

WEEK 2 REPORT

// 2018 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA
JAN. 15-19, 2018



// WEEK 2 REPORT

CONTENTS

SB 232 // HB 53

Coral Reefs

SB 632 // HB 247

Vessel Registration

SB 388 // HB 1001

Anchoring Limitation Areas

SB 664 // HB 469

Salvage of Pleasure Vessels

SB 1132 // HB 915

Vessel Safety Inspection Decals

SB 1632 // HB 963

Towing and Immoilization Fees and Charges

The second week is in the books and we are wading into the third week knowing the pace is expected to pick up. The House of Representatives and the Senate are expected to release their respective budgets this week to begin the amendatory process.

MIAF closely monitors numerous boating-related appropriations. We will have a comparison of the House and Senate boating line items in next week's weekly report.

However, other substantive bills are moving quickly this Session. Two bills with movement that could impact boating are the Coral Bill and the Salvage Bill.

The Coral bills are moving and are ready for passage. Both bills still refer to the "Florida Coral Reef Ecosystem Conservation Area". Neither bill has a statute reference.

House Bill 53 by Representative Jacobs is scheduled for Special Order 1/24/18. Senate Bill 232 by Senator Book passed the Senate Appropriations Committee 19-0. The Senate Bill is ready for the Senate floor. House Bill 53 and Senate Bill 232 are identical.

The "Salvage Bill" has legs and is moving through the process quickly on the House side. The bill has already passed two of its three referenced committees.

Your team had several productive meetings with the proponents of the bill during the committee week process. Amendments have been offered by the proponents as a result of our meetings in Tallahassee.

Committee Substitute for House Bill 469 by Representative Harrison passed its second committee of reference, House Careers and Competition Subcommittee. The bill passed 9-2 with a strike-all amendment. The bill is now CS/CS for House Bill 469. Senate Bill 664 by Senator Young is still waiting to be heard in the Senate Transportation Committee. We expect the Senate bill to mirror CS/CS/HB 469.

Anchoring is still out there. The House and the Senate both have bills filed. Both bills have three committees of reference. Neither bill has been placed on agenda. Please stay tuned as we have several weeks to go.

As always, thank you for allowing us to represent you in Tallahassee. We appreciate you!



Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// CORAL REEFS

Senate Bill 232 // Sen. Lauren Book // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

House Bill 53 // Rep. Kristin Jacobs // Referred to: Natural Resources & Public Lands Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 232: SB 232 creates the Southeast Florida Coral Reef Ecosystem Conservation Area. The conservation area consists of the sovereignty submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

Most Recent Action: Favorable by Appropriations; 19 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

House Bill 53: Coral reefs in southeast Florida support a rich and diverse assemblage of stony corals, octocorals, macroalgae, sponges, and fishes. These ecological communities run parallel along the coast from the northern border of Biscayne National Park in Miami-Dade County north to the St. Lucie Inlet in Martin County. Coral reefs are valuable natural resources. They protect coastlines by reducing wave energy from storms and hurricanes. They serve as a source of food and shelter and provide critical habitat for over 6,000 species, including important commercial fisheries. Further, people use coral reefs as a resource for recreation, education, scientific research, and public inspiration. Millions of tourists and local residents enjoy scuba diving, snorkeling, and fishing on the coral reefs.

Coral reefs are vulnerable to harmful environmental changes, particularly those resulting from human activities. Globally, 10 percent of all coral reefs are degraded beyond recovery and 30 percent are in critical condition and may die within 10 to 20 years, particularly those near human populations.

The bill establishes the Southeast Florida Coral Reef Ecosystem Conservation Area (conservation area). The conservation area includes the sovereign submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet in the north to the northern boundary of the Biscayne National Park in the south.

Most Recent Action: Placed on Special Order Calendar, 01/24/18

Attached documents: SB 232 (as filed) + staff analysis; HB 53 (as filed) + staff analysis

// VESSEL REGISTRATION

Senate Bill 632 // Sen. Bill Montford // Referred to: Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 247 // Rep. Lorraine Ausley // Referred to: Transportation & Infrastructure Subcommittee; Transportation & Tourism Appropriations Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 632: CS/SB 632 authorizes the Department of Highway Safety and Motor Vehicles (DHSMV) to accept applications for vessel registration by electronic or telephonic means, issue electronic vessel registrations in addition to paper registrations, and collect email addresses and use email for providing vessel registration renewal notices in lieu of the United States Postal Service (USPS). The bill also allows a vessel operator to present the electronic certificate of vessel registration on an electronic device upon inspection of the vessel. The bill provides that presentation of the electronic certificate does not constitute consent for inspection of any other information on the device, and the person who presents the device assumes liability for any damage to the device.

The bill may have a negative fiscal impact to the DHSMV for initial implementation; however, the DHSMV may experience reduced mail costs in the future.

Most Recent Action: Favorable with CS by Transportation; 7 Yeas, 0 Nays

House Bill 247: Currently, the Fish and Wildlife Conservation Commission (FWC) is authorized to accept an application for a vessel certificate of registration by electronic or telephonic means whereas for a motor vehicle certificate of registration the Department of Highway Safety and Motor Vehicles (DHSMV) is authorized to:

- Accept an application for motor vehicle registration by electronic or telephonic means; and
- Collect and use email addresses in lieu of the U.S. Postal Service for providing renewal notices.

Florida does not currently allow a motor vehicle or vessel owner or operator to display an electronic certificate of registration in lieu of a paper registration to law enforcement or any other official requesting to view the vessel registration.

The bill replaces “commission” with “department,” when referring to the state agency who is responsible for accepting vessel registration applications. This change recognizes that DHSMV is the state agency responsible for processing registration applications for vessels, not the FWC. Additionally, the bill allows DHSMV to issue an electronic certificate of registration in lieu of a paper registration and collect and use email addresses in lieu of U.S. mail for the purpose of

providing renewal notices. This provision parallels the existing requirements governing the issuance of vessel and motor vehicle certificates of title.

The bill allows owners and operators of vessels to produce an electronic certificate of registration for inspection. The presentation of the electronic certificate of registration does not create consent to inspect any other information on the electronic device. This will enable owners and operators of vessels to produce an electronic certificate of registration (via cell phone, tablet, laptop, etc.) to law enforcement, or any other official requesting to view the vessel registration, rather than producing a paper copy.

The bill will have an indeterminate, but likely negative fiscal impact to DHSMV.

Most Recent Action: Favorable by Transportation & Infrastructure Subcommittee; 12 Yeas, 0 Nays

// ANCHORING LIMITATION AREAS

Senate Bill 388 // Sen. Gary Farmer // Referred to: Environmental Preservation and Conservation; Community Affairs; Rules

House Bill 1001 // Rep. Joe Geller // Referred to: Local, Federal & Veterans Affairs Subcommittee; Natural Resources & Public Lands Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 388: Revising the anchoring limitation areas within the state to include additional specified areas, etc.

Most Recent Action: Referred to Environmental Preservation and Conservation; Community Affairs; Rules

House Bill 1001 Provides exception to general law; provides specified areas are narrow state waterways & anchoring limitation areas.

Most Recent Action: Referred to Local, Federal & Veterans Affairs Subcommittee; Natural Resources & Public Lands Subcommittee; Government Accountability Committee

// SALVAGE OF PLEASURE VESSELS

Senate Bill 664 // Sen. Dana Young // Referred to: Commerce and Tourism; Transportation; Rules

House Bill 1031 // Rep. Shawn Harrison // Referred to: Natural Resources & Public Lands Subcommittee; Careers & Competition Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 664: CS/SB 664 creates the “Florida Salvage of Pleasure Vessels Act” (act) to provide certain consumer protections for salvage work performed on pleasure vessels, similar to those contained in part IX, ch. 559, F.S., relating to the repair of motor vehicles.

The bill establishes the circumstances in which a salvor must provide a customer or potential customer with a written disclosure statement and salvage work estimate for services. If a salvor’s charges exceed the written estimate by more than 20 percent, the salvor is required to promptly notify the customer of the additional estimated charge and allow the customer to authorize, modify, or cancel the order for salvage.

The bill also requires vessels doing salvage work to post readable signs in a conspicuous manner that inform the customer that the salvors are professional salvors that charge for their services and that the customer has a right to a written estimate for the services offered.

The bill establishes the unlawful acts and practices that constitute a violation of the act and provides a legal remedy for customers injured by such violations. The bill directs the court to award a prevailing customer damages in the amount of three times that charged by the salvor, plus actual damages, court costs, and reasonable attorney fees. The bill also provides that a customer may bring an action for injunctive relief in the circuit court.

Last Action: Favorable with CS by Commerce and Tourism; 7 Yeas, 1 Nay

House Bill 469: Currently, state law does not require salvors of pleasure vessels to notify customers regarding the potential costs prior to salvage. Salvage is the amount allowed to persons who voluntarily assist a ship at sea or her cargo or both, whether saved in whole or in part from impending sea peril, or in the recovery of such property from actual peril or loss. In determining a salvage award, several factors are considered resulting in awards ranging from a few hundred dollars to thousands of dollars.

The bill defines terms and provides that, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor shall provide the customer with verbal and written notice that the service offered is not covered by any towing contract. The bill specifies that a salvor is not required to provide the verbal and written notice if there is an imminent threat of injury or death to any person on board the vessel. The bill applies, with a few exceptions, to all salvors operating in Florida.

The bill requires that the written notice include specific language, in capital letters of at least 12-point type, which can be summarized as follows:

- Salvage work is not covered by any towing service contract.
- The salvor may present the customer, or their insurance company, with the bill at a later date.
- The bill will be calculated in accordance with federal salvage law, which may exceed a charge based on time and materials, and may amount to the entire value of the vessel and its contents.
- If the customer agrees to allow the salvor to perform the work, the only recourse for challenging the bill is a lawsuit in federal court or, if customer agrees, binding arbitration.
- The customer may agree to the charges before work begins, and that agreed amount will be the maximum that the salvor may charge. The customer has the right to reject the salvor's offer if the salvor does not agree to a charge before beginning work.

The bill provides that a customer injured by a violation who prevails in court is entitled to damages in the amount of 1.5 times that charged by the salvor, plus actual damages, court costs, reasonable attorney fees, injunctive relief, and any other remedy provided by law.

Most Recent Action: Favorable with CS by Careers & Competition Subcommittee; 9 Yeas, 2 Nays

Attached documents: CS/CS/HB 469 + staff analysis

// VESSEL SAFETY INSPECTION DECALS

Senate Bill 1132 // Sen. Travis Hutson // Referred to: Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations

House Bill 915 // Rep. Patrick Henry // Referred to: Natural Resources & Public Lands Subcommittee; Government Accountability Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1132: SB 1132 authorizes the Fish and Wildlife Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal. The bill specifies that the decal may not be valid for more than 5 years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel's properly displayed vessel registration decal; or
- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

Most Recent Action: Favorable by Environmental Preservation and Conservation; 10 Yeas, 0 Nays; On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 01/24/18, 9:00 am

House Bill 915: The owner and operator of every vessel on Florida waters must carry, store, maintain, and use safety equipment in accordance with the United States Coast Guard (USCG) safety equipment requirements, unless exempted by the Florida Fish and Wildlife Conservation Commission (FWC). Additionally, all vessels must be equipped with serviceable lights and shapes required under navigation rules.

In general, all vessels are required to have onboard a wearable USCG-approved personal flotation device for each person, which is the appropriate size for the intended wearer, be in serviceable condition, and within easy access. All vessels are also required to carry an efficient sound-producing device (e.g., bell, horn, whistle). Other safety requirements, for instance, the number of fire extinguishers and visual distress signals, vary depending on the length of the vessel.

An operator of a vessel who has demonstrated compliance with safety equipment and use requirements must be issued a safety inspection decal by a law enforcement officer signifying the vessel has met such requirements at the time and location of the inspection. A law enforcement officer may not stop a vessel that properly displays a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment and use requirements, unless there is reasonable suspicion that a violation of such has occurred or is occurring. Current law does not provide for an expiration date of the safety inspection decal or grant FWC rulemaking authority to design the safety inspection decal.

The bill allows FWC to designate by rule the timeframe for expiration of, and the specific design for, the safety inspection decal. The bill also provides that the safety inspection decal may not be valid for more than five years.

The bill may have a minimal negative fiscal impact on FWC because of an increased workload for the rulemaking requirements of the bill and the creation of decals, but this may be handled within existing resources. The bill does not appear to have a fiscal impact on local governments or the private sector.

Most Recent Action: Favorable by Government Accountability Committee; 20 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

Attached documents: SB 1132 (as filed) + staff analysis; HB 915 (as filed) + staff analysis

// TOWING AND IMMOBILIZATION FEES AND CHARGES

Senate Bill 1632 // Sen. Debbie Mayfield // Referred to: Community Affairs; Transportation; Rules

House Bill 963 // Rep. Bob Cortes // Referred to: Local, Federal & Veterans Affairs Subcommittee; Transportation & Infrastructure Subcommittee; Government Accountability Committee

Senate Bill 1632: Expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; prohibiting counties and municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions, etc.

Last Action: On Committee agenda - Community Affairs, 01/23/18, 3:30 pm

House Bill 963: County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators.

Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S. Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well placing a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill does not prohibit a county or municipality from levying a local business tax on authorized wrecker operators and does not impact the ability of a county or municipality to impose a reasonable administrative fee on the legal owner, legally authorized user, or lienholder of a vehicle or vessel to cover the cost of enforcement actions. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator.

The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

Last Action: Favorable by Local, Federal & Veterans Affairs Subcommittee; 10 Yeas, 0 Nays; On Committee agenda - Transportation & Infrastructure Subcommittee, 01/23/18, 9:00 am

APPENDIX

// CORAL REEFS

SB 232 (as filed) + Analysis
HB 53 (as filed) + Analysis

// VESSEL REGISTRATION

No attachments

// ANCHORING LIMITATION AREAS

No attachments

// SALVAGE OF PLEASURE VESSELS

CS/CS/HB 469 (as filed) + Analysis

// VESSEL SAFETY INSPECTION DECALS

SB 1132 (as filed) + Analysis
HB 915 (as filed) + Analysis

// TOWING AND IMMOBILIZATION FEES AND CHARGES

SB 1632 (as filed)
HB 963 (as filed) + Analysis

// CURRENT BILL TRACKING LIST

// HOUSE APPROPRIATIONS TIMELINE

By Senator Book

32-00387-18

2018232__

1
2
3
4
5
6
7
8
9
10
11
12
13
14

A bill to be entitled
An act relating to coral reefs; establishing the
Southeast Florida Coral Reef Ecosystem Conservation
Area; providing an effective date.

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

Section 1. There is established the Southeast Florida Coral
Reef Ecosystem Conservation Area. The conservation area shall
consist of the sovereignty submerged lands and state waters
offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties
from the St. Lucie Inlet to the northern boundary of the
Biscayne National Park.

Section 2. This act shall take effect July 1, 2018.

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 Appropriations

BILL: SB 232

INTRODUCER: Senators Book and Farmer

SUBJECT: Coral Reefs

DATE: January 17, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEN</u>	Recommend: Favorable
3.	<u>Reagan</u>	<u>Hansen</u>	<u>AP</u>	Favorable

I. Summary:

SB 232 creates the Southeast Florida Coral Reef Ecosystem Conservation Area. The conservation area consists of the sovereignty submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet to the northern boundary of the Biscayne National Park.

The bill has no impact on state revenues or expenditures.

II. Present Situation:

Coral Reefs

Coral reefs are valuable natural resources. They protect coastlines by reducing wave energy from storms and hurricanes. They serve as a source of food and shelter and provide critical habitat for over 6,000 species, including commercially important fisheries. Many medicines, as well as other health and beauty products, are derived from marine plants, algae, and animals found on coral reefs.¹ Coral reefs in southeast Florida support a rich and diverse assemblage of stony corals, octocorals, macroalgae, sponges, and fishes. These ecological communities run along the coast from the northern border of Biscayne National Park in Miami-Dade County north to the St. Lucie Inlet in Martin County.²

People use coral reefs as a resource for recreation, education, scientific research, and public inspiration. Millions of tourists and local residents enjoy scuba diving, snorkeling, and fishing on

¹ The Florida Department of Environmental Protection (DEP), *Coral Reef Conservation Program*, available at <http://www.dep.state.fl.us/coastal/programs/coral/> (last visited October 11, 2017); DEP, *Coral Reef Conservation Program 2011-2016 Strategic Plan*, 3 (July 2011), available at http://www.dep.state.fl.us/coastal/programs/coral/pub/CRCP_Strategic_Plan_2011-2016.pdf (last visited October 4, 2017).

² *Id.*

Florida's coral reefs. These activities provide a source of income for the state and its coastal communities. The natural coral reefs in Martin, Palm Beach, Broward, and Miami-Dade counties generate an estimated \$3.4 billion in sales and income and support 36,000 jobs in the region each year.³

Coral reefs are vulnerable, however, to harmful environmental changes, particularly those resulting from human activities. Coral cover on many Caribbean reefs has declined up to 80 percent over the past three decades. Southeast Florida's reefs, which are a part of the greater Caribbean/Western Atlantic reef province, are being monitored for diseases, bleaching, and other problems associated with human activities. Monitoring data from the Florida Keys revealed a 44 percent decline in coral cover from 1996-2005.⁴

The United States Coral Reef Task Force identified eight specific and widely accepted threats to coral reefs as being particularly important:

- Pollution, including eutrophication and sedimentation from intensive land use, chemical loading, oil and chemical spills, marine debris, and invasive species;
- Overfishing and over-exploitation of coral reef species for recreational and commercial purposes and the resulting collateral damage and degradation to habitats and ecosystems;
- Destructive fishing practices, such as cyanide and dynamite fishing that can destroy large sections of reef;
- Dredging and shoreline modification in connection with coastal navigation or development;
- Vessel groundings and anchoring that directly destroy corals and reef framework;
- Disease outbreaks that are increasing in frequency and are affecting a greater diversity of coral reef species; and
- Global climate change and associated impacts including increased coral bleaching, mortality, storm frequency, and sea level rise.⁵

Corals are highly sensitive to even small temperature changes and can react through bleaching, reduced growth rates, reduced reproduction, increased vulnerability to diseases, and die-offs. Corals can tolerate only a relatively narrow temperature range and prefer water between 73-84 degrees. Water temperatures over 86 degrees or under 64 degrees are stressful and are eventually fatal for coral. In addition, corals have a mutually beneficial, or symbiotic, relationship with a type of algae known as zooxanthellae. Zooxanthellae live inside the coral and provide the coral with energy derived from photosynthesis. In turn, the coral provides the algae with shelter. When the water gets too warm and the coral becomes stressed, they can expel their zooxanthellae, which results in coral bleaching. Although the colorless coral is still alive, it will eventually die from starvation if the zooxanthellae do not return.⁶

The Florida Reef Tract, which extends from Soldier Key, located in Biscayne Bay, to the Tortugas Banks, possesses coral formations very similar to those found in the Bahamas and

³ *Id.*

⁴ DEP, *Threats to Southeast Florida Coral Reefs*, available at <http://www.dep.state.fl.us/coastal/programs/coral/threats.htm> (last visited October 3, 2017).

⁵ U.S. Coral Reef Task Force, *The National Action Plan to Conserve Coral*, 3, available at <http://www.coralreef.gov/about/CRTFAxnPlan9.pdf> (last visited October 12, 2017).

⁶ Florida Fish and Wildlife Conservation Commission (FWC), *Long Term Temperature Monitoring*, <http://myfwc.com/research/habitat/coral/cremp/cremp-temp-monitoring/> (last visited October 10, 2017).

Caribbean Sea. The tract is nearly 150 miles long and about 4 miles wide extending to the edge of the Florida Straits.⁷ Massive, region-wide bleaching events have become more common on the Florida Reef Tract. Since 1987, six extensive coral bleaching events have affected the entire tract. Substantial mass coral mortality occurred during the global bleaching events of 1997/1998 and 2014/2015. Corals at the northern end of their range, such as those found on the Florida Reef Tract, are also vulnerable to cold winter temperatures. A severe cold snap in 2010 resulted in high mortality of certain coral species on shallow-water patch reefs throughout the Florida Reef Tract.⁸

Florida Coral Reef Programs

The Coral Reef Conservation Program (CRCP) within the Florida Coastal Office (FCO) of the Florida Department of Environmental Protection (DEP) oversees several programs and initiatives to coordinate research and monitoring, develop management strategies, and promote partnerships to protect the coral reefs, hard bottom communities, and associated reef resources of southeast Florida.⁹ The CRCP implements and coordinates the following:

- *The Southeast Florida Action Network* – This reporting and response system is designed to improve the protection and management of southeast Florida's coral reefs by enhancing marine debris clean-up efforts, increasing response to vessel groundings and anchor damage, and providing early detection of potentially harmful biological disturbances.¹⁰
- *The Southeast Florida Coral Reef Initiative (SEFCRI)* – This program identifies and implements priority actions needed to reduce key threats to coral reef resources in southeast Florida, through a local action strategy for collaborative action among government and non-governmental partners.¹¹ Groups associated with SEFCRI include:
 - SEFCRI technical advisory committees, which may be convened to address specific issues that need special attention or expertise.¹²
 - Our Florida Reefs Community Working Groups, comprised of local reef users, scientists, and representatives from nongovernmental organizations and local, state, and federal agencies. Two groups meet once a month to learn about Southeast Florida's living marine resources, and develop a prioritized list of recommendations that can become part of a comprehensive management strategy to ensure healthy coral reefs in the future. These groups are hosted by SEFCRI.¹³
- *Southeast Florida's Marine Debris Reporting and Removal Program* – Through a partnership with the DEP, the Florida Fish and Wildlife Conservation Commission (FWC) and the Palm

⁷ The National Oceanic and Atmospheric Administration, *Coral Reef Information System: Florida*, <https://www.coris.noaa.gov/portals/florida.html> (last visited October 9, 2017).

⁸ *Id.*

⁹ DEP, *Coral Reef Conservation Program*, <http://www.dep.state.fl.us/coastal/programs/coral/> (last visited October 11, 2017).

¹⁰ DEP, *Southeast Florida Action Network*, <http://www.dep.state.fl.us/coastal/programs/coral/seafan.htm> (last visited October 10, 2017).

¹¹ Southeast Florida Coral Reef Initiative (SEFCRI), *What is SEFCRI?*, <http://southeastfloridareefs.net/about-us/what-is-sefcri/> (last visited October 9, 2017).

¹² Southeast Florida Coral Reef Initiative, *Team Charter* (Sept. 2012) available at https://www.dep.state.fl.us/coastal/programs/coral/documents/SEFCRI_Charter.pdf (last visited October 12, 2017).

¹³ Our Florida Reefs, *About*, <http://ourfloridareefs.org/about/> (last visited October 11, 2017).

