REC) reviewed the original bill filed on October 29, 2015, and estimated the bill will reduce the total sum of recreational vessel registration fees collected by DHSMV as follows:¹²

Fiscal Year	General Revenue
2016-2017	\$500,000
2017-2018	\$600,000
2018-2019	\$600,000
2019-2020	\$700,000
2020-2021	\$800,000

The amendment to CS/HB 427, which specifically changed the amounts of the reduced fees, will lessen the impact of this bill. The REC has not reviewed the bill as amended; however, using the data from the original REC estimate, House staff estimates that the reduced fees in the amended bill will have a negative nonrecurring impact of approximately \$250,000 in Fiscal Year 2016-2017.

2. Expenditures:

DHSMV estimates 790 programming hours, or the equivalent of \$57,280 in FTE and contracted resources workload, will be required to implement the bill. This will be absorbed within existing resources.¹³

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill reduces recreational vessel registration fees for vessels equipped with or whose owner owns certain registered location beacons.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

¹² Revenue Estimating Conference, *Analysis of HB 427 – Vessel Registration Location Indicating Devices* (Oct. 29, 2015) available at: http://edr.state.fl.us/Content/conferences/revenueimpact/archives/2016/_pdf/Impact1029.pdf (last visited January 5, 2016).

¹³ Department of Highway Safety and Motor Vehicles, *Agency Analysis of 2016 House Bill 427*, p.5 (October 28, 2015) (On file with the House Highway and Waterway Safety Subcommittee).

2. Other:

None

B. RULE-MAKING AUTHORITY:

The bill provides that DHSMV may adopt rules specifying what constitutes sufficient proof to qualify for reduced vessel registration fees. The bill specifies a minimum level of proof requirements.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 13, 2016, The Highway and Waterway Safety Subcommittee adopted one amendment to HB 427 and reported the bill favorably as a committee substitute. The amendment:

- Brings the registration discount to a uniform 25% across each class.

On February 16, 2016, the Transportation and Economic Development Appropriations Subcommittee adopted one amendment to CS/HB 427 and reported the bill favorably as a committee substitute. The amendment:

- Changes the registration discount for each vessel registration class.
- Provides a time limitation for a reduced recreational vessel registration fee.
- Provides for an expiration of provisions relating to reduced recreational vessel registration fees.

This analysis is drafted to the committee substitute as reported by the Transportation and Economic Development Appropriations Subcommittee.

By the Committee on Environmental Preservation and Conservation;
and Senators Negron, Benacquisto, Soto, Flores, Simpson, and
Altman

592-03274-16

20161168c1

1 A bill to be entitled

2 An act relating to implementation of the water and
3 land conservation constitutional amendment; amending
4 s. 375.041, F.S.; requiring a minimum specified
5 percentage of funds within the Land Acquisition Trust
6 Fund to be appropriated for Everglades restoration
7 projects; providing a preference in the use of funds
8 to certain projects that reduce harmful discharges to
9 the St. Lucie Estuary and the Caloosahatchee Estuary;
10 requiring a minimum specified percentage of funds
11 within the Land Acquisition Trust Fund to be
12 appropriated for spring restoration, protection, and
13 management projects; deleting an obsolete provision;
14 providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Subsection (3) of section 375.041, Florida
19 Statutes, is amended to read:

20 375.041 Land Acquisition Trust Fund.—

21 (3) Funds distributed into the Land Acquisition Trust Fund
22 pursuant to s. 201.15 shall be applied:

23 (a) First, to pay debt service or to fund debt service
24 reserve funds, rebate obligations, or other amounts payable with
25 respect to Florida Forever bonds issued under s. 215.618; and
26 pay debt service, provide reserves, and pay rebate obligations
27 and other amounts due with respect to Everglades restoration
28 bonds issued under s. 215.619; and

29 (b) Of the funds remaining after the payments required
30 under paragraph (a) but before funds may be appropriated or

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31 dedicated for other uses:

32 1. A minimum of the lesser of 25 percent or \$200 million
33 shall be appropriated annually for Everglades projects that
34 implement the Comprehensive Everglades Restoration Plan as set
35 forth in s. 373.470, including the Central Everglades Planning
36 Project subject to congressional authorization; the Long-Term
37 Plan as defined in s. 373.4592(2); and the Northern Everglades
38 and Estuaries Protection Program as set forth in s. 373.4595.
39 From these funds, \$32 million shall be distributed each fiscal
40 year through the 2023-2024 fiscal year to the South Florida
41 Water Management District for the Long-Term Plan as defined in
42 s. 373.4592(2). After deducting the \$32 million distributed
43 under this subparagraph, from the funds remaining, a minimum of
44 the lesser of 76.5 percent or \$100 million shall be appropriated
45 each fiscal year through the 2025-2026 fiscal year for the
46 planning, design, engineering, and construction of the
47 Comprehensive Everglades Restoration Plan as set forth in s.
48 373.470, including the Central Everglades Planning Project
49 subject to congressional authorization. The Department of
50 Environmental Protection and the South Florida Water Management
51 District shall give preference to those Everglades restoration
52 projects that reduce harmful discharges of water from Lake
53 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
54 timely manner.

55 2. A minimum of the lesser of 7.6 percent or \$75 million
56 shall be appropriated annually for spring restoration,
57 protection, and management projects ~~Then, to pay the debt~~
58 ~~service on bonds issued before February 1, 2009, by the South~~
59 ~~Florida Water Management District and the St. Johns River Water~~

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60 ~~Management District, which are secured by revenues provided~~
61 ~~pursuant to former s. 373.59, Florida Statutes 2014, or which~~
62 ~~are necessary to fund debt service reserve funds, rebate~~
63 ~~obligations, or other amounts payable with respect to such~~
64 ~~bonds. This paragraph expires July 1, 2016; and~~

65 ~~(c) Then, to distribute \$32 million each fiscal year to the~~
66 ~~South Florida Water Management District for the Long-Term Plan~~
67 ~~as defined in s. 373.4592(2). This paragraph expires July 1,~~
68 ~~2024.~~

69 Section 2. This act shall take effect July 1, 2016.



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LEGISLATIVE ACTION

Senate

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. .

House

Appropriations Subcommittee on General Government (Hays)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 32 - 57

and insert:

1. A minimum of the lesser of 25 percent or \$145 million shall be appropriated annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan as set forth in s. 373.470, including the Central Everglades Planning Project subject to Congressional authorization; the Long-Term Plan as defined in s. 373.4592(2); and the Northern Everglades



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11 and Estuaries Protection Program as set forth in s. 373.4595.
12 From these funds, \$32 million shall be distributed each fiscal
13 year through the 2023-2024 fiscal year to the South Florida
14 Water Management District for the Long-Term Plan as defined in
15 s. 373.4592(2). After deducting the \$32 million distributed
16 under this subparagraph, from the funds remaining, a minimum of
17 the lesser of 76.5 percent or \$100 million shall be appropriated
18 each fiscal year through the 2025-2026 fiscal year for the
19 planning, design, engineering, and construction of the
20 Comprehensive Everglades Restoration Plan as set forth in s.
21 373.470, including the Central Everglades Planning Project
22 subject to Congressional authorization. The Department of
23 Environmental Protection and the South Florida Water Management
24 District shall give preference to those Everglades restoration
25 projects that reduce harmful discharges of water from Lake
26 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
27 timely manner. This distribution shall be reduced by an amount
28 equal to the debt service paid pursuant to paragraph (a) on
29 bonds financed with distributions under this subparagraph.

30 2. A minimum of the lesser of 7.6 percent or \$50 million
31 shall be appropriated annually for spring restoration,
32 protection, and management projects. This distribution shall be
33 reduced by an amount equal to the debt service paid pursuant to
34 paragraph (a) on bonds financed with distributions under this
35 subparagraph.

36 3. The sum of \$5 million shall be appropriated annually to
37 the St. Johns River Water Management District for projects
38 dedicated to the restoration of Lake Apopka. This distribution
39 shall be reduced by an amount equal to the debt service paid



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40 pursuant to paragraph (a) on bonds financed with distributions
41 under this subparagraph ~~Then, to pay the debt~~

42
43 ===== T I T L E A M E N D M E N T =====

44 And the title is amended as follows:

45 Delete lines 5 - 13

46 and insert:

47 amount of funds within the Land Acquisition Trust Fund
48 to be appropriated for Everglades restoration
49 projects; providing a preference in the use of funds
50 to certain projects that reduce harmful discharges to
51 the St. Lucie Estuary and the Caloosahatchee Estuary;
52 requiring the distribution to be reduced by an amount
53 equal to the debt service paid on certain bonds;
54 requiring a minimum specified amount of funds within
55 the Land Acquisition Trust Fund to be appropriated for
56 spring restoration, protection, and management
57 projects; requiring the distribution to be reduced by
58 an amount equal to the debt service paid on certain
59 bonds; requiring a specified appropriation for
60 projects dedicated to the restoration of Lake Apopka;
61 requiring the distribution to be reduced by an amount
62 equal to the debt service paid on certain bonds;
63 deleting an obsolete provision;

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on General Government

BILL: CS/SB 1168

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Negron and others

SUBJECT: Implementation of the Water and Land Conservation Constitutional Amendment

DATE: February 26, 2016 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Istler</u>	<u>Rogers</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	<u>Pre-meeting</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1168 requires specified minimum distributions from the Land Acquisition Trust Fund (LATF) to fund Everglades projects that implement the Comprehensive Everglades Restoration Plan, including the Central Everglades Planning Project, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program. In addition, the bill requires a minimum distribution from the LATF to fund springs restoration, protection, and management projects.

The Revenue Estimating Conference for Documentary Stamp Tax Collection Distributions on January 19, 2016, determined that the bill would allocate a minimum of \$163,125,000 for Everglades projects and \$49,590,000 for springs projects (see Section V. Fiscal Impact Statement for a detailed analysis).

The bill provides an effective date of July 1, 2016.

II. Present Situation:

Documentary Stamp Tax Revenues

Chapter 201, F.S., levies a tax on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at

35 cents per \$100.¹ Revenue from the excise tax on documents, collectively known as documentary stamp tax revenues, is divided between the General Revenue Fund and various trust funds.

In 2014, Florida voters approved a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, for 20 years, 33 percent of net revenues derived from the existing excise tax on documents be deposited into the Land Acquisition Trust Fund (LATF).

The amendment required that funds in the LATF be expended only, as provided by law, to finance or refinance the following:

- The acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat;
- Wildlife management areas;
- Lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems;
- Lands in the Everglades Agricultural Area and the Everglades Protection Area;
- Beaches and shores;
- Outdoor recreation lands, including recreational trails, parks, and urban open space;
- Rural landscapes;
- Working farms and ranches; and
- Historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.²

The amendment was approved by 75 percent of the electors voting on the issue and created Art. X, section 28 of the Florida Constitution. To comply with the constitutional requirements, the Legislature in the 2015 Special Session A passed chapter 2015-229 Laws of Florida.³

As part of chapter 2015-229, Laws of Florida, s. 201.15, F.S., was amended to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from the existing excise tax on documents.⁴ Section 201.15, F.S., requires documentary stamp tax revenues be pledged and first made available to make payments on Florida Forever and Everglades restoration bonds.⁵

Chapter 2015-229, Laws of Florida, amended s. 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund that serves as the depository for the constitutionally required funds.⁶ The revenue deposited into the LATF is required to be utilized in the following order:

¹ See ss. 201.02 and 201.08, F.S.

² FLA. CONST. art. X, s. 28.

³ Ch. 2015-229, Laws of Fla.

⁴ Ch. 2015-229, s. 9, Laws of Fla.

⁵ Section 201.15, F.S.

⁶ Ch. 2015-229, s. 50, Laws of Fla.

- Obligations relating to debt service, specifically:
 - First to payments relating to Florida Forever Bonds and Everglades restoration bonds; and
 - Then, to payments relating to bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- A distribution of \$32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan defined in s. 373.59, F.S.; and
- Then any remaining moneys are authorized to be appropriated from time to time for the purposes set forth in Art. X, section 28 of the Florida Constitution.⁷

Everglades Restoration Projects

The Florida Water Resources Act, ch. 373, F.S., directs the roles and responsibilities of the Department of Environmental Protection (DEP) and the South Florida Water Management District (SFWMD) for plans authorized through the Everglades Forever Act, the Comprehensive Everglades Restoration Plan, and the Northern Everglades and Estuaries Protection Program.⁸

Everglades Forever Act

In 1994, the Legislature passed the Everglades Forever Act (EFA), which outlines the state's commitment to restore the Everglades by improving water quality and quantity.⁹ The primary goals of the EFA are to improve water quality by reducing phosphorus levels, restore the hydrology of the ecosystem, and restore and protect native plant and animal species.¹⁰ In 2003, the EFA was amended to implement the "Everglades Protection Area Tributary Basins Conceptual Plan for Achieving Long-term Water Quality Goals," also known as the Long-Term Plan.¹¹

The Long-Term Plan identifies the best available phosphorous reduction technology to be used in combination with Best Management Practices (BMPs) to achieve the phosphorus criterion in the Everglades Protection Area.¹² The Long-Term Plan is to be implemented in two phases: the initial phase from 2003 to 2016, followed by an additional 10-year phase.¹³ In 2013, the EFA was amended to include the "Restoration Strategies Regional Water Quality Plan," the second phase of the Long-Term Plan."¹⁴ The Plan includes additional stormwater treatment areas and storage reservoirs at a cost of \$880 million to be jointly funded over a 13-year period by the state

⁷ Section 375.041, F.S.

⁸ DEP, *Everglades, Overview of restoration programs*, <http://www.dep.state.fl.us/everglades/default.htm> (last visited Feb. 4, 2016).

⁹ Chapter 1994-115, Laws of Fla.

¹⁰ Section 373.4592, F.S.

¹¹ Chapter 2003-12, Laws of Fla.

¹² Section 373.4592, F.S.

¹³ SFWMD, *Long-Term Plan for Achieving Water Quality Goals, Questions and Answers*, http://www.sfwmd.gov/portal/page/portal/xrepository/sfwmd_repository_pdf/q_and_a_long_term_plan.pdf (last visited Feb. 4, 2016).

¹⁴ Chapter 2013-59, s. 1, Laws of Fla.

and the SFWMD.¹⁵ In 2013, the Legislature appropriated \$32 million on a recurring basis through the 2023-2024 fiscal year to support the implementation of the plan.¹⁶

Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Plan (CERP) is a state-federal partnership that was created to restore the Everglades. The plan works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays, and estuaries across South Florida, for the purpose of improving the Everglades and ensuring that the area's water supply can meet future needs. The DEP, the U.S. Army Corps of Engineers, and the SFWMD work jointly to review each program proposal. CERP serves as the framework and guide for the restoration, protection, and preservation of the South Florida ecosystem, including providing for the water-related needs of the region, such as water supply and flood protection.¹⁷ The plan encompasses 16 counties over an 18,000-square-mile area.¹⁸ The goal of CERP is to capture fresh water that now flows unused to the ocean and redirect it to areas that need it most.¹⁹

CERP includes the Central Everglades Planning Project (CEPP), which incorporates updated science and technical information gained over the last decade to identify a recommended plan and prepare a Project Implementation Report (PIR) for congressional authorization. CEPP will develop the next set of project components that focus on restoring more natural water flow, depth, and duration into and within the Central Everglades.²⁰ The draft PIR was completed in August 2013.²¹ The U.S. Army Corps signed the Record of Decision for CEPP in August 2015, signifying the completion of the final administrative review for the ecosystem restoration project's report.²² The report will be transmitted to Congress for authorization.²³

Northern Everglades and Estuaries Protection Program

The Northern Everglades and Estuaries Protection Program (NEEPP) was established to promote a comprehensive, interconnected watershed approach to protect Lake Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie River Watershed Protection Program.²⁴ The NEEPP led to the creation of the Phase II Technical Plan which provided the measures of quality, quantity, timing, and distribution of water in the northern Everglades

¹⁵ DEP, *Everglades Water Quality Improvements, Questions & Answers*, http://www.dep.state.fl.us/secretary/news/2012/06/everglades_wq_improvements.pdf (last visited Feb. 4, 2016).

¹⁶ Ch. 2013-59, s. 2, Laws of Fla.

¹⁷ SFWMD, *South Florida Environmental Report 2015, Executive Summary*, Glossary (Mar. 1, 2015) available at http://www.sfwmd.gov/portal/page/portal/pg_grp_sfwmd_sfer/portlet_prevreport/2015_sfer_final/2015_sfer_executive_summary_final.pdf.

¹⁸ DEP, *Projects and Goals*, <http://www.dep.state.fl.us/evergladesforever/restoration/projects.htm> (last visited Feb. 4, 2016).

¹⁹ *Id.*

²⁰ U.S. Army Corps of Engineers, *Central Everglades Planning Project (CEPP), Facts & Information*, (Sept. 2013) http://www.evergladesrestoration.gov/content/cepp/documents/CEPP_FS_September2013_508.pdf (last visited Feb. 4, 2016).

²¹ *Id.*

²² U.S. Army Corps of Engineers, *Record of Decision signed for Central Everglades Planning Project*, <http://www.saj.usace.army.mil/DesktopModules/ArticleCS/Print.aspx?PortalId=44&ModuleId=16629&Article=615490> (last visited Feb 4, 2016).

²³ *Id.*

²⁴ Section 373.4595, F.S.

ecosystem necessary for restoration.²⁵ The St. Lucie River and Caloosahatchee River Watershed Protection plans were developed under the NEEPP. The plans include a construction project, pollution control program, and research and water quality monitoring programs, and build upon existing and planned programs and projects to consolidate previous restoration efforts.²⁶

The 2016 Legislature enacted legislation, chapter 2016-1, Laws of Florida, which updates and restructures the NEEPP to reflect and build upon the DEP's implementation of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary. The BMAP will include the construction of water projects, water monitoring programs, and the implementation, verification, and enforcement of best management practices (BMPs) within these watersheds. The BMAPs will now be required to include 5-, 10-, and 15-year milestones toward achieving the total maximum daily loads for those water basins within 20-years.²⁷

Springs Restoration, Protection, and Management Projects

Springs form when groundwater is forced out through natural openings in the ground. Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.

Excessive nutrient levels, particularly nitrate, are the primary water quality threat to springs.²⁸ High nitrate levels result from urban and agricultural stormwater runoff and leaching, and inadequately treated wastewater.²⁹ Spring system water quality is regularly assessed to determine whether it is meeting Florida's standards. When a spring system is not meeting the standard, the system is formally identified as impaired, and the DEP is required to adopt a Total Maximum Daily Load (TMDL).³⁰ A TMDL is a scientific determination of the maximum amount of a given pollutant that a surface water can absorb and still meet the water quality standards that protect human health and aquatic life.³¹ To achieve a TMDL, the DEP works with local stakeholders to adopt and implement comprehensive BMAPs.³² BMAPs represent a comprehensive set of strategies, including permit limits on wastewater facilities, urban and agricultural best management practices, conservation programs, financial assistance and revenue generating activities, designed to implement the pollutant reductions established by the TMDL.³³

²⁵ DEP, *Everglades, Northern Everglades and Estuaries Protection Program (NEEPP)*, <http://www.dep.state.fl.us/everglades/neepp.htm> (last visited Feb. 4, 2016).

²⁶ Section 373.4595, F.S.

²⁷ Chapter 2016-1, Laws of Fla.

²⁸ DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 2 (Nov. 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁹ *Id.*

³⁰ Section 403.067, F.S.

³¹ DEP, *Total Maximum Daily Loads*, <http://www.dep.state.fl.us/water/tmdl/index.htm> (last visited Feb. 10, 2016).

³² Section 403.067, F.S.

³³ DEP, *Total Maximum Daily Loads*, <http://www.dep.state.fl.us/water/tmdl/index.htm> (last visited Feb. 10, 2016).

