

WEEK 8 REPORT

// 2022 LEGISLATIVE SESSION

+ MARINE INDUSTRIES ASSOCIATION OF FLORIDA

FEBRUARY 28 - MARCH 4, 2022



// WEEK 8 REPORT

CONTENTS

SB 198 // HB 349

Seagrass Mitigation

SB 238 // HB 711

Endangered Species

SB 494 // HB 323

Florida Fish and Wildlife

SB 606 // HB 493

Boating Safety

SB 820 // HB 529

Yacht and Ship Brokers Act

SB 840 // HB 841

Riparian Rights

SB 1650 // HB 701

Boating and Vessel Safety

SB 1432 // HB 1065

Vessel Anchoring

SB 1546 // HB 1225

Vessel Safety Flags

HB 1265

Local Regulation of Vessels

SB 1454 // HB 1081

Office of Blue Economy

The eighth week is complete, and we are heading into the final week of the 2022 Legislative Session.

We are currently under one hour notice, so bills, amendments and budget negotiations are moving quickly. Tensions are building as many issues are obviously dying as time is running out. Of course, everything can be revived during budget negotiations as everything is on the table. We also must watch closely as new issues are emerging as amendments or new budget issues.

Budget negotiations began this week. The budget negotiations have concluded at the subcommittee appropriations level. The unresolved issues have now bumped up to the full Appropriations chairs. Any issues unresolved by the chairs will then bump up to the presiding officers. The budget negotiations must be completed soon as the Fiscal Year 2022-23 Fiscal Year Appropriations Act must be on Legislators desks March 8th for the seventy two hour cooling off period before the final vote.

As of the writing of this report, the House of Representatives and the Florida Senate have finally passed a new Congressional Reapportionment map. The Governor stated the map is dead on arrival. This issue is an issue we will continue to monitor as it has a ripple effect on all bills and appropriations.

Wildfires in Bay County, Florida have impacted the pace of Session negotiations over the weekend as the Full Appropriations Chairman, Chair Jay Trumbull needed to be in his district. Bay County was impacted three years ago by Hurricane Michael. Evacuations are underway and there are reports of damaged homes and some individuals losing their home for the second time in three years.

Even with the wildfires we expect the budget negotiations to end on time.

We will not send a final report next week as we will need to time to sort through all amendments, proviso, etc.

Bills

The Florida Fish and Wildlife “Glitch” Bill was not one of our favorite issues because it allowed rowing in the ICW. The Senate bill was heard on Senate Special Order and passed with a late filed amendment. The bill was Engrossed and was placed on House Special Order on March 3rd. The bill was amended with gopher tortoise language and passed on final passage March 4th. The bill

has bounced back to the Senate in Messages for concurrence. Unfortunately, we are not completely satisfied with the bill as written and still have safety concerns. FWC does not seem to have the same safety concerns as MIAF and other stakeholders. FWC does not want to be told how to police and MIAF continues to be concerned about potential accidents. MIAF and other stakeholders have reached out to the United States Coast Guard regarding the safety issue. We anticipate this bill passing and going to the Governor's desk for approval.

The Boating Safety Bills filed by Senator Garcia and Representative Botana are on course to head to the Governor's desk for approval. Senate Bill 606 relating to Boating Safety by Senator was on the agenda in the Senate Appropriations Committee February 9th at 9:00 am and ran into some questions from Senators relating to the substance of the bill. The bill was temporarily passed. The bill is now on the Senate Appropriations agenda on February 21st. A proposed committee substitute was filed on January 28th to SB 606 and is still filed and a lengthy amendment was filed to the Proposed Committee Substitute on February 18th. The bill passed the Senate Appropriations Committee a Committee Substitute for Committee Substitute for Committee Substitute. The bill passed on the Senate floor March 1st with two amendments. The Senate bill was sent in Messages to the House of Representatives. The House companion, House Bill 493 was heard in the Senate Environment, Agriculture and Flooding Subcommittee. A proposed substitute was offered and adopted in committee. The bill has two more committees of reference and passed its second committee of reference on February 14th with a 13-0 vote. The bill is now a Committee Substitute for Committee Substitute. A committee reference was removed as the bill originally had four committees of reference. The bill passed the House State Affairs Committee as a Committee Substitute for Committee Substitute for Committee Substitute. The bill passed the House Special Order with one amendment. The bill was amended with the Boating Safety Bill sponsored by Representative McFarland. The language from House Bill HB 701 passed on this bill. This bill is scheduled to be heard on Third Reading for final passage on March 7th.

Senate Bill 840, relating to Riparian Rights passed the Senate floor 39-0. An amendment was also offered on the floor and adopted to the bill. The bill is now in Messages to the House of Representatives. HB 841 was heard in its second committee of reference, House Environment, Agriculture and Flooding Subcommittee and passed as a Committee Substitute. The House bill passed its last committee of reference, House Judiciary Committee on February 21st with a vote 18-0. The bill is now ready for the House Special Order Calendar. This bill has not been placed on Special Order at the time. The House could take up the Message from the Senate. Stay tuned on this bill.

The Vessel Flag legislation (SB 1546) filed by Senator Baxley and Representative Altman (HB 1225) caught our eye as it was an expansion from airboats to all vessels. Our office met with the sponsors and asked questions and expressed concerns about the broadness of the bill as written. Again, the bills have not been placed on the agenda as of the writing of this report. The House bill only has two committees of reference. Time is running out on this legislation as committee meetings will be wrapping up during the eighth week and the bills have yet to move. However, nothing is officially off the radar until Sine Die. Tick tock.....

Senate Bill 198 Seagrass Mitigation passed the Senate Environment and Natural Resource Committee as a Committee Substitute. The bill passed 3-2. The bill is still waiting to be heard in the Senate Community Affairs Committee meeting. The bill was not on the agenda as of the writing of this report. The House companion, House Bill 349, is waiting to be heard in its second committee of reference. Again, as of the writing of this report the bills have not been placed on agendas. This bill is probably dead for this Legislative Session, but I expect to see it again in the future.

Also, Senate Bill 1432 regarding Vessel Anchoring passed the Senate Environment and Natural Resource Committee with an amendment. The bill is now a Committee Substitute and passed 5-0. This bill passed the Senate Community Affairs Committee as a Committee Substitute for Committee Substitute. The bill passed 9-0. The Senate Bill passed the Senate Rules Committee on February 15th with a vote of 17-0. The bill passed on the Senate floor 38-0. The bill was in Message to the House when a House member filed an amendment to the bill striking the word "consecutive" from the anchoring statutes passed last year that required "consecutive 45 days". Marine Industries Association of Florida and Marine Industries Association of Palm Beach opposed the change as it would be hard to enforce and could be used to harass boaters. The amendment was ultimately withdrawn by Representative Duggan, the sponsor of the amendment and the anchoring bill last Session. Unfortunately, yet again, BOAT US did not oppose the language filed in the

amendment. The House companion, House Bill 1065 its first committee this week 16-0. The bill passed the House Agriculture, and Natural Resources Appropriations Subcommittee on February 14th with a 14-0 vote. The bill passed the House State Affairs Committee February 21st with a vote 22-0. The bill was taken up on the House floor and the Senate bill was substituted. The bill has officially passed and is waiting to be sent to the Governor for approval. This is a prime example how all bills can become vehicles for bad legislation.

Thank you for allowing us to be your voice in Tallahassee.

Again, thank you and below are some of the highlighted bills we are tracking this Session.

A handwritten signature in black ink, appearing to read "Margaret Timmins". The signature is stylized with a large, sweeping flourish that extends to the right.

Margaret "Missy" Timmins
President
Timmins Consulting, LLC

// WATER RESOURCES MANAGEMENT

Senate Bill 198 // Sen. Ana Maria Rodriguez // Referred to: Environment and Natural Resources; Community Affairs; Appropriations

House Bill 349 // Rep. Toby Oberdorf // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 198: CS/SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law. The bill provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria. It also directs the Department of Environmental Protection to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.

The bill revises the existing Environmental Resource Permitting (ERP) program exceptions for:

- The installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, to provide that docks authorized under same must be granted authorization for the use of submerged lands upon approval by the Board of Trustees; and
- Floating vessel platform or floating boat lift structures, to:
 - Create a presumption of compliance with any requirement to minimize adverse environmental impacts, where they are associated with a dock on a parcel of land; and
 - Provide that local governments may require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.

The bill also provides a definition for the term “local government.”

Most Recent Action: Favorable with CS by Environment and Natural Resources; 3 Yeas, 2 Nays

House Bill 349: The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters. Some projects are exempt from the requirement to obtain an ERP if they meet specific statutory restrictions.

Environmental impact mitigation is required under certain circumstances to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP.

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts.

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally influenced waters. The Board of Trustees of the Internal Improvement Trust Fund (Board) is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state owned lands.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for long-term management of permitted mitigation.

Additionally, the bill requires DEP, in consultation with Water Management Districts, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board. Additionally, the bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

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

Most Recent Action: Favorable with CS by Environment, Agriculture & Flooding Subcommittee; 13 Yeas, 4 Nays

Attached documents: CS/SB 198 + Staff Analysis; CS/HB 349 + Staff Analysis

// ENDANGERED AND THREATENED SPECIES

Senate Bill 238 // Sen. Shevrin Jones // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 711 // Rep. Ben Diamond // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

RELATIONSHIP: *IDENTICAL*

Senate Bill 238: Directing the Fish and Wildlife Conservation Commission to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the department from considering certain costs when designating a species as endangered or threatened, etc.

Most Recent Action: Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 711: Revises legislative intent of Florida Endangered & Threatened Species Act; directs FWCC & DACS to protect certain endangered or threatened species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

Attached documents: SB 238 (as filed); HB 711 (as filed)

// FISH AND WILDLIFE CONSERVATION COMMISSION

Senate Bill 494 // Sen. Travis Hutson // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 323 // Rep. Tyler Sirois // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 494: SB 494 revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. The bill:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the FWC, to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
- Specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure.
- Specifies the circumstances in which law enforcement may destroy or dispose of a vessel.
- Reorganizes provisions authorizing the FWC to establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels.
- Allows operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons.
- Specifies that a certificate of title may not be issued for a public nuisance vessel.
- Specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.
- Adds public nuisance vessels to the definition of abandoned property.
- Places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.
- Authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

The bill will have an indeterminate fiscal impact on the FWC as the derelict vessel removal grants to local governments will be subject to appropriation.

Senate Bill 494 was amended in the House with an amendment that deletes provisions allowing state lands to be used as gopher tortoise recipient sites if there are fewer than three permitted private recipient sites available for gopher tortoise relocations, and directing FWC to work with each state land management agency to identify at least nine feasible recipient sites on state lands.

The amendment deletes language explaining the recipient site permit application and approval process. It adds legislative recognition of geographical and capacity constraints on recipient sites, increased demand, and the dependency of gopher tortoise conservation success on privately and publicly owned lands.

The amendment directs the lead land management agency to evaluate the economic feasibility of establishing a recipient site.

The amendment authorizes landowners to establish a recipient site or conservation bank where a conservation easement or other less-than-fee interest has been acquired by the board, a state

agency, or a regional or local government, as long as the recipient site or conservation bank does not interfere with the management plan for the conservation easement and the landowner complies with all state and federal permitting requirements.

The amendment directs FWC to streamline and improve the review of recipient site applications. The amendment directs FWC to establish an ongoing effort to encourage new recipient sites on private lands and create an online dashboard to assist with efficient relocation efforts.

The amendment directs FWC to submit a report by February 1, 2023 to the President of the Senate and the Speaker of the House of Representatives that includes: progress made in establishing new recipient sites; average time it takes to approve or deny a recipient site application; any federal action taken to modify the gopher tortoise listing under the Endangered Species Act; and any other information relevant to gopher tortoise conservation programs.

Most Recent Action: Substituted for HB 0323; Read Second Time; Amendment Adopted (31891); Placed on Third Reading; Read Third Time; Passed (Vote: 112 Yeas / 1 Nay); In returning messages

House Bill 323: The Florida Fish and Wildlife Conservation Commission (FWC) is the agency responsible for regulating boating, wild animal life, fresh water aquatic life, and marine life in the state.

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public state waters; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the property owner. It is unlawful to store, leave, or abandon a derelict vessel in Florida. In addition, current law prohibits a vessel that is at risk of becoming derelict from anchoring, mooring, or occupying state waters. A vessel that has been the subject of three or more at-risk violations within an 18-month period is deemed a public nuisance.

The bill expands the types of vessels that may be considered at-risk vessels by authorizing an FWC or law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring. The bill also expands the definition of “abandoned property” to include vessels that have been declared a public nuisance to clarify that the laws and procedures that apply to abandoned property also apply to such vessels.

The bill specifies that an owner or party responsible for a vessel declared a public nuisance who does not remove the vessel within 21 days after a notice directing the removal is placed on the vessel is liable for all costs of removal, storage, destruction, and disposal of the vessel. In addition, the bill specifies that grants provided to local governments for the removal, storage, destruction, and disposal of derelict vessels may also be used for the removal, storage, destruction, and disposal of vessels declared a public nuisance.

The bill prohibits municipalities and counties from establishing public bathing beach or swim areas in whole or in part within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel. The bill also authorizes a person to operate a human-powered vessel within the waterway when participating in certain club athletic teams or sports affiliated with an educational institution.

The bill authorizes a law enforcement employee of FWC or the Florida Forest Service to use drones for the purposes of managing and eradicating invasive exotic plants or animals on public lands and suppressing and mitigating wildfire threats.

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

Most Recent Action: Read Second Time; Substituted for SB 0494; Laid on Table, Refer to SB 0494

Attached documents: SB 494 (1st Engrossed) + Staff Analysis + Amendment

// MOTORBOAT ENGINE CUTOFF SWITCHES // VESSEL SAFETY EQUIP.

Senate Bill 606 // Sen. Ileana Garcia // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 493 // Rep. Adam Botana // Referred to: Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 606: SB 606 creates the “Boating Safety Act of 2022.”

Relating to liveries, the bill:

- Requires a no-cost, annual livery permit, effective January 1, 2023.
- Requires liveries to implement certain safety requirements.
- Adds penalties for violations of livery requirements.

The bill increases or adds penalties for noncriminal infractions of vessel safety laws. It increases the additional civil penalty for noncriminal infractions of vessel laws from \$50 to \$100. It directs certain penalties to the Marine Resource Conservation Trust Fund (MRCTF) to supplement law enforcement activities.

Relating to boating safety programs, the bill:

- Adds a \$500 fine for certain vessel operators.
- Requires the Florida Fish and Wildlife Conservation Commission (FWC) to maintain a program to ensure compliance with mandatory boating safety education requirements; and
- Creates the Illegal Boating Strike Team to enhance law enforcement activities.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

The bill provides an appropriation of \$2 million in recurring funds from the General Revenue Fund to the FWC and authorizes seven positions with associated salary rate of \$322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements. The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement.

Most Recent Action: Substituted for HB 0493; Read Second Time; Amendment Adopted (981283); Placed on Third Reading, 03/07/22

House Bill 493: The Fish and Wildlife Conservation Commission (FWC), created by Article IV, section 9, of the Florida Constitution, is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is also the agency responsible for regulating boating in the state. Through its Division of Law Enforcement, FWC manages the state's waterways to ensure boating safety for residents of and visitors to the state. This responsibility includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.

A livery vessel is a vessel that is leased, rented, or chartered to another for consideration. A facility that rents and leases such vessels is called a livery. Current law imposes certain requirements on liveries and prohibits them from renting or leasing vessels under certain circumstances.

Beginning January 1, 2023, the bill prohibits a livery from offering a vessel for lease or rent without first being issued a no-cost livery permit by FWC, which must be renewed annually. The bill also requires liveries to implement certain safety requirements and establishes penalties for violations of livery requirements.

The bill authorizes a court to order a person who is convicted of a violation related to boating collisions and accidents to pay an additional fine of up to \$1,000 per violation.

The bill increases or establishes maximum penalties for certain noncriminal infractions of vessel safety laws. The bill also increases the default civil penalty for noncriminal infractions of vessel laws from \$50 to \$100, which applies when a different maximum penalty is not specified for a particular infraction.

The bill requires a person who is subject to mandatory education requirements as a result of certain violations of vessel laws to pay a fine of \$500. The bill also requires FWC to maintain a program to ensure violators are in compliance with mandatory boating safety education requirements.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

The bill may have an indeterminate negative fiscal impact on the state that can be absorbed within existing resources and no fiscal impact on local governments.

Most Recent Action: Read Second Time; Substituted for SB 0606; Laid on Table, Refer to SB 0606

Attached documents: CS/SB 606 + Amendment + Staff Analysis

// YACHT AND SHIP BROKERS' ACT

Senate Bill 820 // Sen. Ed Hooper // Referred to: Regulated Industries; Commerce and Tourism; Rules

House Bill 529 // Rep. Chip LaMarca // Referred to: Regulatory Reform Subcommittee; State Administration & Technology Appropriations Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 820: Revising the penalties for persons operating a vessel involved in an accident or injury who leave the scene of the accident or injury under certain circumstances; providing graduated penalties depending on the level of damage to property or person; providing a mandatory minimum sentence for a person who willfully commits such violation resulting in the death of another while boating under the influence; providing that a person commits boating under the influence manslaughter when their impaired operation of a vessel causes the death of an unborn child; revising the definition of the term "vessel homicide" to include the killing of an unborn child by causing injury to the mother by operation of a vessel in a reckless manner under certain circumstances, etc.

Most Recent Action: Referred to Environment and Natural Resources; Criminal Justice; Rules

House Bill 529: The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division), which regulates yacht and ship brokers and salespersons. A person may not act as a broker or salesperson in Florida unless they are licensed by the division.

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons. A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.

A license is not required for:

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

The PCS provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill may have a minimal indeterminate fiscal impact on state government, and no fiscal impact on local governments.

The PCS is effective upon becoming law.

Most Recent Action: Favorable by State Administration & Technology Appropriations Subcommittee; 13 Yeas, 0 Nays

Attached documents: SB 820 (as filed); CS/HB 529 + Staff Analysis

// RESIDENTIAL PROPERTY RIPARIAN RIGHTS

Senate Bill 840 // Sen. Ben Albritton // Referred to: Environment and Natural Resources; Judiciary; Rules

House Bill 841 // Rep. Nick DiCeglie // Referred to: Civil Justice & Property Rights Subcommittee; Environment, Agriculture & Flooding Subcommittee; Judiciary Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 840: SB 840 requires land surveyors to give a preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner's riparian rights along a channel, unless doing so would result in an inequitable apportionment of the riparian rights at issue. In connection with this preference, the bill defines the terms "channel" and "prolongation-of-property-line method"; limits the scope of the preference to riparian waters only (not littoral waters, such as a lake, an ocean, or a gulf); and provides that the preference only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill also provides that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, the court must award reasonable attorney fees and costs to the defendant if the defendant is the prevailing party.

Most Recent Action: Read Second Time; Read Third Time; Passed (Vote: 39 Yeas / 0 Nays); Immediately certified; In Messages

House Bill 841: Riparian rights are rights incident to land bordering navigable waters such as rivers and streams (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view. Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s personal use, subject to the right of the public to use the navigable waters. In other words, structures built on riparian land may not impede navigation or other lawful public uses and generally may not extend beyond the line of navigation. Riparian rights inure to the riparian land owner and are appurtenant to and inseparable from the riparian land. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water. However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries. Instead, boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the waterbody, and the co-relative rights of adjoining riparian land owners. Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have not been properly drawn or his or her riparian rights have been otherwise violated may bring an action for relief in the circuit court where the riparian land is located.

HB 841 establishes a preferred method for establishing the boundaries of a residential property owner’s riparian rights along a channel for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the “prolongation-of-property-line” method unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel. Further, the bill provides that, in a civil action relating to a residential dock owner’s riparian rights, when such rights are exercised with all appropriate environmental and regulatory approvals and permits and the defendant prevails, the court must award the defendant his or her reasonable attorney fees and costs.

The bill may have a positive indeterminate fiscal impact on state government but does not appear to have a fiscal impact on local governments.

Most Recent Action: Favorable by Judiciary Committee; 18 Yeas, 0 Nays; Placed on Calendar, on 2nd reading

Attached documents: SB 840 (as filed) + Staff Anaysis; CS/HB 841 (as filed) + Staff Analysis

// BOATING AND VESSEL SAFETY

Senate Bill 1650 // Sen. Joe Gruters // Referred to: Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 701 // Rep. Fiona McFarland // Referred to: Tourism, Infrastructure & Energy Subcommittee; Environment, Agriculture & Flooding Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1650: Requiring certain boating safety education courses and temporary certificate examinations to include specified components; directing the Fish and Wildlife Conservation Commission to include such components in boating safety education campaigns and certain educational materials; requiring instructors of water sports and activities to wear engine cutoff switches under certain conditions, etc.

Most Recent Action: Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

House Bill 701: The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as “Ethan’s Law.”

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are boarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal

watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of July 1, 2022.

Most Recent Action: Read Second Time; Placed on Third Reading, 02/25/22; Read Third Time; Passed (Vote: 105 Yeas / 0 Nays); Immediately certified; In Messages; Received; Referred to Appropriations

Attached documents: SB 1650 (as filed); CS/CS/HB 701 + Staff Analysis

// VESSEL ANCHORING

Senate Bill 1432 // Sen. Ana Maria Rodriguez // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 1065 // Rep. Jim Mooney // Referred to: Environment, Agriculture & Flooding Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1432: CS/SB 1432 amends statutes relating to vessel anchoring and mooring. The bill provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must:

- Pull anchor,
- Move under their own power, and
- Re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county, until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock. The bill removes the provisions requiring the county to approve of a certain

number of moorings at certain locations.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pump-out.

Most Recent Action: Substituted for HB 1065; Read Second Time; Placed on Third Reading, 03/04/22; Read Third Time; Passed (Vote: 112 Yeas / 0 Nays); Ordered enrolled; Enrolled Text (ER) Filed

House Bill 1065: Current law designates certain densely populated urban areas that have narrow state waterways, residential docking facilities, and significant boating traffic as anchoring limitation areas. In an anchoring limitation area, a person is prohibited from anchoring a vessel at any time during the period between one half hour after sunset and one half-hour before sunrise. The Division of Law Enforcement of the Fish and Wildlife Conservation Commission (FWC) and its officers, county sheriffs and deputies, and municipal police officers typically enforce anchoring limitation areas. In 2021, the Legislature designated Monroe County as an anchoring limitation area where a vessel on waters of the state can only anchor in the same location for a maximum of 90 days. The establishment of Monroe County as an anchoring limitation area does not take effect until Monroe County approves, permits, and opens new moorings for public use, including 250 moorings within one mile of Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.

The bill specifies that approved and permitted moorings or mooring fields in Monroe County have a 10-year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit the tenancy of a vessel because it is an established domicile or primary residence.

The bill clarifies requirements related to the designation of Monroe County as an anchoring limitation area. Specifically, the bill requires each vessel anchored on state waters within 10 nautical miles of a public mooring field or a designated anchoring area to pull anchor, move from its location using its propulsion system, and reanchor in a new location no less than once every 90 days.

The bill specifies that these requirements do not apply to vessels moored to approved and permitted moorings. Additionally, until at least 100 new moorings are available for public use within one mile of Key West Bight City Dock, these requirements do not apply to live-aboard vessels on state waters within Monroe County.

The bill requires certain vessels within Monroe County on state waters that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days.

The bill may have an insignificant negative fiscal impact on the state.

Most Recent Action: Read Second Time; Substituted for SB 1432;
Laid on Table, Refer to SB 1432

Attached documents: CS/CS/SB 1432 + Staff Analysis

// VESSEL SAFETY FLAGS

Senate Bill 1546 // Sen. Dennis Baxley // Referred to: Environment and Natural Resources; Community Affairs; Rules

House Bill 1225 // Rep. Thad Altman // Referred to: Environment, Agriculture & Flooding Subcommittee; State Affairs Committee

HOUSE/SENATE BILL RELATIONSHIP: *SIMILAR*

Senate Bill 1546: Removing the requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibiting the operation and anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions, etc.

Most Recent Action: Referred to Environment and Natural Resources; Community Affairs; Rules

House Bill 1225: Removes requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibits operation & anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions; provides penalties.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; State Affairs Committee

Attached documents: SB 1546 (as filed); HB 1225 (as filed)

// LOCAL REGULATION OF VESSELS

House Bill 1265 // Rep. Mike Caruso // Referred to: Environment, Agriculture & Flooding Subcommittee; Criminal Justice & Public Safety Subcommittee; Agriculture & Natural Resources Appropriations Subcommittee; State Affairs Committee

House Bill 1265: Authorizes local governments to regulate the anchoring of certain vessels.

Most Recent Action: Referred to Environment, Agriculture & Flooding Subcommittee; Local Administration & Veterans Affairs Subcommittee; State Affairs Committee

Attached documents: HB 1265 (as filed)

// OFFICE OF THE BLUE ECONOMY

Senate Bill 1454 // Sen. Lorraine Ausley // Referred to: Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 1081 // Rep. Kelly Skidmore // Referred to: Tourism, Infrastructure & Energy Subcommittee; Infrastructure & Tourism Appropriations Subcommittee; Commerce Committee

HOUSE/SENATE BILL RELATIONSHIP: *IDENTICAL*

Senate Bill 1454: Establishing the office within the Department of Economic Opportunity; defining the term “blue economy”; providing duties of the office; requiring the Office of Economic and Demographic Research to conduct a biennial evaluation of the blue economy for inclusion in a certain assessment, etc.

Most Recent Action: Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

House Bill 1081: Establishes Office of the Blue Economy within DEO; provides duties of office; requires EDR to conduct biennial evaluation of blue economy for inclusion in certain assessment.

Most Recent Action: Referred to Tourism, Infrastructure & Energy Subcommittee; Infrastructure & Tourism Appropriations Subcommittee; Commerce Committee

Attached documents: SB 1454 (as filed); HB 1081 (as filed)

=====

We appreciate the opportunity to be your voice in Tallahassee!

By the Committee on Environment and Natural Resources; and
Senator Rodriguez

592-02072-22

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1 A bill to be entitled
2 An act relating to water resources management;
3 amending s. 253.03, F.S.; authorizing the Board of
4 Trustees of the Internal Improvement Trust Fund to
5 grant easements on sovereignty submerged lands for
6 specified mitigation banks under certain conditions;
7 providing construction; requiring the Department of
8 Environmental Protection to adopt and modify specified
9 rules; providing requirements for such rulemaking;
10 requiring the department, in consultation with the
11 water management districts, to include such rulemaking
12 in any active rulemaking process or to complete such
13 rule development within a specified timeframe;
14 amending s. 403.813, F.S.; exempting certain docks on
15 recorded easements from certain permit and
16 verification requirements; requiring authorization for
17 certain docks to use submerged lands upon approval of
18 the board; providing that the compliance of certain
19 structures associated with a dock on a parcel of land
20 with certain provisions creates a presumption of
21 compliance with certain environmental impact
22 requirements; removing provisions authorizing local
23 governments to require permits for certain floating
24 vessel platforms; revising the purposes for which
25 local governments may require one-time registration of
26 such platforms; defining the term "local government";
27 providing an effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Subsection (17) is added to section 253.03, Florida Statutes, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(17) The board of trustees may grant easements on sovereignty submerged lands for mitigation banks that are permitted under s. 373.4136 to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria under this chapter and chapter 258. This subsection does not prohibit mitigation to offset impacts to seagrass or other habitats on sovereignty submerged lands, upon meeting the public interest criteria under this chapter and chapter 258.

Section 2. The Department of Environmental Protection shall adopt and modify rules adopted pursuant to ss. 373.4136 and 373.414, Florida Statutes, to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under ss. 373.4136 and 373.414, Florida Statutes. The department, in consultation with the water management districts, shall include the rulemaking required by this section in existing active rulemaking, or shall complete rule development by June 30, 2023.

Section 3. Paragraphs (b) and (s) of subsection (1) of section 403.813, Florida Statutes, are amended to read:

403.813 Permits issued at district centers; exceptions.—

(1) A permit is not required under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or

592-02072-22

2022198c1

59 chapter 25270, 1949, Laws of Florida, and a local government may
60 not require a person claiming this exception to provide further
61 department verification, for activities associated with the
62 following types of projects; however, except as otherwise
63 provided in this subsection, this subsection does not relieve an
64 applicant from any requirement to obtain permission to use or
65 occupy lands owned by the Board of Trustees of the Internal
66 Improvement Trust Fund or a water management district in its
67 governmental or proprietary capacity or from complying with
68 applicable local pollution control programs authorized under
69 this chapter or other requirements of county and municipal
70 governments:

71 (b) The installation and repair of mooring pilings and
72 dolphins associated with private docking facilities or piers and
73 the installation of private docks, piers, and recreational
74 docking facilities, or piers and recreational docking facilities
75 of local governmental entities when the local governmental
76 entity's activities will not take place in any manatee habitat,
77 any of which docks:

78 1. Has 500 square feet or less of over-water surface area
79 for a dock located in an area designated as Outstanding Florida
80 Waters or 1,000 square feet or less of over-water surface area
81 for a dock located in an area that is not designated as
82 Outstanding Florida Waters;

83 2. Is constructed on or held in place by pilings or is a
84 floating dock constructed so as not to involve filling or
85 dredging other than that necessary to install the pilings;

86 3. May not substantially impede the flow of water or create
87 a navigational hazard;

592-02072-22

2022198c1

88 4. Is used for recreational, noncommercial activities
89 associated with the mooring or storage of boats and boat
90 paraphernalia; and

91 5. Is the sole dock constructed pursuant to this exemption
92 as measured along the shoreline for a distance of 65 feet,
93 unless the parcel of land, recorded easement, or individual lot
94 as platted is less than 65 feet in length along the shoreline,
95 in which case one exempt dock may be allowed per parcel,
96 easement, or lot. Such docks shall be granted authorization for
97 the use of submerged lands upon approval by the Board of
98 Trustees of the Internal Improvement Trust Fund.

99
100 This paragraph does not prohibit the department from taking
101 appropriate enforcement action pursuant to this chapter to abate
102 or prohibit any activity otherwise exempt from permitting
103 pursuant to this paragraph if the department can demonstrate
104 that the exempted activity has caused water pollution in
105 violation of this chapter.

106 (s) The construction, installation, operation, or
107 maintenance of floating vessel platforms or floating boat lifts,
108 provided that such structures:

109 1. Float at all times in the water for the sole purpose of
110 supporting a vessel so that the vessel is out of the water when
111 not in use;

112 2. Are wholly contained within a boat slip previously
113 permitted under ss. 403.91-403.929, 1984 Supplement to the
114 Florida Statutes 1983, as amended, or part IV of chapter 373, or
115 do not exceed a combined total of 500 square feet, or 200 square
116 feet in an Outstanding Florida Water, when associated with a

592-02072-22

2022198c1

117 dock that is exempt under this subsection or associated with a
118 permitted dock with no defined boat slip or attached to a
119 bulkhead on a parcel of land where there is no other docking
120 structure;

121 3. Are not used for any commercial purpose or for mooring
122 vessels that remain in the water when not in use, and do not
123 substantially impede the flow of water, create a navigational
124 hazard, or unreasonably infringe upon the riparian rights of
125 adjacent property owners, as defined in s. 253.141;

126 4. Are constructed and used so as to minimize adverse
127 impacts to submerged lands, wetlands, shellfish areas, aquatic
128 plant and animal species, and other biological communities,
129 including locating such structures in areas where seagrasses are
130 least dense adjacent to the dock or bulkhead; and

131 5. Are not constructed in areas specifically prohibited for
132 boat mooring under conditions of a permit issued in accordance
133 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes
134 1983, as amended, or part IV of chapter 373, or other form of
135 authorization issued by a local government.

136

137 Structures that qualify for this exemption are relieved from any
138 requirement to obtain permission to use or occupy lands owned by
139 the Board of Trustees of the Internal Improvement Trust Fund
140 and, with the exception of those structures attached to a
141 bulkhead on a parcel of land where there is no docking
142 structure, are ~~may~~ not ~~be~~ subject to any more stringent
143 permitting requirements, registration requirements, or other
144 regulation by any local government. Structures associated with a
145 dock on a parcel of land under subparagraph 2. which comply with

592-02072-22

2022198c1

146 this paragraph create a presumption of compliance with any
147 requirement to minimize adverse environmental impacts. A local
148 government ~~governments~~ may require a permit ~~either permitting~~ or
149 one-time registration of floating vessel platforms to be
150 attached to a bulkhead on a parcel of land where there is no
151 other docking structure as necessary to ensure compliance with
152 local ordinances, codes, or regulations. A local government
153 ~~governments~~ may require a ~~either permitting~~ or one-time
154 registration of all other floating vessel platforms only as
155 necessary to ensure compliance with the exemption criteria in
156 this section, or ~~or~~ to ensure compliance with local electrical or
157 plumbing ordinances, ~~codes that, or regulations relating to~~
158 ~~building or zoning,~~ ~~which~~ are no more stringent than the
159 exemption criteria in this section or address subjects other
160 than subjects addressed by the exemption criteria in this
161 section; and to ensure proper installation, maintenance, and
162 precautionary or evacuation action following a tropical storm or
163 hurricane watch of a floating vessel platform or floating boat
164 lift that is proposed to be attached to a bulkhead or parcel of
165 land where there is no other docking structure. The exemption
166 provided in this paragraph is ~~shall be~~ in addition to the
167 exemption provided in paragraph (b). The department shall adopt
168 a general permit by rule for the construction, installation,
169 operation, or maintenance of those floating vessel platforms or
170 floating boat lifts that do not qualify for the exemption
171 provided in this paragraph but do not cause significant adverse
172 impacts to occur individually or cumulatively. The issuance of
173 such general permit ~~shall~~ also constitutes ~~constitute~~ permission
174 to use or occupy lands owned by the Board of Trustees of the

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175 Internal Improvement Trust Fund. A local government ~~governments~~
176 may not impose a more stringent regulation, permitting
177 requirement, registration requirement, or other regulation
178 covered by such general permit. A local government ~~governments~~
179 may require either permitting or one-time registration of
180 floating vessel platforms as necessary to ensure compliance with
181 the general permit in this section; to ensure compliance with
182 local ordinances, codes, or regulations relating to building or
183 zoning that are no more stringent than the general permit in
184 this section; and to ensure proper installation and maintenance
185 of a floating vessel platform or floating boat lift that is
186 proposed to be attached to a bulkhead or parcel of land where
187 there is no other docking structure. As used in this paragraph,
188 the term "local government" includes a charter county, a county
189 that is required to implement a manatee protection plan pursuant
190 to s. 379.2431(2)(t), or a county or municipality that
191 establishes and administers a local pollution control program
192 under s. 403.182.

193 Section 4. This act shall take effect upon becoming a law.

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 Environment and Natural Resources

BILL: CS/SB 198

INTRODUCER: Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Seagrass Mitigation Banks

DATE: January 19, 2022 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|---------------|
| 1. | Collazo | Rogers | EN | Fav/CS |
| 2. | | | CA | |
| 3. | | | AP | |

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 198 authorizes the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) to grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law. The bill provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria. It also directs the Department of Environmental Protection to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.

The bill revises the existing Environmental Resource Permitting (ERP) program exceptions for:

- The installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, to provide that docks authorized under same must be granted authorization for the use of submerged lands upon approval by the Board of Trustees; and
- Floating vessel platform or floating boat lift structures, to:
 - Create a presumption of compliance with any requirement to minimize adverse environmental impacts, where they are associated with a dock on a parcel of land; and
 - Provide that local governments may require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.

The bill also provides a definition for the term “local government.”

II. Present Situation:

Seagrasses

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.¹ Seagrasses occur throughout the coastal waters in Florida, including in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.² The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.³ Seagrasses perform many important functions, including maintaining water clarity, stabilizing the bottom of aquatic habitats, providing habitat for marine life, and providing food for many marine animals and water birds.⁴ There are seven different species of seagrasses found in Florida's waters.⁵

Along Florida's coastline and within its estuaries, there are more than 2 million acres of seagrass.⁶ The state and its partners map and monitor seagrass abundance, and while efforts to promote seagrasses have led to positive outcomes in places like Tampa Bay and Sarasota Bay, certain areas have experienced recent losses of seagrasses, such as Florida's Big Bend, Florida Bay, and the Indian River Lagoon.⁷ Seagrasses face several threats, including events that reduce water clarity and decrease the amount of light reaching the bottom, such as algae blooms, as well as physical damage, such as from boat propeller scarring or dredging.⁸ In many cases a person operating a vessel outside a marked channel that causes "seagrass scarring" within an aquatic preserve commits a noncriminal infraction.⁹

Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,¹⁰ beneath navigable fresh water or tidally-influenced waters.¹¹ Under the State Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.¹² This generally

¹ Florida Dep't of Environmental Protection (DEP), *Florida Seagrasses*, <https://floridadep.gov/rcp/seagrass> (last visited Jan. 11, 2022).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.* These species are: "Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson's seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*)." Section 253.04(3)(a)1., F.S.

⁶ Florida Fish and Wildlife Conservation Commission, *Seagrass FAQ*, <https://myfwc.com/research/habitat/seagrasses/information/faq/> (last visited Jan. 11, 2022).

⁷ *Id.*

⁸ *Id.*

⁹ Section 253.04(3), F.S. (2021).

¹⁰ Fla. Admin. Code R. 18-21.003(67). The mean high water line is the point on the shore marking the average height of the high waters over a 19-year period, and it is the boundary between the state-owned foreshore (land alternately covered and uncovered by the tide) and the dry area above the mean high water line that is subject to private ownership. *See ss.* 177.27(14), (15) and 177.28(1), F.S.

¹¹ Fla. Admin. Code R. 18-21.003(67).

¹² FLA. CONST. art. X, s. 11.

provides the public with the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.¹³

The Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees), comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.¹⁴ The Board of Trustees has a duty to preserve and regenerate seagrass in these areas, and the Legislature has recognized seagrasses as essential to the oceans, gulfs, estuaries, and shorelines of the state.¹⁵ The Board of Trustees may sell sovereign submerged lands when it determines it to be in the public interest, and the Board of Trustees may authorize private use of sovereign submerged lands when it determines it to be not contrary to the public interest.¹⁶ The Board of Trustees' consideration of what is in the public interest includes determining to what extent such conveyance would interfere with the conservation of wildlife, marine ecosystems, and other natural resources.¹⁷ If objections are filed and it appears the conveyance of submerged lands would result in the destruction of grass flats suitable as nursery or feeding grounds for marine life, the Board of Trustees must withdraw the lands from sale.¹⁸

Florida law authorizes the Board of Trustees to adopt rules to administer sovereign submerged lands.¹⁹ Chapter 18-21 of the Florida Administrative Code, Sovereign Submerged Lands Management, lists the various forms of authorization necessary for specified activities on sovereign submerged lands.²⁰ The Department of Environmental Protection (DEP) and the Department of Agriculture and Consumer Services (DACCS) act as staff to the Board of Trustees in the review of proposed uses of sovereign submerged lands.²¹ DEP is responsible for environmental permitting of activities and water quality protection on sovereign submerged lands, while DACCS is responsible for managing aquacultural activities on sovereignty submerged lands.²²

In determining whether an activity is not contrary to the public interest or is in the public interest, DEP must consider and balance the following criteria:

- Whether the activity will adversely affect the public health, safety, or welfare or the property of others;

¹³ Fla. Admin. Code R. 18-21.004(2)(a); *see also* 5F, LLC v. Hawthorne, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

¹⁴ Sections 253.03 and 253.12(1), F.S.

¹⁵ Section 253.04(3), F.S.

¹⁶ FLA. CONST. art. X, s. 11; s. 253.12(2), F.S.; *see also* Fla. Admin. Code R. 18-21.003(54). The rule defines public interest as meaning “demonstrable environmental, social, and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social, and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands or severance of materials from sovereignty lands, the board shall consider the ultimate project and purpose to be served by said use, sale, lease, or transfer of lands or materials.” Fla. Admin. Code R. 18-21.003(54).

¹⁷ Section 253.12(2)(a), F.S.

¹⁸ Section 253.12(4)(e), F.S.

¹⁹ Sections 253.03(7) and 253.73, F.S.

²⁰ *See* Fla. Admin. Code R. 18-21.005.

²¹ DEP, *Sovereign Submerged Lands (SSL) - Proprietary Authority versus Regulatory Authority in Chapter 18-21, F.A.C.*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/sovereign-submerged-lands-ssl> (last visited Jan. 11, 2022); *see also* Dep't of Agriculture and Consumer Services, *Aquaculture Submerged Land Leasing*, <https://www.fdacs.gov/Agriculture-Industry/Aquaculture/Aquaculture-Submerged-Land-Leasing> (last visited Jan. 11, 2022).

²² Fla. Admin. Code R. 18-21.002(1).

- Whether the activity will adversely affect the conservation of fish and wildlife, including endangered or threatened species, or their habitats;
- Whether the activity will adversely affect navigation or the flow of water or cause harmful erosion or shoaling;
- Whether the activity will adversely affect the fishing or recreational values or marine productivity in the vicinity of the activity;
- Whether the activity will be of a temporary or permanent nature;
- Whether the activity will adversely affect or will enhance significant historical and archaeological resources under the provisions of s. 267.061; and
- The current condition and relative value of functions being performed by areas affected by the proposed activity.²³

Mitigation

Federal Mitigation

The U.S. Environmental Protection Agency and the U.S. Army Corps of Engineers (USACE) promulgate federal regulations establishing environmental criteria, and mechanisms for compensatory mitigation, under Section 404. The regulations require a permit applicant to take all appropriate and practicable steps to avoid and minimize adverse impacts to waters of the U.S.²⁴ For unavoidable impacts, as the last step in a sequence after avoidance and minimization, compensatory mitigation may be required to replace the loss of wetland and aquatic resource functions in the watershed.²⁵

There are three basic types of compensatory mitigation under Section 404:

- Mitigation banks — a mitigation bank sells compensatory mitigation credits to permittees whose obligation to provide compensatory mitigation is then transferred to the mitigation bank sponsor. Mitigation banking is the preferred method of compensatory mitigation under the federal regulations. Reasons for this include that the banks have an approved mitigation plan and financial assurances, credits are not released until specific milestones are achieved, and banks typically involve larger, more ecologically valuable parcels.
- In-lieu fee programs — funds are paid to a governmental or non-profit entity for natural resources management. Similar to a bank, an in-lieu fee program sells credits to permittees whose obligation is then transferred to the in-lieu program sponsor. However, the rules governing in-lieu fee programs are somewhat different, and their operation and use are governed by an in-lieu fee program instrument.

²³ Section 373.414(1)(a), F.S.

²⁴ 40 C.F.R. s. 230.91(c); *see generally* 40 C.F.R. pt. 230 and 33 C.F.R. pt. 322. USACE administers permitting under Section 404 of the Clean Water Act, which generally requires a permit for any discharge of dredged or fill material into waters of the U.S., including wetlands. 33 U.S.C. s. 1344 (2021); U.S. Environmental Protection Agency (EPA), *Wetland Regulatory Authority*, available at https://www.epa.gov/sites/production/files/2015-03/documents/404_reg_authority_fact_sheet.pdf (last visited Jan. 11, 2022). In 2020, DEP assumed permitting authority under the State 404 Program for certain “assumed waters,” but USACE will retain such permitting authority for all other waters in the state. DEP, *State 404 Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/state-404-program> (last visited Jan. 11, 2022); DEP, *State 404 Program Applicant’s Handbook*, § 1.1, available at <https://www.flrules.org/gateway/reference.asp?No=Ref-12064> (last visited Jan. 11, 2022).

²⁵ EPA, *Wetlands Compensatory Mitigation*, available at https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited Jan. 11, 2022).