Beach County Reef Rescue, this program encourages local divers and dive shops to report marine debris. The partnership organizes reef clean-up events to remove the debris.¹⁴

- *The Reef Injury Prevention and Response Program* – This program leads the response to, and management of, coral reef and hard bottom injuries resulting from vessel impacts such as grounding, anchoring, and cable drag events.¹⁵ Section 403.93345, F.S., otherwise known as the Florida Coral Reef Protection Act, requires responsible parties to notify the DEP when they run their vessel aground, strike, or otherwise damage coral reefs. The responsible party must remove the vessel and work with the DEP to assess the damage and restore the reef.¹⁶ The DEP may require the responsible party to pay the cost of assessment and restoration, as well as pay a fine.¹⁷
- *The Florida Reef Resilience Program (FRRP)* – The FRRP addresses climate change and coral reefs. Reef managers, scientists, conservation organizations and reef users across South Florida have developed a *Climate Change Action Plan for the Florida Reef System (2010-2015)* (Action Plan). The goals of the Action Plan are to increase coral reef resilience to climate change impacts through active management of local reef impacts; enhance communication and awareness of climate change impacts on coral reefs and reef users; and conduct targeted research to increase understanding of climate change impacts and develop new intervention measures.¹⁸
- *The Southeast Marine Event Response Program* – This program responds to potentially harmful biological disturbances along the northern third of the Florida Reef Tract from the northern border of Biscayne National Park in Miami-Dade County to the St. Lucie Inlet in Martin County. Upon notification of an event such as harmful algal blooms, fish kills, coral bleaching, or diseases, the DEP coordinates with regional partners to schedule initial site assessments, implement event response protocols, and analyze samples, where possible and appropriate.¹⁹
- *The Southeast Florida Fisheries-Independent Monitoring Program* – This program builds partnerships and obtains funding to implement fisheries-independent monitoring.²⁰ Fisheries-independent monitoring is a system-wide approach that evaluates marine communities and the populations of fish and invertebrate species that comprise them. Fisheries-independent monitoring also investigates habitat conditions for purposes of learning more about system-wide trends.²¹

The FWC also plays a role in protecting Florida's coral reefs. Through the Coral Reef Evaluation and Monitoring Project (CREMP), the FWC has monitored the condition of coral reef and hard

¹⁴ DEP, *Southeast Florida's Marine Debris Reporting and Removal Program*,

<http://www.dep.state.fl.us/coastal/programs/coral/debris1.htm> (last visited October 10, 2017).

¹⁵ DEP, *Reef Injury Prevention and Response Program*, <http://www.dep.state.fl.us/coastal/programs/coral/ripr.htm> (last visited October 12, 2017).

¹⁶ Section 403.93345(5), F.S.

¹⁷ Section 403.93345(6), (7), and (8), F.S.

¹⁸ DEP, *Climate Change and Coral Reefs*, http://www.dep.state.fl.us/coastal/programs/coral/climate_change.htm (last visited October 9, 2017).

¹⁹ DEP, *Southeast Marine Event Response Program*, http://www.dep.state.fl.us/coastal/programs/coral/event_response.htm (last visited October 10, 2017).

²⁰ DEP, *Southeast Florida Fisheries-Independent Monitoring Program*, <http://www.dep.state.fl.us/coastal/programs/coral/fisheries-independent.htm> (last visited October 11, 2017).

²¹ Sarasota County Wateratlas, *Fisheries Independent Monitoring*, http://www.sarasota.wateratlas.usf.edu/shared/learnmore.asp?toolsection=lm_fishindep (last visited October 11, 2017).

bottom habitats annually throughout the Florida Keys since 1996, southeast Florida since 2003, and the Dry Tortugas since 2004. The CREMP has documented the temporal changes that have occurred in recent years.²²

The Southeast Florida Coastal Ocean Task Force (COTF) was established in 2012 through enabling resolutions of the boards of county commissioners of Miami-Dade, Broward, Palm Beach, and Martin counties.²³ The Task Force was charged with providing recommendations for coastal ocean resources and conservation priorities and strategies. The membership of the COTF included county commissioners and four city commissioners from Southeast Florida; representatives from the DEP, the FWC, and the National Oceanic and Atmospheric Administration; and stakeholders representing recreational fishers, commercial ports, the dive charter industry, and the marine industry. The final report was issued in 2015 and made numerous recommendations for potential adoption by the affected cities and counties.²⁴

The Board of Trustees of the Internal Improvement Trust Fund

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) holds state lands in trust for the use and benefit of the people of Florida.²⁵ The Board of Trustees consists of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.²⁶ This body may acquire, sell, transfer, and administer state lands in a manner consistent with chs. 253 and 259, F.S.²⁷

The Board of Trustees authorizes several agencies to manage state lands including the Department of Agriculture and Consumer Services, the FWC, the Department of State, and the DEP through the FCO and the Florida Park Service. Other entities may also manage state land, subject to approval of the Board of Trustees. These agencies and other entities hold a property interest in the land in the form of a management agreement, lease, or other property instrument.²⁸

State agencies wishing to manage conservation lands²⁹ must develop land management plans that the DEP and the Board of Trustees must review and approve or disapprove. These land management plans must meet several criteria including identifying key management activities, land management practices, cost estimates, proposed public uses, and short-term and long-term goals.³⁰ Agencies must update land management plans every ten years, and regional management review teams evaluate whether agencies are complying with their land management plans.³¹

²² FWC, *Coral Reef Evaluation and Monitoring Project (CREMP)*, <http://myfwc.com/research/habitat/coral/cremp/> (last visited October 11, 2017).

²³ Southeast Florida Coastal Ocean Task Force, *Final Recommendations Report* (2015), available at http://205.166.161.204/docs/2016/CCCM/20161206_525/23351_Exhibit%201%20-%20COTF%20Report.pdf (last visited October 10, 2017).

²⁴ *Id.*

²⁵ Section 253.001, F.S.

²⁶ Section 253.02(1), F.S.

²⁷ *Id.*

²⁸ Section 253.034(4), F.S.

²⁹ “Conservation lands” are lands that are currently managed for conservation, outdoor resource-based recreation, or archaeological or historic preservation, except those lands that were acquired solely to facilitate the acquisition of other conservation lands; s. 253.034(2)(c), F.S.

³⁰ Section 253.034(5), F.S.; Fla. Admin. Code R. 18-2.021.

³¹ *Id.*; s. 259.036, F.S.

The Board of Trustees governs sovereignty submerged lands³² by the criteria set forth in ch. 18-21 of the Florida Administrative Code. These rules include ecological preservation requirements, limitations on the preemption of sovereign submerged lands, riparian rights, dock and pier requirements, and forms of authorization to use sovereign submerged lands.³³

Aquatic preserves are exceptional areas of submerged lands. Aquatic preserves and their associated waters are set aside to be maintained essentially in their natural or existing condition.³⁴ Aquatic preserves consist only of land or water bottoms owned by the state, lands or water bottoms owned by other governmental agencies as specifically authorized for inclusion, and private lands leased by the Board of Trustees.³⁵

The Board of Trustees may establish aquatic preserves after public notice and a public hearing in the area where the proposed preserve will be located.³⁶ The Legislature must either confirm or deny establishment of the aquatic preserve.³⁷ Except for private lands leased by the Board of Trustees, only the Legislature may withdraw an area from an aquatic preserve designation.³⁸

Under the direction of the Board of Trustees, the FCO manages forty-one aquatic preserves, encompassing approximately 2.2 million acres.³⁹ The Legislature authorized the Board of Trustees to adopt rules to regulate human activities within aquatic preserves so long as such rules do not unreasonably interfere with lawful and traditional public uses of an aquatic preserve, such as sport and commercial fishing, boating, and swimming.⁴⁰

III. Effect of Proposed Changes:

The bill creates the Southeast Florida Coral Reef Ecosystem Conservation Area. The conservation area consists of the sovereignty submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from St. Lucie Inlet to the northern boundary of the Biscayne National Park.

The bill provides an effective date of July 1, 2018.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

³² “Sovereignty submerged lands” are those lands including, but not limited to, tidal lands, islands, sand bars, shallow banks, 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; Fla. Admin. Code R. 18-21.003(61).

³³ Fla. Admin. Code R. 18-21.004 and 18-21.005.

³⁴ Section 258.37(1), F.S.

³⁵ Section 258.40(1), F.S.

³⁶ Sections 258.41(1) and (2), F.S.

³⁷ Section 258.41(1), F.S.

³⁸ Section 258.41(6), F.S.

³⁹ DEP, *Florida’s Aquatic Preserves*, <http://www.dep.state.fl.us/coastal/programs/aquatic.htm> (last visited October 12, 2017).

⁴⁰ Section 258.43(1), F.S. *See also* Fla. Admin. Code Chs. 18-18, 18-20, and 18-23.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of law.

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.

HB 53

2018

1 A bill to be entitled
2 An act relating to coral reefs; establishing the
3 Southeast Florida Coral Reef Ecosystem Conservation
4 Area; providing an effective date.

5
6 Be It Enacted by the Legislature of the State of Florida:

7
8 Section 1. There is established the Southeast Florida
9 Coral Reef Ecosystem Conservation Area. The conservation area
10 shall consist of the sovereignty submerged lands and state
11 waters offshore of Broward, Martin, Miami-Dade, and Palm Beach
12 Counties from the St. Lucie Inlet to the northern boundary of
13 the Biscayne National Park.

14 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 53 Coral Reefs
SPONSOR(S): Jacobs and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 232

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	12 Y, 0 N	Gregory	Shugar
2) Agriculture & Natural Resources Appropriations Subcommittee	11 Y, 0 N	White	Pigott
3) Government Accountability Committee	21 Y, 0 N	Gregory	Williamson

SUMMARY ANALYSIS

Coral reefs in southeast Florida support a rich and diverse assemblage of stony corals, octocorals, macroalgae, sponges, and fishes. These ecological communities run parallel along the coast from the northern border of Biscayne National Park in Miami-Dade County north to the St. Lucie Inlet in Martin County. Coral reefs are valuable natural resources. They protect coastlines by reducing wave energy from storms and hurricanes. They serve as a source of food and shelter and provide critical habitat for over 6,000 species, including important commercial fisheries. Further, people use coral reefs as a resource for recreation, education, scientific research, and public inspiration. Millions of tourists and local residents enjoy scuba diving, snorkeling, and fishing on the coral reefs.

Coral reefs are vulnerable to harmful environmental changes, particularly those resulting from human activities. Globally, 10 percent of all coral reefs are degraded beyond recovery and 30 percent are in critical condition and may die within 10 to 20 years, particularly those near human populations.

The bill establishes the Southeast Florida Coral Reef Ecosystem Conservation Area (conservation area). The conservation area includes the sovereign submerged lands and state waters offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from the St. Lucie Inlet in the north to the northern boundary of the Biscayne National Park in the south.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Coral Reefs

Coral reefs in southeast Florida support a rich and diverse assemblage of stony corals, octocorals, macroalgae, sponges, and fishes. These ecological communities run parallel along the coast from the northern border of Biscayne National Park in Miami-Dade County north to the St. Lucie Inlet in Martin County. Coral reefs are valuable natural resources. They protect coastlines by reducing wave energy from storms and hurricanes. They serve as a source of food and shelter and provide critical habitat for over 6,000 species, including commercially important fisheries. Many medicines, as well as other health and beauty products, are derived from marine plants, algae, and animals found on coral reefs.¹

People use coral reefs as a resource for recreation, education, scientific research, and public inspiration. Millions of tourists and local residents enjoy scuba diving, snorkeling, and fishing on Florida's coral reefs. These activities provide a source of income for the state and its coastal communities.

Unfortunately, coral reefs are vulnerable to harmful environmental changes, particularly those resulting from human activities. Globally, 10 percent of all coral reefs are degraded beyond recovery and 30 percent are in critical condition and may die within 10 to 20 years, particularly those near human populations.²

The United States Coral Reef Task Force identified eight specific and widely accepted threats to coral reefs as being particularly important and tractable:

- Pollution, including eutrophication and sedimentation from intensive land use, chemical loading, oil and chemical spills, marine debris, and invasive nonnative species;
- Overfishing and over-exploitation of coral reef species for recreational and commercial purposes, and the collateral damage and degradation to habitats and ecosystems from fishing activities;
- Destructive fishing practices, such as cyanide and dynamite fishing that can destroy large sections of reef;
- Dredging and shoreline modification in connection with coastal navigation or development;
- Vessel groundings and anchoring that directly destroy corals and reef framework;
- Disease outbreaks that are increasing in frequency and are affecting a greater diversity of coral reef species; and
- Global climate change and associated impacts including increased coral bleaching, mortality, storm frequency, and sea level rise.³

Corals are highly sensitive to even small temperature changes and can react through bleaching, reduced growth rates, reduced reproduction, increased vulnerability to diseases, and die-offs. Corals have a mutually beneficial or symbiotic relationship with a type of algae known as zooxanthellae. Zooxanthellae live inside the coral and provide them with energy derived from photosynthesis. The

¹ Department of Environmental Protection (DEP), *Coral Reef Conservation Program*, <http://www.dep.state.fl.us/coastal/programs/coral/> (last visited March 15, 2017); *Coral Reef Conservation Program 2011-2016 Strategic Plan*, (July 2011), p. 3, available at: http://www.dep.state.fl.us/coastal/programs/coral/pub/CRCP_Strategic_Plan_2011-2016.pdf (last visited September 5, 2017).

² U.S. Coral Reef Task Force, *The National Action Plan to Conserve Coral*, p. 3, available at: <http://www.coralreef.gov/about/CRTFAxnPlan9.pdf> (last visited September 5, 2017).

³ *Id.*

coral provides the algae with shelter. Corals can tolerate only a relatively narrow temperature range and prefer water between 73-84 degrees. Water temperatures over 86 degrees or under 64 degrees are stressful and are eventually fatal for coral. When the water gets too warm and the coral becomes stressed, they can expel their zooxanthellae, causing bleaching. Although the coral is still alive, just colorless, they will eventually die from starvation if the zooxanthellae do not return.⁴

Recently, massive, region-wide bleaching events have become more common on the Florida Reef Tract. Since 1987, six extensive coral bleaching events have affected the entire Florida Reef Tract. Substantial mass coral mortality occurred during the global bleaching events of 1997/1998 and 2014/2015. Corals at the northern end of their range, such as those found on the Florida Reef Tract, are also vulnerable to cold winter temperatures. A severe cold snap in 2010 resulted in high mortality of certain coral species on shallow-water patch reefs throughout the Florida Reef Tract.⁵

Coral Reef Conservation Program

The Coral Reef Conservation Program (CRCP) within the Florida Coastal Office of the Department of Environmental Protection (DEP) oversees several programs and initiatives to coordinate research and monitoring, develop management strategies, and promote partnerships to protect the coral reefs, hard bottom communities, and associated reef resources of southeast Florida.⁶ The CRCP implements and coordinates the following:

- *The Southeast Florida Action Network* – This reporting and response system improves the protection and management of southeast Florida's coral reefs by enhancing marine debris clean-up efforts, increasing response to vessel groundings and anchor damage, and providing early detection of potentially harmful biological disturbances.⁷
- *The Southeast Florida Coral Reef Initiative (SEFCRI)* – This program identifies and implements priority action needed to reduce key threats to coral reef resources in southeast Florida using a local action strategy for collaborative action among government and non-governmental partners.⁸
- *The Southeast Florida's Marine Debris Reporting and Removal Program* – Through a partnership with DEP, the Florida Fish and Wildlife Conservation Commission (FWC) and the Palm Beach County Reef Rescue, this program encourages local divers and dive shops to report marine debris. The partnership organizes reef clean-up events to remove the debris.⁹
- *The Reef Injury Prevention and Response Program* – This program leads response to, and management of, coral reef and hard bottom injuries resulting from vessel impacts such as grounding, anchoring, and cable drag events.¹⁰ Section 403.93345, F.S., otherwise known as the Florida Coral Reef Protection Act, requires responsible parties to notify DEP when they run their vessel aground, strike, or otherwise damage coral reefs. The responsible party must remove the vessel and work with DEP to assess the damage and restore the reef.¹¹ DEP may require the responsible party to pay the cost of assessment and restoration, as well as pay a fine.¹²
- *The Florida Reef Resilience Program (FRRP)* – The FRRP addresses climate change and coral reefs. Reef managers, scientists, conservation organizations, and reef users across South

⁴ Fish and Wildlife Conservation Commission (FWC), *Long Term Temperature Monitoring*, <http://myfwc.com/research/habitat/coral/cremp/cremp-temp-monitoring/> (last visited September 5, 2017).

⁵ *Id.*

⁶ DEP, *Coral Reef Conservation Program*, <http://www.dep.state.fl.us/coastal/programs/coral/> (last visited September 5, 2017).

⁷ DEP, *Southeast Florida Action Network*, <http://www.dep.state.fl.us/coastal/programs/coral/seafan.htm> (last visited September 5, 2017).

⁸ SEFCRI, *What is SEFCRI?*, <http://southeastfloridareefs.net/about-us/what-is-sefcri/> (last visited September 5, 2017).

⁹ DEP, *Southeast Florida's Marine Debris Reporting and Removal Program*, <http://www.dep.state.fl.us/coastal/programs/coral/debris1.htm> (last visited September 5, 2017).

¹⁰ DEP, *Reef Injury Prevention and Response Program*, <http://www.dep.state.fl.us/coastal/programs/coral/ripr.htm> (last visited September 5, 2017).

¹¹ Section 403.93345(5), F.S.

¹² Sections 403.93345(6), (7), and (8), F.S.

Florida have developed a *Climate Change Action Plan for the Florida Reef System (2010-2015)* (Action Plan). The goals of the Action Plan are to increase coral reef resilience to climate change impacts through active management of local reef impacts; enhance communication and awareness of climate change impacts on coral reefs and reef users; and conduct targeted research to increase understanding of climate change impacts and develop new intervention measures.¹³

- *The Southeast Marine Event Response Program* – This program responds to potentially harmful biological disturbances along the northern third of the Florida Reef Tract from the northern border of Biscayne National Park in Miami-Dade County to the St. Lucie Inlet in Martin County. Upon notification of an event such as harmful algal blooms, fish kills, coral bleaching, or diseases, DEP coordinates with regional partners to schedule initial site assessments, implement event response protocols, and analyze samples, where possible and appropriate.¹⁴
- *The Southeast Florida Fisheries-Independent Monitoring Program* – This program builds partnerships and obtains funding to implement fisheries-independent monitoring.¹⁵ Fisheries-independent monitoring is a system-wide approach that evaluates marine communities and the populations of fish and invertebrate species that comprise them. Fisheries-independent monitoring also investigates habitat conditions for purposes of learning more about system-wide trends.¹⁶

FWC also plays a role in protecting Florida's coral reefs. Through the Coral Reef Evaluation and Monitoring Project (CREMP), FWC has monitored the condition of coral reef and hard bottom habitats annually throughout the Florida Keys since 1996, southeast Florida since 2003, and the Dry Tortugas since 2004. The CREMP was able to document the temporal changes that occurred in recent years.¹⁷

Coral Reef Disease Water Quality Monitoring

During the 2017 session, DEP received \$1,000,000 in nonrecurring funds for the Coral Reef Disease Water Quality Monitoring Program.¹⁸ The intended use of the funds included high resolution monthly water quality sampling throughout the northern Florida Reef Tract; the purchase, installation, and maintenance of Land/Ocean Biogeochemical Observatories, offshore salinity and temperature sensors, acoustic fish stations; laboratory analyses; data storage and processing; reporting and scientific expertise; coral tissue sampling; regular report writing; and the creation of a public outreach and education program.¹⁹ The recommendations from the Our Florida Reefs program and the Southeast Florida Intergovernmental Coastal Ocean Task Force are the basis for these activities.²⁰

¹³ DEP, *Climate Change and Coral Reefs*, http://www.dep.state.fl.us/coastal/programs/coral/climate_change.htm (last visited September 5, 2017).

¹⁴ DEP, *Southeast Marine Event Response Program*, http://www.dep.state.fl.us/coastal/programs/coral/event_response.htm (last visited September 5, 2017).

¹⁵ DEP, *Southeast Florida Fisheries-Independent Monitoring Program*, <http://www.dep.state.fl.us/coastal/programs/coral/fisheries-independent.htm> (last visited September 5, 2017).

¹⁶ Sarasota County Wateratlas, *Fisheries Independent Monitoring*, http://www.sarasota.wateratlas.usf.edu/shared/learnmore.asp?toolsection=lm_fishindep (last visited September 5, 2017).

¹⁷ FWC, *Coral Reef Evaluation and Monitoring Project (CREMP)*, <http://myfwc.com/research/habitat/coral/cremp/> (last visited September 5, 2017).

¹⁸ Chapter 2017-70, specific appropriation 1708, Laws of Fla.

¹⁹ Second Revised Meeting Packet Part 4 & 5, p. 128, Agriculture and Natural Resources Appropriations Subcommittee, March 21, 2017, available at:

<http://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=2893&Session=2017&DocumentType=Meeting%20Packets&FileName=anr%203-21-17%202nd%20REVISED.pdf>.

²⁰ *Id.*; Our Florida Reefs, *Recommended Management Actions*, <http://ourfloridareefs.org/rmacomment/> (last visited September 5, 2017); Broward County, *Southeast Florida Intergovernmental Coastal Ocean Task Force Final Recommendation Report*, http://cragenda.broward.org/docs/2016/CCCM/20161206_525/23351_Exhibit%201%20-%20COTF%20Report.pdf p. 31 (last visited September 5, 2017).

EFFECT OF THE PROPOSED CHANGES

The bill establishes the Southeast Florida Coral Reef Ecosystem Conservation Area (conservation area). The conservation area includes the sovereign submerged lands²¹ and state waters²² offshore of Broward, Martin, Miami-Dade, and Palm Beach Counties from St. Lucie Inlet in the north to the northern boundary of the Biscayne National Park in the south.²³

B. SECTION DIRECTORY:

Section 1. Creates the Southeast Florida Coral Reef Ecosystem Conservation Area.

Section 2. Provides an effective date of July 1, 2018.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

By making the designated coral reef ecosystem a conservation area, the bill may enhance the ability for the Southeast Florida Coral Reef Ecosystem Conservation Area to receive grant funding.

²¹ "Sovereignty submerged lands" means those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, 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 that have not been conveyed or alienated. Sovereignty submerged lands includes all submerged lands title to which is held by the Board of Trustees of the Internal Improvement Trust Fund. Rule 18-21.003(61), F.A.C.

²² Section 373.019(22), F.S., defines "water" or "waters in the state" as any and all water on or beneath the surface of the ground or in the atmosphere, including natural or artificial watercourses, lakes, ponds, or diffused surface water and water percolating, standing, or flowing beneath the surface of the ground, as well as all coastal waters within the jurisdiction of the state.

²³ Florida's seaward boundary extends three nautical miles in the Atlantic; Fla. Const. art. II, s. 1.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

1 A bill to be entitled
 2 An act relating to the salvage of pleasure vessels;
 3 creating s. 559.9602, F.S.; providing scope and
 4 applicability; providing definitions; requiring
 5 salvors of pleasure vessels to provide specified
 6 verbal and written notice; providing an exception;
 7 providing remedies; specifying that such remedies are
 8 in addition to others provided by law; providing an
 9 effective date.

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

12
 13 Section 1. Section 559.9602, Florida Statutes, is created
 14 to read:

15 559.9602 Salvage of pleasure vessels.-

16 (1) This section applies to all salvors operating in this
 17 state, except:

18 (a) Any person who performs salvage work while employed by
 19 a municipal, county, state, or federal government when carrying
 20 out the functions of that government.

21 (b) Any person who engages solely in salvage work for:

22 1. Pleasure vessels that are owned, maintained, and
 23 operated exclusively by such person and for that person's own
 24 use; or

25 2. For-hire pleasure vessels that are rented for periods
26 of 30 days or less.

27 (c) Any person who owns or operates a marina or shore-
28 based repair facility and is in the business of repairing
29 pleasure vessels, where the salvage work takes place exclusively
30 at that person's facility.

31 (d) Any person who is in the business of repairing
32 pleasure vessels who performs the repair work at a landside or
33 shoreside location designated by the customer.

34 (e) Any person who is in the business of recovering,
35 storing, or selling pleasure vessels on behalf of insurance
36 companies that insure the vessels.

37 (2) As used in this section, the term:

38 (a) "Customer" means the person to whom a salvor offers
39 salvage work.

40 (b) "Employee" means an individual who is employed full
41 time or part time by a salvor and performs salvage work.