Water quantity or spring flows are affected by drought and other long-term climate conditions and may be affected by excessive water withdrawals.³⁴ The water management districts (WMDs) or the DEP are required to establish minimum flows and levels (MFLs) for surface and ground waters. The “minimum flow” is the limit at which further withdrawals from a watercourse would significantly harm water resources or ecology; the “minimum level” is the level of a groundwater or surface water body at which further withdrawals would significantly harm water resources.³⁵ If the flow or level is currently below, or within 20 years will fall below an applicable MFL, the water management district (WMD) is required to implement a recovery or prevention strategy.³⁶

The Best Management Practices (BMPs) are established to conserve water and minimize nutrient loss to the environment, particularly through fertilizer application and land and animal management.³⁷ In coordination with the DEP, the WMDs, and other stakeholders, the Department of Agriculture and Consumer Service’s Office of Agriculture Water Policy works to identify and prioritize restoration efforts in springs, including ways to manage more effectively water and nutrient applications in springs protection areas.³⁸

Spring restoration, protection, and management projects may be used to achieve TMDLs through a BMAP, address MFLs through a recovery or prevention strategy, or implement BMPs. Examples of such projects include, but are not limited to: investments to wastewater treatment facilities; water quality improvement projects; aquifer recharge projects; reclaimed water projects; purchase of conservation lands for water quality protection; stormwater improvement; water quality sampling or monitoring; meter implementation; or irrigation system efficiency upgrades.

III. Effect of Proposed Changes:

The bill amends s. 375.041, F.S., to require specified minimum distributions from the Land Acquisition Trust Fund (LATF) to be used to fund Everglades restoration projects and spring restoration, protection, and management projects.

Everglades restoration projects

The bill requires an appropriation of funds to be used for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP).

The bill requires an annual appropriation of a minimum of the lesser of 25 percent of the funds remaining in the LATF after the payment of debt service or \$200 million for Everglades projects in the following manner:

- \$32 million to the South Florida Water Management District for the Long-Term Plan each fiscal year through the 2023-2024 fiscal year;

³⁴ DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).

³⁵ Section 373.042, F.S.

³⁶ Section 373.0421, F.S.

³⁷ DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, pg. 3 (Nov. 2015).

³⁸ DEP, *Progress Report: Select First Magnitude Springs and Springs of Regional Significance*, Attachment 3 (Nov. 2015).

- Then, after deducting the \$32 million, a minimum of the lesser of 76.5 percent of the funds remaining or \$100 million for the planning, design, engineering, and construction of the CERP, including the Central Everglades Planning Project, subject to congressional authorization, each fiscal year through the 2025-2026 fiscal year;
- Then, funds remaining are to be available for distribution to CERP or NEEPP projects.

The bill requires the DEP and the SFWMD to give preference to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The bill deletes language that is set to expire July 1, 2016, relating to the payment of debt service on bonds issued before February 1, 2009, by the South Florida Water Management District.

Spring restoration, protection, and management projects

The bill requires an annual appropriation of a minimum of the lesser of 7.6 percent of the funds remaining in the LATF after the payment of debt service or \$75 million for spring restoration, protection, and management projects.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

CS/SB 1168 requires specified distributions from the Land Acquisition Trust Fund (LATF) within the Department of Environmental Protection as follows:

Estimated Documentary Stamp Tax Revenue:			\$2,506,250,000*		As estimated for FY 2016-2017
	LATF distribution (33% of estimated tax revenue):			\$823,830,000*	As required under Art. X, s. 28 of the Florida Constitution.
	Payment on debt service:			\$171,330,000*	As required under Art. X, s. 28 of the Florida Constitution.
	Remainder of LATF after subtracting debt service	X		\$652,500,000*	
			% Amount	Cap Amount	
Allocation for Everglades Projects:	A minimum of the lesser of 25% or \$200 million	25% of X = Y	\$163,125,000	\$200 million	As required under CS/SB 1168.
<u>Distribution:</u>	Long-Term Plan		N/A	\$32 million	As required under s. 375.041, F.S.
<u>Distribution:</u>	A minimum of the lesser of 76.5% or \$100 million	76.5% of (Y minus \$32 million)	\$100,310,625	\$100 million	For the planning, design, engineering, and construction of CERP projects as required under CS/SB 1168.
<u>Balance:</u>			\$30,814,375	\$68 million	Available for Everglades projects as required under CS/SB 1168.
Allocation for Springs projects:	A minimum of the lesser of 7.6% or \$75 million	7.6% of X	\$49,590,000	\$75 million	Available for spring restoration, protection, and management projects as required under CS/SB 1168
Balance of LATF:			\$439,785,000**	\$377,500,000**	Available for appropriation for the purposes set forth in Art. X, s. 28 of the Florida Constitution.

*Based on the Revenue Estimating Conference for Documentary Stamp Tax Collection and Distributions adopted January 19, 2016.

** Based on estimates for Fiscal Year 2016-2017 as provided by the Senate Appropriations Committee staff.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 375.041 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on February 9, 2016:

The CS adds a specified minimum distribution from the Land Acquisition Trust Fund to fund spring restoration, protection, and management projects.

- B. **Amendments:**

None.

1 A bill to be entitled
 2 An act relating to implementation of the water and
 3 land conservation constitutional amendment; amending
 4 s. 375.041, F.S.; requiring a minimum specified
 5 percentage of funds within the Land Acquisition Trust
 6 Fund to be appropriated for Everglades restoration
 7 projects; providing a preference in the use of funds
 8 to certain projects that reduce discharges to the St.
 9 Lucie and Caloosahatchee estuaries; providing an
 10 effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Subsection (3) of section 375.041, Florida
 15 Statutes, is amended to read:

16 375.041 Land Acquisition Trust Fund.—

17 (3) Funds distributed into the Land Acquisition Trust Fund
 18 pursuant to s. 201.15 shall be applied:

19 (a) First, to pay debt service or to fund debt service
 20 reserve funds, rebate obligations, or other amounts payable with
 21 respect to Florida Forever bonds issued under s. 215.618; and
 22 pay debt service, provide reserves, and pay rebate obligations
 23 and other amounts due with respect to Everglades restoration
 24 bonds issued under s. 215.619; and

25 (b) Of the funds remaining after the payments required
 26 under paragraph (a) but before funds may be appropriated or

27 dedicated for other uses, a minimum of the lesser of 25 percent
28 or \$200 million shall be appropriated annually for Everglades
29 projects that implement the Comprehensive Everglades Restoration
30 Plan as set forth in s. 373.470, the Long-Term Plan as defined
31 in s. 373.4592(2), including the Central Everglades Planning
32 Project subject to congressional authorization, and the Northern
33 Everglades and Estuaries Protection Program as set forth in s.
34 373.4595. From these funds, \$32 million shall be distributed
35 each fiscal year through the 2023-2024 fiscal year to the South
36 Florida Water Management District for the Long-Term Plan as
37 defined in s. 373.4592(2). After deducting the \$32 million
38 distributed under this paragraph, from the funds remaining, a
39 minimum of the lesser of 76.5 percent or \$100 million shall be
40 appropriated each fiscal year through the 2025-2026 fiscal year
41 for the planning, design, engineering, and construction of the
42 Comprehensive Everglades Restoration Plan as set forth in s.
43 373.470, including the Central Everglades Planning Project
44 subject to congressional authorization. The Department of
45 Environmental Protection and the South Florida Water Management
46 District shall give preference to those Everglades restoration
47 projects that reduce harmful discharges of water from Lake
48 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
49 timely manner ~~Then, to pay the debt service on bonds issued~~
50 ~~before February 1, 2009, by the South Florida Water Management~~
51 ~~District and the St. Johns River Water Management District,~~
52 ~~which are secured by revenues provided pursuant to former s.~~

HB 989

2016

53 ~~373.59, Florida Statutes 2014, or which are necessary to fund~~
54 ~~debt service reserve funds, rebate obligations, or other amounts~~
55 ~~payable with respect to such bonds. This paragraph expires July~~
56 ~~1, 2016; and~~

57 ~~(c) Then, to distribute \$32 million each fiscal year to~~
58 ~~the South Florida Water Management District for the Long Term~~
59 ~~Plan as defined in s. 373.4592(2). This paragraph expires July~~
60 ~~1, 2024.~~

61 Section 2. This act shall take effect July 1, 2016.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 989 Implementation of Water and Land Conservation Constitutional Amendment

SPONSOR(S): Harrell, Caldwell and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 1168

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N	Massengale	Massengale
2) Appropriations Committee	24 Y, 0 N	Massengale	Leznoff

SUMMARY ANALYSIS

In 2014, the voters of the state of Florida approved an amendment to the Florida Constitution to create Article X, Section 28, which requires that 33 percent of documentary stamp taxes collected be deposited into the Land Acquisition Trust Fund (LATF) and prohibits funds from the LATF from being used for a purpose not specified in the constitution. In 2015, chapter 2015-229, Laws of Florida, became law and amended the relevant statutes to comply with this constitutional requirement. The bill amended section 375.041, F.S., related to the Land Acquisition Trust Fund to require that funds be used for certain debt service obligations and to require that \$32 million be distributed to the South Florida Water Management District for the Long-Term Plan. The section further provides that any remaining moneys in the Land Acquisition Trust Fund that are not distributed as provided above may be appropriated from time to time for the purposes set forth in s. 28, Art. X of the State Constitution.

HB 989 amends s. 375.041, F.S. to provide for the distribution of funds deposited into the Land Acquisition Trust Fund. Of the funds remaining after the payment of certain debt service obligations, the Legislature will be required to appropriate a minimum of the lesser of 25 percent or \$200 million for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), including the Central Everglades Planning Project subject to congressional authorization, the Long-Term Plan, and the Northern Everglades and Estuaries Protection Program.

The bill requires that from these funds \$32 million will be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District (SFWMD) for the Long-Term Plan. After deducting the \$32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or \$100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP.

The bill requires the Department of Environmental Protection (DEP) and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

The House proposed Fiscal Year 2016-2017 General Appropriations Act fulfills the requirements of the bill by appropriating \$32 million for the Long-Term Plan, \$100 million for the CERP, and \$66 million for northern Everglades and estuaries protection, including \$15 million to the Department of Agriculture and Consumer Services for agricultural projects identified in the Lake Okeechobee Basin Management Action Plan and \$51 million to DEP to implement the Northern Everglades and Estuaries Protection Program.

The effective date of this bill is July 1, 2016.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

On November 4, 2014, Florida voters approved an initiative petition relating to water and land conservation. The provision added a section 28 to Article X of the Florida Constitution:

SECTION 28. Land Acquisition Trust Fund.—

a) Effective on July 1 of the year following passage of this amendment by the voters, and for a period of 20 years after that effective date, the Land Acquisition Trust Fund shall receive no less than 33 percent of net revenues derived from the existing excise tax on documents¹, as defined in the statutes in effect on January 1, 2012, as amended from time to time, or any successor or replacement tax, after the Department of Revenue first deducts a service charge to pay the costs of the collection and enforcement of the excise tax on documents.

b) Funds in the Land Acquisition Trust Fund shall be expended only for the following purposes:

1) As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.

2) To pay the debt service on bonds issued pursuant to Article VII, Section 11(e). c) The moneys deposited into the Land Acquisition Trust Fund, as defined by the statutes in effect on January 1, 2012, shall not be or become commingled with the General Revenue Fund of the state.

As a result of Special Session A in 2015, chapter 2015-229, Laws of Florida, became law and amended the relevant statutes to comply with this constitutional requirement. As part of chapter 2015-229, L.O.F., s. 375.041, F.S. was amended to require moneys from the Land Acquisition Trust Fund to be allocated as follows:

1. First, to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618; and pay debt service, provide reserves, and pay rebate obligations and other amounts due with respect to Everglades restoration bonds issued under s. 215.619;
2. Then, to pay the debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District, which are secured by revenues provided pursuant to former s. 373.59, Florida Statutes 2014, or which are necessary to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to such bonds. This paragraph expires July 1, 2016; and
3. Then, to distribute \$32 million each fiscal year to the South Florida Water Management District for the Long-Term Plan as defined in s. 373.4592(2). This paragraph expires July 1, 2024.

¹ The documentary stamp tax is imposed on documents that transfer interest in Florida real property and certain types of debt. Documents subject to the tax include deeds, bonds, corporate shares, notes and written obligations to pay money, and mortgages, lines and other evidences of indebtedness. ss. ss. 201.02, 201.07 and 201.208, F.S.

The section further provides that any remaining moneys in the Land Acquisition Trust Fund that are not distributed as provided above may be appropriated from time to time for the purposes set forth in s. 28, Art. X of the State Constitution.

Comprehensive Everglades Restoration Plan

The Comprehensive Everglades Restoration Program (CERP) is a large, comprehensive, long-term 50-50 partnership with the federal government to restore the Everglades. The plan originally approved in the 2000 federal Water Resources Development Act includes more than 60 projects that will take more than 30 years to complete and will cost an estimated \$13.5 billion.² The program works in conjunction with other state and federal efforts to revitalize wetlands, lakes, bays and estuaries across south Florida's ecosystem, for the purpose of improving the Everglades and ensuring the area's water supply can meet future needs. DEP and the South Florida Water Management District work in collaboration to review each program proposal, with DEP having final approval authority. Projects must receive DEP approval before being submitted to Congress or the Legislature for funding.

The Central Everglades Planning Project

The Central Everglades Planning Project (CEPP) is a suite of projects in the central Everglades intended to allow more water to be directed south to the central Everglades, Everglades National Park, and Florida Bay. On December 23, 2014, the U.S. Army Corps of Engineers Chief of Engineers submitted his Project Implementation Report for CEPP to the Secretary of the Army for transmission to Congress for congressional authorization. The proposed CEPP is comprised of increments of six components of CERP, including the Everglades Agricultural Area (EAA) Storage Reservoir - Phase I, which was conditionally authorized by Section 601 (b)(2)(C)(ii) of WRDA 2000. However, the reporting officers recommended new authorization consistent with Section 601 (d) of WRDA 2000 due to changes in scope and the inclusion of additional CERP components. The reporting officers recommended increments of the following six components of CERP to be integrated with the existing facilities of the C&SF system: Everglades Agricultural Area Storage Reservoirs (Component G); Water Conservation Area (WCA)-3 Decompartmentalization and Sheetflow Enhancement (Components AA and QQ); S-356 Pump Station Modifications (Component FF); L-31 N Improvements for Seepage Management (Component V); System-wide Operational Changes - Everglades Rain-Driven Operations (Component H); and Flow to Northwest and Central.WCA-3A (Component II).³

Long-Term Plan

Section 373.4592(2), F.S. references the "Long-Term Plan" relating to Everglades protection. The Long-Term Plan resulted from the 1994 Everglades Forever Act, which requires the SFWMD to submit a water quality plan to DEP. The Plan's overarching purpose is to ensure all water entering the Everglades Protection Area complies with state and federal water quality standards. The plan calls for enhancements to existing storm water treatment areas, expanded best management practices and integration with CERP projects.⁴ In 2012, the DEP and the SFWMD, in consultation with U.S. Environmental Protection Agency, developed a technical plan to meet water quality standards, which includes additional stormwater treatment areas and storage reservoirs at a cost of \$880 million over a 13-year period. A total of \$500.7 million in funds will be provided by the South Florida Water Management District with the balance to be provided by the state. The 2013 Legislature appropriated \$32 million on a recurring basis to support the implementation of the technical water quality plan.⁵

Northern Everglades and Estuaries Protection Program (NEEPP)

The term "Northern Everglades" refers to the Lake Okeechobee watershed, the Caloosahatchee River watershed, and the St. Lucie River watershed.⁶ The Northern Everglades and Estuaries Protection Program (NEEPP) promotes a comprehensive, interconnected watershed approach to protect Lake

² <http://www.dep.state.fl.us/secretary/everglades/> (last visited 1/19/2015).

³ U.S. Army Corps of Engineers CEPP Project Implementation Report, available at: <http://www.saj.usace.army.mil/Portals/44/docs/Environmental/CEPP/CentralEverglades-Dec2014%20Chief's%20Report.pdf> (last accessed 1/27/2016).

⁴ South Florida Water Management District, available at: <http://my.sfwmd.gov/portal/page/portal/xweb%20protecting%20and%20restoring/water%20quality%20stormwater%20treatment%20areas> (last accessed 1/13/2016).

⁵ http://edr.state.fl.us/Content/long-range-financial-outlook/3-Year-Plan_Fall-2015_1617-1819.pdf

⁶ s. 373.4595(2)(l)

Okeechobee and the Caloosahatchee and St. Lucie River watersheds. It includes the Lake Okeechobee Watershed Protection Program and the Caloosahatchee and St. Lucie Watershed Protection Program. The 2016 Legislature enacted legislation, Chapter 2016-1, L.O.F., updating and restructuring NEEPP to reflect and build upon the DEP's completion of basin management action plans (BMAPs) for Lake Okeechobee, the Caloosahatchee River and Estuary, and the St. Lucie River and Estuary, and the Department of Agriculture and Consumer Services' (DACS) implementation of best management practices (BMPs).⁷

Provisions of Bill

The bill amends s. 375.041, F.S. to provide for distribution of funds from the Land Acquisition Trust Fund. The bill retains the requirement that funds first be distributed to pay debt service or to fund debt service reserve funds, rebate obligations, or other amounts payable with respect to Florida Forever bonds issued under s. 215.618, F.S., and Everglades restoration bonds issued under s. 215.619, F.S.

Of the funds remaining after this debt service distribution, the Legislature will be required to appropriate a minimum of the lesser of 25 percent or \$200 million for Everglades projects that implement:

1. the Comprehensive Everglades Restoration Plan (CERP) as set forth in s. 373.470, including the Central Everglades Planning Project subject to congressional authorization;
2. the Long-Term Plan as defined in s. 373.4592(2); and
3. the Northern Everglades and Estuaries Protection Program as set forth in s. 373.4595.

From these funds, \$32 million will be distributed each fiscal year through the 2023-2024 fiscal year to the South Florida Water Management District for the Long-Term Plan. After deducting the \$32 million, from the funds remaining, a minimum of the lesser of 76.5 percent or \$100 million will be appropriated each fiscal year through the 2025-2026 fiscal year for the planning, design, engineering and construction of the CERP.

The bill requires DEP and the SFWMD to give preference to projects that reduce harmful discharges from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner.

Finally, the bill repeals the provision, which expires July 1, 2016, paying for the SFWMD's and the St. Johns River Water Management District's debt service on bonds issued before February 1, 2009.

B. SECTION DIRECTORY:

Section 1: Amends s. 375.041, F.S. relating to the Land Acquisition Trust Fund.

Section 2: Provides effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill specifies how the Land Acquisition Trust Fund would be distributed for Everglades restoration. See the table below.

(In millions)

State Fiscal Year	33% LATF	Less Debt Service	Lesser of 25% or \$200M for Everglades	Long-Term Plan	CERP (Lesser of 76.5% or \$100M)	Remaining Everglades Funds

⁷ Florida Senate Bill Analysis, CS/CS/SB 552
 STORAGE NAME: h0989d.APC
 DATE: 2/9/2016

2016-17	\$823.8	\$171.3	\$163.1	\$32.0	\$100.0	\$31.1
2017-18	\$879.6	\$171.4	\$177.1	\$32.0	\$100.0	\$45.1
2018-19	\$922.9	\$171.5	\$187.9	\$32.0	\$100.0	\$55.9
2019-20	\$957.4	\$171.6	\$196.4	\$32.0	\$100.0	\$64.4
2020-21	\$992.4	\$171.6	\$200.00	\$32.0	\$100.0	\$68.0
2021-22	\$1,026.1	\$150.2	\$200.00	\$32.0	\$100.0	\$68.0
2022-23	\$1,064.7	\$139.3	\$200.00	\$32.0	\$100.0	\$68.0
2023-24	\$1,105.6	\$119.2	\$200.00	\$32.0	\$100.0	\$68.0
2024-25	\$1,149.6	\$119.2	\$200.00		\$100.0	\$100.0
2025-26	\$1,194.9	\$93.8	\$200.00		\$100.0	\$100.0

The House proposed Fiscal Year 2016-2017 General Appropriations Act provides \$32 million for the Long-Term Plan, \$100 million for the CERP and \$66 million for northern Everglades and estuaries protection, including \$15 million to DACS for agricultural projects identified in the Lake Okeechobee Basin Management Action Plan and \$51 million to DEP to implement the Northern Everglades and Estuaries Protection Program.