- Permittee-responsible mitigation — activities are undertaken by the permittee, or an authorized agent or contractor, to provide compensatory mitigation for which the permittee retains full responsibility.²⁶

State Mitigation

At the state level, DEP regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs).²⁷ ERPs are required for certain development or construction activities, typically involving the dredging or filling of wetlands or surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters.²⁸ ERP applications are processed by either DEP or one of the water management districts in accordance with the division of responsibilities specified in operating agreements between DEP and the water management districts.²⁹

Florida's ERP criteria generally require that, for proposed activities that will result in adverse impacts to wetland or surface water functions, applicants must implement practicable design modifications to reduce or eliminate such adverse impacts.³⁰ After such requirements have been completed, mitigation is required to offset the adverse impacts.³¹ Mitigation under the ERP program is evaluated in light of the programmatic goal of no net loss of wetland and other surface water functions.³² Mitigation can be conducted on-site, off-site, or through the purchase of credits from a mitigation bank, or through a combination of approaches.³³ Off-site mitigation is preferred when on-site mitigation is not expected to have long-term viability, or when off-site mitigation will provide greater improvement in ecological value.³⁴

Florida law authorizes DEP and the water management districts to require permits authorizing the establishment and use of mitigation banks.³⁵ DEP has adopted rules that serve as the basis for mitigation bank permitting done by DEP and the water management districts.³⁶

²⁶ EPA, *Mechanisms for Providing Compensatory Mitigation under CWA Section 404*, <https://www.epa.gov/cwa-404/mechanisms-providing-compensatory-mitigation-under-cwa-section-404> (last visited Jan. 11, 2022); see also 40 C.F.R. s. 290.93(b).

²⁷ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

²⁸ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Jan. 11, 2022).

²⁹ DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Jan. 11, 2022).

³⁰ See generally DEP, *ERP Applicant's Handbook Volume I*, 10-2, 10-24–10-33 (2020), available at <https://www.flrules.org/gateway/reference.asp?No=Ref-12078> (last visited Jan. 11, 2022).

³¹ *Id.*

³² *Id.* at 10-1, 10-24.

³³ *Id.* at 10-25.

³⁴ *Id.*

³⁵ See generally ss. 373.4135 and 373.4136, F.S.

³⁶ See generally Fla. Admin. Code Ch. 62-342.

Mitigation Banking

Generally, mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.³⁷ The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.³⁸ The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.³⁹

Creation of a mitigation bank in Florida requires both a permit from DEP or a water management district, and federal approval of a mitigation bank instrument from several agencies led by USACE, in a joint state/federal interagency review team.⁴⁰ Through this process, depending on agency approval, a mitigation bank may provide mitigation for permittees under both the federal and state permitting programs.

Requirements for permitting mitigation banks differ between mitigation bank instruments issued by the USACE and state permits issued by DEP or the water management districts. Under the federal process, a mitigation banking instrument serves as the legal document for the establishment, operation, and use of a mitigation bank.⁴¹ They are approved by an interagency review team, through procedures involving public notice and comment.⁴² Mitigation banking instruments must include certain detailed elements, such as a comprehensive mitigation plan including financial assurances, and a credit release schedule that is tied to the achievement of specific milestones.⁴³

Under Florida law, to obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.⁴⁴

The applicant must also provide reasonable assurance that:

³⁷ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Jan. 11, 2022).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Jan. 11, 2022).

⁴¹ 33 C.F.R. s. 332.2.

⁴² 33 C.F.R. s. 332.8; 40 C.F.R. s. 230.98.

⁴³ *See generally* 33 C.F.R. s. 332.8(d)(6); *see also* 40 C.F.R. s. 230.98(d)(6).

⁴⁴ Section 373.4136(1), F.S.

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and rules adopted thereunder;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.⁴⁵

Seagrass Mitigation Banking

Conceptually

Seagrass mitigation banking is a concept that applies the practices of mitigation banking to seagrass resources, where seagrass resources could be restored, established, enhanced, or preserved in a mitigation bank, which then generates credits that may be used to offset unavoidable impacts to seagrass resources elsewhere. Proponents argue that incentivizing third parties to protect and maintain a large, healthy area of seagrass beds in advance with an off-site mitigation bank can provide better protection of seagrass resources than permittee-responsible mitigation.⁴⁶

Legislation

In 2008, the Legislature passed a bill authorizing the Board of Trustees to provide for the establishment of seagrass mitigation banks to offset the unavoidable impacts of projects where they meet the applicable public interest test.⁴⁷ The bill also stated that the authorization “shall not prohibit mitigation for impacts to seagrass or other habitats on sovereignty submerged lands for other types of projects, or for projects occurring on non-sovereign submerged lands, upon applicable approval of the board of trustees.”⁴⁸

Governor Crist vetoed the 2008 bill.⁴⁹ The veto letter stated that authorizing the conveyance of sovereignty submerged lands for a bank selling credits to facilitate the destruction of seagrasses on sovereignty submerged lands elsewhere could fail the constitutional public interest test.⁵⁰ The Governor raised concerns about the long-term success of artificially-created seagrass beds, and stated that seagrass mitigation banks would likely result in the net destruction of seagrass beds.⁵¹ In addition to seagrass beds, the letter stated that the legislation allows an applicant to seek approval from the Board of Trustees for any project involving destruction of habitat in sovereignty submerged lands that does not pass the public interest test. Finally, the letter stated

⁴⁵ *Id.*; Fla. Admin. Code R. 62-342.400.

⁴⁶ See generally Stephanie A. Broad, *Seagrass Mitigation Banks and the Governor’s Veto*, 39 STETSON L. REV. 285 (2009), available at <https://www.stetson.edu/law/lawreview/media/vol-39-1-broad.pdf> (last visited Jan. 11, 2022).

⁴⁷ CS/HB 7059 (Reg. Sess. 2008).

⁴⁸ *Id.*

⁴⁹ *Letter from Governor Charlie Crist to Secretary Kurt S. Browning* (June 30, 2008), available at <https://static.votesmart.org/static/vetotext/21176.pdf> (last visited Jan. 11, 2022).

⁵⁰ *Id.* at 1.

⁵¹ *Id.* at 2.

that implementing the banks would require excluding the public from the sovereignty submerged lands and contravene the public's navigation rights.⁵²

In 2021, another bill was introduced that authorized the Board of Trustees to establish seagrass mitigation banks, and which expressly did not prohibit mitigation, upon approval of the Board of Trustees, for impacts to other habitats on sovereignty submerged lands or non-sovereignty submerged lands.⁵³ In its first committee of reference, the bill was amended to specify that the Board of Trustees "may authorize leases" for seagrass mitigation banks, and also to require DEP to modify its rules to remove duplicative financial assurance requirements and ensure permitted seagrass mitigation banks comply with the federal mitigation banking rules.⁵⁴ The bill died in its second committee of reference.

In a 2021 analysis, DEP raised several concerns and comments about seagrass mitigation banks.⁵⁵ DEP stated that the long-term dedication necessary to establish the banks may conflict with the Board of Trustees' policy and purpose to allow for public access to sovereignty submerged lands, including swimming, boating, and fishing.⁵⁶ DEP expressed concern that if state-owned lands that were purchased with bond proceeds were used for seagrass mitigation banks – a revenue-generating activity – it could trigger taxation of the interest on the bonds in violation of the Internal Revenue Service's regulations and the bond indenture. DEP's analysis also agreed with the concerns regarding mitigation banks that were raised by the 2008 veto letter, commenting that preserving seagrass resources is not appropriate for compensatory mitigation, because if loss or degradation of seagrass resources are said to be offset by preserving existing seagrasses that are already protected then there will be a net loss of seagrass resources.⁵⁷

Exceptions to Requirements for Environmental Resource Permitting

DEP's Environmental Resource Permitting (ERP) program regulates activities involving the alteration of surface water flows.⁵⁸ The ERP program governs the construction, alteration, operation, maintenance, repair, abandonment, and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant works, and works (including docks, piers, structures, dredging, and filling located in, on, or over wetlands or other surface waters).⁵⁹

For a number of low impact activities and projects that are narrow in scope, an ERP permit is not required under state law.⁶⁰ Engaging in these activities and projects requires compliance with applicable local requirements, but generally requires no notice to DEP.⁶¹ A broad array of

⁵² *Id.*

⁵³ SB 1668 (Reg. Sess. 2021).

⁵⁴ CS/SB 1668 (Reg. Sess. 2021). The amendment also removed the reference to non-sovereignty submerged lands. *See id.*

⁵⁵ DEP, *2021 Legislative Session, Bill #: SB 1668 (2021)*, available at https://www.flsenate.gov/Committees/Show/EN/MeetingPacket/5170/9341_MeetingPacket_5170.29.21.pdf (last visited Jan. 11, 2022).

⁵⁶ *Id.* at 1.

⁵⁷ *Id.* at 2.

⁵⁸ Chapter 373, p. IV, F.S.; Fla. Admin. Code Ch. 62-330; DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Jan. 18, 2022).

⁵⁹ Fla. Admin. Code R. 62-330.010(1)-(3). The responsibilities for implementing the statewide ERP program are partially delegated by DEP to the water management districts and certain local governments.

⁶⁰ Section 403.813, F.S.

⁶¹ Fla. Admin. Code Rules 62-330.050(1) and 62-330.051(2).

activities are expressly exempted from the ERP program, and these include, but are not limited to: the installation of overhead transmission lines; installation and maintenance of boat ramps; work on seawalls and mooring pilings, swales, and foot bridges; the removal of aquatic plants; construction and operation of floating vessel platforms; and work on county roads and bridges.⁶² Although permitting is not required for these activities, there may be a requirement to obtain permission to use or occupy lands owned by the Board of Trustees or a water management district in its governmental or proprietary capacity.⁶³

ERP Exemption for Certain Mooring Pilings, Dolphins, Private Docks, Piers, and Recreational Docking Facilities

There is an ERP exemption for the installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers, and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:⁶⁴

- Has 500 square feet or less of over-water surface area for a dock located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock located in an area that is not designated as Outstanding Florida Waters;
- Is constructed on or held in place by pilings or is a floating dock constructed so as not to involve filling or dredging other than that necessary to install the pilings;
- May not substantially impede the flow of water or create a navigational hazard;
- Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and
- Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per parcel or lot.⁶⁵

The exemption does not prohibit DEP from taking appropriate enforcement action pursuant to ch. 403, F.S., to abate or prohibit any activity otherwise exempt from permitting pursuant to this exemption if DEP can demonstrate that the exempted activity has caused water pollution in violation of ch. 403, F.S.⁶⁶

ERP Exemption for Certain Floating Vessel Platforms or Floating Boat Lifts

There is also an ERP exemption for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, provided that such structures:⁶⁷

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;

⁶² Section 403.813(1), F.S.; Fla. Admin. Code R. 62-330.051.

⁶³ Section 403.813(1), F.S.; *but see* s. 403.813(1)(s), F.S. (specifically relieving qualifying FVP structures from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees).

⁶⁴ Section 403.813(1)(b), F.S.

⁶⁵ Section 403.813(1)(b)1.-5., F.S.

⁶⁶ Section 403.813(1)(b), F.S.

⁶⁷ Section 403.813(1)(s), F.S.

- Are wholly contained within a boat slip previously permitted under state law, or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt under this subsection or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners, as defined in state law;
- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with state law, or other form of authorization issued by a local government.⁶⁸

Local governments may require either permitting or one-time registration of floating vessel platforms to be attached to a bulkhead on a parcel of land where there is no other docking structure as necessary to ensure compliance with local ordinances, codes, or regulations.⁶⁹ Additionally, local governments may require either permitting or one-time registration of all other floating vessel platforms as necessary to ensure compliance with the exemption criteria in s. 403.813, F.S., and to ensure compliance with local ordinances, codes, or regulations relating to building or zoning, which are no more stringent than the exemption criteria in s. 403.813, F.S., or address subjects other than subjects addressed by the exemption criteria in this s. 403.813, F.S.⁷⁰

Charter Counties

In 1968, the electors of Florida granted local voters the power to adopt charters to govern their counties.⁷¹ Charters are formal written documents that confer powers, duties, or privileges on the county. They resemble state or federal constitutions and they must be approved, along with any amendments, by the voters of a county. The establishment of charter government was designed to remove the resolution of local problems from the Legislature's busy agenda and to grant the county electorate greater control over their regional affairs.⁷²

To date, there are 20 charter counties.⁷³ They are:

- Alachua
- Brevard
- Broward
- Charlotte

⁶⁸ Section 403.813(1)(s)1.-5., F.S.

⁶⁹ Section 403.813(1)(s), F.S.

⁷⁰ *Id.*

⁷¹ Florida Association of Counties, *Charter County Information*, <https://www.fl-counties.com/charter-county-information> (last visited Jan. 18, 2022).

⁷² *Id.*

⁷³ *Id.*

- Clay
- Columbia
- Duval
- Hillsborough
- Lee
- Leon
- Miami-Dade
- Orange
- Osceola
- Palm Beach
- Pinellas
- Polk
- Sarasota
- Seminole
- Volusia
- Wakulla⁷⁴

Manatee Protection Plans

The Florida Manatee Sanctuary Act⁷⁵ provides that in order to protect manatees and manatee habitat, certain Florida counties are required to develop manatee protection plans (MPPs).⁷⁶ An MPP is a county specific management plan developed, approved and used by federal, state, and local governments to ensure the long term protection of manatees and their habitat within what is defined as the county's boundaries.⁷⁷

Thirteen counties have adopted MPPs.⁷⁸ They are:

- Brevard
- Broward
- Charlotte
- Citrus
- City of Jacksonville (Duval)
- Clay
- Collier
- Flagler
- Indian River
- Lee
- Martin
- Miami-Dade
- Palm Beach

⁷⁴ *Id.*

⁷⁵ Section 379.2431(2), F.S.

⁷⁶ Section 379.2431(2)(t), F.S.

⁷⁷ Fish and Wildlife Conservation Commission, *Manatee Protection Plans – MPPs*, <https://myfwc.com/wildlifehabitats/wildlife/manatee/protection-plans/> (last visited Jan. 18, 2022).

⁷⁸ *Id.*

- Sarasota
- St. Lucie
- Volusia⁷⁹

Local Pollution Control Programs

Section 403.182, F.S., provides that each county and municipality (or any combination thereof) may establish and administer a local pollution control program, so long as it complies with all other provisions of the Florida Air and Water Pollution Control Act (FAWPCA).⁸⁰ All local pollution control programs must:⁸¹

- Be approved by DEP as adequate to meet the requirements of the FAWPCA and any applicable rules and regulations pursuant thereto;
- Provide by ordinance, regulation, or local law for requirements compatible with, or stricter or more extensive than those imposed by the FAWPCA and regulations issued thereunder;
- Provide for the enforcement of such requirements by appropriate administrative and judicial process; and
- Provide for administrative organization, staff, financial and other resources necessary to effectively and efficiently carry out its program.

If DEP determines that a local pollution control program is inadequate to prevent and control pollution, or is being administered in a manner inconsistent with the requirements of the FAWPCA, it may require necessary corrective measures.⁸² If these corrective measures are not implemented, DEP may reassume implementation of the FAWPCA within the jurisdiction.⁸³ Each local pollution control program must cooperate with and assist DEP in carrying out its powers, duties, and functions.⁸⁴

III. Effect of Proposed Changes:

Section 1 of the bill provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under the mitigation banking statute to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria under this chapters 253 and 258, F.S. The bill also provides that it does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs, upon meeting the public interest criteria under chapter 253 and 258, F.S.

Section 2 of the bill directs the Department of Environmental Protection (DEP) to adopt and modify rules adopted pursuant to the mitigation banking and additional surface waters and wetlands criteria statutes to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under those provisions. DEP,

⁷⁹ *Id.*

⁸⁰ Section 403.182, F.S.; *see also* ch. 67-436, s. 2, Laws of Fla. (identifying the short title of the act).

⁸¹ Section 403.182(1), F.S.

⁸² *See* s. 403.182(4), F.S.

⁸³ *See id.*

⁸⁴ Section 403.182(10), F.S.

in consultation with the water management districts, must include the rulemaking in existing active rulemaking, or must complete rule development by June 30, 2023.

Section 3 of the bill amends the criteria to qualify for the permitting exemption in s. 403.813(1)(b), F.S., applicable to the installation and repair of certain mooring pilings, dolphins, piers, and docking facilities, as follows:

- In connection with the requirement that the dock be the sole dock constructed pursuant to the exemption “as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case one exempt dock may be allowed per per parcel or lot[,]” the bill revises the references to “a parcel of land or individual lot” to include a recorded easement as well.
- It provides that docks qualifying for the permitting exemption must be granted authorization for use of submerged lands upon approval by the Board of Trustees.

The bill also amends the permitting exemption in s. 403.813(s), F.S., applicable to the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts, as follows:

- It amends the exemption to create a presumption of compliance with any requirement to minimize adverse environmental impacts, where the structure in question complies with the exemption criteria and is associated with an exempt or permitted dock on a parcel of land.
- It revises the exemption such that local governments no longer have the option of requiring a permit – instead, they may only require a one-time registration as necessary – for floating vessel platforms associated with docking structures to ensure compliance.
- It revises the exemption such that local governments can no longer use the one-time registration process to ensure compliance with local ordinances, codes, or regulations relating to building and zoning, but instead can only use one-time registration to ensure compliance with electrical or plumbing codes that are no more stringent than the listed exemption criteria or address other subjects other than the subjects addressed by the listed exemption criteria.

The bill also defines the term “local government,” as used in the bill, as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

Section 4 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Board of Trustees may realize a marginal increase in proprietary authorization fees due to the establishment of seagrass mitigation banks on sovereignty submerged lands. The bill may also result in increased costs to the Board of Trustees and DEP because rulemaking, and potentially the establishment of a new program, may be necessary to implement the requirements contained in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

Ordinarily, an “easement” (new law) would overlay a “parcel of land or individual lot” (existing law). It is unclear what change the addition of this language would make. Additionally, docks qualifying for the permitting exemption are granted authorization for use of submerged lands upon approval by the Board of Trustees under existing law (submerged lands are addressed in ch. 253, F.S.). It is unclear what change the addition of this language would make. It may be that the changes to law proposed in s. 403.813, F.S., should be clarified to ensure the intent of the bill is achieved.

The use of the word “includes” in the explanation of “local government” in s. 403.813(1)(s), F.S., could be ambiguous regarding if it is an inclusive or exclusive list. If the intent is to make it an inclusive list adding “includes, ‘but not limited to’” would make the language clearer.

VIII. Statutes Affected:

This bill substantially amends sections 253.03 and 403.813 of the Florida Statutes.

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

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

CS by Environment and Natural Resources on January 18, 2022:

- Provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may grant easements on sovereignty submerged lands (SSLs) for mitigation banks that are permitted under, and meet the public interest criteria in, state law.
- Provides that the bill does not prohibit mitigation to offset impacts to seagrass or other habitats on SSLs upon meeting the public interest criteria.
- Directs DEP to adopt and modify rules to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation.
- Provides that docks authorized under the permitting exception in s. 403.813(1)(b), F.S., for the installation and repair of certain mooring pilings and dolphins, piers, and recreational docking facilities, must be granted authorization for the use of submerged lands upon approval by the Board of Trustees.
- Provides that floating vessel platform or floating boat lift structures authorized under the permitting exception for them in s. 403.813(1)(s), F.S., when they are associated with a dock on a parcel of land and comply with the criteria listed, create a presumption of compliance with any requirement to minimize adverse environmental impacts.
- Revises existing law which authorizes local governments to..... to permit local governments, as defined in the bill, to require only a one-time registration of certain floating vessel platforms to ensure compliance with listed exemption criteria or with local electrical or plumbing codes that are no more stringent than the exemption criteria or address other subjects.
- Defines the term “local government” as used in s. 403.813(1)(s), F.S., as including a charter county, a county that is required to implement a manatee protection plan pursuant to state law, or a county or municipality that establishes and administers a local pollution control program under state law.

B. Amendments:

None.

26 (17) The board of trustees may grant easements on
27 sovereignty submerged lands for mitigation banks that are
28 permitted under s. 373.4136 to ensure the protection and
29 restoration of natural resources and to offset the unavoidable
30 impacts of projects when mitigation banks meet the public
31 interest criteria under chapters 253 and 258. This subsection
32 does not prohibit mitigation to offset impacts to seagrass or
33 other habitats on sovereignty submerged lands, upon meeting the
34 public interest criteria under chapters 253 and 258.

35 Section 2. The Department of Environmental Protection
36 shall adopt and modify rules adopted pursuant to ss. 373.4136
37 and 373.414 to ensure that required financial assurances are
38 equivalent and sufficient to provide for the long-term
39 management of mitigation permitted under ss. 373.4136 and
40 373.414. The department, in consultation with the water
41 management districts, shall include the rulemaking required by
42 this section in existing active rulemaking, or shall complete
43 rule development by June 30, 2023.

44 Section 3. Paragraphs (b) and (s) of subsection (1) of
45 section 403.813, Florida Statutes, are amended to read:

46 403.813 Permits issued at district centers; exceptions.—

47 (1) A permit is not required under this chapter, chapter
48 373, chapter 61-691, Laws of Florida, or chapter 25214 or
49 chapter 25270, 1949, Laws of Florida, and a local government may
50 not require a person claiming this exception to provide further

51 department verification, for activities associated with the
52 following types of projects; however, except as otherwise
53 provided in this subsection, this subsection does not relieve an
54 applicant from any requirement to obtain permission to use or
55 occupy lands owned by the Board of Trustees of the Internal
56 Improvement Trust Fund or a water management district in its
57 governmental or proprietary capacity or from complying with
58 applicable local pollution control programs authorized under
59 this chapter or other requirements of county and municipal
60 governments:

61 (b) The installation and repair of mooring pilings and
62 dolphins associated with private docking facilities or piers and
63 the installation of private docks, piers, and recreational
64 docking facilities, or piers and recreational docking facilities
65 of local governmental entities when the local governmental
66 entity's activities will not take place in any manatee habitat,
67 any of which docks:

68 1. Has 500 square feet or less of over-water surface area
69 for a dock located in an area designated as Outstanding Florida
70 Waters or 1,000 square feet or less of over-water surface area
71 for a dock located in an area that is not designated as
72 Outstanding Florida Waters;

73 2. Is constructed on or held in place by pilings or is a
74 floating dock constructed so as not to involve filling or
75 dredging other than that necessary to install the pilings;

76 3. May not substantially impede the flow of water or
77 create a navigational hazard;

78 4. Is used for recreational, noncommercial activities
79 associated with the mooring or storage of boats and boat
80 paraphernalia; and

81 5. Is the sole dock constructed pursuant to this exemption
82 as measured along the shoreline for a distance of 65 feet,
83 unless the parcel of land, recorded easement, or individual lot
84 as platted is less than 65 feet in length along the shoreline,
85 in which case one exempt dock may be allowed per parcel,
86 easement, or lot. Such docks shall be granted authorization for
87 the use of submerged lands upon approval by the Board of
88 Trustees of the Internal Improvement Trust Fund.

89
90 This paragraph does not prohibit the department from taking
91 appropriate enforcement action pursuant to this chapter to abate
92 or prohibit any activity otherwise exempt from permitting
93 pursuant to this paragraph if the department can demonstrate
94 that the exempted activity has caused water pollution in
95 violation of this chapter.

96 (s) The construction, installation, operation, or
97 maintenance of floating vessel platforms or floating boat lifts,
98 provided that such structures:

99 1. Float at all times in the water for the sole purpose of
100 supporting a vessel so that the vessel is out of the water when

101 not in use;

102 2. Are wholly contained within a boat slip previously
 103 permitted under ss. 403.91-403.929, 1984 Supplement to the
 104 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 105 do not exceed a combined total of 500 square feet, or 200 square
 106 feet in an Outstanding Florida Water, when associated with a
 107 dock that is exempt under this subsection or associated with a
 108 permitted dock with no defined boat slip or attached to a
 109 bulkhead on a parcel of land where there is no other docking
 110 structure;

111 3. Are not used for any commercial purpose or for mooring
 112 vessels that remain in the water when not in use, and do not
 113 substantially impede the flow of water, create a navigational
 114 hazard, or unreasonably infringe upon the riparian rights of
 115 adjacent property owners, as defined in s. 253.141;

116 4. Are constructed and used so as to minimize adverse
 117 impacts to submerged lands, wetlands, shellfish areas, aquatic
 118 plant and animal species, and other biological communities,
 119 including locating such structures in areas where seagrasses are
 120 least dense adjacent to the dock or bulkhead; and

121 5. Are not constructed in areas specifically prohibited
 122 for boat mooring under conditions of a permit issued in
 123 accordance with ss. 403.91-403.929, 1984 Supplement to the
 124 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 125 other form of authorization issued by a local government.

126
127 Structures that qualify for this exemption are relieved from any
128 requirement to obtain permission to use or occupy lands owned by
129 the Board of Trustees of the Internal Improvement Trust Fund
130 and, with the exception of those structures attached to a
131 bulkhead on a parcel of land where there is no docking
132 structure, are ~~may not be~~ subject to any more stringent
133 permitting requirements, registration requirements, or other
134 regulation by any local government. Structures associated with a
135 dock on a parcel of land under subparagraph 2. which comply with
136 this subsection create a presumption of compliance with any
137 requirement to minimize adverse environmental impacts. A local
138 government ~~governments~~ may require a permit ~~either permitting~~ or
139 one-time registration of floating vessel platforms to be
140 attached to a bulkhead on a parcel of land where there is no
141 other docking structure as necessary to ensure compliance with
142 local ordinances, codes, or regulations. A local government
143 ~~governments~~ may require either permitting or one-time
144 registration of all other floating vessel platforms as necessary
145 to ensure compliance with the exemption criteria in this
146 section; to ensure compliance with local ordinances, codes, or
147 regulations relating to building or zoning, which are no more
148 stringent than the exemption criteria in this section or address
149 subjects other than subjects addressed by the exemption criteria
150 in this section; and to ensure proper installation, maintenance,

151 and precautionary or evacuation action following a tropical
 152 storm or hurricane watch of a floating vessel platform or
 153 floating boat lift that is proposed to be attached to a bulkhead
 154 or parcel of land where there is no other docking structure. The
 155 exemption provided in this paragraph is ~~shall be~~ in addition to
 156 the exemption provided in paragraph (b). The department shall
 157 adopt a general permit by rule for the construction,
 158 installation, operation, or maintenance of those floating vessel
 159 platforms or floating boat lifts that do not qualify for the
 160 exemption provided in this paragraph but do not cause
 161 significant adverse impacts to occur individually or
 162 cumulatively. The issuance of such general permit ~~shall~~ also
 163 constitutes ~~constitute~~ permission to use or occupy lands owned
 164 by the Board of Trustees of the Internal Improvement Trust Fund.
 165 A local government ~~governments~~ may not impose a more stringent
 166 regulation, permitting requirement, registration requirement, or
 167 other regulation covered by such general permit. A local
 168 government ~~governments~~ may require either permitting or one-time
 169 registration of floating vessel platforms as necessary to ensure
 170 compliance with the general permit in this section; to ensure
 171 compliance with local ordinances, codes, or regulations relating
 172 to building or zoning that are no more stringent than the
 173 general permit in this section; and to ensure proper
 174 installation and maintenance of a floating vessel platform or
 175 floating boat lift that is proposed to be attached to a bulkhead

CS/HB 349

2022

176 or parcel of land where there is no other docking structure. As
177 used in this paragraph, the term "local government" includes a
178 charter county, a county that is required to implement a manatee
179 protection plan pursuant to s. 379.2431(2) (t), or a county or
180 municipality that establishes and administers a local pollution
181 control program under s. 403.182.

182 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 349 Water Resources Management
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Sirois
TIED BILLS: IDEN./SIM. **BILLS:** SB 198

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|---------|--|
| 1) Environment, Agriculture & Flooding Subcommittee | 13 Y, 4 N, As CS | Gawin | Moore |
| 2) Agriculture & Natural Resources Appropriations Subcommittee | | | |
| 3) State Affairs Committee | | | |

SUMMARY ANALYSIS

The Department of Environmental Protection (DEP) regulates activities in, on, or over surface waters, as well as any activity that alters surface water flows, through environmental resource permits (ERPs). ERPs are required for development or construction activities typically involving the dredging or filling of surface waters, construction of flood protection facilities, building dams or reservoirs, or any other activities that affect state waters. Some projects are exempt from the requirement to obtain an ERP if they meet specific statutory restrictions. Environmental impact mitigation is required under certain circumstances to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP.

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts.

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters. The Board of Trustees of the Internal Improvement Trust Fund (Board) is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state owned lands.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for long-term management of permitted mitigation. Additionally, the bill requires DEP, in consultation with Water Management Districts, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board. Additionally, the bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

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

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Environmental Resource Permits

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

ERP Exceptions

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

ERP Exceptions for Docks

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

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

¹ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Nov. 22, 2021).

² DEP, *Submerged Lands and Environmental Resources Coordination Program*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination> (last visited Nov. 22, 2021).

³ See chs. 373 and 403, F.S.

⁴ Section 403.813(1), F.S.

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

⁶ *Id.*

⁷ Section 403.813(1), F.S.

⁸ Section 403.813(1)(b), F.S.

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

ERP Exceptions for Floating Structures

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

- Float at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use;
- Are wholly contained within a previously permitted boat slip or do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water, when associated with a dock that is exempt from ERP permitting or associated with a permitted dock with no defined boat slip or attached to a bulkhead on a parcel of land where there is no other docking structure;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;
- Are constructed and used so as to minimize the adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where seagrasses are least dense adjacent to the dock or bulkhead; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of an ERP permit or other form of authorization issued by a local government.⁹

Structures that qualify for this exemption are not required to obtain permission to use or occupy lands owned by the Board, with the exception of those structures attached to a bulkhead on a parcel of land where there is no docking structure. These structures may not be subject to any more stringent permitting requirements, registration requirements, or other regulation by any local government.¹⁰

Environmental Impact Mitigation

Mitigation Regulations

Mitigation serves as the third step in a sequence of permitting actions¹¹ that must be followed to offset the adverse impacts to surface waters resulting from the construction activities allowed by an ERP. When evaluating a proposed project for permitting, the Clean Water Act first requires DEP, as the permitting agency, to determine if the project would have an adverse impact. If the project has an adverse impact and there is a practicable alternative, the project must avoid the adverse impacts altogether and be reconfigured using the alternative. If impacts cannot be avoided, appropriate and practicable steps must be taken to minimize the impact. If any unavoidable impacts remain, they require appropriate and practicable mitigation.¹²

Mitigation usually consists of restoration, enhancement, creation, preservation, or a combination thereof and is accomplished by providing onsite mitigation, offsite mitigation, or purchasing mitigation credits from permitted mitigation banks. The ecological benefits of mitigation compensate for the functional loss resulting from the ERP impact.¹³ The Uniform Mitigation Assessment Method (UMAM) provides a standardized procedure for assessing the ecological functions provided by surface waters, the amount that those functions are reduced by a proposed impact, and the amount of mitigation necessary to offset that loss. The UMAM evaluates functions by considering an ecological community's current condition, hydrologic connection, uniqueness, location, fish and wildlife utilization, time lag, and

⁹ Section 403.813(1)(s), F.S., Rule 62-330.428, F.A.C.

¹⁰ *Id.*

¹¹ 40 C.F.R. § 230.

¹² EPA, *Wetlands Compensatory Mitigation*, available at https://www.epa.gov/sites/production/files/2015-08/documents/compensatory_mitigation_factsheet.pdf (last visited Nov. 19, 2021).

¹³ DEP, *Mitigation*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation> (last visited Nov. 19, 2021).

mitigation risk. The UMAM is also used to determine the degree of improvement in ecological value of proposed mitigation bank activities.¹⁴

Mitigation Banking

Mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity (banker) to provide mitigation for unavoidable environmental impacts within a defined region referred to as a mitigation service area. A mitigation bank consists of a wetland, stream, or other aquatic resource area that has been restored, established, or preserved to offset such environmental impacts. The bank is the site itself, and the currency sold by the banker to the ERP applicant is a credit. The number of potential credits permitted for the bank and the credit required for ERPs are determined by DEP or a WMD. Mitigation banks are authorized by a state permit, which is issued by either a WMD or DEP depending on the location of the bank and the activity it mitigates, and by the United States Army Corps of Engineers.¹⁵

To obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.¹⁶

The applicant must also provide reasonable assurances that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and adopted rules;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.¹⁷

A banker applying for a permit to establish a mitigation bank must provide documentation of financial responsibility and financial assurance mechanisms for the construction and implementation of the bank, and the perpetual management and maintenance of the bank.¹⁸ This can be achieved by obtaining a surety or performance bond, irrevocable letter of credit, or insurance policy. The banker may also create an escrow account, standby escrow account, trust fund, or standby trust fund to fulfill this requirement. Fiscal responsibility mechanisms can be paid to a DEP designee, standby trust, or standby escrow.¹⁹ The banker is required to demonstrate continuous fiscal responsibility until all of the permit conditions are completely satisfied and approved for release by DEP.²⁰ Further, the financial responsibility mechanisms must guarantee that the banker will perform all of its obligations under the permit.²¹

Seagrasses

¹⁴ DEP, *The Uniform Mitigation Assessment Method (UMAM)*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/uniform-mitigation-assessment> (last visited Nov. 19, 2021).

¹⁵ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Nov. 19, 2021).

¹⁶ Section 373.4136(1), F.S.; r. 62-342.400, F.A.C.

¹⁷ *Id.*; see also r. 62-340.700, F.A.C.

¹⁸ Rule 62-340.700, F.A.C.

¹⁹ *Id.*

²⁰ *Id.*

²¹ *Id.*

Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters.²² Seagrasses occur in protected bays and lagoons as well as in deeper waters along the continental shelf in the Gulf of Mexico.²³ The depth at which seagrasses occur is limited by water clarity because most species require high levels of light.²⁴ Florida's approximately 2.2 million acres of seagrasses perform many significant functions, including maintenance of water clarity, stabilization of the ocean bottom, shelter for marine life, and food for many marine animals and water birds.²⁵

The Board is vested and charged with the duty to acquire, administer, manage, control, supervise, conserve, protect, and dispose of lands owned by the state.²⁶ This duty extends to the preservation and regeneration of seagrass as an essential ecosystem for Florida's oceans, estuaries, and shorelines.²⁷ Current law requires the Board to manage state-owned lands in a manner that serves the public interest.²⁸

Sovereign Submerged Lands

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water, or beneath tidally-influenced waters.²⁹ Pursuant to Article X, section 11 of the Florida Constitution, the state holds title to land under navigable waters, including beaches below mean high water lines, in trust for all the people. Sale of such lands may be authorized by law, but only when in the public interest.³⁰ Additionally, the private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.³¹ The Board is responsible for determining whether a sale of sovereign submerged lands or a permit related to an activity conducted on sovereign submerged lands is within the public interest on a case-by-case basis.³² Before conveying sovereign submerged lands, the Board must consider the extent to which such conveyance would interfere with the conservation of fish, marine life and other wildlife, or other natural resources.³³

Effect of the Bill

The bill authorizes the Board to grant easements on sovereignty submerged lands for mitigation banks to ensure the protection and restoration of natural resources and to offset the unavoidable impacts of projects when mitigation banks meet the public interest criteria related to state-owned lands. The bill specifies that it does not prohibit mitigation to offset impacts to seagrass or other habitats on sovereignty submerged lands upon meeting the public interest criteria.

The bill requires DEP to adopt and modify rules related to mitigation to ensure that the required financial assurances are equivalent and sufficient to provide for the long-term management of permitted mitigation. Additionally, the bill requires DEP, in consultation with the WMDs, to include the rulemaking required by the bill in existing active rulemaking, or to complete rule development by June 30, 2023.

The bill expands the ERP permitting exemption for certain private and local government-owned docks by exempting a dock that is constructed on a recorded easement that measures a distance of less than 65 feet along the shoreline if the dock is the only one on the easement. The bill specifies that such docks must be granted authorization for the use of submerged lands upon approval by the Board.

²² DEP, *Florida Seagrasses*, <https://floridadep.gov/rcp/seagrass> (last visited Nov. 19, 2021).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ Section 253.03, F.S.

²⁷ Section 253.04(3)(a), F.S.

²⁸ Section 253.034, F.S.

²⁹ DEP, *Sovereign Submerged Lands (SSL) - Proprietary Authority versus Regulatory Authority in Chapter 18-21, F.A.C.*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/sovereign-submerged-lands-ssl> (last visited Nov. 19, 2021).

³⁰ Art. X, Sec. 11, FLA. CONST.

³¹ Art. X, Sec. 11, FLA. CONST.

³² Section 253.12, F.S.

³³ Section 253.12(2)(a), F.S.

The bill creates a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that complies with certain ERP permitting exemption requirements.

The bill specifies that the term “local government” includes a charter county, a county that is required to implement a manatee protection plan, or a county or municipality that establishes and administers a local pollution control program.

B. SECTION DIRECTORY:

- Section 1. Amends s. 253.03, F.S., to authorize the Board to grant easements on sovereignty submerged lands for mitigation banks.
- Section 2. Creates an unnumbered section of law requiring DEP, in consultation with the WMDs, to adopt and modify rules by June 30, 2023.
- Section 3. Amends s. 403.813, F.S., to allow an exception from ERP permitting requirements for certain docks constructed on recorded easements and to create a presumption of compliance for certain structures.
- Section 4. Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate insignificant negative fiscal impact on DEP related to the costs associated with the rulemaking requirements of the bill. These costs can likely be absorbed through current resources.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may have an indeterminate fiscal impact on the private sector by allowing private entities to purchase mitigation credits on sovereign submerged lands, if approved by the Board, to offset their projects’ unavoidable impacts to surface waters.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires DEP to adopt and modify rules related to mitigation through existing active rulemaking or by June 30, 2023.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On December 1, 2021, the Environment, Agriculture & Flooding Subcommittee adopted two amendments and reported the bill favorably as a committee substitute. The amendments:

- Clarified that the Board is authorized to grant easements on sovereignty submerged lands for mitigation banks;
- Created a presumption of compliance with any requirement to minimize adverse environmental impacts for structures associated with a dock on a parcel of land that meets certain ERP permit exemption requirements; and
- Specified entities that are included in the term “local government.”

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

By Senator Jones

35-00383-22

2022238__

1 A bill to be entitled
2 An act relating to endangered and threatened species;
3 amending s. 379.2291, F.S.; revising the legislative
4 intent of the Florida Endangered and Threatened
5 Species Act; revising definitions; directing the Fish
6 and Wildlife Conservation Commission to protect
7 certain endangered or threatened species, regardless
8 of the status of their federal classification;
9 prohibiting the commission from considering certain
10 costs when designating a species as endangered or
11 threatened; amending s. 581.185, F.S.; revising
12 criteria for placement of species on the Regulated
13 Plant Index by the Department of Agriculture and
14 Consumer Services; directing the department, in
15 consultation with the Endangered Plant Advisory
16 Council, to protect certain endangered or threatened
17 species, regardless of the status of their federal
18 classification; prohibiting the department from
19 considering certain costs when designating a species
20 as endangered or threatened; reenacting ss. 379.1026
21 and 379.4115(1), F.S., relating to site-specific
22 location information for endangered and threatened
23 species and prohibitions relating to the Florida
24 panther, respectively, to incorporate the amendment
25 made to s. 379.2291, F.S., in references thereto;
26 providing an effective date.

27
28 Be It Enacted by the Legislature of the State of Florida:
29

35-00383-22

2022238__

30 Section 1. Subsections (2), (3), and (4) of section
31 379.2291, Florida Statutes, are amended to read:

32 379.2291 Endangered and Threatened Species Act.—

33 (2) DECLARATION OF POLICY.—The Legislature recognizes that
34 the State of Florida harbors a wide diversity of fish and
35 wildlife and that it is the policy of this state to conserve and
36 wisely manage these resources, with particular attention to
37 those species designated ~~defined~~ by the Fish and Wildlife
38 Conservation Commission, the Department of Environmental
39 Protection, or the United States Department of Interior, or
40 successor agencies, as being endangered or threatened. As
41 Florida has more endangered and threatened species than any
42 other continental state, it is the intent of the Legislature to
43 provide for research and management to conserve and protect
44 these species as a natural resource.

45 (3) DEFINITIONS.—As used in this section:

46 (a) "Fish and wildlife" means any member of the animal
47 kingdom, including, but not limited to, any mammal, fish, bird,
48 amphibian, reptile, mollusk, crustacean, arthropod, or other
49 invertebrate.

50 (b) "Endangered species" means any species of fish and
51 wildlife naturally occurring in Florida, whose prospects of
52 survival are in jeopardy due to modification or loss of habitat;
53 overuse ~~overutilization~~ for commercial, sporting, scientific, or
54 educational purposes; disease; predation; inadequacy of
55 regulatory mechanisms; or other natural or manmade factors
56 affecting its continued existence, including climate change.

57 (c) "Threatened species" means any species of fish and
58 wildlife naturally occurring in Florida which may not be in

35-00383-22

2022238__

59 immediate danger of extinction, but which exists in such small
60 populations as to become endangered if it is subjected to
61 increased stress as a result of further modification of its
62 environment, including climate change.

63 (4) INTERAGENCY COORDINATION.—

64 (a) The commission shall be responsible for research and
65 management of freshwater and upland species and for research and
66 management of marine species.

67 (b) Recognizing that citizen awareness is a key element in
68 the success of this plan, the commission and the Department of
69 Education are encouraged to work together to develop a public
70 education program with emphasis on, but not limited to, both
71 public and private schools.

72 (c) The commission, in consultation with the Department of
73 Agriculture and Consumer Services, the Department of Economic
74 Opportunity, or the Department of Transportation, may establish
75 reduced speed zones along roads, streets, and highways to
76 protect endangered species or threatened species.

77 (d) Notwithstanding declassification under the federal
78 Endangered Species Act of 1973, the commission shall continue to
79 protect species that meet the definition of endangered or
80 threatened under subsection (3), as determined by the
81 commission.

82 (e) The commission may not consider the economic cost of
83 protecting a species as a factor in designating the species as
84 endangered or threatened.

85 Section 2. Subsection (5) of section 581.185, Florida
86 Statutes, is amended to read:

87 581.185 Preservation of native flora of Florida.—

35-00383-22

2022238__

88 (5) REVIEW.—

89 (a) Beginning in 1984, and every 4 years thereafter, the
90 department and the Endangered Plant Advisory Council shall
91 conduct a comprehensive review of this section and of the
92 Regulated Plant Index, as provided in rules of the department,
93 ~~shall be made by the department and the Endangered Plant~~
94 ~~Advisory Council at 4-year intervals.~~

95 (b) The department shall consider any species of plant that
96 should be placed on the Regulated Plant Index which is in danger
97 of disappearing from its native habitat within the foreseeable
98 future throughout all or a significant portion of the range of
99 the species because of:

100 1. Present or threatened destruction, modification, or
101 curtailment of the range of the species.

102 2. Overuse ~~Overutilization~~ of the species for commercial,
103 scientific, or educational purposes.

104 3. Disease or predation.

105 4. Any other natural or manmade factor affecting the
106 continued existence of the species, including climate change.

107 (c) In carrying out reviews and arriving at recommendations
108 under paragraphs (a) and (b), the department and the advisory
109 council shall use the best scientific and commercial data
110 available and shall consult with interested persons and
111 organizations.

112 (d) Notwithstanding declassification under the federal
113 Endangered Species Act of 1973, the department shall continue to
114 protect species that meet the definition of endangered or
115 threatened under subsection (2), as determined by the department
116 in consultation with the advisory council.

35-00383-22

2022238__

117 (e) The department may not consider the economic cost of
118 protecting a species as a factor in designating the species as
119 endangered or threatened.

120 Section 3. For the purpose of incorporating the amendment
121 made by this act to section 379.2291, Florida Statutes, in a
122 reference thereto, section 379.1026, Florida Statutes, is
123 reenacted to read:

124 379.1026 Site-specific location information for endangered
125 and threatened species; public records exemption.—The site-
126 specific location information held by an agency as defined in s.
127 119.011 concerning an endangered species as defined in s.
128 379.2291(3)(b), a threatened species as defined in s.
129 379.2291(3)(c), or a species listed by a federal agency as
130 endangered or threatened, is exempt from s. 119.07(1) and s.
131 24(a), Art. I of the State Constitution. This exemption does not
132 apply to the site-specific location information of animals held
133 in captivity. This section is subject to the Open Government
134 Sunset Review Act in accordance with s. 119.15 and shall stand
135 repealed on October 2, 2025, unless reviewed and saved from
136 repeal by the Legislature.