42 (c) "Pleasure vessel" means any watercraft no more than 60
43 feet in length which is used solely for personal pleasure,
44 family use, or the transportation of executives, persons under
45 the employment, and guests of the owner.

46 (d) "Salvage work" means any assistance, services,
47 repairs, or other efforts rendered by a salvor relating to
48 saving, preserving, or rescuing a pleasure vessel or its

49 passengers and crew which are in marine peril. Salvage work does
 50 not include towing a pleasure vessel.

51 (e) "Salvor" means a person in the business of voluntarily
 52 providing assistance, services, repairs, or other efforts
 53 relating to saving, preserving, or rescuing a pleasure vessel or
 54 the vessel's passengers and crew which are in marine peril, in
 55 exchange for compensation.

56 (3) (a) Before a salvor may engage in the salvage operation
 57 of a pleasure vessel, the salvor shall provide the customer with
 58 verbal and written notice that the service offered is not
 59 covered by any towing contract. The written notice must include
 60 the following statement, in capital letters of at least 12-point
 61 type:

63 THE SERVICE OFFERED BY THE SALVOR IS CONSIDERED SALVAGE
 64 WORK AND IS NOT COVERED BY ANY TOWING SERVICE CONTRACT. SALVAGE
 65 WORK ALLOWS THE SALVOR TO PRESENT YOU, OR YOUR INSURANCE
 66 COMPANY, WITH A BILL FOR THE CHARGES AT A LATER DATE. THE SALVOR
 67 SHALL CALCULATE THE CHARGES ACCORDING TO FEDERAL SALVAGE LAW AND
 68 SUCH CHARGES MAY EXCEED A CHARGE BASED ON A TIME AND MATERIALS
 69 CALCULATION. THE CHARGES COULD AMOUNT TO AS MUCH AS THE ENTIRE
 70 VALUE OF YOUR VESSEL AND ITS CONTENTS.

71 IF YOU AGREE TO ALLOW THE SALVOR TO PERFORM THE OFFERED
 72 WORK, YOUR ONLY RECOURSE TO CHALLENGE THE ASSESSED CHARGES IS BY

73 A LAWSUIT IN FEDERAL COURT OR, IF YOU AGREE, BY BINDING
74 ARBITRATION.

75 YOU MAY AGREE TO THE CHARGES WITH THE SALVOR BEFORE WORK
76 BEGINS, AND THAT AGREED AMOUNT SHALL BE THE MAXIMUM AMOUNT THE
77 SALVOR MAY CHARGE. YOU HAVE A RIGHT TO REJECT THE SALVOR'S OFFER
78 OF SERVICES IF THE SALVOR WILL NOT AGREE TO A CHARGE BEFORE
79 BEGINNING WORK.

80
81 (b) The salvor is relieved of providing the verbal and
82 written notice pursuant to this subsection if there is an
83 imminent threat of injury or death to any person on board the
84 vessel.

85 (4) (a) Any customer injured by a violation of this section
86 may bring an action in the appropriate court for relief. A
87 customer who prevails in such an action is entitled to damages
88 equal to 1.5 times the amount charged by the salvor, plus actual
89 damages, court costs, and reasonable attorney fees. The customer
90 may also bring an action for injunctive relief in the circuit
91 court.

92 (b) The remedies provided for in this subsection shall be
93 in addition to any other remedy provided by law.

94 Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 469 Salvage of Pleasure Vessels

SPONSOR(S): Natural Resources & Public Lands Subcommittee, Careers and Competition Subcommittee and Harrison

TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 664

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	13 Y, 0 N, As CS	Moore	Shugar
2) Careers & Competition Subcommittee	9 Y, 2 N, As CS	Willson	Anstead
3) Government Accountability Committee			

SUMMARY ANALYSIS

Currently, state law does not require salvors of pleasure vessels to notify customers regarding the potential costs prior to salvage. Salvage is the amount allowed to persons who voluntarily assist a ship at sea or her cargo or both, whether saved in whole or in part from impending sea peril, or in the recovery of such property from actual peril or loss. In determining a salvage award, several factors are considered resulting in awards ranging from a few hundred dollars to thousands of dollars.

The bill defines terms and provides that, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor shall provide the customer with verbal and written notice that the service offered is not covered by any towing contract. The bill specifies that a salvor is not required to provide the verbal and written notice if there is an imminent threat of injury or death to any person on board the vessel. The bill applies, with a few exceptions, to all salvors operating in Florida.

The bill requires that the written notice include specific language, in capital letters of at least 12-point type, which can be summarized as follows:

- Salvage work is not covered by any towing service contract.
- The salvor may present the customer, or their insurance company, with the bill at a later date.
- The bill will be calculated in accordance with federal salvage law, which may exceed a charge based on time and materials, and may amount to the entire value of the vessel and its contents.
- If the customer agrees to allow the salvor to perform the work, the only recourse for challenging the bill is a lawsuit in federal court or, if customer agrees, binding arbitration.
- The customer may agree to the charges before work begins, and that agreed amount will be the maximum that the salvor may charge. The customer has the right to reject the salvor's offer if the salvor does not agree to a charge before beginning work.

The bill provides that a customer injured by a violation who prevails in court is entitled to damages in the amount of 1.5 times that charged by the salvor, plus actual damages, court costs, reasonable attorney fees, injunctive relief, and any other remedy provided by law.

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

The bill provides for an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Generally, only a vessel of the United States or a numbered motorboat owned by a citizen may engage in any salvage operation in territorial waters of the United States.¹

“Salvage is the compensation allowed to persons by whose voluntary assistance to a ship at sea or her cargo or both have been saved in whole or in part from impending sea peril, or in recovering such property from actual peril or loss, as in cases of shipwreck, derelict, or recapture.”²

Federal law provides for the following factors that have traditionally been considered in determining a salvage award:

- the labor expended by the salvors in rendering the salvage service;
- the promptitude, skill, and energy displayed in rendering the service and saving the property;
- the value of the property employed by the salvors in rendering the service, and the danger to which such property was exposed;
- the risk incurred by the salvors in securing the property from the impending peril;
- the value of the property saved; and
- the degree of danger from which the property was rescued.³

The 1989 International Convention on Salvage, to which the United States is a party,⁴ added additional factors to consider when making a salvage award determination, which include consideration for prevention or minimization of environmental damage.⁵

In weighing these factors, a salvage award can vary greatly from a few hundred dollars⁶ to thousands of dollars.⁷ Currently, neither federal nor state law require salvors to notify customers of the potential costs involved in the salvage of their vessel.

United States Coast Guard and the Commercial Towing Industry

Historically, the United States Coast Guard performed the majority of all the on-the-water assistance required by boaters in the United States.⁸ In 1982, Congress directed the Coast Guard “to review Coast Guard policies and procedures for towing and salvage of disabled vessels in order to further minimize

¹ 19 C.F.R. § 4.97(a) (1969).

² *The Sabine*, 101 U.S. 384 (1879).

³ *The Blackwall*, 77 US. 1 (1869).

⁴ United Nations. *International Convention on Salvage*, <https://treaties.un.org/doc/Publication/UNTS/Volume%201953/v1953.pdf>, (last visited Nov. 17, 2017).

⁵ *International Convention on Salvage, 1989*, <http://treaties.fco.gov.uk/docs/pdf/1996/TS0093.pdf> (last visited Nov. 17, 2017);

International Maritime Organization. *International Convention on Salvage*.

<http://www.imo.org/en/About/Conventions/ListOfConventions/Pages/International-Convention-on-Salvage.aspx>, (last visited Nov. 17, 2017).

⁶ *Hernandez v. Roberts*, 675 F.Supp. 1329, (S.D.Fla.1988).

⁷ *Lewis v. JPI Corp.*, No. 07-20103-CIV, 2009 WL 3761984 (S.D. Fla. Nov. 9, 2009); *Esoteric, LLC v. One (1) 2000 Eighty-Five Foot Azimut Motor Yacht Named M/V “Star One”*, No. 10-15652 (11th Cir. June 12, 2012).

⁸ C-PORT & Capt. Steve Winkler, *Liability and Assistance Towing: Issues of interest to Harbormasters, Marine Police, Fire, and other Local and State Marine Response Units*, (2010), at 1, available at

<http://cport.wsiefusion.net/Images/AnnouncementImages/Liability%20and%20Assistance%20Document%202010.pdf>

the possibility of Coast Guard competition or interference with ... commercial enterprise.”⁹ According to the Coast Guard, “the review was directed because of congressional concern that Coast Guard resources were being used unnecessarily to provide non-emergency assistance to disabled vessels that could be adequately performed by the private sector.”¹⁰ The Coast Guard responded with its Maritime Search and Rescue Assistance Policy (MSAP), which gave rise to the commercial assistance towing industry we are familiar with today.¹¹

The Coast Guard is prohibited from charging a fee for search and rescue services¹², and generally does not provide assistance to recreational boaters when a commercial towing service is able to respond. Coast Guard regulations provide that “rescue operations may also be performed for the purpose of preventing or mitigating property loss or damage. However, missions shall not normally be performed for the purpose of salvage or recovery of property when those actions are not essential to the saving of life.”¹³

Towing¹⁴

A common affirmative defense to a salvage claim is that the services rendered constituted “simple towage” services rather than salvage services.¹⁵ Simple towage, as opposed to salvage, is a towage service that is based on the “employment of one vessel to expedite the voyage of another, when nothing more is required than the [acceleration of the second vessel's] progress.”¹⁶ Simple towage is regarded as having taken place when a tow was called for or taken by a sound vessel merely as a means of saving time or for convenience.¹⁷

The hallmark of simple towage is the absence of peril. For example, in *American Home Assurance Co. v. L & L Marine Service, Inc.*, 875 F.2d 1351 (8th Cir. 1989), the court held that a grounded vessel with fuel leaking into the surf was in peril when rescued by the Coast Guard, but it was no longer in peril after being pulled into open water; therefore, the tow back to port was evaluated as towage services, not salvage services.

The typical simple towage case arises when a power vessel has run out of fuel or is disabled and becomes adrift at sea, but the only assistance required is a tow to a safe mooring.¹⁸ In simple towage cases, the level of towage services is extremely low if rendered in harbor or close to shore, in calm weather, or when numerous other vessels or towboats are available to render the same service.¹⁹ It is the almost-universal practice of salvors to provide towage services on a fixed-price basis or hourly rate. The distinction between towage and salvage is important because when good weather and calm seas are replaced with high seas and an approaching hurricane, or when the locale is moved many miles

⁹ U.S. Department of Homeland Security, United States Coast Guard, ADDENDUM TO THE UNITED STATES NATIONAL SEARCH AND RESCUE SUPPLEMENT (NSS) to The International Aeronautical and Maritime Search and Rescue Manual (IAMSAR), Section 4.1, Maritime SAR Assistance Policy (MSAP) at 4-5. (January 2013).

¹⁰ USCG, ADDENDUM TO THE UNITED STATES NATIONAL SEARCH AND RESCUE SUPPLEMENT (NSS) at 4-5.

¹¹ David Weil, *How do the U.S. Coast Guard, SeaTow and Vessel Assist respond to distress calls?* Boating World Magazine (January 7, 2015), <http://www.boatingworld.com/asktheattorney/ask-the-attorney-2015-01-02/>

¹² 46 U.S.C. 2110(a)(5).

¹³ USCG, ADDENDUM TO THE UNITED STATES NATIONAL SEARCH AND RESCUE SUPPLEMENT (NSS), at PPO-2.

¹⁴ MARITIME LAW AND PRACTICE at 10-11.

¹⁵ The admiralty courts of the United States have addressed the difference between “simple towage” and salvage services on numerous occasions and have expressly held that, in most situations, services rendered by a salvor constitute salvage services. *See, e.g., Mississippi Valley Barge Line Co. v. Indian Towing Co.*, 232 F.2d 750 (5th Cir. 1956).

¹⁶ *The Princess Alice*, 3 W.Rob. 138, 140 (1849).

¹⁷ *Scott v. The Clara E. Bargain*, 21 F.Cas. 1201 (D. S.C. 1882). *See* 3A BENEDICT ON ADMIRALTY § 185 (Matthew Bender & Co. 7th rev. ed. 1993).

¹⁸ *See, e.g., Baker v. Hemenway*, 2 F.Cas. 463 (D. Mass. 1876).

¹⁹ *See, e.g., J.M. Guffey Petroleum Co. v. Borison*, 211 F. 594 (5th Cir. 1914); *Sears v. S.S. American Producer*, 1972 A.M.C. 1647 (N.D. Cal. 1972).

offshore where no other assistance is available, the entire context of the services and their value change radically.²⁰

Membership organizations such as Sea Tow²¹ and or Boat Owners Association of The United States (BoatU.S.)²² offer annual memberships for specific marine services at fixed rates. For example, the Sea Tow membership offers certain, limited service privileges, such as towing, alternatives to towing, ungroundings and dock-to-dock tows.²³ The membership agreement explicitly states that “Salvage operations, including, but not limited to, vessels abandoned, wrecked, beached, on fire, damaged by fire, taking on water, sinking, sunk, previously sunk, in the surf or surf line, or in any other state of peril, are not privileges of membership.”²⁴

Jurisdiction

Salvage is a concept exclusively within federal maritime law and is not a part of state common law.²⁵ Federal district courts have original jurisdiction for any civil case of admiralty or maritime jurisdiction, exclusive of the courts of the States saving to suitors in all cases all other remedies to which they are otherwise entitled.²⁶ Salvage awards are unique to maritime and admiralty law, and unlike other areas of law where the amount of the award is calculated as fair compensation for work performed, salvage generously rewards the voluntary salvor for public policy purposes.²⁷

A salvor may bring its action in state court, under certain circumstances.²⁸ If the parties have entered into a contract, which itself provides the means for measurement of the salvage award, the salvage action may proceed in contract, which is clearly a remedy provided within state court jurisdiction.²⁹

When the object of salvage is located in non-navigable waters (e.g., a lake that is not navigable to another state or the sea), there is no admiralty jurisdiction and no cause of action for marine salvage.³⁰

²⁰ See, e.g., *The Mercer*, 297 F. 981 (2d Cir. 1924). *Evanow v. M/V Neptune*, 163 F.3d 1108 (9th Cir. 1998) (when vessel adrift during storm conditions was assessed by Coast Guard as pollution risk, that was peril that justified salvage situation); *The Catalina*, 105 F. 633 (5th Cir. 1900) (when steamship in Gulf of Mexico, 60 miles from mouth of Mississippi, was disabled by breaking of her shaft beyond any temporary repairs that could be made, and in need of assistance to reach her port, although not in immediate peril, she was so in distress that aid voluntarily given her by towing her to mouth of river constituted salvage services); *The Rebecca Shepherd*, 148 F. 727 (D. Me. 1906).

²¹ See <https://www.seatow.com/membership/membership-agreement>

²² See <https://www.boatus.com/membership/>

²³ <https://www.seatow.com/membership/membership-agreement>

²⁴ *Id.*

²⁵ John Howard Thomas and Andrew W. Anderson, *The Florida Bar, MARITIME LAW AND PRACTICE, CH. 8: SALVAGE 3* (5th ed. 2017).

²⁶ Modern admiralty jurisdiction is codified in 28 U.S.C. § 1333

²⁷ *Lewis* at 3. See also 67B Am. Jur. 2d Salvage § 1 “Because of the commercial and humanitarian importance of aiding persons and ships in distress, as well as preserving property and maintaining navigable waterways, public policy favors rewarding seamen for salvage services on a basis far out of proportion to quantum meruit both to liberally reward them and to withdraw from them every temptation toward embezzlement and dishonesty. Courts of admiralty, therefore, do not view salvage awards merely as pay or remuneration for labor but as a reward given for perilous services, voluntarily rendered, and as an inducement to seamen and others to embark on such undertakings to save life and property.”

²⁸ *Sebastian Tow Boat & Salvage, Inc. v. Vernon Stavens & Allstate Floridian Insurance Co.*, 16 FLW Fed. D187 (M.D. Fla. 2002)

²⁹ John Howard Thomas and Andrew W. Anderson, *The Florida Bar, MARITIME LAW AND PRACTICE, CH. 8: SALVAGE 4* (5th ed. 2017). “When a federal court sits as an admiralty court, it applies the general federal maritime law and federal statutes. *Southern Pacific Co. v. Jensen*, 244 U.S. 205, 37 S.Ct. 524, 61 L.Ed. 1086 (1917), *superseded on other grounds* 459 U.S. 297. Federal district courts are granted exclusive jurisdiction for maritime cases, including salvage, under 28 U.S.C. § 1333, but the “saving to suitors clause” allows state court jurisdiction in all cases of remedies to which suitors are otherwise entitled. 28 U.S.C. § 1333(1). Thus, 28 U.S.C. § 1333(1) creates an exception to exclusive jurisdiction of the federal courts, providing for concurrent jurisdiction in state courts as well as federal question jurisdiction for admiralty-type claims pursuant to 28 U.S.C. § 1331, and allows for supplemental jurisdiction for other common-law claims in diversity within an admiralty claim. See *O'Neill v. Schoenbrod*, 355 So.2d 440 (Fla. 3d DCA 1978)(The court held that salvage, as a matter peculiarly within the jurisdiction of the admiralty courts because of the peculiar system awarding the compensation, was within the exclusive jurisdiction of the federal district court sitting in admiralty. The same plaintiff was subsequently prevented from bringing the same claim as a state court action for unjust enrichment, as a “disguised salvage claim.”)

Cause of Action for Salvage³¹

Under the law of salvage, three kinds of salvage services have been recognized.³²

- (1) voluntary, wherein the compensation is not contracted for and is dependent on success (i.e., pure salvage);
- (2) rendered under a contract for a per diem or per horam wage, payable at all events³³; or
- (3) under a contract for a compensation payable only in case of success.

Pure salvage actions are based on the scheme of salvage awards developed under federal maritime law. Salvage services are considered “pure salvage” even when a contract exists, “if the contract does not contain either an agreement to pay a given sum or to pay without regard to success, but provides only that the salvor will be entitled to an award in the event of success on a “no cure-no pay” basis, the services do not become contract salvage but retain their status as pure salvage services.”³⁴

To have a valid maritime salvage claim for pure salvage under either (1) or (3) above and be entitled to a liberal salvage award, a salvor first must establish that the services rendered were in fact maritime salvage services. For a valid claim of having rendered pure salvage services, a salvor must establish the following three elements by a preponderance of the evidence:

- a maritime peril³⁵ from which the ship or other property could not have been rescued without the salvor's assistance;
- a voluntary act by the salvor without a pre-existing contractual, official, or legal duty to render assistance; and
- success in saving or helping to save at least part of the property at risk.³⁶

A salvor must obtain permission before beginning salvage operations, or the salvor becomes a trespasser or officious intermeddler.³⁷ There is no question that salvage services cannot be thrust on an unwilling vessel master or owner who refuses them.³⁸

When a vessel is exposed to a marine peril and no one is aboard to refuse or accept the salvage services (whether it is derelict, abandoned, or has simply been left temporarily), it is not necessary for the salvor to attempt to locate the owner or to obtain permission before undertaking salvage operations.

³⁰ *Id.*, citing *Historic Aircraft Recovery Corp. v. Wrecked & Abandoned Voight F4U-1 Corsair Aircraft*, 294 F.Supp.2d 132 (D. Me. 2003)

³¹ John Howard Thomas and Andrew W. Anderson, *The Florida Bar, MARITIME LAW AND PRACTICE, CH. 8: SALVAGE* (5th ed. 2017).

³² *MARITIME LAW AND PRACTICE* at 4, citing *The Elfrida*, 172 U.S. 186, 19 S.Ct. 146, 43 L.Ed. 413 (1898).

³³ *MARITIME LAW AND PRACTICE* at 11, “The practitioner should note that fixed-price salvage contracts are uncommon for rescues except in cases of raising vessels sunk at their berths in shallow water or in the salvage of vessels of relatively low value. Therefore, although some use is made of contract salvage for vessels, primarily in the context of wreck removal, most salvage contracts presented to vessel operators and owners are “pure salvage, no cure-no pay.””

³⁴ *The Camanche*, 75 U.S. (8 Wall.) 448, 19 L.Ed. 397 (1869).

³⁵ *MARITIME LAW AND PRACTICE* at 4-5. “To justify a salvage award, it is sufficient that, when the salvage service is rendered, the vessel has encountered danger, misfortune, peril, or other circumstances that might expose it to damage or destruction if the services were not rendered. A situation of reasonable apprehension, though not of actual danger, is sufficient . . . it is not the degree of peril that makes for salvage service. If distress or peril is present, after voluntary service and success, a valid salvage service has been performed entitling the salvor to a salvage award. The degree of peril — whether slight, moderate, or severe — affects only the amount, not entitlement to, a salvage award. *New Bedford Marine Rescue, Inc. v. Cape Jeweler's Inc.*, 240 F.Supp.2d 101 (D. Mass. 2003). Therefore, the presence of peril in any degree — whether imminent or potential, and whether the damages to the vessel are slight or nonexistent — will support a claim for salvage services. However, the degree, imminence, and extent of the peril figure largely in the amount of the salvage award.”

³⁶ *Id.*

³⁷ *Merritt & Chapman Derrick & Wrecking Co. v. United States*, 274 U.S. 611, 47 S.Ct. 663, 71 L.Ed. 1232 (1927), citing *The Annapolis*, 167 Eng.Rep. 150, 161 (P.C. 1861).

³⁸ *The Indian*, 159 F. 20 (5th Cir. 1908); *The Choteau*, 9 F. 211 (C.C. D. La. 1881); *The Bolivar*, 3 F.Cas. 1611 (C.C. D. Tex. 1872).

Under such circumstances, the salvor is not a trespasser and may proceed to assist the vessel, and make a claim for a salvage award.³⁹

Salvage Contracts

Standard “no cure-no pay” salvage contracts are in general use by salvors, as prepared by such entities as Lloyd's Salvage Arbitration Branch (“Lloyd's Open Form”), the Society of Maritime Arbitrators (“U.S. Open Form”) and BOAT/U.S.⁴⁰ Courts have found that a vessel owner is bound by signing a written salvage contract, even if later the owner claimed to have not read and understood it.⁴¹

“Many of the same factors that will void a contract under common law, such as fraud, collusion, mutual mistake, misrepresentation or suppression of material facts, or compulsion, also will void a salvage contract. An admiralty court will scrutinize a salvage contract closely for any sign of overreaching, improper coercion, or overcharging by the salvor. The court will set aside the contract if it finds that the salvor took advantage of the situation to impose unconscionable or inequitable contract terms on the vessel. Extortionate demands forced by a salvor on the master of a vessel *in extremis* not only will void the contract but often result in a salvage award that is less than it otherwise would be. If, however, the terms of the contract are reasonable and not oppressive, the contract will be upheld without regard to pressures created by the emergency faced by the vessel.”⁴²

Professional Salvors⁴³

Public policy provides that, to encourage professional salvors to relieve the taxpayers from the necessity of buying, equipping, and maintaining salvage vessels, as well as training and maintaining their crews, professional salvors are entitled not only to compensation for services rendered, but to a so-called equitable “uplift” or incentive bonus to induce both small and large salvors to remain in business, prepared to respond to the next call for assistance.⁴⁴

A professional salvor is entitled to claim a special bonus award for a successful salvage.⁴⁵ The concept that professional salvors are entitled to premium pay for successful completion of their services is longstanding and widespread.⁴⁶ There is strong public policy that a professional salvor is entitled to a more liberal award than an amateur or chance salvor, to encourage professional salvors to maintain salvage equipment and expertise.⁴⁷

Exactly what constitutes a professional salvor has not been defined precisely. However, the court in *The Lamington* provided guidance as to this issue, in which it set out some factors as to what

³⁹ *Rickard v. Pringle*, 293 F.Supp. 981 (E.D. N.Y. 1968); *The Ann L. Lockwood*, 37 F. 233 (D. Del. 1888). See 3A BENEDICT ON ADMIRALTY § 136 (Matthew Bender & Co. 7th rev. ed. 1993).