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:

The 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

By the Committee on Environmental Preservation and Conservation;
and Senator Simpson

592-03733A-16

20161260c1

1 A bill to be entitled

2 An act relating to anchoring limitation areas;
3 creating s. 327.4108, F.S.; prohibiting overnight
4 anchoring or mooring of vessels in specified anchoring
5 limitation areas; providing exceptions; providing for
6 the removal and impoundment of vessels under certain
7 circumstances; providing penalties; amending s.
8 327.70, F.S.; providing for violations to be enforced
9 by the issuance of a uniform boating citation;
10 amending s. 327.73, F.S.; providing penalties;
11 providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 327.4108, Florida Statutes, is created
16 to read:

17 327.4108 Anchoring or mooring of vessels in anchoring
18 limitation areas.—

19 (1) The following densely populated urban areas, which have
20 narrow state waterways, residential docking facilities, and
21 significant recreational boating traffic and are located in
22 counties with populations exceeding 1.5 million residents, are
23 designated as anchoring limitation areas:

24 (a) The section of Middle River lying between Northeast
25 21st Court and the Intracoastal Waterway in Broward County.

26 (b) Sunset Lake in Miami-Dade County.

27 (c) The sections of Biscayne Bay in Miami-Dade County lying
28 between:

29 1. Rivo Alto Island and Di Lido Island.

30 2. San Marino Island and San Marco Island.

31 3. San Marco Island and Biscayne Island.

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20161260c1

32 (2) To promote the public's use and enjoyment of the
33 designated waterway, except as provided in subsections (3) and
34 (4), a person may not anchor a vessel at any time during the
35 period between one-half hour after sunset and one-half hour
36 before sunrise in an anchorage limitation area.

37 (3) Notwithstanding subsection (2), a person may anchor a
38 vessel in an anchorage limitation area:

39 (a) If the vessel suffers a mechanical failure that poses
40 an unreasonable risk of harm to the vessel or the persons
41 onboard unless the vessel anchors. The vessel may anchor for 3
42 business days or until the vessel is repaired, whichever occurs
43 first.

44 (b) If imminent or existing weather conditions in the
45 vicinity of the vessel pose an unreasonable risk of harm to the
46 vessel or the persons onboard unless the vessel anchors. The
47 vessel may anchor until weather conditions no longer pose such
48 risk. During a hurricane or a tropical storm, weather conditions
49 are deemed to no longer pose an unreasonable risk of harm when
50 the hurricane or tropical storm warning affecting the area has
51 expired.

52 (c) During events described in s. 327.48 or other special
53 events, including, but not limited to, public music
54 performances, local government waterfront activities, or
55 fireworks displays. A vessel may anchor for the lesser of the
56 duration of the special event or for 3 days.

57 (4) This section does not apply to:

58 (a) Vessels owned or operated by a governmental entity for
59 law enforcement, firefighting, military, or rescue purposes.

60 (b) Construction or dredging vessels on an active job site.

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20161260c1

61 (c) Vessels actively engaged in commercial fishing.

62 (d) Vessels engaged in recreational fishing, if the persons
63 onboard are actively tending hook and line fishing gear or nets.

64 (5) (a) As used in this subsection, the term "law
65 enforcement officer or agency" means an officer or agency
66 authorized to enforce this section pursuant to s. 327.70.

67 (b) A law enforcement officer or agency may remove a vessel
68 from an anchorage limitation area and impound the vessel for up
69 to 48 hours, or cause such removal and impoundment, if the
70 vessel operator, after being issued a citation for a violation
71 of this section:

72 1. Anchors the vessel in violation of this section within
73 12 hours after being issued the citation; or

74 2. Refuses to leave the anchorage limitation area after
75 being directed to do so by a law enforcement officer or agency.

76 (c) A law enforcement officer or agency acting under this
77 subsection to remove or impound a vessel, or to cause such
78 removal or impoundment, shall be held harmless for any damage to
79 the vessel resulting from such removal or impoundment unless the
80 damage results from gross negligence or willful misconduct.

81 (d) A contractor performing removal or impoundment services
82 at the direction of a law enforcement officer or agency pursuant
83 to this subsection must:

84 1. Be licensed in accordance with United States Coast Guard
85 regulations, as applicable.

86 2. Obtain and carry a current policy issued by a licensed
87 insurance carrier in this state to insure against any accident,
88 loss, injury, property damage, or other casualty caused by or
89 resulting from the contractor's actions.

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90 3. Be properly equipped to perform such services.

91 (e) In addition to the civil penalty imposed under s.
92 327.73(1)(y), the operator of a vessel that is removed and
93 impounded pursuant to paragraph (b) must pay all removal and
94 storage fees before the vessel is released. A vessel removed
95 pursuant to paragraph (b) may not be impounded for longer than
96 48 hours.

97 (6) A violation of this section is punishable as provided
98 in s. 327.73(1)(y).

99 Section 2. Paragraph (c) is added to subsection (2) of
100 section 327.70, Florida Statutes, to read:

101 327.70 Enforcement of this chapter and chapter 328.—

102 (2)

103 (c) A noncriminal violation of s. 327.4108 may be enforced
104 by a uniform boating citation issued to the operator of a vessel
105 unlawfully anchored in an anchoring limitation area.

106 Section 3. Paragraph (y) is added to subsection (1) of
107 section 327.73, Florida Statutes, to read:

108 327.73 Noncriminal infractions.—

109 (1) Violations of the following provisions of the vessel
110 laws of this state are noncriminal infractions:

111 (y) Section 327.4108, relating to the anchoring of vessels
112 in anchoring limitation areas, for which the penalty is:

113 1. For a first offense, up to a maximum of \$50.

114 2. For a second offense, up to a maximum of \$100.

115 3. For a third or subsequent offense, up to a maximum of
116 \$250.

117
118 Any person cited for a violation of any provision of this

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119 subsection shall be deemed to be charged with a noncriminal
120 infraction, shall be cited for such an infraction, and shall be
121 cited to appear before the county court. The civil penalty for
122 any such infraction is \$50, except as otherwise provided in this
123 section. Any person who fails to appear or otherwise properly
124 respond to a uniform boating citation shall, in addition to the
125 charge relating to the violation of the boating laws of this
126 state, be charged with the offense of failing to respond to such
127 citation and, upon conviction, be guilty of a misdemeanor of the
128 second degree, punishable as provided in s. 775.082 or s.
129 775.083. A written warning to this effect shall be provided at
130 the time such uniform boating citation is issued.

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

132

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: CS/SB 1260

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Simpson

SUBJECT: Anchoring Limitation Areas

DATE: February 26, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.	Gusky	Miller	ATD	Recommend: Favorable
3.	Pace	Hrdlicka	FP	Pre-meeting

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1260 establishes anchoring limitation areas in sections of Broward and Miami-Dade Counties. The bill prohibits a person from anchoring a vessel at any time between the hours from one-half hour after sunset to one-half hour before sunrise in any such anchoring limitation area. The bill authorizes vessels under certain circumstances to anchor overnight in an anchoring limitation area and provides an exemption for certain vessels.

The Florida Fish and Wildlife Conservation Commission (FWC) or other law enforcement agencies that monitor anchoring may experience an indeterminate positive fiscal impact resulting from the issuance of boating citations for violations relating to the unlawful anchoring of vessels in an anchoring limitation area. Additionally, the FWC or other law enforcement agencies may experience increased costs as a result of enforcing anchoring in these areas. It is expected that any enforcement costs will be covered within existing resources.

II. Present Situation:

Article X, s. 11 of the Florida Constitution authorizes the private use of portions of sovereign lands, but only if the use is not contrary to the public interest.¹ The term “sovereignty submerged lands” are “those lands including but not limited to, tidal lands, islands, sand bars, shallow banks,

¹ Rule 18-21.003(51), F.A.C., defines the term “public interest” as demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action.

and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.”²

Riparian rights are those incidental to land bordering upon navigable waters and include the right to an unobstructed view, of ingress to and egress from the water, boating, bathing, and fishing.³

Riparian rights are:

- Inured to the owner of the riparian land but are not owned by him or her;
- Appurtenant to and are inseparable from the riparian land.⁴

A riparian owner’s rights to use navigable waters and the lands beneath is concurrent with that of the public, not superior to the public right.⁵ A riparian owner’s right to use the navigable waters abutting his or her property may not obstruct or unreasonably impede lawful navigation by others.⁶ The public has the right to use navigable waters for navigation or commerce.⁷ Anchoring is considered to be incidental to the right of navigation.⁸

Anchoring refers to a boater’s practice of seeking and using safe harbor on the public waterway system for an undefined duration. This may be accomplished using an anchor carried on the vessel, or through the utilization of moorings permanently affixed to the bottom. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.⁹

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters for many years. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly or become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.¹⁰

² See Rule 18-21.003(61), F.A.C., and the Submerged Lands Act, 43 U.S.C. ss. 1301 and 1311(a) (confirmed state ownership).

³ See *Hayes v. Bowman*, 91 So.2d 795 (Fla. 1957), and s. 253.141, F.S.

⁴ Section 253.141, F.S.

⁵ *Harbor Beach Surf Club, Inc., v. Water Taxi of Ft. Lauderdale, Inc.*, 711 So.2d 1230 (Fla. 4th DCA 1998).

⁶ *Id.*

⁷ See *Brannon v. Boldt*, 958 So.2d 367, 372 (Fla. 2d DCA 2007), and s. 253.03(7), F.S.

⁸ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, pg. 2 (Rev. May 2012) available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Feb. 25, 2016).

⁹ *Id.*

¹⁰ FWC, *Anchoring Mooring Pilot Program, Report of Findings and Recommendations*, pg. 3 (Dec. 31, 2013) available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf> (last visited Feb. 25, 2016).

State Regulation of the Anchoring or Mooring of Vessels

The Board of Trustees of the Internal Improvement Trust Fund (board), which consists of the Governor and the Cabinet, is responsible for administering, controlling, and managing sovereignty submerged lands.¹¹ The board is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages. Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.¹² Currently, there are no rules regarding the anchoring of vessels.

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.¹³ Interference with navigation is a noncriminal infraction, punishable by a civil penalty of \$50.¹⁴

The FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. The FWC or any law enforcement agency the relocates or removes a vessel under these circumstances must be held harmless for all damages to the vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹⁵ The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.¹⁶

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.¹⁷ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters for which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scrapping and painting are not authorized within such mooring fields.¹⁸

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and

¹¹ Section 253.03(7), F.S.

¹² See ch. 18-21, F.A.C.

¹³ Section 327.44(2), F.S.

¹⁴ Section 327.73, F.S.

¹⁵ Section 327.44(3), F.S.

¹⁶ Section 327.44(5), F.S.

¹⁷ See s. 373.118, F.S., and Rule 62-330.420(1), F.A.C.

¹⁸ See Rule 62-330.420, F.A.C.

vessels that are within the marked boundaries of permitted mooring fields.¹⁹ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields.²⁰

Anchoring and Mooring Pilot Program

In 2009, the Legislature created the Anchoring and Mooring Pilot Program to explore options for local government to regulate the anchoring and mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields.²¹ The pilot program is administered by the FWC in cooperation with the Department of Environmental Preservation (DEP).²²

The following local governments were selected as participants in the pilot program and are authorized to regulate anchoring and mooring outside the marked boundaries of permitted mooring fields:

- The city of St. Augustine;
- The city of St. Petersburg;
- The city of Sarasota;
- Monroe County in partnership with the cities of Marathon and Key West; and
- Martin County in partnership with the city of Stuart.²³

The pilot program and the local government ordinances developed under the program are set to expire July 1, 2017, unless reenacted by the Legislature.²⁴

FWC Public Survey

In 2014, the FWC held public meetings to explore options for regulating the anchoring of non-live-aboard vessels outside the marked boundaries of public mooring fields.²⁵ The results of the meetings led to 6 concepts which contemplated the granting of limited authority to local governments to regulate anchoring within their jurisdiction:

¹⁹ Section 327.60(3), F.S.; *See* s. 327.02, F.S., which defines the term “floating structure” as a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

²⁰ Section 327.60(2)(f), F.S.; *See* s. 327.02, F.S., which defines the term “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

²¹ Chapter 2009-86, s. 48, L.O.F.; the law is codified in s. 327.4105, F.S.

²² *See* s. 327.4105, F.S., and *supra* note 12.

²³ *Supra* note 12.

²⁴ Section 327.4105(6), F.S. The pilot program was originally set to expire on July 1, 2014. However, the program was extended, on recommendation of the FWC, to provide more time to fully evaluate each pilot program location. *See* ch. 2014-136, s. 2, F.S.

²⁵ FWC, *Stakeholder Survey-Anchoring, Executive Summary*, pg. 1 (Jan. 29, 2015) available at <http://myfwc.com/media/2981012/Anchoring-Survey-Executive-Summary.pdf> (last visited Feb. 25, 2016).

1. A setback distance where the anchoring of vessels would be prohibited in the vicinity of public boating access infrastructure, such as boat ramps, hoists, mooring fields and marinas;²⁶
2. A setback distance where the anchoring of vessels overnight in close proximity to waterfront residential property would be prohibited;²⁷
3. The storing of vessels on the water in deteriorating condition would be prohibited;²⁸
4. The timeframe for storing vessels on the water would be limited unless relocated a specified distance away;²⁹
5. If authority was granted to local governments to regulate anchoring in their jurisdiction, an allowance could be created for other anchoring regulations where need is demonstrated,³⁰ and
6. If authority was granted to local governments to regulate anchoring in their jurisdiction, the creation of an online, interactive map to help boat operators know which local areas were covered under local anchoring restrictions.³¹

III. Effect of Proposed Changes:

Section 1 creates s. 327.4108, F.S., to designate the following densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic and which are located in counties with populations exceeding 1.5 million residents as anchoring limitation areas:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami-Dade County;
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island;
 - San Marco Island and Biscayne Island.

The bill prohibits a person from anchoring a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise in an anchoring limitation area to promote the public's use and enjoyment of the designated waterways.

The bill authorizes vessels to anchor overnight in an anchoring limitation area under the following circumstances:

- If a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or persons onboard the vessel unless the vessel anchors:

²⁶ *Id.* at pg. 4. Sixty-six percent of respondents somewhat or strongly agreed that this concept was appropriate and 44 percent of respondents identified 150 feet as the most appropriate setback distance.

²⁷ *Id.* Fifty-one percent of respondents somewhat or strongly agreed that this concept was appropriate and 32 percent of respondents identified 150 feet as the most appropriate setback distance.

²⁸ *Id.* Eighty-six percent of respondents somewhat or strongly agreed that this concept was appropriate.

²⁹ *Id.* Sixty-six percent of respondents somewhat or strongly agreed that this concept was appropriate and 31 percent of the respondents identified 60 days as most appropriate.

³⁰ *Id.* Forty-eight percent of respondents somewhat or strongly agreed that this concept was appropriate.

³¹ *Id.* Eighty-eight percent of respondents somewhat or strongly agreed that this concept was appropriate.

- A vessel may anchor for three business days or until the vessel is repaired, whichever occurs first.
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard the vessel unless the vessel anchors:
 - A vessel may anchor until weather conditions no longer pose such risk. During a hurricane or a tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.
- During events described in s. 327.48, F.S., relating to regattas, races, marine parades, tournaments, and exhibitions, or other special events including, but not limited to, public music performances, local government waterfront activities, or fireworks displays:
 - A vessel may anchor for the duration of the special event or for three days, whichever duration is less.

The bill exempts the following vessels:

- Vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; and
- Vessels engaged in recreational fishing, if the persons onboard are actively tending hook and line fishing gear or nets.

The bill authorizes a law enforcement officer or agency to remove a vessel from an anchoring limitation area and impound the vessel for up to 48 hours, or cause such removal and impoundment, if the vessel operator, after being issued a citation for a violation:

- Anchors the vessel unlawfully in an anchoring limitation area within 12 hours after being issued the citation; or
- Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.

The bill provides a limitation on liability to a law enforcement officer or agency for any damage to the vessel, other than damage resulting from gross negligence or willful misconduct, resulting from the removal or impoundment of the vessel.

For the purposes of such removal or impoundment, the bill defines the term “law enforcement officer or agency” to mean the following officers or agencies:

- The Division of Law Enforcement of the Fish and Wildlife Conservation Commission and its officers;
- The sheriffs of the various counties and their deputies;
- Municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.³²

³² Section 943.10, F.S., defines the term “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state.

The bill provides that contractors performing removal or impoundment services at the direction of a law enforcement officer or agency must:

- Be licensed in accordance with United States Coast Guard regulations, as applicable;
- Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and
- Be properly equipped to perform such services.

The bill requires the operator of a vessel that is removed and impounded, in addition to a civil penalty, to pay all removal and storage fees before the vessel may be released.

Section 2 amends s. 327.70, F.S., providing that a violation of s. 327.4108, F.S., relating to the anchoring of vessels in anchoring limitation areas, may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in an anchoring limitation area.

Section 3 amends s. 327.73, F.S., to provide the following civil penalties for the unlawful anchoring of vessels in an anchoring limitation area:

- For a first offense, a maximum fine of \$50;
- For a second offense, a maximum fine of \$100; and
- For a third or subsequent offense, a maximum fine of \$250.

The bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Art. III, s. 10 of the Florida Constitution prohibits the Legislature from enacting any special law unless notice is first published or a referendum is conducted. A special law or "local law" relates to or operates upon a particular person, thing, or part of the state; it does not apply with geographic uniformity across the state and bears no reasonable relationship to differences in population or other legitimate criteria.³³ On the other hand, a general law of local application relates to a class of persons or things or subdivisions of

³³ See *State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla. 1934); and *Lawnwood Medical Center, Inc. v. Seeger*, 990 So.2d 503 (Fla. 2008).

the state, based upon distinctions or differences that are inherent or particular to the class or location. The Legislature is granted wide discretion in making such classifications.³⁴ If a particular condition exists in only a portion of the state, enactments that reference the limited geographic area may be general laws.³⁵ “[I]f a law utilizes a classification that is geographical in its terms but the purpose of the statute is one of statewide importance and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law.”³⁶

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Vessel operators that unlawfully anchor a vessel in an anchoring limitation area would be required to pay a civil penalty and may be required to pay vessel removal and storage costs.

C. Government Sector Impact:

The FWC or other law enforcement agencies that monitor anchoring may experience an indeterminate positive fiscal impact resulting from the issuance of boating citations for violations relating to the unlawful anchoring of vessels in an anchoring limitation area. Additionally, the FWC or other law enforcement agencies may experience increased costs as a result of enforcing anchoring in these areas. It is expected that any enforcement costs will be covered within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.73 and 327.70.

The bill creates section 327.4108 of the Florida Statutes.

³⁴ *Shelton v. Reeder*, 121 So. 2d 145, 151 (Fla. 1960). *But see also* Art. X, s. 11 of the Florida Constitution.

³⁵ *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

³⁶ *Id.* at 1056.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on February 17, 2016:

The CS:

- Designates anchoring limitation areas, rather than recreational boating zones, and provides a limitation to areas that are in densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant boating traffic and are located in counties with populations exceeding 1.5 million residents.
- Removes Crab Island in Okaloosa County as a designated area.
- Authorizes vessels under certain circumstances to anchor overnight in anchoring limitation areas.
- Exempts certain vessels.
- Authorizes law enforcement officers or agencies to remove or cause the removal of vessels from an anchoring limitation area and impound such vessels for up to 48 hours under certain circumstances.
- Provides a limitation on liability for law enforcement officers or agencies that remove or impound a vessel.
- Provides requirements for contractors performing removal or impoundment services.
- Requires a vessel operator to pay all removal and storage fees for removed or impounded vessels.
- Amends s. 327.70, F.S., to authorize violations of s. 327.4108, F.S. to be enforced by a uniform boating citation.
- Increases the penalty for violations for repeat offenders.

- B. **Amendments:**

None.

1 A bill to be entitled
2 An act relating to anchoring limitation areas;
3 creating s. 327.4108, F.S.; prohibiting overnight
4 anchoring of vessels in specified anchoring limitation
5 areas; providing exceptions; providing applicability;
6 authorizing specified law enforcement officers and
7 agencies to remove and impound vessels or cause
8 vessels to be removed or impounded under certain
9 conditions; providing indemnification for such law
10 enforcement officers and agencies in certain
11 circumstances; providing requirements for contractors
12 performing such removal or impoundment services;
13 providing that certain vessel operators are required
14 to pay removal and storage fees and are subject to
15 specified penalties; providing for expiration;
16 amending s. 327.70, F.S.; providing for issuance of
17 uniform boating citations; amending s. 327.73, F.S.;
18 providing penalties relating to the anchoring of
19 vessels in anchoring limitation areas; providing an
20 effective date.