137 Section 4. For the purpose of incorporating the amendment
138 made by this act to section 379.2291, Florida Statutes, in a
139 reference thereto, subsection (1) of section 379.4115, Florida
140 Statutes, is reenacted to read:

141 379.4115 Florida or wild panther; killing prohibited;
142 penalty.—

143 (1) It is unlawful for a person to kill a member of the
144 Florida "endangered species," as defined in s. 379.2291(3),
145 known as the Florida panther (*Felis concolor coryi*).

35-00383-22

2022238__

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Section 5. This act shall take effect July 1, 2022.

HB711

2022

26 providing an effective date.

27

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

29

30 Section 1. Subsections (2), (3), and (4) of section
31 379.2291, Florida Statutes, are amended to read:

32 379.2291 Endangered and Threatened Species Act.—

33 (2) DECLARATION OF POLICY.—The Legislature recognizes that
34 the State of Florida harbors a wide diversity of fish and
35 wildlife and that it is the policy of this state to conserve and
36 wisely manage these resources, with particular attention to
37 those species designated ~~defined~~ by the Fish and Wildlife
38 Conservation Commission, the Department of Environmental
39 Protection, or the United States Department of Interior, or
40 successor agencies, as being endangered or threatened. As
41 Florida has more endangered and threatened species than any
42 other continental state, it is the intent of the Legislature to
43 provide for research and management to conserve and protect
44 these species as a natural resource.

45 (3) DEFINITIONS.—As used in this section:

46 (a) "Fish and wildlife" means any member of the animal
47 kingdom, including, but not limited to, any mammal, fish, bird,
48 amphibian, reptile, mollusk, crustacean, arthropod, or other
49 invertebrate.

50 (b) "Endangered species" means any species of fish and

51 wildlife naturally occurring in Florida, whose prospects of
 52 survival are in jeopardy due to modification or loss of habitat;
 53 overuse ~~overutilization~~ for commercial, sporting, scientific, or
 54 educational purposes; disease; predation; inadequacy of
 55 regulatory mechanisms; or other natural or manmade factors
 56 affecting its continued existence, including climate change.

57 (c) "Threatened species" means any species of fish and
 58 wildlife naturally occurring in Florida which may not be in
 59 immediate danger of extinction, but which exists in such small
 60 populations as to become endangered if it is subjected to
 61 increased stress as a result of further modification of its
 62 environment, including climate change.

63 (4) INTERAGENCY COORDINATION.—

64 (a) The commission shall be responsible for research and
 65 management of freshwater and upland species and for research and
 66 management of marine species.

67 (b) Recognizing that citizen awareness is a key element in
 68 the success of this plan, the commission and the Department of
 69 Education are encouraged to work together to develop a public
 70 education program with emphasis on, but not limited to, both
 71 public and private schools.

72 (c) The commission, in consultation with the Department of
 73 Agriculture and Consumer Services, the Department of Economic
 74 Opportunity, or the Department of Transportation, may establish
 75 reduced speed zones along roads, streets, and highways to

76 | protect endangered species or threatened species.

77 | (d) Notwithstanding declassification under the federal
 78 | Endangered Species Act of 1973, the commission shall continue to
 79 | protect species that meet the definition of endangered or
 80 | threatened under subsection (3), as determined by the
 81 | commission.

82 | (e) The commission may not consider the economic cost of
 83 | protecting a species as a factor in designating the species as
 84 | endangered or threatened.

85 | Section 2. Subsection (5) of section 581.185, Florida
 86 | Statutes, is amended to read:

87 | 581.185 Preservation of native flora of Florida.—

88 | (5) REVIEW.—

89 | (a) Beginning in 1984, and every 4 years thereafter, the
 90 | department and the Endangered Plant Advisory Council shall
 91 | conduct a comprehensive review of this section and of the
 92 | Regulated Plant Index, as provided in rules of the department,
 93 | ~~shall be made by the department and the Endangered Plant~~
 94 | ~~Advisory Council at 4-year intervals.~~

95 | (b) The department shall consider any species of plant
 96 | that should be placed on the Regulated Plant Index which is in
 97 | danger of disappearing from its native habitat within the
 98 | foreseeable future throughout all or a significant portion of
 99 | the range of the species because of:

100 | 1. Present or threatened destruction, modification, or

HB711

2022

101 curtailment of the range of the species.

102 2. Overuse ~~Overutilization~~ of the species for commercial,
103 scientific, or educational purposes.

104 3. Disease or predation.

105 4. Any other natural or manmade factor affecting the
106 continued existence of the species, including climate change.

107 (c) In carrying out reviews and arriving at
108 recommendations under paragraphs (a) and (b), the department and
109 the advisory council shall use the best scientific and
110 commercial data available and shall consult with interested
111 persons and organizations.

112 (d) Notwithstanding declassification under the federal
113 Endangered Species Act of 1973, the department shall continue to
114 protect species that meet the definition of endangered or
115 threatened under subsection (2), as determined by the department
116 in consultation with the advisory council.

117 (e) The department may not consider the economic cost of
118 protecting a species as a factor in designating the species as
119 endangered or threatened.

120 Section 3. For the purpose of incorporating the amendment
121 made by this act to section 379.2291, Florida Statutes, in a
122 reference thereto, section 379.1026, Florida Statutes, is
123 reenacted to read:

124 379.1026 Site-specific location information for endangered
125 and threatened species; public records exemption.—The site-

HB711

2022

126 specific location information held by an agency as defined in s.
127 119.011 concerning an endangered species as defined in s.
128 379.2291(3)(b), a threatened species as defined in s.
129 379.2291(3)(c), or a species listed by a federal agency as
130 endangered or threatened, is exempt from s. 119.07(1) and s.
131 24(a), Art. I of the State Constitution. This exemption does not
132 apply to the site-specific location information of animals held
133 in captivity. This section is subject to the Open Government
134 Sunset Review Act in accordance with s. 119.15 and shall stand
135 repealed on October 2, 2025, unless reviewed and saved from
136 repeal by the Legislature.

137 Section 4. For the purpose of incorporating the amendment
138 made by this act to section 379.2291, Florida Statutes, in a
139 reference thereto, subsection (1) of section 379.4115, Florida
140 Statutes, is reenacted to read:

141 379.4115 Florida or wild panther; killing prohibited;
142 penalty.—

143 (1) It is unlawful for a person to kill a member of the
144 Florida "endangered species," as defined in s. 379.2291(3),
145 known as the Florida panther (*Felis concolor coryi*).

146 Section 5. This act shall take effect July 1, 2022.

Amendment No.

CHAMBER ACTION

Senate

House

.

1 Representative Sirois offered the following:

2
3 **Amendment (with title amendment)**

4 Remove lines 73-255 and insert:

5 Section 1. Paragraphs (a) and (b) of subsection (2) of
6 section 259.105, Florida Statutes, are amended to read:

7 259.105 The Florida Forever Act.—

8 (2)(a) The Legislature finds and declares that:

9 1. Land acquisition programs have provided tremendous
10 financial resources for purchasing environmentally significant
11 lands to protect those lands from imminent development or
12 alteration, thereby ensuring present and future generations'

031891

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Amendment No.

13 access to important waterways, open spaces, and recreation and
14 conservation lands.

15 2. The continued alteration and development of the state's
16 natural and rural areas to accommodate the state's growing
17 population have contributed to the degradation of water
18 resources, the fragmentation and destruction of wildlife
19 habitats, the loss of outdoor recreation space, and the
20 diminishment of wetlands, forests, working landscapes, and
21 coastal open space.

22 3. The potential development of the state's remaining
23 natural areas and escalation of land values require government
24 efforts to restore, bring under public protection, or acquire
25 lands and water areas to preserve the state's essential
26 ecological functions and invaluable quality of life.

27 4. It is essential to protect the state's ecosystems by
28 promoting a more efficient use of land, to ensure opportunities
29 for viable agricultural activities on working lands, and to
30 promote vital rural and urban communities that support and
31 produce development patterns consistent with natural resource
32 protection.

33 5. The state's groundwater, surface waters, and springs
34 are under tremendous pressure due to population growth and
35 economic expansion and require special protection and
36 restoration efforts, including the protection of uplands and
37 springsheds that provide vital recharge to aquifer systems and

031891

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Amendment No.

38 are critical to the protection of water quality and water
39 quantity of the aquifers and springs. To ensure that sufficient
40 quantities of water are available to meet the current and future
41 needs of the natural systems and citizens of the state, and
42 assist in achieving the planning goals of the department and the
43 water management districts, water resource development projects
44 on public lands, if compatible with the resource values of and
45 management objectives for the lands, are appropriate.

46 6. The needs of urban, suburban, and small communities in
47 the state for high-quality outdoor recreational opportunities,
48 greenways, trails, and open space have not been fully met by
49 previous acquisition programs. Through such programs as the
50 Florida Communities Trust and the Florida Recreation Development
51 Assistance Program, the state shall place additional emphasis on
52 acquiring, protecting, preserving, and restoring open space,
53 ecological greenways, and recreation properties within urban,
54 suburban, and rural areas where pristine natural communities or
55 water bodies no longer exist because of the proximity of
56 developed property.

57 7. Many of the state's unique ecosystems, such as the
58 Florida Everglades, are facing ecological collapse due to the
59 state's burgeoning population growth and other economic
60 activities. To preserve these valuable ecosystems for future
61 generations, essential parcels of land must be acquired to
62 facilitate ecosystem restoration.

031891

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Amendment No.

63 8. Access to public lands to support a broad range of
64 outdoor recreational opportunities and the development of
65 necessary infrastructure, if compatible with the resource values
66 of and management objectives for such lands, promotes an
67 appreciation for the state's natural assets and improves the
68 quality of life.

69 9. Acquisition of lands, in fee simple, less than fee
70 interest, or other techniques shall be based on a comprehensive
71 science-based assessment of the state's natural resources which
72 targets essential conservation lands by prioritizing all current
73 and future acquisitions based on a uniform set of data and
74 planned so as to protect the integrity and function of
75 ecological systems and working landscapes, and provide multiple
76 benefits, including preservation of fish and wildlife habitat,
77 recreation space for urban and rural areas, and the restoration
78 of natural water storage, flow, and recharge.

79 10. The state has embraced performance-based program
80 budgeting as a tool to evaluate the achievements of publicly
81 funded agencies, build in accountability, and reward those
82 agencies which are able to consistently achieve quantifiable
83 goals. While previous and existing state environmental programs
84 have achieved varying degrees of success, few of these programs
85 can be evaluated as to the extent of their achievements,
86 primarily because performance measures, standards, outcomes, and
87 goals were not established at the outset. Therefore, the Florida

031891

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Amendment No.

88 Forever program shall be developed and implemented in the
89 context of measurable state goals and objectives.

90 11.a. The state must play a major role in the recovery and
91 management of its imperiled species through the acquisition,
92 restoration, enhancement, and management of ecosystems that can
93 support the major life functions of such species. It is the
94 intent of the Legislature to support local, state, and federal
95 programs that result in net benefit to imperiled species habitat
96 by providing public and private land owners meaningful
97 incentives for acquiring, restoring, managing, and repopulating
98 habitats for imperiled species. It is the further intent of the
99 Legislature that public lands, both existing and to be acquired,
100 identified by the lead land managing agency, in consultation
101 with the Fish and Wildlife Conservation Commission for animals
102 or the Department of Agriculture and Consumer Services for
103 plants, as habitat or potentially restorable habitat for
104 imperiled species, be restored, enhanced, managed, and
105 repopulated as habitat for such species to advance the goals and
106 objectives of imperiled species management for conservation,
107 recreation, or both, consistent with the land management plan
108 without restricting other uses identified in the management
109 plan. It is also the intent of the Legislature that of the
110 proceeds distributed pursuant to subsection (3), additional
111 consideration be given to acquisitions that achieve a
112 combination of conservation goals, including the restoration,

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Amendment No.

113 enhancement, management, or repopulation of habitat for
114 imperiled species. The council, in addition to the criteria in
115 subsection (9), shall give weight to projects that include
116 acquisition, restoration, management, or repopulation of habitat
117 for imperiled species. The term "imperiled species" as used in
118 this chapter and chapter 253, means plants and animals that are
119 federally listed under the Endangered Species Act, or state-
120 listed by the Fish and Wildlife Conservation Commission or the
121 Department of Agriculture and Consumer Services. As part of the
122 state's role, all state lands that have imperiled species
123 habitat shall include as a consideration in management plan
124 development the restoration, enhancement, management, and
125 repopulation of such habitats. In addition, the lead land
126 managing agency of such state lands may use fees received from
127 public or private entities for projects to offset adverse
128 impacts to imperiled species or their habitat in order to
129 restore, enhance, manage, repopulate, or acquire land and to
130 implement land management plans developed under s. 253.034 or a
131 land management prospectus developed and implemented under this
132 chapter. Such fees shall be deposited into a foundation or fund
133 created by each land management agency under s. 379.223, s.
134 589.012, or s. 259.032 (9) (c), to be used solely to restore,
135 manage, enhance, repopulate, or acquire imperiled species
136 habitat.

031891

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Amendment No.

137 b. The Legislature recognizes that there have been
138 geographical and capacity constraints on available gopher
139 tortoise recipient sites that have coincided with increased
140 demands for such sites. The Legislature also recognizes that the
141 success of gopher tortoise conservation depends on participation
142 by privately owned lands and the use of appropriate public lands
143 for gopher tortoise and other imperiled species management and
144 recovery. To encourage adequate capacity for relocating gopher
145 tortoises, each lead land managing agency, in consultation with
146 the Fish and Wildlife Conservation Commission, shall consider
147 the feasibility of using a portion of state lands as a gopher
148 tortoise recipient site in management plans for all state lands
149 under the management of the agency that are greater than 40
150 contiguous acres. If the lead land managing agency, in
151 consultation with the Fish and Wildlife Conservation Commission,
152 determines that gopher tortoise recipient site management does
153 not conflict with the primary management objectives of the
154 lands, the management plan must contain a component prepared by
155 the agency or cooperatively with a Fish and Wildlife
156 Conservation Commission wildlife biologist that assesses the
157 feasibility of managing the lands as a recipient site for gopher
158 tortoises consistent with rules of the Fish and Wildlife
159 Conservation Commission. The feasibility assessment by the lead
160 land managing agency must also evaluate the economic feasibility
161 of establishing a gopher tortoise recipient site, including the

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Amendment No.

162 initial cost and recurring management costs of operating the
163 gopher tortoise recipient site consistent with the rules of the
164 Fish and Wildlife Conservation Commission and the revenue
165 projections necessary to ensure the initial and recurring costs
166 of establishing and perpetually maintaining the gopher tortoise
167 recipient site do not create an increased recurring expense for
168 the agency.

169 12. There is a need to change the focus and direction of
170 the state's major land acquisition programs and to extend
171 funding and bonding capabilities, so that future generations may
172 enjoy the natural resources of this state.

173 (b) The Legislature recognizes that acquisition of lands
174 in fee simple is only one way to achieve the aforementioned
175 goals and encourages the use of less-than-fee interests, other
176 techniques, and the development of creative partnerships between
177 governmental agencies and private landowners. Such partnerships
178 may include those that advance the restoration, enhancement,
179 management, or repopulation of imperiled species habitat on
180 state lands as provided for in subparagraph (a)11. Easements
181 acquired pursuant to s. 570.71(2) (a) and (b), land protection
182 agreements, and nonstate funded tools such as rural land
183 stewardship areas, sector planning, gopher tortoise recipient
184 sites, and mitigation should be used, where appropriate, to
185 bring environmentally sensitive tracts under an acceptable level
186 of protection at a lower financial cost to the public, and to

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Amendment No.

187 provide private landowners with the opportunity to enjoy and
188 benefit from their property. The owner of lands where a
189 conservation easement or other less-than-fee interest has been
190 acquired by the board or another state agency or a regional or
191 local government may establish a recipient site or conservation
192 bank on the lands to advance the restoration, enhancement,
193 management, or repopulation of imperiled species habitat so long
194 as the recipient site or operation and maintenance of the
195 conservation bank does not interfere with the management plan
196 for the conservation easement and the landowner complies with
197 all state and federal permitting requirements for the recipient
198 site or conservation bank.

199 Section 2. (1) By December 31, 2022, the Fish and
200 Wildlife Conservation Commission shall streamline and improve
201 the review of applications for public and private gopher
202 tortoise recipient sites. Requests for additional information
203 must be received by the applicant within 45 days after receipt
204 of an application and the commission shall approve or deny a
205 complete application within 45 days after receipt of such
206 application.

207 (2) By October 31, 2022, the Fish and Wildlife
208 Conservation Commission shall:

209 (a) Establish an ongoing effort to encourage the
210 establishment of new gopher tortoise recipient sites on private
211 lands throughout the state; and

031891

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Amendment No.

212 (b) Update its permitting systems to create an online
213 dashboard to show permitted and available capacity for
214 reservations in permitted gopher tortoise recipient sites to
215 assist with the efficient relocation of gopher tortoises.

216 (3) By February 1, 2023, the Fish and Wildlife
217 Conservation Commission shall submit a report to the President
218 of the Senate and the Speaker of the House of Representatives
219 that includes the following information:

220 (a) The progress made in establishing new private and
221 public gopher tortoise recipient sites;

222 (b) The average time it takes to approve or deny a
223 recipient site application once a complete application is
224 received;

225 (c) Any federal action taken to modify the listing of the
226 gopher tortoise under the Endangered Species Act; and

227 (d) Any other information relevant to the gopher tortoise
228 conservation program.

230 -----

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

232 Remove lines 3-15 and insert:
233 Commission; amending s. 259.105, F.S.; providing
234 legislative findings; requiring lead land managing
235 agencies, in consultation with the Fish and Wildlife
236 Conservation Commission, to consider the use of state

031891

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Amendment No.

237 lands as gopher tortoise recipient sites in certain
238 management plans; requiring certain management plans
239 to include feasibility assessments for managing gopher
240 tortoise recipient sites; authorizing owners of
241 certain lands to establish gopher tortoise recipient
242 sites or conservation banks on the lands under certain
243 conditions; requiring the commission to streamline and
244 improve the review of gopher tortoise recipient site
245 applications and approve or deny such applications
246 within a specified timeframe; requiring the commission
247 to encourage the establishment of gopher tortoise
248 recipient sites on private lands and to create an
249 online dashboard for certain gopher tortoise recipient
250 site information; requiring the commission to submit a
251 report on gopher tortoise recipient sites to the
252 Legislature by a specified date; providing report
253 requirements; amending ss. 327.352 and 327.35215,

031891

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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: CS/CS/SB 494

INTRODUCER: Appropriations Committee; Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 31, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|-----------------|------------|--------------------------|
| 1. | <u>Carroll</u> | <u>Rogers</u> | <u>EN</u> | <u>Fav/CS</u> |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Reagan</u> | <u>Sadberry</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 494 revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. The bill:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the FWC, to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
- Specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure.
- Specifies the circumstances in which law enforcement may destroy or dispose of a vessel.
- Reorganizes provisions authorizing the FWC to establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels.
- Allows operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons.
- Specifies that a certificate of title may not be issued for a public nuisance vessel.
- Specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.
- Adds public nuisance vessels to the definition of abandoned property.

- Places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.
- Authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

The bill will have an indeterminate fiscal impact on the FWC as the derelict vessel removal grants to local governments will be subject to appropriation.

II. Present Situation:

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the blueprint for conserving Florida's natural resources.¹ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.² Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.³ The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.⁴

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.⁵ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.⁶ Under Article IV, section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁷ The

¹ Chapter 99-247, Laws of Fla.

² Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2021), 17, available at [FLDEP_DSL_OES_FF_2021Abstract_2.pdf \(floridadep.gov\)](https://www.floridadep.gov/lands/environmental-services/content/faq-florida-forever) (last visited Jan. 10, 2022).

³ Section 259.105, F.S.

⁴ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Jan. 10, 2022). See Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at https://www.fnai.org/PDFs/Maacres_202103_FCL_plus_LTF.pdf (last visited Jan. 10, 2022) for a complete summary of the total amount of conservation lands in Florida.

⁵ FLA. CONST. art. IV, s. 9.

⁶ *Id.*; see also s. 379.102(1), F.S.

⁷ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents and visitors.⁸ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁹

Boating Safety Regulations

A vessel operator in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.¹⁰ Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.¹¹

Vessel owners and operators must maintain safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.¹² Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.¹³

Testing for Alcohol, Chemical Substances, and Controlled Substances

Anyone who operates a motor vehicle or vessel in the state, by operating such a vehicle or vessel, consents to an approved chemical or physical breath test to determine breath alcoholic content, or a urine test to detect the presence of chemical substances or controlled substances.¹⁴ These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances.¹⁵

Additionally, anyone who operates a motor vehicle or vessel in the state consents to an approved blood test to determine blood alcoholic content or to detect the presence of chemical substances or controlled substances.¹⁶ These tests may be performed if there is reasonable cause to believe that the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or emergency vehicle, and the administration of a breath or urine test is impractical or impossible.¹⁷

responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁸ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 5, 2021).

⁹ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 5, 2021). See ss. 327.70(1) and (4), F.S.

¹⁰ Section 327.33, F.S.

¹¹ Section 327.73(h), F.S.

¹² Section 327.50, F.S.

¹³ *Id.*

¹⁴ Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

¹⁵ *Id.*

¹⁶ Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

¹⁷ *Id.*

A person who operates a motor vehicle and fails to submit to a breath, urine, or blood test will have his or her driver's license suspended for a period of one year for a first refusal, or 18 months for a repeat refusal.¹⁸ A person who operates a motor vehicle who fails to submit to such test who has previously had his or her license suspended for a prior refusal commits a misdemeanor of the first degree and is subject to additional penalties.¹⁹

A person who operates a vessel and fails to submit to a breath, urine, or blood test is subject to a civil penalty of \$500 for a first refusal.²⁰ A person who operates a vessel and fails to submit to such test who has been previously fined commits a misdemeanor and is subject to additional penalties.²¹

Boating-Restricted Areas

Boating-restricted areas, which may restrict the speed and operation of vessels, may be established on the waters of the state for any purpose necessary to protect the safety of the public, taking into account boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards, as well as seagrass protection on privately owned submerged lands.²²

Local governments have authority to establish boating-restricted areas by ordinance within the portion of the Florida Intracoastal Waterway within their jurisdiction.²³ These areas include, but are not limited to:

- Idle-speed, no wake areas;
- Slow speed, minimum wake areas; and
- Vessel-exclusion zones.

Local governments can establish vessel-exclusion zones if the area is:

- Designated as a public bathing beach or swim area;
- Within 300 feet of a dam, spillway, or flood control structure;
- Reserved as a canoe trail or otherwise limited to vessels under oars or sail; or
- Reserved exclusively for a particular activity and user group separation must be imposed to protect the safety of participants.²⁴

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or

¹⁸ Sections 316.1932(1)(a) and (1)(c), F.S.

¹⁹ *Id.*; s. 316.1939, F.S.

²⁰ Sections 327.352(1)(a) and (1)(c), F.S.

²¹ *Id.*; s. 327.259, F.S.

²² Section 327.46(1), F.S.

²³ *Id.*

²⁴ *Id.*

beached upon the property of another without the consent.²⁵ It is unlawful to store, leave, or abandon any derelict vessel in this state.²⁶

At-Risk Vessels

Neglected or deteriorating vessels may not occupy the waters of this state.²⁷ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.²⁸

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.²⁹ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.³⁰

A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by the FWC or other law enforcement.³¹ When a derelict vessel or a vessel declared to be a public nuisance through the process described above is located on the waters of the state, a law enforcement officer shall place a notice on the vessel in a form substantially similar to the one provided by statute.³²

²⁵ Section 823.11(1)(b), F.S.

²⁶ Section 376.15, F.S.; s. 823.11(2), F.S.

²⁷ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²⁸ Section 327.4107, F.S.

²⁹ Section 327.73(1)(aa), F.S.; s. 327.4107(2), F.S.

³⁰ Section 327.4107(2), F.S.

³¹ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

³² Section 705.103(1)(b), F.S.

Abandoned Vessels

“Abandoned property”³³ means all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in state law.

When a derelict vessel or a vessel declared to be a public nuisance is on the waters of the state, a law enforcement officer must place a notice of removal on the vessel. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.³⁴

If, after 21 days of posting and mailing the notice, the owner has not removed the vessel from the waters of the state or shown reasonable cause for failure to do so, the law enforcement agency may remove, destroy, or dispose of the vessel.³⁵

The owner of a derelict vessel or a vessel declared to be a public nuisance who does not remove the vessel after receiving notice, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal.³⁶ Upon the final disposition of the vessel, the law enforcement officer must notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.³⁷

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow a local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.³⁸

Removal of Derelict Vessels

The FWC’s Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.³⁹ Sections 376.15 and 823.11, F.S., both address the treatment of derelict vessels. Much of the language between the two statutes is duplicative.⁴⁰

Both state and local law enforcement are authorized and empowered to relocate, remove, store, destroy, or dispose of a derelict vessel from waters of the state if the derelict vessel threatens navigation or is a danger to the environment, property, or persons.⁴¹ The FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at

³³ Section 705.101(3), F.S.

³⁴ Section 705.103(2), F.S.

³⁵ *Id.*

³⁶ Section 705.103(4), F.S.

³⁷ *Id.*

³⁸ Section 327.60(5), F.S.

³⁹ Section 327.70, F.S.

⁴⁰ Section 376.15, F.S.; s. 823.11, F.S.

⁴¹ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁴²

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁴³ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁴⁴

The FWC has the authority to provide grants, funded from the Marine Resource Conservation Trust Fund or the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁴⁵ However, each fiscal year, if all program funds are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or pay private contractors to remove, derelict vessels.⁴⁶ Pursuant to this, the FWC established the Derelict Vessel Removal Grant Program in 2019.⁴⁷ Grants are awarded based on a set of criteria outlined in FWC rules.⁴⁸

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁴⁹ Violations are punishable by imprisonment of no more than one year and a fine of up to \$1,000.⁵⁰ Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.⁵¹ Each day during any portion of which the violation occurs constitutes a separate offense.⁵²

An owner or operator of a vessel at risk of becoming derelict on waters of this state or who allows such vessel to occupy such waters, is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$100 for a first offense;
- \$250 for a second offense occurring 30 days or more after a first offense; and
- \$500 for a third offense occurring 30 days or more after a previous offense.⁵³

⁴² Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁴³ Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁴⁴ Section 705.103(4), F.S.

⁴⁵ Section 376.15, F.S.

⁴⁶ Section 376.15, F.S.

⁴⁷ FWC, *FWC Derelict Vessel Removal Grant Program Guidelines*, 2 (2019), available at <https://myfwc.com/media/22317/dv-grant-guidelines.pdf> (last visited Nov. 15, 2021). Incorporated by reference in Fla. Admin. Code R. 68-1.003.

⁴⁸ *Id.*

⁴⁹ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁵⁰ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁵¹ Sections 376.15(2) and 376.16(1), F.S.

⁵² Section 376.16(1), F.S.

⁵³ Section 327.73(1)(aa), F.S.

An owner or operator of a vessel or floating structure who anchors or moors in a prohibited area is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.⁵⁴

Any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days of imprisonment.⁵⁵

Florida Intracoastal Waterway

The Florida Intracoastal Waterway consists of the following waterways: the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.⁵⁶ The Florida Intracoastal Waterway is shown in the map below.⁵⁷



⁵⁴ Section 327.73(1)(bb), F.S.

⁵⁵ Sections 327.73(1), 775.082, and 775.083, F.S.

⁵⁶ Section 327.02(15), F.S.

⁵⁷ Florida Department of Transportation, *Florida Waterways System Plan*, Figure 1-2 on p. 1-12 (2015), available at https://www.fdot.gov/docs/default-source/seaport/pdfs/2015-Florida-Waterways-System-Plan_Final.pdf (last visited Nov. 5, 2021).

Drones

A drone is a powered, aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; can fly autonomously or be piloted remotely; can be expendable or recoverable; and can carry a lethal or nonlethal payload.⁵⁸ Florida law prohibits the use of drones by a law enforcement agency to gather evidence or other information, and by a person, state agency, or political subdivision to conduct surveillance on privately-owned real property or on the owner, tenant, occupant, invitee, or licensee of the real property.⁵⁹ The exceptions to the prohibition allow a non-law enforcement employee of the FWC or the Florida Forest Service to use a drone to manage or eradicate invasive exotic plants or animals on public lands and to suppress wildfire threats.⁶⁰

Remote sensing using drones for the surveillance, detection, and reporting of an invasive species can improve early detection of invading plants and animals, making management more efficient and less expensive.⁶¹ Studies have shown that drones can efficiently and inexpensively cover a large geographic range, reach places that are difficult to access, carry a variety of cameras and sensors, collect biological specimens, and target and eliminate individual organisms through ballistic application of herbicides.⁶²

III. Effect of Proposed Changes:

Section 1 amends s. 259.105, F.S., the Florida Forever Act, to require each lead land management agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.

If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoises.

Each land management agency must consult with the FWC on feasibility assessments and implementation of gopher tortoise management.

Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.

Section 2 amends s. 327.352, F.S., to change a driver's license suspension to a driving privilege suspension, as related to a refusal to submit to a lawful breath, urine, or blood test.

⁵⁸ Section 934.50(1)(a), F.S.

⁵⁹ Section 934.50(3), F.S.

⁶⁰ Section 934.50(4)(p), F.S.

⁶¹ Barbara Martinez, Alex Dehgan, Brad Zamft, David Baisch, Colin McCormick, Anthony J. Giordano, Rebecca Aicher, Shah Selbe, Cassie Hoffman, *Advancing federal capacities for the early detection of and rapid response to invasive species through technology innovation*, National Invasive Species Council: Contractor's Report, Mar. 2017, available at [federal capacities for edrr through technology innovation prepub 8.7.17.pdf \(doi.gov\)](#) (last visited Nov. 15 2021).

⁶² *Id.*

Section 3 amends s. 327.35215, F.S., to require that the Fish and Wildlife Conservation Commission (FWC) provide the certified statement forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful breath, blood, or urine test.

Section 4 amends s. 327.371, F.S., to allow a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an educational institution if the adjacent area outside of the marked channel is not suitable. The bill requires that teams use their best efforts to make use of the adjacent area outside of the marked channel.

Section 5 amends s. 327.4107, F.S., to allow an FWC officer or other law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring.

Section 6 amends s. 327.46, F.S., to clarify that when municipalities and counties establish public bathing beach or swim areas as vessel-exclusion zones, they may not establish them within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

Section 7 repeals s. 376.15, F.S. The repeal has no effect, as the bill merely moves non-duplicative language in s. 376.15, F.S., relating to derelict vessels and their relocation or removal from waters of this state, from that section to s. 823.11, F.S., which also addresses derelict vessels.

Section 8 amends s. 379.101, F.S., to clarify the definitions of “marine fish” and “saltwater fish” to reflect updates in the scientific classification of certain identifying terminology.

Section 9 amends s. 705.101, F.S., to add vessels declared a public nuisance to the definition of abandoned property. Vessels that are abandoned property are declared a public nuisance after having been found at risk of dereliction three or more times for the same condition within 18 months.

Section 10 amends s. 705.103, F.S., relating to procedures for abandoned or lost property. The bill adds vessels declared to be a public nuisance into the notice requirements and liability provisions applicable to owners of, or parties responsible for, derelict vessels. The bill also allows law enforcement officers to dispose of derelict vessels or vessels declared to be a public nuisance. This section also makes technical changes and deletes a cross-reference to s. 376.15, F.S.

Section 11 amends s. 705.103, F.S., as amended by chapters 2019-76 and 2021-184, Laws of Florida, which will be effective July 1, 2023, to make the changes discussed in Section 9 of the bill.

Section 12 amends s. 823.11, F.S., to clarify that additional time provided for an owner or responsible party to remove a derelict vessel from the waters of this state, or to repair and remedy the vessel’s derelict condition in the event of an accident or event, does not apply if the

vessel was already derelict. The bill removes language allowing law enforcement to destroy or dispose of derelict vessels threatening navigation or endangering environment, property, or persons. The bill moves language relating to grants for removal and disposal of derelict vessels from s. 376.15, F.S., (deleted by the bill) into s. 823.11, F.S. It also makes technical changes and deletes references to s. 376.15, F.S.

Section 13 amends s. 934.50, F.S., relating to searches and seizure using a drone. The bill deletes language prohibiting law enforcement employees of the FWC and the Florida Forest Service from using a drone to manage and eradicate invasive exotic plants and animals on public lands and to suppress and mitigate wildfire threats.

Section 14 amends s. 327.04, F.S., to delete a reference to s. 376.15, F.S.

Section 15 amends s. 328.09, F.S., to delete and revise a reference to s. 376.15, F.S. The bill also provides that the Department of Highway Safety and Motor Vehicles may not issue a certificate of title for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period. The bill authorizes the department to issue a certificate of title once law enforcement has verified in writing that the vessel is no longer a public nuisance. The bill adds these requirements for public nuisance vessels to the current requirements for derelict vessels.

Section 16 amends s. 25 of ch. 2021-184, Laws of Florida, to remove a reference to s. 376.15, F.S.

Section 17 amends s. 328.72, F.S., to delete and revise a reference to s. 376.15, F.S.

Section 18 amends s. 376.11, F.S., to direct that Florida Coastal Protection Trust Fund moneys may be used to fund grant programs for local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the public waters of the state. The bill also deletes and revises a reference to s. 376.15, F.S.

Sections 19, 20 and 21 reenacts ss. 327.73(1)(dd), 125.01(4), and 379.2412, F.S., to incorporate the amendments made by this bill to allow human-powered vessels to operate in the Florida Intracoastal Waterway for certain reasons, and to make clarifying revisions to the definition of marine and saltwater fish.

Section 22 provides that except as otherwise expressly provided, the effective date is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate. Local governments may benefit from expanded use of grant programs; expanded use of grant programs may necessitate the need for additional funding from state government.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The amendment in Section 4 revises a section of law authorizing a Fish and Wildlife Conservation Commission or other law enforcement officer to determine if a vessel is at risk of becoming derelict. All existing criteria are related to the condition of the vessel; however, the criteria the bill adds is unrelated to the condition of the vessel. A clarification may be appropriate.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 259.105, 327.352, 327.35215, 327.371, 327.4107, 327.46, 379.101, 705.101, 705.103, 823.11, 934.50, 327.04, 328.09, 328.72, and 376.11.

This bill repeals section 376.15 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(dd), 125.01(4), and 379.2412.

IX. Additional Information:

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

CS/CS by Appropriations on January 27, 2022:

The committee substitute:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
 - If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoise.
 - Each land management agency must consult with FWC on feasibility assessments and implementation of gopher tortoise management.
- Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.
- Allows that a person may operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an education institution when the adjacent area outside of the marked channel is not suitable for use.
- Requires that teams use their best efforts to make use of the adjacent area.

CS by Environment and Natural Resources on November 30, 2021:

- Requires that the Fish and Wildlife Conservation Commission, not the Department of Highway Safety and Motor Vehicles (department), provide the forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful a breath, blood, or urine test.
- Removes the requirement, created by the underlying bill, that the department must have substantial, competent evidence that shows demonstrable harm before establishing springs protection zones.
- Allows a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an education institution.
- Provides that the department may not issue a certificate of title to an applicant for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period.
- Authorizes the department to issue a certificate of title once law enforcement has verified in writing that a vessel is no longer a public nuisance.

- Allows moneys from the Florida Coastal Protection Trust Fund to be granted to local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the waters of the state.
- Reenacts the noncriminal infraction relating to the regulation of human-powered vessels to incorporate the amendment made by the strike-all.
- Retains all other provisions in the bill except as otherwise described.

B. Amendments:

None.

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1 A bill to be entitled
2 An act relating to boating safety; providing a short
3 title; amending s. 327.30, F.S.; authorizing a court
4 to impose a specified fine for certain boating
5 collisions and accidents; requiring such fines to be
6 deposited into the Marine Resources Conservation Trust
7 Fund for specified purposes; defining terms; amending
8 s. 327.54, F.S.; defining terms; prohibiting liveries
9 from offering a vessel for lease or rent without a
10 livery permit; specifying requirements and
11 qualifications for the permit; authorizing the Fish
12 and Wildlife Conservation Commission to adopt rules;
13 providing penalties for permit violations; revising
14 the conditions under which a livery may not knowingly
15 lease or rent a vessel; requiring a person receiving
16 safety instruction to provide the livery with a
17 specified signed attestation; requiring a written
18 agreement between a livery and a renter or lessee;
19 providing requirements for such agreement; requiring a
20 livery to notify law enforcement of overdue rentals or
21 leases under certain circumstances; prohibiting a
22 livery from knowingly leasing or renting a livery
23 vessel to certain persons; providing an exception;
24 revising livery insurance requirements; providing
25 applicability; requiring specified boating safety
26 education courses for certain instructors; requiring
27 liveries to report certain accidents to the Division
28 of Law Enforcement of the commission; requiring
29 liveries to make facilities and records available to

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30 law enforcement upon notice; providing penalties for
31 violations and additional penalties for subsequent
32 violations; prohibiting certain violators from acting
33 as a livery for a specified timeframe after such a
34 violation; authorizing the commission, beginning on a
35 specified date, to revoke or refuse to issue permits
36 for repeated violations; amending s. 327.73, F.S.;
37 increasing fines for violations of certain boating
38 regulations; providing fines for improper transfers of
39 title and failures to update vessel registration
40 information; authorizing certain fees and penalties
41 deposited into the Marine Resources Conservation Trust
42 Fund to be used for law enforcement purposes; amending
43 s. 327.731, F.S.; imposing a fine for persons
44 convicted of certain criminal or noncriminal
45 infractions; providing for the deposit of such fines
46 into the Marine Resources Conservation Trust Fund;
47 requiring the commission to maintain a program to
48 ensure compliance with certain boating safety
49 education requirements; specifying requirements for
50 the program; amending s. 328.03, F.S.; providing that
51 an improper transfer of vessel title is subject to a
52 civil penalty; amending s. 328.48, F.S.; requiring
53 that the address provided in a vessel registration
54 application and a certificate of registration be a
55 physical residential or business address; authorizing
56 the commission to accept post office box addresses in
57 lieu of the physical residential or business address;
58 providing that a person who fails to update his or her

2022606e1

59 vessel registration information within a specified
60 timeframe is subject to a civil penalty; providing
61 effective dates.

62
63 Be It Enacted by the Legislature of the State of Florida:

64
65 Section 1. This act may be cited as the "Boating Safety Act
66 of 2022."

67 Section 2. Subsection (7) is added to section 327.30,
68 Florida Statutes, to read:

69 327.30 Collisions, accidents, and casualties.—

70 (7) In addition to any other penalty provided by law, a
71 court may order a person convicted of a violation of this
72 section or of any rule adopted or order issued by the commission
73 pursuant to this section to pay an additional fine of up to
74 \$1,000 per violation. All fines assessed and collected pursuant
75 to this subsection shall be remitted by the clerk of the court
76 to the Department of Revenue to be deposited into the Marine
77 Resources Conservation Trust Fund to be used to enhance state
78 and local law enforcement activities related to boating
79 infractions. As used in this subsection, the terms "convicted"
80 and "conviction" mean any judicial disposition other than
81 acquittal or dismissal.

82 Section 3. Effective January 1, 2023, section 327.54,
83 Florida Statutes, is amended to read:

84 327.54 Liveries; safety regulations; penalty.—

85 (1) As used in this section, the term:

86 (a) "Advertise" means to describe or draw attention to a
87 vessel and its availability for lease or rental in any medium

2022606e1

88 for the purpose of promoting the lease or rental of the vessel.

89 (b) "Conviction" means any judicial disposition other than
90 acquittal or dismissal.

91 (c) "Livery" means a person who advertises and offers a
92 livery vessel for use by another in exchange for any type of
93 consideration when such person does not also provide the lessee
94 or renter with a captain, a crew, or any type of staff or
95 personnel to operate, oversee, maintain, or manage the vessel.
96 The owner of a vessel who does not advertise his or her vessel
97 for use by another for consideration and who loans or offers his
98 or her vessel for use to another known to him or her either for
99 consideration or without consideration is not a livery. A public
100 or private school or postsecondary institution located within
101 this state is not a livery. A vessel rented or leased by a
102 livery is a livery vessel as defined in s. 327.02.

103 (d) "Seaworthy" means the vessel and all of its parts and
104 equipment, including, but not limited to, engines, bilge pumps,
105 and kill switches, are functional and reasonably fit for their
106 intended purpose.

107 (2) A livery may not offer a vessel for lease or rent
108 without first being issued a no-cost livery permit by the
109 commission. The permit must be renewed annually. To qualify for
110 issuance or renewal of a livery permit, an applicant must
111 provide the commission with a list of all vessels offered by the
112 livery for lease or rent by another, have valid insurance
113 pursuant to subsection (7), have an amount of United States
114 Coast Guard-approved lawful personal floatation devices on site
115 sufficient to accommodate the capacity of all vessels offered by
116 the livery for rent or lease by another, have on site all safety

2022606e1

117 equipment required by s. 327.50 and the Code of Federal
118 Regulations sufficient to equip all vessels offered by the
119 livery for rent or lease by another, and display the information
120 required by paragraph (3) (f). If, before the annual renewal of
121 the permit, the information required by this subsection changes,
122 the livery must provide the commission with the updated
123 information within 10 days after the change.

124 (a) The commission may adopt rules to implement this
125 subsection.

126 (b) A person who violates this subsection commits a
127 misdemeanor of the first degree, punishable as provided in s.
128 775.082 or s. 775.083.

129 (3) A livery may not knowingly lease, ~~hire,~~ or rent a
130 vessel to any person:

131 (a) When the number of persons intending to use the vessel
132 exceeds the number considered to constitute a maximum safety
133 load for the vessel as specified on the authorized persons
134 capacity plate of the vessel.

135 (b) When the horsepower of the motor exceeds the capacity
136 of the vessel.

137 (c) When the vessel does not contain the ~~required~~ safety
138 equipment required under s. 327.50.

139 (d) When the vessel is not seaworthy, is a derelict vessel
140 as defined in s. 823.11, or is at risk of becoming derelict as
141 provided in s. 327.4107.

142 (e) ~~When the vessel is equipped with a motor of 10~~
143 ~~horsepower or greater,~~ Unless the livery provides pre-rental
144 ~~prerental~~ or pre-ride ~~preride~~ instruction in compliance with
145 rules established by the commission.

2022606e1

146 1. The instruction must include ~~that includes~~, but need not
147 be limited to:

148 a.1. Operational characteristics of the vessel to be
149 rented.

150 b.2. Safe vessel operation and vessel right-of-way.

151 c.3. The responsibility of the vessel operator for the safe
152 and proper operation of the vessel.

153 d.4. Local characteristics of the waterway where the vessel
154 will be operated, such as navigational hazards, the presence of
155 boating-restricted areas, and water depths.

156 e. Emergency procedures, such as appropriate responses to
157 capsizing, falls overboard, taking on water, and vessel
158 accidents.

159 2. Any person receiving instruction in the safe handling of
160 livery vessels pursuant to this paragraph must provide the
161 livery with a written statement attesting to each component of
162 the instruction.

163 a. The commission shall establish by rule the content of
164 the statement form.

165 b. The statement form must be signed by the individual
166 providing the instruction.

167 c. The livery shall maintain the statement form for no less
168 than 90 days and, upon request, make the form available for
169 inspection by law enforcement.

170
171 ~~Any person delivering the information specified in this~~
172 ~~paragraph must have successfully completed a boater safety~~
173 ~~course approved by the National Association of State Boating Law~~
174 ~~Administrators and this state.~~

2022606e1

175 (f) Unless the livery displays boating safety information
176 in a place visible to the renting public. The commission shall
177 prescribe by rule, pursuant to chapter 120, the contents and
178 size of the boating safety information to be displayed.

179 (g) Unless the livery has a written agreement with the
180 renter or lessee. The written agreement must include the name,
181 address, and date of birth for the renter and the number of
182 people aboard the vessel, as well as the time the vessel is
183 required to be returned to the livery or another specified
184 location and an emergency contact name, address, and telephone
185 number. The livery shall maintain each agreement for no less
186 than 1 year and, upon request, make each agreement available for
187 inspection by law enforcement.