⁴⁰ MARITIME LAW AND PRACTICE at 12. “The defense of a salvage contract may extend to a vessel owner whose vessel master has the authority to sign such agreement without special authority from the owner. *Andrews v. Wall*, 44 U.S. (3 How.) 568, 11 L.Ed. 729 (1845); *The G.W. Jones*, 48 F. 925 (S.D. N.Y. 1892). However, the vessel owner cannot assert this defense when the signing of a salvage agreement by the master after the vessel has been assisted requires authorization by the vessel owner.”

⁴¹ MARITIME LAW AND PRACTICE at 12. See, e.g., *Royal Insurance Company of America v. BHRIS, LLC*, 333 F.Supp.2d 1293 (S.D. Fla. 2004) (court held that salvage contract was enforceable when boat owner asked salvor whether any money was owed for salvage and salvor replied that owner should not worry because insurance will pay).

⁴² MARITIME LAW AND PRACTICE at 12. *The Elfrida*, 172 U.S. 186, 19 S.Ct. 146, 43 L.Ed. 413 (1898); *Magnolia Petroleum Co. v. National Oil Transport Co.*, 286 F. 40 (5th Cir. 1923); *The Emulous*, 8 F.Cas. 705 (C.C. D. Mass. 1832).

⁴³ MARITIME LAW AND PRACTICE at 14-15.

⁴⁴ See *In re Shopping Spree*, 1992 WL 12561364 (Arbitr. Mass. 1992); *H.R.M., Inc. v. S/V Venture VII*, 972 F.Supp. 92 (D. R.I. 1997); *H.R.M., Inc. v. S/V Martina Mia II*, 1992 A.M.C. 1347 (D. R.I. 1991).

⁴⁵ *B.V. Bureau Wijsmuller v. United States*, 487 F.Supp. 156 (S.D. N.Y. 1979), aff'd 633 F.2d 202

⁴⁶ See *The Ocklawaha*, 1964 A.M.C. 2695 (S.D. N.Y. 1963), modified 348 F.2d 627; *Devine v. United Transportation*, 1956 WL 89486 (W.D. Wash. 1956).

⁴⁷ 8 BENEDICT ON ADMIRALTY § 802 (Matthew Bender & Co. 7th rev. ed. 1993). See also *The Lamington*, 86 F. 675 (2d Cir. 1898); *Rainbow Line Inc. v. M/V Tequila*, 341 F.Supp. 459 (S.D. N.Y. 1972), aff'd 480 F.2d 1024.

constitutes a professional salvor, including machinery, skills, and appliances being ready for instant service, even if called for only occasionally.⁴⁸

Salvage Awards⁴⁹

In determining the size of the salvage award to which the salvor is entitled, the amount of the award is not based on work and labor performed on an hourly or fixed-rate basis, but is given as a reward to ensure safety of property and life at sea. As previously stated, there is a strong public policy in favor of encouraging salvors to save and restore property to its owners and to encourage others to venture out and save distressed property. As a result, salvage awards are liberally construed in the form of a “reward,” not quantum meruit.⁵⁰ Specifically, public policy dictates that a salvor's award should be such as to encourage others to aid vessels in distress.⁵¹

Computation of a salvage award traditionally has followed the longstanding guidance provided by the United States Supreme Court more than a century ago. In *The Blackwall*, 77 U.S. (10 Wall.) 1, 19 L.Ed. 870 (1870), Justice Clifford set out the six factors to be considered in determining the amount of a salvage award. The Second Circuit has arranged these factors in descending order of importance as follows:

- (1) the degree of danger from which the ship was rescued;
- (2) the post-casualty value of the property saved;
- (3) the risk incurred in saving the property from impending peril;
- (d) the promptitude, skill, and energy displayed in rendering the service and salvaging the property;
- (4) the value of the property employed by the salvors and the danger to which it was exposed; and
- (5) the costs in terms of labor and materials expended by the salvors in rendering the salvage service.⁵²

In considering its award, the court must consider not only the peril immediately faced by the vessel, but the dangers presented by the situation that reasonably might have developed but for the actions of the salvors. Although the flexible approach adopted by the United States in *The Blackwall* is still cited authority for salvage award determinations, technically the case has been superseded by the International Convention on Salvage, 1989 (“SALCON 89”), to which the United States is a party. Pursuant to the SALCON 89, there are additional factors that a court must consider when making its salvage award determination, which include consideration of life salvage and consideration for prevention of environmental damage.

Specifically, as to the second factor — the post-casualty value of the property — “[t]he salvaged value is the post-casualty value of the property, in [its] damaged state, at the time of the salvage or after the vessel is brought into safe harbor.”⁵³ Typically, the fair market value of the property determines the property value under this factor. However, when there has been no established market value, use of a pre-casualty book value for the vessel and deducting the actual cost of repairs is an acceptable measure of the vessel's value after salvage or salvaged value.⁵⁴ In any event, the actual selling price of

⁴⁸ *Bindon v. Jones*, 1986 A.M.C. 1403 (W.D. Wash. 1984); *B.V. Bureau Wijsmuller*.

⁴⁹ MARITIME LAW AND PRACTICE at 17-18.

⁵⁰ *B.V. Bureau Wijsmuller v. United States*, 702 F.2d 333, 339 (2d Cir. 1983); *Lancaster v. Smith*, 330 F.Supp. 65 (S.D. Ala. 1971). See also 3A BENEDICT ON ADMIRALTY § 259 (Matthew Bender & Co. 7th rev. ed. 1993).

⁵¹ *Tonder v. M/V “Burkholder”*, 630 F.Supp. 691 (D.C. v.I. 1986). See also, *American Petroleum Co. v. The Veendam*, 46 F. 489 (S.D. N.Y. 1891).

⁵² *B.V. Bureau Wijsmuller*, 702 F.2d at 339. See *Brown v. Johansen*, 881 F.2d 107 (4th Cir. 1989); *Platoro Limited, Inc. v. Unidentified Remains of a Vessel*, 695 F.2d 893, 904 (5th Cir. 1983); *Ocean Services Towing & Salvage, Inc. v. Brown*, 810 F.Supp. 1258 (S.D. Fla. 1993).

⁵³ *Lewis v. JPI Corp.*, 2009 WL 3761984, *7 (S.D. Fla. 2009), citing *Beach Salvage Corp. of Florida v. The Cap't. Tom*, 201 F.Supp. 479 (S.D. Fla. 1961). See also 3A BENEDICT ON ADMIRALTY, *supra*.

⁵⁴ *The Oxford*, 66 F. 590 (5th Cir. 1895); *San Francisco Bar Pilots v. Vessel Peacock*, 733 F.2d 680 (9th Cir. 1984); *Girard v. The M/Y “Quality Time”*, 4 F.Supp.3d 1352 (S.D. Fla. 2014), *aff'd in part* 596 F.App'x 846.

the salvaged vessel, if conducted in a commercially reasonable manner, “is the best manifestation of the fair market value of the [vessel].”⁵⁵

The court will consider that a salvage award, as a percentage of the salvaged vessel's value, should be adjusted so that the salvor is fairly compensated without undue hardship to the salvaged vessel owner. The courts recognize that a generous award to the salvor should be allowed when the salvaged property value justifies a high award, to compensate salvors for services that are frequently performed when the property is so small that adequate remuneration cannot be given without a hardship to the owner.⁵⁶ If it becomes apparent to the court that the proceeds of any sale would clearly be inadequate to pay the salvor its full reward, the court might, as a matter of discretion, award the salvor title to the property in lieu of the proceeds of sale, thereby saving the costs of sale. The salvor does not have a direct right, however, to title in the property.⁵⁷ When salvage expenses exceed the book value of the vessel and the owner fails to respond in the salvage action, a court may award 100% of the vessel sale proceeds as a salvage award to the salvor.⁵⁸

The time involved in a salvage operation is a factor, but is not in itself determinative. For example, in *Mahoney Marine Services, Inc. v. 28' Boston Whaler “EllieRose”*, 2002 WL 34104081 (Arbit. Pa. 2002), a 7-minute successful salvage operation to remove a vessel from a rocky beach with minimal damage justified a generous salvage award. The shortness of time required to perform rescue services does not prevent the service from being a salvage service, thereby affording a more liberal award.⁵⁹

The record of salvage awards does not reveal a consistent formula for determining the value of salvage.⁶⁰ The awards ordinarily range from a negligible amount⁶¹, to half the value of the salvaged vessel.⁶² In addition, as in other maritime cases, the award of attorneys' fees is discretionary and may be awarded by the court or arbitrator for acts of bad faith, either in the salvage action itself or in litigation or arbitration of the dispute.⁶³

Arbitration⁶⁴

Maritime arbitration is by contract.⁶⁵ Many salvage contracts include a provision under which disputes as to a salvor's compensation will be submitted to binding arbitration.⁶⁶ The most widespread of these worldwide is Lloyd's Open Form (LOF) standard salvage agreement.⁶⁷

⁵⁵ *Ocean Services Towing & Salvage, Inc.*, 810 F.Supp. at 1263. See *JPI Corp.*

⁵⁶ *The Neto*, 15 F. 819 (S.D. Fla. 1883).

⁵⁷ *R.M.S. Titanic, Inc. v. Wrecked & Abandoned Vessel*, 286 F.3d 194 (4th Cir. 2002).

⁵⁸ See, e.g., *Falgout Bros., Inc. v. S/V Pangaea*, 966 F.Supp. 1143 (S.D. Ala. 1997).

⁵⁹ See, e.g., *The Connemara*, 108 U.S. 352, 2 S.Ct. 754, 27 L.Ed. 751 (1883).

⁶⁰ A salvage award of \$4.125 million was upheld for services in rescue of a barge carrying an external fuel tank for the NASA space shuttle. *Margate Shipping Co. v. M/V Ja Orgeron*, 143 F.3d 976 (5th Cir. 1998). Additional reported awards include, but are not limited to, the following: *New Bedford Marine Rescue, Inc. v. Cape Jeweler's Inc.*, 240 F.Supp.2d 101 (D. Mass. 2003) (18% of post-casualty value for 30-foot boat); *Salty Dawg Marina, Inc. v. M/Y Eastern Star*, 2004 WL 1159544 (Arbitr. N.Y. 2004) (\$12,750 awarded for rescue of \$1 million yacht); *In re Coastal Marine Services, Inc.*, 2003 WL 21371848 (Arbitr. N.Y. 2003) (15% of post-casualty value, plus 5% uplift); *BHRS, Inc. v. M/V Big Daddy*, Case No. 3773, Soc'y of Mar. Arbitrators, Inc. (Feb. 20, 2003) (Peters, Arb.) (23% awarded); *Coastal Towing & Salvage, Inc. v. M/Y Playtime*, Case No. 3700, Soc'y of Mar. Arbitrators, Inc. (Aug. 29, 2001) (Siciliano, Arb.) (14% awarded, plus 5% uplift). For a recent, positive survey of salvage awards, see *M/Y “Quality Time”*.

⁶¹ *Hernandez v. Roberts*, 675 F.Supp. 1329 (S.D. Fla. 1988) (\$500); *Reliable Salvage & Towing, Inc. v. 35' Sea Ray*, 2011 WL 1058863 (M.D. Fla. 2011) (10%)

⁶² *Ocean Services Towing & Salvage, Inc.* (50%); *Waterman S.S. Corp. v. Shipowners & Merchants Towboat Co.*, 199 F.2d 600 (9th Cir. 1952) (55%).

⁶³ See, e.g., *Reinholtz v. Retriever Marine Towing & Salvage*, 1994 WL 930679 (S.D. Fla. 1994).

⁶⁴ MARITIME LAW AND PRACTICE at 25-26.

⁶⁵ *Continental Group, Inc. v. NPS Communications, Inc.*, 873 F.2d 613 (2d Cir. 1989).

⁶⁶ *Southland Corp. v. Keating*, 465 U.S. 1, 104 S.Ct. 852, 79 L.Ed.2d 1 (1984).

⁶⁷ See, e.g., *Jones v. Sea Tow Services Freeport NY Inc.*, 30 F.3d 360 (2d Cir. 1994).

When there is an arbitration clause in a signed contract, the parties have at least presumptively agreed to arbitrate any disputes, including those disputes about the validity of the contract in general.⁶⁸ Even if a vessel owner does not read and understand the arbitration provision in a salvage contract that is signed, the arbitration agreement in the contract is binding.⁶⁹ Courts have not accepted the excuse of signing an arbitration contract under duress.⁷⁰

For recreational boat salvage between parties who are United States citizens, involving services provided to a U.S. vessel in U.S. waters, courts have held that they will not compel arbitration in London under agreement nor enforce an arbitration award if one was entered.⁷¹ Maritime arbitration in the United States is governed by two primary sources: the Federal Arbitration Act⁷² and the 1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the “New York Convention”)⁷³

Effect of Proposed Changes

The bill requires a salvor to provide certain information to a potential customer before engaging in a salvage operation.

The bill applies to all salvors operating in Florida, with the following exceptions:

- a person who performs salvage work while employed by a municipal, county, state, or federal government when carrying out the functions of that government;
- a person who engages solely in salvage work for pleasure vessels that are owned, maintained, and operated exclusively by such person and for that person's own use or for-hire pleasure vessels that are rented for periods of 30 days or less;
- a person who owns or operates a marina or shore-based repair facility and is in the business of repairing pleasure vessels, where the salvage work takes place exclusively at that person's facility;
- a person who is in the business of repairing pleasure vessels who performs the repair work at a landside or shoreside location designated by the customer; and
- a person who is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels.

The bill provides for the following definitions:

- “Customer” as the person to whom a salvor offers salvage work;
- “Employee” as an individual who is employed full-time or part-time by a salvor and performs salvage work;
- “Pleasure vessel” as any watercraft no more than 60 feet in length which is used solely for personal pleasure, family use, or the transportation of executives, persons under the employment, and guests of the owner;

⁶⁸ *Prima Paint Corp. v. Flood & ConklinMfg. Co.*, 388 U.S. 395, 87 S.Ct. 1801, 18 L.Ed.2d 1270 (1967).

⁶⁹ *Royal Insurance Company of America v. BHRIS, LLC*, 33 F.Supp.2d 1293 (S.D. Fla. 2004).

⁷⁰ *Farnsworth, III v. Towboat Nantucket Sound, Inc.*, 790 F.3d 90 (1st Cir. 2015).

⁷¹ *Reinholtz v. Retriever Marine Towing & Salvage*, 1993 WL 414719 (S.D. Fla. 1993), *aff'd* 46 F.3d 71. See also *Jones; Brier v. Northstar Marine, Inc.*, 1992 WL 350292 (D. N.J. 1992).

⁷² 9 U.S.C. §§ 1-16

⁷³ 21 U.S.T. 2517, 330 U.N.T.S. 38; See also the arbitration rules of the Society of Maritime Arbitrators, Inc. (New York City — (212) 786-7404) (available at www.smany.org/doc1-arbitrationRules.html), Miami Maritime Arbitration Council (Miami — (954) 523-1004), Houston Maritime Arbitrators Association (Houston — (713) 222-1515) (available at www.hmaatexas.org/arbitration-rules), or Boat Owners Association of The United States (BoatU.S.) (Virginia — (703) 461-2878). For a detailed discussion of the governance of maritime arbitration, see Chapter 1 of the *Maritime Law and Practice* (5th ed. 2017), as well as VanVactor, *Three's a Crowd: The Unhappy Interplay Among the New York Convention, FAA, and McCarran-Ferguson Act*, 36 Tul.Mar.L.J. 313 (Winter 2011).

- “Salvage work” as any assistance, services, repairs, or other efforts rendered by a salvor relating to saving, preserving, or rescuing a pleasure vessel or its passengers and crew, which are in marine peril. Salvage work does not include towing a pleasure vessel; and
- “Salvor” as a person in the business of voluntarily providing assistance, services, repairs, or other efforts relating to saving, preserving, or rescuing a pleasure vessel or the vessel’s passengers and crew which are in marine peril, in exchange for compensation.

The bill provides that, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor shall provide the customer with verbal and written notice that the service offered is not covered by any towing contract.

The bill provides that the written notice must include the following statement, in capital letters of at least 12-point type:

THE SERVICE OFFERED BY THE SALVOR IS CONSIDERED SALVAGE WORK AND IS NOT COVERED BY ANY TOWING SERVICE CONTRACT. SALVAGE WORK ALLOWS THE SALVOR TO PRESENT YOU, OR YOUR INSURANCE COMPANY, WITH A BILL FOR THE CHARGES AT A LATER DATE. THE SALVOR SHALL CALCULATE THE CHARGES ACCORDING TO FEDERAL SALVAGE LAW AND SUCH CHARGES MAY EXCEED A CHARGE BASED ON A TIME AND MATERIALS CALCULATION. THE CHARGES COULD AMOUNT TO AS MUCH AS THE ENTIRE VALUE OF YOUR VESSEL AND ITS CONTENTS.

IF YOU AGREE TO ALLOW THE SALVOR TO PERFORM THE OFFERED WORK, YOUR ONLY RECOURSE TO CHALLENGE THE ASSESSED CHARGES IS BY A LAWSUIT IN FEDERAL COURT OR, IF YOU AGREE, BY BINDING ARBITRATION.

YOU MAY AGREE TO THE CHARGES WITH THE SALVOR BEFORE WORK BEGINS, AND THAT AGREED AMOUNT SHALL BE THE MAXIMUM AMOUNT THE SALVOR MAY CHARGE. YOU HAVE A RIGHT TO REJECT THE SALVOR'S OFFER OF SERVICES IF THE SALVOR WILL NOT AGREE TO A CHARGE BEFORE BEGINNING WORK.

The bill specifies that a salvor is not required to provide the verbal and written notice if there is an imminent threat of injury or death to any person on board the vessel.

The bill provides that a customer injured by a violation may bring an action in the appropriate court for relief. A customer who prevails is entitled to damages equal to 1.5 times that charged by the salvor, plus actual damages, court costs, and reasonable attorney fees. The customer may also bring an action for injunctive relief in circuit court. The bill provides that these remedies are in addition to any other remedy provided by law.

B. SECTION DIRECTORY:

Section 1. Creates s. 559.9602, F.S.; providing scope and application; providing definitions; requiring salvors of pleasure vessels to provide specified verbal and written notice; providing an exception; providing remedies; specifying that such remedies are in addition to others provided by law.

Section 2. Provides an effective date of July 1, 2018.

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:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

The U.S. Constitution grants federal district courts judicial power over of any civil case of admiralty or maritime jurisdiction.⁷⁴ While it is established that federal courts have exclusive jurisdiction over *in rem* actions,⁷⁵ or actions directly against the property, courts are split as to whether states can handle admiralty or maritime *in personam*, actions directly against the person, or claims for *quantum meruit*.⁷⁶ Generally, state courts may apply state law to maritime actions so long as there is no conflict with federal law.⁷⁷

⁷⁴ U.S. Const. Art. III, ss. 1 and 2.

⁷⁵ *Madruga v. Superior Court of State of California ex. Rel San Diego County*, 346 U.S. 556 (1954).

An action “*in rem*” is an action brought directly against the property, which typically the vessel in admiralty law, that relates to the claim. An action *in personam* is an action against a person, and is usually based on the personal liability of the other party. See Robert Force, *Admiralty and Maritime Law*, Federal Judicial Center, at 30-31 (2013). Available at <https://www.fjc.gov/sites/default/files/2014/Admiralty2d.pdf>

⁷⁶ See *Metropolitan Dade County v. One (1) Bronze Cannon*, 537 F.Supp. 923 (S.D. Fla. 1982) (explaining the “saving to suitors” clause affords litigants a choice of remedies but not forums) and *Lewis v. JPI Corp.*, Case No. 07-20103-CIV-TORRES (S.D. Fla. 2009) (“The salvage award, which is unique to maritime and admiralty law, is not one of *quantum meruit* as compensation for work performed”). Compare *Sebastian Tow Boat & Salvage*, *supra* note 6 and *Phillips v. Sea Tow/ Sea Spill of Savannah*, 578 S.E.2d 846 (Ga. 2002). *Quantum meruit*, damages are calculated based on the reasonable value of the labor performed and the market value of the materials furnished to the project. See *Moore v. Spanish River Land Co.*, 159 So. 673, 674 (Fla. 1935).

⁷⁷ *Madruga*, 346 U.S. 556 (1954).

The bill provides a legal remedy for injured customers and directs the court to award damages to a prevailing customer, including reasonable attorney fees. Federal maritime law does not award attorney fees to a prevailing party.⁷⁸ It is unclear whether a federal court or state court would have jurisdiction over a dispute arising from a cause of action provided by the bill. If the dispute is considered an *in personam* claim concerning a contractual agreement, it may fall within the jurisdiction of a state court. However, if a dispute arising from a cause of action provided by the bill is considered to fall exclusively within federal maritime jurisdiction, the language in the bill directing the court to award attorney fees to the prevailing party may be preempted by general maritime law.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 1 of the bill, on lines 85-93, provides that:

“(4)(a) Any customer injured by a violation of this section may bring an action in the appropriate court for relief. A customer who prevails in such an action is entitled to damages equal to 1.5 times the amount charged by the salvor, plus actual damages, court costs, and reasonable attorney fees. The customer may also bring an action for injunctive relief in the circuit court.

(b) The remedies provided for in this subsection shall be in addition to any other remedy provided by law.”

It is unclear what would be considered an actionable “violation” under the bill. The strike-all amendment (adopted by the Careers and Competition Subcommittee on January 16, 2018), removed most, if not all, of the potential violations or causes of action included in earlier versions of the bill. For example, the former “Unlawful acts and practices,” which listed nine specific violations of the act, was removed

Additionally, the bill requires that the written notice state that “YOUR ONLY RECOURSE TO CHALLENGE THE ASSESSED CHARGES IS BY A LAWSUIT IN FEDERAL COURT OR, IF YOU AGREE, BY BINDING ARBITRATION”, which seems to contradict the remedy language quoted above, which provides that the customer “may bring an action in the appropriate court for relief” and “may also bring an action for injunctive relief in the circuit court” and “the remedies provided for in this subsection shall be in addition to any other remedy provided by law”.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On December 6, 2017, the Natural Resources & Public Lands Subcommittee adopted two amendments and reported the bill favorable with committee substitute. The amendments:

- Direct the Division of Law Revision and Information to change the title of part XII of ch. 559, F.S., from “Miscellaneous Provisions” to “Internet Sales,” and to create a new part XIII of ch. 559, F.S., consisting of ss. 559.9601-559.9608, F.S., to be entitled “Salvage of Pleasure Vessels;”
- Exempt any person who is in the business of recovering, storing, or selling pleasure vessels on behalf of insurance companies that insure the vessels from the Act;
- Clarify the definition of “pleasure vessel;” and
- Require a salvor to present a written disclosure statement to the customer if the salvage work will exceed \$500, the customer is present on the vessel, and there is no imminent threat of injury or death to any person.

⁷⁸ *Garan Inc. v. MV Aivik*, 907 F.Supp. 397 (S.D. Fla. 1995) (holding that absent specific federal statutory authorization, federal maritime law does not entitle a prevailing party an award of attorney fees).