21
22 Be It Enacted by the Legislature of the State of Florida:

23
24 Section 1. Section 327.4108, Florida Statutes, is created
25 to read:

26 327.4108 Anchoring of vessels in anchoring limitation

27 areas.—

28 (1) The following densely populated urban areas, which
 29 have narrow state waterways, residential docking facilities, and
 30 significant recreational boating traffic, are designated as
 31 anchoring limitation areas:

32 (a) The section of Middle River lying between Northeast
 33 21st Court and the Intracoastal Waterway in Broward County.

34 (b) Sunset Lake in Miami-Dade County.

35 (c) The sections of Biscayne Bay in Miami-Dade County
 36 lying between:

37 1. Rivo Alto Island and Di Lido Island.

38 2. San Marino Island and San Marco Island.

39 3. San Marco Island and Biscayne Island.

40 (2) To promote the public's use and enjoyment of the
 41 designated waterway, except as provided in subsections (3) and
 42 (4), a person may not anchor a vessel at any time during the
 43 period between one-half hour after sunset and one-half hour
 44 before sunrise in an anchoring limitation area.

45 (3) Notwithstanding subsection (2), a person may anchor a
 46 vessel in an anchoring limitation area:

47 (a) If the vessel suffers a mechanical failure that poses
 48 an unreasonable risk of harm to the vessel or the persons
 49 onboard unless the vessel anchors. The vessel may anchor for 3
 50 business days or until the vessel is repaired, whichever occurs
 51 first.

52 (b) If imminent or existing weather conditions in the

53 vicinity of the vessel pose an unreasonable risk of harm to the
54 vessel or the persons onboard unless the vessel anchors. The
55 vessel may anchor until weather conditions no longer pose such
56 risk. During a hurricane or tropical storm, weather conditions
57 are deemed to no longer pose an unreasonable risk of harm when
58 the hurricane or tropical storm warning affecting the area has
59 expired.

60 (c) During events described in s. 327.48 or other special
61 events, including, but not limited to, public music
62 performances, local government waterfront activities, or
63 fireworks displays. A vessel may anchor for the lesser of the
64 duration of the special event or 3 days.

65 (4) This section does not apply to:

66 (a) Vessels owned or operated by a governmental entity for
67 law enforcement, firefighting, military, or rescue purposes.

68 (b) Construction or dredging vessels on an active job
69 site.

70 (c) Vessels actively engaged in commercial fishing.

71 (d) Vessels engaged in recreational fishing if the persons
72 onboard are actively tending hook and line fishing gear or nets.

73 (5) (a) As used in this subsection, the term "law
74 enforcement officer or agency" means an officer or agency
75 authorized to enforce this section pursuant to s. 327.70.

76 (b) A law enforcement officer or agency may remove a
77 vessel from an anchoring limitation area and impound the vessel
78 for up to 48 hours, or cause such removal and impoundment, if

79 the vessel operator, after being issued a citation for a
 80 violation of this section:

81 1. Anchors the vessel in violation of this section within
 82 12 hours after being issued the citation; or

83 2. Refuses to leave the anchoring limitation area after
 84 being directed to do so by a law enforcement officer or agency.

85 (c) A law enforcement officer or agency acting under this
 86 subsection to remove or impound a vessel, or to cause such
 87 removal or impoundment, shall be held harmless for any damage to
 88 the vessel resulting from such removal or impoundment unless the
 89 damage results from gross negligence or willful misconduct.

90 (d) A contractor performing removal or impoundment
 91 services at the direction of a law enforcement officer or agency
 92 pursuant to this subsection must:

93 1. Be licensed in accordance with United States Coast
 94 Guard regulations, as applicable.

95 2. Obtain and carry a current policy issued by a licensed
 96 insurance carrier in this state to insure against any accident,
 97 loss, injury, property damage, or other casualty caused by or
 98 resulting from the contractor's actions.

99 3. Be properly equipped to perform such services.

100 (e) In addition to the civil penalty imposed under s.
 101 327.73(1)(y), the operator of a vessel that is removed and
 102 impounded pursuant to paragraph (b) must pay all removal and
 103 storage fees before the vessel is released. A vessel removed
 104 pursuant to paragraph (b) may not be impounded for longer than

105 48 hours.

106 (6) A violation of this section is punishable as provided
 107 in s. 327.73(1)(y).

108 (7) This section expires upon the Legislature's adoption
 109 of the commission's recommendations for the regulation of
 110 mooring vessels outside of public mooring fields pursuant to s.
 111 327.4105.

112 Section 2. Paragraph (c) is added to subsection (2) of
 113 section 327.70, Florida Statutes, to read:

114 327.70 Enforcement of this chapter and chapter 328.-
 115 (2)

116 (c) A noncriminal violation of s. 327.4108 may be enforced
 117 by a uniform boating citation issued to the operator of a vessel
 118 unlawfully anchored in an anchoring limitation area.

119 Section 3. Paragraph (y) is added to subsection (1) of
 120 section 327.73, Florida Statutes, to read:

121 327.73 Noncriminal infractions.-

122 (1) Violations of the following provisions of the vessel
 123 laws of this state are noncriminal infractions:

124 (y) Section 327.4108, relating to the anchoring of vessels
 125 in anchoring limitation areas, for which the penalty is:

126 1. For a first offense, up to a maximum of \$50.

127 2. For a second offense, up to a maximum of \$100.

128 3. For a third or subsequent offense, up to a maximum of
 129 \$250.

130

131 Any person cited for a violation of any provision of this
132 subsection shall be deemed to be charged with a noncriminal
133 infraction, shall be cited for such an infraction, and shall be
134 cited to appear before the county court. The civil penalty for
135 any such infraction is \$50, except as otherwise provided in this
136 section. Any person who fails to appear or otherwise properly
137 respond to a uniform boating citation shall, in addition to the
138 charge relating to the violation of the boating laws of this
139 state, be charged with the offense of failing to respond to such
140 citation and, upon conviction, be guilty of a misdemeanor of the
141 second degree, punishable as provided in s. 775.082 or s.
142 775.083. A written warning to this effect shall be provided at
143 the time such uniform boating citation is issued.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1051 Recreational Boating Zones
SPONSOR(S): Agriculture & Natural Resources Subcommittee; Caldwell
TIED BILLS: **IDEN./SIM. BILLS:** SB 1260

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee	12 Y, 0 N, As CS	Moore, R.	Harrington
2) State Affairs Committee		Moore, R.	Camechis

SUMMARY ANALYSIS

The public may use sovereignty submerged lands for navigation, commerce, fishing, bathing, and other public purposes. These rights are designed to promote the general welfare and are subject to lawful regulation by the state. The public's right to navigation entitles the public to the reasonable use of navigable waters for legitimate purposes of travel or transportation, boating or sailing for pleasure, carrying persons or property gratuitously for hire, and for uses which are consistent with other uses enjoyed in common. Anchoring is a right incidental to the public's right of navigation, which must be balanced against other public purposes. As such, the right to anchor must not unreasonably obstruct others' navigation rights and does not include the right to anchor indefinitely in a manner that impairs a riparian owner's use and enjoyment of their property.

Riparian owners are entitled to the same rights to use sovereignty submerged lands as the public, but also hold riparian rights, such as the right to access the water, the right to reasonably use the water, the right to accretion and reliction, and the right to an unobstructed view of the water. Riparian rights are necessary for the use and enjoyment of the upland property, but may not be exercised as to injure others in their lawful rights.

The bill creates s. 327.4107, F.S., providing for the anchoring of vessels in recreational boating zones. The bill prohibits a person from anchoring a vessel from one-half hour after sunset to one-half hour before sunrise in the following recreational boating zones:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami-Dade County;
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island;
 - San Marco Island and Biscayne Island; and
- Crab Island in Choctawhatchee Bay at the East Pass in Okaloosa County.

The bill provides certain exceptions to the prohibition on anchoring in recreational boating zones and enforcement procedures. The bill also provides for the issuance of a uniform boating citation with tiered penalties and authorizes the removal and impoundment of a vessel for violating the prohibition on anchoring in a recreational boating zone in certain circumstances.

The bill may have an indeterminate fiscal impact on local governments and the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Submerged Lands Act

The Submerged Lands Act (SLA), enacted in 1953, provides that a state, upon becoming a member of the United States (U.S.), acquires:

- Title to and ownership of the lands beneath navigable waters within the boundaries of the respective states,¹ and the natural resources within such lands and waters; and
- The right and power to manage, administer, lease, develop, and use the lands and natural resources all in accordance with applicable state law.²

Under the SLA, the U.S. retains all its navigational servitude and rights in and powers of regulation and control of said lands and navigable waters for the constitutional purposes of commerce, navigation, national defense, and international affairs, all of which are paramount to, but are not deemed to include, proprietary rights of ownership, or the rights of management, administration, leasing, use, and development of the lands and natural resources which are specifically recognized, confirmed, established, and vested in and assigned to the respective states.³

States possess an “absolute right to all their navigable waters and the soils under them for their own common use.”⁴ Drawing on this principle, the U.S. Supreme Court held that ownership of submerged lands, and the accompanying power to control navigation, fishing, and other public uses of water, “is an essential attribute of sovereignty.”⁵ Consequently, “[a] court deciding a question of title to [a] bed of navigable water [within a State’s boundaries] must ... begin with a strong presumption’ against defeat of a State’s title.”⁶

Federal Regulations on Anchoring and Mooring

Federal law restricts anchoring and mooring in all waterways tributary to the Atlantic Ocean south of Chesapeake Bay and the Gulf of Mexico east and south of St. Marks, Florida,⁷ and the Gulf of Mexico (except the Mississippi River) from St. Marks, Florida, to the Rio Grande.⁸ Waterways include all navigable waters of the U.S., natural or artificial, including bays, lakes, sounds, rivers, creeks, intracoastal waterways, as well as canals and channels of all types, which are tributary to or connected by other waterways.⁹

A clear channel must at all times be left open to permit free and unobstructed navigation by all types of vessels.¹⁰ Accordingly, a person may not anchor or moor a vessel in any of the land cuts or other narrow parts of the waterway, except in case of an emergency, or with permission of the U.S. Army

¹ 43 U.S.C. §1301 et seq. 43 U.S.C. §1312 designates the seaward boundary of each coastal State as three miles out from its coast line; *U.S. v. Louisiana, et al.*, 363 U.S. 1 (1960), recognizing Florida’s seaward boundary into the Gulf of Mexico is three marine leagues (approximately 9-10 miles).

² 43 U.S.C. §1301 and §1311(a).

³ 43 U.S.C. §1314(a).

⁴ *Tarrant Regional Water District v. Hermann*, 133 S.Ct. 2120 (2013) (quoting *Martin v. Lessee of Waddell*, 41 U.S. 367 (1842)).

⁵ *Id.*, (quoting *U. S. v. Alaska*, 521 U.S. 1 (1997)).

⁶ *Id.*, (quoting *Montana v. United States*, 450 U.S. 544 (1981)); see also *Solid Waste Agency of Northern Cook Cty. v. Army Corps of Engineers*, 531 U.S. 159 (2001); *Utah Div. of State Lands v. United States*, 482 U.S. 193 (1987).

⁷ 33 C.F.R. §162.65.

⁸ 33 C.F.R. §162.75.

⁹ 33 C.F.R. §162.65(a)(1) and §162.75(a)(1).

¹⁰ 33 C.F.R. §162.65(b)(1) and §162.75(b)(1).

Corps of Engineers (Corps).¹¹ Stoppage may be only for such periods as may be necessary.¹² Additionally, a vessel may not anchor in a dredged channel or narrow portion of a waterway to fish if navigation is obstructed.¹³ Lastly, when temporarily anchored or moored, vessels must be tied up and display lights as required by the federal navigation rules.¹⁴

Federal Anchorage Grounds

The U.S. Department of Homeland Security is authorized, empowered, and directed to establish anchorage grounds in all harbors, rivers, bays, and other navigable waters of the U.S. whenever the maritime or commercial interests of the U.S. requires anchorage grounds for safe navigation. Rules and regulations adopted regarding the establishment of anchorage grounds are enforced by the U.S. Coast Guard (Coast Guard), provided that at ports or places where there is no Coast Guard vessel available such rules and regulations may be enforced by the Corps.¹⁵

The following anchorage grounds have been established in Florida, primarily for large commercial vessels using major ports:

- Atlantic Ocean off Fort George Inlet, near Mayport;¹⁶
- St. Johns River;¹⁷
- Atlantic Ocean, off the Port of Palm Beach;¹⁸
- Port Everglades;¹⁹
- Atlantic Ocean off Miami and Miami Beach;²⁰
- Key West Harbor, Key West, FL, naval explosives anchorage area;²¹
- Tortugas Harbor, in vicinity of Garden Key, Dry Tortugas, FL;²²
- Tampa Bay;²³ and
- St. Joseph Bay.²⁴

Federal Special Anchorage Areas

A special anchorage area is an area where vessels that are not more than 65 feet in length, when at anchor, will not be required to carry or exhibit anchorage lights. The areas designated are to be well removed from the fairways and located where general navigation will not endanger or be endangered by unlighted vessels. The authority to designate special anchorage areas is vested in the U.S. Department of Homeland Security and delegated to the Coast Guard.²⁵

Special anchorages in Florida include the:

- St. Johns River;²⁶
- Indian River at Sebastian;²⁷
- Indian River at Vero Beach;²⁸

¹¹ 33 C.F.R. §162.65(b)(2)(i)-(ii) and §162.7(b)(3)(i).

¹² 33 C.F.R. §162.65(b)(2)(i) and §162.7(b)(3)(i).

¹³ 33 C.F.R. §162.65(b)(2)(vii) and §162.75(b)(3)(v).

¹⁴ 33 C.F.R. §162.65(b)(2)(iii)-(iv) and §162.75(b)(3)(ii)-(iii).

¹⁵ 33 U.S.C. §471(a); 33 C.F.R. §109.05.

¹⁶ 33 C.F.R. §110.182.

¹⁷ 33 C.F.R. §110.183; §110.183(3), provides that vessels may not anchor for more than 24 hours in either anchorage without specific written authorization from the Captain of the Port.

¹⁸ 33 C.F.R. §110.185.

¹⁹ 33 C.F.R. §110.186; §110.186(6), provides that no vessel may anchor within the anchorage for more than 72 hours without the prior approval of the Captain of the Port.

²⁰ 33 C.F.R. §110.188.

²¹ 33 C.F.R. §110.189a.

²² 33 C.F.R. §110.190.

²³ 33 C.F.R. §110.193.

²⁴ 33 C.F.R. §110.193a.

²⁵ 33 C.F.R. §109.10.

²⁶ 33 C.F.R. §110.73.

²⁷ 33 C.F.R. §110.73a.

- Okeechobee Waterway, St. Lucie River, Stuart;²⁹
- Marco Island, Marco River;³⁰
- Manatee River, Bradenton;³¹ and
- Apollo Beach.³²

Other Federally Designated Anchorages and Moorings in Florida

The Corps possesses the authority to regulate public use of federal water resource development projects in the public interest and the navigable capacity of waters of the U.S.³³ In 2013, the Corps published the Okeechobee Waterway Anchoring and Mooring Policy.³⁴ It provides the following anchoring and mooring guidance within the Okeechobee Waterway:³⁵

- No vessel may anchor in the Okeechobee Waterway, except in case of an emergency or incidental to navigating the 152 mile waterway. Anchoring incidental to navigating the length of the waterway over multiple days is allowed to provide adequate rest for crew members while crossing the waterway to ensure the safety of crew and other users on the waterway. Overnight anchoring may not exceed 24 hours in one location and the vessel needs to show one days travel distance before anchoring again.
- Vessels stopped for longer than 24 hours should be moored or stored at designated areas approved by the Corps, which consists of commercial authorized marinas/docks.³⁶

Public and Private Use of Sovereignty Submerged Lands

When Florida entered the Union as a state,³⁷ pursuant to the SLA, it gained title to the beds of all navigable waterways (sovereignty submerged lands).³⁸ Sovereignty submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters.³⁹ The title to lands under navigable waters, within the boundaries of the state, which have not been alienated, including beaches below mean high water lines, is held by the state by virtue of its sovereignty in trust for all the people.⁴⁰ Private use of portions of these lands may be authorized by law, but only when not contrary to the public interest.⁴¹ However, these lands cannot be wholly alienated by the state.⁴²

The state may regulate the public's use of sovereignty submerged lands for the benefit of the public as a whole as circumstances may demand, subject to Congress' regulatory power to control commerce.⁴³ When regulating sovereignty submerged lands, a state has greater authority to restrict its use than it

²⁸ 33 C.F.R. §110.73b.

²⁹ 33 C.F.R. §110.73c.

³⁰ 33 C.F.R. §110.74.

³¹ 33 C.F.R. §110.74a.

³² 33 C.F.R. §110.74b.

³³ 16 U.S.C. §460d; 33 U.S.C. §1; 36 C.F.R. Part 327; 33 C.F.R. §207.160.

³⁴ Okeechobee Waterway Anchoring and Mooring Policy, available at

<http://www.saj.usace.army.mil/Portals/44/docs/Navigation/Notices/NTN130318%20Okeechobee%20Waterway%20Anchoring%20and%20Mooring%20Policy.pdf>.

³⁵ *Id.*; The Okeechobee Waterway is defined as the area of water connecting the W.P. Franklin Lock to the St. Lucie Lock via the Caloosahatchee River, Lake Okeechobee, and the St. Lucie Canal, excluding privately excavated canals and tidal influenced waters from the Gulf of Mexico and Atlantic Ocean.

³⁶ *Id.*

³⁷ March 3, 1845.

³⁸ 43 U.S.C. §1312, designates the seaward boundary of each coastal State as three miles out from its coast line; *U.S. v. Louisiana, et al.*, 363 U.S. 1 (1960), recognizing Florida's seaward boundary into the Gulf of Mexico is three marine leagues (approximately 9-10 miles); *Coastal Petroleum Co. v. American Cyanamid Co.*, 492 So.2d 339 (Fla. 1986); r. 18-21.003(61), F.A.C.

³⁹ DEP Sovereignty Submerged Lands available at <http://www.dep.state.fl.us/lands/submerged.htm>.

⁴⁰ Section 11, Art. X, Fla. Const.

⁴¹ *Id.*

⁴² *Walton Co. v. Stop the Beach Renourishment, Inc.*, 988 So.2d 1102, 1110 (Fla. 2008) citing *Brickell v. Trammell*, 82 So. 221 (Fla. 1919). There are rare instances where sovereignty submerged lands have been conveyed. See Chapter 6769, Laws of Florida (1913).

⁴³ *State v. Gerbing*, 47 So. 353, 356 (Fla. 1908); *State v. Black River Phosphate Co.*, 13 So. 640, 645 (Fla. 1893).

would have over private lands.⁴⁴ However, the right to restrict or grant privileges to use such lands must be done in a manner that does not substantially impair the interest of the public as a whole.⁴⁵

The public may use sovereignty submerged lands for navigation, commerce, fishing, bathing, and other public purposes.⁴⁶ These rights are designed to promote the general welfare and are subject to lawful regulation by the state.⁴⁷ The public's right to navigation entitles the public to the reasonable use of navigable waters for legitimate purposes of travel or transportation, boating or sailing for pleasure, carrying persons or property gratuitously for hire, and for uses which are consistent with other uses enjoyed in common.⁴⁸ Anchoring is a right incidental to the public's right of navigation, which must be balanced against other public purposes.⁴⁹ As such, the right to anchor or moor must not unreasonably obstruct others' navigation rights and does not include the right to anchor indefinitely in a manner that impairs a riparian owner's use and enjoyment of their property.⁵⁰

Riparian owners are entitled to the same rights to use sovereignty submerged lands as the public, but also hold riparian rights,⁵¹ such as the right to access the water,⁵² the right to reasonably use the water, the right to accretion and reliction, and the right to an unobstructed view⁵³ of the water.⁵⁴ Riparian rights are necessary for the use and enjoyment of the upland property, but may not be exercised as to injure others in their lawful rights.⁵⁵

State Anchoring and Mooring Regulations

The Legislature delegated the responsibility of managing sovereignty submerged lands to the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund (Board).⁵⁶ The Board is authorized to adopt rules governing anchoring, mooring, or otherwise attaching to the bottom of sovereignty submerged lands by vessels, floating homes, or any other watercraft.⁵⁷ The Board has adopted rules regulating the construction of mooring and docking structures,⁵⁸ but has not adopted rules regulating anchoring.