188 (4)(2) A livery may not knowingly lease, ~~hire,~~ or rent a
189 vessel to a person who is required to comply with s. 327.395
190 unless such person presents to the livery the documentation
191 required by s. 327.395(2) for the operation of a vessel or meets
192 the exemption provided under s. 327.395(6)(f).

193 (5)(3) If a vessel rented or leased by a livery is
194 unnecessarily overdue more than 4 hours after the contracted
195 vessel rental time has expired, the livery must ~~shall~~ notify law
196 enforcement the proper authorities.

197 (6)(4)(a) A livery may not knowingly lease, ~~hire,~~ or rent a
198 livery vessel, other than a human-powered vessel, personal
199 watercraft to any person who is under 18 years of age.

200 ~~(b) A livery may not knowingly lease, hire, or rent a~~
201 ~~personal watercraft to any person who has not received~~
202 ~~instruction in the safe handling of personal watercraft, in~~
203 ~~compliance with rules established by the commission pursuant to~~

2022606e1

204 ~~chapter 120.~~

205 ~~(c) Any person receiving instruction in the safe handling~~
206 ~~of personal watercraft pursuant to a program established by rule~~
207 ~~of the commission must provide the livery with a written~~
208 ~~statement attesting to the same.~~

209 ~~(7)~~(5) A livery may not lease, ~~hire,~~ or rent any ~~personal~~
210 ~~watercraft~~ or offer to lease, ~~hire,~~ or rent any livery vessel
211 ~~personal watercraft~~ unless the livery first obtains and carries
212 in full force and effect a policy from a licensed insurance
213 carrier in this state which insures the livery and the renter,
214 ~~insuring~~ against any accident, loss, injury, property damage, or
215 other casualty caused by or resulting from the operation of the
216 livery vessel ~~personal watercraft~~. The insurance policy must
217 ~~shall~~ provide coverage of at least \$500,000 per person and \$1
218 million per event. The livery shall ~~must~~ have proof of such
219 insurance available for inspection at the location where livery
220 vessels ~~personal watercraft~~ are being leased, ~~hired,~~ or rented,
221 or offered for lease, ~~hire,~~ or rent, and shall provide to each
222 renter the insurance carrier's name and address and the
223 insurance policy number. This subsection does not apply to
224 human-powered vessels.

225 (8) Notwithstanding the person's age or any exemptions
226 provided in s. 327.395, any person delivering instruction
227 regarding the safe operation of vessels or pre-rental or pre-
228 ride instruction in accordance with subsection (3) must have
229 successfully completed a boating safety education course
230 approved by the National Association of State Boating Law
231 Administrators and this state.

232 (9) If a vessel rented or leased by a livery is involved in

2022606e1

233 an accident, the livery must report the accident to the
234 division.

235 (10) A livery shall make its facilities and records
236 available for inspection upon request by law enforcement no
237 later than 24 hours after receiving notice from law enforcement.

238 (11) (a) ~~(6)~~ Any person convicted of violating this section,
239 other than subsection (2), who has not been convicted of a
240 violation of this section within the past 3 years commits a
241 misdemeanor of the second degree, punishable as provided in s.
242 775.082 or s. 775.083.

243 (b) Unless the stricter penalties in paragraph (c) apply, a
244 person who violates this section, other than subsection (2),
245 within 3 years after a previous conviction of a violation of
246 this section commits a misdemeanor of the first degree,
247 punishable as provided in s. 775.082 or s. 775.083, with a
248 minimum mandatory fine of \$500.

249 (c) A person who violates this section, other than
250 subsection (2), within 5 years after two previous convictions
251 for a violation of this section commits a misdemeanor of the
252 first degree, punishable as provided in s. 775.082 or s.
253 775.083, with a minimum mandatory fine of \$1,000.

254 (12) A person who commits more than one violation of this
255 section, other than subsection (2), within a 3-year period may
256 not act as a livery during a 90-day period immediately after
257 being charged with that violation. The commission may revoke or
258 refuse to issue a permit under subsection (2) based on repeated
259 violations of this section.

260 Section 4. Subsections (1) and (8) of section 327.73,
261 Florida Statutes, are amended to read:

2022606e1

262 327.73 Noncriminal infractions.—

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

265 (a) Section 328.46, relating to operation of unregistered
266 and unnumbered vessels.

267 (b) Section 328.48(4), relating to display of number and
268 possession of registration certificate.

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

270 (d) Section 328.52(2), relating to display of number.

271 (e) Section 328.54, relating to spacing of digits and
272 letters of identification number.

273 (f) Section 328.60, relating to military personnel and
274 registration of vessels.

275 (g) Section 328.72(13), relating to operation with an
276 expired registration, for which the penalty is:

277 1. For a first or subsequent offense of s. 328.72(13)(a),
278 up to a maximum of \$100 ~~\$50~~.

279 2. For a first offense of s. 328.72(13)(b), up to a maximum
280 of \$250.

281 3. For a second or subsequent offense of s. 328.72(13)(b),
282 up to a maximum of \$500. Any person cited for a noncriminal
283 infraction under this subparagraph may not have the provisions
284 of paragraph (4)(a) available to him or her but must appear
285 before the designated official at the time and location of the
286 scheduled hearing.

287 (h) Section 327.33(2), relating to careless operation.

288 (i) Section 327.37, relating to water skiing, aquaplaning,
289 parasailing, and similar activities.

290 (j) Section 327.44, relating to interference with

2022606e1

291 navigation.

292 (k) Violations relating to boating-restricted areas and
293 speed limits:

294 1. Established by the commission or by local governmental
295 authorities pursuant to s. 327.46.

296 2. Speed limits established pursuant to s. 379.2431(2).

297 (l) Section 327.48, relating to regattas and races.

298 (m) Section 327.50(1) and (2), relating to required safety
299 equipment, lights, and shapes.

300 (n) Section 327.65, relating to muffling devices.

301 (o) Section 327.33(3)(b), relating to a violation of
302 navigation rules:

303 1. That does not result in an accident; or

304 2. That results in an accident not causing serious bodily
305 injury or death, for which the penalty is:

306 a. For a first offense, up to a maximum of \$500 ~~\$250~~.

307 b. For a second offense, up to a maximum of \$1,000 ~~\$750~~.

308 c. For a third or subsequent offense, up to a maximum of
309 \$1,500 ~~\$1,000~~.

310 (p) Section 327.39(1), (2), (3), and (5), relating to
311 personal watercraft.

312 (q) Section 327.53(1), (2), (3), and (8), relating to
313 marine sanitation.

314 (r) Section 327.53(4), (5), and (7), relating to marine
315 sanitation, and s. 327.60, relating to no-discharge zones, for
316 which the civil penalty is \$250.

317 (s) Section 327.395, relating to boater safety education.

318 However, a person cited for violating the requirements of s.

319 327.395 relating to failure to have required proof of boating

2022606e1

320 safety education in his or her possession may not be convicted
321 if, before or at the time of a county court hearing, the person
322 produces proof of the boating safety education identification
323 card or temporary certificate for verification by the hearing
324 officer or the court clerk and the identification card or
325 temporary certificate was valid at the time the person was
326 cited.

327 (t) Section 327.52(3), relating to operation of overloaded
328 or overpowered vessels.

329 (u) Section 327.331, relating to divers-down warning
330 devices, except for violations meeting the requirements of s.
331 327.33.

332 (v) Section 327.391(1), relating to the requirement for an
333 adequate muffler on an airboat.

334 (w) Section 327.391(3), relating to the display of a flag
335 on an airboat.

336 (x) Section 253.04(3)(a), relating to carelessly causing
337 seagrass scarring, for which the civil penalty upon conviction
338 is:

339 1. For a first offense, \$100 ~~\$50~~.

340 2. For a second offense occurring within 12 months after a
341 prior conviction, \$250.

342 3. For a third offense occurring within 36 months after a
343 prior conviction, \$500.

344 4. For a fourth or subsequent offense occurring within 72
345 months after a prior conviction, \$1,000.

346 (y) Section 327.45, relating to protection zones for
347 springs, for which the penalty is:

348 1. For a first offense, \$100 ~~\$50~~.

2022606e1

349 2. For a second offense occurring within 12 months after a
350 prior conviction, \$250.

351 3. For a third offense occurring within 36 months after a
352 prior conviction, \$500.

353 4. For a fourth or subsequent offense occurring within 72
354 months after a prior conviction, \$1,000.

355 (z) Section 327.4108, relating to the anchoring of vessels
356 in anchoring limitation areas, for which the penalty is:

357 1. For a first offense, up to a maximum of \$100 ~~\$50~~.

358 2. For a second offense, up to a maximum of \$250 ~~\$100~~.

359 3. For a third or subsequent offense, up to a maximum of
360 \$500 ~~\$250~~.

361 (aa) Section 327.4107, relating to vessels at risk of
362 becoming derelict on waters of this state, for which the civil
363 penalty is:

364 1. For a first offense, \$100.

365 2. For a second offense occurring 30 days or more after a
366 first offense, \$250.

367 3. For a third or subsequent offense occurring 30 days or
368 more after a previous offense, \$500.

369
370 A vessel that is the subject of three or more violations issued
371 pursuant to the same paragraph of s. 327.4107(2) within an 18-
372 month period which result in dispositions other than acquittal
373 or dismissal shall be declared to be a public nuisance and
374 subject to ss. 705.103(2) and (4) and 823.11(3). The commission,
375 an officer of the commission, or a law enforcement agency or
376 officer specified in s. 327.70 may relocate, remove, or cause to
377 be relocated or removed such public nuisance vessels from waters

2022606e1

378 of this state. The commission, an officer of the commission, or
379 a law enforcement agency or officer acting pursuant to this
380 paragraph upon waters of this state shall be held harmless for
381 all damages to the vessel resulting from such relocation or
382 removal unless the damage results from gross negligence or
383 willful misconduct as these terms are defined in s. 823.11.

384 (bb) Section 327.4109, relating to anchoring or mooring in
385 a prohibited area, for which the penalty is:

- 386 1. For a first offense, up to a maximum of \$100 ~~\$50~~.
- 387 2. For a second offense, up to a maximum of \$250 ~~\$100~~.
- 388 3. For a third or subsequent offense, up to a maximum of
389 \$500 ~~\$250~~.

390 (cc) Section 327.463(4) (a) and (b), relating to vessels
391 creating special hazards, for which the penalty is:

- 392 1. For a first offense, \$100 ~~\$50~~.
- 393 2. For a second offense occurring within 12 months after a
394 prior offense, \$250 ~~\$100~~.
- 395 3. For a third offense occurring within 36 months after a
396 prior offense, \$500 ~~\$250~~.

397 (dd) Section 327.371, relating to the regulation of human-
398 powered vessels.

399 (ee) Section 328.03, relating to an improper transfer of
400 title, for which the penalty is up to a maximum of \$500.

401 (ff) Section 328.48(9), relating to the failure to update
402 vessel registration information, for which the penalty is up to
403 a maximum of \$500.

404

405 Any person cited for a violation of ~~any provision of~~ this
406 subsection shall be deemed to be charged with a noncriminal

2022606e1

407 infraction, shall be cited for such an infraction, and shall be
408 cited to appear before the county court. The civil penalty for
409 any such infraction is \$100 ~~\$50~~, except as otherwise provided in
410 this section. Any person who fails to appear or otherwise
411 properly respond to a uniform boating citation ~~shall~~, in
412 addition to the charge relating to the violation of the boating
413 laws of this state, must be charged with the offense of failing
414 to respond to such citation and, upon conviction, be guilty of a
415 misdemeanor of the second degree, punishable as provided in s.
416 775.082 or s. 775.083. A written warning to this effect shall be
417 provided at the time such uniform boating citation is issued.

418 (8) All fees and civil penalties assessed and collected
419 pursuant to this section shall be remitted by the clerk of the
420 court to the Department of Revenue to be deposited into the
421 Marine Resources Conservation Trust Fund for boating safety
422 education or law enforcement purposes.

423 Section 5. Subsection (1) of section 327.731, Florida
424 Statutes, is amended, and subsection (4) is added to that
425 section, to read:

426 327.731 Mandatory education for violators.—

427 (1) A person convicted of a criminal violation under this
428 chapter, convicted of a noncriminal infraction under this
429 chapter if the infraction resulted in a reportable boating
430 accident, or convicted of two noncriminal infractions as
431 specified in s. 327.73(1)(h)-(k), (m), (o), (p), and (s)-(y),
432 the said infractions occurring within a 12-month period, must:

433 (a) Enroll in, attend, and successfully complete, at his or
434 her own expense, a classroom or online boating safety course
435 that is approved by and meets the minimum standards established

2022606e1

436 by commission rule;

437 (b) File with the commission within 90 days proof of
438 successful completion of the course; ~~and~~

439 (c) Refrain from operating a vessel until he or she has
440 filed proof of successful completion of the course with the
441 commission; and

442 (d) Pay a fine of \$500. The clerk of the court shall remit
443 all fines assessed and collected under this paragraph to the
444 Department of Revenue to be deposited into the Marine Resources
445 Conservation Trust Fund to support law enforcement activities.

446 (4) The commission shall maintain a program to ensure
447 compliance with the mandatory boating safety education
448 requirements under this section. This program must:

449 (a) Track any citations resulting in a conviction under
450 this section and the disposition of such citations.

451 (b) Send specific notices to each person subject to the
452 requirement for mandatory boating safety education.

453 Section 6. Subsection (3) of section 328.03, Florida
454 Statutes, is amended to read:

455 328.03 Certificate of title required.—

456 (3) A person may ~~shall~~ not sell, assign, or transfer a
457 vessel titled by the state without delivering to the purchaser
458 or transferee a valid certificate of title with an assignment on
459 it showing the transfer of title to the purchaser or transferee.
460 A person may ~~shall~~ not purchase or otherwise acquire a vessel
461 required to be titled by the state without obtaining a
462 certificate of title for the vessel in his or her name. The
463 purchaser or transferee shall, within 30 days after a change in
464 vessel ownership, file an application for a title transfer with

2022606e1

465 the county tax collector. An additional \$10 fee must ~~shall~~ be
466 charged against the purchaser or transferee if he or she files a
467 title transfer application after the 30-day period. The county
468 tax collector may ~~shall be entitled to~~ retain \$5 of the
469 additional amount. Any person who does not properly transfer
470 title of a vessel pursuant to this chapter is subject to the
471 penalties provided in s. 327.73(1)(ee).

472 Section 7. Effective July 1, 2023, subsection (4) of
473 section 328.03, Florida Statutes, as amended by chapter 2019-76,
474 Laws of Florida, is amended to read:

475 328.03 Certificate of title required.-

476 (4) An additional \$10 fee shall be charged against the
477 purchaser or transferee if he or she files a title transfer
478 application after the 30-day period. The county tax collector
479 may ~~shall be entitled to~~ retain \$5 of the additional amount. Any
480 person who does not properly transfer title of a vessel pursuant
481 to this chapter is subject to the penalties provided in s.
482 327.73(1)(ee).

483 Section 8. Paragraph (a) of subsection (1) and subsection
484 (4) of section 328.48, Florida Statutes, are amended, and
485 subsection (9) is added to that section, to read:

486 328.48 Vessel registration, application, certificate,
487 number, decal, duplicate certificate.-

488 (1)(a) The owner of each vessel required by this law to pay
489 a registration fee and secure an identification number shall
490 file an application with the county tax collector. The
491 application must ~~shall~~ provide the owner's name and physical
492 residential or business address; residency status; personal or
493 business identification; and a complete description of the

2022606e1

494 vessel, and must ~~shall~~ be accompanied by payment of the
495 applicable fee required in s. 328.72. An individual applicant
496 must provide a valid driver license or identification card
497 issued by this state or another state or a valid passport. A
498 business applicant must provide a federal employer
499 identification number, if applicable, verification that the
500 business is authorized to conduct business in this ~~the~~ state, or
501 a Florida city or county business license or number.
502 Registration is not required for any vessel that is not used on
503 the waters of this state. Upon receipt of an application from a
504 live-aboard vessel owner whose primary residence is the vessel,
505 the commission may authorize such owner to provide a post office
506 box address in lieu of a physical residential or business
507 address.

508 (4) Each certificate of registration issued must ~~shall~~
509 state among other items the numbers awarded to the vessel, the
510 hull identification number, the name and physical residential or
511 business address of the owner, and a description of the vessel,
512 except that certificates of registration for vessels constructed
513 or assembled by the owner registered for the first time must
514 ~~shall~~ state all the foregoing information except the hull
515 identification number. The numbers must ~~shall~~ be placed on each
516 side of the forward half of the vessel in such position as to
517 provide clear legibility for identification, except, if the
518 vessel is an airboat, the numbers may be placed on each side of
519 the rudder. The numbers awarded to the vessel must ~~shall~~ read
520 from left to right and must ~~shall~~ be in block characters of good
521 proportion not less than 3 inches in height. The numbers must
522 ~~shall~~ be of a solid color that ~~which~~ will contrast with the

2022606e1

523 color of the background and must ~~shall~~ be so maintained as to be
524 clearly visible and legible; i.e., dark numbers on a light
525 background or light numbers on a dark background. The
526 certificate of registration must ~~shall~~ be pocket-sized and must
527 ~~shall~~ be available for inspection on the vessel for which issued
528 whenever such vessel is in operation. Upon receipt of an
529 application from a live-aboard vessel owner whose primary
530 residence is the vessel, the commission may authorize such owner
531 to provide a post office box address in lieu of a physical
532 residential address.

533 (9) A person who does not update his or her vessel
534 registration information with the county tax collector within 6
535 months after a change to the information is subject to the
536 penalties provided in s. 327.73(1)(ff).

537 Section 9. Except as otherwise expressly provided in this
538 act, this act shall take effect July 1, 2022.

Amendment No.

CHAMBER ACTION

Senate

House

.

Representative McFarland offered the following:

Amendment (with title amendment)

Between lines 81 and 82, insert:

Section 3. Effective October 1, 2022, subsection (4) of section 327.395, Florida Statutes, is amended to read:

327.395 Boating safety education.—

(4) A commission-approved boating safety education course or temporary certificate examination developed or approved by the commission must include components ~~a component~~ regarding:

(a) Diving vessels, awareness of divers in the water, divers-down warning devices, and the requirements of s. 327.331.

(b) The danger associated with:

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Amendment No.

14 1. A passenger riding on a seat back, gunwale, transom,
15 bow, motor cover, or any other vessel area not designed and
16 designated by the manufacturer for seating.

17 2. A passenger falling overboard.

18 3. Operating a vessel with a person in the water near the
19 vessel.

20 4. Starting a vessel with the engine in gear.

21 5. Leaving the vessel running when a passenger is boarding
22 or disembarking.

23 (c) The proper use and lifesaving benefits of an engine
24 cutoff switch for motorboats and personal watercraft.

25
26 The commission must include the components under this subsection
27 in boating safety education campaigns and in educational
28 materials produced by the commission, as appropriate.

29 Section 4. Effective October 1, 2022, subsection (4) is
30 added to section 327.50, Florida Statutes, to read:

31 327.50 Vessel safety regulations; equipment and lighting
32 requirements.—

33 (4) The operator of a vessel used in the instruction of a
34 water sport or activity must use an engine cutoff switch and
35 wear an operative link to the switch when a person participating
36 in the water sport or activity is in the water.

37
38 -----

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Amendment No.

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

Between lines 7 and 8, insert:

s. 327.395, F.S.; requiring certain boating safety education courses and temporary certificate examinations to include specified components; directing the Fish and Wildlife Conservation Commission to include such components in boating safety education campaigns and certain educational materials; amending s. 327.50, F.S.; requiring operators of vessels used in the instruction of water sports and activities to use engine cutoff switches and wear operative links to the switches under certain conditions; amending

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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: CS/SB 606

INTRODUCER: Appropriations Committee (Recommended by Appropriations Subcommittee on Agriculture, Environment, and General Government); and Senator Garcia

SUBJECT: Boating Safety

DATE: February 23, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-------------------------|-----------------|------------|--------------------------|
| 1. | <u>Anderson/Carroll</u> | <u>Rogers</u> | <u>EN</u> | <u>Favorable</u> |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEG</u> | <u>Recommend: Fav/CS</u> |
| 3. | <u>Reagan</u> | <u>Sadberry</u> | <u>AP</u> | <u>Fav/CS</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 606 creates the “Boating Safety Act of 2022.”

Relating to liveries, the bill:

- Requires a no-cost, annual livery permit, effective January 1, 2023;
- Requires liveries to implement certain safety requirements; and
- Adds penalties for violations of livery requirements.

The bill increases or adds penalties for noncriminal infractions of vessel safety laws. It increases the additional civil penalty for noncriminal infractions of vessel laws from \$50 to \$100. It directs certain penalties to the Marine Resource Conservation Trust Fund to supplement law enforcement activities.

Relating to boating safety programs, the bill:

- Adds a \$500 fine for certain vessel operators;
- Requires the Florida Fish and Wildlife Conservation Commission (FWC) to maintain a program to ensure compliance with mandatory boating safety education requirements; and
- Creates the Illegal Boating Strike Team to enhance law enforcement activities.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

The bill provides an appropriation of \$2 million in recurring funds from the General Revenue Fund to the FWC and authorizes seven positions with associated salary rate of \$322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements. The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement.

II. Present Situation:

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.¹ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate.² Under Article IV, section 9 of the Florida Constitution, the FWC has the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.³ The Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.⁴ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁵

Regulation of Liveries

A livery vessel is defined as a vessel that is leased, rented, or chartered to another for consideration.⁶ A livery may not knowingly lease, hire, or rent vessels:

- When the number of persons intending to use the vessel exceeds the number considered to constitute a maximum safety load for the vessel.

¹ FLA. CONST. art. IV, s. 9.

² *Id.*; see also s. 379.102(1), F.S.

³ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁴ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 22, 2021).

⁵ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 22, 2021). See s. 327.70(1) and (4), F.S.

⁶ Section 327.02(24), F.S.

- When the horsepower of the motor exceeds the capacity of the vessel.
- When the vessel does not contain required safety equipment.
- When the vessel is not seaworthy.
- When the vessel is equipped with a motor of 10 horsepower or greater, unless the livery provides required pre-rental or pre-ride instruction, which must be provided by a person who has successfully completed a National Association of State Boating Law Administrators and state-approved boater safety course.
- Unless the livery displays boating safety information in a place visible to the renting public.⁷

A livery also may not knowingly lease, hire, or rent:

- Vessels powered by a motor of 10 horsepower or greater to any person who is required to comply with boater safety education requirements, unless the person presents photographic identification and a valid boater safety identification card to the livery, or meets one of the listed exemptions.⁸
- Personal watercraft to persons under 18 years of age or who have not received instruction in the safe handling of personal watercraft and provided a written statement attesting to that fact.⁹
- Personal watercraft without a proper insurance policy.¹⁰

Liveries are required to notify the proper authorities if a leased, hired, or rented vessel is unnecessarily overdue.¹¹ Violations of livery regulations are a second-degree misdemeanor.¹²

Boating Infractions and Penalties

Chapter 327, F.S., the “Florida Vessel Safety Law,” addresses boating violations.¹³ The law imposes a statutory duty to assist other persons in a vessel collision or accident, provide information to any injured parties or the owner of damaged property, and provide notice to law enforcement of the accident.¹⁴ Leaving the scene of an accident that resulted in personal injury is a third-degree felony, and leaving the scene of an accident that resulted in property damage is a second-degree misdemeanor.¹⁵

Section 327.73, F.S., sets forth the fines for noncriminal infractions of the Florida Vessel Safety Law. Unless otherwise specified, the civil penalty for a noncriminal infraction is \$50.¹⁶ If a person fails to appear or respond to a uniform boating citation, he or she is charged with the offense of failing to respond to a citation. Upon conviction, such person will be guilty of a second-degree misdemeanor.¹⁷ Noncriminal violations include operating with an expired

⁷ Section 327.54(1), F.S.

⁸ Section 327.54(2), F.S.

⁹ Section 327.54(4), F.S.

¹⁰ Section 327.54(5), F.S.

¹¹ Section 327.54(3), F.S.

¹² Section 327.54(6), F.S.

¹³ Section 327.01, F.S.

¹⁴ Section 327.30(1), (2), and (3), F.S.

¹⁵ Section 327.30, F.S.

¹⁶ Section 327.73(1), F.S.

¹⁷ *Id.*

registration, operating without a registration, and failing to display the appropriate registration information.

Several noncriminal violations are subject to increased penalties for additional offenses. For example, for a violation of navigation rules that does not result in an accident or that results in an accident without serious bodily injury or death, there is a maximum penalty of:

- \$250 for a first offense;
- \$750 for a second offense; and
- \$1,000 for a third or subsequent offense.¹⁸

For violating a springs protection zone, or operating a vessel in a careless manner that causes seagrass scarring within an aquatic preserve, except the Lake Jackson, Ocklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, the penalty is:

- \$50 for a first offense;
- \$250 for a second offense occurring within 12 months of a prior conviction;
- \$500 for a third offense occurring within 36 months of a prior conviction; and
- \$1,000 for a fourth or subsequent offense occurring within 72 months of a prior conviction.¹⁹

For anchoring in an anchoring limitation area and anchoring or mooring in a prohibited area, the penalty is:

- A maximum of \$50 for a first offense;
- A maximum of \$100 for a second offense; and
- A maximum of \$250 for a third or subsequent offense.²⁰

For violating areas where vessels creating special hazards are operating, the penalty is:

- \$50 for a first offense;
- \$100 for a second offense occurring within 12 months of a prior offense; and
- \$250 for a third offense occurring within 36 months of a prior offense.²¹

Mandatory Education for Violators

A person who is convicted of two non-criminal boating safety infractions within a 12-month period must enroll in, attend (in-person or online), and successfully complete a National Association of State Boating Law Administrators and state-approved boater education course.²² The person must file proof of completion of the course with the FWC's Boating and Waterways Section within 90 days of the violation and is not permitted to operate a vessel until proof is filed.²³

¹⁸ Section 327.73(o), F.S.

¹⁹ Section 327.73(x) and (y), F.S.

²⁰ Section 327.73(z) and (bb), F.S.

²¹ Section 327.73(cc), F.S.

²² Section 327.731(1)(a), F.S.

²³ Section 327.731(1)(b) and (c), F.S.

A person who is convicted of a criminal boating violation or a noncriminal boating safety infraction that resulted in a boating accident must complete the boater education course,²⁴ as well as a separate course for violators. The provider of the course for violators automatically sends proof of completion electronically to the FWC.²⁵

Marine Resources Conservation Trust Fund

The Marine Resources Conservation Trust Fund (MRCTF) within the FWC serves as a broad-based depository for funds from various marine-related and boating-related activities.²⁶ The FWC can administer the trust fund for the following purposes:

- Marine research;
- Fishery enhancement;
- Marine law enforcement;
- Administration of licensing programs for recreational fishing, saltwater products sales, and related information and education activities;
- FWC operations;
- Titling and registration of vessels;
- Marine turtle protection, research, and recovery activities;
- Rehabilitation of oyster harvesting areas;
- Boating research, boating-related programs and activities, and law enforcement on state waters; and
- The stone crab trap reduction program, the blue crab effort management program, the spiny lobster trap certificate program, and the trap retrieval program.²⁷

The MRCTF will receive the proceeds from:

- All license fees for purse seines, saltwater products, nets, special activities, Apalachicola Bay oyster harvesting, and wholesale and retail saltwater products dealers;
- All funds collected from vessel registration and other related fees;
- All fees related to the spiny lobster, blue crab, and black sea bass trap retrieval program; the tarpon license program; the stone crab take endorsement; the blue crab take endorsement; and the spiny lobster trap certificate program;
- All fines and penalties relating to take, harvest, or possession of certain marine life; use of illegal nets; violations involving certain finfish; and violations involving saltwater products; and
- Other revenues as provided by law.²⁸

²⁴ Section 327.731(1), F.S.; *see also* FWC, *Mandatory Boating Education*, <https://myfwc.com/boating/regulations/mandatory-boating-education/> (last visited Oct. 6, 2021).

²⁵ FWC, *Mandatory Boating Education*, <https://myfwc.com/boating/regulations/mandatory-boating-education/> (last visited Oct. 6, 2021).

²⁶ Section 379.208(1), F.S.

²⁷ *Id.*

²⁸ Section 379.208(2), F.S.

Vessel Titling and Registrations

All motorized vessels operating on Florida's public waterways must be titled and registered pursuant to ch. 328, F.S.²⁹ The Department of Highway Safety and Motor Vehicles (DHSMV) is responsible for issuing vessel registrations and titles.³⁰ Registration and title applications must be filed at a county tax collector or license plate agent office,³¹ but the DHSMV is responsible for issuing vessel registrations.³²

A purchaser of a new or used vessel has 30 days to title and register the vessel.³³ The required information for a vessel registration application includes: the owner's name and address; residency status; personal identification (a driver license or identification card) or business identification (a federal employer identification number or Florida state, city, or county business license or number); a complete description of the vessel; payment of the applicable fee; and proof of ownership of the vessel.³⁴ During the 30-day period before registration, the owner must carry proof of the date of purchase aboard the vessel.³⁵

Every vessel operated, used, or stored on the waters of Florida must be registered unless it is:

- A vessel operated, used, and stored exclusively on private lakes and ponds;
- A vessel owned by the United States Government;
- A non-motor-powered vessel less than 16 feet in length;
- A federally documented vessel;
- A vessel already covered by a registration number awarded to it by another state or the U.S. Coast Guard, if the vessel is not located in this state for more than 90 consecutive days;
- A vessel from a country other than the United States, if the vessel is not located in this state for more than 90 days;
- An amphibious vessel for which a vehicle title is issued by the DHSMV;
- A vessel used solely for demonstration, testing, or sales promotional purposes by the manufacturer or dealer; or
- A vessel owned and operated by the state or a political subdivision thereof.³⁶

No person may sell, assign, or transfer a vessel titled in the state without providing the purchaser or transferee a valid certificate of title with an assignment on it showing transfer of title to the purchaser or transferee.³⁷ The purchaser or transferee is required to file an application for a title transfer with the county tax collector within 30 days after a change in vessel ownership.³⁸ Unless

²⁹ See s. 328.03, F.S. Certain vessels are not required to have a certificate of title, including, but not limited to, vessels used only on private lakes or ponds and vessels owned by the U.S. Government or a state or political subdivision thereof.

³⁰ Section 328.40, F.S.

³¹ Section 328.48(1)(a), F.S.

³² Section 328.48(3), F.S.

³³ Section 328.46(1), F.S.

³⁴ Section 328.48(1), F.S.

³⁵ Section 328.46(1), F.S.

³⁶ Section 328.48(2), F.S.

³⁷ Section 328.03(3), F.S.

³⁸ *Id.*

specified otherwise, a person who fails to meet titling and registration requirements is guilty of a second degree misdemeanor.³⁹

Wildlife Alert

The Wildlife Alert Reward Association, Inc. (Wildlife Alert) is a 501(c)(3) non-profit organization created in 1979 that allows citizens to report known or suspected violations of Florida's fish, wildlife, environmental, and boating laws, and encourages citizen involvement in conservation and protection.⁴⁰ In 2014, Wildlife Alert and the FWC signed a letter of agreement recognizing Wildlife Alert as an FWC Citizen Support Organization.⁴¹ Reporters who know or suspect a violation of Florida's fish, wildlife, environmental, or boating laws may call, text, or file an online report. They may be asked to provide information about the physical descriptions of violators and vehicles, license tag numbers, locations, and other pertinent information. Reporters may remain anonymous. The Wildlife Alert program offers rewards in exchange for information that leads to the arrest of poachers or other violators.⁴²

III. Effect of Proposed Changes:

Section 1 names this act the "Boating Safety Act of 2022."

Section 2 amends s. 327.02, F.S., to exclude a human-powered vessel from the definition of a "livery vessel".

Section 3 amends s. 327.30, F.S., to create an additional fine of up to \$1,000 for a violation of the vessel collision and accident laws, or any associated rule or order of the Fish and Wildlife Conservation Commission (FWC). A conviction is any judicial disposition other than acquittal or dismissal. Money from the additional fines shall be remitted by the clerk of the court to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund (MRCTF) to enhance law enforcement activities relating to boating infractions.

Section 4 amends s. 327.54, F.S., to revise existing requirements for liveries. The bill defines the term "conviction" as any judicial disposition other than acquittal or dismissal. It defines "livery" as a person who advertises and offers a vessel for use by another in exchange for any type of consideration when such person does not also provide the lessee or renter with a captain, a crew, or any type of staff or personnel to operate, oversee, maintain, or manage the vessel. The owner of a vessel who does not advertise his or her vessel for use by another for consideration and who loans or offers his or her vessel for use to another known to him or her either for consideration or without consideration is not a livery. A vessel rented or leased by a livery is a livery vessel. The bill defines "seaworthy" to mean a vessel whose parts and equipment, including, but not limited to, engines, bilge pumps, and kill switches, are functional and reasonably fit for their intended purpose.

³⁹ Section 328.21, F.S.

⁴⁰ FWC, *Wildlife Alert* (2014), available at <https://myfwc.com/media/4539/wildlife-alert.pdf> (last visited Nov. 22, 2021).

⁴¹ FWC, *Wildlife Alert Reward Program* (2020), available at https://flmtph.myfwc.com/media/19135/10_travis_wildlife-alert-pp-2020-mstm.pdf (last visited Nov. 22, 2021).

⁴² *Id.*

The bill provides that, effective January 1, 2023, a livery must obtain a no-cost annual livery permit from the FWC. To qualify for the permit, an applicant must:

- Provide the FWC with a list of vessels offered by the livery for lease or rent by another;
- Have a sufficient amount of U.S. Coast Guard-approved lawful personal flotation devices on site to accommodate the capacity of all vessels offered by the livery for lease or rent by another;
- Have on site all safety equipment required by the U.S. Coast Guard to equip all vessels offered by the livery for rent or lease by another; and
- Display boating safety information in a place visible to the renting public.

If the information required to qualify for a permit changes before the annual renewal of the permit, the livery must provide the FWC with the updated information within 10 days after the change. The bill authorizes the FWC to adopt rules to implement the no-cost livery permit program. A violation of the permit requirement is a misdemeanor of the first degree.

The bill prevents a livery from knowingly leasing or renting a derelict vessel or a vessel at risk of becoming derelict.

The bill removes the prohibition that a livery cannot knowingly lease or rent a vessel to any person if it is equipped with a motor of 10 horsepower or greater unless the livery provides pre-rental or pre-ride instruction. Instead, pre-rental or pre-ride instruction must be in compliance with rules established by the FWC. The bill provides that instruction on local characteristics of the waterway where the vessel will be operated includes navigational hazards, boating-restricted areas, and water depths, as well as emergency procedures such as appropriate responses to capsizing, falls overboard, taking on water, and vessel accidents.

The bill provides that any person receiving instruction in the safe handling of livery vessel must provide the livery with a written statement attesting to each component of the instruction. The FWC shall establish by rule the content of the statement form. The statement form must be signed by the individual providing the instruction and the livery shall maintain the statement form for no less than 90 days and, upon request, make the form available for inspection by law enforcement. The bill reorganizes language requiring the person delivering this information to have successfully completed a boater safety course.

The bill adds that a livery may not knowingly lease or rent a vessel to any person unless the livery has a written agreement with the renter or lessee. The livery must maintain each agreement for no less than one year and must make it available for inspection by law enforcement upon request. The written agreement must include:

- The renter's name, address, and date of birth and the number of people who will be aboard the vessel;
- The time the vessel must be returned to the livery or other specified location; and
- An emergency contact name, address, and telephone number.

The following requirements, which currently apply to “personal watercraft,” are broadened to apply to “livery vessels”:⁴³

- A livery may not knowingly lease or rent a livery vessel to any person under 18 years of age.
- A livery may not knowingly lease or rent a vessel to any person unless the livery first obtains a policy from a licensed insurance carrier in Florida, which insures the livery and renter against any accident, loss, injury, property damage, or other casualty caused by or resulting from the operation of the vessel. Liveries, other than those renting personal watercraft, must have sufficient insurance to cover the livery vessels. The livery and renter must have proof of insurance available for inspection at the location where the vessels are being leased or rented or offered for lease or rent. The livery shall provide the insurance carrier’s name and address and the insurance policy number to each renter. Liveries shall offer insurance to the renter.
- The bill requires any person delivering instruction regarding the safe operation of vessels or pre-rental or pre-ride instruction must have successfully completed a boating safety education course approved by the National Association of State Boating Law Administrators and the state of Florida.

The bill clarifies that if a vessel rented or leased by a livery is unnecessarily overdue more than 12 hours after the contracted rental time has expired, then the livery must notify law enforcement.

The bill requires that if a vessel rented or leased by a livery is involved in an accident, the livery must report the accident to the FWC.

The bill provides that a livery shall make its facilities and records available for inspection within 24 hours of notice by law enforcement.

The bill provides penalties for violations of the livery requirements:

- A person who violates one or more statutory requirements for liveries, but not the no-cost livery permit requirement, and who has not been convicted of a violation of the livery requirements in the past three years, commits a misdemeanor of the second degree and may face imprisonment of no more than 60 days and/or a fine of no more than \$500.
- If the violation has occurred within three years after a previous conviction, the person commits a misdemeanor of the first degree and may face imprisonment of no more than one year and/or a fine of no more than \$1,000. There is an additional minimum mandatory fine of \$500.
- If the person commits another violation within five years after two previous convictions for violations of the livery requirements, the person commits a misdemeanor of the first degree and may face imprisonment of no more than one year and/or a fine of no more than \$1,000. There is an additional minimum mandatory fine of \$1,000.
- A person who commits more than one violation of the livery requirements, but not the no-cost livery permit requirement, within a three year period may not act as a livery during a

⁴³ A “personal watercraft” is a vessel 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel, rather than in the conventional manner of sitting or standing inside the vessel. Section 327.02(36), F.S. A “vessel” includes every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water. Section 327.02(47), F.S.

90-day period immediately after being charged. Effective January 1, 2023, the FWC may revoke or refuse to issue a no-cost livery permit based on repeated violations of the livery requirements.

Section 5 amends s. 327.73, F.S., to increase the following penalties for noncriminal infractions:

- The maximum fine for an owner or operator of a vessel with an expired registration of six months or less is increased from \$50 to \$100 for a first and subsequent offense.
- The maximum fine for violating the navigation rules in a way that is not reckless and does not result in an accident, or results in an accident that does not cause serious bodily injury or death:
 - Is increased from \$250 to \$500 for a first offense.
 - Is increased from \$750 to \$1,000 for a second offense.
 - Is increased from \$1,000 to \$1,500 for a third or subsequent offense.
- The fine for operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring within an aquatic preserve, except the Lake Jackson, Ocklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, is increased from \$50 to \$100 for a first offense.
- The fine for operating a vessel in violation of a springs protection zone is increased from \$50 to \$100 for a first offense.
- The maximum fine for anchoring a vessel in an anchoring limitation area:
 - Is increased from \$50 to \$100 for a first offense;
 - Is increased from \$100 to \$250 for a second offense; and
 - Is increased from \$250 to \$500 for a third or subsequent offense.
- The fine for violating an area where vessels creating a special hazard are operating:
 - Is increased from \$50 to \$100 for a first offense;
 - Is increased from \$100 to \$250 for a second offense occurring within 12 months after a prior offense; and
 - Is increased from \$250 to \$500 for a third offense occurring within 36 months after a prior offense.
- The maximum civil penalty for noncriminal violations of vessel laws is increased from \$50 to \$100, except as otherwise provided.

The bill adds the following penalties for noncriminal infractions:

- The maximum fine for improper transfer of vessel title is \$500.
- The maximum fine for failure to update vessel registration information is \$500.

The bill adds law enforcement purposes to the uses of fees and civil penalties collected pursuant to this section.

Section 6 amends s. 327.731, F.S., relating to mandatory education for violators. The bill adds a fine of \$500 to the list of requirements that are triggered if a person is:

- Convicted of a criminal violation under ch. 327, F.S. (relating to vessel safety);
- Convicted of a noncriminal infraction under ch. 327, F.S., if it resulted in a reportable boating accident; or
- Convicted of two noncriminal infractions of vessel laws, if the infractions occurred within a 12-month period. These infractions relate to:

- Careless operation;
- Waterskiing, aquaplaning, parasailing, and similar activities;
- Interfering with navigation;
- Violating boating-restricted areas and speed limits;
- Required safety equipment, lights, and shapes;
- Violating navigation rules in a way that does not result in an accident, or that results in an accident not causing serious bodily injury or death;
- Personal watercraft;
- Boater safety education;
- Operating overloaded or overpowered vessels;
- Divers-down warning devices;
- Adequate mufflers on airboats;
- Displaying a flag on an airboat;
- Carelessly causing seagrass scarring; and
- Violating springs protection zones.

The clerk of the court shall remit the fines to be deposited into the MRCTF to support law enforcement activities.

The bill requires the FWC to maintain a program to ensure compliance with mandatory boating safety education requirements. The program must track any citation resulting in a conviction under this section and send notices to each person subject to the requirement for mandatory boating safety education.

Section 7 amends s. 328.03, F.S., to provide that any person who does not properly transfer title of a vessel is subject to a maximum penalty of \$500.

Section 8 amends s. 328.03, F.S., as amended by chapter 2019-76, Laws of Florida, to provide that any person who does not properly transfer title of a vessel is subject to a maximum penalty of \$500. This amendment is effective July 1, 2023.

Section 9 amends s. 328.48, F.S., to add language requiring a vessel owner to provide a physical residential or business address when filing an application for vessel registration. The bill allows the FWC to authorize a live-aboard vessel owner to provide a post office box address in lieu of a physical residential or business address.

The bill adds language requiring a vessel owner's physical residential or business address on each certificate of registration issued.

The bill provides that a person who does not update his or her vessel registration information with the county tax collector within six months after a change to the information will be subject to a maximum penalty of \$500.

Section 10 creates the Illegal Boating Strike Team. To this end, the bill appropriates \$2 million in recurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC and authorizes seven positions with associated salary rate of 322,763. The Illegal Boating Strike Team will coordinate law enforcement at the federal, state, and local levels to increase public

safety and decrease boating accidents, injuries, fatalities, and criminal activity. In areas where illegal charters and illegal liveries are found to be operating, the strike team shall do all of the following:

- Enhance law enforcement activities by increasing intergovernmental coordination to address any criminal conduct or safety violation, taxes and fees, and licensure regulations by such charter and livery operations;
- Address unsafe customer pick-ups and drop-offs;
- Improve signage and set appropriate speed limits in waterways;
- Ensure correct and current information is used for vessel registration;
- Publicize existing reporting systems and use social media to encourage citizens to report illegal activities; and
- Develop educational campaigns to address and deter illegal charter operations, illegal livery operations, boating under the influence, and related public safety issues, and to encourage the reporting of boating violations.

Section 11 appropriates \$100,000 in recurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000 to implement the amendment made to s. 327.731, F.S., by this act, relating to ensuring compliance with mandatory boating safety education requirements.

Section 12 appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement in s. 327.54(2), F.S.

Section 13 provides that except as otherwise expressly provided, the effective date is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Increased boating penalties are expected to have a positive fiscal impact to the state. The bill appropriates \$2 million in recurring funds from the General Revenue Fund to the Fish and Wildlife Conservation Commission (FWC) and authorizes seven positions with associated salary rate of 322,763 for the Illegal Boating Strike Team. The bill also appropriates \$100,000 in recurring funds from the General Revenue Fund to the FWC and authorizes one position with associated salary rate of \$60,000, relating to ensuring compliance with mandatory boating safety education requirements. The bill also appropriates \$125,000 in nonrecurring funds for the 2022-2023 fiscal year from the General Revenue Fund to the FWC for the purpose of implementing the no-cost livery permitting requirement.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.02, 327.30, 327.54, 327.73, 327.731, 328.03, and 328.48.

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

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

CS by Appropriations on February 23, 2022:

The committee substitute:

- Clarifies that the insurance policies purchased by a livery must cover both the livery and renter;
- Allows for the FWC to accept a P.O. Box address instead of a physical residential or business address for live-aboard vessel registration applications in certain cases; and
- Clarifies the clerk of the court shall remit all fines assessed and collected to the Department of Revenue to be deposited into the Marine Resources Conservation Trust Fund.

B. Amendments:

None.