On January 16, 2018, the Careers and Competition Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment makes the following changes:

- Redefines “customer” to mean the person to whom a salvor offers salvage work;
- Revises the disclosure provision to only require that, before a salvor may engage in the salvage operation of a pleasure vessel, the salvor shall provide the customer with verbal and written notice that the service offered is not covered by any towing contract;
- Substantially revises the content of the written notice;
- Relieves the salvor from providing the verbal and written notice if there is an imminent threat of injury or death to anyone aboard the vessel;
- Removes all provisions relating to the salvage work estimate;
- Removes all provisions relating to the notification of charges in excess of the salvage estimate and to unlawful charges;
- Removes provisions relating to required disclosure, signs, and notice to customer;
- Removes all provisions relating to unlawful acts and practices;
- Removes the provision directing the Division of Law Revision and Information to re-designate statutes; and
- Reduces the damages multiplier in the remedies provision, from “three times that” to “1.5 times that” charged by the salvor.

This analysis is drafted to the committee substitute to the committee substitute as adopted by the Careers and Competition Subcommittee.

By Senator Hutson

7-00683A-18

20181132__

1 A bill to be entitled
2 An act relating to vessel safety inspection decals;
3 amending s. 327.70, F.S.; providing rulemaking
4 authority to the Fish and Wildlife Conservation
5 Commission regarding expiration and design of safety
6 inspection decals; specifying standards for such
7 rulemaking; providing a maximum period of validity;
8 providing an effective date.

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

11
12 Section 1. Paragraph (a) of subsection (2) of section
13 327.70, Florida Statutes, is amended to read:

14 327.70 Enforcement of this chapter and chapter 328.—

15 (2) (a) 1. Upon demonstrated compliance with the safety
16 equipment carriage and use requirements of this chapter during a
17 safety inspection initiated by a law enforcement officer, the
18 operator of a vessel shall be issued a safety inspection decal
19 signifying that the vessel is deemed to have met the safety
20 equipment carriage and use requirements of this chapter at the
21 time and location of such inspection. The commission may
22 designate by rule the timeframe for expiration of, and the
23 specific design for, the safety inspection decal. However, a
24 decal may not be valid for more than 5 years and, at a minimum,
25 must meet the standards specified in this paragraph.

26 2. The safety inspection decal, if displayed, must be
27 located within 6 inches of the inspected vessel's properly
28 displayed vessel registration decal. For nonmotorized vessels
29 that are not required to be registered, the safety inspection

7-00683A-18

20181132__

30 decal, if displayed, must be located above the waterline on the
31 forward half of the port side of the vessel.

32 Section 2. This act shall take effect July 1, 2018.

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 Environmental Preservation and Conservation

BILL: SB 1132

INTRODUCER: Senator Hutson

SUBJECT: Vessel Safety Inspection Decals

DATE: January 12, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Favorable
2.			AEN	
3.			AP	

I. Summary:

SB 1132 authorizes the Fish and Wildlife Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal. The bill specifies that the decal may not be valid for more than 5 years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel’s properly displayed vessel registration decal; or
- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

II. Present Situation:

Florida Vessel Safety Law

Florida leads the nation in the number of vessels registered in any state with close to one million vessels.¹ The Fish and Wildlife Conservation Commission (FWC) is charged with coordinating and managing the waterways of the state to provide for safe and enjoyable boating.² Specifically, the Division of Law Enforcement within the FWC provides protection to those who enjoy Florida’s waterways, while also enforcing resource protection and boating safety laws.³

Chapter 327, F.S., titled the “Florida Vessel Safety Law” includes laws relating to vessel safety, such as boating safety education course requirements, vessel operation requirements, and the delineation of boating-restricted areas. The Florida Vessel Safety Law, as well as vessel titling,

¹ Fish and Wildlife Conservation Commission (FWC), 2016 Boating Accident Statistical Report, *Introduction*, II (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

² FWC, *Boating in Florida*, <http://myfwc.com/boating/> (last visited Jan. 8, 2018).

³ FWC, 2016 Boating Accident Statistical Report, *Introduction*, I (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

certificate, and registration requirements, are authorized to be enforced by the following entities or officers:

- The Division of Law Enforcement within the FWC and its officers;
- Sheriffs of the various counties and their deputies;
- Municipal police officers; and
- Any other law enforcement officer described in s. 943.10, F.S.⁴

Safety Equipment and Inspections

The following safety items are required by state and federal law to be aboard a vessel and if found to be missing during a safety inspection can result in a vessel citation:

- Visible distress signals;
- Fire extinguishers;
- Navigation lights;
- Personal floatation devices; and
- Sound-producing devices.⁵

The United States Coast Guard offers Vessel Safety Checks (VSC) free of charge.⁶ Boats that pass the safety check are awarded a distinctive VSC Decal that alerts the Coast Guard, Harbor Patrol, and other law enforcement agencies that the boat was in full compliance with all federal and state boating laws for that year.⁷ The decal must be immediately affixed to a portion of the boat where it is readily visible to law enforcement authorities.⁸

The FWC also issues safety inspection decals upon demonstrated compliance with the safety equipment carriage and use requirements during a safety inspection administered by a law enforcement officer.⁹ The safety inspection decal, if displayed, must be located within six inches of the inspected vessel's properly displayed vessel registration decal or, for nonmotorized vessels that are not required to be registered, must be located above the waterline on the forward half of the port side of the vessel.¹⁰

The FWC and any other law enforcement agency are authorized to inspect and investigate vessels as necessary to carry out and enforce the Florida Vessel Safety Law.¹¹ An officer is

⁴ Section 327.70, F.S.; 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..."

⁵ See s. 327.50, F.S., and FWC, *Boating Regulations, Equipment and Lighting Requirements*, available at <http://myfwc.com/boating/regulations/#nogo> (last visited Jan. 8, 2018) and U.S. Coast Guard Auxiliary, *Vessel Safety Checks*, available at <http://cgaux.org/vsc/> (last visited Jan. 8, 2018).

⁶ U.S. Coast Guard Auxiliary, *Vessel Safety Check Website*, available at <http://wow.uscgaux.info/content.php?unit=V-DEPT> (last visited Jan. 8, 2018).

⁷ U.S. Coast Guard, *Vessel Safety Check Manual*, (Oct. 2014) available at http://vdept.cgaux.org/pdf-files/CIM_16796_8A_Printable_Version.pdf (last visited Jan. 8, 2018).

⁸ *Id.*

⁹ Section 327.70(2), F.S.

¹⁰ *Id.*

¹¹ See ss. 327.56, 327.70(4) and 328.18, F.S.; ch. 327, F.S. compromises the *Florida Vessel Safety Law*. The U.S. Constitution protects people from unreasonable searches and seizures by the government through the Fourth Amendment, which provides that "the right of the people to be secure in their persons, houses, papers, and effects, against unreasonable

prohibited from boarding a vessel to make a safety inspection if the owner or operator is not aboard.¹² If the owner or operator is aboard, an officer is authorized to board a vessel with the consent or when the officer has probable cause or knowledge to believe that a violation of the Florida Vessel Safety Law is occurring. An officer may board a vessel if the operator refuses or is unable to display the safety equipment required by law when requested to do so by an officer or when the safety equipment to be inspected is permanently installed and is not visible for inspection unless the officer boards the vessel.¹³

Additionally, if a vessel has a properly displayed and valid safety inspection decal created or approved by the FWC, then a law enforcement officer may not stop such vessel for the sole purpose of inspecting the vessel for compliance with the safety equipment carriage and use requirements, unless there is a reasonable suspicion that a violation of a safety equipment carriage or use requirement has occurred or is occurring.¹⁴

The following chart provides a summary of the citations that were issued in 2016 relating to violations for registration and numbering requirements or safety equipment and regulations.

2016 Uniform Boating Citation Summary¹⁵

Citation Type	Number of Citations Issued	
	FWC	Other
Registration and Numbering		
Operation of unregistered/unnumbered vessels		
Application, certificate, number or decal violation	1,970	556
Special manufacturer and dealer numbers		
Violation relating to vessel titling		
Violation relating to Hull Identification Numbers		
Safety Equipment and Regulations		
Equipment and lighting requirements	3,260	432

III. Effect of Proposed Changes:

SB 1132 authorizes the Fish and Wildlife Commission (FWC) to designate by rule the timeframe for the expiration of, and the specific design for, the safety inspection decal. The bill specifies that the decal may not be valid for more than 5 years, and, at a minimum, meet the standards specified in s. 327.70(2)(a), F.S., which requires the decal to be displayed:

- Within six inches of the vessel’s properly displayed vessel registration decal; or

searches and seizures, shall not be violated....” The extent to which an individual is protected by the Fourth Amendment depends on the location of the search or seizure. None of the similar safeguards that are applicable to stops of motor vehicles on less than a probable cause are necessary predicates to stop a vessel. See U.S. CONST. amend. IV and U.S. Government Publishing Office, *Amendment 4-Search and Seizure*, pg. 1241 (Oct. 5, 2014), available at <https://www.gpo.gov/fdsys/pkg/GPO-CONAN-1992/pdf/GPO-CONAN-1992-10-5.pdf> (last visited Jan. 8, 2018).

¹² Section 327.56, F.S.

¹³ *Id.*

¹⁴ Section 327.70, F.S.

¹⁵ FWC, 2016 Boating Accident Statistical Report, *Violation Summary*, 35 (2016) available at <http://myfwc.com/media/4215167/2016BoatStatBook.pdf> (last visited Jan. 3, 2018).

- For a non-motorized vessel which is not required to be registered, on the forward half of the port side of the vessel above the waterline.

The bill takes effect July 1, 2018.

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:

The bill has a negative, but indeterminate, fiscal impact due to the bill's requirement that the Fish and Wildlife Conservation Commission adopt rules designating the timeframe for the expiration of safety inspection decals.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 327.70 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 vessel safety inspection decals;
 3 amending s. 327.70, F.S.; providing rulemaking
 4 authority to the Fish and Wildlife Conservation
 5 Commission regarding expiration and design of safety
 6 inspection decals; specifying standards for such
 7 rulemaking; providing a maximum period of validity;
 8 providing an effective date.

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

11
 12 Section 1. Paragraph (a) of subsection (2) of section
 13 327.70, Florida Statutes, is amended to read:

14 327.70 Enforcement of this chapter and chapter 328.—

15 (2) (a) 1. Upon demonstrated compliance with the safety
 16 equipment carriage and use requirements of this chapter during a
 17 safety inspection initiated by a law enforcement officer, the
 18 operator of a vessel shall be issued a safety inspection decal
 19 signifying that the vessel is deemed to have met the safety
 20 equipment carriage and use requirements of this chapter at the
 21 time and location of such inspection. The commission may
 22 designate by rule the timeframe for expiration of, and the
 23 specific design for, the safety inspection decal. However, a
 24 decal may not be valid for more than 5 years and, at minimum,
 25 must meet the standards specified in s. 327.70(2)(a).

26 | 2. The safety inspection decal, if displayed, must be
27 | located within 6 inches of the inspected vessel's properly
28 | displayed vessel registration decal. For nonmotorized vessels
29 | that are not required to be registered, the safety inspection
30 | decal, if displayed, must be located above the waterline on the
31 | forward half of the port side of the vessel.

32 | Section 2. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 915 Vessel Safety Inspection Decals
SPONSOR(S): Henry
TIED BILLS: **IDEN./SIM. BILLS:** SB 1132

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Natural Resources & Public Lands Subcommittee	12 Y, 0 N	Moore	Shugar
2) Government Accountability Committee	20 Y, 0 N	Moore	Williamson

SUMMARY ANALYSIS

The owner and operator of every vessel on Florida waters must carry, store, maintain, and use safety equipment in accordance with the United States Coast Guard (USCG) safety equipment requirements, unless exempted by the Florida Fish and Wildlife Conservation Commission (FWC). Additionally, all vessels must be equipped with serviceable lights and shapes required under navigation rules.

All vessels are required to have onboard a wearable USCG-approved personal flotation device (PFD) for each person, which is the appropriate size for the intended wearer, in serviceable condition, and within easy access. The number of PFDs required increase with the increasing length of the vessel. Other safety equipment requirements that vary depending on the length of the vessel include the number of USGC-approved fire extinguishers and visual distress signals. All vessels are also required to carry an efficient sound-producing device.

An operator of a vessel, who has demonstrated compliance with safety equipment and use requirements during a safety inspection initiated by a law enforcement officer, must be issued a safety inspection decal signifying the vessel has met such requirements at the time and location of the inspection. Thereafter, a law enforcement officer may not stop a vessel that properly displays a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment and use requirements, unless there is reasonable suspicion that a violation of such has occurred or is occurring. Current law does not provide for expiration of the safety inspection decal or grant FWC rulemaking authority to designate the timeframe for expiration of and design for the safety inspection decal.

The bill allows FWC to designate by rule the timeframe for expiration of, and the specific design for, the safety inspection decal. The bill also provides that the safety inspection decal may not be valid for more than five years.

The bill may have a minimal negative fiscal impact on FWC because of an increased workload associated with the rulemaking requirements of the bill and the creation of decals; however, FWC has indicated it is able to absorb the impact within existing resources. The bill does not appear to have a fiscal impact on local governments or the private sector.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The owner and operator of every vessel on Florida waters must carry, store, maintain, and use safety equipment in accordance with the United States Coast Guard (USCG) safety equipment requirements, unless exempted by the Florida Fish and Wildlife Conservation Commission (FWC).¹ Additionally, all vessels must be equipped with serviceable lights and shapes required under navigation rules.²

Safety Equipment

All vessels are required to have onboard a wearable USCG-approved personal flotation device (PFD) for each person, which is the appropriate size for the intended wearer, in serviceable condition, and within easy access.³ The number of PFDs required increases with the increasing length of the vessel. For example, a vessel that is 16 feet in length or longer must have at least one USCG-approved Type IV PFD in addition to the total number of PFDs required. In addition, a child under the age of six must wear a USCG-approved Type I, II or III PFD when onboard a vessel under 26 feet in length when underway.⁴ Other safety equipment requirements that vary depending on the length of the vessel include the number of USGC-approved fire extinguishers⁵ and visual distress signals.⁶ All vessels are also required to carry an efficient sound-producing device (e.g., bell, horn, whistle).⁷

Safety Inspection Decal

An operator of a vessel, who has demonstrated compliance with safety equipment and use requirements during a safety inspection initiated by a law enforcement officer, must be issued a safety inspection decal signifying the vessel has met such requirements at the time and location of the inspection.⁸ Thereafter, a law enforcement officer may not stop a vessel that properly displays a valid safety inspection decal for the sole purpose of inspecting the vessel for compliance with safety equipment and use requirements, unless there is reasonable suspicion that a violation of such has occurred or is occurring.⁹ Current law does not provide for expiration of the safety inspection decal or grant FWC rulemaking authority to designate the timeframe for expiration of and design for the safety inspection decal.

Effect of Proposed Changes

The bill allows FWC to designate by rule the timeframe for expiration of, and the specific design for, the safety inspection decal. The bill provides that the safety inspection decal may not be valid for more than five years.

¹ Section 327.50(1)(a), F.S.

² Section 327.50(2), F.S.; 33 C.F.R. § 83.20.

³ 33 C.F.R. § 175.15.

⁴ 33 C.F.R. § 175.15; USCG. *Life Jackets*, [http://www.uscgboating.org/regulations/state-boating-laws-details.php?id=25&title=\[4.9\]Life%20Jackets](http://www.uscgboating.org/regulations/state-boating-laws-details.php?id=25&title=[4.9]Life%20Jackets) (last visited Jan. 8, 2018); s. 327.50(1)(b), F.S., defines the term “underway” to mean at

all times except when a vessel is anchored, moored, made fast to the shore, or aground.

⁵ 46 C.F.R. § 169.567.

⁶ 33 C.F.R. § 175.110.

⁷ 33 C.F.R. § 83.33.

⁸ Section 327.70 (2)(a), F.S.

⁹ Section 327.70 (2)(b), F.S.

B. SECTION DIRECTORY:

Section 1. Amends s. 327.70, F.S., relating to enforcement of chapters 327 and 328, F.S.

Section 2. Provides an effective date of July 1, 2018.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have a minimal negative fiscal impact on FWC because of an increased workload associated with the rulemaking requirements and the creation of decals; however, FWC has indicated it is able to absorb the impact within existing resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill allows FWC to designate by rule the timeframe for expiration of, and the specific design for, the safety inspection decal, which may not be valid for more than five years.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.

By Senator Mayfield

17-01484B-18

20181632__

1 A bill to be entitled
2 An act relating to towing and immobilization fees and
3 charges; amending ss. 125.0103 and 166.043, F.S.;
4 expanding the application of certain provisions
5 related to ordinances and rules imposing price
6 controls to include the towing or immobilization of
7 vessels; establishing a maximum rate that counties and
8 municipalities may charge for the immobilization of
9 vehicles or vessels under certain conditions; defining
10 the term "immobilize"; creating ss. 125.01047 and
11 166.04465, F.S.; prohibiting counties and
12 municipalities from enacting certain ordinances or
13 rules that impose fees or charges on authorized
14 wrecker operators or towing businesses; defining the
15 term "towing business"; providing exceptions to the
16 prohibition; amending s. 323.002, F.S.; prohibiting
17 counties and municipalities from imposing charges,
18 costs, expenses, fines, fees, or penalties on
19 registered owners, other legally authorized persons in
20 control, or lienholders of vehicles or vessels under
21 certain conditions; providing an exception; amending
22 s. 713.78, F.S.; authorizing certain persons to place
23 liens on vehicles or vessels to recover specified fees
24 or charges; providing an effective date.

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

27
28 Section 1. Paragraphs (b) and (c) of subsection (1) of
29 section 125.0103, Florida Statutes, are amended to read:

17-01484B-18

20181632__

30 125.0103 Ordinances and rules imposing price controls;
31 findings required; procedures.—

32 (1)

33 (b) The provisions of this section shall not prevent the
34 enactment by local governments of public service rates otherwise
35 authorized by law, including water, sewer, solid waste, public
36 transportation, taxicab, or port rates, rates for towing of
37 vehicles or vessels from or immobilization of vehicles or
38 vessels on private property, or rates for removal and storage of
39 wrecked or disabled vehicles or vessels from an accident scene
40 or the removal and storage of vehicles or vessels in the event
41 the owner or operator is incapacitated, unavailable, leaves the
42 procurement of wrecker service to the law enforcement officer at
43 the scene, or otherwise does not consent to the removal of the
44 vehicle or vessel.

45 (c) Counties must establish maximum rates which may be
46 charged on the towing of vehicles or vessels from or
47 immobilization of vehicles or vessels on private property,
48 removal and storage of wrecked or disabled vehicles or vessels
49 from an accident scene or for the removal and storage of
50 vehicles or vessels, in the event the owner or operator is
51 incapacitated, unavailable, leaves the procurement of wrecker
52 service to the law enforcement officer at the scene, or
53 otherwise does not consent to the removal of the vehicle or
54 vessel. The maximum rate to immobilize a vehicle or vessel on
55 public or private property may not exceed 20 percent of the
56 maximum rate to tow a vehicle or vessel from private property.
57 However, if a municipality chooses to enact an ordinance
58 establishing the maximum rates ~~fees~~ for the towing or

17-01484B-18

20181632__

59 immobilization of vehicles or vessels as described in paragraph
60 (b), the county's ordinance shall not apply within such
61 municipality. For purposes of this paragraph, the term
62 "immobilize" means the act of rendering a vehicle or vessel
63 inoperable by the use of a device such as a "boot" or "club,"
64 the "Barnacle," or any other device that renders a vehicle or
65 vessel inoperable.

66 Section 2. Section 125.01047, Florida Statutes, is created
67 to read:

68 125.01047 Rules and ordinances relating to towing
69 services.—

70 (1) A county may not enact an ordinance or rule that would
71 impose a fee or charge on an authorized wrecker operator, as
72 defined in s. 323.002(1), or on a towing business for towing,
73 impounding, or storing a vehicle or vessel. As used in this
74 section, the term "towing business" means a business that
75 provides towing services for monetary gain.

76 (2) The prohibition set forth in subsection (1) does not
77 affect a county's authority to:

78 (a) Levy a reasonable business tax under s. 205.0315, s.
79 205.033, or s. 205.0535.

80 (b) Impose and collect a reasonable administrative fee or
81 charge on the registered owner or other legally authorized
82 person in control of a vehicle or vessel, or the lienholder of a
83 vehicle or vessel, not to exceed 25 percent of the maximum
84 towing rate, to cover the cost of enforcement, including parking
85 enforcement, by the county when the vehicle or vessel is towed
86 from public property. However, an authorized wrecker operator or
87 towing business may impose and collect the administrative fee or

17-01484B-18

20181632__

88 charge on behalf of the county and shall remit such fee or
89 charge to the county only after it is collected.

90 Section 3. Paragraphs (b) and (c) of subsection (1) of
91 section 166.043, Florida Statutes, are amended to read:

92 166.043 Ordinances and rules imposing price controls;
93 findings required; procedures.—

94 (1)

95 (b) The provisions of this section shall not prevent the
96 enactment by local governments of public service rates otherwise
97 authorized by law, including water, sewer, solid waste, public
98 transportation, taxicab, or port rates, rates for towing of
99 vehicles or vessels from or immobilization of vehicles or
100 vessels on private property, or rates for removal and storage of
101 wrecked or disabled vehicles or vessels from an accident scene
102 or the removal and storage of vehicles or vessels in the event
103 the owner or operator is incapacitated, unavailable, leaves the
104 procurement of wrecker service to the law enforcement officer at
105 the scene, or otherwise does not consent to the removal of the
106 vehicle or vessel.

107 (c) Counties must establish maximum rates which may be
108 charged on the towing of vehicles or vessels from or
109 immobilization of vehicles or vessels on private property,
110 removal and storage of wrecked or disabled vehicles or vessels
111 from an accident scene or for the removal and storage of
112 vehicles or vessels, in the event the owner or operator is
113 incapacitated, unavailable, leaves the procurement of wrecker
114 service to the law enforcement officer at the scene, or
115 otherwise does not consent to the removal of the vehicle or
116 vessel. The maximum rate to immobilize a vehicle or vessel on

17-01484B-18

20181632__

117 public or private property may not exceed 20 percent of the
118 maximum rate to tow a vehicle or vessel from private property.
119 However, if a municipality chooses to enact an ordinance
120 establishing the maximum rates ~~fees~~ for the towing or
121 immobilization of vehicles or vessels as described in paragraph
122 (b), the county's ordinance established under s. 125.0103 shall
123 not apply within such municipality. For purposes of this
124 paragraph, the term "immobilize" means the act of rendering a
125 vehicle or vessel inoperable by the use of a device such as a
126 "boot" or "club," the "Barnacle," or any other device that
127 renders a vehicle or vessel inoperable.

128 Section 4. Section 166.04465, Florida Statutes, is created
129 to read:

130 166.04465 Rules and ordinances relating to towing
131 services.-

132 (1) A municipality may not enact an ordinance or rule that
133 would impose a fee or charge on an authorized wrecker operator,
134 as defined in s. 323.002(1), or on a towing business for towing,
135 impounding, or storing a vehicle or vessel. As used in this
136 section, the term "towing business" means a business that
137 provides towing services for monetary gain.

138 (2) The prohibition set forth in subsection (1) does not
139 affect a municipality's authority to:

140 (a) Levy a reasonable business tax under s. 205.0315, s.
141 205.043, or s. 205.0535.

142 (b) Impose and collect a reasonable administrative fee or
143 charge on the registered owner or other legally authorized
144 person in control of a vehicle or vessel, or the lienholder of a
145 vehicle or vessel, not to exceed 25 percent of the maximum

17-01484B-18

20181632__

146 towing rate, to cover the cost of enforcement, including parking
147 enforcement, by the municipality when the vehicle or vessel is
148 towed from public property. However, an authorized wrecker
149 operator or towing business may impose and collect the
150 administrative fee or charge on behalf of the municipality and
151 shall remit such fee or charge to the municipality only after it
152 is collected.