Local Government Regulatory Limitations on Anchoring and Mooring

Local governments may only enact and enforce regulations prohibiting or restricting the mooring or anchoring of:

⁴⁴ *Mariner Properties Development, Inc. v. Board of Trustees of the Internal Improvement Trust Fund*, 743 So. 2d 1121, 1122-1123 (Fla. 1st DCA 1999).

⁴⁵ *Black River Phosphate Co.*, at 645.

⁴⁶ *Stop the Beach Renourishment, Inc.*, at 1110 citing *Brickell*, at 221.

⁴⁷ *Id.*

⁴⁸ 85-45 Fla. Op. Att'y Gen. (1985).

⁴⁹ 85-45 Fla. Op. Att'y Gen. (1985); Ankersen, Thomas T., Richard Hamann & Bryon Flagg, *Anchoring Away: Government Regulation of the Right of Navigation in Florida 22* (National Sea Grant 2012) available at <http://www.floridawateraccess.org/boating/Boating-Toolkit/>.

⁵⁰ 85-45 Fla. Op. Att'y Gen. (1985), citing *Hall v. Wantz*, 57 N.W.2d 462 (Mich. 1953).

⁵¹ Section 253.141(1), F.S.

⁵² *Webb v. Giddens*, 82 So.2d 743, 745 (Fla. 1955) (State Road Department construction of culvert on Lake Jackson blocking access to main water body was found to be an impairment of riparian proprietorship.) Compare *Carmazi v. Board of County Commissioners of Dade Co.*, 108 So.2d 318, 323 (Fla. 3d DCA 1959) (Construction of dam on Little River blocking access to Biscayne Bay was not considered an impairment of riparian rights because it did not deprive a private riparian right. The right of navigation is an interest held by the public as a whole and may be restricted to exercise a necessary police power.)

⁵³ *Lee Co v. Kiesel*, 705 So.2d 1013, 1016 (Fla. 2d DCA 1998) (Holding that upland owners were entitled to compensation because bridge substantially and materially obstructed their littoral view). Compare *Hayes v. Bowman*, 91 So.2d 795 (Fla. 1957) (To be a compensable obstruction of the riparian right of view, the interference must be substantial).

⁵⁴ Section 253.141(1), F.S.; *Stop the Beach Renourishment, Inc.*, at 1111.

⁵⁵ *Id.*

⁵⁶ Section 253.03(1), F.S. Section 253.03(7), F.S., authorizes the Board to adopt rules governing anchoring, mooring, or otherwise attaching to the bottom of all sovereign submerged lands by vessels, floating homes, or any other watercraft. The Board has not exercised this authority to adopt rules to regulate anchoring, but has adopted rules regulating the construction of mooring and docking structures. See ch. 18-21, F.A.C.

⁵⁷ Section 253.03(1) and (7), F.S.

⁵⁸ See ch. 18-21, F.A.C.

- A floating structure;⁵⁹
- A live-aboard vessel;⁶⁰ or
- A vessel⁶¹ that is within the marked boundaries of a mooring field.⁶²

Local governments are otherwise prohibited from regulating the anchoring of vessels that are located outside of a mooring field.⁶³

Fish and Wildlife Conservation Commission Anchoring and Mooring Pilot Program

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC), in consultation with the Department of Environmental Protection (DEP), to establish a pilot program to explore options for local governments to regulate the anchoring and mooring of vessels located outside of mooring fields.⁶⁴ The program today is commonly referred to as the “Anchoring and Mooring Pilot Program.”⁶⁵ Currently, the only local governments that are allowed to regulate anchoring and mooring outside the marked boundaries of mooring fields are the participants in the program,⁶⁶ which include:

- The City of St. Augustine;⁶⁷
- The City of St. Petersburg;⁶⁸
- The City of Sarasota;⁶⁹
- Martin County in partnership with the City of Stuart;⁷⁰ and
- Monroe County in partnership with the cities of Marathon and Key West.⁷¹

The goals of the pilot program are to encourage the establishment of additional mooring fields and to develop and test policies and regulatory regimes that:⁷²

- Promote the establishment and use of mooring fields;
- Promote access to the waters of the state;
- Enhance navigational safety;
- Protect maritime infrastructure;
- Protect marine environment; and

⁵⁹ Section 327.02(11), F.S., defines the term “floating structure” as “a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes, but is not limited to, an entity used as a residence, place of business or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such. Floating structures are expressly excluded from the definition of the term ‘vessel.’ Incidental movement upon water or resting partially or entirely on the bottom does not, in and of itself, preclude an entity from classification as a floating structure.”

⁶⁰ Section 327.02(19), F.S., defines the term “live-aboard vessel” as “a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed pursuant to s. 222.17.” The term expressly excludes commercial fishing boats.

⁶¹ Section 327.02(43), F.S., defines term “vessel” as “synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.”

⁶² Section 327.60(3), F.S.

⁶³ Section 327.60(2)(f) and (3), F.S.

⁶⁴ Chapter 2009-86, Laws of Florida; s. 327.4105, F.S.

⁶⁵ *FWCC Anchoring and Mooring Pilot Program Report of Finding and Recommendations*, (Dec. 31, 2013), available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

⁶⁶ Section 327.4105(3), F.S.

⁶⁷ The City of St. Augustine’s ordinance is available at <http://www.staugustinegovernment.com/visitors/documents/Ord2011-10-2.pdf>.

⁶⁸ The City of St. Petersburg’s ordinance is available at <http://myfwc.com/media/2221101/StPeteOrdinance.pdf>.

⁶⁹ The City of Sarasota’s ordinance is available at <http://myfwc.com/media/2405171/Sarasota-final-Ord-12-5003.pdf>.

⁷⁰ Martin County’s ordinance is available at

http://www.google.com/url?sa=t&rct=j&q=&esrc=s&frm=1&source=web&cd=3&cad=rja&uact=8&ved=0CC8QFjACahUKEwivnoHv4urIAhVMVh4KHRx7AEg&url=http%3A%2F%2Fwww.martin.fl.us%2Fweb_docs%2Feng%2Fweb%2Fcoastal%2FAnchoring_Mooring%2FOrd928.pdf&usg=AFQjCNFK0Ou_MYuDiO-U5VxVaZt_WautuA.

⁷¹ Monroe County’s ordinance is available at <https://fl-monroecounty.civicplus.com/Documentview.aspx?DID=4039>

FWCC Anchoring and Mooring Pilot Program Report of Finding and Recommendations, (Dec. 31, 2013), available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

⁷² Section 327.4105(1), F.S.

- Deter improperly stored, abandoned, or derelict vessels.

FWC submitted a report of its findings and recommendations of the pilot program to the Legislature on December 31, 2013.⁷³ FWC recommended an extension of the program for an additional three years to allow a more thorough and complete assessment of the local government ordinances being implemented.⁷⁴ In 2014, the program was extended by the Legislature.⁷⁵ FWC must submit an updated report of its findings and recommendations to the Governor and Legislature by January 1, 2017.⁷⁶ The program and the local government ordinances developed under the program are set to expire on July 1, 2017, unless reenacted by the Legislature.⁷⁷

Noncriminal Boating Infractions

Section 327.73(1), F.S., provides that a person cited for a violation of certain vessel laws of the state is charged with a noncriminal infraction, will be cited for the infraction, and ordered to appear in county court. The civil penalty for an infraction is \$50, except as otherwise provided by law.⁷⁸ A person who fails to appear or otherwise properly respond to the citation will, in addition to the civil penalty, be charged with failing to respond to the citation and upon conviction will be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082⁷⁹ or s. 775.083, F.S.⁸⁰ A written warning to this effect is provided when the citation is issued.⁸¹

Effect of Proposed Changes

The bill creates s. 327.4107, F.S., providing for the anchoring of vessels in recreational boating zones. The bill prohibits a person from anchoring a vessel from one-half hour after sunset to one-half hour before sunrise in the following recreational boating zones:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami-Dade County;
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island;
 - San Marco Island and Biscayne Island; and
- Crab Island in Choctawhatchee Bay at the East Pass in Okaloosa County.

The bill allows a person to anchor a vessel in a recreational boating zone:

- If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired; and

⁷³ Section 327.4105(5), F.S.; *FWCC Anchoring and Mooring Pilot Program Report of Finding and Recommendations*, (Dec. 31, 2013), available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

⁷⁴ *FWCC Anchoring and Mooring Pilot Program Report of Finding and Recommendations*, (Dec. 31, 2013), available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>.

⁷⁵ Chapter 2014-136, Laws of Florida.

⁷⁶ Section 327.4105(5), F.S.

⁷⁷ Section 327.4105(6), F.S.

⁷⁸ Section 327.73(1), F.S.

⁷⁹ A person who has been convicted of a misdemeanor of the second degree may be sentenced by a definite term of imprisonment not exceeding 60 days.

⁸⁰ A person who has been convicted of a noncriminal violation may be sentenced to pay a fine which must not exceed \$500.

⁸¹ Section 327.73(1), F.S.

- During events described in s. 327.48, F.S.,⁸² or other special events, including, public music performances, local government waterfront activities, or fireworks displays. A vessel may anchor for the duration of the special event or for 3 days, whichever occurs first.

The bill provides that recreational boating zones do not apply to:

- Vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; or
- Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.

The bill defines "law enforcement officer or agency" to mean an officer or agency authorized to enforce s. 327.4107, F.S., pursuant to s. 327.70, F.S.,⁸³ and provides that:

- A law enforcement officer or agency may remove a vessel from a recreational boating zone and impound the vessel for up to 48 hours, or cause the removal and impoundment, if the vessel operator, after being issued a citation for a violation of s. 327.4107, F.S.:
 - Anchors the vessel in violation of s. 327.4107, F.S., within 12 hours after being issued the citation; or
 - Refuses to leave the recreational boating zone after being directed to do so by a law enforcement officer or agency;
- A law enforcement officer or agency removing or impounding a vessel, or causing the removal or impoundment, must be held harmless for any damage to the vessel resulting from the removal or impoundment unless the damage results from gross negligence or willful misconduct;
- A contractor performing removal or impoundment services at the direction of a law enforcement officer or agency must:
 - Be licensed in accordance with Coast Guard regulations;
 - Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and
 - Be properly equipped to perform the services; and
- In addition to the civil penalty imposed under s. 327.73(1)(y), F.S.,⁸⁴ the operator of a vessel that is removed and impounded must pay all removal and storage fees before the vessel is released. A vessel removed may not be impounded for longer than 48 hours.

The bill provides that a violation of the prohibition on the anchoring of a vessel in a recreational boating zone is punishable as a noncriminal infraction of the vessel laws of the state, and amends s. 327.73, F.S., providing the following penalty:

- For a first offense, up to a maximum of \$50;
- For a second offense, up to a maximum of \$100; and
- For a third or subsequent offense, up to a maximum of \$250.

The bill amends s. 327.70, F.S., regarding enforcement to provide that a noncriminal violation of s. 327.4107, F.S., may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in a recreational boating zone.

B. SECTION DIRECTORY:

Section 1. Creates s. 327.4107, F.S., regarding the anchoring of vessels in recreational boating zones.

⁸² Section 327.48, F.S., provides for regattas, races, marine parades, tournaments, or exhibitions.

⁸³ Section 327.70, F.S., provides that chs. 327 and 328, F.S., must be enforced by the Division of Law Enforcement of the FWC and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S., all of whom may order the removal of vessels deemed to be an interference or a hazard to public safety, enforce the provisions of chs. 327 and 328, F.S., or cause any inspections to be made of all vessels in accordance with chs. 327 and 328, F.S.

⁸⁴ Section 327.73, F.S., provides for non-criminal infractions of vessel laws.

Section 2. Amends s. 327.70(2), F.S., regarding enforcement.

Section 3. Amends s. 327.73(1), F.S., regarding noncriminal infractions of vessel laws of the state.

Section 4. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill may have an indeterminate fiscal impact on local governments. While local governments may experience positive fiscal impacts resulting from the issuance of boating citations, local governments may also experience increased costs due to increased enforcement efforts.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates a noncriminal boating infraction for anchoring in a recreational boating zone. As such, a violator will be charged with a noncriminal infraction, cited, and ordered to appear in county court. The noncriminal infraction includes tiered civil penalties. A person who fails to appear or otherwise properly respond to the citation will, in addition to the civil penalty, be charged with failing to respond to the citation and upon conviction will be guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine which must not exceed \$500.

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:

Article III, section 10 of the Florida Constitution prohibits the Legislature from enacting a special law⁸⁵ unless notice is first published or the law is conditioned upon becoming effective through referendum. A special law, or “local law” does not apply with geographic uniformity across the state; it operates only upon designated persons or discrete regions, and bears no reasonable relationship to differences in population or other classification.⁸⁶

A general law of local application applies to a district region or set of subdivisions within the state and its classification scheme is based on population or some other reasonable characteristic which distinguishes one locality from another.⁸⁷ If particular conditions exist in only a portion of the state, enactments with reference thereto nonetheless may be general laws.⁸⁸ If a law utilizes a classification that is geographical in its term but its purpose is one of statewide import and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law.⁸⁹ General laws and general laws of local application do not require notice or a referendum.⁹⁰

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 26, 2016, the Agriculture & Natural Resources Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The strike-all amendment:

- Allows a person to anchor a vessel in a recreational boating zone:
 - If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first;
 - If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired; and
 - During events described in s. 327.48, F.S., or other special events, including, but not limited to, public music performances, local government waterfront activities, or fireworks displays. A vessel may anchor for the duration of the special event or for 3 days, whichever occurs first;
- Provides that recreational boating zones do not apply to:
 - Vessels owned or operated by a governmental entity for law enforcement, firefighting, military, or rescue purposes;
 - Construction or dredging vessels on an active job site;
 - Vessels actively engaged in commercial fishing; or
 - Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets;
- Defines "law enforcement officer or agency" to mean an officer or agency authorized to enforce s. 327.4107, F.S., pursuant to s. 327.70, F.S., and provides that:

⁸⁵ Fla. Const. art. X, §12(g).

⁸⁶ *License Acquisitions, LLC v. Debarry Real Estate Holdings, LLC*, 155 So.3d 1137 (Fla. 2014) (citing *Dept. of Bus. Reg. v. Classic Mile, Inc.*, 541 So.2d 1155 (Fla. 1989).

⁸⁷ *City of Miami Beach v. Frankel*, 363 So.2d 555 (Fla. 1978).

⁸⁸ *Schrader v. Fla. Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

⁸⁹ *Id.* at 1056.

⁹⁰ *See Schrader v. Fla. Keys Aqueduct Authority*, 840 So.2d 1050 (Fla. 2003); Fla. Const. art. III, §10.

- A law enforcement officer or agency may remove a vessel from a recreational boating zone and impound the vessel for up to 48 hours, or cause the removal and impoundment, if the vessel operator, after being issued a citation for a violation of s. 327.4104, F.S.:
 - Anchors the vessel in violation of this section within 12 hours after being issued the citation; or
 - Refuses to leave the recreational boating zone after being directed to do so by a law enforcement officer or agency;
- A law enforcement officer or agency removing or impounding a vessel, or causing the removal or impoundment, must be held harmless for any damage to the vessel resulting from the removal or impoundment unless the damage results from gross negligence or willful misconduct;
- A contractor performing removal or impoundment services at the direction of a law enforcement officer or agency must:
 - Be licensed in accordance with Coast Guard regulations;
 - Obtain and carry a current policy issued by a licensed insurance carrier in this state to insure against any accident, loss, injury, property damage, or other casualty caused by or resulting from the contractor's actions; and
 - Be properly equipped to perform the services.
- In addition to the civil penalty imposed under s. 327.73(1)(y), F.S., the operator of a vessel that is removed and impounded must pay all removal and storage fees before the vessel is released. A vessel removed may not be impounded for longer than 48 hours;
- Provides that a violation of the prohibition on the anchoring of a vessel in a recreational boating zone is punishable as a noncriminal infraction of the vessel laws of the state, and amends s. 327.73, F.S., to provide the following penalties:
 - For a first offense, up to a maximum of \$50;
 - For a second offense, up to a maximum of \$100;
 - For a third or subsequent offense, up to a maximum of \$250; and
- Amends s. 327.70, F.S., regarding enforcement, to provide that a noncriminal violation of s. 327.4107, F.S., may be enforced by a uniform boating citation issued to the operator of a vessel unlawfully anchored in a recreational boating zone.

This analysis is drafted to the committee substitute as approved by the subcommittee.

By Senator Dean

5-00194A-16

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1 A bill to be entitled
 2 An act relating to at-risk vessels; creating s.
 3 327.4107, F.S.; prohibiting a vessel that is at risk
 4 of becoming derelict from anchoring on, mooring on, or
 5 occupying the waters of this state; authorizing an
 6 officer of the Fish and Wildlife Conservation
 7 Commission or of specified law enforcement agencies to
 8 determine that a vessel is at risk of becoming
 9 derelict if certain conditions exist; providing that a
 10 person who anchors or moors such a vessel or allows it
 11 to occupy waters of this state commits a noncriminal
 12 infraction; providing penalties; providing
 13 applicability; amending s. 327.70, F.S.; providing for
 14 enforcement of such violations by citation mailed to
 15 the owner of the vessel; amending s. 327.73, F.S.;
 16 providing civil penalties for such violations;
 17 providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 327.4107, Florida Statutes, is created
 22 to read:

23 327.4107 Vessels at risk of becoming derelict on waters of
 24 this state.-

25 (1) To prevent vessels in neglected or deteriorating
 26 condition from reaching a likely and foreseeable state of
 27 disrepair, a vessel that is at risk of becoming derelict
 28 pursuant to subsection (2) may not anchor on, moor on, or occupy
 29 the waters of this state.

30 (2) An officer of the commission or of a law enforcement
 31 agency specified in s. 327.70 may determine that a vessel is at
 32 risk of becoming derelict if any of the following conditions

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33 exist:

34 (a) The vessel is taking on, or has taken on, water without
35 an effective means to dewater.

36 (b) Spaces on the vessel which are designed to be enclosed
37 are incapable of being sealed off or remain open to the elements
38 for extended periods of time.

39 (c) The vessel has broken loose or is in danger of breaking
40 loose from its anchor.

41 (d) The vessel is left or stored aground unattended in such
42 a state that would prevent the vessel from getting underway, is
43 listing due to water intrusion, or is sunken or partially
44 sunken.

45 (3) A person who anchors or moors a vessel at risk of
46 becoming derelict on the waters of this state or allows such a
47 vessel to occupy such waters commits a noncriminal infraction,
48 punishable as provided in s. 327.73.

49 (4) The penalty under this section is in addition to other
50 penalties provided by law.

51 (5) This section does not apply to a vessel that is moored
52 to a private dock or wet slip with the consent of the owner for
53 the purpose of receiving repairs.

54 Section 2. Paragraph (a) of subsection (2) of section
55 327.70, Florida Statutes, is amended to read:

56 327.70 Enforcement of this chapter and chapter 328.—

57 (2) (a) Noncriminal violations of the following statutes may
58 be enforced by a uniform boating citation mailed to the
59 registered owner of an unattended vessel anchored, aground, or
60 moored on the waters of this state:

61 1. Section 327.33(3)(b), relating to navigation rules.

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62 2. Section 327.4107, relating to vessels at risk of
63 becoming derelict.

64 ~~3.2.~~ Section 327.44, relating to interference with
65 navigation.

66 ~~4.3.~~ Section 327.50(2), relating to required lights and
67 shapes.

68 ~~5.4.~~ Section 327.53, relating to marine sanitation.

69 ~~6.5.~~ Section 328.48(5), relating to display of decal.

70 ~~7.6.~~ Section 328.52(2), relating to display of number.

71 Section 3. Paragraph (y) is added to subsection (1) of
72 section 327.73, Florida Statutes, to read:

73 327.73 Noncriminal infractions.—

74 (1) Violations of the following provisions of the vessel
75 laws of this state are noncriminal infractions:

76 (y) Section 327.4107, relating to vessels at risk of
77 becoming derelict on waters of this state, for which the civil
78 penalty is:

79 1. For a first offense, \$50.