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

By Senator Hooper

16-00325-22

2022820__

1 A bill to be entitled
2 An act relating to the Yacht and Ship Brokers' Act;
3 amending s. 326.002, F.S.; redefining the term "yacht"
4 to include vessels longer than a specified length
5 which are manufactured or operated primarily for
6 pleasure or are leased, rented, or chartered for
7 pleasure; amending s. 326.004, F.S.; exempting a
8 person who conducts business as a broker or
9 salesperson in another state from licensure for
10 specified transactions; requiring, rather than
11 authorizing, the Division of Florida Condominiums,
12 Timeshares, and Mobile Homes of the Department of
13 Business and Professional Regulation to deny licenses
14 for applicants who fail to meet certain requirements;
15 revising requirements for licensure as a broker;
16 requiring the division to adopt a complaint form for
17 alleged violations of the act; providing requirements
18 for the form; requiring the division to commence an
19 investigation within a specified timeframe after
20 receiving a complaint form; requiring the division to
21 take certain actions if the division determines that a
22 broker or salesperson violated the act; deleting a
23 provision requiring the division to adopt rules
24 relating to temporary licenses; providing an effective
25 date.

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

28
29 Section 1. Subsection (4) of section 326.002, Florida

16-00325-22

2022820__

30 Statutes, is amended to read:

31 326.002 Definitions.—As used in ss. 326.001-326.006, the
32 term:

33 (4) "Yacht" means any vessel which is propelled by sail or
34 machinery in the water which exceeds 32 feet in length, and is:

35 (a) Manufactured or operated primarily for pleasure; or

36 (b) Leased, rented, or chartered to someone other than the
37 owner for the other person's pleasure ~~which weighs less than 300~~
38 ~~gross tons.~~

39 Section 2. Subsections (6), (8), and (15) of section
40 326.004, Florida Statutes, are amended, and paragraph (f) is
41 added to subsection (3) of that section, to read:

42 326.004 Licensing.—

43 (3) A license is not required for:

44 (f) A person who conducts business as a broker or
45 salesperson in another state as his or her primary profession
46 and engages in the purchase or sale of a yacht under this act if
47 the transaction is executed in its entirety with a broker or
48 salesperson licensed in this state.

49 (6) The division shall ~~may~~ deny a license to any applicant
50 who does not:

51 (a) Furnish proof satisfactory to the division that he or
52 she is of good moral character.

53 (b) Certify that he or she has never been convicted of a
54 felony.

55 (c) Post the bond required by the Yacht and Ship Brokers'
56 Act.

57 (d) Demonstrate that he or she is a resident of this state
58 or that he or she conducts business in this state.

16-00325-22

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59 (e) Furnish a full set of fingerprints taken within the 6
60 months immediately preceding the submission of the application.

61 (f) Have a current license and has operated as a broker or
62 salesperson without a license.

63 (8) A person may not be licensed as a broker unless he or
64 she has been licensed as a salesperson for at least 2
65 consecutive years and can demonstrate that he or she has been
66 directly involved in at least four transactions that resulted in
67 the sale of a yacht or can certify that he or she has obtained
68 20 continuing education credits approved by the division,~~and~~
69 ~~may not be licensed as a broker unless he or she has been~~
70 ~~licensed as a salesperson for at least 2 consecutive years.~~

71 (15) The division shall adopt ~~provide~~ by rule a complaint
72 form for alleged violations of this chapter by a licensed broker
73 or salesperson. Any person may submit a complaint form, which
74 must require the person to provide detailed facts of the alleged
75 violation. The division shall commence an investigation within
76 15 days after receiving a complaint form and must suspend or
77 revoke a broker's or salesperson's license, or otherwise
78 discipline the licensee, if the division determines that the
79 broker or salesperson violated this chapter ~~for the issuance of~~
80 ~~a temporary 90-day license to an applicant while the Florida~~
81 ~~Department of Law Enforcement conducts a national criminal~~
82 ~~history analysis of the applicant by means of fingerprint~~
83 ~~identification.~~

84 Section 3. This act shall take effect October 1, 2022.

1 A bill to be entitled
 2 An act relating to yacht and ship brokers located out
 3 of state; amending s. 326.004, F.S.; exempting a
 4 person who regularly conducts business as a yacht or
 5 ship broker or salesperson in another state from
 6 licensure for specified transactions; providing an
 7 exception; providing an effective date.

8

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

10

11 Section 1. Paragraph (f) is added to subsection (3) of
 12 section 326.004, Florida Statutes, to read:

13 326.004 Licensing.—

14 (3) A license is not required for:

15 (f) A person who regularly conducts business as a yacht or
 16 ship broker or salesperson in another state who engages in the
 17 purchase or sale of a yacht under this act if the transaction is
 18 executed with a broker or salesperson licensed in this state.
 19 This limitation does not apply to a duly licensed attorney.

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

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 529 Yacht and Ship Brokers Located Out of State

SPONSOR(S): Regulatory Reform Subcommittee, LaMarca

TIED BILLS: **IDEN./SIM. BILLS:** SB 820

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|----------|--|
| 1) Regulatory Reform Subcommittee | 17 Y, 0 N, As CS | Wright | Anstead |
| 2) State Administration & Technology Appropriations Subcommittee | 13 Y, 0 N | Helpling | Topp |
| 3) Commerce Committee | | | |

SUMMARY ANALYSIS

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division), which regulates yacht and ship brokers and salespersons. A person may not act as a broker or salesperson in Florida unless they are licensed by the division.

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons. A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.

A license is not required for:

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

The bill provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill may have a minimal indeterminate fiscal impact on state government, and no fiscal impact on local governments.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Yacht and Ship Brokers

The Florida Department of Business and Professional Regulation (DBPR) regulates and licenses various businesses and professionals in Florida through 12 divisions, including the Division of Florida Condominiums, Timeshares, and Mobile Homes (division).¹

The division provides consumer protection for Florida residents through education, complaint resolution, mediation and arbitration, and developer disclosure.² The division has limited regulatory authority over the following business entities and individuals:

- Condominium Associations;
- Cooperative Associations;
- Florida Mobile Home Parks and related associations;
- Vacation Units and Timeshares;
- Yacht and Ship Brokers and related business entities; and
- Homeowners' Associations.³

For the purposes of the practice act, "yacht" means any vessel which is propelled by sail or machinery in the water which exceeds 32 feet in length, and which weighs less than 300 gross tons.⁴

A yacht and ship "broker" is a person who, for or in expectation of compensation: sells, offers, or negotiates to sell; buys, offers, or negotiates to buy; solicits or obtains listings of; or negotiates the purchase, sale, or exchange of, yachts for other persons.⁵ A person may not be licensed as a broker unless they have been a salesperson for at least 2 consecutive years.⁶

A yacht and ship "salesperson" is a person who, for or in expectation of compensation, is employed by a broker to perform any acts of a broker.⁷

Yacht and ship brokers, salespersons, and related business organizations are regulated under ch. 326, F.S., and by the division.⁸ A person may not act as a broker or salesperson in Florida unless they are licensed by the division.⁹

An applicant for a license as a broker or salesperson must demonstrate or provide the following to the division:¹⁰

- Proof of good moral character.
- Proof that they have never been convicted of a felony.
- A \$25,000 bond for broker or a \$10,000 bond for salespersons to the division.
- Proof that they are a resident of Florida or that they conduct business in Florida.
- A full set of fingerprints taken within the 6 months immediately preceding the submission of the application.
- Proof that they have not operated as a broker or salesperson without a license.

¹ S. 20.165, F.S.

² Department of Business and Professional Regulation, *Division of Florida Condominiums, Timeshares, and Mobile Homes*, <http://www.myfloridalicense.com/DBPR/condos-timeshares-mobile-homes/> (last visited Feb. 4, 2022).

³ *Id.*

⁴ S. 326.002(4), F.S.

⁵ S. 326.002(1), F.S.

⁶ S. 326.004(8), F.S.

⁷ S. 326.002(3), F.S.

⁸ Ch. 326, F.S.

⁹ S. 326.004(1), F.S.

¹⁰ S. 326.004(6), F.S.

A license is not required for:¹¹

- A person who sells his or her own yacht,
- An attorney at law for services rendered in his or her professional capacity,
- A receiver, trustee, or other person acting under a court order,
- A transaction involving the sale of a new yacht, or
- A transaction involving the foreclosure of a security interest in a yacht.

There are no provisions for a license by endorsement, or licensure for persons who are licensed in another jurisdiction.

Effect of the Bill

The bill provides that a license is not required for a person who regularly conducts business as a yacht or ship broker or salesperson in another state who engages in the purchase or sale of a yacht under this act, if the transaction is executed with a broker or salesperson licensed in this state. This limitation does not apply to a duly licensed attorney.

The bill is effective upon becoming law.

B. SECTION DIRECTORY:

Section 1: Amends s. 326.004, F.S.; relating to a licensure exception.

Section 2: Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an insignificant negative fiscal impact related to licensing fees collected by the division due to less out-of-state yacht and ship brokers needing to have a Florida license to do business in Florida in certain circumstances.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill may allow more out-of-state yacht and ship brokers to do business in Florida.

D. FISCAL COMMENTS:

None.

¹¹ S. 362.004(3), F.S.
STORAGE NAME: h0529b.SAT
DATE: 2/15/2022

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2022, the Regulatory Reform Subcommittee considered a proposed committee substitute and reported the bill favorably as a committee substitute. The committee substitute differs from HB 529 by removing provisions that:

- Expand the definition of “yacht,”
- Require broker applicants to meet increased experience or education standards,
- Expedite broker and salesperson complaints at DBPR, and
- Allow a temporary license.

The analysis is drafted to the committee substitute as passed by the Regulatory Reform Subcommittee.

By Senator Albritton

26-00971-22

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1 A bill to be entitled
2 An act relating to residential property riparian
3 rights; amending s. 253.141, F.S.; requiring land
4 surveyors to give preference to using the
5 prolongation-of-property-line method to establish a
6 property owner's riparian rights along a channel under
7 certain circumstances; defining terms; providing
8 applicability; requiring courts to award reasonable
9 attorney fees and costs to a prevailing party in a
10 civil action under certain circumstances; reenacting
11 ss. 403.813(1)(s) and 403.9323(3), F.S., relating to
12 permits issued at district centers and legislative
13 intent in recognizing rights of riparian property
14 ownership, respectively, to incorporate the amendment
15 made to s. 253.141, F.S., in references thereto;
16 providing an effective date.

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

19
20 Section 1. Subsection (1) of section 253.141, Florida
21 Statutes, is amended to read:

22 253.141 Riparian rights defined; certain submerged bottoms
23 subject to private ownership.—

24 (1) (a) Riparian rights are those incident to land bordering
25 upon navigable waters. They are rights of ingress, egress,
26 boating, bathing, and fishing and such others as may be or have
27 been defined by law. Such rights are not of a proprietary
28 nature. They are rights inuring to the owner of the riparian
29 land but are not owned by him or her. They are appurtenant to

26-00971-22

2022840__

30 and are inseparable from the riparian land. The land to which
31 the owner holds title must extend to the ordinary high watermark
32 of the navigable water in order that riparian rights may attach.
33 Conveyance of title to or lease of the riparian land entitles
34 the grantee to the riparian rights running therewith whether or
35 not mentioned in the deed or lease of the upland.

36 (b) When establishing the boundaries of a residential
37 property owner's riparian rights along a channel, for purposes
38 of the construction of docks, piers, marinas, moorings, pilings,
39 and other private improvements, land surveyors must give
40 preference to the prolongation-of-property-line method unless
41 doing so would result in inequitable apportionment of riparian
42 rights among property owners along the channel.

43 1. As used in this paragraph, the term:

44 a. "Channel" means the marked, buoyed, or artificially
45 dredged channel, if any, or if none, means a space equal to 20
46 percent of the average width of the river or stream at the point
47 concerned which furnishes uninterruptedly, through its course,
48 the deepest water at ordinary low water.

49 b. "Prolongation-of-property-line method" means
50 establishing the boundary of a property owner's riparian rights
51 by extending the owner's property line out into the waterbody at
52 the same angles at which they intersect the ordinary high
53 watermark.

54 2. This paragraph does not apply to littoral waters, such
55 as a lake, an ocean, or a gulf.

56 3. This paragraph applies only when establishing the
57 boundaries of riparian rights after July 1, 2022.

58 (c) In a civil action relating to the riparian rights of a

26-00971-22

2022840

59 residential dock owner, when such rights are exercised with all
60 appropriate environmental and regulatory approvals and permits,
61 in which the defendant is the prevailing party, the court shall
62 award reasonable attorney fees and costs to the prevailing
63 party.

64 Section 2. For the purpose of incorporating the amendment
65 made by this act to section 253.141, Florida Statutes, in a
66 reference thereto, paragraph (s) of subsection (1) of section
67 403.813, Florida Statutes, is reenacted to read:

68 403.813 Permits issued at district centers; exceptions.—

69 (1) A permit is not required under this chapter, chapter
70 373, chapter 61-691, Laws of Florida, or chapter 25214 or
71 chapter 25270, 1949, Laws of Florida, and a local government may
72 not require a person claiming this exception to provide further
73 department verification, for activities associated with the
74 following types of projects; however, except as otherwise
75 provided in this subsection, this subsection does not relieve an
76 applicant from any requirement to obtain permission to use or
77 occupy lands owned by the Board of Trustees of the Internal
78 Improvement Trust Fund or a water management district in its
79 governmental or proprietary capacity or from complying with
80 applicable local pollution control programs authorized under
81 this chapter or other requirements of county and municipal
82 governments:

83 (s) The construction, installation, operation, or
84 maintenance of floating vessel platforms or floating boat lifts,
85 provided that such structures:

86 1. Float at all times in the water for the sole purpose of
87 supporting a vessel so that the vessel is out of the water when

26-00971-22

2022840__

88 not in use;

89 2. Are wholly contained within a boat slip previously
90 permitted under ss. 403.91-403.929, 1984 Supplement to the
91 Florida Statutes 1983, as amended, or part IV of chapter 373, or
92 do not exceed a combined total of 500 square feet, or 200 square
93 feet in an Outstanding Florida Water, when associated with a
94 dock that is exempt under this subsection or associated with a
95 permitted dock with no defined boat slip or attached to a
96 bulkhead on a parcel of land where there is no other docking
97 structure;

98 3. Are not used for any commercial purpose or for mooring
99 vessels that remain in the water when not in use, and do not
100 substantially impede the flow of water, create a navigational
101 hazard, or unreasonably infringe upon the riparian rights of
102 adjacent property owners, as defined in s. 253.141;

103 4. Are constructed and used so as to minimize adverse
104 impacts to submerged lands, wetlands, shellfish areas, aquatic
105 plant and animal species, and other biological communities,
106 including locating such structures in areas where seagrasses are
107 least dense adjacent to the dock or bulkhead; and

108 5. Are not constructed in areas specifically prohibited for
109 boat mooring under conditions of a permit issued in accordance
110 with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes
111 1983, as amended, or part IV of chapter 373, or other form of
112 authorization issued by a local government.

113
114 Structures that qualify for this exemption are relieved from any
115 requirement to obtain permission to use or occupy lands owned by
116 the Board of Trustees of the Internal Improvement Trust Fund

26-00971-22

2022840__

117 and, with the exception of those structures attached to a
118 bulkhead on a parcel of land where there is no docking
119 structure, may not be subject to any more stringent permitting
120 requirements, registration requirements, or other regulation by
121 any local government. Local governments may require either
122 permitting or one-time registration of floating vessel platforms
123 to be attached to a bulkhead on a parcel of land where there is
124 no other docking structure as necessary to ensure compliance
125 with local ordinances, codes, or regulations. Local governments
126 may require either permitting or one-time registration of all
127 other floating vessel platforms as necessary to ensure
128 compliance with the exemption criteria in this section; to
129 ensure compliance with local ordinances, codes, or regulations
130 relating to building or zoning, which are no more stringent than
131 the exemption criteria in this section or address subjects other
132 than subjects addressed by the exemption criteria in this
133 section; and to ensure proper installation, maintenance, and
134 precautionary or evacuation action following a tropical storm or
135 hurricane watch of a floating vessel platform or floating boat
136 lift that is proposed to be attached to a bulkhead or parcel of
137 land where there is no other docking structure. The exemption
138 provided in this paragraph shall be in addition to the exemption
139 provided in paragraph (b). The department shall adopt a general
140 permit by rule for the construction, installation, operation, or
141 maintenance of those floating vessel platforms or floating boat
142 lifts that do not qualify for the exemption provided in this
143 paragraph but do not cause significant adverse impacts to occur
144 individually or cumulatively. The issuance of such general
145 permit shall also constitute permission to use or occupy lands

26-00971-22

2022840__

146 owned by the Board of Trustees of the Internal Improvement Trust
147 Fund. Local governments may not impose a more stringent
148 regulation, permitting requirement, registration requirement, or
149 other regulation covered by such general permit. Local
150 governments may require either permitting or one-time
151 registration of floating vessel platforms as necessary to ensure
152 compliance with the general permit in this section; to ensure
153 compliance with local ordinances, codes, or regulations relating
154 to building or zoning that are no more stringent than the
155 general permit in this section; and to ensure proper
156 installation and maintenance of a floating vessel platform or
157 floating boat lift that is proposed to be attached to a bulkhead
158 or parcel of land where there is no other docking structure.

159 Section 3. For the purpose of incorporating the amendment
160 made by this act to section 253.141, Florida Statutes, in a
161 reference thereto, subsection (3) of section 403.9323, Florida
162 Statutes, is reenacted to read:

163 403.9323 Legislative intent.—

164 (3) It is the intent of the Legislature to provide
165 waterfront property owners their riparian right of view, and
166 other rights of riparian property ownership as recognized by s.
167 253.141 and any other provision of law, by allowing mangrove
168 trimming in riparian mangrove fringes without prior government
169 approval when the trimming activities will not result in the
170 removal, defoliation, or destruction of the mangroves.

171 Section 4. This act shall take effect upon becoming a law.

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 Rules

BILL: SB 840

INTRODUCER: Senator Albritton

SUBJECT: Residential Property Riparian Rights

DATE: February 1, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Collazo</u> | <u>Rogers</u> | <u>EN</u> | Favorable |
| 2. | <u>Bond</u> | <u>Cibula</u> | <u>JU</u> | Favorable |
| 3. | <u>Collazo</u> | <u>Phelps</u> | <u>RC</u> | Favorable |

I. Summary:

SB 840 requires land surveyors to give a preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner’s riparian rights along a channel, unless doing so would result in an inequitable apportionment of the riparian rights at issue. In connection with this preference, the bill defines the terms “channel” and “prolongation-of-property-line method”; limits the scope of the preference to riparian waters only (not littoral waters, such as a lake, an ocean, or a gulf); and provides that the preference only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill also provides that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, the court must award reasonable attorney fees and costs to the defendant if the defendant is the prevailing party.

The bill is effective upon becoming law.

II. Present Situation:

Riparian Rights Generally

Riparian rights¹ are rights of a landowner incident to land bordering upon navigable waters. They are rights of ingress, egress, boating, bathing, and fishing and such others as may be or have been

¹ Technically, the term “riparian” refers to land abutting nontidal or navigable river waters, and the term “littoral” refers to land abutting navigable ocean, sea, or lake waters. *5F, LLC v. Hawthorne*, 317 So. 3d 220, 222 n.1 (Fla. 2d DCA 2021) and *Walton County v. Stop Beach Renourishment, Inc.*, 998 So. 2d 1102, 1105 n.3 (Fla. 2008), *aff’d sub nom. Stop the Beach Renourishment, Inc. v. Fla. Dep’t of Env’t Prot.*, 560 U.S. 702 (2010). However, the term “riparian” is commonly used to refer to all waterfront owners, so “riparian rights” can be used to refer to rights associated with both riparian and littoral lands. *Id.*

defined by law.² Riparian rights benefit the owner of the riparian land, but such rights are attached to the land and are not owned by the land owner. In order for the rights to attach, the land must extend to the ordinary high water mark³ of the navigable water. Whoever owns or leases the land enjoys the rights, regardless of whether they are mentioned in a deed or lease.⁴ Riparian rights may not be taken without just compensation and due process of law.⁵ Where a landowner's common-law riparian rights are violated by the acts of another individual, the landowner may bring an action on his or her own behalf.⁶

The state holds title to sovereign submerged lands in trust for public use.⁷ The public generally enjoys rights such as bathing, fishing, commerce, and navigation.⁸ Upland property owners enjoy these rights in common with the public.⁹ Riparian rights are additional, exclusive rights that are held by upland property owners but not the general public.¹⁰ Such rights generally include, but are not limited to, the following:

- Access to and from the water.
- An unobstructed view over the water.
- Reasonable use of the water.
- Accretions and relictions.¹¹
- Wharfing out, meaning building structures on the shoreline.¹²

The doctrines of erosion, accretion, and reliction are also riparian rights.¹³ When gradual and imperceptible losses or additions to the shoreline occur, the boundary between public and private land (i.e., the mean high-water line)¹⁴ is altered accordingly.¹⁵ Riparian property owners

² Section 253.141(1), F.S. (2021); *see also* *Odom v. Deltona Corp.*, 341 So. 2d 977, 981 (Fla. 1976) (providing that “whether or not a particular area is that of a navigable body of water and thus sovereignty property held in trust [under Article X, Section 11 of the Florida Constitution] is a question of fact and dependent upon whether or not the body of water is permanent in character and, in its ordinary and natural state, is navigable for useful purposes and is of sufficient size and so situated and conditioned that it may be used for purposes common to the public in the locality where it is located); *see also* *Brevard Cty. v. Blasky*, 875 So. 2d 6, 13-14 (Fla. 5th DCA 2004) (explaining that navigability is determined as of 1845, the date Florida became a state).

³ *Walton County*, 998 So. 2d at 1124 (noting that the “ordinary high water mark is well established as the dividing line between private riparian and sovereign or public ownership of the land beneath the water”); *see also* s. 253.03(8)(b), F.S. (identifying “submerged lands,” for purposes of inventorying public lands, as “publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state”); *see also* s. 177.28, F.S. (same).

⁴ Section 253.141(1), F.S.

⁵ *Broward v. Mabry*, 58 Fla. 398, 410 (1909).

⁶ *Harrell v. Hess Oil & Chem. Corp.*, 287 So. 2d 291, 295 (Fla. 1973).

⁷ FLA. CONST. art. X, s. 11.

⁸ *Walton County*, 998 So. 2d at 1110-11.

⁹ *Id.* at 1110-11. These special littoral rights are such as are necessary for the use and enjoyment of the upland property, but these rights may not be so exercised as to injure others in their lawful rights. *Id.* at 1111.

¹⁰ *Id.*

¹¹ *Id.*

¹² *See* Brendan Mackesey, *An Overview of Riparian Rights in Florida*, The Reporter, The Environmental and Land Use Law Section, Vol. XLI, No. 1, 1, 13–16 (2020), available at <https://eluls.org/wp-content/uploads/2021/02/The-Environmental-and-Land-Use-Law-Section-Reporter-October-2020.pdf> (last visited Jan. 16, 2022).

¹³ *Walton County*, 998 So. 2d at 1112-15. “Accretion” is the gradual and imperceptible accumulation of land; “reliction” is an increase of the land by a gradual and imperceptible withdrawal of a waterbody. *Id.* at 1113.

¹⁴ *See* s. 177.28(1), F.S.

¹⁵ *Bd. of Trustees of the Internal Imp. Tr. Fund v. Sand Key Assocs., Ltd.*, 512 So. 2d 934, 936 (Fla. 1987).

automatically take title to dry land added to their property by accretion or reliction.¹⁶ However, under the doctrine of avulsion, following sudden or perceptible loss or addition to the shoreline, the boundary between public and private land remains where it existed before the avulsive event occurred.¹⁷

Establishing Lines of Riparian Rights

In the 1954 Florida Supreme Court case *Hayes v. Bowman*, opposing parties proposed two different methods for allocating riparian rights: one party argued the lines should extend from the property lines directly into the channel (referred to herein as the “prolongation-of-property-line” method for allocating riparian rights), and the other argued the lines should be drawn at right angles from the thread of the channel to the corners of the property.¹⁸ The Court stated that, based on the nature of upland boundary lines, it is impossible to formulate a geometric rule to govern all cases.¹⁹ Thus, the Court prescribed a rule requiring that, based on the factual circumstances presented, the riparian rights of an upland owner must be preserved over an area as near as practicable in the direction of the channel so as to distribute equitably the submerged lands between the upland and the channel.²⁰ Such equitable distribution must give due consideration to the lay of the upland shore line, the direction of the channel, and the co-relative rights of adjoining upland owners.²¹

The principles established in *Hayes* still apply in Florida today.²² Courts recognize that land surveyors and other practitioners may use many methods to equitably apportion riparian rights, and no one method is proper or improper.²³ The reasoning for this includes inherent aspects of the uplands to which riparian rights are attached: upland property boundaries intersect the water at almost every different angle, and the thread of a channel is seldom, if ever, parallel to the shoreline of the uplands.²⁴ Rights are applied based on the shape of the uplands, the shape of the waterbody, and the parties’ relative position to each other.²⁵

¹⁶ *Stop the Beach Renourishment, Inc. v. Fla. Dep’t of Env’t Prot.*, 560 U.S. 702, 709 (2010); see also *Bd. of Trustees of the Internal Imp. Tr. Fund v. Sand Key Assocs., Ltd.*, 512 So. 2d 934, 938-39 (holding that owners have a right to claim accreted land when the accretion was artificially-caused, as long as the owner did not cause the accretion); see also *New Jersey v. New York*, 523 U.S. 767, 783 (1998) (explaining that an owner may not extend their own property into the water by landfilling or purposefully causing accretion); see also s. 161.051, F.S. (providing that the state will retain title to additions or accretions to the permittee’s property caused by permitted coastal improvements).

¹⁷ *Walton County*, 998 So. 2d at 1114. “Avulsion” is the sudden or perceptible loss of or addition to land by the action of the water or a sudden change in the bed of a lake or the course of a stream. *Id.* at 1116.

¹⁸ *Hayes v. Bowman*, 91 So. 2d 795, 801 (Fla. 1957).

¹⁹ *Id.* at 801-802.

²⁰ *Id.* at 802. In the opinion, the Court expressly references the rights of an unobstructed view of the channel and unobstructed means of ingress and egress over the foreshore and tidal waters. *Id.* at 801. The Court states that if the exercise of these rights is prevented, the upland owner is entitled to relief. *Id.*

²¹ *Id.* at 802.

²² *Lee Cty. v. Kiesel*, 705 So. 2d 1013, 1015 (Fla. 2d DCA 1998); *Lake Conway Shores Homeowners Ass’n, Inc. v. Driscoll*, 476 So. 2d 1306, 1308 (Fla. 5th DCA 1985).

²³ *Nourachi v. United States*, 655 F. Supp. 2d 1215, 1227 (M.D. Fla. 2009).

²⁴ *Hayes*, 91 So. 2d at 801-802.

²⁵ *Johnson v. McCowen*, 348 So. 2d 357, 360 (Fla. 1st DCA 1977).

The use of a particular delineation method may be struck down by a court if the method is found to unfairly impact a party's riparian rights.²⁶ In one case, a Florida court reversed a decision of a trial judge who used a prolongation-of-property-line method, holding that extending the line of the property boundary in this particular case destroyed an adjacent parcel owner's littoral rights, and remanding for an equitable determination of the parties' respective rights.²⁷

The Florida Statutes do not address the methodology for establishing boundaries for riparian rights. The Florida Administrative Code's rules on sovereignty submerged lands generally require all structures and activities to be set back a minimum of 25 feet inside the applicant's riparian rights lines.²⁸ The rules also require applicants seeking standard leases of sovereignty submerged lands to show the applicant's upland parcel property lines and associated riparian rights lines.²⁹

In 2013, the Department of Environmental Protection (DEP) published general guidelines for the allocation of riparian rights, based on research analyzing existing methods for allocating riparian rights together with a study of different shoreline configurations.³⁰ Concentrating on the right of ingress and egress to and from the water (including dock construction) and the right to a view over the water – the two riparian rights “equities” of primary interest among owners – the document includes eight conclusions from the research, summarized as follows:

- When docking is the primary issue, the courts will usually apportion the space between the shore and the line of navigability (i.e., the line of deep water).
- For a straighter shore on a large waterbody, the division lines are perpendicular to the direction of the shore extended to the line of navigable water.
- Along a river without a marked channel, lines are usually perpendicular with the stream's thread (i.e., median).
- Along a river or other waterbody with a nearby marked channel and regular shore, the lines are usually perpendicular with the nearest channel edge and not the thread.
- The direction of upland boundaries is largely ignored when apportioning riparian rights (“[t]he public's mistaken belief that riparian lines are on the extension of their side upland lines is the most frequent cause of riparian disputes”).³¹ The water body must be equitably apportioned as if all waterfront owners were standing on the shore looking out over the waterbody.
- When the shore is irregular (e.g., coves, bays, lakes, rivers) most courts apportion the line of deep water to divide riparian rights as opposed to any perpendicular method.
- Some situations require apportionment of the entire water surface, and then certain methods are used such as the center point method for lakes.

²⁶ *Lake Conway Shores Homeowners Ass'n, Inc. v. Driscoll*, 476 So. 2d 1306, 1309-10 (Fla. 5th DCA 1985).

²⁷ *Id.*; see also *Muraca v. Meyerowitz*, 818 N.Y.S.2d 450, 456-57 (Sup. Ct. 2006).

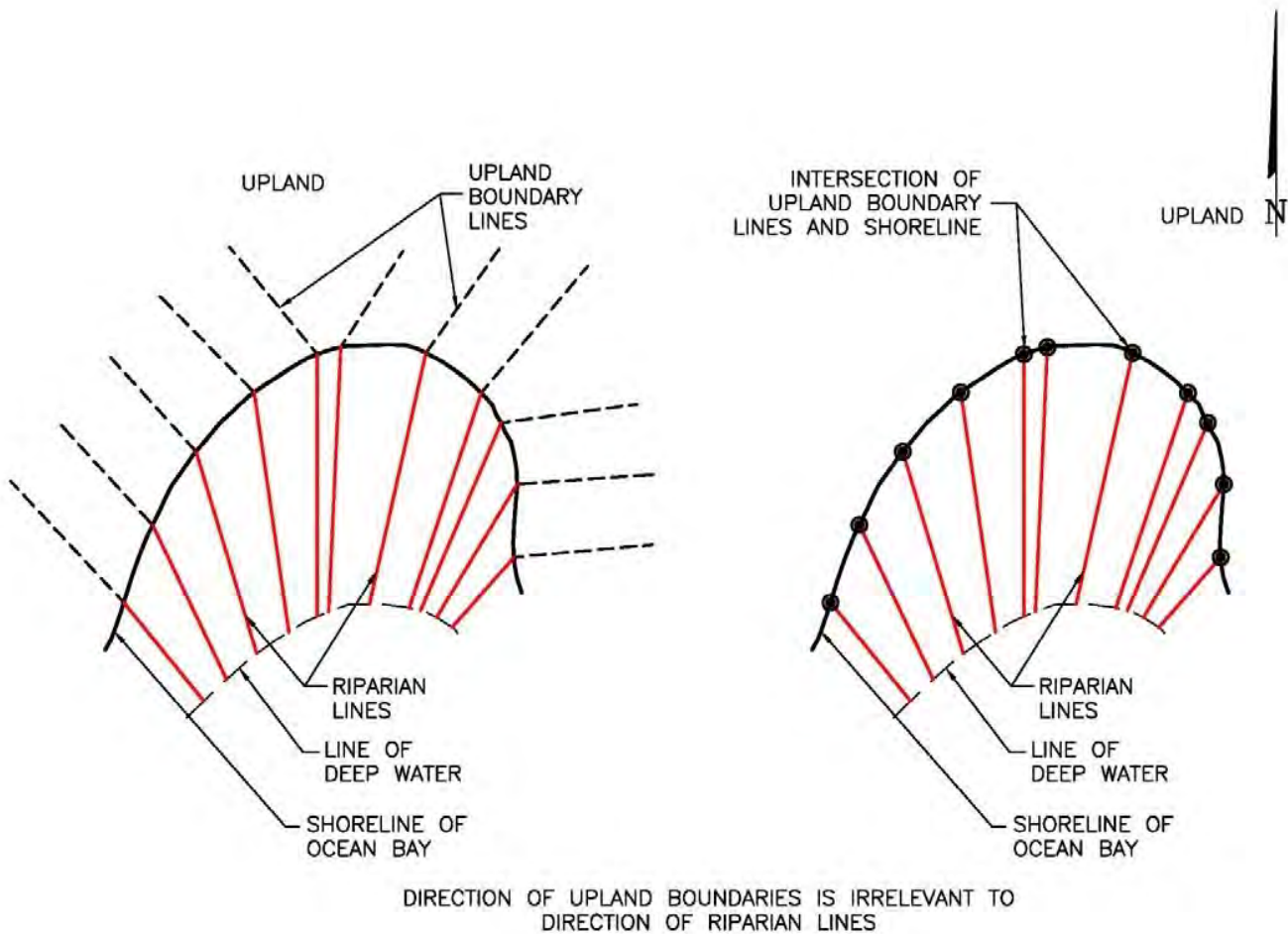
²⁸ Fla. Admin. Code R. 18-21.004(3)(d) (noting also that the minimum setback is 10 feet for marginal docks, and that other exceptions apply).

²⁹ Fla. Admin. Code R. 18-21.008(1)(a)4.f.

³⁰ Florida Dep't of Environmental Protection, SLER 0950, Survey Requirements, *Guidelines for Allocation of Riparian Rights*, 7-18 (2013), available at https://apps.sfwmd.gov/entsb/docdownload?object_id=0900eeea8a95bcd3 (last visited Jan. 16, 2022).

³¹ *Id.* at 8. The diagram shows how it is the locations where the upland boundary lines intersect the shoreline (not the direction of the boundary lines landward of the shoreline) that are relevant for apportionment.

- Apportioning the line of deep water is the most universal method, and it gives the same solution as more traditional techniques in many cases and follows dominant national case law where the shore is irregular.³²



III. Effect of Proposed Changes:

The bill amends s. 253.141(1), F.S., to require land surveyors to give preference to the prolongation-of-property-line method of establishing the boundaries of a residential property owner’s riparian rights along a channel. The prolongation-of-property-line method would apply in connection with the construction of docks, piers, marinas, moorings, pilings, and other private improvements, unless doing so would result in an inequitable apportionment of the riparian rights among property owners along the channel.

The bill defines the term “channel” to mean the marked, buoyed, or artificially dredged channel, if any; or if none, a space equal to 20 percent of the average width of the river or stream at the

³² *Id.* at 7-9.

point concerned, which furnishes uninterruptedly, through its course, the deepest water at ordinary low water.

The bill defines the term “prolongation-of-property-line method” to mean establishing the boundary of a property owner’s riparian rights by extending the owner’s property line out into the waterbody at the same angles at which they intersect the ordinary high watermark.

This preference does not apply to littoral waters, such as a lake, an ocean, or a gulf; and it only applies when establishing the boundaries of riparian rights after July 1, 2022.

The bill amends s. 253.141(1), F.S., to provide that in a civil action relating to the riparian rights of a residential dock owner, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, in which the defendant is the prevailing party, the court must award reasonable attorney fees and costs to the prevailing party.

The bill reenacts s. 403.813(1)(s) and s. 403.9323(3), F.S., for the purpose of incorporating the amendments to s. 253.141(1), F.S., into same.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not require counties or municipalities to spend funds or limit their authority to raise revenue or receive state-shared revenues as specified in Article VII, s. 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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 substantially amends section 253.141 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 403.813 and 403.9323.

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.

26 | egress, boating, bathing, and fishing and such others as may be
 27 | or have been defined by law. Such rights are not of a
 28 | proprietary nature. They are rights inuring to the owner of the
 29 | riparian land but are not owned by him or her. They are
 30 | appurtenant to and are inseparable from the riparian land. The
 31 | land to which the owner holds title must extend to the ordinary
 32 | high watermark of the navigable water in order that riparian
 33 | rights may attach. Conveyance of title to or lease of the
 34 | riparian land entitles the grantee to the riparian rights
 35 | running therewith whether or not mentioned in the deed or lease
 36 | of the upland.

37 | (b) When establishing the boundaries of a residential
 38 | property owner's riparian rights along a channel, for purposes
 39 | of the construction of docks, piers, marinas, moorings, pilings,
 40 | and other private improvements, land surveyors must give
 41 | preference to the prolongation-of-property-line method unless
 42 | doing so would result in inequitable apportionment of riparian
 43 | rights among property owners along the channel.

44 | 1. As used in this paragraph, the term:

45 | a. "Channel" means the marked, buoyed, or artificially
 46 | dredged channel, if any, or if none, means a space equal to 20
 47 | percent of the average width of the river or stream at the point
 48 | concerned which furnishes uninterruptedly, through its course,
 49 | the deepest water at ordinary low water.

50 | b. "Prolongation-of-property-line method" means

51 establishing the boundary of a property owner's riparian rights
 52 by extending the owner's property line out into the waterbody at
 53 the same angles at which they intersect the ordinary high
 54 watermark.

55 2. This paragraph does not apply to littoral waters, such
 56 as a lake, an ocean, or a gulf.

57 3. This paragraph applies only when establishing the
 58 boundaries of riparian rights after July 1, 2022.

59 (c) In a civil action relating to the riparian rights of a
 60 residential dock owner, the court shall award reasonable
 61 attorney fees and costs to the prevailing party when such rights
 62 are exercised with all appropriate environmental and regulatory
 63 approvals and permits.

64 Section 2. For the purpose of incorporating the amendment
 65 made by this act to section 253.141, Florida Statutes, in a
 66 reference thereto, paragraph (s) of subsection (1) of section
 67 403.813, Florida Statutes, is reenacted to read:

68 403.813 Permits issued at district centers; exceptions.—

69 (1) A permit is not required under this chapter, chapter
 70 373, chapter 61-691, Laws of Florida, or chapter 25214 or
 71 chapter 25270, 1949, Laws of Florida, and a local government may
 72 not require a person claiming this exception to provide further
 73 department verification, for activities associated with the
 74 following types of projects; however, except as otherwise
 75 provided in this subsection, this subsection does not relieve an

76 applicant from any requirement to obtain permission to use or
 77 occupy lands owned by the Board of Trustees of the Internal
 78 Improvement Trust Fund or a water management district in its
 79 governmental or proprietary capacity or from complying with
 80 applicable local pollution control programs authorized under
 81 this chapter or other requirements of county and municipal
 82 governments:

83 (s) The construction, installation, operation, or
 84 maintenance of floating vessel platforms or floating boat lifts,
 85 provided that such structures:

86 1. Float at all times in the water for the sole purpose of
 87 supporting a vessel so that the vessel is out of the water when
 88 not in use;

89 2. Are wholly contained within a boat slip previously
 90 permitted under ss. 403.91-403.929, 1984 Supplement to the
 91 Florida Statutes 1983, as amended, or part IV of chapter 373, or
 92 do not exceed a combined total of 500 square feet, or 200 square
 93 feet in an Outstanding Florida Water, when associated with a
 94 dock that is exempt under this subsection or associated with a
 95 permitted dock with no defined boat slip or attached to a
 96 bulkhead on a parcel of land where there is no other docking
 97 structure;

98 3. Are not used for any commercial purpose or for mooring
 99 vessels that remain in the water when not in use, and do not
 100 substantially impede the flow of water, create a navigational

101 | hazard, or unreasonably infringe upon the riparian rights of
 102 | adjacent property owners, as defined in s. 253.141;

103 | 4. Are constructed and used so as to minimize adverse
 104 | impacts to submerged lands, wetlands, shellfish areas, aquatic
 105 | plant and animal species, and other biological communities,
 106 | including locating such structures in areas where seagrasses are
 107 | least dense adjacent to the dock or bulkhead; and

108 | 5. Are not constructed in areas specifically prohibited
 109 | for boat mooring under conditions of a permit issued in
 110 | accordance with ss. 403.91-403.929, 1984 Supplement to the
 111 | Florida Statutes 1983, as amended, or part IV of chapter 373, or
 112 | other form of authorization issued by a local government.

113 |
 114 | Structures that qualify for this exemption are relieved from any
 115 | requirement to obtain permission to use or occupy lands owned by
 116 | the Board of Trustees of the Internal Improvement Trust Fund
 117 | and, with the exception of those structures attached to a
 118 | bulkhead on a parcel of land where there is no docking
 119 | structure, may not be subject to any more stringent permitting
 120 | requirements, registration requirements, or other regulation by
 121 | any local government. Local governments may require either
 122 | permitting or one-time registration of floating vessel platforms
 123 | to be attached to a bulkhead on a parcel of land where there is
 124 | no other docking structure as necessary to ensure compliance
 125 | with local ordinances, codes, or regulations. Local governments

126 | may require either permitting or one-time registration of all
127 | other floating vessel platforms as necessary to ensure
128 | compliance with the exemption criteria in this section; to
129 | ensure compliance with local ordinances, codes, or regulations
130 | relating to building or zoning, which are no more stringent than
131 | the exemption criteria in this section or address subjects other
132 | than subjects addressed by the exemption criteria in this
133 | section; and to ensure proper installation, maintenance, and
134 | precautionary or evacuation action following a tropical storm or
135 | hurricane watch of a floating vessel platform or floating boat
136 | lift that is proposed to be attached to a bulkhead or parcel of
137 | land where there is no other docking structure. The exemption
138 | provided in this paragraph shall be in addition to the exemption
139 | provided in paragraph (b). The department shall adopt a general
140 | permit by rule for the construction, installation, operation, or
141 | maintenance of those floating vessel platforms or floating boat
142 | lifts that do not qualify for the exemption provided in this
143 | paragraph but do not cause significant adverse impacts to occur
144 | individually or cumulatively. The issuance of such general
145 | permit shall also constitute permission to use or occupy lands
146 | owned by the Board of Trustees of the Internal Improvement Trust
147 | Fund. Local governments may not impose a more stringent
148 | regulation, permitting requirement, registration requirement, or
149 | other regulation covered by such general permit. Local
150 | governments may require either permitting or one-time

151 registration of floating vessel platforms as necessary to ensure
 152 compliance with the general permit in this section; to ensure
 153 compliance with local ordinances, codes, or regulations relating
 154 to building or zoning that are no more stringent than the
 155 general permit in this section; and to ensure proper
 156 installation and maintenance of a floating vessel platform or
 157 floating boat lift that is proposed to be attached to a bulkhead
 158 or parcel of land where there is no other docking structure.

159 Section 3. For the purpose of incorporating the amendment
 160 made by this act to section 253.141, Florida Statutes, in a
 161 reference thereto, subsection (3) of section 403.9323, Florida
 162 Statutes, is reenacted to read:

163 403.9323 Legislative intent.—

164 (3) It is the intent of the Legislature to provide
 165 waterfront property owners their riparian right of view, and
 166 other rights of riparian property ownership as recognized by s.
 167 253.141 and any other provision of law, by allowing mangrove
 168 trimming in riparian mangrove fringes without prior government
 169 approval when the trimming activities will not result in the
 170 removal, defoliation, or destruction of the mangroves.

171 Section 4. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 841 Residential Property Riparian Rights
SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, DiCeglie
TIED BILLS: IDEN./SIM. **BILLS:** SB 840

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|---------|--|
| 1) Civil Justice & Property Rights Subcommittee | 18 Y, 0 N | Mawn | Jones |
| 2) Environment, Agriculture & Flooding Subcommittee | 15 Y, 0 N, As CS | Gawin | Moore |
| 3) Judiciary Committee | 18 Y, 0 N | Mawn | Kramer |

SUMMARY ANALYSIS

Riparian rights are rights incident to land bordering navigable waters such as rivers, channels, and streams (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view. Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s personal use, subject to the right of the public to use the navigable waters. In other words, structures built on riparian land may not impede navigation or other lawful public uses and generally may not extend beyond the line of navigation. Riparian rights inure to the riparian land owner and are appurtenant to and inseparable from the riparian land. Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water. However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries. Instead, boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the waterbody, and the co-relative rights of adjoining riparian land owners. Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have not been properly drawn or his or her riparian rights have been otherwise violated may bring an action for relief in the circuit court where the riparian land is located.