153 Section 5. Subsection (4) of section 323.002, Florida
154 Statutes, is renumbered as subsection (5), and a new subsection
155 (4) is added to that section, to read:

156 323.002 County and municipal wrecker operator systems;
157 penalties for operation outside of system.—

158 (4) (a) Except as provided in paragraph (b), a county or
159 municipality may not adopt or maintain in effect an ordinance or
160 rule that imposes a charge, cost, expense, fine, fee, or penalty
161 on a registered owner or other legally authorized person in
162 control of a vehicle or vessel, or the lienholder of a vehicle
163 or vessel, when the vehicle or vessel is towed by an authorized
164 wrecker operator under this chapter.

165 (b) A county or municipality may adopt or maintain an
166 ordinance or rule that imposes a reasonable administrative fee
167 or charge on the registered owner or other legally authorized
168 person in control of a vehicle or vessel, or the lienholder of a
169 vehicle or vessel, which is towed by an authorized wrecker
170 operator, not to exceed 25 percent of the maximum towing rate,
171 to cover the cost of enforcement, including parking enforcement,
172 by the county or municipality when the vehicle or vessel is
173 towed from public property. However, an authorized wrecker
174 operator or towing business may impose and collect the

17-01484B-18

20181632__

175 administrative fee or charge on behalf of the county or
176 municipality and shall remit such fee or charge to the county or
177 municipality only after it is collected.

178 Section 6. Subsection (2) of section 713.78, Florida
179 Statutes, is amended to read:

180 713.78 Liens for recovering, towing, or storing vehicles
181 and vessels.—

182 (2) Whenever a person regularly engaged in the business of
183 transporting vehicles or vessels by wrecker, tow truck, or car
184 carrier recovers, removes, or stores a vehicle or vessel upon
185 instructions from:

186 (a) The owner thereof;

187 (b) The owner or lessor, or a person authorized by the
188 owner or lessor, of property on which such vehicle or vessel is
189 wrongfully parked, and the removal is done in compliance with s.
190 715.07;

191 (c) The landlord or a person authorized by the landlord,
192 when such motor vehicle or vessel remained on the premises after
193 the tenancy terminated and the removal is done in compliance
194 with s. 83.806 or s. 715.104; or

195 (d) Any law enforcement agency,

196

197 she or he shall have a lien on the vehicle or vessel for a
198 reasonable towing fee, for a reasonable administrative fee or
199 charge imposed by a county or municipality, and for a reasonable
200 storage fee; except that no storage fee shall be charged if the
201 vehicle or vessel is stored for less than 6 hours.

202 Section 7. This act shall take effect July 1, 2018.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

A bill to be entitled
 An act relating to towing and immobilizing fees and charges; amending ss. 125.0103 and 166.043, F.S.; establishing a maximum rate that counties or municipalities may charge to immobilize vehicles or vessels under certain conditions; defining the term "immobilize"; creating ss. 125.01047 and 166.04465, F.S.; prohibiting counties or municipalities from enacting certain ordinances or rules that impose fees or charges on authorized wrecker operators or towing businesses; defining the term "towing business"; providing exceptions; amending s. 323.002, F.S.; prohibiting counties or municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions; providing an exception; amending s. 713.78, F.S.; authorizing certain persons to place liens on vehicles or vessels to recover specified fees or charges; providing an effective date.

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

Section 1. Paragraphs (b) and (c) of subsection (1) of section 125.0103, Florida Statutes, are amended to read:

26 | 125.0103 Ordinances and rules imposing price controls;
 27 | findings required; procedures.—

28 | (1)

29 | (b) The provisions of this section shall not prevent the
 30 | enactment by local governments of public service rates otherwise
 31 | authorized by law, including water, sewer, solid waste, public
 32 | transportation, taxicab, or port rates, rates for towing of
 33 | vehicles or vessels from or immobilization of vehicles or
 34 | vessels on private property, or rates for removal and storage of
 35 | wrecked or disabled vehicles or vessels from an accident scene
 36 | or the removal and storage of vehicles or vessels in the event
 37 | the owner or operator is incapacitated, unavailable, leaves the
 38 | procurement of wrecker service to the law enforcement officer at
 39 | the scene, or otherwise does not consent to the removal of the
 40 | vehicle or vessel.

41 | (c) Counties must establish maximum rates which may be
 42 | charged on the towing of vehicles or vessels from or
 43 | immobilization of vehicles or vessels on private property,
 44 | removal and storage of wrecked or disabled vehicles or vessels
 45 | from an accident scene or for the removal and storage of
 46 | vehicles or vessels, in the event the owner or operator is
 47 | incapacitated, unavailable, leaves the procurement of wrecker
 48 | service to the law enforcement officer at the scene, or
 49 | otherwise does not consent to the removal of the vehicle or
 50 | vessel. The maximum rate to immobilize a vehicle or vessel on

51 public or private property may not exceed 20 percent of the
52 maximum rate to tow a vehicle or vessel from private property.
53 However, if a municipality chooses to enact an ordinance
54 establishing the maximum rates ~~fees~~ for the towing or
55 immobilization of vehicles or vessels as described in paragraph
56 (b), the county's ordinance shall not apply within such
57 municipality. For purposes of this paragraph, the term
58 "immobilize" means the act of rendering a vehicle or vessel
59 inoperable by the use of a device such as a "boot" or "club,"
60 the "Barnacle," or any other device which renders a vehicle or
61 vessel inoperable.

62 Section 2. Section 125.01047, Florida Statutes, is created
63 to read:

64 125.01047 Rules and ordinances relating to towing
65 services.—

66 (1) A county may not enact an ordinance or rule that would
67 impose a fee or charge on an authorized wrecker operator, as
68 defined in s. 323.002(1), or on a towing business for towing,
69 impounding, or storing a vehicle or vessel. As used in this
70 section, the term "towing business" means a business that
71 provides towing services for monetary gain.

72 (2) The prohibition set forth in subsection (1) does not
73 affect a county's authority to:

74 (a) Levy a reasonable business tax under s. 205.0315, s.
75 205.033, or s. 205.0535.

76 (b) Impose and collect a reasonable administrative fee or
77 charge on the registered owner or other legally authorized
78 person in control of a vehicle or vessel, or the lienholder of a
79 vehicle or vessel, not to exceed 25 percent of the maximum
80 towing rate, to cover the cost of enforcement, including parking
81 enforcement, by the county when the vehicle or vessel is towed
82 from public property. However, an authorized wrecker operator or
83 towing business may impose and collect the administrative fee or
84 charge on behalf of the county and shall remit such fee or
85 charge to the county only after it is collected.

86 Section 3. Paragraphs (b) and (c) of subsection (1) of
87 section 166.043, Florida Statutes, are amended to read:

88 166.043 Ordinances and rules imposing price controls;
89 findings required; procedures.—

90 (1)

91 (b) The provisions of this section shall not prevent the
92 enactment by local governments of public service rates otherwise
93 authorized by law, including water, sewer, solid waste, public
94 transportation, taxicab, or port rates, rates for towing of
95 vehicles or vessels from or immobilization of vehicles or
96 vessels on private property, or rates for removal and storage of
97 wrecked or disabled vehicles or vessels from an accident scene
98 or the removal and storage of vehicles or vessels in the event
99 the owner or operator is incapacitated, unavailable, leaves the
100 procurement of wrecker service to the law enforcement officer at

101 | the scene, or otherwise does not consent to the removal of the
 102 | vehicle or vessel.

103 | (c) Counties must establish maximum rates which may be
 104 | charged on the towing of vehicles or vessels from or
 105 | immobilization of vehicles or vessels on private property,
 106 | removal and storage of wrecked or disabled vehicles or vessels
 107 | from an accident scene or for the removal and storage of
 108 | vehicles or vessels, in the event the owner or operator is
 109 | incapacitated, unavailable, leaves the procurement of wrecker
 110 | service to the law enforcement officer at the scene, or
 111 | otherwise does not consent to the removal of the vehicle or
 112 | vessel. The maximum rate to immobilize a vehicle or vessel on
 113 | public or private property may not exceed 20 percent of the
 114 | maximum rate to tow a vehicle or vessel from private property.
 115 | However, if a municipality chooses to enact an ordinance
 116 | establishing the maximum rates ~~fees~~ for the towing or
 117 | immobilization of vehicles or vessels as described in paragraph
 118 | (b), the county's ordinance established under s. 125.0103 shall
 119 | not apply within such municipality. For purposes of this
 120 | paragraph, the term "immobilize" means the act of rendering a
 121 | vehicle or vessel inoperable by the use of a device such as a
 122 | "boot" or "club," the "Barnacle," or any other device which
 123 | renders a vehicle or vessel inoperable.

124 | Section 4. Section 166.04465, Florida Statutes, is created
 125 | to read:

126 166.04465 Rules and ordinances relating to towing
127 services.—

128 (1) A municipality may not enact an ordinance or rule that
129 would impose a fee or charge on an authorized wrecker operator,
130 as defined in s. 323.002(1), or on a towing business for towing,
131 impounding, or storing a vehicle or vessel. As used in this
132 section, the term "towing business" means a business that
133 provides towing services for monetary gain.

134 (2) The prohibition set forth in subsection (1) does not
135 affect a municipality's authority to:

136 (a) Levy a reasonable business tax under s. 205.0315, s.
137 205.043, or s. 205.0535.

138 (b) Impose and collect a reasonable administrative fee or
139 charge on the registered owner or other legally authorized
140 person in control of a vehicle or vessel, or the lienholder of a
141 vehicle or vessel, not to exceed 25 percent of the maximum
142 towing rate, to cover the cost of enforcement, including parking
143 enforcement, by the municipality when the vehicle or vessel is
144 towed from public property. However, an authorized wrecker
145 operator or towing business may impose and collect the
146 administrative fee or charge on behalf of the municipality and
147 shall remit such fee or charge to the municipality only after it
148 is collected.

149 Section 5. Subsection (4) of section 323.002, Florida
150 Statutes, is renumbered as subsection (5), and a new subsection

151 (4) is added to that section to read:

152 323.002 County and municipal wrecker operator systems;
153 penalties for operation outside of system.-

154 (4) (a) Except as provided in paragraph (b), a county or
155 municipality may not adopt or maintain in effect an ordinance or
156 rule that imposes a charge, cost, expense, fine, fee, or penalty
157 on a registered owner or other legally authorized person in
158 control of a vehicle or vessel, or the lienholder of a vehicle
159 or vessel, when the vehicle or vessel is towed by an authorized
160 wrecker operator under this chapter.

161 (b) A county or municipality may adopt or maintain an
162 ordinance or rule that imposes a reasonable administrative fee
163 or charge on the registered owner or other legally authorized
164 person in control of a vehicle or vessel, or the lienholder of a
165 vehicle or vessel, that is towed by an authorized wrecker
166 operator, not to exceed 25 percent of the maximum towing rate,
167 to cover the cost of enforcement, including parking enforcement,
168 by the county or municipality when the vehicle or vessel is
169 towed from public property. However, an authorized wrecker
170 operator or towing business may impose and collect the
171 administrative fee or charge on behalf of the county or
172 municipality and shall remit such fee or charge to the county or
173 municipality only after it is collected.

174 Section 6. Subsection (2) of section 713.78, Florida
175 Statutes, is amended to read:

176 713.78 Liens for recovering, towing, or storing vehicles
177 and vessels.—

178 (2) Whenever a person regularly engaged in the business of
179 transporting vehicles or vessels by wrecker, tow truck, or car
180 carrier recovers, removes, or stores a vehicle or vessel upon
181 instructions from:

182 (a) The owner thereof;

183 (b) The owner or lessor, or a person authorized by the
184 owner or lessor, of property on which such vehicle or vessel is
185 wrongfully parked, and the removal is done in compliance with s.
186 715.07;

187 (c) The landlord or a person authorized by the landlord,
188 when such motor vehicle or vessel remained on the premises after
189 the tenancy terminated and the removal is done in compliance
190 with s. 83.806 or s. 715.104; or

191 (d) Any law enforcement agency,

192
193 she or he shall have a lien on the vehicle or vessel for a
194 reasonable towing fee, for a reasonable administrative fee or
195 charge imposed by a county or municipality, and for a reasonable
196 storage fee; except that no storage fee shall be charged if the
197 vehicle or vessel is stored for less than 6 hours.

198 Section 7. This act shall take effect July 1, 2018.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 963 Towing and Immobilizing Fees and Charges

SPONSOR(S): Cortes, B.

TIED BILLS: IDEN./SIM. **BILLS:** SB 1632

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Local, Federal & Veterans Affairs Subcommittee	10 Y, 0 N	Darden	Miller
2) Transportation & Infrastructure Subcommittee		Roth	Vickers
3) Government Accountability Committee			

SUMMARY ANALYSIS

County and municipal governments may contract with wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites within their jurisdiction. Counties and municipalities may establish a wrecker operator system to apportion towing services across multiple wrecker operators. Wrecker operators who participate in the wrecker operator system are known as authorized wrecker operators.

Counties and municipalities are authorized to establish maximum rates for the towing and storage of vehicles pursuant to an ordinance or rule adopted pursuant to s. 125.0103, F.S., or s. 166.043, F.S.

Some municipalities impose an administrative fee on vehicles towed by an authorized wrecker operator if the vehicle is seized or towed in connection with certain misdemeanors or felonies. The administrative fee is collected by the towing company on behalf of the municipal government and, in addition to towing and storage fees, must be paid before the vehicle is released to the registered owner or lienholder.

The bill requires a county or municipality to establish maximum rates for the towing and storage of vessels, as well as to place a cap on the maximum rate for immobilizing a vehicle or vessel.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The bill does not prohibit a county or municipality from levying a local business tax on authorized wrecker operators and does not impact the ability of a county or municipality to impose a reasonable administrative fee on the legal owner, legally authorized user, or lienholder of a vehicle or vessel to cover the cost of enforcement actions. The bill provides that an authorized wrecker operator may impose and collect the administrative fee and is only required to remit the fee to the county or municipality after it has been collected.

The bill prohibits counties and municipalities from adopting or enforcing ordinances or rules that impose fees on the registered owner or lienholder of a vehicle or vessel removed and impounded by an authorized wrecker operator.

The bill provides that a wrecker operator who recovers, removes, or stores a vehicle or vessel shall have a lien on the vehicle or vessel that includes the value of the reasonable administrative fee or charge imposed by a county or municipality.

The bill appears to have an indeterminate fiscal impact on local governments.

The bill provides an effective date of July 1, 2018.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

County and Municipal Wrecker Operator Systems

A county or municipal government may contract with one or more wrecker operators to tow or remove wrecked, disabled, or abandoned vehicles from streets, highways, and accident sites.¹ After the establishment of such contract(s), the county or municipality must create a “wrecker operator system” to apportion towing assignments between the contracted wrecker services. This apportionment may occur through the creation of geographic zones, a rotation schedule, or a combination of those methods.² Any wrecker operator that is included in the wrecker operator system is an “authorized wrecker operator” in the jurisdiction, while any wrecker operation not included is an “unauthorized wrecker operator.”³

Unauthorized wrecker operators are not permitted to initiate contact with the owner or operator of a wrecked or disabled vehicle.⁴ If the owner or operator initiates contact, the unauthorized wrecker operator must disclose in writing, before the vehicle is connected to the towing apparatus:

- His or her full name;
- Driver license number;
- That he or she is not a member of the wrecker operator system;
- That the vehicle is not being towed for the owner’s or operator’s insurance company or lienholder;
- Whether he or she has an insurance policy providing \$300,000 in liability coverage and \$50,000 in on-hook cargo coverage; and
- The maximum charges for towing and storage.⁵

The unauthorized wrecker operator must disclose this information to the owner or operator in the presence of a law enforcement officer if an officer is present at the scene of the accident.⁶

It is a second degree misdemeanor for an unauthorized wrecker operator to initiate contact or to fail to provide required information after contact has been initiated.⁷ An unauthorized wrecker operator misrepresenting his or her status as an authorized wrecker operator commits a first degree misdemeanor.⁸ In either instance, the unauthorized wrecker operator’s wrecker, tow truck, or other motor vehicle used during the offense may be immediately removed and impounded.⁹

Unauthorized wrecker operators also are prohibited from monitoring police radios to determine the location of wrecked or disabled vehicles.¹⁰

Counties must establish maximum rates for the towing of vehicles removed from private property, as well as the towing and storage of vehicles removed from the scene of an accident or where the vehicle

¹ Section 323.002(1)(c), F.S. The definition of “vehicle” does not include a vessel or trailer intended for the transport on land of a vessel. See s. 320.01, F.S. (defining “motor vehicle” for the purpose of issuance of motor vehicle licenses and separately defining a “marine boat trailer dealer” as a person engaged in “business of buying ... trailers specifically designed to be drawn by another vehicle and used for the transportation on land of vessels.”)

² *Id.*

³ Section 323.002(1)(a)-(b), F.S.

⁴ Section 323.002(2)(b), F.S.

⁵ Section 323.002(2)(c), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ Section 323.002(2)(d), F.S.

⁹ Section 323.002(2)(c) and (d), F.S.

¹⁰ Section 323.002(2)(a), F.S.

is towed at the request of a law enforcement officer. Municipalities are also authorized to adopt maximum rate ordinances. If a municipality enacts an ordinance to establish towing fees, the county ordinance will not apply within the municipality.¹¹ A county or municipality may not establish rates, including a maximum rate, for the towing of vessels.¹²

Vehicle Holds, Wrecker Operator Storage Facilities, and Liens

An investigating agency may place a hold on a motor vehicle stored within a wrecker operator's storage facility for up to five business days.¹³ A hold may be applied when the officer has probable cause to believe the vehicle:

- Should be seized under the Florida Contraband Forfeiture Act or Ch. 379, F.S.;
- Was used as the means of committing a crime;
- Is evidence that tends to show a crime has been committed; or
- Was involved in a traffic accident resulting in death or personal injury.¹⁴

An officer may also apply a hold when the vehicle is impounded pursuant to ss. 316.193 or 322.34, F.S., and when the officer is complying with a court order.¹⁵ The hold must be in writing and include the name and agency of the law enforcement officer placing the hold, the date and time the hold is placed on the vehicle, a general description of the vehicle, the specific reason for the hold, the condition of the vehicle, the location where the vehicle is being held, and the name and contact information for the wrecker operator and storage facility.¹⁶

The investigating agency must inform the wrecker operator within the five-day holding period if the agency intends to hold the vehicle for a longer period of time.¹⁷ The vehicle owner is liable for towing and storage charges for the first five days. If the vehicle will be held beyond five days, the investigating agency may choose to have the vehicle stored at a designated impound lot or to pay for storage at the wrecker operator's storage facility.¹⁸

A wrecker operator or other person engaged in the business of transporting vehicles or vessels who recovers, removes, or stores a vehicle or vessel, possesses a lien on the vehicle or vessel for a reasonable towing fee and storage fee, if the vehicle or vessel is removed upon instructions from:

- The owner of the vehicle or vessel,
- The owner, lessor, or authorized person acting on behalf of the owner/lessor of property on which the vehicle or vessel is wrongly parked (as long as the removal is performed pursuant to s. 715.07, F.S.),
- The landlord or authorized person acting on behalf of a landlord, when the vehicle or vessel remains on the property after the expiration of tenancy and the removal is performed pursuant to s. 83.806, F.S., or s. 715.104, F.S.), or
- Any law enforcement agency.¹⁹

Authority for Local Governments to Charge Fees

Counties and municipalities do not have authority to levy taxes, other than ad valorem taxes, except as provided by general law.²⁰ However, local governments possess the authority to impose user fees or assessments by local ordinance as such authority is within the constitutional and statutory home rule powers of local governments.²¹ The key distinction between a tax and a fee is that fees are voluntary

¹¹ Sections 125.0103(1)(c) and 166.043(1)(c), F.S.

¹² Compare 125.0103(1)(c), F.S. (requiring a county to establish maximum rates for towing of vehicles) with s. 715.07, F.S. (towing of vehicles or vessels parked on private property).

¹³ Section 323.001(1), F.S.

¹⁴ Section 323.001(4)(a)-(e), F.S.

¹⁵ Section 323.001(4)(f)-(g), F.S.

¹⁶ Section 323.001(5), F.S.

¹⁷ Section 323.001(2), F.S.

¹⁸ Section 323.001(2)(a)-(b), F.S.

¹⁹ Section 713.78(2), F.S.

²⁰ Art. VII, s. 1(a), Fla. Const.

²¹ *City of Boca Raton v. State*, 595 So. 2d 25, 30 (Fla. 1992).

and benefit particular individuals in a manner not shared by others in the public.²² On the other hand, a tax is a “forced charge or imposition, operating whether we like it or not and in no sense depends on the will or contract of the one on whom it is imposed.”²³ Usually a fee is applied for the use of a service and is tied directly to the cost of maintaining the service. Money collected from a fee is not applied to uses other than to provide the service for which the fee is applied. An administrative fee for towing and storage services may be permissible to the extent the fee provides a specific benefit to vehicle owners.²⁴

Administrative Fees Related to Towing and Storage

Some municipalities charge administrative fees when a vehicle is towed in connection with certain misdemeanors or felonies.

The City of Sarasota seizes the vehicle of those arrested for crimes related to drugs or prostitution.²⁵ The registered owner of the vehicle is then given two options:

- The registered owner may request a hearing where the city must show by a preponderance of the evidence that the vehicle was used to facilitate the commission of an act of prostitution or any violation of ch. 893, F.S., the Florida Comprehensive Drug Abuse Prevention and Control Act. The owner may post a bond equal to the civil penalty (\$500.00), hearing costs (\$50.00), and towing and storage fees (\$125.00 plus \$25.00 per day) to receive the vehicle back pending the outcome of the hearing, or the owner may leave the vehicle in impound, incurring additional fees.
- The registered owner may waive the right to a hearing and pay the civil penalty (\$500.00).

If the registered owner of the vehicle is unable to pay the administrative penalty within 35 days, the city disposes of the vehicle. The City of Bradenton uses the same process and rate structure.²⁶

Other municipalities have enacted ordinances charging an administrative fee for any vehicle impoundment associated with an arrest. For example, the City of Sweetwater imposes an “impoundment administrative fee” on all vehicles seized incident to an arrest. The fee is \$500 if the impoundment stems from a felony arrest and \$250 if the impoundment stems from a misdemeanor.²⁷

The City of Winter Springs imposes an administrative fee for impoundment arising from twelve offenses enumerated in the authorizing ordinance, ranging from prostitution to dumping litter weighing more than 15 pounds.²⁸ The registered owner may request a hearing, either accruing additional storage fees pending the hearing or posting a bond equal to the amount of the administrative fee (\$550.00). If the registered owner waives the right to hearing, the administrative fee is reduced to \$250.00. These fees are payable to the city but are collected by towing companies.²⁹

By contract, some municipalities require wrecker services to pay a monthly fee for serving as authorized wrecker operators. For example, the contract between the City of Sarasota and a wrecker operator requires the operator to pay the city \$10,151 per month for “the opportunity to provide” wrecker services, as well as \$500 for each impounded vehicle sold by the wrecker service.³⁰

²² *City of Miami v. Quik Cash Jewelry & Pawn, Inc.*, 811 So.2d 756, 758 (Fla. 3rd DCA 2002).

²³ *Id.* at 758-59.

²⁴ *See Jasinski v. City of Miami*, 269 F. Supp. 2d 1341, 1348 (S.D. Fla. 2003).

²⁵ Sarasota Police Department, *Vehicle Seizure Program*, available at <http://www.sarasotapd.org/vehicle-seizure-program/> (last accessed Jan. 17, 2018).

²⁶ Bradenton, Fla. Code of Ordinances, ch. 54, art. IV (2016).