80 2. For a second offense occurring 30 days or more after a
81 first offense, \$100.

82 3. For a third or subsequent offense occurring 30 days or
83 more after a previous offense, \$250.

84
85 Any person cited for a violation of any provision of this
86 subsection shall be deemed to be charged with a noncriminal
87 infraction, shall be cited for such an infraction, and shall be
88 cited to appear before the county court. The civil penalty for
89 any such infraction is \$50, except as otherwise provided in this
90 section. Any person who fails to appear or otherwise properly

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91 respond to a uniform boating citation shall, in addition to the
92 charge relating to the violation of the boating laws of this
93 state, be charged with the offense of failing to respond to such
94 citation and, upon conviction, be guilty of a misdemeanor of the
95 second degree, punishable as provided in s. 775.082 or s.
96 775.083. A written warning to this effect shall be provided at
97 the time such uniform boating citation is issued.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Fiscal Policy

BILL: SB 1300

INTRODUCER: Senator Dean

SUBJECT: At-risk Vessels

DATE: February 16, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hinton</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	<u>Betta</u>	<u>DeLoach</u>	<u>AGG</u>	Recommend: Favorable
3.	<u>Jones</u>	<u>Hrdlicka</u>	<u>FP</u>	Favorable

I. Summary:

SB 1300 creates s. 327.4107, F.S., to prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair. The bill:

- Prohibits vessels at risk of becoming derelict anchoring on, mooring on, or occupying the waters of the state;
- Provides conditions under which a vessel may be considered at risk of becoming derelict;
- Provides that violations may be enforced by a uniform boating citation mailed to the registered owner of the vessel;
- Provides civil penalties for vessel owners whose vessels are determined to be at risk of becoming derelict; and
- Provides an exemption for vessels that are moored to a private dock or wet slip with the consent of the owner for the purpose of being repaired.

The bill has an insignificant, positive fiscal impact on state funds.

The bill is effective July 1, 2016.

II. Present Situation:

Derelict Vessels

A derelict vessel is a vessel¹ that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state;
- At a port in the state without the consent of the agency that has jurisdiction of a port; or

¹ Section 327.02, F.S., defines vessel to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

- Docked, grounded, or beached upon the property of another without the consent of the owner of the property.²

Removal of Derelict Vessels

Section 327.70, F.S., provides chs. 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.³

Two statutes authorize the relocation or removal of a vessel:

- Section 327.44, F.S., allows for the relocation or removal of a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel; and
- Section 823.11, F.S., allows for the relocation or removal of a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.

The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by disposal of the vessel, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until those costs are paid.⁴

Punishment for Violations of Derelict Vessel Provisions

It is unlawful to store, leave, or abandon a derelict vessel in Florida.⁵ Those who are found in violation of this provision commit a first degree misdemeanor.⁶ Additionally, s. 376.16, F.S., provides that violation of derelict vessel laws also subjects the violator to a civil penalty of up to \$50,000 per violation per day.⁷ Each day during any portion of which the violation occurs constitutes a separate offense.⁸

Costs of Removal of Derelict Vessels

According to the FWC, removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled

² Section 823.11(1)(b), F.S.

³ Section 943.10, F.S., defines law enforcement officer as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁴ Section 705.103(4), F.S.

⁵ Section 823.11(2), F.S.

⁶ A first degree misdemeanor is punishable by a term of imprisonment of no more than a year and a fine of up to \$1,000. Sections 775.082, and 775.083, F.S.

⁷ Section 376.16(1), F.S.

⁸ *Id.*

from the water at a much lower cost. Relocation may cost nothing if a law enforcement officer is able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.⁹

The FWC maintains a statewide database of vessels investigated by a law enforcement officer and deemed to be either derelict or at risk of becoming derelict, although the database related to at-risk vessels is largely incomplete. This is because the current effort related to at-risk vessels is a voluntary, community-oriented policing effort. A total of 166 derelict vessels were removed by local governments in 2014 at a cost of approximately \$665,500, which is an average removal cost of \$4,009 per vessel.¹⁰

The FWC held six public meetings in 2015 to engage the public on the problem of derelict vessels and possible solutions. Participants were asked to respond to a survey to indicate their levels of support for eight solutions to address the derelict vessels problem. The concept of prohibiting a vessel at risk of becoming derelict from anchoring on Florida waters received 85.2 percent support from respondents.¹¹

Local Government Authority

Local governments are only authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field.¹² The inability to regulate vessels outside of mooring fields has led to problems that include:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels which are dragging anchor or not showing proper lighting;
- Vessels which are not maintained properly; and
- Vessels which become derelict.¹³

III. Effect of Proposed Changes:

Section 1 creates s. 327.4107, F.S., to prevent vessels in neglected or deteriorating condition from reaching a likely and foreseeable state of disrepair. Vessels at risk of becoming derelict may not anchor on, moor on, or occupy the waters of the state.

The bill provides that an officer of the FWC or of any other law enforcement agency specified in s. 327.70, F.S., may determine that a vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on, or has taken on, water without an effective means to dewater;
- Spaces on the vessel which are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;

⁹ Fish and Wildlife Conservation Commission, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁰ *Id.*

¹¹ *Id.*

¹² Section 327.60, F.S.

¹³ Florida Fish and Wildlife Conservation Commission, Division of Law Enforcement, *Anchoring and Mooring Pilot Program, Report of Findings and Recommendations* (Dec. 31, 2013), pg. 3, available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf> (last visited Feb. 16, 2016).

- The vessel has broken loose or is in danger of breaking loose from its anchor; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunken or partially sunken.

A person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy such waters commits a noncriminal infraction, punishable by a civil penalty as provided in s. 327.73, F.S. (Section 3). The civil penalties are in addition to any other penalties provided for in law.

Vessels that are moored to a private dock or wet slip with the consent of the owner for the purpose of being repaired are exempt from the above described noncriminal infraction.

Section 2 amends s. 327.70, F.S., to provide that violations of s. 327.4107, F.S., relating to vessels at risk of becoming derelict may be enforced by a uniform boating citation mailed to the registered owner of the vessel.

Section 3 amends s. 327.73, F.S., to provide the following civil penalties for a violation of s. 327.4107, F.S.:

- For a first offense, \$50;
- For a second offense occurring 30 days or more after a first offense, \$100; and
- For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

A person who fails to appear before the county court or otherwise respond to a uniform boating citation will be charged, in addition to any other violations, with a second degree misdemeanor¹⁴ of failing to respond to a citation.

The civil penalties are remitted by the clerk of court to the Department of Revenue and deposited into the Marine Resources Conservation Trust fund for boating and education purposes.¹⁵

Section 4 provides the bill is effective July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

¹⁴ A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not to exceed \$500. Sections 775.082, and 775.083, F.S.

¹⁵ Section 327.73(8), F.S.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

The bill may have a negative but indeterminate effect on boat owners due to new penalties imposed on vessel owners whose vessels are found to be in danger of becoming derelict. These effects are not anticipated to be significant.¹⁶

C. Government Sector Impact:

The bill may have a positive but indeterminate impact on local and state governments if individuals repair or move their vessels rather than allow them to become derelict.

A positive but indeterminate fiscal impact may result from the penalties imposed for violations of the provisions of the bill. According to the FWC, these effects are not anticipated to be significant.¹⁷

The proposed Senate General Appropriations Bill for the 2016-2017 fiscal year, SB 2500, includes \$1,500,000 from the General Revenue Fund for the removal of derelict vessels.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 327.70 and 327.73.

This bill creates the following section of the Florida Statutes: 327.4107.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

¹⁶ Florida Fish and Wildlife Conservation Commission, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁷ *Id.*

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

1 A bill to be entitled
 2 An act relating to at-risk vessels; creating s.
 3 327.4107, F.S.; prohibiting a vessel that is at risk
 4 of becoming derelict from anchoring on, mooring on, or
 5 occupying the waters of this state; authorizing an
 6 officer of the Fish and Wildlife Conservation
 7 Commission or of specified law enforcement agencies to
 8 determine that a vessel is at risk of becoming
 9 derelict if certain conditions exist; providing that a
 10 person who anchors or moors or allows such a vessel to
 11 occupy waters of this state commits a noncriminal
 12 violation; providing penalties; providing
 13 applicability; amending s. 327.70, F.S.; providing for
 14 enforcement of such violations by citation mailed to
 15 the owner of the vessel; amending s. 327.73, F.S.;
 16 providing civil penalties for such violations;
 17 providing an effective date.

18
 19 Be It Enacted by the Legislature of the State of Florida:

20
 21 Section 1. Section 327.4107, Florida Statutes, is created
 22 to read:

23 327.4107 Vessels at risk of becoming derelict on waters of
 24 this state.-

25 (1) To prevent vessels in neglected or deteriorating
 26 condition from reaching a likely and foreseeable state of

27 disrepair, a vessel that is at risk of becoming derelict
28 pursuant to subsection (2) may not anchor on, moor on, or occupy
29 the waters of this state.

30 (2) An officer of the commission or of a law enforcement
31 agency specified in s. 327.70 may determine that a vessel is at
32 risk of becoming derelict if any of the following conditions
33 exist:

34 (a) The vessel is taking on or has taken on water without
35 an effective means to dewater.

36 (b) Spaces on the vessel that are designed to be enclosed
37 are incapable of being sealed off or remain open to the elements
38 for extended periods of time.

39 (c) The vessel has broken loose or is in danger of
40 breaking loose from its anchor.

41 (d) The vessel is left or stored aground unattended in
42 such a state that would prevent the vessel from getting
43 underway, is listing due to water intrusion, or is sunk or
44 partially sunk.

45 (3) A person who anchors or moors a vessel at risk of
46 becoming derelict on the waters of this state or allows such a
47 vessel to occupy such waters commits a noncriminal infraction,
48 punishable as provided in s. 327.73.

49 (4) The penalty under this section is in addition to other
50 penalties provided by law.

51 (5) This section does not apply to a vessel that is moored
52 to a private dock or wet slip with the consent of the owner for

53 the purpose of receiving repairs.

54 Section 2. Paragraph (a) of subsection (2) of section
55 327.70, Florida Statutes, is amended to read:

56 327.70 Enforcement of this chapter and chapter 328.—

57 (2) (a) Noncriminal violations of the following statutes
58 may be enforced by a uniform boating citation mailed to the
59 registered owner of an unattended vessel anchored, aground, or
60 moored on the waters of this state:

61 1. Section 327.33(3) (b), relating to navigation rules.

62 2. Section 327.44, relating to interference with
63 navigation.

64 3. Section 327.50(2), relating to required lights and
65 shapes.

66 4. Section 327.53, relating to marine sanitation.

67 5. Section 328.48(5), relating to display of decal.

68 6. Section 328.52(2), relating to display of number.

69 7. Section 327.4107, relating to vessels at risk of
70 becoming derelict.

71 Section 3. Paragraph (y) is added to subsection (1) of
72 section 327.73, Florida Statutes, to read:

73 327.73 Noncriminal infractions.—

74 (1) Violations of the following provisions of the vessel
75 laws of this state are noncriminal infractions:

76 (y) Section 327.4107, relating to vessels at risk of
77 becoming derelict on waters of this state, for which the civil
78 penalty is:

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2016

- 79 1. For a first offense, \$50.
- 80 2. For a second offense occurring 30 days or more after a
81 first offense, \$100.
- 82 3. For a third or subsequent offense occurring 30 days or
83 more after a previous offense, \$250.

84

85 Any person cited for a violation of any provision of this
86 subsection shall be deemed to be charged with a noncriminal
87 infraction, shall be cited for such an infraction, and shall be
88 cited to appear before the county court. The civil penalty for
89 any such infraction is \$50, except as otherwise provided in this
90 section. Any person who fails to appear or otherwise properly
91 respond to a uniform boating citation shall, in addition to the
92 charge relating to the violation of the boating laws of this
93 state, be charged with the offense of failing to respond to such
94 citation and, upon conviction, be guilty of a misdemeanor of the
95 second degree, punishable as provided in s. 775.082 or s.
96 775.083. A written warning to this effect shall be provided at
97 the time such uniform boating citation is issued.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7025 PCB HWSS 16-01 At-risk Vessels
SPONSOR(S): Highway & Waterway Safety Subcommittee, Raschein
TIED BILLS: **IDEN./SIM. BILLS:** SB 1300

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Highway & Waterway Safety Subcommittee	10 Y, 0 N	Whittaker	Smith
1) Agriculture & Natural Resources Appropriations Subcommittee	12 Y, 0 N	Massengale	Massengale
2) Economic Affairs Committee	14 Y, 0 N	Whittaker	Pitts

SUMMARY ANALYSIS

Under current law, the Fish and Wildlife Conservation Commission (FWCC) does not have the authority to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a derelict condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

The bill provides the following regulations for vessels that are at risk of becoming derelict on the waters of this state:

- Prohibits a vessel that is at risk of becoming derelict to anchor on, moor on, or occupy the waters of this state.
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater.
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.
 - The vessel has broken loose or is in danger of breaking loose from its anchor.
 - The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel that is at risk of becoming derelict on the waters of this state or allows such a vessel to occupy the waters of this state commits a noncriminal infraction in which civil penalties may be assessed.
- Provides that a civil penalty for a violation of a vessel that is at risk of becoming derelict is in addition to other penalties provided by law.
- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.
- Provides that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is at risk of becoming derelict, which is anchored, aground, or moored on the waters of this state.
- Provides the following civil penalties for a violation of vessel laws relating to a vessel that is at risk of becoming derelict on waters of this state:
 - For a first offense, \$50;
 - For a second offense occurring 30 days or more after a first offense, \$100;
 - For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

The bill may have an indeterminate positive fiscal impact on state and local government revenues by establishing a new noncriminal infraction relating to vessels at risk of becoming derelict on waters of this state, and may have a negative impact on the private sector resulting from the assessment of these new civil penalties.

FULL ANALYSIS

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7025c.EAC

DATE: 1/28/2016

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present situation

Background

Current law does not limit the length of time that a properly maintained vessel¹ may occupy waters of this state.² Current law also does not authorize the Fish and Wildlife Conservation Commission (FWCC) to require vessel owners to maintain their vessels or otherwise regulate the condition of vessels that occupy the waters of the state, unless the vessel is a hazard to navigation, discharges contaminants, is derelict (wrecked, junked, or substantially dismantled), or is in violation of other vessel safety laws. Additionally, a vessel owner has no duty to maintain their vessel, and can allow a vessel occupying waters of the state to deteriorate until it reaches a wrecked, junked, or substantially dismantled condition. Once a vessel is deemed derelict FWCC can remove or relocate the vessel, but it can become much more difficult and expensive once a vessel has deteriorated to the point that it meets the definition of a derelict vessel.

Local governments are authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field³ within their jurisdiction.⁴ However, local governments are prohibited from regulating the anchoring of vessels, other than live-aboard vessels,⁵ that are located outside of mooring fields.⁶

The unregulated anchoring and mooring of vessels outside of mooring fields has created issues regarding:

- Vessels being left unattended or unsupervised;
- Vessels that have broken free or are in danger of breaking free; and
- Vessels that are not properly maintained, are listing, or taking on water, but are not to the point of deterioration that they can be deemed derelict.⁷

Derelict Vessels

A derelict vessel is defined in s. 823.11(1)(b), F.S., as a vessel that is left, stored, or abandoned:

- In a wrecked, junked, or substantially dismantled condition upon any public waters of this state.
- At a port in this state without the consent of the agency having jurisdiction thereof.
- Docked, grounded, or beached upon the property of another without the consent of the property owner.

¹ A “vessel” is defined in s. 327.02(43), F.S., to be synonymous with boat as referenced in s. 1(b), Art. VII of the State Constitution and includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

² “Waters of this state” is defined in s. 327.02(44), F.S., to mean any navigable waters of the United States within the territorial limits of this state, the marginal sea adjacent to this state and the high seas when navigated as a part of a journey or ride to or from the shore of this state, and all the inland lakes, rivers, and canals under the jurisdiction of this state.

³ Mooring fields are permitted by the FWCC, under ch. 327, F.S. A mooring field is an area of waters of this state set aside for the mooring of vessels to mooring buoys. The area must have delineated boundaries that are marked with uniform waterway markers as provided in s. 327.40, F.S., and must have mooring buoys installed in a planned array, taking into consideration the following factors: vessel lengths and swing radii; vessel drafts and available water depths; vessel sizes, weights, and wind-loading characteristics; buoy sizes and types; anchor sizes and types; and holding characteristics of the bottom. *See Anchoring and Mooring Pilot Program Questionnaire* (Oct. 14, 2009), available at http://myfwc.com/media/106689/Boat_Anchoring_FieldQuestions.pdf. (Last visited November 10, 2015)

⁴ Section 327.60(3), F.S.

⁵ A “live-aboard vessel” is defined in s. 327.02(19), F.S., as a vessel that is used solely as a residence and not for navigation, represented as a place of business or a professional or other commercial enterprise, or for which a declaration of domicile has been filed pursuant to s. 222.17, F.S. A commercial fishing boat is expressly excluded from the term “live-aboard vessel.”

⁶ Section 327.60(3), F.S.

⁷ *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, available at <http://myfwc.com/media/2704721/FindingsRecommendations.pdf>. (Last visited November 10, 2015); FWCC 2015 Agency Bill Analysis for SB 1548, on file with staff.

It is unlawful for a person, firm, or corporation to store, leave, or abandon any derelict vessel in this state.⁸ The FWCC, officers of the FWCC, and any law enforcement agency or officer specified in s. 327.70, F.S.,⁹ are authorized and empowered to relocate, remove, or cause to be relocated or removed a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons.¹⁰ Additionally, the FWCC and other officers acting under s. 823.11(3), F.S., are held harmless for all damages to the derelict vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹¹ All costs, including costs owed to a third party, incurred by the FWCC or other law enforcement agency in the relocation or removal of a derelict vessel are recoverable against the vessel owner.¹² A person who neglects or refuses to pay such costs may not be issued a certificate of registration for such vessel or for any other vessel or motor vehicle until such costs have been paid.¹³

Additionally, a person, firm, or corporation violating s. 823.11, F.S., commits a first degree misdemeanor.¹⁴ Further, a conviction under s. 823.11, F.S., does not bar the assessment and collection of civil penalties provided in s. 376.16, F.S.¹⁵

The removal of a derelict vessel costs an average of \$350 to \$450 per foot of vessel length.¹⁶ However, there are many variables that affect the costs of removing a vessel.¹⁷ Sunken vessels require professional divers and specialized equipment, resulting in costs in excess of the average.¹⁸ On the other hand, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at much lower cost.¹⁹ Relocation may have no cost if a law enforcement officer is able to tow the vessel to a suitable location.²⁰ If professional towing services are called upon, costs in the neighborhood of \$200 per hour with a one-hour minimum, beginning from the time the tow boat leaves the dock to the time it returns, are standard.²¹ According to the At-Risk Vessel Statewide Database, a known total of 92 derelict vessels were removed in 2013 by local governments.²² Those local governments spent approximately \$325,000 on the removal of derelict vessels, resulting in an average of \$3,533 per vessel.²³

Navigational Hazard

Section 327.44, F.S., authorizes law enforcement officials to relocate, remove, or cause to be relocated or removed any vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. A violation of s. 327.44, F.S., is a noncriminal infraction, punishable by a

⁸ Section 823.11(2), F.S.

⁹ Section 327.70, F.S., identifies the Division of Law Enforcement of the FWCC and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.; Section 943.10(1), F.S., defines a “law enforcement officer” as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. This definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁰ Section 823.11(3), F.S.

¹¹ Id.

¹² Section 823.11(3)(b), F.S.

¹³ Sections 823.11(3)(b) and 705.103(4), F.S.

¹⁴ Section 823.11(5), F.S.; A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year pursuant to s. 775.082(4)(a), F.S., and may be fined \$1,000 pursuant to s. 775.083(1)(d), F.S.

¹⁵ Section 376.16, F.S., provides penalties for discharges of pollutants, such as gasoline or diesel.

¹⁶ FWCC 2014 Agency Bill Analysis for HB 1363, on file with staff.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

²¹ Id.