CS/HB 841 establishes a preferred method for establishing the boundaries of a residential property owner’s riparian rights along a channel for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the “prolongation-of-property-line” method unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel. Further, the bill provides that:

- In a civil action relating to a residential dock owner’s riparian rights, when such rights are exercised with all appropriate environmental and regulatory approvals and permits, the court must award the prevailing party his or her reasonable attorney fees and costs.
- The bill does not apply to littoral waters, such as a lake, ocean, or gulf.

The bill may have a positive indeterminate fiscal impact on state government but does not appear to have a fiscal impact on local governments.

The bill provides an effective date of upon becoming a law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Riparian Rights

Upon attaining statehood in 1845, Florida “assumed title to and sovereignty over the navigable waters in the state and the lands thereunder” from the submerged bed up to the “ordinary high water mark.”¹ Under the common law Public Trust Doctrine, which recognizes the public’s right to natural resources, navigable rivers, lakes, and tidelands are held in the public trust, and the state has a legal duty to preserve and control such waters for public navigation and other lawful uses.²

Riparian rights are rights incident to land bordering navigable waters³ such as rivers, channels, and streams⁴ (“riparian land”) and include rights of ingress, egress, boating, bathing, and fishing and to an unobstructed view.⁵ Riparian rights also include the right to erect upon the bed and shores adjacent to the riparian land docks and other structures for the riparian land owner’s private use, subject to the right of the public to use the navigable waters and applicable regulatory and environmental approval schemes.⁶ Riparian rights, which inure to the riparian land owner, are appurtenant to and inseparable from the riparian land.⁷ Conveyance of title to or lease of the riparian land entitles the grantee to the riparian rights running with the land whether or not such rights are mentioned in the deed or lease.⁸

In order for riparian rights to attach, the riparian land must extend to the ordinary high water mark of the navigable water.⁹ However, courts have acknowledged that there is no one proper method for establishing riparian rights boundaries, and such rights do not necessarily extend into the waters according to riparian land boundaries.¹⁰ Instead, such boundaries must be apportioned and riparian rights determined in accordance with equitable principles, with consideration given to the lay of the shore line, the direction of the water body, and the co-relative rights of adjoining riparian land owners.¹¹ Despite these guidelines, it is possible to have two land surveyors draw riparian boundaries for adjoining properties in two different locations if they use different methods for establishing such boundaries. A riparian land owner who believes that the boundaries of his or her riparian rights have been improperly drawn or his or her riparian rights have been violated may sue for relief in the circuit court where the riparian land is located.¹² A court may strike down the use of a particular delineation method if it finds that, in that instance, the use of the method unfairly impacts a party’s riparian rights.¹³

¹ Art. X, s. 11, Fla. Const.; *Merrill-Stevens Co. v. Durkee*, 57 So. 428 (Fla. 1912).

² Art. X, s. 11, Fla. Const.; *Coastal Petroleum Co. v. Am. Cyanamid Co.*, 492 So. 2d 339, 342 (Fla 1986); *State ex rel. Ellis v. Gerbing*, 56 Fla 603 (1908).

³ The test to determine whether water is “navigable water” is whether, at the time Florida joined the United States in 1845, the waterbody was, in its ordinary and natural state, used or capable of being used by any watercraft for a sufficient part of the year as a public highway for commerce. “Navigable waters” in the state do not extend to any permanent or transient waters in the form of so-called lakes, ponds, swamps, or overflowed lands lying over and upon areas which have heretofore been conveyed to private individuals by the United States or by the state without reservation of public rights in and to said waters. *Odom v. Deltona Corp.*, 341 So. 2d 977 (Fla. 1976); S. 253.141(2), F.S.

⁴ Riparian rights should not be confused with littoral rights, which are rights incident to land bordering non-flowing waterbodies, such as lakes, ponds, seas, oceans, and gulfs.

⁵ S. 253.141, F.S.; *Hayes v. Bowman*, 91 So. 2d 795 (Fla. 1957).

⁶ The right to build such a structure does not include the right to use the structure for commercial purposes. Further, the Florida Department of Environmental Protection has established a regulatory approval scheme and setback requirements for structures built over submerged sovereign lands, including docks. *Ferry Pass Inspectors’ & Shippers’ Ass’n v. White’s River Inspectors’ & Shippers’ Ass’n*, 48 So. 643 (1909); *Belvedere Dev. Corp. v. Dep’t of Transp.*, 476 So. 2d 649 (Fla. 1985); Fla. Admin. Code R. 18-21.

⁷ S. 253.141, F.S.

⁸ *Id.*

⁹ *Id.*; *Thiesen v. Gulf, Fla. & Alabama Railway Co.*, 78 So. 491 (1917).

¹⁰ *Hayes*, 91 So. 2d at 801, 802 (Fla. 1957); *Lake Conway Shores HOA, Inc. v. Driscoll*, 476 So. 2d 1306 (Fla. 5th DCA 1985).

¹¹ *Id.*

¹² *See, e.g. Id.*

¹³ *Lake Conway Shores*, 476 So. 2d at 1309-10.

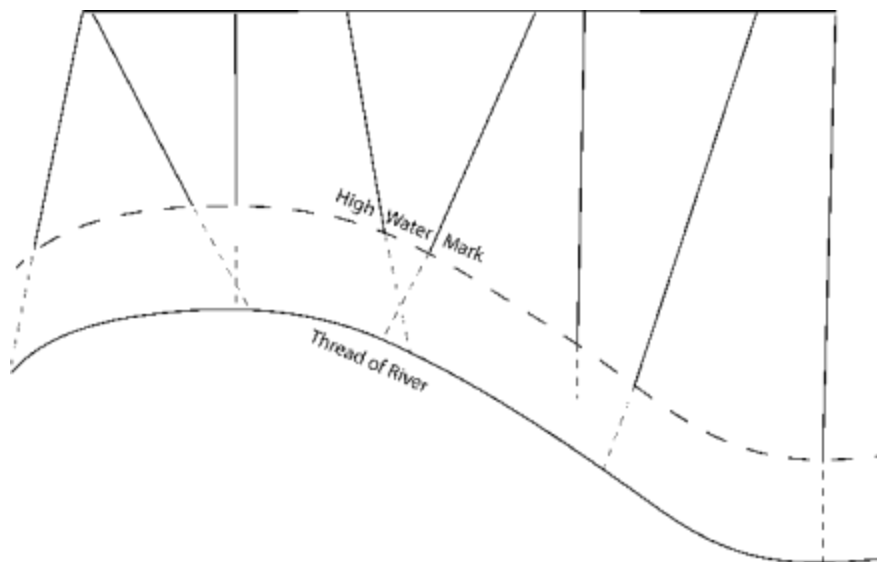
Attorney Fees and Costs

Parties to a civil action must generally pay their own attorney fees and costs regardless of who prevails, unless the fees claim is based on a contract or statute.¹⁴ Statutes authorizing the assessment of attorney fees must do so expressly and be strictly construed.¹⁵ Section 253.141, F.S., which establishes riparian rights in the state, does not authorize the recovery of attorney fees and costs. Thus, attorney fees and costs may only be available in a riparian rights dispute if the offer of judgment statute applies.¹⁶

Effect of Proposed Changes

CS/HB 841 establishes a preferred method for establishing the boundaries of a residential property owner's riparian rights along a channel¹⁷ for purposes of the construction of docks, piers, marinas, moorings, pilings, and other private improvements. Specifically, the bill requires that, when establishing such boundaries after July 1, 2022, a land surveyor must give preference to the "prolongation-of-property-line" method, unless doing so would result in inequitable apportionment of riparian rights among other land owners along the channel.

The bill defines the "prolongation-of-property-line" method to mean establishing the boundary of a property owner's riparian rights by extending the owner's property line out into the waterbody at the same angles at which they intersect the ordinary high water mark. The figure below shows by its dotted lines how the prolongation-of-property line method requires that an owner's riparian rights boundaries are drawn.



Prolongation-of-Property Line Method

¹⁴ *Campbell v. Goldman*, 959 So. 2d 223 (Fla. 2007); *Price v. Tyler*, 890 So. 2d 246 (Fla. 2004).

¹⁵ *Sarkis v. Allstate Ins. Co.*, 863 So. 2d 210 (Fla. 2003); *Knealing v. Puleo*, 675 So. 2d 593 (Fla. 1996).

¹⁶ The offer of judgment statute provides that, in any civil action for damages, attorney fees may be awarded following the defendant's provision of an offer of judgment or the plaintiff's provision of a demand for judgment in specified situations. S. 768.79, F.S.

¹⁷ The bill defines "channel" to mean the marked, buoyed, or artificially dredged channel, if any, or if none, a space equal to 20 percent of the average width of a river stream at the point concerned which furnishes uninterruptedly, through its course, the deepest water at ordinary low water. The bill also specifies that its requirements do not apply to littoral waters, such as a lake, ocean, or gulf.

Further, the bill provides that:

- In a civil action relating to a residential dock owner's riparian rights, the court must award reasonable attorney fees and costs to the prevailing party when such rights are exercised with all appropriate environmental and regulatory approvals and permits.
- The preference created by the bill does not apply to littoral waters.

The bill reenacts ss. 403.813 and 403.9323, F.S., for the purposes of incorporating the amendment to s. 253.141, F.S., made by the bill.

The bill provides an effective date of upon becoming a law.

B. SECTION DIRECTORY:

Section 1: Amends s. 253.141, F.S., relating to riparian rights defined; certain submerged bottoms subject to private ownership.

Section 2: Reenacts s. 403.813, F.S., relating to permits issued at district centers, exceptions.

Section 3: Reenacts s. 403.9323, F.S., relating to legislative intent.

Section 4: Provides an effective date of upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

By providing a preferred method for determining the boundaries of a residential property owner's riparian rights in specified situations, the bill may have a positive indeterminate fiscal impact on the state by reducing litigation in the state court system.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill clarifies the process for drawing the boundaries of a residential property owner's riparian rights in certain situations by establishing a preference for the prolongation-of-property-lines method and may, therefore, reduce:

- Survey costs to residential riparian land owners, as the surveyor can simply extend an upland property boundary if such method is utilized.
- Litigation over riparian rights boundaries.

The bill also allows a prevailing party to recover his or her reasonable attorney fees and costs in certain situations.

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:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment changed the one-way, prevailing defendant attorney fees provision to a two-way, prevailing party attorney fees provision.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

By Senator Gruters

23-01194-22

20221650__

1 A bill to be entitled
2 An act relating to boating and vessel safety; amending
3 s. 327.395, F.S.; requiring certain boating safety
4 education courses and temporary certificate
5 examinations to include specified components;
6 directing the Fish and Wildlife Conservation
7 Commission to include such components in boating
8 safety education campaigns and certain educational
9 materials; amending s. 327.50, F.S.; requiring
10 instructors of water sports and activities to wear
11 engine cutoff switches under certain conditions;
12 providing an effective date.

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

15
16 Section 1. Subsection (4) of section 327.395, Florida
17 Statutes, is amended to read:

18 327.395 Boating safety education.—

19 (4) A commission-approved boating safety education course
20 or temporary certificate examination developed or approved by
21 the commission must include components ~~a component~~ regarding:

22 (a) Diving vessels, awareness of divers in the water,
23 divers-down warning devices, and the requirements of s. 327.331.

24 (b) The danger associated with:

25 1. A passenger riding on a seat back, gunwale, transom,
26 bow, motor cover, or any other vessel area not designed and
27 designated by the manufacturer for seating.

28 2. A passenger falling overboard.

29 3. Operating a vessel with a person in the water near the

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30 vessel.

31 4. Starting a vessel with the engine in gear.

32 5. Leaving the vessel running when passengers are boarding
33 or disembarking.

34 (c) The proper use and lifesaving benefits of an engine
35 cutoff switch for motorboats and personal watercraft.

36
37 The commission must include the components under this subsection
38 in boating safety education campaigns and in educational
39 materials produced by the commission, as appropriate.

40 Section 2. Subsection (4) is added to section 327.50,
41 Florida Statutes, to read:

42 327.50 Vessel safety regulations; equipment and lighting
43 requirements.-

44 (4) The instructor of a water sport or activity must wear
45 an engine cutoff switch for any vessel used in the instruction
46 of the water sport or activity when people participating in the
47 water sport or activity are in the water.

48 Section 3. This act shall take effect July 1, 2022.

- 26 (b) The danger associated with:
 27 1. A passenger riding on a seat back, gunwale, transom,
 28 bow, motor cover, or any other vessel area not designed and
 29 designated by the manufacturer for seating.
 30 2. A passenger falling overboard.
 31 3. Operating a vessel with a person in the water near the
 32 vessel.
 33 4. Starting a vessel with the engine in gear.
 34 5. Leaving the vessel running when a passenger is boarding
 35 or disembarking.

36 (c) The proper use and lifesaving benefits of an engine
 37 cutoff switch for motorboats and personal watercraft.

38
 39 The commission must include the components under this subsection
 40 in boating safety education campaigns and in educational
 41 materials produced by the commission, as appropriate.

42 Section 3. Subsection (4) is added to section 327.50,
 43 Florida Statutes, to read:

44 327.50 Vessel safety regulations; equipment and lighting
 45 requirements.—

46 (4) The operator of a vessel used in the instruction of a
 47 water sport or activity must use an engine cutoff switch and
 48 wear an operative link to the switch when a person participating
 49 in the water sport or activity is in the water.

50 Section 4. This act shall take effect October 1, 2022.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 701 Boating and Vessel Safety

SPONSOR(S): Environment, Agriculture & Flooding Subcommittee, Tourism, Infrastructure & Energy Subcommittee, McFarland

TIED BILLS: **IDEN./SIM. BILLS:** SB 1650

| REFERENCE | ACTION | ANALYST | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|---|------------------|-----------|---------------------------------------|
| 1) Tourism, Infrastructure & Energy Subcommittee | 18 Y, 0 N, As CS | Neuffer | Keating |
| 2) Environment, Agriculture & Flooding Subcommittee | 18 Y, 0 N, As CS | Mamontoff | Moore |
| 3) Commerce Committee | 20 Y, 0 N | Neuffer | Hamon |

SUMMARY ANALYSIS

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state. Within the FWC, the Division of Law Enforcement enforces boating rules and regulations, coordinates boating safety campaigns and education, and investigates boating accidents.

Any person born on or after January 1, 1988, who wishes to operate a vessel powered by a motor 10 horsepower or greater must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA). The NASBLA provides minimum standards which are reviewed every five years and apply to all basic boating courses across the U.S. and its territories.

In 2018, federal law went into effect requiring operators of vessels less than 26 feet in length and with three or more horsepower to employ an engine cut-off switch if installed on the vessel. Florida has a similar law but with regard only to jet skis.

The bill may be cited as "Ethan's Law."

The bill requires that FWC include as components in boating safety education campaigns and education material, as appropriate, the following:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are boarding or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires that operators of vessels used in the instruction of water sports or activities use an engine cut-off switch and wear an operative engine cut-off switch link when people participating in the water sport or activity are in the water.

The bill does not have an impact on state or local government revenues. The bill does not have an impact on local government expenditures. The bill may have an insignificant fiscal impact on state government expenditures.

The bill provides an effective date of October 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

The Florida Fish and Wildlife Conservation Commission (FWC) regulates, manages, and conserves the fish and wildlife resources within the state.¹ The Division of Law Enforcement within the FWC is tasked with the enforcement of boating rules and regulations, coordinating boating safety campaigns and education, and investigating boating accidents.

In 2020, there were 836 boating accidents in the state of Florida.² Of those accidents, 79 resulted in fatalities, with 69% of operators having no formal boater education.³

Any person born on or after January 1, 1988, must complete a boating safety education course approved by the National Association of State Boating Law Administrators (NASBLA) in order to operate a vessel powered by a motor of 10 horsepower or greater.⁴ Any operator required by statute to complete the boating safety education course must carry a boating education ID card and a photo ID while operating any qualifying vessel.⁵

NASBLA provides minimum standards that apply to all basic boating courses in the U.S. and its territories.⁶ The minimum standards are reviewed every five years with the purpose of establishing a national standard for all courses across the nation. Under current NASBLA standards, courses must describe state-required equipment, such as engine cut-off lanyards or bailing devices.⁷ Courses must additionally cover boat operation, trip planning, and emergency preparation.⁸ There are several courses within the state of Florida which meet NASBLA's 8-hour instruction requirement, ranging from no cost to \$50.⁹ A boating safety education course card is valid for life unless it was obtained through a temporary examination, in which instance it is valid for only 90 days.¹⁰

Florida law specifies certain equipment and lighting standards for all vessels operated in the waters of the state, and identifies the equipment which must be carried, stored, maintained, and used in accordance with current United States Coast Guard (USCG) safety equipment requirements.¹¹

Federal law requires any individual operating a covered recreational vessel¹² to use an engine cut-off switch link while operating on plane or above displacement speed.¹³ Any manufacturer, distributor, or dealer of propulsion machinery associated with starting controls on a covered recreational vessel must equip such vessel with an engine cut-off switch and an engine cut-off switch link.¹⁴ Engine cut-off switches are normally coiled bungee cords but can also be electronic wireless devices. They operate to

¹ Art. IV, s. 9, Fla. Const.

² Florida Fish and Wildlife Conservation Commission, *2020 Boating Accident Statistical Report*, 2020, <https://myfwc.com/media/26463/2020-basr-booklet.pdf> (last visited January 13, 2022).

³*Id.*

⁴ See s. 327.395(6)(a)-(g), F.S., (listing exemptions from the boating safety education course requirement).

⁵ S. 327.395(2), F.S.

⁶ See ANSI/NASBLA, *103-2016: Basic Boating Knowledge – Power* (November 18, 2015).

⁷ See National Association of State Boating Law Administrators, *NASBLA Policy: Basic Boating Education Course Approval* (September 13, 2016) (describing the minimum educational requirements of a boating course for NASBLA approval).

⁸ *Id.*

⁹ FWC, *Boating Safety Courses*, <https://myfwc.com/boating/safety-education/courses/> (last visited January 4, 2022).

¹⁰ S. 327.395(5), F.S.

¹¹ S. 327.50, F.S.

¹² See 46 U.S.C. § 4312(e)(1) (defining covered recreational vessel as a recreational vessel that is less than 26 feet overall in length and capable of developing 115 pounds or more of static thrust); see 46 U.S.C. § 4312(e)(6) (defining static thrust as the forward or backwards thrust developed by propulsion machinery while stationary).

¹³ 46 U.S.C. § 4312(b).

¹⁴ 46 U.S.C. § 4312(a).

shut off the engine if the operator is separated from the operating area, reducing the dangers created by a runaway vessel or impact with the spinning propeller.¹⁵ A person in violation of this law is liable for a civil penalty to the United States Government of not more than \$100 for the first offense,¹⁶ \$250 for the second offense,¹⁷ and \$500 for any subsequent offense.¹⁸ Although the law did not go into effect until 2018, most U.S. boat manufacturers had already voluntarily installed engine cut-off switches on their boats.¹⁹ Exceptions are provided for vessels if the main helm is within an enclosed cabin, or if the vessel is not required to have an engine cut-off switch.²⁰

Florida's current law provides a similar mandate but only for personal watercraft, commonly identified as jet skis.²¹

Effect of Proposed Changes

The bill expands the list of topics that must be covered in FWC boating safety education campaigns and commission materials to include:

- The dangers of passengers sitting in areas not designed and designated for seating.
- The operation of a boat with persons in the water nearby.
- The dangers of starting a vessel with the engine in gear.
- The risks of leaving a vessel running while passengers are onboard or disembarking.
- The proper use and benefits of an engine cut-off switch for motorboats and personal watercrafts.

The bill also requires the operator of a vessel used in a water sport or activity which causes participants to be in the water to use an engine cutoff switch and wear an operative link to the switch when participants are in the water. The bill does not provide a legal penalty for failure to comply with the bill.

B. SECTION DIRECTORY:

- Section 1** Provides a short title.
- Section 2** Amends s. 327.395, F.S.; relating to boating safety education.
- Section 3** Amends s. 327.50, F.S.; relating to vessel safety regulations.
- Section 4** Provides an effective date of October 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
None.

¹⁵ USCG, *Engine Cut-Off Switches*, *supra*.

¹⁶ 46 U.S.C. § 4311(c)(1).

¹⁷ 46 U.S.C. § 4311(c)(2).

¹⁸ 46 U.S.C. § 4311(c)(3).

¹⁹ United States Coast Guard, *Engine Cut-Off Switches*, <https://uscgboating.org/recreational-boaters/engine-cut-off-devices.php> (last visited January 4, 2022).

²⁰ 46 U.S.C. § 4312(b)(2).

²¹ S. 327.39, F.S.; see s. 327.02(37) (defining "personal watercraft" as a vessel less than 16 feet in length which uses an inboard motor powering a water jet pump as its primary source of motive power and which is designed to be operated by a person sitting, standing, or kneeling on the vessel).

2. Expenditures:

The bill appears to have an insignificant impact to FWC expenditures necessary to incorporate the required items into education campaigns and materials.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Motorized vessels that are not covered under federal law and which are used for the instruction of water sports and activities will be required to have an engine cut-off switch installed if not already equipped with one.

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 require or authorize rulemaking.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On January 18, 2022, the Tourism, Infrastructure & Energy Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The amendment:

- Provided the act be designated "Ethan's Law."
- Clarified that the operator of a vessel used in the instruction of a water sport or activity must use an engine cutoff switch and operative link.

On February 8, 2022, the Environment, Agriculture & Flooding Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment changed the effective date to of October 1, 2022.

This analysis is drafted to the committee substitute as approved by the Environment, Agriculture & Flooding Subcommittee.

20221432er

1
2 An act relating to vessel anchoring; amending s.
3 253.0346, F.S.; providing tenancy and lease conditions
4 for approved and permitted mooring and mooring fields
5 in Monroe County; amending s. 327.4108, F.S.;
6 requiring certain anchored vessels in Monroe County to
7 be re-anchored in a new location that meets certain
8 requirements according to a specified timeframe;
9 requiring the Fish and Wildlife Conservation
10 Commission, in consultation with certain entities, to
11 establish designated anchoring areas within the county
12 by rule; providing requirements for the designated
13 anchoring areas; providing an exception for certain
14 domiciled vessels; removing provisions requiring the
15 county to approve a specified number of moorings at
16 specified locations; requiring certain vessels
17 equipped with marine sanitation devices to maintain
18 specified records of such devices; providing
19 construction; providing an effective date.
20

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

23 Section 1. Present subsection (4) of section 253.0346,
24 Florida Statutes, is redesignated as subsection (5), and a new
25 subsection (4) is added to that section, to read:

26 253.0346 Lease of sovereignty submerged lands for marinas,
27 boatyards, mooring fields, and marine retailers.-

28 (4) Notwithstanding any other law, all of the following
29 conditions apply for approved and permitted moorings or mooring

20221432er

30 fields in Monroe County:

31 (a) The general tenancy on a mooring may exceed 12 months,
32 if requested, but may not exceed 10 years.

33 (b) A sovereign submerged land or other proprietary lease
34 may not prohibit a vessel from an approved and permitted mooring
35 or mooring field or limit the tenancy of a vessel because an
36 individual has established it as his or her domicile in
37 accordance with s. 222.17 or because the vessel is an
38 individual's primary residence.

39 Section 2. Subsection (3) of section 327.4108, Florida
40 Statutes, is amended to read:

41 327.4108 Anchoring of vessels in anchoring limitation
42 areas.—

43 (3) (a) Monroe County is designated as an anchoring
44 limitation area within which no less than once every ~~a vessel on~~
45 ~~waters of the state may only be anchored in the same location~~
46 ~~for a maximum of 90 days~~ each vessel anchored within Monroe
47 County on waters of this state within 10 linear nautical miles
48 of a public mooring field or a designated anchoring area must
49 pull anchor and be moved from its location using the vessel's
50 propulsion system and be re-anchored in a new location. The new
51 location must be:

52 1. No less than one-half linear nautical mile from the
53 vessel's starting location. A vessel may not be re-anchored
54 within one-half linear nautical mile from the vessel's starting
55 location for at least 90 days; or

56 2. In a different designated anchoring area. A vessel may
57 not be re-anchored in its originating designated anchoring area
58 for at least 90 days after anchoring within a new designated

20221432er

59 anchoring area. ~~The commission shall adopt rules to implement~~
60 ~~this subsection.~~

61 (b) The commission, in consultation with Monroe County and
62 the Florida Keys National Marine Sanctuary, shall establish by
63 rule designated anchoring areas throughout the county. The
64 designated anchoring areas must:

65 1. Specify a maximum vessel draft for each area;

66 2. Be created only in locations where the water depth is
67 sufficient to allow vessels whose drafts are less than the
68 area's specified maximum vessel draft to navigate into and out
69 of the areas without grounding or stranding;

70 3. Not be located over coral reefs or other sensitive fish
71 or wildlife habitat, to the maximum extent practicable, as
72 determined by the commission;

73 4. Not be located in an area subject to ongoing hazardous
74 water currents or tides or containing navigational hazards; and

75 5. Not be located within navigational channels, setbacks
76 established by the United States Army Corps of Engineers
77 associated with federal channels, areas where anchoring is
78 prohibited pursuant to s. 327.4109, or any other lawfully
79 established areas that prohibit anchoring.

80 (c) Paragraph (a) does ~~The anchoring limitations in this~~
81 ~~subsection do not apply to vessels moored to approved and~~
82 ~~permitted moorings or mooring fields.~~

83 (d) ~~(e)~~ A vessel upon the waters of this state and within
84 Monroe County for which the owner or occupant has established
85 the vessel as a domicile in accordance with s. 222.17 is exempt
86 from paragraph (a) ~~Notwithstanding the commission rules adopted~~
87 ~~pursuant to this section, this section is not effective for~~

20221432er

88 ~~Monroe County until at least 100 the county approves, permits,~~
89 ~~and opens new moorings are available for public use, including~~
90 ~~at least 250 moorings within 1 mile of the Key West Bight City~~
91 ~~Dock and at least 50 moorings within the Key West Garrison Bight~~
92 ~~Mooring Field.~~ Until such time, the commission shall designate
93 the area within 1 mile of the Key West Bight City Dock as a
94 priority for the investigation and removal of derelict vessels.

95 (e) All of the following vessels within Monroe County on
96 waters of this state which are equipped with a marine sanitation
97 device other than a marine composting toilet that processes and
98 manages human waste using technologies that comply with United
99 States Coast Guard requirements must maintain a record of the
100 date of each pumpout of the marine sanitation device and the
101 location of the pumpout station or waste reception facility for
102 1 year after the date of the pumpout, and the record must
103 indicate that the vessel was pumped out within the last 30 days:

104 1. A vessel that:

105 a. Has enclosed living spaces or rooms; and

106 b. Is used by a person as a dwelling or living space

107 overnight at any time, notwithstanding whether or not the vessel
108 is also used for navigation.

109 2. A vessel moored in a public mooring field.

110 (f) This subsection may not be construed to prohibit
111 anchoring for less than 90 days in areas within Monroe County.

112 Section 3. This act shall take effect July 1, 2022.

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 Rules

BILL: CS/CS/SB 1432

INTRODUCER: Community Affairs Committee, Environment and Natural Resources Committee and Senator Rodriguez

SUBJECT: Vessel Anchoring

DATE: February 14, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|------------------|
| 1. | <u>Carroll</u> | <u>Rogers</u> | <u>EN</u> | <u>Fav/CS</u> |
| 2. | <u>Hackett</u> | <u>Ryon</u> | <u>CA</u> | <u>Fav/CS</u> |
| 3. | <u>Carroll</u> | <u>Phelps</u> | <u>RC</u> | <u>Favorable</u> |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1432 amends statutes relating to vessel anchoring and mooring. The bill provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must:

- Pull anchor,
- Move under their own power, and
- Re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock. The bill removes the provisions requiring the county to approve of a certain number of moorings at certain locations.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pump-out.

II. Present Situation:

Sovereign Submerged Lands

Sovereign submerged lands are owned by the state and include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line,¹ beneath navigable fresh water or tidally-influenced waters.² Under the Florida Constitution, the title to all sovereign submerged lands is held by the state in trust for the people.³ The public generally has the right to use sovereign submerged lands for traditional recreational purposes such as swimming, boating, and fishing.⁴

The Board of Trustees of the Internal Improvement Trust Fund, comprised of the Governor and Cabinet, holds title to all sovereign submerged lands in the state.⁵ Chapter 18-21 of the Florida Administrative Code lists the various forms of authorization necessary for specified activities on sovereign submerged lands, including submerged land leases.⁶

Rule 18-21.0041 specifically addresses leases, easements, or consent to use sovereignty submerged lands in Monroe County for multi-slip docking facilities.⁷ Certain general policies and specific criteria must be considered in determining whether to allow the use of sovereignty submerged lands for multi-slip docking facilities.⁸ The general policies include:

- Taking into account the proximity to and potential adverse impacts on any rare, threatened, or endangered species, or species of special concern, or their habitat, or on any portion of the Florida Reef Tract and other corals;
- Eliminating any adverse impacts on wetland or submerged vegetation or benthic communities;
- Maintaining or enhancing water quality;

¹ Fla. Admin. Code R. 18-21.003(67). The mean high water line is the point on the shore marking the average height of the high waters over a 19-year period, and it is the boundary between the state-owned foreshore (land alternately covered and uncovered by the tide) and the dry area above the mean high water line that is subject to private ownership. *See ss.* 177.27(14), (15) and 177.28(1), F.S.

² Fla. Admin. Code R. 18-21.003(67).

³ FLA. CONST. art. X, s. 11.

⁴ Fla. Admin. Code R. 18-21.004(2)(a); *see also 5F, LLC v. Hawthorne*, 317 So. 3d 220, 223 (Fla. 2d DCA 2021) (identifying the same traditional uses).

⁵ Sections 253.03 and 253.12(1), F.S.

⁶ *See* Fla. Admin. Code R. 18-21.005.

⁷ A multi-slip docking facility is a marina or dock designed to moor three or more vessels. Fla. Admin. Code R. 18-20.003(41).

⁸ Fla. Admin. Code R. 18-20.003.

- Requiring adequate water depths to avoid dredging and other bottom disturbance;
- Requiring consistency and conformity with local government land use plans, zoning, and other land use or development regulations; and
- Requiring consistency and conformity with the Principles for Guiding Development in the Florida Keys Area of Critical State Concern.⁹

The specific criteria include:

- A moratorium on the approval of all leases of state owned submerged lands for multi-slip docking facilities from Tea Table Channel north to the Monroe County Line;
- No docking facilities that require either dredging or filling to provide access;
- Water depth requirements;
- Requirements for the size of the dock;
- For any new or expanded docking facility for 10 or more boats, a specific lease condition that the lessee shall maintain water quality standards;
- An application review for new docking facilities or expansions to existing facilities to identify ways to improve, mitigate or restore adverse environmental impacts caused by previous activities;
- A lease requirement for all applicants proposing docking facilities designed to moor 10 or more boats;
- Documentation from all applicants to show that there is an economic demand for the number of boat slips requested;
- No benthic communities present where the boat mooring area, turning basins, mooring piles, or other structures are to be located, excepting any main access docks required to cross benthic communities to reach acceptable areas; and
- Special consideration for certain projects to further the commercial fishing village or commercial fishing enterprise zone concept.¹⁰

Fish and Wildlife Conservation Commission

The Division of Law Enforcement Boating and Waterways Section of the Florida Fish and Wildlife Conservation Commission (FWC) oversees and coordinates statewide regulatory waterway markers to ensure compliance with uniform markers and state boating and resource protection zones for the benefit of all waterway users and fish and wildlife resources in the state.¹¹ The Boating and Waterways Section takes public input and provides notice of proposed local boating-restricted areas.¹²

FWC's boating laws are enforced by the Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.¹³ The

⁹ Fla. Admin. Code R. 18-20.003(2).

¹⁰ Fla. Admin. Code R. 18-20.003(3).

¹¹ FWC, *Waterway Management*, <https://myfwc.com/boating/waterway/> (last visited Jan. 11, 2022).

¹² *Id.*

¹³ Section 327.70(1), F.S.; *see s.* 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents of and visitors to the state.¹⁴ This includes enforcing boating rules and regulations; coordinating boating safety campaigns and education; managing public waters and access to the waters; conducting boating accident investigations; identifying and removing derelict vessels; and investigating vessel theft and title fraud.¹⁵

Anchoring or Mooring

Anchoring or mooring refers to a boater's practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.¹⁶ Mooring is accomplished through the use of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.¹⁷

Local Regulation of Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.¹⁸ Mooring fields must be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters that the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.¹⁹

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²⁰ or live-aboard vessels²¹ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.²² However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or

responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

¹⁴ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Jan. 11, 2022).

¹⁵ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Jan. 11, 2022). See s. 327.70(1) and (4), F.S.

¹⁶ Section 327.02, F.S., defines the term "vessel" to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

¹⁷ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at https://www.flseagrant.org/wp-content/uploads/anchoring_away_5_12_update_web.pdf (last visited Jan. 11, 2022).

¹⁸ See s. 373.118, F.S., and Fla. Admin. Code R. 62-330.420(1).

¹⁹ See Fla. Admin. Code R. 62-330.420.

²⁰ Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

²¹ Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel for which a declaration of domicile has been filed; or a vessel used as a residence that does not have an effective means of propulsion for safe navigation. The definition expressly excludes commercial fishing boats."

²² Section 327.60(3), F.S.

local regulation that regulates the anchoring of vessels, other than live-aboard vessels and non-fishing commercial vessels, outside the marked boundaries of permitted mooring fields.²³

Anchoring Limitation Areas

State law designates certain densely populated urban areas as anchoring limitation areas.²⁴ These areas usually have narrow state waterways, residential docking facilities, and significant recreational boating traffic.²⁵ Counties may create more anchoring limitation areas under certain circumstances.²⁶

In 2021, Monroe County was designated as an anchoring limitation area within which a vessel on waters of the state may only be anchored in the same location for a maximum of 90 days.²⁷ FWC adopts rules to implement this.²⁸ Notwithstanding FWC's rules, this limitation is only effective for Monroe County until the county approves, permits, and opens new moorings for public use, including at least 250 moorings within 1 mile of the Key West Bight City Dock and at least 50 moorings within the Key West Garrison Bight Mooring Field.²⁹

The following are some exceptions that allow anchoring in an anchoring limitation area:

- When a vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors;
- During certain special events;³⁰ or
- Certain government, construction, and fishing vessels.³¹

Law enforcement officers or agencies may remove and impound, for up to 48 hours, vessels from anchoring limitation areas when a vessel operator who was previously issued a citation:

- Continues to anchor the vessel in an anchoring limitation area within 12 hours of being issued a citation; or
- Refuses to leave the anchoring limitation area after being directed to do so by a law enforcement officer or agency.³²

In addition to the civil penalty imposed by a citation, a vessel operator whose vessel has been impounded must pay all of the applicable removal and storage fees before the vessel is released.³³

²³ Section 327.60(2)(f), F.S.

²⁴ Section 327.4108(1), F.S.

²⁵ *Id.*

²⁶ *Id.*; Section 327.4108(2), F.S.

²⁷ Section 327.4108(3), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 327.4108(3), F.S.; *see also* s. 327.48, F.S.

³¹ Section 327.4108(4), F.S.

³² Section 327.4108(5), F.S.

³³ *Id.*

An owner or operator of a vessel who anchors in an anchoring limitation area commits a noncriminal infraction and is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third or subsequent offense.³⁴

Section 327.73(1) F.S., provides that any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days imprisonment.³⁵

Marine Sanitation Devices

A marine sanitation device is equipment, other than a toilet, for installation on board a vessel which is designed to receive, retain, treat, or discharge sewage, and any process to treat such sewage.³⁶ The U.S. Coast Guard categorizes marine sanitation devices into three types:

- Type I devices are flow-through treatment devices that commonly use maceration and disinfection for the treatment of sewage;
- Type II devices are flow-through treatment devices that may employ biological treatment and disinfection;
- Type III devices are typically a holding tank where sewage is stored until it can be discharged shore-side or at sea (beyond three miles from shore).³⁷

Raw sewage cannot be discharged from any vessel or any floating structure in Florida waters.³⁸ All waste from Type III marine sanitation devices must be disposed of in an approved sewage pump-out facility.³⁹ A violation of the marine sanitation laws is a noncriminal infraction.⁴⁰

No-Discharge Zones

A no-discharge zone is a designated body of water that prohibits the discharge of treated and untreated boat sewage.⁴¹ Within the boundaries of a no-discharge zone, vessel operators are required to retain their sewage discharges onboard for discharge at sea (beyond three miles from the Atlantic shore and beyond nine miles from the Gulf shore) or onshore at a pump-out facility.

³⁴ Section 327.73(1)(z), F.S.

³⁵ Sections 775.082 and 775.083, F.S.

³⁶ Section 327.02, F.S.

³⁷ EPA, *Marine Sanitation Devices (MSDs)*, <https://www.epa.gov/vessels-marinas-and-ports/marine-sanitation-devices-msds> (last visited Jan. 11, 2022).

³⁸ Section 327.53(4), F.S.

³⁹ *Id.*

⁴⁰ Section 327.53(6)(a), F.S.

⁴¹ U.S. Environmental Protection Agency, *Vessel Sewage Discharges: No-Discharge Zones*, <https://www.epa.gov/vessels-marinas-and-ports/vessel-sewage-no-discharge-zones> (last visited Jan. 12, 2022).

Currently, Florida has three designated no-discharge zones. They are Destin Harbor,⁴² the city of Key West waters,⁴³ and the state waters within the Florida Keys National Marine Sanctuary.⁴⁴

III. Effect of Proposed Changes:

Section 1 amends s. 253.0346, F.S., to provide that notwithstanding any other law, all of the following conditions apply for approved and permitted moorings or mooring fields in Monroe County:

- The general tenancy on a mooring may exceed 12 months, if requested, but not 10 years.
- A sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field or limit a vessel's tenancy because it is a domicile or primary residence.

Section 2 amends s. 327.4108, F.S., to clarify that Monroe County is designated as an anchoring limitation area within which no less than once every 90 days each vessel anchored within Monroe County on waters of the state within 10 linear nautical miles of a public mooring field or a designated anchoring area must pull anchor, be moved from its location using the vessel's propulsion system,⁴⁵ and be re-anchored in a new location. The bill provides that the location must be:

- No less than one-half linear nautical mile from the vessel's starting location. A vessel may not be re-anchored within one-half linear nautical mile from the vessel's starting location for at least 90 days; or
- In a different designated anchoring area. A vessel may not be re-anchored in its originating designated anchoring area for at least 90 days after anchoring within a new designated anchoring area.

This relocation requirement does not apply to:

- Vessels moored to approved and permitted moorings and
- Vessels for which domicile has been established, until at least 100 new moorings are available for public use within one mile of the Key West Bight City Dock.

The changes above replace the following provisions:

- Anchoring limitations do not apply to mooring fields; and
- Anchoring limitations are not effective for Monroe County until the county approves, permits, and opens new moorings, including at least 250 moorings within one mile of the Key West Bight City Dock and at least 50 moorings in the Key West Garrison Bight Mooring Field.

⁴² Marine Sanitation Device Standard for Destin Harbor, 53 Fed. Reg. 1,678 (Jan. 21, 1988).

⁴³ City of Key West No Discharge Zone Determination, 64 Fed. Reg. 46,390 (Aug. 25, 1999).

⁴⁴ Regulation to Establish a No Discharge Zone for State Waters within the Boundary of the Florida Keys National Marine Sanctuary, 67 FR 35735 (May 21, 2002). The Florida Keys National Marine Sanctuary protects the 3,800 square miles of waters surrounding the Florida Keys from Miami to the Tortugas. NOAA, *Florida Keys National Marine Sanctuary Boundary*, <https://floridakeys.noaa.gov/about/welcome.html?s=about> (last visited Jan. 12, 2022).

⁴⁵ "Effective means of propulsion for safe navigation" means a vessel, other than a barge, that is equipped with: a functioning motor, controls, and steering system; or rigging and sails that are present and in good working order, and a functioning steering system. Section 327.02(13), F.S.

The bill replaces the Fish and Wildlife Conservation Commission's (FWC's) existing rulemaking authority with the requirement that FWC, in consultation with Monroe County and the Florida Keys National Marine Sanctuary, establish by rule designated anchoring areas throughout the county. The designated anchoring areas must:

- Specify a maximum vessel draft for each area;
- Be created only in locations where the water depth is sufficient to allow vessels whose drafts are less than the area's specified maximum vessel draft to navigate the areas without grounding or stranding;
- Not be located over coral reefs or other sensitive fish or wildlife habitat, to the maximum extent practicable, as determined by FWC;
- Not be located in an area subject to ongoing hazardous water currents or tides or containing navigational hazards; and
- Not be located within navigational channels, setbacks established by the U.S. Army Corps of Engineers associated with federal channels, areas where anchoring is prohibited, or any other lawfully established areas that prohibit anchoring.

The bill provides that all of the following vessels within Monroe County on waters of the state which are equipped with a marine sanitation device, other than a marine composting toilet, that processes and manages human waste using technologies that comply with U.S. Coast Guard requirements must maintain a record of the date and location of each pump-out of the marine sanitation device, which must occur every 30 days, for one year after the date of the pump-out:

- A vessel that has enclosed living spaces or rooms and is used by a person as a dwelling or living space overnight at any time, notwithstanding whether the vessel is also used for navigation; and
- A vessel moored in a public mooring field.

The bill finally clarifies that it may not be construed to prohibit anchoring for less than 90 days within Monroe County.

Section 3 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

A general law operates universally throughout the state, uniformly on specific subjects throughout the state, or uniformly within a permissible classification, or relates to a state function or entity.⁴⁶ Uniform operation of a general law does not require application throughout the state; instead there must be a reasonable possibility that others in the future may meet the criteria of the classification.⁴⁷ A general law of local application is a form of general law that operates within only a portion of the state due to a valid classification based on proper distinctions and differences.⁴⁸ Article III, Section 10 of the Florida Constitution does not place any burdens or requirements on the Legislature's ability to pass a general law of local application.

A special law is a law that operates on a specific category of people or subjects, and the classification is impermissible or illegal.⁴⁹ A special law requires prior publication of a notice of intent to seek passage, or it may become effective after approval by the affected voters in a referendum.⁵⁰ A local law is a form of special law that operates only in a specific geographic area or in a classified territory when classification is impermissible or illegal.⁵¹

The bill amends statutes relating to vessel anchoring and mooring and documentation of marine sanitation device pump-out in Monroe County.

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

None.

B. Private Sector Impact:

Owners of vessels in Monroe County on waters of the state that are equipped with a marine sanitation device and that have enclosed living spaces or rooms and are used as a dwelling or living space overnight at any time, may experience a negative fiscal impact due to the requirement that they have proof of a marine sanitation device pumpout every 30 days.

C. Government Sector Impact:

None.

⁴⁶ State Affairs Committee and Local Administration and Veterans Affairs Subcommittee, *Local Bills Policies and Procedures Manual 2020-2022*, 1, available at <https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3117&Session=2021&DocumentType=General+Publications&FileName=2021-2022+Local+Bill+Policy+and+Procedures+Manual.pdf>.

⁴⁷ *Id.* at 1-2.

⁴⁸ *Id.* at 2.

⁴⁹ *Id.* at 2-3.

⁵⁰ *Id.* at 3.

⁵¹ *Id.*

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 253.0346 and 327.4108 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Community Affairs on February 2, 2022:

The CS clarifies that the bill may not be construed to prohibit anchoring for less than 90 days within Monroe County.

CS by Environment and Natural Resources on January 18, 2022:

- Clarifies that a bill requirement applies to “linear” nautical miles.
- Adds that the record of the date and location of each marine sanitation device pumpout that certain vessels in Monroe County are required to maintain must also indicate that the vessel was pumped out within the last 30 days.

- B. **Amendments:**

None.

By Senator Baxley

12-01042-22

20221546__

1 A bill to be entitled
2 An act relating to vessel safety flags; amending s.
3 327.391, F.S.; removing the requirement that airboats
4 be equipped with masts or flagpoles bearing certain
5 safety flags; amending s. 327.50, F.S.; prohibiting
6 the operation and anchoring of vessels without masts
7 or flagpoles bearing certain safety flags under
8 specified conditions; providing applicability;
9 providing penalties; amending s. 327.73, F.S.;
10 conforming provisions to changes made by the act;
11 providing an effective date.