²⁷ Sweetwater, Fla. Code of Ordinances, ch. 42-1, s. 42.1(c) (2017).

²⁸ Winter Springs, Fla. Ordinance No. 2016-01 (effective October 23, 2016).

²⁹ Winter Springs, Fla. Notice of Right to Hearing Form. A copy of this form is attached as Appendix A.

³⁰ Agreement for Wrecker Towing and Storage Services, City of Sarasota and J&G WFR, Inc. dba Direct Towing. A copy of the relevant portions of the contract is attached as Appendix B.

Effect of Proposed Changes

The bill authorizes a county or municipality to regulate the rates for the towing or immobilization of vessels. A county or municipality is required to establish a maximum rate that may be charged for the towing or immobilization of a vessel. The bill provides that the maximum rate to immobilize a vehicle or vessel may not exceed 20 percent of the maximum rate allowed by the county or municipality for towing a vehicle or vessel from private property. The bill defines immobilization as the act of rendering a vehicle or vessel inoperable by the use of a device such as a "boot," "club," "Barnacle," or any other device which renders the vehicle or vessel inoperable.

The bill prohibits a county or municipality from enacting a rule or ordinance that imposes a fee or charge on authorized wrecker operators. The prohibition would not impact the ability of the county or municipality to levy a business tax under ss. 205.0315, 205.033, or 205.0535, F.S. It also would not impact the ability of the county to impose a reasonable administrative fee or charge by ordinance on the legal owner of a vehicle if a county or municipal law enforcement officer has caused the owner's vehicle to be towed to and impounded at a facility owned by the county or municipality. The administrative fee imposed under this section may not exceed 25 percent of the maximum towing rate.

The bill authorizes an authorized wrecker operator or towing business to impose and collect the administrative fee and provides that the authorized wrecker operator or towing business is not required to remit the fee to the county or municipality until it is actually collected. The bill provides that the administrative fee shall be included as part of the lien on the vehicle or vessel held by the towing operator.

The bill also prohibits a county or municipality from adopting or enforcing an ordinance that imposes any charge, cost, expense, fine, fee, or penalty, on the registered owner or lienholder of a vehicle removed and impounded by an authorized wrecker operator. This prohibition does not apply to a reasonable administrative fee or charge, limited to 25 percent of the maximum towing rate, to cover the cost of enforcement.

B. SECTION DIRECTORY:

- Section 1: Amends s. 125.0103, F.S., requiring counties to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 2: Creates s. 125.01047, F.S., prohibiting counties from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 3: Amends s. 166.043, F.S., requiring municipalities to establish maximum rates for the towing of vessels and placing a cap on the maximum rate for immobilizing a vehicle or vessel.
- Section 4: Creates s. 166.04465, F.S., prohibiting municipalities from enacting ordinances imposing specific fees and charges on authorized wrecker operators.
- Section 5: Amends s. 323.002, F.S., prohibiting counties and municipalities from imposing fees and charges on the registered owner or lienholder of a vehicle removed and impounded pursuant to Ch. 323, F.S.
- Section 6: Amends s. 713.78, F.S., providing that a wrecker operation has a lien for a reasonable administrative fee or charge imposed by a county or municipality.
- Section 7: Provides that the bill shall take effect July 1, 2018.

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 will have an indeterminate impact on local government revenue. The bill prohibits counties and municipalities from charging certain fees to authorized wrecker operators and towing companies which are currently charged by some jurisdictions, while authorizing the collection of administrative fees for the cost of enforcement.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will reduce expenses for towing companies that are located in counties or municipalities currently charging a fee.

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 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:

The bill does not provide rulemaking authority or require executive branch rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Section 5 of the bill prohibits a county or municipality from adopting or maintaining an ordinance or rule that imposes a fee or charge other than a reasonable administrative fee for the costs of enforcement. This language appears to reference the administrative fee authorized by sections 2 and 4 of the bill.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

APPENDIX A



NOTICE OF RIGHT TO HEARING

Case#: _____
Dated this _____ day of _____, 20____

HAND DELIVERED TO:

NAME: _____ DOB: _____
ADDRESS: _____
D/L # _____ Sex: _____ Race: _____

SECTION 1:

The following property was taken on the _____ day of _____, 20____, on or about _____ hours by members of the Winter Springs Police in the vicinity of _____ because the undersigned police officer has probable cause to believe that the vehicle:

- Was used to facilitate the commission or attempted commission of an act of prostitution, assignation or lewdness as defined in §796.07, F.S. or the exposure of sexual organs as set forth in section 800.03 F.S.
- Was knowingly used in the commission of any misdemeanor act of possession or attempted possession of any controlled substance as defined in section 893.02 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of Chapter 893 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 316.061 F.S.
- Was used, intended or attempted to be used, to facilitate the commission of any misdemeanor violation of section 322.34 F.S.
- Was operated by a person driving under the influence defined in section 316.193 F.S. when such violation is a misdemeanor.
- Was used in the commission of the offense of driving without a valid license or permit in violation of 322.03 F.S.
- Was being operated on a public street and is not covered by liability insurance as required by Chapter 324 F.S.
- Was used in the commission of the misdemeanor offense of criminal mischief in violation section 806.13 F.S.
- Was used to dump litter in any manner prohibited by section 403.413(4) F.S. exceeding 15 lbs. or 27 cu. ft. in volume not exceeding 500 lbs. or 100 cu. ft. and not for commercial purposes.
- Was being operated by a person presenting proof of insurance in violation of section 316.646(4) F.S. knowingly not in force.
- Was parked in a way impeding traffic, creating a hazard, obstructing a street or city utility or left unattended because the driver was taken into custody by law enforcement.

Such property is being held pending civil proceedings under Winter Springs Code, Section 12 and is described as: YEAR _____ MAKE _____ MODEL _____ COLOR _____ TAG _____ VIN/HIN _____ STATE _____

Other _____

And is currently being held at:

Tri-County Towing
1155 Belle Ave.
Winter Springs, FL 32708
(407) 695-4400

Winter Springs Police Department
300 N. Moss Rd.
Winter Springs, FL 32708
(407) 327-1000

Received By (Operator/Owner) *Signed* _____

Received By (Operator/Owner) *Print* _____

Delivered By (Officer/Clerk) *Signed* _____

Delivered By (Officer/Clerk) *Print* _____

SECTION 2:

Pursuant to City Code, Section 12-100 the owner has the right to request a hearing in the following manner:

Within seven (7) business days of receipt of this notice, the owner, co-owner or lienholder may request a hearing by delivering to the Police Department, at 300 N. Moss Rd., Seminole County, Winter Springs, Florida 32708, a written request for a hearing.

Such request for a hearing shall include a valid telephone number and correct address where the owner, co-owner, or lienholder may be contacted.

The written notice must be received by the Police Department within the allotted time or the right to a hearing shall be deemed to be waived.

SECTION 3:

In order to retrieve the above described vehicle, the owner has the below options:

Owner, Co-Owner, or Lienholder Requesting a Hearing:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by posting a bond (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$550.00 submitted to the towing company. The Owner, Co-Owner, or Lienholder may then take possession of the vehicle from the towing company after payment of towing and storage charges payable to the towing company.

The Owner, Co-Owner, or Lienholder may leave the vehicle impounded and request a hearing directly from the police department Support Services Bureau.

Owner, Co-Owner, or Lienholder Waiving a Hearing and Submitting Civil Penalty:

The Owner, Co-Owner, or Lienholder may secure release of the vehicle by submitting a civil penalty (cash, money order, or certified check payable to the City of Winter Springs) in the amount of \$250.00 and submitted to the towing company during business hours.

The Owner, Co-Owner, or Lienholder then may receive the vehicle from the towing company after payment of towing and storage charges payable to the the towing company.

An executed written waiver shall bind both the owner and co-owner except as otherwise provided herein.

APPENDIX B

AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES

THIS AGREEMENT FOR WRECKER TOWING AND STORAGE SERVICES, made and entered into this 5 day of MAY, 2010 by and between the CITY OF SARASOTA, FLORIDA, a municipal corporation, hereinafter referred to as "CITY," and J & G WFR, INC. DBA DIRECT TOWING, a Florida corporation, hereinafter referred to as "DIRECT".

WITNESSETH:

WHEREAS, CITY has publicly announced an Invitation to Bid to obtain annual wrecker towing and storage services on an as needed basis pursuant to Invitation to Bid No. 10-08MK; and

WHEREAS, DIRECT has submitted a responsive bid which has been accepted by CITY to provide the CITY with the annual wrecker towing and storage services on an as needed basis; and

WHEREAS, CITY and DIRECT desire to formalize the terms and conditions of DIRECT's performance of such services as set forth herein; and

WHEREAS, the City Manager, pursuant to *Sarasota City Code* Section 2-5 (3) v. is authorized to administratively approve and execute this Agreement on behalf of CITY so long as the total compensation paid to DIRECT during the entire term of this Agreement, as may be extended, does not exceed Two Hundred Thousand Dollars (\$200,000.00).

NOW, THEREFORE, IN CONSIDERATION OF THE FOREGOING AND THE MUTUAL COVENANTS CONTAINED HEREIN, IT IS AGREED AS FOLLOWS:

1. Definitions: The following terms shall have the meanings herein ascribed to them:

A. *City Manager* shall mean the City manager of the City of Sarasota, Florida, or his designee.

B. *Police Chief* shall mean the Chief of Police of the City of Sarasota, Florida, or his designee.

C. *Project* shall mean the Scope of Services to be performed by DIRECT in furtherance of this Agreement. The Scope of Services shall include all labor, materials, tools, equipment, insurance and the like required to perform vehicle and vessel towing and storage services within the boundaries of the towing area on an as needed basis for CITY. A more detailed description of the Scope of Services is set forth in the City of Sarasota Police Department Vehicle and Vessel Towing and Storage Services section found on pages 13 through 20, inclusive, of Invitation to Bid No. 10-08MK. A copy of Invitation to Bid No. 10-08MK, as well as the Bid Form submitted by DIRECT in response thereto, are on file in the offices of

the Financial Administration Purchasing Division of CITY. Invitation to Bid No. 10-08MK, as well as DIRECT's Bid Form submitted in response thereto are deemed incorporated by reference into this Agreement. DIRECT covenants to strictly comply with all of the terms and conditions of Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. In the event of any conflict between the terms set forth in the main body of this Agreement and Invitation to Bid No. 10-08MK, the terms and conditions set forth in the main body of this Agreement shall control.

2. Scope of Services: DIRECT shall diligently and timely provide all labor, material and equipment required for the Scope of Services for the Project in strict conformance with Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto and in strict conformance with all the terms and conditions of this Agreement. The parties hereby agree to be bound by the terms and conditions set forth in Bid No. 10-08MK as well as DIRECT's Bid Form submitted in response thereto. The Police Chief will notify DIRECT when an assignment within the Project Scope of Services may be available. DIRECT covenants to provide the Project Scope of Services within the time limits set forth in Invitation to Bid No. 10-08MK.

3. Payment: In consideration for CITY providing DIRECT the opportunity to provide the Scope of Services, DIRECT agrees to pay CITY a fee in the amount of Ten Thousand One Hundred Fifty One and 00/100 Dollars (\$10,151.00) per month. Said payment shall be submitted to the CITY prior to the 10th day of each month. This monthly payment shall be due and payable by DIRECT to CITY in advance for each month during the term of this Agreement. Furthermore, in consideration of the CITY not placing, attempting to foreclose or foreclosing a vehicle impoundment lien upon a vehicle impounded pursuant to Section 33-271 of the Sarasota City Code, DIRECT agrees to waive any and all storage charges to which the CITY would be obligated to pay as a result of the operation of any provision of Chapter 323, Florida Statutes, on any vehicles impounded by the City and stored by DIRECT. As further

consideration, DIRECT shall pay CITY Five Hundred Dollars (\$500.00) for each sale by DIRECT of a vehicle that was sold subsequent to a seizure initiated by the police department of CITY. Said payment shall be made to CITY within thirty (30) days of DIRECT'S sale of a vehicle which had been seized.

4. Term: This Agreement shall be effective upon complete execution by each of the parties hereto. The initial term of this Agreement shall expire one year thereafter. This Agreement may be extended upon mutual agreement of the parties for up to two additional one year periods under the same terms and conditions pursuant to an amendment to this Agreement.

5. Public Records: DIRECT acknowledges that it shall be responsible to totally and fully comply with the Florida Public Records Law as set forth in Chapter 119, Florida Statutes and all other relevant laws, rules and regulations regarding public records.

6. Termination Without Default: The City Manager shall have the right at any time upon fifteen (15) days written notice to DIRECT to terminate the services of DIRECT hereunder for any reason whatsoever. If the City Manager terminates this Agreement pursuant to this Section 6, DIRECT shall be entitled to a pro-rated refund of the monthly payment required by Section 3 above. The amount of the refund shall be pro-rated based upon the number of days remaining in the calendar month starting with the day after the effective date of termination.

7. Termination With Default: DIRECT acknowledges that the conditions, covenants and requirements on its part to be kept, as set forth herein, are material inducements to CITY entering into this Agreement. Should DIRECT fail to perform any of the conditions, covenants and requirements on its part to be kept, the City Manager shall give written notice thereof to DIRECT specifying those acts or things which must occur in order to cure said default, including the time within which such cure shall occur. DIRECT shall have seventy two (72) hours measured from the date and time of the written notice within which to cure the default.

MIAF Bill Tracking

Sorted by Bill Number

<u>HB 3</u>	Economic Development and Tourism Promotion Accountability	Grant (M)
	Economic Development and Tourism Promotion Accountability: Authorizes & requires Auditor General to conduct certain audits; provides transparency & accountability provisions applicable to economic development agencies & tourism promotion agencies; provides penalties; requires county governing board to review certain proposed contracts & certifications. Effective Date: October 1, 2018 1/18/2018 HOUSE Placed on Special Order Calendar, 01/24/18	
<u>HB 7</u>	Local Government Fiscal Transparency	Burton
	Local Government Fiscal Transparency: Revises Legislative Auditing Committee duties; specifies purpose of local government fiscal transparency requirements; requires local governments to post certain voting record information on websites; requires property appraisers & local governments to post certain property tax information & history on websites; requires public notices for public hearings & meetings prior to certain increases of local government tax levies; specifies noticing & advertising requirements; requires local governments to conduct debt affordability analyses under specified conditions; provides method for local governments that do not operate website to post certain required information. Effective Date: July 1, 2018 1/12/2018 HOUSE Read Third Time; Passed (Vote: 91 Yeas / 12 Nays)	
<u>HB 17</u>	Community Redevelopment Organizations	Raburn
	Community Redevelopment Organizations: Provides reporting requirements; revises requirements for operating community redevelopment agencies; prohibits creation of community redevelopment agencies after date certain; provides phase-out period; creates criteria for determining whether community redevelopment agency is inactive; provides hearing procedures; authorizes certain financial activity from inactive community redevelopment agencies; revises requirements for use of redevelopment trust fund proceeds; revises county & municipal government reporting requirements; revises criteria for finding that county or municipality failed to file report; requires DFS to provide report to DEO concerning community redevelopment agencies with no revenues, no expenditures, & no debts. Effective Date: October 1, 2018 1/12/2018 HOUSE Read Third Time; Passed (Vote: 72 Yeas / 32 Nays)	
<u>HB 51</u>	Background Screening	Jones
	Background Screening: Prohibits employers from excluding applicant from initial interview for employment under certain conditions; provides applicability; provides exceptions; requires DEO to enforce act. Effective Date: July 1, 2018 11/7/2017 HOUSE Withdrawn prior to introduction	
<u>HB 53</u>	Coral Reefs	Jacobs
	Coral Reefs: Establishes Southeast Florida Coral Reef Ecosystem Conservation Area. Effective Date: July 1, 2018 1/18/2018 HOUSE Placed on Special Order Calendar, 01/24/18	
<u>SB 76</u>	Small Business Saturday Sales Tax Holiday	Garcia
	Small Business Saturday Sales Tax Holiday; Defining the term "small business"; providing that small businesses are not required to collect the sales and use tax on the retail sale of certain items of tangible personal property during a specified timeframe, etc. APPROPRIATION: \$200,000.00 Effective Date: 7/1/2018 11/7/2017 SENATE Now in Appropriations Subcommittee on Finance and Tax	
<u>HB 83</u>	Agency Rulemaking	Spano
	Agency Rulemaking: Requires certain notices to include agency website address for specified purpose; requires agency to prepare statement of estimated regulatory costs before adopting or amending rule other than emergency rule; requires agency to prepare statement of estimated regulatory costs before repealing rule in certain circumstances; requires DOS to include on Florida Administrative Register website agency website addresses where statements of estimated regulatory costs can be viewed. Effective Date: July 1, 2018 1/16/2018 HOUSE Placed on Calendar, on 2nd reading	
<u>SB 102</u>	Discrimination in Employment Screening	Bracy
	Discrimination in Employment Screening; Prohibiting an employer from inquiring into or considering an applicant's criminal history on an initial employment application unless otherwise required to do so by law, etc. Effective Date: 7/1/2018 8/28/2017 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Criminal Justice; Rules	
<u>SB 110</u>	Language Requirements for State Agency Websites and Advertisements	Campbell
	Language Requirements for State Agency Websites and Advertisements; Requiring specified information to be published on state agency websites in certain languages; requiring state agencies to disseminate certain advertisements to the public in languages other than English through specified media outlets in certain counties; requiring the Office of Economic and Demographic Research to publish certain information on its website, etc. Effective Date: 10/1/2018 8/28/2017 SENATE Referred to Governmental Oversight and Accountability; Appropriations; Rules	
<u>HB 131</u>	Coastal Management	Peters
	Coastal Management: Revises criteria for state & local participation in authorized projects & studies relating to beach	

management & erosion control; revises procedures for prioritizing & funding beach restoration, beach management, & inlet management projects; requires certain funds from Land Acquisition Trust Fund be used for beach preservation & restoration projects. Effective Date: July 1, 2018

9/14/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee

<u>SB 156</u>	Florida Black Bears	Stewart
	Florida Black Bears; Creating the "Florida Black Bear Protection Act"; prohibiting the Fish and Wildlife Conservation Commission from allowing the recreational hunting of Florida black bears mothering cubs that weigh less than 100 pounds under a black bear hunting permit; prohibiting prescribed burns in certain designated habitats during specified times, etc. Effective Date: 7/1/2018	
	8/28/2017 SENATE Referred to Environmental Preservation and Conservation; Criminal Justice; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations	
<u>SB 166</u>	Minimum Wage	Rodriguez (J)
	Minimum Wage; Revising the formula for the adjusted state minimum wage, etc. Effective Date: 7/1/2018	
	8/28/2017 SENATE Referred to Commerce and Tourism; Community Affairs; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations	
<u>SB 174</u>	Coastal Management	Hukill
	Coastal Management; Revising the criteria to be considered by the Department of Environmental Protection in determining and assigning annual funding priorities for beach management and erosion control projects; requiring that certain projects be considered separate and apart from other specified projects; revising requirements for the comprehensive long-term management plan; requiring certain funds from the Land Acquisition Trust Fund to be used for projects that preserve and repair state beaches, etc. Effective Date: Except as otherwise provided in this act, this act shall take effect July 1, 2018	
	10/26/2017 SENATE Now in Appropriations	
<u>HB 203</u>	Environmental Regulation Commission	Willhite
	Environmental Regulation Commission: Requires Governor to make appointments to fill commission vacancies within certain time frame; requires that specified rules submitted to commission receive certain vote totals for approval or modification. Effective Date: July 1, 2018	
	11/6/2017 HOUSE Now in Judiciary Committee	
<u>HB 207</u>	Growth Management	McClain
	Growth Management: Requires local governments to address protection of private property rights in their comprehensive plans; requires comprehensive plan to include private property rights element; requires counties & municipalities to adopt or amend land development regulations consistent with private property rights element; provides deadlines; requires state land planning agency to approve private property rights element if it is substantially in specified form. Effective Date: July 1, 2018	
	10/12/2017 HOUSE Now in Agriculture & Property Rights Subcommittee	
<u>SB 232</u>	Coral Reefs	Book
	Coral Reefs; Establishing the Southeast Florida Coral Reef Ecosystem Conservation Area, etc. Effective Date: 7/1/2018	
	1/19/2018 SENATE Placed on Calendar, on 2nd reading	
<u>HB 247</u>	Vessel Registration	Ausley
	Vessel Registration: Authorizes DHSMV to issue electronic certificate of registration for vessel & use electronic mail for certain purposes; authorizes vessel operator to present such electronic certificate for inspection under certain circumstances. Effective Date: July 1, 2018	
	11/15/2017 HOUSE Now in Transportation & Tourism Appropriations Subcommittee	
<u>SB 316</u>	Environmental Regulation Commission	Stewart
	Environmental Regulation Commission; Requiring the Governor to appoint a new member to the commission within a certain timeframe after the occurrence of a vacancy; requiring certain proposed rules submitted to the commission to receive specified vote totals for approval or modification, etc. Effective Date: 7/1/2018	
	11/7/2017 SENATE Now in Ethics and Elections	
<u>HB 319</u>	Gulf of Mexico Range Complex	Ponder
	Gulf of Mexico Range Complex: Supports extension of current moratorium on drilling in Gulf of Mexico east of Military Mission Line.	
	1/10/2018 HOUSE Now in Government Accountability Committee	
<u>HB 337</u>	Community Development Districts	Cortes (J)
	Community Development Districts: Requires community development districts to obtain a valuation before acquiring certain property. Effective Date: July 1, 2018	
	10/26/2017 HOUSE Now in Local, Federal & Veterans Affairs Subcommittee	
<u>HB 339</u>	Land Acquisition Trust Fund	Harrell
	Land Acquisition Trust Fund: Provides appropriation for certain projects related to Indian River Lagoon Comprehensive Conservation & Management Plan; authorizes DEP to make grants for such projects; directs DEP to submit annual	