²² Id.

²³ Id.

civil penalty of \$50.²⁴ If the vessel is unattended, a uniform boating citation may be mailed to the registered owner of the vessel.²⁵

Noncriminal Infractions for Violations of Vessel Laws

Section 327.73(1), F.S., provides that a person who violates certain vessel laws of the state commits a noncriminal infraction, will be cited for the infraction, and be cited to appear before the county court. The civil penalty for any such infraction is \$50, except as otherwise provided in the section. A person who fails to appear or otherwise properly respond to a uniform boating citation shall, in addition to the charge relating to the violation of the vessel laws of this state, be charged with the offense of failing to respond to such citation and, upon conviction, be guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082, F.S.²⁶ or s. 775.083, F.S.²⁷ A written warning to this effect will be provided at the time such uniform boating citation is issued.

Effect of proposed changes

The bill creates s. 327.4107, F.S., regarding vessels at risk of becoming derelict on the waters of this state, as follows:

- Provides that a vessel that is at risk of becoming derelict may not anchor on, moor on, or occupy the waters of this state.
- Authorizes an officer of the FWCC or law enforcement agency to determine that a vessel is at risk of becoming a derelict vessel if any of the following conditions exist:
 - The vessel is taking on or has taken on water without an effective means to dewater.
 - Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time.
 - The vessel has broken loose or is in danger of breaking loose from its anchor.
 - The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, is listing due to water intrusion, or is sunk or partially sunk.
- Provides that a person who anchors or moors a vessel at risk of becoming derelict on the waters of this state or allows such a vessel to occupy waters of this state commits a noncriminal infraction for which civil penalties may be assessed.
- Provides that a civil penalty for a violation of a vessel at risk of becoming derelict is in addition to other penalties provided by law.
- Provides that the bill would not apply to a vessel that is moored to a private dock or wet slip with the consent of the owner for the purpose of receiving repairs.

The bill amends s. 327.70, F.S., regarding enforcement, to provide that a uniform boating citation may be mailed to the registered owner of an unattended vessel that is anchored, aground, or moored on the waters of this state that is at risk of becoming derelict.

The bill amends s. 327.73, F.S., regarding noncriminal infractions, to provide for the following graduated civil penalties for vessels at risk of becoming derelict, which anchor on, moor on, or occupy the waters of this state:

- For a first offense, \$50;
- For a second offense occurring 30 days or more after a first offense, \$100;
- For a third or subsequent offense occurring 30 days or more after a previous offense, \$250.

B. SECTION DIRECTORY:

Section 1 Creates s. 327.4107, F.S., relating to vessels at risk of becoming derelict on the waters of this state.

²⁴ Section 327.73(1)(j), F.S.

²⁵ Section 327.70(2)(a)2., F.S.

²⁶ Section 775.082, F.S., provides that a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days.

²⁷ Section 775.083, F.S. provides that a second degree misdemeanor is punishable by a fine not to exceed \$500.

- Section 2** Amends s. 327.70, F.S., providing for a uniform boating citation to be issued for a violation relating to vessels at risk of becoming derelict on the waters of this state.
- Section 3** Amends s. 327.73, F.S., providing for tiered civil penalties for a violation relating to vessels at risk of becoming derelict on the waters of this state.
- Section 4** Provides an effective date of July 1, 2016.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments below
2. Expenditures:
None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
See Fiscal Comments below.
2. Expenditures:
None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have a potentially negative impact on persons who are subject to the civil penalties created by this bill.

D. FISCAL COMMENTS:

The bill appears to have an indeterminate positive fiscal impact on state and local government revenues by establishing a new noncriminal infraction relating to vessels at risk of becoming derelict on the waters of this state.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require a municipality or county to expend funds or to take any action requiring the expenditure of funds. The bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate. The bill does not require a reduction of the percentage of state tax shared with municipalities or counties.

2. Other:
None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

MIAF Bill Tracking

Sorted by Bill Number

SB 0006	Relating to State Minimum Wage	Bullard
	State Minimum Wage; Increasing the state minimum wage; prohibiting an employer from paying an employee at a rate less than the state minimum wage; removing the limitation restricting application of the state minimum wage only to individuals entitled to receive the federal minimum wage; deleting obsolete language, etc. Effective Date: 1/1/2017 8/19/2015 SENATE Referred to Commerce and Tourism; Community Affairs; Appropriations	
HB 0007	Relating to Employment Discrimination	Cruz
	Employment Discrimination: Designates act as "Helen Gordon Davis Fair Pay Protection Act"; provides legislative findings & intent relating to equal pay for equal work for women; recognizes importance of DEO & FHRC in ensuring fair pay; provides duties of DEO & FHRC; creates Governor's Recognition Award for Pay Equity in Workplace. Effective Date: July 1, 2016 8/27/2015 HOUSE Now in Economic Development & Tourism Subcommittee	
HB 0063	Relating to Medical Use of Low-THC Cannabis	Steube
	Medical Use of Low-THC Cannabis: Allows registered patients & designated caregivers to purchase, acquire, & possess low-THC cannabis subject to specified requirements; allows cultivation or processing licensee, employee, or contractor to acquire, cultivate, transport, & sell low-THC cannabis; allows retail licensee to purchase, receive, possess, store, dispense, & deliver low-THC cannabis; prohibits certain actions regarding acquisition, possession, transfer, use, & administration of low-THC cannabis; clarifies that person is prohibited from driving or boating under influence of low-THC cannabis; provides duties of DOH; provides implementation requirements; specifies act does not require or restrict health insurance coverage for purchase of low-THC cannabis. Effective Date: July 1, 2016 12/15/2015 HOUSE Withdrawn prior to introduction	
HB 0065	Relating to Pub Rec/Low-THC Cannabis Patient Registry/DOH	Steube
	Pub Rec/Low-THC Cannabis Patient Registry/DOH: Exempts from public records requirements personal identifying information of patients & physicians held by DOH in low-THC cannabis patient registry or former compassionate use registry; exempts information related to ordering & dispensing low-THC cannabis; authorizes specified persons & entities access to exempt information; requires that information released from registry remain confidential; provides penalty; provides for future legislative review & repeal; provides statement of public necessity. Effective Date: on the same date that HB 63, or similar legislation establishing an electronic system to record a physician's orders for, and a patient's use of, low-THC cannabis takes effect 12/15/2015 HOUSE Withdrawn prior to introduction	
SB 0076	Relating to Tax-exempt Income	Hukill
	Tax-exempt Income; Increasing the amount of income that is exempt from the corporate income tax; increasing the amount of income that is exempt from the franchise tax imposed on banks and savings associations, etc. Effective Date: 1/1/2017 10/21/2015 SENATE Now in Appropriations	
HB 0083	Relating to Identification Cards and Driver Licenses	Santiago
	Identification Cards and Driver Licenses: Provides for person's status as lifetime freshwater fishing, saltwater fishing, hunting, or sportsman licensee, or boater safety identification cardholder, to be indicated on his or her identification card or driver license; prohibits person born after specified date from operating certain vessel unless such person has in his or her possession photographic identification & boater safety identification card or state-issued identification card or driver license; requires each recreational license & state-issued identification card or driver license indicating possession of recreational license to be in personal possession of person to whom such license is issued while person is taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur-bearing animals. Effective Date: July 1, 2016 2/2/2016 HOUSE Read Second Time; Substituted for SB 0158; Laid on Table, Refer to SB 0158	
HB 0109	Relating to State Minimum Wage	Torres
	State Minimum Wage: Increases state minimum wage; prohibits employer from paying employee at rate less than state minimum wage; removes limitation restricting application of state minimum wage only to individuals entitled to receive federal minimum wage. Effective Date: January 1, 2017 9/10/2015 HOUSE Now in Economic Development & Tourism Subcommittee	
SB 0158	Relating to Identification Cards and Driver Licenses	Hutson
	Identification Cards and Driver Licenses; Providing for a person's status as a lifetime freshwater fishing, saltwater fishing, hunting, or sportsman licensee, or boater safety identification cardholder, to be indicated on his or her identification card or driver license upon payment of an additional fee and presentation of the person's lifetime freshwater fishing, saltwater fishing, hunting, or sportsman's license, or boater safety identification card; providing	

HB 0161	Relating to Driving or Boating Under the Influence	Kerner
	Driving or Boating Under the Influence: Designates act "Naomi Pomerance Victim Safety Act"; provides that person with specified amount of delta 9-tetrahydrocannabinol per milliliter of blood commits offense of driving under influence or boating under influence. Effective Date: October 1, 2016 9/24/2015 HOUSE Now in Highway & Waterway Safety Subcommittee	
SB 0186	Relating to Social Media Privacy	Clemens
	Social Media Privacy; Prohibiting an employer from requesting or requiring access to a social media account of an employee or prospective employee; prohibiting an employer from taking retaliatory personnel action against an employee as a result of the employee's refusal to allow access to his or her social media account; prohibiting an employer from failing or refusing to hire a prospective employee as a result of the prospective employee's refusal to allow access to his or her social media account, etc. Effective Date: 10/1/2016 10/7/2015 SENATE Now in Judiciary	
HB 0205	Relating to Florida Healthy Working Families Act	Williams
	Florida Healthy Working Families Act: Creates "Florida Healthy Working Families Act"; provides powers & duties of executive director of DEO; requires certain employers to provide employees with earned sick & safe leave under certain conditions; provides employer & employee requirements; authorizes employee to file civil action under certain conditions. Effective Date: July 1, 2016 10/7/2015 HOUSE Now in Economic Development & Tourism Subcommittee	
HB 0219	Relating to Tax-Exempt Income	Sullivan
	Tax-Exempt Income: Increases amount of income exempt from corporate income tax; increases amount of income exempt from franchise tax imposed on banks & savings associations; provides applicability. Effective Date: January 1, 2017 10/7/2015 HOUSE Now in Finance & Tax Committee	
SB 0292	Relating to Streamlined Sales and Use Tax Agreement	Margolis
	Streamlined Sales and Use Tax Agreement; Specifying the facilities that are exempt from the transient rentals tax; deleting criteria establishing circumstances under which taxes on the lease or rental of a motor vehicle are due; limiting the \$5,000 cap on discretionary sales surtax to the sale of motor vehicles, aircraft, boats, manufactured homes, modular homes, and mobile homes; providing amnesty for uncollected or unpaid sales and use taxes for sellers who register under the Streamlined Sales and Use Tax Agreement, etc. Effective Date: 1/1/2017 2/10/2016 SENATE Withdrawn from further consideration	
SB 0294	Relating to Labor Regulations	Thompson
	Labor Regulations; Providing powers and duties of the executive director of the Department of Economic Opportunity; requiring certain employers to provide employees with paid or unpaid earned sick and safe leave under certain conditions; providing employer and employee requirements; authorizing an employee to file a civil action under certain conditions, etc. Effective Date: 7/1/2016 1/26/2016 SENATE Laid on Table	
SB 0346	Relating to Local Government Infrastructure Surtax	Altman
	Local Government Infrastructure Surtax; Authorizing the governing authority of a county to levy a discretionary sales surtax to fund capital restoration of natural water bodies for public use; limiting expenditures of the proceeds and interest from the surtax or specified bonds that pledge the surtax to dredging operations related to ecologically beneficial muck removal, etc. Effective Date: 7/1/2016 1/27/2016 SENATE Now in Appropriations	
HB 0353	Relating to Discrimination in Employment Screening	Powell
	Discrimination in Employment Screening: Prohibits public employer from inquiring into or considering applicant's criminal history on initial employment application unless required to do so by law. Effective Date: July 1, 2016 10/30/2015 HOUSE Now in Criminal Justice Subcommittee	
SB 0384	Relating to Employment Practices	Bullard
	Employment Practices; Citing this act as the "Florida Paid Family Care Leave Act"; requiring an employer to allow an employee to take paid family care leave to bond with a new child upon the child's birth, adoption, or foster care placement; requiring an employer to provide notice to employees of the right to paid family care leave; revising the Florida Civil Rights Act of 1992 to prohibit specified employment practices on the basis of pregnancy, childbirth, or a related medical condition, etc. Effective Date: 7/1/2016	

10/9/2015 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

- SB 0400** **Relating to Organizational Structure of the Department of Environmental Protection** Hays
Organizational Structure of the Department of Environmental Protection; Authorizing the secretary of the Department of Environmental Protection to establish divisions as necessary to accomplish the missions and goals of the department, etc. Effective Date: 7/1/2016
2/25/2016 SENATE Favorable with CS by Appropriations; 16 Yeas, 0 Nays
- HB 0427** **Relating to Recreational Vessel Registration** Magar
Recreational Vessel Registration: Provides reduced recreational vessel registration fee schedule for vessels registered during specified period which are equipped with emergency position indicating radio beacon or for which owner of vessel owns personal locator beacon; limits application to one vessel per owner; authorizes DHSMV to adopt rules relating to proof of qualification; provides for certain funds to supplement reduced amounts collected; provides for expiration of reduced fee schedule; revises provisions relating to Marine Resources Conservation Trust Fund; provides for use of supplemental funds; revises provisions relating to county & municipality optional registration fees; specifies that reduced fees do not apply to limitation on registration fees charged by county. Effective Date: July 1, 2016
2/24/2016 HOUSE Read Third Time; Passed (Vote: 115 Yeas / 0 Nays)
- HB 0447** **Relating to Local Government Environmental Financing** Raschein
Local Government Environmental Financing: Designates act as "Florida Keys Stewardship Act"; revises projects that may be funded using specific surtaxes & bond proceeds; authorizes Everglades bonds for City of Key West Area of Critical State Concern; expands types of water management projects eligible for funding; specifies funds for Florida Keys Area of Critical State Concern protection program; revises procedures for disposing of certain lands; recognizes degradation of coral reefs; requires specific Florida Forever funds to be spent buying lands in Florida Keys Area of Critical State Concern; authorizes land authority to contribute funds for certain land purchases. Effective Date: July 1, 2016
2/26/2016 HOUSE Placed on Calendar, on 2nd reading
- SB 0448** **Relating to Discrimination in Employment Screening** Clemens
Discrimination in Employment Screening; Prohibiting a public employer from inquiring into or considering an applicant's criminal history on an initial employment application unless required to do so by law, etc. Effective Date: 7/1/2016
10/9/2015 SENATE Referred to Commerce and Tourism; Judiciary; Appropriations Subcommittee on General Government; Fiscal Policy
- SB 0454** **Relating to Employment Discrimination** Joyner
Employment Discrimination; Creating the "Helen Gordon Davis Fair Pay Protection Act"; recognizing the importance of the Department of Economic Opportunity and the Florida Commission on Human Relations in ensuring fair pay; creating the Governor's Recognition Award for Pay Equity in the Workplace; requiring that the award be given annually to employers in this state who have engaged in activities that eliminate the barriers to equal pay for equal work for women, etc. Effective Date: 7/1/2016
10/9/2015 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Fiscal Policy
- HB 0489** **Relating to Shellfish Harvesting** Drake
Shellfish Harvesting: Revises provisions directing DACS, in cooperation with FWCC & DEP, to protect specified shellfish beds, grounds, & reefs; provides for harvesting of shellfish from sovereign submerged land leases; provides for Board of Trustees of Internal Improvement Trust Fund to authorize use of dredges or mechanical harvesting devices as special lease conditions; provides penalties for certain prohibited use & possession of such dredges or mechanical harvesting devices; removes provisions relating to shellfish harvesting seasons & removal of oysters, clams, or mussels from natural reefs; authorizes, rather than requires, DACS to designate areas for taking of oysters clams to be planted on public lands; specifies that FWCC, rather than DACS, shall establish the amount of oysters, clams, & mussels that may be relayed or transplanted; removes provisions relating to dredging of dead shells & oyster culture. Effective Date: July 1, 2016
2/23/2016 HOUSE Placed on Calendar, on 2nd reading
- HB 0501** **Relating to Conservation Easements** McGhee
Conservation Easements: Deletes requirement that exemption for conservation easement must be renewed annually; provides that property owner is not required to file renewal application until use of property no longer complies with conservation easement requirements or restrictions. Effective Date: July 1, 2016
2/10/2016 HOUSE Placed on Calendar, on 2nd reading

HB 0529	Relating to Freight Mobility and Trade Projects	Ray
	Freight Mobility and Trade Projects: Provides for certain fees collected by DHSMV to be set aside for specified freight mobility & trade projects or navigational channel projects. Effective Date: July 1, 2019 11/16/2015 HOUSE Now in Transportation & Ports Subcommittee	
SB 0552	Relating to Environmental Resources	Dean
	Environmental Resources; Requiring the Department of Environmental Protection to publish, update, and maintain a database of conservation lands; authorizing certain water management districts to designate and implement pilot projects; prohibiting water management districts from modifying permitted allocation amounts under certain circumstances; creating the "Florida Springs and Aquifer Protection Act", etc. Effective Date: 7/1/2016 1/21/2016 Approved by Governor, Chapter No. 2016-1	
HB 0561	Relating to Organizational Structure of the Department of Environmental Protection	Combee
	Organizational Structure of the Department of Environmental Protection: Establishes Office of the Secretary within DEP; authorizes Secretary of Environmental Protection to establish offices within the office & within department's divisions to promote efficient & effective operation of DEP; directs secretary to appoint general counsel; removes required establishment of certain offices; establishes Division of Water Restoration Assistance within DEP. Effective Date: July 1, 2016 2/18/2016 HOUSE Placed on Calendar, on 2nd reading	
HB 0593	Relating to Government Accountability	Metz
	Government Accountability: Requires each house of Legislature to provide by rule reporting requirements regarding lobbying firm's lobbying activities; requires each house to establish procedures applicable to untimely filing of reports by rule; providing fines for late filing of reports; revises auditing protocols for certain agencies, councils, & state schools; revises responsibilities of certain state officials & employment or contractual relationships; revises provisions governing collection methods for certain unpaid automatic fines; requires counties, municipalities, & special districts to maintain certain budget documents on entities' websites for specified period; prohibits member of the Legislature or candidate for legislative office from accepting employment with certain private entities; revises certain compensation protocols; revises requirements for financial statements & audits of certain governmental entities; requires lobbying firm to file report with Commission on Ethics. Effective Date: October 1, 2016 2/19/2016 HOUSE Placed on Calendar, on 2nd reading	
HB 0619	Relating to Employment of Felons	Stafford
	Employment of Felons: Provides local business tax credit for employment of person previously convicted of felony; provides requirements to receive credit; provides exceptions for certain felons. Effective Date: July 1, 2016 11/17/2015 HOUSE Now in Finance & Tax Committee	
HB 0635	Relating to Social Media Privacy	Dudley
	Social Media Privacy: Prohibits employer from requesting or requiring access to social media account of employee or prospective employee; prohibits employer from taking retaliatory personnel action against employee as result of employee's refusal to allow access to his or her social media account; prohibits employer from failing or refusing to hire prospective employee as result of prospective employee's refusal to allow access to his or her social media account; authorizes civil action for violation; provides penalty for violation; provides for recovery of attorney fees & court costs; specifies that employer is not prohibited from seeking access to social media accounts used primarily for employer's business purposes. Effective Date: October 1, 2016 11/17/2015 HOUSE Now in Economic Development & Tourism Subcommittee	
SB 0644	Relating to Boating Safety	Ring
	Boating Safety; Revising the minimum age to operate personal watercraft; removing the exemption from the photographic identification and boating safety identification card requirement for a person accompanied in the vessel by another person who meets certain criteria, etc. Effective Date: 7/1/2016 1/27/2016 SENATE Temporarily Postponed by Environmental Preservation and Conservation	
HB 0651	Relating to Department of Financial Services	Beshears
	Department of Financial Services: Authorizes DFS to create Internet-based transmission system for electronic transmission to accept service of process; removes requirement that EOG review & approve certain alternative retirement income security program; revises responsibilities of CFO; revises requirements for state-funded contracts or agreements between state awarding agency & higher education entity; revises responsibilities of DHSMV; names Board of Commissioners of Florida Inland Navigation District as entity that receives & approves certain surety bonds of commissioners; revises provisions relating to service of legal process; provides fee; provides additional ground for disqualification of neutral evaluator; provides requirements related to sinkhole insurance; provides requirements for firefighter & volunteer firefighter certificates of compliance & completion;	

establishes Firefighter Assistance Program for certain purposes; provides appropriation. Effective Date: July 1, 2016