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

14
15 Section 1. Subsections (1) and (3) of section 327.391,
16 Florida Statutes, are amended to read:

17 327.391 Airboats regulated.—

18 (1) The exhaust of every internal combustion engine used on
19 any airboat operated on the waters of this state shall be
20 provided with an automotive-style factory muffler, underwater
21 exhaust, or other manufactured device capable of adequately
22 muffling the sound of the exhaust of the engine as described in
23 s. 327.02(31). The use of cutouts or flex pipe as the sole
24 source of muffling is prohibited, except as provided in
25 subsection (3) ~~(4)~~. A person who violates this subsection
26 commits a noncriminal infraction, punishable as provided in s.
27 327.73(1).

28 ~~(3) An airboat may not operate on the waters of the state~~
29 ~~unless it is equipped with a mast or flagpole bearing a flag at~~

12-01042-22

20221546__

30 ~~a height of at least 10 feet above the lowest portion of the~~
31 ~~vessel. The flag must be square or rectangular, at least 10~~
32 ~~inches by 12 inches in size, international orange in color, and~~
33 ~~displayed so that the visibility of the flag is not obscured in~~
34 ~~any direction. Any person who violates this subsection commits a~~
35 ~~noncriminal infraction punishable as provided in s. 327.73(1).~~

36 Section 2. Subsection (4) is added to section 327.50,
37 Florida Statutes, to read:

38 327.50 Vessel safety regulations; equipment and lighting
39 requirements.—

40 (4) A vessel may not operate or be anchored on the waters
41 of this state where visibility is limited by vegetation that
42 extends 18 inches or higher above the current water line and is
43 present within 10 feet on both sides of the vessel unless the
44 vessel is equipped with a mast or flagpole bearing a flag at a
45 height of at least 10 feet above the lowest portion of the
46 vessel. The flag must meet design, minimum size, and color
47 requirements as established by commission rule and be displayed
48 so that the visibility of the flag is not obscured in any
49 direction. This subsection does not apply to a vessel that has a
50 height greater than 10 feet above the water line. A person who
51 violates this subsection commits a noncriminal infraction
52 punishable as provided in s. 327.73(1).

53 Section 3. Paragraphs (m) and (w) of subsection (1) of
54 section 327.73, Florida Statutes, are amended to read:

55 327.73 Noncriminal infractions.—

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

58 (m) Section 327.50(1), ~~and~~ (2), and (4) relating to

12-01042-22

20221546__

59 required safety equipment, lights, and shapes, and flags.

60 ~~(w) Section 327.391(3), relating to the display of a flag~~
61 ~~on an airboat.~~

62
63 Any person cited for a violation of any provision of this
64 subsection shall be deemed to be charged with a noncriminal
65 infraction, shall be cited for such an infraction, and shall be
66 cited to appear before the county court. The civil penalty for
67 any such infraction is \$50, except as otherwise provided in this
68 section. Any person who fails to appear or otherwise properly
69 respond to a uniform boating citation shall, in addition to the
70 charge relating to the violation of the boating laws of this
71 state, be charged with the offense of failing to respond to such
72 citation and, upon conviction, be guilty of a misdemeanor of the
73 second degree, punishable as provided in s. 775.082 or s.
74 775.083. A written warning to this effect shall be provided at
75 the time such uniform boating citation is issued.

76 Section 4. This act shall take effect July 1, 2023.

26 | commits a noncriminal infraction, punishable as provided in s.
 27 | 327.73(1).

28 | ~~(3) An airboat may not operate on the waters of the state~~
 29 | ~~unless it is equipped with a mast or flagpole bearing a flag at~~
 30 | ~~a height of at least 10 feet above the lowest portion of the~~
 31 | ~~vessel. The flag must be square or rectangular, at least 10~~
 32 | ~~inches by 12 inches in size, international orange in color, and~~
 33 | ~~displayed so that the visibility of the flag is not obscured in~~
 34 | ~~any direction. Any person who violates this subsection commits a~~
 35 | ~~noncriminal infraction punishable as provided in s. 327.73(1).~~

36 | Section 2. Effective July 1, 2023, subsection (4) is added
 37 | to section 327.50, Florida Statutes, to read:

38 | 327.50 Vessel safety regulations; equipment and lighting
 39 | requirements.—

40 | (4) A vessel may not operate or be anchored on the waters
 41 | of this state where visibility is limited by vegetation that
 42 | extends 18 inches or higher above the current water line and is
 43 | present within 10 feet on both sides of the vessel unless the
 44 | vessel is equipped with a mast or flagpole bearing a flag at a
 45 | height of at least 10 feet above the lowest portion of the
 46 | vessel. The flag must meet design, minimum size, and color
 47 | requirements as established by commission rule and be displayed
 48 | so that the visibility of the flag is not obscured in any
 49 | direction. This subsection does not apply to a vessel that has a
 50 | height greater than 10 feet above the water line. A person who

HB 1225

2022

51 | violates this subsection commits a noncriminal infraction
52 | punishable as provided in s. 327.73(1).

53 | Section 3. This act shall take effect July 1, 2022.

1 A bill to be entitled
 2 An act relating to local regulation of vessels;
 3 amending s. 327.60, F.S.; authorizing local
 4 governments to regulate the anchoring of certain
 5 vessels; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:
 8

9 Section 1. Paragraph (f) of subsection (2) of section
 10 327.60, Florida Statutes, is amended to read:

11 327.60 Local regulations; limitations.—

12 (2) This chapter and chapter 328 do not prevent the
 13 adoption of any ordinance or local regulation relating to
 14 operation of vessels, except that a county or municipality may
 15 not enact, continue in effect, or enforce any ordinance or local
 16 regulation:

17 (f) Regulating the anchoring of vessels outside the marked
 18 boundaries of mooring fields permitted under ~~as provided in~~ s.
 19 327.40. This paragraph does not apply to, ~~except for:~~

- 20 1. Live-aboard vessels; ~~and~~
- 21 2. Commercial vessels, excluding commercial fishing
- 22 vessels; and
- 23 3. Vessels used for short-term rental purposes in
- 24 violation of a local ordinance or regulation;

25 Section 2. This act shall take effect July 1, 2022.

By Senator Ausley

3-00939A-22

20221454__

1 A bill to be entitled
2 An act relating to the Office of the Blue Economy;
3 amending s. 20.60, F.S.; establishing the office
4 within the Department of Economic Opportunity;
5 creating s. 288.93, F.S.; defining the term "blue
6 economy"; providing duties of the office; authorizing
7 the department to adopt rules; amending s. 403.928,
8 F.S.; conforming provisions to changes made by the
9 act; creating s. 403.9303, F.S.; requiring the Office
10 of Economic and Demographic Research to conduct a
11 biennial evaluation of the blue economy for inclusion
12 in a certain assessment; providing requirements for
13 the evaluation; providing an effective date.

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

16
17 Section 1. Paragraph (a) of subsection (3) of section
18 20.60, Florida Statutes, is amended to read:

19 20.60 Department of Economic Opportunity; creation; powers
20 and duties.—

21 (3) (a) The following divisions and offices of the
22 Department of Economic Opportunity are established:

- 23 1. The Division of Strategic Business Development.
24 2. The Division of Community Development.
25 3. The Division of Workforce Services.
26 4. The Division of Finance and Administration.
27 5. The Division of Information Technology.
28 6. The Office of the Secretary.
29 7. The Office of Economic Accountability and Transparency,

3-00939A-22

20221454__

30 which shall:

31 a. Oversee the department's critical objectives as
32 determined by the secretary and make sure that the department's
33 key objectives are clearly communicated to the public.

34 b. Organize department resources, expertise, data, and
35 research to focus on and solve the complex economic challenges
36 facing the state.

37 c. Provide leadership for the department's priority issues
38 that require integration of policy, management, and critical
39 objectives from multiple programs and organizations internal and
40 external to the department; and organize and manage external
41 communication on such priority issues.

42 d. Promote and facilitate key department initiatives to
43 address priority economic issues and explore data and identify
44 opportunities for innovative approaches to address such economic
45 issues.

46 e. Promote strategic planning for the department.

47 8. The Office of the Blue Economy.

48 Section 2. Section 288.93, Florida Statutes, is created to
49 read:

50 288.93 Office of the Blue Economy.—

51 (1) For purposes of this section, the term "blue economy"
52 means the economic uses of ocean and coastal resources with a
53 focus on sustainable practices that benefit the long-term
54 outlook of relevant industry sectors and the competitive
55 positioning of the state in a global economy affected by climate
56 change, including, but not limited to, maritime industries such
57 as shipyards, marinas, marine terminals, piers, fishing,
58 aquaculture, seafood processing, commercial diving, and marine

3-00939A-22

20221454__

59 transportation; floating and amphibious housing; tourism; and
60 outdoor recreational activities, including, but not limited to,
61 boating, and industry sectors dependent on such activities.

62 (2) The Office of the Blue Economy shall:

63 (a) Support the state's economy by connecting the state's
64 ocean and coastal resources to economic development strategies
65 that enhance or contribute to the blue economy with a focus on
66 research and development, technological innovation, emerging
67 industries, strategic business recruitment, public and private
68 funding opportunities, and workforce training and education.

69 (b) Survey state universities and Florida College System
70 institutions on the development of academic research relating to
71 the blue economy across all disciplines. The office shall
72 encourage collaboration between state universities and Florida
73 College System institutions with overlapping areas of academic
74 research. The office shall publish on the department's website
75 information on such collaboration and the current research
76 inventory.

77 (c) Collaborate with relevant industries to identify
78 economic challenges that may be solved through innovation in the
79 blue economy by commercializing or otherwise providing public
80 access to academic research and resources.

81 (d) Develop and facilitate a pipeline of academic research,
82 commercialization, accelerator programs, and start-up funding.

83 (e) Publish on the department's website reports on the
84 number, growth, and average wages of jobs included in the blue
85 economy. Such reports shall identify and address any relevant
86 labor shortages projected by the Labor Market Estimating
87 Conference pursuant to s. 216.136(7).

3-00939A-22

20221454__

88 (f) Educate other state and local entities on the interests
89 of the blue economy by participating in the development and
90 implementation of policies relating to the state's use of ocean
91 and coastal resources, including, but not limited to, long-term
92 sustainability, best practices, conservation efforts, ocean and
93 coastal health, restoration and protection of coral reefs, and
94 beach renourishment.

95 (g) Communicate the state's role as an integral component
96 of the blue economy by promoting the state on national and
97 international platforms and other appropriate forums as the
98 premier destination for convening on pertinent subject matters.

99 (3) The department may adopt rules to administer this
100 section.

101 Section 3. Paragraph (f) is added to subsection (1) of
102 section 403.928, Florida Statutes, to read:

103 403.928 Assessment of water resources and conservation
104 lands.—The Office of Economic and Demographic Research shall
105 conduct an annual assessment of Florida's water resources and
106 conservation lands.

107 (1) WATER RESOURCES.—The assessment must include all of the
108 following:

109 (f) Biennially, beginning on January 1, 2023, the
110 evaluation of the state's blue economy required under s.
111 403.9303.

112 Section 4. Section 403.9303, Florida Statutes, is created
113 to read:

114 403.9303 Blue economy evaluation.—

115 (1) Beginning January 1, 2023, the Office of Economic and
116 Demographic Research shall conduct a biennial evaluation of the

3-00939A-22

20221454__

117 state's blue economy for inclusion in its annual assessment
118 conducted pursuant to s. 403.928.

119 (2) The evaluation must include the following:

120 (a) The historical and current contributions to the state's
121 economy from maritime industries, including, but not limited to:

122 1. Shipyards, marinas, marine terminals, piers, fishing,
123 aquaculture, seafood processing, commercial diving, and marine
124 transportation.

125 2. Floating and amphibious housing.

126 3. Tourism.

127 4. Outdoor recreational activities, including, but not
128 limited to, boating, and industry sectors dependent on such
129 activities.

130 (b) Appropriate economic comparisons to other states to
131 identify comparative advantages and disadvantages.

132 (c) The identification and discussion of any growing,
133 emerging, or new industries that fit within the blue economy
134 structure.

135 (d) Beginning January 1, 2025, an analysis of the
136 contributions of the blue economy to the state, including, but
137 not limited to, the economic benefits, as defined in s.
138 288.005(1), of the efforts undertaken by the Office of the Blue
139 Economy pursuant to s. 288.93.

140 Section 5. This act shall take effect July 1, 2022.

1 A bill to be entitled
 2 An act relating to Office of the Blue Economy;
 3 amending s. 20.60, F.S.; establishing the Office of
 4 the Blue Economy within the Department of Economic
 5 Opportunity; creating s. 288.93, F.S.; providing a
 6 definition; providing duties of the Office of the Blue
 7 Economy; authorizing the department to adopt rules;
 8 amending s. 403.928, F.S.; conforming provisions to
 9 changes made by the act; creating s. 403.9303, F.S.;
 10 requiring the Office of Economic and Demographic
 11 Research to conduct a biennial evaluation of the blue
 12 economy for inclusion in a certain assessment;
 13 providing requirements for the evaluation; providing
 14 an effective date.

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

17
 18 Section 1. Paragraph (a) of subsection (3) of section
 19 20.60, Florida Statutes, is amended to read:

20 20.60 Department of Economic Opportunity; creation; powers
 21 and duties.—

22 (3)(a) The following divisions and offices of the
 23 Department of Economic Opportunity are established:

- 24 1. The Division of Strategic Business Development.
 25 2. The Division of Community Development.

- 26 | 3. The Division of Workforce Services.
- 27 | 4. The Division of Finance and Administration.
- 28 | 5. The Division of Information Technology.
- 29 | 6. The Office of the Secretary.
- 30 | 7. The Office of Economic Accountability and Transparency,
- 31 | which shall:

32 | a. Oversee the department's critical objectives as
 33 | determined by the secretary and make sure that the department's
 34 | key objectives are clearly communicated to the public.

35 | b. Organize department resources, expertise, data, and
 36 | research to focus on and solve the complex economic challenges
 37 | facing the state.

38 | c. Provide leadership for the department's priority issues
 39 | that require integration of policy, management, and critical
 40 | objectives from multiple programs and organizations internal and
 41 | external to the department; and organize and manage external
 42 | communication on such priority issues.

43 | d. Promote and facilitate key department initiatives to
 44 | address priority economic issues and explore data and identify
 45 | opportunities for innovative approaches to address such economic
 46 | issues.

47 | e. Promote strategic planning for the department.

48 | 8. The Office of the Blue Economy.

49 | Section 2. Section 288.93, Florida Statutes, is created to
 50 | read:

51 288.93 Office of the Blue Economy.-

52 (1) For purposes of this section, the term "blue economy"
53 means the economic uses of ocean and coastal resources with a
54 focus on sustainable practices that benefit the long-term
55 outlook of relevant industry sectors and the competitive
56 positioning of the state in a global economy affected by climate
57 change, including, but not limited to, maritime industries such
58 as shipyards, marinas, marine terminals, piers, fishing,
59 aquaculture, seafood processing, commercial diving, and marine
60 transportation; floating and amphibious housing; tourism; and
61 outdoor recreational activities, including, but not limited to,
62 boating, and industry sectors dependent on such activities.

63 (2) The Office of the Blue Economy shall:

64 (a) Support the state's economy by connecting the state's
65 ocean and coastal resources to economic development strategies
66 that enhance or contribute to the blue economy with a focus on
67 research and development, technological innovation, emerging
68 industries, strategic business recruitment, public and private
69 funding opportunities, and workforce training and education.

70 (b) Survey state universities and Florida College System
71 institutions on the development of academic research relating to
72 the blue economy across all disciplines. The office shall
73 encourage collaboration between state universities and Florida
74 College System institutions with overlapping areas of academic
75 research. The office shall publish on the department's website

76 information on such collaboration and the current research
77 inventory.

78 (c) Collaborate with relevant industries to identify
79 economic challenges that may be solved through innovation in the
80 blue economy by commercializing or otherwise providing public
81 access to academic research and resources.

82 (d) Develop and facilitate a pipeline of academic
83 research, commercialization, accelerator programs, and startup
84 funding.

85 (e) Publish on the department's website reports on the
86 number, growth, and average wages of jobs included in the blue
87 economy. Such reports shall identify and address any relevant
88 labor shortages projected by the Labor Market Estimating
89 Conference pursuant to s. 216.136(7).

90 (f) Educate other state and local entities on the
91 interests of the blue economy by participating in the
92 development and implementation of policies relating to the
93 state's use of ocean and coastal resources, including, but not
94 limited to, long-term sustainability, best practices,
95 conservation efforts, ocean and coastal health, restoration and
96 protection of coral reefs, and beach renourishment.

97 (g) Communicate the state's role as an integral component
98 of the blue economy by promoting the state on national and
99 international platforms and other appropriate forums as the
100 premier destination for convening on pertinent subject matters.

101 (3) The department may adopt rules to administer this
 102 section.

103 Section 3. Paragraph (f) is added to subsection (1) of
 104 section 403.928, Florida Statutes, to read:

105 403.928 Assessment of water resources and conservation
 106 lands.—The Office of Economic and Demographic Research shall
 107 conduct an annual assessment of Florida's water resources and
 108 conservation lands.

109 (1) WATER RESOURCES.—The assessment must include all of
 110 the following:

111 (f) Biennially, beginning on January 1, 2023, the
 112 evaluation of the state's blue economy required under s.
 113 403.9303.

114 Section 4. Section 403.9303, Florida Statutes, is created
 115 to read:

116 403.9303 Blue economy evaluation.—

117 (1) Beginning January 1, 2023, the Office of Economic and
 118 Demographic Research shall conduct a biennial evaluation of the
 119 state's blue economy for inclusion in its annual assessment
 120 conducted pursuant to s. 403.928.

121 (2) The evaluation must include the following:

122 (a) The historical and current contributions to the
 123 state's economy from maritime industries, including, but not
 124 limited to:

125 1. Shipyards, marinas, marine terminals, piers, fishing,

HB 1081

2022

126 aquaculture, seafood processing, commercial diving, and marine
127 transportation.

128 2. Floating and amphibious housing.

129 3. Tourism.

130 4. Outdoor recreational activities, including, but not
131 limited to, boating, and industry sectors dependent on such
132 activities.

133 (b) Appropriate economic comparisons to other states to
134 identify comparative advantages and disadvantages.

135 (c) The identification and discussion of any growing,
136 emerging, or new industries that fit within the blue economy
137 structure.

138 (d) Beginning January 1, 2025, an analysis of the
139 contributions of the blue economy to the state, including, but
140 not limited to, the economic benefits, as defined in s.
141 288.005(1), of the efforts undertaken by the Office of the Blue
142 Economy pursuant to s. 288.93.

143 Section 5. This act shall take effect July 1, 2022.



MIAF Bill Tracking

Ordered by Bill Number

HB 0013 Property Tax Exemptions For Widows, Widowers, Blind Persons, or Persons Totally and Permanently Disabled by Gottlieb

Property Tax Exemptions For Widows, Widowers, Blind Persons, or Persons Totally and Permanently Disabled; Increases property tax exemption for residents who are widows, widowers, blind persons, or persons totally & permanently disabled. Effective Date: upon becoming a law

Actions

02/09/2022 HOUSE Now in Ways & Means Committee

HB 0047 Fraudulent Proof of Vaccination by Grieco

Fraudulent Proof of Vaccination: Prohibits specified actions involving fraudulent proof of vaccination. Effective Date: October 1, 2022

Actions

02/04/2022 Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 02/07/22, 2:00 pm, 117 K (No Votes Will Be Taken)

HB 0071 Abatement of Taxes for Residential Dwellings Rendered Uninhabitable by Catastrophic Event by Woodson

Abatement of Taxes for Residential Dwellings Rendered Uninhabitable by Catastrophic Event: Specifies conditions under which persons whose residential dwellings are rendered uninhabitable may receive abatement of taxes; specifies formula for determining tax abatement; provides directives to property appraisers in issuing written statements to tax collector when granting abatement & in calculating damage differentials & processing refunds; provides mechanism for persons to file late applications for abatement of taxes. Effective Date: upon becoming a law

Actions

02/15/2022 HOUSE Now in Ways & Means Committee

HB 0075 Limiting COVID-19 Restrictions by Sabatini

Limiting COVID-19 Restrictions: Prohibits state or any political subdivision from enacting mask mandate; provides any such mandate is void; prohibits state & local governments from requiring COVID-19 vaccinations, issuing vaccine passports or other standardized documentation to third parties, or otherwise publishing or sharing COVID-19 vaccination records; prohibits businesses from requiring customers to provide documentation certifying COVID-19 vaccination or COVID-19 post-transmission recovery or discriminating against customers on basis of their COVID-19 vaccination status or COVID-19 post-transmission recovery status; declares certain actions based on vaccination status or having immunity passport are unlawful discriminatory practices. Effective Date: upon becoming a law

Actions

09/17/2021 HOUSE Now in Pandemics & Public Emergencies Committee

SB 0100 Joint Resolution of Apportionment by Rodrigues (R)

Joint Resolution of Apportionment; Providing for the apportionment of the House of Representatives and the Senate (plans H000H8013 and S027S8058); adopting the United States Decennial Census of 2020 for use in such apportionment; providing for the inclusion of omitted areas; providing contiguity for areas specified for inclusion in one district which are noncontiguous; specifying that the apportioned districts constitute the legislative districts of the state; specifying that electronic maps serve as the official maps of the legislative districts of the state; providing for the public availability of electronic maps, etc.

Actions

02/16/2022 Signed by Officers and filed with Secretary of State

HB 0117 Communicable and Infectious Diseases by Fetterhoff

Communicable and Infectious Diseases: Provides presumption to specified workers that impairment of health caused by COVID-19 or infectious disease happened in line of duty; requires certain actions in order to be entitled to presumption; requires emergency rescue or public safety workers to file incident or accident report under certain conditions. Effective Date: upon becoming a law

Actions

09/29/2021 HOUSE Now in Government Operations Subcommittee

HB 0119 Appeals by Property Appraisers by Borrero

Appeals by Property Appraisers: Revises upward percent variance that must exist for property appraiser to appeal value adjustment board assessment of property value. Effective Date: July 1, 2022

Actions

10/19/2021 HOUSE Withdrawn prior to introduction

HB 0149 Aquaculture Land Valuation by Tuck

Aquaculture Land Valuation: Provides for assessment of land used in production of aquaculture to be based solely on its aquaculture use; provides assessment methodology; requires property to be assessed for certain period of time using assessment methodology created by act; authorizes property appraiser to require audited financial statements. Effective Date: January 1, 2023

Actions

02/08/2022 HOUSE Placed on Calendar, on 2nd reading

SB 0152 Supermajority Vote for Legislative Preemption by Farmer, Jr.

Supermajority Vote for Legislative Preemption; Proposing amendments to the State Constitution to require a supermajority vote of each house to approve a general law preempting a subject of legislation to the state, etc.

Actions

09/21/2021 SENATE Referred to Community Affairs; Judiciary; Rules

SB 0154 Tax Exemption by Rodriguez (A)

Tax Exemption; Revising the value of property subject to an ad valorem tax exemption, etc. Effective Date: 1/1/2023

Actions

10/14/2021 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 10/15/21, 9:15 am, 117 K (No Votes Will Be Taken)

SB 0198 Water Resources Management by Rodriguez (A)

Water Resources Management; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to grant easements on sovereignty submerged lands for specified mitigation banks under certain conditions; exempting certain docks on recorded easements from certain permit and verification requirements; requiring authorization for certain docks to use submerged lands upon approval of the board; providing that the compliance of certain structures associated with a dock on a parcel of land with certain provisions creates a presumption of compliance with certain environmental impact requirements, etc. Effective Date: Upon becoming a law

Actions

01/20/2022 SENATE Now in Community Affairs

HB 0201 Sales Tax Holiday for ENERGY STAR & WaterSense Products by Daley

Sales Tax Holiday for ENERGY STAR & WaterSense Products: Provides sales tax exemption for certain ENERGY STAR & WaterSense products during specified timeframe. Effective Date: July 1, 2022

Actions

02/09/2022 HOUSE Now in Commerce Committee

HB 0233 Acceptance of Cash Payments by Businesses by Willhite

Acceptance of Cash Payments by Businesses: Requires certain businesses to accept cash payments for services; prohibits fees or conditions for such transactions; provides exceptions, penalties, & rulemaking authority. Effective Date: July 1, 2022

Actions

10/22/2021 HOUSE Now in Insurance & Banking Subcommittee

SB 0238 Endangered and Threatened Species by Jones

Endangered and Threatened Species; Directing the Fish and Wildlife Conservation Commission to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the commission from considering certain costs when designating a species as endangered or threatened; directing the department, in consultation with the Endangered Plant Advisory Council, to protect certain endangered or threatened species, regardless of the status of their federal classification; prohibiting the department from considering certain costs when designating a species as endangered or threatened, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0258 Racing Motor Vehicles by Book

Racing Motor Vehicles; Revising prohibitions on persons driving motor vehicles in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed, a stunt, agility, or acceleration or for other specified purposes on any highway, roadway, or parking lot; prohibiting a person from coordinating via social media any such race, competition, contest, test, or exhibition; prohibiting a person from operating a vehicle for the purpose of filming or recording activities of participants in any such race, competition, contest, test, or exhibition, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Transportation; Criminal Justice; Rules

SB 0280 Local Ordinances by Hutson

Local Ordinances; Authorizing courts to assess and award reasonable attorney fees and costs and damages in certain civil actions filed against local governments; requiring a board of county commissioners to prepare or cause to be prepared a business impact estimate before the enactment of a proposed ordinance; requiring a county to suspend enforcement of an ordinance that is the subject of a certain legal action if certain conditions are met; authorizing a prevailing county to enforce the ordinance after a specified period, except under certain circumstances; requiring a governing body of a municipality to prepare or cause to be prepared a business impact estimate before the enactment of a proposed ordinance, etc. Effective Date: 10/1/2022

Actions

01/27/2022 HOUSE In Messages

SB 0284 Fraudulent Proof of Vaccination by Polsky

Fraudulent Proof of Vaccination; Prohibiting specified actions involving fraudulent proof of vaccination; providing criminal penalties, etc. Effective Date: 10/1/2022

Actions

Bill to be Discussed During the Office of EDR's Criminal Justice Impact Conference, 02/07

HB 0291 Employee Leave and Wage and Salary History by Woodson

Employee Leave and Wage and Salary History: Authorizes parental leave for state employees in Career Service System who have stillborn child; prohibits public employer, employment agency, or private employer from engaging in certain activities relating to wages & salary; authorizes public employer, employment agency, or private employer to confirm prospective employee's wage or salary history under certain conditions. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Withdrawn prior to introduction

HB 0293 Discrimination in Labor and Employment by Thompson

Discrimination in Labor and Employment: Prohibits employer from providing less favorable employment opportunities to employees based on their sex; provides civil penalties; prohibits employer from taking employment actions against employees; prohibits employer from engaging in certain activities relating to wages & benefits; prohibits employer from requiring employees to sign certain waivers & documents; authorizes employer to confirm wage or salary history under certain conditions. Effective Date: July 1, 2022

Actions

10/26/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 0299 Social Media Platforms by Sabatini

Social Media Platforms: Provides requirements for social media platforms relating to acceptable use policies, quarterly transparency reports, & complaint system; authorizes AG to bring action against social media platforms & to recover certain costs. Effective Date: July 1, 2022

Actions

10/26/2021 HOUSE Now in Regulatory Reform Subcommittee

SB 0322 Discrimination in Labor and Employment by Stewart

Discrimination in Labor and Employment; Creating the "Senator Helen Gordon Davis Fair Pay Protection Act"; prohibiting an employer from providing less favorable employment opportunities to employees based on their sex; providing exceptions; prohibiting an employer from engaging in certain activities relating to wages and benefits, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Commerce and Tourism; Judiciary; Rules

HB 0323 Fish and Wildlife Conservation Commission by Sirois

Fish and Wildlife Conservation Commission: Requires land managing agencies, in consultation with FWCC, to consider gopher tortoise recipient sites in certain plans & include certain assessments in such plans; authorizes owners of certain lands to establish gopher tortoise recipient sites or conservation banks; directs FWCC to take certain actions regarding recipient site applications & participation, & submit report to Legislature; requires certain forms relating to boating under influence be provided by FWCC rather than DHSMV; authorizes certain athletic teams & sports to operate human-powered vessel within specified waterway; revises authorized conditions for determining vessels at risk of becoming derelict; prohibits municipalities & counties from designating public bathing beach & swim areas within specified waterway; repeals provisions relating to derelict vessels & relocation & removal of such vessels; authorizes FWCC to provide derelict vessel grants to local governments; requires FWCC to adopt rules; authorizes FWCC employees & Florida Forest Service to operate drones for specified purposes. Effective Date: July 1, 2022

Actions

03/03/2022 HOUSE Read Second Time; Substituted for SB 0494; Laid on Table, Refer to SB 0494

HB 0349 Water Resources Management by Sirois

Water Resources Management: Authorizes Board of Trustees of Internal Improvement Trust Fund to grant easements on sovereignty submerged lands for specified mitigation banks; directs DEP to create & modify specified rules; exempts certain docks on recorded easements from certain permit & verification requirements; granting certain docks authorization to use submerged lands upon approval of board; provides that specified structures associated with docks create presumption of specified compliance. Effective Date: upon becoming a law

Actions

12/08/2021 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0356 Sales Tax Holiday for ENERGY STAR and WaterSense Products by Jones

Sales Tax Holiday for ENERGY STAR and WaterSense Products; Providing a sales tax exemption for certain ENERGY STAR and WaterSense products during a specified timeframe; defining terms; authorizing the Department of Revenue to adopt emergency rules, etc. Effective Date: Upon becoming a law

Actions

01/31/2022 SENATE Now in Appropriations

HB 0359 Agreement For Best Practices in Economic Development by Eskamani

Agreement For Best Practices in Economic Development: Creates Agreement For Best Practices in Economic Development; specifies membership of board; requires board to publish specified material regarding best practices in economic development; requires board to suggest annual revisions; requires board to accept testimony related to economic development improvements; prohibits member states from providing company-specific tax incentives for specified purposes; providing procedures for withdrawing from agreement. Effective Date: upon the adoption of the agreement by two or more states

Actions

11/05/2021 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

SB 0376 Employment Protections by Book

Employment Protections; Authorizing parental leave for state employees in the Career Service System who have a stillborn child; prohibiting a public employer or an employment agency from engaging in certain activities relating to wages and salary; prohibiting an employer from engaging in certain activities relating to wages and salary; authorizing an employer to confirm a prospective employee's wage or salary history under certain conditions, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Governmental Oversight and Accountability; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 0380 Greenhouse Gas Emissions by Rodriguez (A)

Greenhouse Gas Emissions; Defining the term "greenhouse gas"; prohibiting the adoption or enforcement of certain state and regional programs to regulate greenhouse gas emissions without specific legislative authorization, etc. Effective Date: 7/1/2022

Actions

10/13/2021 SENATE Referred to Environment and Natural Resources; Governmental Oversight and Accountability; Rules

SB 0382 Minimum Training Wage by Brandes

Minimum Training Wage; Proposing an amendment to the State Constitution to authorize the Legislature to establish a minimum training wage rate lower than the Florida minimum wage rate which employers may elect to pay employees for the first 6 months of employment, etc.

Actions

10/13/2021 SENATE Referred to Commerce and Tourism; Appropriations; Rules

HB 0383 Criminal Conflict and Civil Regional Counsels by Maney

Criminal Conflict and Civil Regional Counsels: Specifies responsibilities of regional counsels regarding witness coordination; removes requirement that regional counsel employees be governed by JAC classification & salary & benefits plans; modifying procedures for Supreme Court Judicial Nominating Commission in nominating candidates for regional counsel positions; revises provisions related to duties of regional counsels. Effective Date: July 1, 2022

Actions

02/11/2022 HOUSE Placed on Calendar, on 2nd reading

HB 0385 Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices by Maney

Pub. Rec./Criminal Conflict and Civil Regional Counsel Offices: Expands public records exemption to include all records pertaining to registration application submitted by any criminal conflict & civil regional counsel office; provides for future legislative review & repeal; provides statement of public necessity. Effective Date: on the same date that HB 383 or similar legislation takes effect

Actions

02/08/2022 HOUSE Placed on Calendar, on 2nd reading

HB 0393 Public Bathing Places by Hinson

Public Bathing Places: Revises definition of term "public bathing place"; requires, rather than authorizes, DOH to adopt & enforce certain rules & to issue health advisories under certain circumstances; requires DOH to notify municipality or county if health advisory is issued against swimming in public bathing places; requires certain signage to be posted around public bathing places under certain circumstances; requires DOH to monitor affected public bathing places; authorizes DOH to coordinate with DEP & FWCC to implement signage requirements. Effective Date: July 1, 2022

Actions

11/05/2021 HOUSE Now in Professions & Public Health Subcommittee

HB 0399 Motor Vehicle and Vessel Law Enforcement by Rodriguez (Ant)

Motor Vehicle and Vessel Law Enforcement: Prohibits persons from driving motor vehicle in street takeover, stunt driving, race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration on highway, roadway, or parking lot; provides criminal penalties for unlawful use of certain lights; authorizes court or jury to consider certain evidence in determining commission of offense of false personation. Effective Date: October 1, 2022

Actions

03/04/2022 HOUSE Enrolled Text (ER) Filed

SB 0404 Aquaculture by Rodriguez (A)

Aquaculture; Providing for the assessment of land used in the production of aquaculture based solely on its use; requiring a property appraiser to use a specified assessment methodology; authorizing the property appraiser to require property owners to annually submit audited financial statements; revising the authority of the Department of Agriculture and Consumer Services to revoke aquaculture certificates of registration to apply to facilities, rather than entities, etc. Effective Date: 1/1/2023

Actions

02/24/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/25/22, 10:00 am, 117 K (No Votes Will Be Taken)

SB 0408 Acceptance of Cash Payments by Businesses by Jones

Acceptance of Cash Payments by Businesses; Requiring certain businesses to accept cash payments for certain transactions; prohibiting such businesses from charging a fee or placing conditions on acceptance of such cash payments; providing penalties for violations of the act, etc. Effective Date: 7/1/2022

Actions

HB 0421 Long-term Cleanup of Water Bodies by Truenow

Long-term Cleanup of Water Bodies: Directs DEP to procure specified technology for purpose of long-term cleanup of water bodies. Effective Date: July 1, 2022

Actions

02/14/2022 HOUSE Now in State Affairs Committee

SB 0434 Florida Tourism Marketing by Hooper

Florida Tourism Marketing; Delaying the scheduled repeal of provisions governing the Florida Tourism Industry Marketing Corporation and the Division of Tourism Marketing of Enterprise Florida, Inc., respectively, etc. Effective Date: Upon becoming a law

Actions

03/02/2022 SENATE In returning messages

SB 0446 Wage and Employment Benefits Requirements by Taddeo

Wage and Employment Benefits Requirements; Repealing a provision relating to restrictions on the establishment of minimum wage and employment benefits requirements by political subdivisions, etc. Effective Date: 7/1/2022

Actions

10/21/2021 SENATE Referred to Commerce and Tourism; Community Affairs; Rules

HB 0449 Land Acquisition Trust Fund by Mooney, Jr.

Land Acquisition Trust Fund: Provides annual appropriation to DEP to implement Florida Keys Stewardship Act by entering into financial assistance agreements with specified local governments for specified purposes; prohibits use of such funds to implement certain projects & programs. Effective Date: July 1, 2022

Actions

02/14/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0452 Public Health by Perry

Public Health; Prohibiting counties and municipalities from requiring citizens of the United States to submit to any medical procedure or receive any medical treatment; prohibiting counties and municipalities from conditioning access to public property or services on whether a citizen has submitted to any medical procedure or received any medical treatment; prohibiting counties and municipalities from requiring the wearing of a face covering; prohibiting district school boards from adopting, implementing, or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering, etc. Effective Date: 7/1/2022

Actions

10/21/2021 SENATE Withdrawn prior to introduction

HB 0463 Greenhouse Gas Emissions by Botana

Greenhouse Gas Emissions: Prohibits adoption or enforcement of certain state & regional programs to regulate greenhouse gas emissions without specific legislative authorization. Effective Date: July 1, 2022

Actions

11/10/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 0489 Tourism Marketing by Chaney

Tourism Marketing: Revises scheduled repeal date of Florida Tourism Industry Marketing Corporation; revises scheduled repeal date of Division of Tourism Marketing within Enterprise Florida, Inc. Effective

Date: upon becoming a law

Actions

03/01/2022 HOUSE Substituted for SB 0434; Laid on Table, Refer to SB 0434

HB 0493 Boating Safety by Botana

Boating Safety: Revises provisions relating to boating collisions & accidents; liveries & livery permits; boating safety education courses; vessel registrations & title transfers; & related rules, fees, fines, & penalties. Effective Date: July 1, 2022

Actions

03/04/2022 HOUSE Read Second Time; Substituted for SB 0606; Laid on Table, Refer to SB 0606

SB 0494 Fish and Wildlife Conservation Commission by Hutson

Fish and Wildlife Conservation Commission; Requiring land management agencies to consider, in consultation with the commission, as part of certain state land management plans, the feasibility of using portions of such lands as gopher tortoise recipient sites; revising the notices a person must be given for failure to submit to certain tests for alcohol, chemical substances, or controlled substances; authorizing individuals, when participating in certain athletic team practices or competitions, to operate a human-powered vessel within the marked channel of the Florida Intracoastal Waterway under certain circumstances; revising the vessel conditions that an officer of the commission or a law enforcement agency may use to determine that a vessel is at risk of becoming derelict, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

03/04/2022 SENATE In returning messages

SB 0500 Back-to-school Sales Tax Holiday by Perry

Back-to-school Sales Tax Holiday; Providing exemptions from the sales and use tax on the retail sale of certain clothing, wallets, bags, school supplies, personal computers, and personal computer-related accessories during a specified timeframe; specifying locations where the exemptions do not apply; authorizing certain dealers to opt out of participating in the tax holiday, subject to certain requirements, etc. Effective Date: Upon becoming a law

Actions

12/09/2021 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 12/10/21, 1:30 pm, 117 K (No Votes Will Be Taken)

HB 0501 Prohibition of Public Funds for Lobbying by Gregory

Prohibition of Public Funds for Lobbying: Prohibits local governments and not-for-profit organizations from using public funds to retain lobbyists; provides exceptions for local government full-time employees; provides sanctions for violations; authorizes people to file complaints with the Commission on Ethics; requires commission to provide a report to specified entities; specifies procedures for disciplining violators. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Withdrawn prior to introduction

HB 0509 Sales Taxes on Mobile Homes by Yarborough

Sales Taxes on Mobile Homes: Specifies sales tax rate on new mobile homes; defines "new mobile home". Effective Date: October 1, 2022

Actions

01/20/2022 HOUSE Now in Ways & Means Committee

HB 0513 Comprehensive Review Study of the Central and Southern Florida Project by Bartleman

Comprehensive Review Study of the Central and Southern Florida Project: Directs SFWMD to prepare & submit consolidated annual report regarding status of project to EDR, DEP, Governor, & Legislature;

provides report requirements. Effective Date: July 1, 2022

Actions

03/02/2022 HOUSE Enrolled Text (ER) Filed

HB 0529 Yacht and Ship Brokers Located Out of State by LaMarca

Yacht and Ship Brokers Located Out of State: Exempts person who regularly conducts business as yacht or ship broker or salesperson in another state from licensure for specified transactions; provides exception. Effective Date: upon becoming a law

Actions

02/15/2022 HOUSE Now in Commerce Committee

SB 0536 Administrative Procedures by Diaz

Administrative Procedures; Requiring a notice of rule development to include certain information; requiring an agency to provide notice of a regulatory alternative to the Administrative Procedures Committee before filing the rule for adoption; requiring an agency to provide a copy of any proposal for a lower cost regulatory alternative to the committee within a certain timeframe; requiring the Florida Administrative Code to contain complete indexes to any material incorporated by reference contained in the code, etc. Effective Date: 7/1/2022

Actions

03/04/2022 HOUSE In Messages

SB 0550 Unlawful Employment Practices by Cruz

Unlawful Employment Practices; Revising the unlawful employment practices in the Florida Civil Rights Act of 1992 to include discriminatory practices relating to military status, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Commerce and Tourism; Judiciary; Rules

HB 0561 Implementation of the Recommendations of the Blue-Green Algae Task Force by Goff-Marcil

Implementation of the Recommendations of the Blue-Green Algae Task Force: Requires owners of certain onsite sewage treatment & disposal systems to have systems periodically inspected; directs DEP to administer inspection program & implement program standards, procedures, & requirements; requires basin management action plans to include specified information; directs DEP to assess specified projects. Effective Date: July 1, 2022

Actions

11/19/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0568 Abatement of Taxes for Residential Dwellings Rendered Uninhabitable by Catastrophic Event by Polsky

Abatement of Taxes for Residential Dwellings Rendered Uninhabitable by Catastrophic Event; Specifying conditions under which persons whose residential dwellings are rendered uninhabitable may receive an abatement of taxes originally levied; specifying a formula for determining the amount of the tax abatement; requiring tax collectors to provide specified information to the Department of Revenue and the governing boards of each affected local government on an annual basis, etc. Effective Date: Upon becoming a law

Actions

11/03/2021 SENATE Referred to Community Affairs; Finance and Tax; Appropriations

HB 0579 Aquatic Plant Management by Melo

Aquatic Plant Management: Directs FWCC, in partnership with Institute of Food & Agricultural Sciences at University of Florida & Water School at Florida Gulf Coast University, to study nutrient removal technologies & mechanical aquatic plant management techniques within Lake Okeechobee watershed;

directs UF/IFAS to submit report to FWCC; directs FWCC to submit report to Governor & Legislature.
Effective Date: July 1, 2022

Actions

03/02/2022 SENATE Received; Referred to Appropriations

HB 0585 Caloosahatchee River Watershed by Botana

Caloosahatchee River Watershed: Removes requirement for entities disposing of septage within Caloosahatchee River watershed to develop & submit specified agricultural use plan to DOH; prohibits land application of septage from onsite sewage treatment disposal & systems within Caloosahatchee River watershed; directs DEP to adopt updated Caloosahatchee estuary basin management action plan; provides plan requirements; prohibits specified activities within Caloosahatchee River watershed.
Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0592 Face Covering Mandates by Perry

Face Covering Mandates; Prohibiting counties and municipalities from requiring that a citizen of the United States wear a face covering; prohibiting district school boards from adopting, implementing, or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering; prohibiting a district school superintendent from implementing or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering; prohibiting a school principal from implementing or enforcing a policy, a rule, a code of conduct, or an order requiring the wearing of a face covering, etc. Effective Date: Upon becoming a law

Actions

11/03/2021 SENATE Referred to Judiciary; Education; Rules

SB 0594 Discrimination on the Basis of COVID-19 Vaccination or Postinfection Recovery Status by Perry

Discrimination on the Basis of COVID-19 Vaccination or Postinfection Recovery Status; Prohibiting governmental entities from requiring proof of COVID-19 vaccination or postinfection recovery status as a condition of licensure or certification in this state; prohibiting employers from requiring COVID-19 vaccination or proof of COVID-19 vaccination or postinfection recovery as a condition of employment, promotion, or continued employment or from discriminating against employees on the basis of such status unless certain conditions are met; providing a right of action for aggrieved persons, etc. Effective Date: Upon becoming a law

Actions

11/03/2021 SENATE Referred to Community Affairs; Commerce and Tourism; Rules

SB 0596 Criminal Conflict and Civil Regional Counsels by Baxley

Criminal Conflict and Civil Regional Counsels; Specifying the responsibilities of regional counsels regarding witness coordination; removing the requirement that regional counsel employees be governed by Justice Administrative Commission classification and salary and benefits plans; authorizing regional counsels to access certain confidential information relating to proceedings involving children under specified circumstances; authorizing regional counsel offices to obtain fictitious names for motor vehicle and vessel plates or decals, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

03/04/2022 HOUSE Placed on Special Order Calendar, 03/07/22

SB 0598 Public Records/Criminal Conflict and Civil Regional Counsel Office by Baxley