<u>HB 345</u>	Duty to Provide Emergency Assistance	Goodson
	Duty to Provide Emergency Assistance: Requires person at scene of emergency to provide reasonable assistance to endangered person; provides criminal penalties; provides immunity from liability for providing reasonable assistance. Effective Date: October 1, 2018 10/26/2017 HOUSE Now in Criminal Justice Subcommittee	
<u>SB 362</u>	Growth Management	Perry
	Growth Management; Requiring local governments to address the protection of private property rights in their comprehensive plans; requiring the comprehensive plan to include a private property rights element that sets forth principles, guidelines, standards, and strategies to achieve certain objectives; providing a deadline by which each local government must adopt a private property rights element; requiring the state land planning agency to approve the private property rights element adopted by each local government if it is substantially in a specified form, etc. Effective Date: 7/1/2018 10/16/2017 SENATE Referred to Community Affairs; Environmental Preservation and Conservation; Rules	
<u>SB 380</u>	Criminal History Records in Applications for Public Employment and Admission to Public Postsecondary Educational Institutions	Clemens (J)
	Criminal History Records in Applications for Public Employment and Admission to Public Postsecondary Educational Institutions; 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; prohibiting public postsecondary educational institutions from inquiring into or considering the criminal history of an applicant seeking admission, etc. Effective Date: 7/1/2018 11/3/2017 SENATE Withdrawn from further consideration	
<u>SB 388</u>	Anchoring Limitation Areas	Farmer
	Anchoring Limitation Areas; Revising the anchoring limitation areas within the state to include additional specified areas, etc. Effective Date: 7/1/2018 10/25/2017 SENATE Referred to Environmental Preservation and Conservation; Community Affairs; Rules	
<u>HB 409</u>	Tax on Commercial Real Property	Ahern
	Tax on Commercial Real Property: Provides certain exemptions from tax imposed on rental or license fees charged for use of commercial real property; provides for future repeal of tax. Effective Date: July 1, 2018 12/18/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 12/20/17, 1:30 pm, 117 K (No Votes Will Be Taken)	
<u>SB 432</u>	Community Redevelopment Agencies	Lee (T)
	Community Redevelopment Agencies; Prohibiting a person from lobbying a community redevelopment agency until he or she has registered as a lobbyist with that agency; authorizing community redevelopment agencies to adopt rules to govern the registration of lobbyists; requiring ethics training for community redevelopment agency commissioners, etc. Effective Date: 7/1/2018 11/8/2017 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development	
<u>HB 469</u>	Salvage of Pleasure Vessels	Harrison
	Salvage of Pleasure Vessels: Requires salvors of pleasure vessels to provide specified verbal & written notice; provides exception; provides remedies for violations. Effective Date: July 1, 2018 1/19/2018 HOUSE Committee Substitute Text (C2) Filed	
<u>SB 516</u>	Duty to Provide Emergency Assistance	Mayfield
	Duty to Provide Emergency Assistance; Requiring a person at the scene of an emergency to provide reasonable assistance to an endangered person; providing a criminal penalty; providing immunity from liability for providing reasonable assistance, etc. Effective Date: 10/1/2018 10/26/2017 SENATE Referred to Criminal Justice; Judiciary; Appropriations; Rules	
<u>HB 525</u>	High-Speed Passenger Rail	Grall
	High-Speed Passenger Rail: Requires railroad company operating high-speed passenger rail system to be responsible for certain maintenance, improvement, & upgrade costs; specifies that governmental entity is not responsible for such costs unless it consents in writing. Effective Date: July 1, 2018 11/15/2017 HOUSE Now in Transportation & Infrastructure Subcommittee	
<u>SB 542</u>	Public Financing of Construction Projects	Rodriguez (J)
	Public Financing of Construction Projects; Prohibiting state-financed constructors from commencing construction of certain structures in coastal areas without first conducting a sea level impact projection study and having such study published and approved by the Department of Environmental Protection; requiring the department to publish such studies on its website, subject to certain conditions, etc. Effective Date: 7/1/2018 11/2/2017 SENATE Referred to Environmental Preservation and Conservation; Governmental Oversight and Accountability; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations	
<u>SB 544</u>	Procurement Procedures	Brandes

Procurement Procedures; Specifying the applicability of procedures for the resolution of protests arising from the contract solicitation or award process for certain procurements by specified transportation, expressway, and bridge authorities, etc.; Effective Date: 7/1/2018

12/5/2017 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

SB 550	Gulf of Mexico Range Complex	Broxson
	Gulf of Mexico Range Complex; Supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line, etc.	
	1/16/2018 SENATE Now in Military and Veterans Affairs, Space, and Domestic Security	
HB 559	Florida Black Bears	Olszewski
	Florida Black Bears: Prohibits FWCC from allowing recreational hunting of certain Florida black bears; provides penalty for certain harvesting of saw palmetto berries; authorizes FWCC to designate certain habitats; prohibits prescribed burns in such habitats during specified times. Effective Date: July 1, 2018	
	11/15/2017 HOUSE Now in Natural Resources & Public Lands Subcommittee	
SB 572	High-speed Passenger Rail	Mayfield
	High-speed Passenger Rail; Designating the "Florida High-Speed Passenger Rail Safety Act"; providing powers and duties of the Florida Department of Transportation; requiring the Florida Division of Emergency Management to offer, under certain circumstances, the local communities and local emergency services located along the rail corridor training specifically designed to help them respond to an accident involving rail passengers or hazardous materials; requiring a railroad company operating a high-speed passenger rail system to be solely responsible for certain maintenance, improvement, and upgrade costs, etc. Effective Date: 7/1/2018	
	1/18/2018 SENATE On Committee agenda - Community Affairs, 01/23/18, 3:30 pm, 301 S - Workshop	
HB 585	Tourist Development Tax	Fine
	Tourist Development Tax: Authorizes counties imposing tax to use tax revenues for specified purposes. Effective Date: July 1, 2018	
	1/18/2018 HOUSE Now in Commerce Committee	
SB 620	Disaster Preparedness Tax Exemption	Passidomo
	Disaster Preparedness Tax Exemption; Providing a sales and use tax exemption for certain tangible personal property related to disaster preparedness during a specified period, etc. APPROPRIATION: Indeterminate Effective Date: Upon becoming a law	
	1/18/2018 SENATE Now in Appropriations	
SB 632	Vessel Registration	Montford
	Vessel Registration; Authorizing the Department of Highway Safety and Motor Vehicles to issue an electronic certificate of registration for a vessel, to collect electronic mail addresses, and to use electronic mail for certain purposes; authorizing a vessel operator to present such electronic certificate for inspection under certain circumstances, etc. Effective Date: 7/1/2018	
	12/13/2017 SENATE Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development	
SB 658	Tourist Development Tax	Brandes
	Tourist Development Tax; Authorizing counties imposing the tax to use the tax revenues, under certain circumstances, for specified purposes and costs relating to public facilities, etc. Effective Date: 7/1/2018	
	12/5/2017 SENATE Now in Appropriations Subcommittee on Finance and Tax	
SB 664	Salvage of Pleasure Vessels	Young
	Salvage of Pleasure Vessels; Designating the "Florida Salvage of Pleasure Vessels Act"; requiring salvors of pleasure vessels to provide a specified written disclosure statement and salvage work estimate; requiring such salvors to obtain customer permission before exceeding the written estimate by more than a specified amount; requiring salvors to post specified signage on their vessels, etc. Effective Date: 7/1/2018	
	12/12/2017 SENATE Now in Transportation	
SB 726	Smoking Marijuana for Medical Use	Farmer
	Smoking Marijuana for Medical Use; Redefining terms to authorize the production, processing, transportation, sale, possession, and administration of marijuana in a form for smoking for medical use, etc. Effective Date: 7/1/2018	
	11/15/2017 SENATE Referred to Health Policy; Appropriations; Rules	
SB 740	Department of Agriculture and Consumer Services	Stargel
	Department of Agriculture and Consumer Services; Transferring authority to issue licenses for oyster harvesting in Apalachicola Bay from the department to the City of Apalachicola; revising permitting requirements and operating standards for water vending machines; revising the circumstances under which liquefied petroleum gas bulk delivery vehicles must be registered with the department; repealing provisions relating to packet vegetable and flower seed; creating the "Government Impostor and Deceptive Advertisements Act", etc. Effective Date: 7/1/2018	
	1/19/2018 SENATE On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 01/24/18, 9:00 am, 301 S	
SB 798	Background Screening	Braynon

Background Screening; Prohibiting employers from excluding an applicant from an initial interview for employment under certain conditions; requiring the Department of Economic Opportunity to enforce the act, etc. Effective Date: 7/1/2018
11/17/2017 SENATE Referred to Commerce and Tourism; Criminal Justice; Rules

SB 804	Possession of Real Property	Passidomo
	Possession of Real Property; Authorizing a person with a superior right to possession of real property to recover possession by ejectment; providing that a person entitled to possession of real property has a cause of action to regain possession from another person who obtained possession of real property by forcible entry, unlawful entry, or unlawful detainer; requiring that the court determine the right of possession and damages, etc. Effective Date: 7/1/2018 1/11/2018 SENATE Now in Community Affairs	
SB 902	Tax on Commercial Real Property	Perry
	Tax on Commercial Real Property; Providing a specified exemption from the tax imposed on rental or license fees charged for the use of commercial real property; authorizing the Department of Revenue to review any lease, license, or other information for certain purposes; providing for the future repeal of provisions relating to the imposition of a tax on the rental or license fees charged for the use of commercial real property, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2018 12/18/2017 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 12/20/17, 1:30 pm, 117 K (No Votes Will Be Taken)	
HB 915	Vessel Safety Inspection Decals	Henry
	Vessel Safety Inspection Decals: Authorizes FWCC to adopt specified rules for vessel safety inspection decals. Effective Date: July 1, 2018 1/18/2018 HOUSE Placed on Calendar, on 2nd reading	
HB 963	Towing and Immobilizing Fees and Charges	Cortes (B)
	Towing and Immobilizing Fees and Charges: Establishes maximum rate that local governments may charge to immobilize vehicles or vessels; defines "immobilize"; prohibits local governments from enacting certain ordinances or rules that impose fees or charges on specified entities; provides exceptions; prohibits local governments from imposing charges on certain entities related to vehicles or vessels; provides exception; authorizes certain persons to place liens on vehicles or vessels to recover specified fees or charges. Effective Date: July 1, 2018 1/19/2018 HOUSE On Committee agenda - Transportation & Infrastructure Subcommittee, 01/23/18, 9:00 am, 102 H	
SB 992	The C-51 Reservoir Project	Book
	C-51 Reservoir Project; Revising requirements related to the operation of water storage and use for Phase I and Phase II of the C-51 reservoir project if state funds are appropriated for such phases; authorizing the South Florida Water Management District to enter into certain capacity allocation agreements and to request a waiver for repayment of certain loans; authorizing the Department of Environmental Protection to waive such loan repayment under certain conditions, etc. Effective Date: 7/1/2018 12/13/2017 SENATE Referred to Environmental Preservation and Conservation; Appropriations Subcommittee on the Environment and Natural Resources; Appropriations	
SB 1132	Vessel Safety Inspection Decals	Hutson
	Vessel Safety Inspection Decals; Providing rulemaking authority to the Fish and Wildlife Conservation Commission regarding expiration and design of safety inspection decals, etc. Effective Date: 7/1/2018 1/19/2018 SENATE On Committee agenda - Appropriations Subcommittee on the Environment and Natural Resources, 01/24/18, 9:00 am, 301 S	
HB 1149	Environmental Regulation	Payne
	Environmental Regulation: Provides examples of reclaimed water use that may create impact offset; revises required provisions of water resource implementation rule; requires DEP & water management districts to develop & enter into certain memorandum of agreement; prohibits counties & municipalities from requiring recycling of contaminated recyclable material; provides that counties, municipalities, & recyclable material contractors are not required to collect, transport, or process contaminated recyclable material; provides that local government may not require further verification from department for certain projects; revises types of dock & pier replacements & repairs that are exempt from such verification & certain permitting requirements. Effective Date: upon becoming a law 1/19/2018 HOUSE On Committee agenda - Natural Resources & Public Lands Subcommittee, 01/23/18, 12:00 pm, 12 H	
HB 1151	Developments of Regional Impact	La Rosa
	Developments of Regional Impact: Repeals, creates, and revises provisions for statewide guidelines, standards, & requirements for developments of regional impact relating to authorizations to develop; applications for approval of development; concurrent plan amendments; preapplication procedures; preliminary development agreements; conceptual agency reviews; local notice & regional reports; developments inside & outside areas of critical state concern; local government development orders; construction of mitigation facilities; impact fee & exaction credits; comprehensive development applications & master plan development orders; abandonment of developments; dense urban land area exemptions; Florida Quality Developments & Quality Developments Review Board; Administration Commission guidelines & standards; state land planning agency agreements; Florida Land & Water Adjudicatory Commission	

requirements; local government permit approvals & extensions, reviews & certifications; uniform reviews of developments by state land planning agency & regional planning agencies. Effective Date: upon becoming a law
1/19/2018 HOUSE On Committee agenda - Agriculture & Property Rights Subcommittee, 01/23/18, 9:00 am, 12 H

SB 1188	The Strategic Intermodal System	Rouson
	Strategic Intermodal System; Specifying that the Strategic Intermodal System and the Emerging Strategic Intermodal System include existing or planned corridors that are managed lanes of transit, etc. Effective Date: 7/1/2018 12/18/2017 SENATE Referred to Transportation; Community Affairs; Rules	
HB 1211	Airboat Regulation	Abruzzo
	Airboat Regulation: Requires commercial airboat operator to have specified documents onboard; provides exception & penalty. Effective Date: upon becoming a law 1/12/2018 HOUSE Now in Careers & Competition Subcommittee	
HB 1223	Background Screening	McGhee
	Background Screening: Prohibits employers from excluding applicants from initial interviews for employment under certain conditions; provides applicability & exceptions; requires DEO to enforce act. Effective Date: July 1, 2018 1/12/2018 HOUSE Now in Careers & Competition Subcommittee	
SB 1244	Developments of Regional Impact	Lee (T)
	Developments of Regional Impact; Revising the statewide guidelines and standards for developments of regional impact; specifying that amendments to a development order for an approved development may not alter the dates before which a development would be subject to downzoning, unit density reduction, or intensity reduction, except under certain conditions; requiring local governments to file a notice of abandonment under certain conditions, etc. Effective Date: Upon becoming a law 1/18/2018 SENATE On Committee agenda - Community Affairs, 01/23/18, 3:30 pm, 301 S	
HB 1277	Strategic Intermodal System	Willhite
	Strategic Intermodal System: Specifies that Strategic Intermodal System & Emerging Strategic Intermodal System include existing or planned corridors that are managed lanes of transit. Effective Date: July 1, 2018 1/12/2018 HOUSE Now in Transportation & Infrastructure Subcommittee	
SB 1308	Environmental Regulation	Perry
	Environmental Regulation; Revising the required provisions of the water resource implementation rule; requiring the Department of Environmental Protection and the water management districts to develop and enter into a memorandum of agreement providing for a coordinated review of any reclaimed water project requiring a reclaimed water facility permit, an underground injection control permit, and a consumptive use permit; prohibiting counties and municipalities from requiring the recycling of contaminated recyclable material, etc. Effective Date: Upon becoming a law 1/17/2018 SENATE On Committee agenda - Environmental Preservation and Conservation, 01/22/18, 12:30 pm, 37 S	
SB 1402	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority	Simmons
	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority; Defining the term "state assumed waters"; providing the Department of Environmental Protection with the power and authority to adopt rules to assume and implement the section 404 dredge and fill permitting program pursuant to the federal Clean Water Act; requiring the department to adopt rules to create an expedited permit review process, etc. Effective Date: Upon becoming a law 1/17/2018 SENATE On Committee agenda - Environmental Preservation and Conservation, 01/22/18, 12:30 pm, 37 S	
SB 1612	Airboat Regulation	Rader
	Airboat Regulation; Citing this act as "Ellie's Law"; requiring, by a specified date, a commercial airboat operator to have specified documents on board the airboat while carrying passengers for hire, etc. Effective Date: Upon becoming a law 1/17/2018 SENATE On Committee agenda - Environmental Preservation and Conservation, 01/22/18, 12:30 pm, 37 S	
SB 1632	Towing and Immobilization Fees and Charges	Mayfield
	Towing and Immobilization Fees and Charges; Expanding the application of certain provisions related to ordinances and rules imposing price controls to include the towing or immobilization of vessels; prohibiting counties and municipalities from imposing charges, costs, expenses, fines, fees, or penalties on registered owners, other legally authorized persons in control, or lienholders of vehicles or vessels under certain conditions, etc. Effective Date: 7/1/2018 1/18/2018 SENATE On Committee agenda - Community Affairs, 01/23/18, 3:30 pm, 301 S	
SB 1714	Economic Development and Tourism Promotion Accountability	Perry
	Economic Development and Tourism Promotion Accountability; Authorizing the Auditor General to audit certain accounts and records; prohibiting a tourism promotion agency from expending funds that directly benefit only one business entity; authorizing the Governor or Chief Financial Officer to cease distributing certain tax revenues to certain noncompliant tourism promotion agencies; requiring the governing board of a county to review certain proposed contracts and certifications relating to potential conflicts of interest and mitigation plans, etc. Effective Date: 7/1/2018 1/12/2018 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations; Rules	

<u>HB 3655</u>	Pinellas County Orphan Vessel Grounding Restoration	Peters
	Pinellas County Orphan Vessel Grounding Restoration: Provides an appropriation for the Pinellas County Orphan Vessel Grounding Restoration. APPROPRIATION: \$604,735.00 Effective Date: July 1, 2018 12/5/2017 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee	
<u>HB 4359</u>	Monroe County Mobile Vessel Pumpout Service	Raschein
	Monroe County Mobile Vessel Pumpout Service: Provides an appropriation for the Monroe County Mobile Vessel Pumpout Service. APPROPRIATION: \$500,000.00 Effective Date: July 1, 2018 1/19/2018 HOUSE Now in Appropriations Committee	
<u>HB 7009</u>	Workers' Compensation	Commerce Committee
	Workers' Compensation: Requires panel to annually adopt statewide workers' compensation schedules of maximum reimbursement allowances; extends timeframes in which employees may receive certain workers' compensation benefits & in which carrier must notify treating doctor of certain requirements; revises provisions relating to retainer agreements & awarding attorney fees. Effective Date: July 1, 2018 1/12/2018 HOUSE Read Third Time; Passed (Vote: 74 Yeas / 30 Nays)	
<u>HB 7043</u>	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority	Natural Resources & Public Lands Subcommittee
	State Assumption of Federal Section 404 Dredge and Fill Permitting Authority: Provides DEP, upon approval of U.S. Environmental Protection Agency, with power & authority to adopt rules to assume & implement permitting program pursuant to federal Clean Water Act for dredge & fill activities in certain state waters; provides applicability of state laws, exemptions, & administrative procedures; provides permit requirements; provides for delegation of certain activities. Effective Date: upon becoming a law 1/19/2018 HOUSE Now in Government Accountability Committee	
<u>NRPL2</u>	State assumption of federal section 404 dredge and fill permitting authority	Natural Resources & Public Lands Subcommittee
	PCB NRPL 18-02 -- State assumption of federal section 404 dredge and fill permitting authority. This act shall take effect upon becoming a law 1/18/2018 HOUSE Committee Bill Filed as H 7043	

**GENERAL APPROPRIATIONS ACT & RELATED BILLS
SPECIAL AMENDMENT DEADLINES & PROCEDURES
PROPOSED BY THE
RULES & POLICY COMMITTEE**

January 18, 2018

The following report is submitted pursuant to Rules 7.11(b) and 12.2(c) for the purpose of establishing the procedures for committee and floor action on the general appropriations bill and any related implementing and conforming legislation.

No later than 8 a.m. on Friday, January 26, 2018, the Appropriations Committee will make electronically available to Members and the public the proposed General Appropriations bill, proposed implementing bill, and proposed conforming legislation to be considered at its meeting on Wednesday, January 31, 2018.

AMENDMENTS IN THE APPROPRIATIONS COMMITTEE:

Main amendments to the proposed General Appropriations bill, proposed implementing bill, and proposed conforming legislation must be filed no later than 4 p.m. on Monday, January 29, 2018, in the manner described below. Packages of these filed amendments for the bills will be available from the Appropriations Committee no later than 8 p.m. on Monday, January 29, 2018. Members and staff will be notified via email once the amendment package has been published.

All amendments to amendments and substitute amendments for the proposed General Appropriations bill, proposed implementing bill, and proposed conforming legislation must be filed no later than 12 p.m. on Tuesday, January 30, 2018, in the manner described below.

Amendments for the Appropriations Committee meeting must be filed with the Committee (Room 221, The Capitol) on the attached form. Member requests for appropriations staff to draft amendments will be treated as timely filed if received before the relevant deadline. The Appropriations Committee will meet at its noticed time on Wednesday, January 31, 2018, and will consider all timely filed amendments.

The Appropriations Committee will file and publish the General Appropriations bill, the implementing bill, and conforming legislation, as amended no later than 4 p.m. on Thursday, February 1, 2018. Members and staff will be notified via email when the bills are filed and published.

FLOOR AMENDMENTS:

All floor amendments to be considered on second reading of the General Appropriations bill, implementing bill, and conforming legislation must be filed in the manner described below.

Main amendments to the General Appropriations bill, the implementing bill, and conforming legislation must be filed by 4 p.m. on Monday, February 5, 2018. Packages of amendments for the General Appropriations bill, implementing bill, and

conforming legislation will be available from the Appropriations Committee no later than 8 p.m. on Monday, February 5, 2018. Members and staff will be notified via email once the amendment package has been published.

Amendments to main amendments or substitute amendments for main floor amendments must be requested in the same manner as main amendments by 12 p.m. on Tuesday, February 6, 2018.

Floor amendments to the General Appropriations bill must be filed with the Appropriations Committee (Room 221, The Capitol) on the attached General Appropriations Amendment Input Form. Member requests for appropriations staff to draft amendments will be treated as timely filed if received before the relevant deadline.

Floor amendments to the implementing bill and conforming legislation must be filed with the House Bill Drafting office through the LEAGIS member dashboard and must be “approved for filing” by the relevant deadline.

Amendment deadlines for both Committee and floor amendments apply to all Members, including Members of the Appropriations Committee.

Amendments filed with the Appropriations Committee will be accepted only from the House Member who wishes to file the amendment or from an employee of the House. With the exception of amendments offered by the Chair of the Appropriations Committee, any such amendment request must be delivered by the Member or from an employee of the House, and accompanied by the written authorization of the sponsoring Member on the Member’s letterhead. Email requests for amendments will not be accepted.

Members are reminded that the provisions of Rule 12.5 apply.

Time Schedule for Special Rule – 2018
 Procedure for Committee and Floor Action on the
 General Appropriations Bill and Related Implementing and Conforming Bills

Friday, January 26, 2018	8 a.m.	The Appropriations Committee will make electronically available the proposed General Appropriations bill and related implementing and conforming bills to be considered at its meeting on Wednesday, January 31, 2018.
Monday, January 29, 2018	4 p.m.	All main amendments for the proposed General Appropriations bill and related implementing and conforming bills must be filed for the Appropriations Committee meeting on Wednesday, January 31, 2018. Amendments must be filed with the Appropriations Committee.
Monday, January 29, 2018	8 p.m.	Packages of amendments will be made available. Members and staff will be notified via email once the amendment package has been published.
Tuesday, January 30, 2018	12 p.m.	All amendments to the amendments and substitute amendments must be filed with the Appropriations Committee.
Wednesday, January 31, 2018	TBD	The Appropriations Committee will meet.
****	****	****
Thursday, February 1, 2018	4 p.m.	The General Appropriations bill, implementing bill, and conforming bills, as amended, will be filed, published, and made electronically available.
Monday, February 5, 2018	4 p.m.	All requests for main floor amendments for the General Appropriations bill must be submitted to the Appropriations Committee. All requests for main floor amendments for related implementing and conforming bills must be approved for filing in Leagis.
Monday, February 5, 2018	8 p.m.	Packages of amendments will be made available. Members and staff will be notified via email once the amendment package has been published.
Tuesday, February 6, 2018	12 p.m.	All requests for amendments to floor amendments and substitute amendments to floor amendments for the General Appropriations bill must be submitted to the Appropriations Committee. All requests for amendments to floor amendments and substitute amendments to floor amendments for related implementing and conforming bills must be approved for filing in Leagis.
Wednesday- Thursday, February 7 – 8, 2018	TBD	Second reading & Third reading

SESSION 2018

Appropriations Amendment Input Form

Primary Sponsor: _____

Co Sponsors: _____

BILL NUMBER:

	Check one:	Original
Amendment:		Amendment #
Amendment to Amendment (<i>insert original amend. #</i>):		
Substitute Amendment for Amendment (<i>insert original amend. #</i>):		

Explanation: _____

Deleting From: (Note: The amendment must balance by fund. Deletes = Adds)

Line Item(s) #		Delete	Insert
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$

Adding To:

Line Item(s) #		Delete	Insert
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$
_____	Fund Name: (GR or TF Name): _____	\$	\$

Delete the following proviso following Line Item: _____

(Note: Delete only the paragraph(s) in the proviso you are changing; do not delete paragraphs you are not changing)

Add the following proviso (or insert in lieu of the proviso deleted above) after Line Item #