2/23/2016 HOUSE Placed on Calendar, on 2nd reading

- HB 0681** **Relating to Divers-down Warning Devices** Trumbull
Divers-down Warning Devices: Expands types of indicators or devices allowed to be used to signal presence of submerged divers; specifies requirements for such devices. Effective Date: July 1, 2016
1/28/2016 HOUSE Placed on Calendar, on 2nd reading
- SB 0686** **Relating to Government Accountability** Gaetz (D)
Government Accountability; Citing this act as the "Florida Anti-Corruption Act of 2016"; requiring each house of the Legislature to provide by rule reporting requirements regarding lobbying firm's lobbying activities; specifying that the Governor, the Commissioner of Education, or the designee of the Governor or of the Commissioner of Education may notify the Legislative Auditing Committee of an entity's failure to comply with certain auditing and financial reporting requirements; prohibiting a member of the Legislature from accepting employment with a private entity that directly receives state funds, etc. Effective Date: 10/1/2016
2/16/2016 SENATE Now in Appropriations
- HB 0703** **Relating to Vessels** Workman
Vessels: Provides that vessel overloading or excessive speed constitutes careless operation of vessel; provides for issuance of safety inspection decals; prohibits law enforcement officers from stopping certain vessels solely to inspect for certain compliance; provides exception. Effective Date: July 1, 2016
2/24/2016 HOUSE Read Third Time; Passed (Vote: 104 Yeas / 13 Nays)
- SB 0746** **Relating to Vessel Registrations** Negron
Vessel Registrations; Reducing vessel registration fees for recreational vessels equipped with certain position indicating and locating beacons; providing criteria for such reduction; clarifying county optional registration fees, etc. APPROPRIATION: \$5,000,000.00 Effective Date: 7/1/2016
2/25/2016 SENATE On Committee agenda - Appropriations, 03/01/16, 10:00 am, 412 K
- SB 0770** **Relating to Local Government Environmental Financing** Simpson
Local Government Environmental Financing; Citing this act as the "Florida Keys Stewardship Act"; expanding the use of local government infrastructure surtaxes to include acquiring any interest in land for public recreation, conservation, or protection of natural resources or to reduce impacts of new development on hurricane evacuation clearance times; expanding the use of Everglades restoration bonds to include the City of Key West Area of Critical State Concern; requiring the Department of Environmental Protection to annually consider certain recommendations to buy specific lands within and outside an area of critical state concern, etc. Effective Date: 7/1/2016
2/19/2016 SENATE Now in Appropriations
- HB 0771** **Relating to Drug-Free Workplaces** Renner
Drug-Free Workplaces: Revises contents of employer policy statement with respect to employee drug use; revises frequency of followup testing; revises specimen collection, verification, & documentation procedures; revises requirements for confirmation testing. Effective Date: July 1, 2016
12/10/2015 HOUSE Now in Economic Development & Tourism Subcommittee
- HB 0795** **Relating to Dredge and Fill Activities** Edwards
Dredge and Fill Activities: Revises acreage of wetlands & surface waters subject to impact by dredge & fill activities under state programmatic general permits; provides that seeking to use such permits consents to specified federal wetland jurisdiction criteria; authorizes DEP to delegate federal permitting programs for the discharge of dredged or fill material under certain conditions; deletes certain conditions limiting when DEP may assume federal permitting programs for discharge of dredged or fill material. Effective Date: upon becoming a law
2/26/2016 HOUSE Committee Substitute Text (C1) Filed
- SB 0846** **Relating to Divers-down Warning Devices** Abruzzo
Divers-down Warning Devices; Revising the definitions of the terms "divers-down buoy," "divers-down flag," and "divers-down symbol"; expanding the types of indicators or devices allowed to be used to signal the presence of submerged divers; specifying requirements for divers-down warning devices, etc. Effective Date: 7/1/2016
2/24/2016 HOUSE In Messages
- HB 0863** **Relating to Boating Safety** Stark
Boating Safety: Provides requirements for operation of recreational vessels by persons younger than specified age; revises minimum age to operate personal watercraft; removes exemption from photographic identification & boating safety identification card requirement for person accompanied in vessel by another person who meets certain criteria. Effective Date: July 1, 2016

HB 0871	Relating to Broward County	Clarke-Reed
	Broward County: Repeals penalty for exceeding speed limit in specified waterways; repeals requirements for erection of waterway speed limit signs. Effective Date: upon becoming a law 2/4/2016 HOUSE Placed on Calendar, on 2nd reading	
HB 0971	Relating to Community Development Districts	Sullivan
	Community Development Districts: Amends acreage threshold for establishment of community development district; authorizes district to contract with towing operator to remove vehicles or vessels from specified properties; authorizes up to certain number of districts to merge; provides for membership of surviving merged district; provides requirements of merger agreement; provides for public hearings; prohibits petition to merge from being filed within specified timeframe. Effective Date: July 1, 2016 2/24/2016 HOUSE Read Third Time; Passed (Vote: 112 Yeas / 3 Nays)	
HB 0989	Relating to Implementation of Water and Land Conservation Constitutional Amendment	Harrell
	Implementation of Water and Land Conservation Constitutional Amendment: Requires minimum specified percentage of funds within Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; provides preference in use of funds to certain projects that reduce discharges to St. Lucie & Caloosahatchee estuaries. Effective Date: July 1, 2016 2/26/2016 HOUSE Placed on Special Order Calendar, 03/01/16	
HB 0995	Relating to Local Government Infrastructure Surtax	Mayfield
	Local Government Infrastructure Surtax: Authorizes county to levy discretionary sales surtax to fund certain capital projects to restore natural water bodies for public use under certain circumstances; authorizes proceeds & interest from surtax to be used for certain dredging operations. Effective Date: July 1, 2016 1/26/2016 HOUSE Now in Finance & Tax Committee	
HB 1007	Relating to City of Clearwater, Pinellas County	Latvala (C)
	City of Clearwater, Pinellas County: Provides for use & development of specified city-owned lands; removes certain restrictions on use of lands imposed by ch. 11050, Laws of Florida (1925); specifies that act does not modify or supersede city's charter relating to waterfront property owned by city. Effective Date: upon becoming a law 1/13/2016 HOUSE Now in Agriculture & Natural Resources Subcommittee	
HB 1051	Relating to Anchoring Limitation Areas	Caldwell
	Anchoring Limitation Areas: Prohibits overnight anchoring of vessels in specified anchoring limitation areas; provides exceptions, applicability, & penalties; authorizes law enforcement officers & agencies to remove & impound vessels; provides indemnification for such law enforcement officers & agencies in certain circumstances; provides requirements for contractors performing removal or impoundment activities; provides for issuance of citations & expiration. Effective Date: July 1, 2016 2/26/2016 HOUSE Committee Substitute Text (C2) Filed	
HB 1075	Relating to State Lands	Caldwell
	State Lands: Creates, revises, & deletes provisions relating to acquisition, surplus, sale, lease, & use of state-owned conservation, nonconservation, recreation, & submerged lands; provides appropriation & authorizes positions. Effective Date: July 1, 2016 2/25/2016 HOUSE Placed on Calendar, on 2nd reading	
HB 1091	Relating to Advertisement of Vehicle and Vessel Purchasing	Cortes (B)
	Advertisement of Vehicle and Metals Purchasing: Requires person to be licensed by DHSMV as motor vehicle dealer to advertise for purchase or sale of motor vehicles; requires motor vehicle dealer advertisements to include certain information; prohibits unlicensed person from using certain vehicles to transport certain vehicles; provides for impoundment of wrecker or tow truck used in violation of licensure requirements; requires persons who advertise to provide services as secondary metals recycler to be registered with Department of Revenue; requires secondary metals recycler advertisements to include certain information; prohibits person not registered as secondary metals recycler from using wrecker or tow truck to transport certain metals; provides for impoundment of wrecker or tow truck used in violation of registration requirements; provides penalties. Effective Date: July 1, 2016 2/11/2016 HOUSE Now in Justice Appropriations Subcommittee	
SB 1148	Relating to Self-service Gasoline Stations	Montford
	Self-service Gasoline Stations; Requiring that retail self-service gasoline station pumps have printers in working	

order and capable of producing receipts; requiring that pumps without functioning printers be taken out of service; requiring the Department of Agriculture and Consumer Services to inspect pumps for functioning printers, etc.

Effective Date: 7/1/2016

2/22/2016 SENATE Temporarily Postponed by Commerce and Tourism

HB 1153	Relating to Public Records/Recreational Activities Licenses/FWCC	Goodson
	Public Records/Recreational Activities Licenses/FWCC: Provides exemption from public records requirements for personal identifying information provided to FWCC on applications for certain licenses, permits, & certifications; provides for future legislative review & repeal of exemption; provides statement of public necessity. Effective Date: July 1, 2016	
	1/29/2016 HOUSE Now in State Affairs Committee	
SB 1154	Relating to Drug-free Workplaces	Bradley
	Drug-free Workplaces; Revising the contents of an employer policy statement with respect to employee drug use; revising specimen collection, verification, and documentation procedures, etc. Effective Date: 7/1/2016	
	1/5/2016 SENATE Referred to Commerce and Tourism; Health Policy; Fiscal Policy	
SB 1156	Relating to Community Development Districts	Hutson
	Community Development Districts; Increasing minimum and maximum size requirements for the establishment of community development districts under certain circumstances; revising requirements related to the process of amending community development district boundaries; authorizing certain districts up to a specified number to merge into one surviving district, subject to certain requirements, etc. Effective Date: 7/1/2016	
	2/24/2016 SENATE Placed on Calendar, on 2nd reading	
SB 1168	Relating to Implementation of the Water and Land Conservation Constitutional Amendment	Negron
	Implementation of the Water and Land Conservation Constitutional Amendment; Requiring a minimum specified percentage of funds within the Land Acquisition Trust Fund to be appropriated for Everglades restoration projects; providing a preference in the use of funds to certain projects that reduce harmful discharges to the St. Lucie Estuary and the Caloosahatchee Estuary, etc. Effective Date: 7/1/2016	
	2/24/2016 SENATE On Committee agenda - Appropriations Subcommittee on General Government, 02/29/16, 11:30 am, 110 S	
SB 1176	Relating to Dredge and Fill Activities	Diaz de la Portilla
	Dredge and Fill Activities; Revising the acreage of wetlands and other surface waters subject to impact by dredge and fill activities under a state programmatic general permit; providing that seeking to use such a permit consents to specified federal wetland jurisdiction criteria; authorizing the Department of Environmental Protection to delegate federal permitting programs for the discharge of dredged or fill material under certain conditions, etc. Effective Date: Upon becoming a law	
	2/24/2016 SENATE Read Second Time; Placed on Third Reading, 03/02/16	
SB 1260	Relating to Anchoring Limitation Areas	Simpson
	Anchoring Limitation Areas; Prohibiting overnight anchoring or mooring of vessels in specified anchoring limitation areas; providing for the removal and impoundment of vessels under certain circumstances, etc. Effective Date: 7/1/2016	
	2/25/2016 SENATE On Committee agenda - Fiscal Policy, 02/29/16, 1:00 pm, 412 K	
SB 1268	Relating to Freight Mobility and Trade Projects	Simpson
	Freight Mobility and Trade Projects; Amending provisions relating to fees collected by the Department of Highway Safety and Motor Vehicles for issuance of motor vehicle certificates of title and related services; providing that certain fees collected shall be set aside for specified freight mobility and trade projects or navigational channel projects, etc. Effective Date: 7/1/2019	
	1/11/2016 SENATE Referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
HB 1273	Relating to Manatees	Ahern
	Manatees: Exempts, until specified date, revenues deposited in Save the Manatee Trust Fund from certain service charges; authorizes expenditure of such funds to conduct manatee speed zone study & statewide manatee distribution & abundance surveys & reports; requires FWCC to contract for manatee speed zone effectiveness study; requires FWCC to submit report detailing findings of such study to Governor & Legislature & to conduct surveys & reports; authorizes FWCC to conduct additional surveys & reports as necessary. Effective Date: July 1, 2016	
	2/2/2016 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee	
SB 1282	Relating to Fish and Wildlife Conservation Commission	Dean

Fish and Wildlife Conservation Commission; Revising penalties for violations of commission rules relating to control and management of state game lands; authorizing exceptions to the prohibition on spearfishing; revising penalties for violations related to subagent sales of hunting, fishing, and trapping licenses and permits, etc.

Effective Date: 7/1/2016

2/26/2016 SENATE Committee Substitute Text (C1) Filed

SB 1290	Relating to State Lands	Simpson
	State Lands; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to waive certain requirements and rules and substitute procedures relating to the acquisition of state lands under certain conditions; providing for public agencies and nonprofit organizations to enter into written agreements with the Department of Environmental Protection rather than the Division of State Lands to purchase and hold property for subsequent resale to the board rather than the division; providing for the use of alternatives to fee simple acquisition by public land acquisition agencies, etc. Effective Date: 7/1/2016	
	2/26/2016	SENATE Now in Appropriations
SB 1300	Relating to At-risk Vessels	Dean
	At-risk Vessels; Prohibiting a vessel that is at risk of becoming derelict from anchoring on, mooring on, or occupying the waters of this state; providing that a person who anchors or moors such a vessel or allows it to occupy waters of this state commits a noncriminal infraction, etc. Effective Date: 7/1/2016	
	2/24/2016	SENATE Read Second Time; Placed on Third Reading, 03/02/16
SB 1312	Relating to Protection Zones For Springs	Dean
	Protection Zones For Springs; Providing penalties for violations relating to protection zones for springs; directing the Fish and Wildlife Conservation Commission to establish protection zones to prevent harm to springs; requiring the commission to set vessel speed and operation standards for protection zones; requiring the commission to consult with certain other entities under certain circumstances; specifying responsibility for posting and maintaining regulatory markers, etc. Effective Date: 7/1/2016	
	2/26/2016	SENATE Placed on Calendar, on 2nd reading
SB 1318	Relating to Shellfish Harvesting	Dean
	Shellfish Harvesting; Revising provisions directing the Department of Agriculture and Consumer Services, in cooperation with the Fish and Wildlife Conservation Commission and the Department of Environmental Protection, to protect specified shellfish beds, grounds, and reefs; providing for the Board of Trustees of the Internal Improvement Trust Fund to authorize the use of dredges or mechanical harvesting devices as special lease conditions of sovereign submerged land leases under certain circumstances; authorizing the department, rather than requiring, to designate areas for the taking of oysters and clams to be planted on public lands, etc. Effective Date: 7/1/2016	
	2/24/2016	SENATE Read Second Time; Placed on Third Reading, 03/02/16
SB 1364	Relating to Public Records/Personal Information Obtained in Connection with Licensure	Hays
	Public Records/Personal Information Obtained in Connection with Licensure; Defining the term "personal information"; providing an exemption from public records requirements for personal information provided to the Fish and Wildlife Conservation Commission on applications for certain licenses, permits, and certifications; providing circumstances under which personal information may be disclosed; providing applicability; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: 7/1/2016	
	2/18/2016	SENATE Laid on Table
SB 1454	Relating to Vessels	Hutson
	Vessels; Revising provisions relating to reckless or careless operation of a vessel; deleting provisions authorizing law enforcement officers to inspect vessels; revising provisions relating to the authority of law enforcement officers to conduct certain investigations, etc. Effective Date: 7/1/2016	
	2/25/2016	SENATE Placed on Calendar, on 2nd reading
SB 1506	Relating to Manatees	Brandes
	Manatees; Exempting, until a specified date, certain revenue deposited in the Save the Manatee Trust Fund from a service charge assessed against state trust funds; requiring the Fish and Wildlife Conservation Commission to contract with an independent, qualified party to conduct a manatee speed zone effectiveness study, etc. Effective Date: 7/1/2016	
	1/14/2016	SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on General Government; Appropriations
SB 1510	Relating to Advertisement of Vehicle and Vessel Purchasing	Hutson
	Advertisement of Vehicle and Vessel Purchasing; Requiring a motor vehicle dealer who advertises the purchase	

of vehicles or vessels to display specified information on the sign or advertisement; prohibiting an unlicensed motor vehicle dealer or unregistered secondary metals recycler from dispatching a wrecker, tow truck, trailer, dolly, or other vehicle in response to an advertisement for the purchase of a vehicle or vessel, etc. Effective Date: 7/1/2016
 1/14/2016 SENATE Referred to Commerce and Tourism; Transportation; Fiscal Policy

SB 1564 **Relating to Shellfish Harvesting** Hutson
 Shellfish Harvesting; Revising provisions for the harvest of shellfish from natural reefs and submerged lands; providing for the Board of Trustees of the Internal Improvement Trust Fund instead of the Department of Agricultural and Consumer Services to authorize the harvest of shellfish by dredges or mechanical harvesting devices in submerged land leases and perpetual shellfish leases, etc. Effective Date: 7/1/2016
 1/14/2016 SENATE Referred to Environmental Preservation and Conservation; Appropriations
 Subcommittee on General Government; Fiscal Policy

SB 1668 **Relating to Florida Lionfish Education and Research Consortium** Montford
 Florida Lionfish Education and Research Consortium; Creating the "Florida Lionfish Education and Research Act", establishing the Florida Lionfish Education and Research Consortium; specifying the entities comprising the consortium, etc. Effective Date: 7/1/2016
 1/14/2016 SENATE Referred to Environmental Preservation and Conservation; Appropriations
 Subcommittee on Education; Appropriations

SB 7000 **Relating to Growth Management** Community Affairs
 Growth Management; Providing that a proposed development that is consistent with certain comprehensive plans is not required to undergo review pursuant to the state coordinated review process, etc. Effective Date: 7/1/2016
 2/25/2016 SENATE Placed on Calendar, on 2nd reading

HB 7005 **Relating to Environmental Resources** State Affairs
 Committee
 Environmental Resources: Provides for conservation lands database; provides assistance to self-suppliers of water; authorizes pilot projects for certain water management districts (WMDs); requires adoption of minimum flows & levels for Outstanding Florida Springs; requires concurrent adoption of recovery or prevention strategies & minimum flows & levels; provides for Central Florida Water Initiative Area; authorizes allocation of water by SFWMD; requires monitoring of consumptive use permits; provides for certain preferred water supply sources; prohibits modification of permitted water allocations; provides priority consideration to certain public-private partnerships for water storage, groundwater recharge, & water quality improvements on private agricultural lands; revises Northern Everglades & Estuaries Protection Program; revises membership qualifications for Harris Chain of Lakes Restoration Council; requires certain funding plans in water resource development work program; authorizes private landowners to assist WMDs; requires promotion of certain cost-share criteria; creates the Florida Springs & Aquifer Protection Act; authorizes funding for nutrient & sediment reduction & conservation pilot projects; revises requirements for basin management action plans; provides treated potable water supply as designated use of surface waters; requires DEP & DACS to assess water resources & conservation lands.
 Effective Date: July 1, 2016
 1/14/2016 HOUSE Read Second Time; Substituted for SB 0552; Laid on Table, Refer to SB 0552

HB 7025 **Relating to At-risk Vessels** Highway & Waterway
 Safety Subcommittee
 At-risk Vessels: Prohibits vessels that are at risk of becoming derelict from anchoring on, mooring on, or occupying state waters; authorizes FWCC or specified law enforcement officers to determine that vessels are at risk of becoming derelict if certain conditions exist; provides that persons who anchor or moor or allow such a vessel to occupy state waters commit noncriminal violation; provides for enforcement, penalties, & applicability.
 Effective Date: July 1, 2016
 2/24/2016 HOUSE Read Third Time; Passed (Vote: 116 Yeas / 1 Nay)

SAC1 **Relating to Environmental Resources** State Affairs
 Committee
 PCB SAC 16-01 -- Environmental Resources
 10/26/2015 HOUSE Committee Bill filed as H 7005

ANRS2 **Relating to Fish and Wildlife Conservation Commission** Agriculture & Natural
 Resources
 Subcommittee
 PCB ANRS 16-02 -- Fish and Wildlife Conservation Commission
 11/18/2015 HOUSE Committee Bill filed as H 7013

HWSS1 **Relating to At-Risk Vessel** Highway & Waterway

PCB HWSS 16-01 -- At-Risk Vessel
12/2/2015 HOUSE Committee Bill Filed as H 7025

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