Public Records/Criminal Conflict and Civil Regional Counsel Office; Expanding a public records exemption to include all records pertaining to a registration application submitted by any criminal conflict and civil regional counsel office for a registration certificate and registration license plate or decal issued under a fictitious name; providing for future legislative review and repeal; providing a statement of public

necessity, etc. Effective Date: On the same date that SB 596 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

03/04/2022 HOUSE Placed on Special Order Calendar, 03/07/22

SB 0602 Land Acquisition Trust Fund by Rodriguez (A)

Land Acquisition Trust Fund; Requiring an annual appropriation from the Land Acquisition Trust Fund to the Department of Environmental Protection to implement the Florida Keys Stewardship Act or to acquire land within the Florida Keys Area of Critical State Concern for specified purposes; prohibiting the department from using the appropriated funds to implement wastewater management projects or programs, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 0603 Land Acquisition Trust Fund by Bell

Land Acquisition Trust Fund: Provides annual appropriation to DEP to implement Heartland Headwaters Protection & Sustainability Act; requires funds to be used & distributed for specified purposes. Effective Date: July 1, 2022

Actions

02/14/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 0604 Safe Waterways Act by Berman

Safe Waterways Act; Requiring, rather than authorizing, the Department of Health to adopt and enforce certain rules; requiring the department to notify a municipality or county if the department issues a health advisory against swimming on the basis of elevated bacteria levels in a public bathing place within the municipality's or county's jurisdiction; requiring the department to adopt by rule a certain health advisory sign; providing that municipalities and counties are responsible for maintaining the health advisory signs for affected beach waters and public bathing places that they own, etc. Effective Date: 7/1/2022

Actions

02/11/2022 SENATE Now in Community Affairs

SB 0606 Boating Safety by Garcia

Boating Safety; Citing this act as the "Boating Safety Act of 2022"; authorizing a court to impose a specified fine for certain boating collisions and accidents; prohibiting liveries from offering a vessel for lease or rent without a livery permit; revising the conditions under which a livery may not knowingly lease or rent a vessel; increasing fines for violations of certain boating regulations; providing that an improper transfer of vessel title is subject to a civil penalty, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

03/04/2022 HOUSE Substituted for HB 0493; Read Second Time; Amendment Adopted (981283); Placed on Third Reading, 03/07/22

SB 0612 Apprenticeship Contracts by Hutson

Apprenticeship Contracts; Authorizing an apprentice to enter into a contract with a business organization for a specified duration; requiring such contracts to be signed by specified individuals, etc. Effective Date: 7/1/2022

Actions

11/03/2021 SENATE Referred to Commerce and Tourism; Regulated Industries; Rules

SB 0620 Local Business Protection Act by Hutson

Local Business Protection Act; Citing this act as the "Local Business Protection Act"; authorizing certain businesses to claim business damages from a county or municipality if the county or municipality enacts or amends certain ordinances or charter provisions; limiting the amount of business damages that may be recovered; specifying ordinances and charter provisions that do not result in liability for business damages; requiring businesses and counties or municipalities to follow certain presuit procedures before businesses file an action for business damages, etc. Effective Date: Upon becoming a law

Actions

01/27/2022 HOUSE In Messages

HB 0627 Employment Practices for Family and Medical Leave by Nixon

Employment Practices for Family and Medical Leave: Creates "Florida Family & Medical Leave Act"; requires employer to allow employees to take paid family leave to bond with minor child upon birth, adoption, or foster care placement; provides for civil action & penalties; creates family & medical leave insurance benefits program; prohibits specified employment practices on basis of pregnancy, childbirth, or medical condition related to pregnancy or childbirth; provides for leave, maintenance of health coverage, reasonable accommodation & transfer, & return rights for employee who is disabled from pregnancy, childbirth, or medical condition related to pregnancy or childbirth. Effective Date: July 1, 2022

Actions

12/06/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 0629 Trust Funds/Family and Medical Leave Insurance Benefits Fund/DFS by Nixon

Trust Funds/Family and Medical Leave Insurance Benefits Fund/DFS: Creates Family & Medical Leave Insurance Benefits Fund under DFS; provides purpose of trust fund; provides for future review & termination of trust fund. Effective Date: on the same date that HB 627 or similar legislation takes effect

Actions

12/06/2021 HOUSE Now in Regulatory Reform Subcommittee

SB 0656 Family and Medical Leave Insurance Benefits Fund by Cruz

Family and Medical Leave Insurance Benefits Fund; Creating the Family and Medical Leave Insurance Benefits Fund under the Department of Financial Services; providing the purpose of the trust fund; providing for future review and termination of the trust fund, etc. Effective Date: On the same date that SB 688 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

11/16/2021 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 0683 Recreational Licenses and Permits for Military Servicemembers and Veterans by Willhite

Recreational Licenses and Permits for Military Servicemembers and Veterans: Provides free & discounted hunting, freshwater fishing, & saltwater fishing licenses & permits to certain military servicemembers & veterans. Effective Date: July 1, 2022

Actions

01/26/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/28/22, 10:30 am, 117 K (No Votes Will Be Taken)

SB 0688 Employment Practices for Family and Medical Leave by Cruz

Employment Practices for Family and Medical Leave; Creating the "Florida Family and Medical Leave Act"; requiring an employer to allow certain employees to take family and medical leave to bond with a minor child upon the child's birth, adoption, or foster care placement; prohibiting an employer from taking adverse action against an employee who requests or obtains family and medical leave; requiring that family and medical leave be taken concurrently with any leave taken under federal family and medical leave law; requiring the Department of Economic Opportunity to create a model notice that

specifies an employee's rights related to family and medical leave and family and medical leave insurance benefits, etc. Effective Date: 7/1/2022

Actions

11/16/2021 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 0690 Resilience-related Advisory Committees by Rodriguez (A)

Resilience-related Advisory Committees; Authorizing specified resilience-related advisory committees to conduct public meetings and workshops by means of communications media technology; providing that use of such technology by a committee member constitutes that member's presence at such meeting or workshop; requiring that such technology allow the public to audibly communicate, etc. Effective Date: Upon becoming a law

Actions

01/31/2022 SENATE Now in Rules

HB 0691 Resilience-related Advisory Committees by Slosberg

Resilience-related Advisory Committees: Authorizes resilience-related advisory committees to conduct public meetings & workshops by means of communications media technology; provides that use of technology by committee member constitutes member's presence at meeting or workshop; provides notice requirements for public meetings or workshops conducted by means of communications media technology. Effective Date: upon becoming a law

Actions

12/13/2021 HOUSE Now in Government Operations Subcommittee

HB 0701 Boating and Vessel Safety by McFarland

Boating and Vessel Safety: Requires boating safety education courses & temporary certificate examinations to include specified components; directs FWCC to include such components in boating safety education campaigns & educational materials; requires instructors of water sports & activities to use engine cutoff switches & wear operative links to switches under certain conditions. Effective Date: October 1, 2022

Actions

02/25/2022 SENATE Received; Referred to Appropriations

HB 0711 Endangered and Threatened Species by Diamond

Endangered and Threatened Species: Revises legislative intent of Florida Endangered & Threatened Species Act; directs FWCC & DACS to protect certain endangered or threatened species; revises criteria for placement of species on Regulated Plant Index by DACS; prohibits FWCC & DACS from considering certain costs when designating species as endangered or threatened. Effective Date: July 1, 2022

Actions

12/13/2021 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 0729 Everglades Protection Area by Aloupis, Jr.

Everglades Protection Area: Requires comprehensive plans & plan amendments that apply to certain lands within or near Everglades Protection Area to follow state coordinated review process; requires DEP to make determinations, consult, & coordinate with specified entities regarding such plans & amendments; provides additional limitation for compliance determination of such plans & plan amendments; prohibits & provides requirements for adoption of certain development amendments within Everglades Protection Area. Effective Date: July 1, 2022

Actions

01/25/2022 HOUSE Now in Agriculture & Natural Resources Appropriations Subcommittee

SB 0732 Heat Illness Prevention by Rodriguez (A)

Heat Illness Prevention; Providing responsibilities for certain employers and employees; providing an exception; requiring employers to provide annual training for employees and supervisors; requiring the Department of Agriculture and Consumer Services, in conjunction with the Department of Health, to adopt specified rules, etc. Effective Date: 10/1/2022

Actions

01/20/2022 SENATE Now in Health Policy

HB 0761 Inventories of Critical Wetlands by Truenow

Inventories of Critical Wetlands: Requires each water management district governing board, in cooperation with local governments, to develop list of critical wetlands for acquisition using funds from Land Acquisition Trust Fund; requires boards to consider certain criteria when including wetlands on list. Effective Date: July 1, 2022

Actions

03/04/2022 HOUSE Read Second Time; Substituted for SB 0882; Laid on Table, Refer to SB 0882

SB 0786 Aircraft Sales and Lease Tax by Hutson

Aircraft Sales and Lease Tax; Exempting all aircraft sales and leases, rather than the sales and leases of certain aircraft, from the sales and use tax; defining the term "aircraft"; deleting the definition of the term "common carrier" to conform to changes made by the act, etc. Effective Date: 7/1/2022

Actions

01/14/2022 SENATE Now in Appropriations

SB 0808 Sales Tax Holiday for Disaster Preparedness Supplies by Gruters

Sales Tax Holiday for Disaster Preparedness Supplies; Providing exemptions from the sales and use tax for specified disaster preparedness supplies during specified timeframes; defining the term "impact-resistant"; requiring purchasers of certain items to furnish a specified affidavit and information to the selling dealer; providing a criminal penalty for furnishing a false affidavit with certain intent; specifying locations where the exemptions do not apply, etc. Effective Date: Upon becoming a law

Actions

02/09/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 02/11/22, 9:00 am, 117 K (No Votes Will Be Taken)

SB 0820 Yacht and Ship Brokers' Act by Hooper

Yacht and Ship Brokers' Act; Redefining the term "yacht" to include vessels longer than a specified length which are manufactured or operated primarily for pleasure or are leased, rented, or chartered for pleasure; exempting a person who conducts business as a broker or salesperson in another state from licensure for specified transactions; requiring, rather than authorizing, the Division of Florida Condominiums, Timeshares, and Mobile Homes of the Department of Business and Professional Regulation to deny licenses for applicants who fail to meet certain requirements; requiring the division to take certain actions if the division determines that a broker or salesperson violated the act, etc. Effective Date: 10/1/2022

Actions

11/16/2021 SENATE Referred to Regulated Industries; Commerce and Tourism; Rules

SB 0830 Sales Tax by Hooper

Sales Tax; Specifying the sales tax rate on new mobile homes; defining the term "new mobile home", etc. Effective Date: 10/1/2022

Actions

01/13/2022 SENATE Now in Appropriations

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| SB 0832 | Implementation of the Recommendations of the Blue-Green Algae Task Force by Stewart |
| Implementation of the Recommendations of the Blue-Green Algae Task Force; Requiring owners of certain onsite sewage treatment and disposal systems to have the systems periodically inspected, beginning on a specified date; requiring the Department of Environmental Protection to administer the inspection program; requiring new or revised basin management action plans to include a list that identifies and prioritizes certain spatially focused projects, etc. Effective Date: 7/1/2022 | |
| Actions | |
| 01/27/2022 SENATE Now in Appropriations | |
| SB 0834 | Long-term Cleanup of Harmful Algal Blooms by Brodeur |
| Long-term Cleanup of Harmful Algal Blooms; Citing this act as the “Implementation of Long-term Solutions for Cleaning Florida’s Water Bodies Act”; requiring the Department of Environmental Protection to take certain actions to physically remove, reduce, clean up, and respond to harmful algal blooms; requiring the department to give preference to innovative technologies that meet certain standards, etc. Effective Date: 7/1/2022 | |
| Actions | |
| 11/30/2021 SENATE Now in Appropriations Subcommittee on Agriculture, Environment, and General Government | |
| SB 0840 | Residential Property Riparian Rights by Albritton |
| Residential Property Riparian Rights; Requiring land surveyors to give preference to using the prolongation-of-property-line method to establish a property owner’s riparian rights along a channel under certain circumstances; requiring courts to award reasonable attorney fees and costs to a prevailing party in a civil action under certain circumstances, etc. Effective Date: Upon becoming a law | |
| Actions | |
| 02/10/2022 HOUSE In Messages | |
| HB 0841 | Residential Property Riparian Rights by DiCeglie |
| Residential Property Riparian Rights: Requires land surveyors to give preference to using prolongation-of-property-line method to establish property owner's riparian rights along channel; requires courts to award reasonable attorney fees & costs to prevailing party in civil actions. Effective Date: upon becoming a law | |
| Actions | |
| 02/21/2022 HOUSE Placed on Calendar, on 2nd reading | |
| HB 0853 | Unlawful Employment Practices by Daley |
| Unlawful Employment Practices: Revises unlawful employment practices in Florida Civil Rights Act of 1992 to include discriminatory practices relating to military status. Effective Date: July 1, 2022 | |
| Actions | |
| 12/16/2021 HOUSE Now in Civil Justice & Property Rights Subcommittee | |
| HB 0867 | Towing, Storage, and Release of Motor Vehicles by Rizo |
| Towing, Storage, and Release of Motor Vehicles: Provides requirements for release of motor vehicle towed to investigating agency's storage facility; requires investigating agency to pay towing & storage charges to wrecker operator under certain circumstances; prohibits towing company from releasing motor vehicle owned by rental car company to person who rented vehicle unless person is appointed as agent of rental car company; provides requirements for evidence of such agency. Effective Date: July 1, 2022 | |
| Actions | |
| 02/03/2022 HOUSE Now in Civil Justice & Property Rights Subcommittee | |

SB 0882 Inventories of Critical Wetlands by Brodeur

Inventories of Critical Wetlands; Requiring each water management district governing board, in cooperation with local governments, to develop a list of critical wetlands for acquisition using funds from the Land Acquisition Trust Fund; requiring the governing boards to consider certain criteria when including wetlands on the list and to notify owners of property contemplated to be included on the list; requiring owners who wish to have their property removed from the list to submit a certified letter requesting removal; requiring a governing board to approve such removal if the request meets those requirements, etc. Effective Date: 7/1/2022

Actions

03/04/2022 HOUSE Substituted for HB 0761; Read Second Time; Placed on Third Reading, 03/07/22

HB 0887 Heat Illness Prevention in Outdoor Environment Industries by Chambliss

Heat Illness Prevention in Outdoor Environment Industries: Requires certain employers to provide drinking water, shade, & annual training to employees & supervisors; requires DACS, in conjunction with DOH, to adopt specified rules. Effective Date: October 1, 2022

Actions

01/03/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 0908 Fees/Electric Vehicles and Plug-in Hybrid Electric Vehicles by Brandes

Fees/Electric Vehicles and Plug-in Hybrid Electric Vehicles; Imposing specified additional annual flat fees on electric vehicles; imposing a license tax and an additional annual flat fee on plug-in hybrid electric vehicles; authorizing persons and entities to biennially renew vehicle registrations for electric vehicles and plug-in hybrid electric vehicles; providing for the distribution of proceeds from the additional fees, etc. Effective Date: July 1, 2022, but only if SB 918 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

11/30/2021 SENATE Referred to Transportation; Finance and Tax; Appropriations

SB 0918 Electric Vehicle Charging Infrastructure by Brandes

Electric Vehicle Charging Infrastructure; Revising a requirement for the Department of Transportation's goals relating to mobility; requiring that certain funds be used for specified purposes relating to the Electric Vehicle Infrastructure Grant Program, beginning in a specified fiscal year; requiring the department to establish the Electric Vehicle Infrastructure Grant Program; providing the purpose of the program; requiring the Department of Transportation to seek programmatic federal approval for the issuance of permits and for the accommodation as a utility of the installation of electric vehicle charging stations in highway rights-of-way, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect July 1, 2022

Actions

11/30/2021 SENATE Referred to Transportation; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

HB 0921 Campaign Financing by Drake

Campaign Financing: Removes limitation on contributions made to political committees that are in opposition to certain constitutional amendments; provides applicability of limitation on political contributions; provides foreign national may not make or offer to make certain contributions or expenditures. Effective Date: July 1, 2022

Actions

03/04/2022 SENATE Read Second Time; Engrossed Amendment Adopted (721266); Placed on Third Reading, 03/07/22

SB 0932 Everglades Protection Area by Rodriguez (A)

Everglades Protection Area; Requiring comprehensive plans and plan amendments that apply to certain lands within or near the Everglades Protection Area to follow the state coordinated review process;

requiring the Department of Environmental Protection, in consultation with specified entities, to make certain determinations for such plans and amendments, to provide written determinations to the local government and specified entities within a specified timeframe, and to coordinate with the local government and specified entities on certain planning strategies and mitigation measures; authorizing site-specific text changes for small scale future land use map amendments; prohibiting the adoption of small scale development amendments for properties located within or near the Everglades Protection Area, etc. Effective Date: 7/1/2022

Actions

11/30/2021 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 0944 Online Marketplace Transparency by Baxley

Online Marketplace Transparency; Requiring online marketplaces to require high-volume third-party sellers using their service to provide certain information to the online marketplace within a specified timeframe; requiring the online marketplace to verify such information, or changes to such information, within a specified timeframe; providing that information on valid government-issued tax documents is presumed verified as of the issuance date; requiring an online marketplace to update and require certification of the updated information at least annually, etc. Effective Date: 1/1/2023

Actions

03/03/2022 HOUSE In Messages

HB 0949 Employment Accommodations for Family or Household Members of Homicide Victims by Chambliss

Employment Accommodations for Family or Household Members of Homicide Victims: Requires that employer grant certain leave upon request of employee; provides requirements for such leave; requires employee to provide advance notice & certain documentation to his or her employer except; requires confidentiality; prohibits employer from taking certain actions relating to exercise of certain rights; provides remedies. Effective Date: July 1, 2022

Actions

01/07/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 0952 Taxation by Gruters

Taxation; Exempting federal loans related to a state of emergency from the excise tax imposed on documents; increasing the combined total amount of credits which may be granted to business enterprises during any calendar year, etc. Effective Date: Upon becoming a law

Actions

02/03/2022 SENATE Now in Appropriations

HB 0965 Environmental Management by Truenow

Environmental Management: Provides for water quality enhancement areas & permits, water quality enhancement service areas, & enhancement credits; directs DEP & water management districts to authorize sale & use of enhancement credits for specified purposes; directs DEP to maintain specified ledgers; revises requirements for developers & homebuilders to qualify for graywater technology incentives; requires to modify specified rules. Effective Date: July 1, 2022

Actions

03/04/2022 HOUSE Enrolled Text (ER) Filed

SB 0990 Towing Vehicles by Diaz

Towing Vehicles; Prohibiting investigating agencies from releasing motor vehicles towed to an agency's storage facility until certain proof of payment is presented to the agency; specifying that investigating agencies that do not obtain proof of payment must pay certain charges within a specified timeframe; revising the timeframe required for sending notices of lien; prohibiting towing companies from releasing

vehicles owned by rental car companies, which are towed under certain circumstances, to the person who rented the vehicle unless the rental car company appoints the person as its agent, etc. Effective Date: 7/1/2022

Actions

03/02/2022 SENATE Placed on Calendar, on 2nd reading

HB 1019 Saltwater Intrusion Vulnerability Assessments by Duggan

Saltwater Intrusion Vulnerability Assessments: Requires coastal counties to conduct vulnerability assessments analyzing effects of saltwater intrusion on water supplies & preparedness to respond to threats & provide copies to DEP & water management districts; requires water management districts to submit certain projects to DEP; requires DEP to update comprehensive statewide flood vulnerability & sea level rise data, make certain information available online, & provide cost-share funding to coastal counties. Effective Date: upon becoming a law

Actions

01/07/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1065 Vessel Anchoring by Mooney, Jr.

Vessel Anchoring: Provides tenancy conditions for certain moorings & mooring fields in Monroe County; provides relocation & reanchoring requirements for vessels anchored on waters of state within Monroe County; directs FWCC, in consultation with certain entities, to establish designated anchoring areas throughout Monroe County; removes provisions requiring Monroe County to approve certain moorings; requires certain vessels equipped with marine sanitation devices to maintain pumpout records. Effective Date: July 1, 2022

Actions

03/03/2022 HOUSE Read Second Time; Substituted for SB 1432; Laid on Table, Refer to SB 1432

HB 1077 Public Financing of Potentially At-risk Structures and Infrastructure by Hunschofsky

Public Financing of Potentially At-risk Structures and Infrastructure: Provides certain areas are at risk due to sea level rise & structures & infrastructure within those areas are potentially at risk. Effective Date: July 1, 2022

Actions

02/24/2022 HOUSE Placed on Calendar, on 2nd reading

HB 1081 Office of the Blue Economy by Skidmore

Office of the Blue Economy: Establishes Office of the Blue Economy within DEO; provides duties of office; requires EDR to conduct biennial evaluation of blue economy for inclusion in certain assessment. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

SB 1090 Corporate Income Tax by Gruters

Corporate Income Tax; Adopting the 2022 version of the Internal Revenue Code for purposes of the state corporate income tax code; providing for retroactive operation; providing applicability for adjustments taxpayers must make to adjusted federal income with respect to bonus depreciation; revising the adjustments taxpayers must make to adjusted federal income with respect to business interest, etc. Effective Date: Except as otherwise expressly provided in this act, this act shall take effect upon becoming a law

Actions

02/04/2022 SENATE Now in Appropriations

HB 1113 Employer Retaliation for Covid-19 Quarantine by Benjamin

Employer Retaliation for Covid-19 Quarantine: Prohibits employer from taking retaliatory action against

employee who takes leave of absence to quarantine after testing positive for COVID-19 & provides proof of positive test to employer; authorizes employee to use sick leave for such quarantine if sick leave is available to employee. Effective Date: upon becoming a law

Actions

01/10/2022 HOUSE Now in Regulatory Reform Subcommittee

SB 1128 Aquatic Plant Management by Harrell

Aquatic Plant Management; Requiring the Fish and Wildlife Conservation Commission, in consultation with the Institute of Food and Agricultural Sciences at the University of Florida and the Water School at Florida Gulf Coast University, to implement and study certain nutrient removal technologies and mechanical aquatic plant management techniques within the Lake Okeechobee watershed; authorizing the commission to consult and contract with entities for such implementation and study, etc. APPROPRIATION: \$500,000 Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

HB 1129 Mangrove Replanting and Restoration by Avila

Mangrove Replanting and Restoration: Requires DEP to adopt rules for mangrove replanting & restoration; provides rule requirements. Effective Date: July 1, 2022

Actions

02/08/2022 HOUSE Now in State Affairs Committee

HB 1153 Contacting Consumer Debtors by Toledo

Contacting Consumer Debtors: Prohibits contacting debtors in certain situations; provides requirements for each type of debtor; specifies length of each prohibition. Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Insurance & Banking Subcommittee

HB 1163 Sales Tax Exemptions for Hydrogen Products by Overdorf

Sales Tax Exemptions for Hydrogen Products: Exempts from sales taxes purchase of machinery & equipment that produce electric or steam energy from burning green hydrogen; requires proration of exemption under specified conditions; exempts from sales taxes purchase of hydrogen used in specified industrial settings; exempts from sales taxes purchase of machinery & equipment involving green hydrogen, certain types of ammonia, & electrochemical reactions of green hydrogen & oxygen. Effective Date: July 1, 2022

Actions

02/10/2022 HOUSE Now in Ways & Means Committee

HB 1185 Legislative Review of Proposed Regulation of Unregulated Functions by Plakon

Legislative Review of Proposed Regulation of Unregulated Functions: Provides certain requirements before adoption of regulation of unregulated profession or occupation or substantial expansion of regulation of regulated profession or occupation; requires proponents to provide certain information to state agency & Legislature; requires state agency to provide certain information to Legislature; provides exception; revises information that legislative committee must consider when determining whether regulation is justified. Effective Date: July 1, 2022

Actions

02/10/2022 HOUSE Now in Commerce Committee

HB 1191 Restrictions on Employment by Altman

Restrictions on Employment: Provides that restrictive covenants are only enforceable against former employee, agent, or independent contractor who voluntarily resigned or was terminated because of

misconduct; defines "misconduct". Effective Date: July 1, 2022

Actions

01/10/2022 HOUSE Now in Regulatory Reform Subcommittee

HB 1225 Vessel Safety Flags by Altman

Vessel Safety Flags: Removes requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibits operation & anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions; provides penalties. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1227 Online Marketplace Transparency by Toledo

Online Marketplace Transparency: Requires online marketplaces to require high-volume third-party sellers using their service to provide information to online marketplace within specified timeframe; requires online marketplace to suspend sellers who do not provide such certification or updated information; requires online marketplaces to disclose information in specified manner; preempts regulation of verification & disclosure of such information to Department of Legal Affairs. Effective Date: January 1, 2023

Actions

02/04/2022 HOUSE Now in Commerce Committee

SB 1232 Florida Occupational Safety and Health State Plan by Pizzo

Florida Occupational Safety and Health State Plan; Repealing a provision relating to the Florida Occupational Safety and Health State Plan, etc. Effective Date: Upon becoming a law

Actions

01/05/2022 SENATE Referred to Criminal Justice; Judiciary; Rules

SB 1234 Vaccinations During Public Health Emergencies by Pizzo

Vaccinations During Public Health Emergencies; Authorizing the State Health Officer to order the vaccination of individuals upon declaration of a public health emergency under certain circumstances; revising a requirement that the Department of Health adopt certain rules, etc. Effective Date: Upon becoming a law

Actions

01/05/2022 SENATE Referred to Criminal Justice; Health Policy; Rules

SB 1238 Saltwater Intrusion Vulnerability Assessments by Polsky

Saltwater Intrusion Vulnerability Assessments; Authorizing the Department of Environmental Protection to provide grants for saltwater intrusion vulnerability assessments; requiring the department to update the comprehensive statewide flood vulnerability and sea level rise data set and make certain information received from the saltwater intrusion vulnerability assessments available on its website; requiring the department to provide cost-share funding up to a specified amount for awarded grants, etc. Effective Date: Upon becoming a law

Actions

02/02/2022 SENATE Now in Governmental Oversight and Accountability

HB 1265 Local Regulation of Vessels by Caruso

Local Regulation of Vessels: Authorizes local governments to regulate the anchoring of certain vessels. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

HB 1267 Calculation for Measuring Shrimp Trawls by Shoaf

Calculation for Measuring Shrimp Trawls: Proposes amendment to State Constitution to provide calculation for measuring mesh area of shrimp trawls under marine net fishing limitation.

Actions

01/12/2022 HOUSE Now in Environment, Agriculture & Flooding Subcommittee

SB 1270 Recreational Licenses and Permits for Military Servicemembers and Veterans by Albritton

Recreational Licenses and Permits for Military Servicemembers and Veterans; Providing free and discounted hunting, freshwater fishing, and saltwater fishing licenses and permits to certain military servicemembers and veterans, etc. Effective Date: 7/1/2022

Actions

01/26/2022 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 01/28/22, 10:30 am, 117 K (No Votes Will Be Taken)

SB 1276 Legislative Review of Proposed Regulation of Unregulated Functions by Diaz

Legislative Review of Proposed Regulation of Unregulated Functions; Providing that certain requirements must be met before adopting the regulation of an unregulated profession or occupation or the substantial expansion of regulation of a regulated profession or occupation; requiring the proponents of legislation that proposes such regulation to provide certain information to the state agency that would have jurisdiction over the proposed regulation and to the Legislature by a certain date; requiring such state agency to provide certain information to the Legislature within a specified timeframe; providing an exception, etc. Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Regulated Industries; Governmental Oversight and Accountability; Rules

HB 1293 Tax Exemptions and Tax Credits by Gregory

Tax Exemptions and Tax Credits: Exempts certain federal loans from documentary stamp taxes; revises upward amount of money available for research & development tax credits. Effective Date: July 1, 2022

Actions

01/12/2022 HOUSE Now in Ways & Means Committee

SB 1306 Leave for Family or Household Members of Homicide Victims by Jones

Leave for Family or Household Members of Homicide Victims; Requiring employers to authorize employees to request and take up to a specified number of days of leave from work under certain circumstances; requiring employees taking such leave to provide advance notice and documentation to employers; requiring private employers to keep information relating to such leave confidential; providing a remedy for violations of specified provisions, etc. Effective Date: 7/1/2022

Actions

01/05/2022 SENATE Referred to Commerce and Tourism; Governmental Oversight and Accountability; Appropriations

SB 1308 Public Records/Family or Household Members of Homicide Victims by Jones

Public Records/Family or Household Members of Homicide Victims; Providing a public records exemption for certain personal identifying information, records, and timesheets submitted to an agency by an employee who is requesting specified leave relating to a homicide; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. Effective Date: On the same date that SB 1306 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a law

Actions

SENATE Referred to Commerce and Tourism; Governmental Oversight and

SB 1338 Floating Solar Facilities by Diaz

Floating Solar Facilities; Defining the term “floating solar facility”; providing that a floating solar facility must be a permitted use in appropriate land use categories in each local government’s comprehensive plan; requiring each local government to amend its development regulations to promote the expanded use of floating solar facilities; requiring the Office of Energy within the Department of Agriculture and Consumer Services to submit specified recommendations to the Legislature to provide a regulatory framework relating to floating solar facilities, etc. Effective Date: 7/1/2022

Actions

03/02/2022 SENATE Read Second Time; Substituted for HB 1411; Laid on Table, Refer to HB 1411

SB 1352 Limitations on Political Contributions by Brodeur

Limitations on Political Contributions; Defining the term “foreign national”; providing that a foreign national may not make or offer to make certain contributions or expenditures, etc. Effective Date: 7/1/2022

Actions

03/03/2022 SENATE Read Second Time; Amendments Adopted (917348, 168508); Substituted for HB 0921; Laid on Table, Refer to HB 0921

HB 1381 Retail Petroleum Fuel Measuring Devices by Silvers

Retail Petroleum Fuel Measuring Devices: Removes provisions authorizing security tape & daily inspections as security measure options for retail petroleum fuel measuring devices; requires owners & operators of retail petroleum fuel measuring devices to conduct daily inspections & report security breaches to DACS; requires registered meter mechanics to report illegal devices to DACS. Effective Date: July 1, 2022

Actions

01/14/2022 HOUSE Now in Regulatory Reform Subcommittee

HB 1411 Floating Solar Facilities by Avila

Floating Solar Facilities: Requires floating solar facility to be permitted use in certain land use categories; requires local governments to promote expanded uses of floating solar facilities by taking specified actions; authorizes county or municipality to specify buffer & landscaping requirements; requires Office of Energy within DACS to submit recommendations to Legislature regarding floating solar facilities. Effective Date: July 1, 2022

Actions

03/02/2022 HOUSE Enrolled Text (ER) Filed

SB 1416 Mangrove Replanting and Restoration by Garcia

Mangrove Replanting and Restoration: Requiring the Department of Environmental Protection to adopt rules for mangrove replanting and restoration, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 1424 Prohibited Practices when Collecting Consumer Debts by Rodriguez (A)

Prohibited Practices when Collecting Consumer Debts; Prohibiting persons from contacting debtors when collecting a consumer debt if the debt arises from specified circumstances relating to domestic abuse, elder abuse, human trafficking, identify theft, exploitation of a vulnerable adult, or sexual abuse and certain requirements are met; providing applicability, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Banking and Insurance; Commerce and Tourism; Rules

SB 1426 Environmental Management by Burgess

Environmental Management; Providing for water quality enhancement areas; requiring the Department of Environmental Protection to establish water quality enhancement service areas; requiring the department and water management districts to authorize the sale and use of enhancement credits to governmental entities to address certain adverse water quality impacts and to meet certain water quality requirements; revising the conditions that a developer or homebuilder must certify it meets as part of its application for development approval or amendment of a development order, etc. Effective Date: Upon becoming a law

Actions

03/04/2022 SENATE Read Second Time; Substituted for HB 0965; Laid on Table, Refer to HB 0965

SB 1432 Vessel Anchoring by Rodriguez (A)

Vessel Anchoring; Providing tenancy and lease conditions for approved and permitted mooring and mooring fields in Monroe County; requiring certain anchored vessels in Monroe County to be re-anchored in a new location that meets certain requirements according to a specified timeframe; requiring the Fish and Wildlife Conservation Commission, in consultation with certain entities, to establish designated anchoring areas within the county by rule; providing an exception for certain domiciled vessels; requiring certain vessels equipped with marine sanitation devices to maintain specified records of such devices, etc. Effective Date: 7/1/2022

Actions

03/06/2022 SENATE Enrolled Text (ER) Filed

SB 1434 Public Financing of Potentially At-risk Structures and Infrastructure by Rodriguez (A)

Public Financing of Potentially At-risk Structures and Infrastructure; Providing that certain areas are at risk due to sea-level rise and structures and infrastructure within those areas are potentially at risk; providing an additional requirement for the standard for conducting a SLIP study, etc. Effective Date: 7/1/2022

Actions

02/22/2022 SENATE Now in Appropriations

SB 1454 Office of the Blue Economy by Ausley

Office of the Blue Economy; Establishing the office within the Department of Economic Opportunity; defining the term "blue economy"; providing duties of the office; requiring the Office of Economic and Demographic Research to conduct a biennial evaluation of the blue economy for inclusion in a certain assessment, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Appropriations Subcommittee on Transportation, Tourism, and Economic Development; Appropriations

SB 1546 Vessel Safety Flags by Baxley

Vessel Safety Flags: Removing the requirement that airboats be equipped with masts or flagpoles bearing certain safety flags; prohibiting the operation and anchoring of vessels without masts or flagpoles bearing certain safety flags under specified conditions, etc. Effective Date: 7/1/2023

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

SB 1570 Economic Assistance to New Businesses by Jones

Economic Assistance to New Businesses; Requiring the Department of Management Services to encourage agencies to allocate a certain percentage of specified funds to purchase commodities and contractual services from certain businesses; requiring the Department of Economic Opportunity to award a specified minimum amount of funds to certain businesses; creating the "Florida Right to Start Act"; prohibiting agencies from requiring eligible new businesses or persons establishing an eligible new business from paying fees relating to licenses or registrations for the business for a specified amount of

time; creating the Self-Employment Assistance Program within the Department of Economic Opportunity; requiring that a specified percentage of workforce development funding go to certain individuals and businesses, etc. Effective Date: 1/1/2023

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Finance and Tax; Appropriations

SB 1584 Outstanding Florida Springs by Gruters

Outstanding Florida Springs; Designating additional springs as Outstanding Florida Springs, etc. Effective Date: Upon becoming a law

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Community Affairs; Rules

HB 1593 Ocean Highway and Port Authority, Nassau County by Byrd

Ocean Highway and Port Authority, Nassau County: Prohibits shifting responsibility for paying ad valorem taxes of authority-owned properties used for private purposes to authority; provides exceptions for necessity of authority to obtain certain documentation to develop facilities or otherwise improve its facilities. Effective Date: upon becoming a law

Actions

02/02/2022 HOUSE Temporarily Postponed by Local Administration & Veterans Affairs Subcommittee

SB 1610 Taxation by Rodriguez (A)

Taxation; Providing for the eligibility for abatement of ad valorem taxes and non-ad valorem assessments for residential improvements destroyed following certain events; requiring property appraisers to provide specified statements to tax collectors; prohibiting property appraisers and tax collectors from issuing specified notices for parcels meeting certain requirements; requiring property appraisers to notify taxpayers of the abatement of taxes and non-ad valorem assessments under certain circumstances; requiring value adjustment boards to dismiss petitions under certain circumstances, etc. Effective Date: Upon becoming a law

Actions

03/02/2022 SENATE Placed on Calendar, on 2nd reading

SB 1650 Boating and Vessel Safety by Gruters

Boating and Vessel Safety; Requiring certain boating safety education courses and temporary certificate examinations to include specified components; directing the Fish and Wildlife Conservation Commission to include such components in boating safety education campaigns and certain educational materials; requiring instructors of water sports and activities to wear engine cutoff switches under certain conditions, etc. Effective Date: 7/1/2022

Actions

01/12/2022 SENATE Referred to Environment and Natural Resources; Appropriations Subcommittee on Agriculture, Environment, and General Government; Appropriations

SB 1714 Prohibited Employer Retaliation Related to COVID-19 by Taddeo

Prohibited Employer Retaliation Related to COVID-19; Prohibiting an employer from taking retaliatory action against an employee who takes a leave of absence to quarantine after testing positive for COVID-19 and provides proof of the positive test to the employer; authorizing an employee to use sick leave for such quarantine if sick leave is available to the employee, etc. Effective Date: Upon becoming a law

Actions

01/12/2022 SENATE Referred to Commerce and Tourism; Judiciary; Rules

SB 1900 Preemption to the State by Torres, Jr.

Preemption to the State; Removing provisions which preempt counties, municipalities, and other local

governmental entities from enacting or adopting any limitation or restriction involving certain contributions and expenditures, or establishing contribution limits different than those established in the Florida Election Code; removing provisions which require counties and entities of local government to pay ad valorem taxes or fees under specified conditions on certain telecommunications facilities; removing provisions which require municipalities and other entities of local government to pay ad valorem taxes or fees under specified conditions on certain telecommunications facilities, etc. Effective Date: On the effective date of the amendment to the State Constitution proposed by SJR 152 or a similar joint resolution having substantially the same specific intent and purpose, if such amendment to the State Constitution is approved at the general election held in November 2022 or at an earlier special election specifically authorized by law for that purpose

Actions

01/12/2022 SENATE Referred to Community Affairs; Judiciary; Appropriations

SB 1940 Statewide Flooding and Sea Level Rise Resilience by Brodeur

Statewide Flooding and Sea Level Rise Resilience; Establishing the Statewide Office of Resilience within the Executive Office of the Governor; providing for the appointment of a Chief Resilience Officer; requiring the Department of Transportation to develop a resilience action plan for the State Highway System; revising the projects the Department of Environmental Protection may fund within the Resilient Florida Grant Program; extending the dates by which the department must complete a comprehensive statewide flood vulnerability and sea-level rise data set and assessment; requiring the Florida Flood Hub for Applied Research and Innovation to provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments, etc. Effective Date: 7/1/2022

Actions

03/01/2022 SENATE Placed on Calendar, on 2nd reading

HB 2233 Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality by Rommel

Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality: Provides an appropriation for the Bonefish and Tarpon Trust Restoring Coastal Resilience and Water Quality. Effective Date: July 1, 2022

Actions

01/13/2022 HOUSE Now in Appropriations Committee

SB 2508 Environmental Resources by Appropriations

Environmental Resources; Providing that certain land acquisitions are not required to meet specified valuation procedures; providing requirements for budget amendments requesting the release of state funds for specified water project components; requiring the South Florida Water Management District to make a specified certification to the Legislature regarding its recommendations to the United States Army Corps of Engineers; authorizing the Department of Environmental Protection to enter into agreements or contracts with certain entities to expedite the evaluation of certain environmental permits, etc. Effective Date: Except as otherwise expressly provided in this act and except for this section, which shall take effect upon this act becoming a law, this act shall take effect July 1, 2022

Actions

03/01/2022 SENATE Conference Committee appointed

HB 2819 Florida Ocean Alliance Expanding Florida's Blue Economy by Latvala

Florida Ocean Alliance Expanding Florida's Blue Economy: Provides an appropriation for the Florida Ocean Alliance Expanding Florida's Blue Economy. Effective Date: July 1, 2022

Actions

01/25/2022 HOUSE Now in Appropriations Committee

HB 2897 Monroe County Mobile Vessel Pumpout Program by Mooney, Jr.

Monroe County Mobile Vessel Pumpout Program: Provides an appropriation for the Monroe County Mobile Vessel Pumpout Program. Effective Date: July 1, 2022

Actions

01/13/2022 HOUSE Now in Appropriations Committee

HB 5001 General Appropriations Act by Appropriations Committee

General Appropriations Act: Provides moneys for annual period beginning July 1, 2022, & ending June 30, 2023, & supplemental appropriations for period ending June 30, 2022, to pay salaries & other expenses, capital outlay—buildings & other improvements, & for other specified purposes of various agencies of state government. Effective Date: July 1, 2022

Actions

03/01/2022 HOUSE Conference Committee appointed

HB 5015 Evaluation of Significant State Risks by Appropriations Committee

Evaluation of Significant State Risks: Creates Legislative Office of Risk Assessment; provides office shall be headed by chief risk officer; requires office to develop & update State Risk Register; provides specifications for State Risk Register; requires office to biennially submit register & certain list to LBC; requires office to submit annual progress report to Legislature; establishes Risk Estimating Conference; requires conference to estimate economic damage associated with risks identified in register. Effective Date: July 1, 2022

Actions

03/03/2022 SENATE Bill placed in Conference (Appropriations Conference Committee /Appropriations); Conference Committee appointed

HB 6001 Verification of Employment Eligibility by a Private Employer by Sabatini

Verification of Employment Eligibility by a Private Employer: Removes option for private employer to verify person's employment eligibility using specified federal form; removes requirement that private employer maintain records for specified length of time; removes authorization for certain persons & entities to request, & requirement that private employer provide, documentation relating to person's employment eligibility. Effective Date: July 1, 2022

Actions

09/17/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 6003 Legal Rights of the Natural Environment by Eskamani

Legal Rights of the Natural Environment: Removes provisions prohibiting local governments from recognizing or granting certain legal rights to natural environment or granting such rights relating to natural environment to person or political subdivision. Effective Date: July 1, 2022

Actions

09/17/2021 HOUSE Now in Civil Justice & Property Rights Subcommittee

HB 6047 Wage and Employment Benefits Requirements by Smith (C)

Wage and Employment Benefits Requirements: Repeals provisions relating to prohibitions on establishment of minimum wage & employment benefits requirements by political subdivisions. Effective Date: July 1, 2022

Actions

10/22/2021 HOUSE Now in Regulatory Reform Subcommittee

HB 6051 Aircraft Sales and Lease Tax by Overdorf

Aircraft Sales and Lease Tax: Exempts all aircraft sales & leases from sales & use tax. Effective Date: July 1, 2022

Actions

11/18/2021 Bill to be Discussed During the Office of EDR's Revenue Estimating Impact Conference, 11/19/21, 1:30 pm, 117 K (No Votes Will Be Taken)

HB 6083 Fuel Sales Tax by Learned

Fuel Sales Tax: Removes annual indexing of fuel sales tax rates. Effective Date: July 1, 2022

Actions

12/13/2021 HOUSE Now in Tourism, Infrastructure & Energy Subcommittee

HB 7053 Statewide Flooding and Sea Level Rise Resilience by Environment, Agriculture & Flooding Subcommittee

Statewide Flooding and Sea Level Rise Resilience: Establishes Statewide Office of Resilience within EOG; provides for appointment of Chief Resilience Officer; requires DEP to submit report to Governor & Legislature; requires DOT to develop resilience action plan for State Highway System & submit plan & reports to Governor & Legislature; revises projects DEP may fund within Resilient Florida Grant Program; revises vulnerability assessment requirements for noncoastal communities; extends dates by which DEP must complete comprehensive statewide flood vulnerability & sea level rise data set & assessment; requires projects to be ranked in Statewide Flood & Sea Level Rise Resilience Plan; requires Florida Flood Hub for Applied Research & Innovation to provide tidal & storm surge flooding data to certain entities; revises requirements for copies of evaluation certificates that must be submitted to DEM. Effective Date: July 1, 2022

Actions

03/02/2022 SENATE Received; Referred to Appropriations

HB 7071 Taxation by Ways & Means Committee

Taxation: Provides specified tax exemptions for specified industries & products; provides tax credits for specified businesses; provides refunds of previously paid taxes for specified purposes; provides abatement of taxes paid for specified purposes; provides sales tax holidays for specified items. Effective Date: July 1, 2022

Actions

03/02/2022 SENATE Received; Referred to Appropriations

EAF1 Statewide Flooding and Sea Level Rise Resilience by Environment, Agriculture & Flooding Subcommittee

PCB EAF 22-01 – Statewide Flooding and Sea Level Rise Resilience

Actions

02/03/2022 HOUSE Committee Bill Filed as HB 7053

WMC1 Taxation by Ways & Means Committee

PCB WMC 22-01 – Taxation

Actions

02/18/2022 HOUSE Committee Bill filed as HB 7071