



Agriculture & Natural Resources Subcommittee

**Tuesday, March 11, 2014
12:30 PM
Reed Hall (102 HOB)**

MEETING PACKET

**Will Weatherford
Speaker**

**Matthew H. "Matt" Caldwell
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Agriculture & Natural Resources Subcommittee

Start Date and Time: Tuesday, March 11, 2014 12:30 pm
End Date and Time: Tuesday, March 11, 2014 02:30 pm
Location: Reed Hall (102 HOB)
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 771 Secondary Metals Recyclers by Combee

HB 791 Coastal Management by Renuart

HB 955 Fish and Wildlife Conservation Commission by Goodson

HB 987 Local Government Infrastructure Surtax by Goodson

Presentation by the Florida Future Farmers of America Association on Agricultural Education in Florida

NOTICE FINALIZED on 03/07/2014 16:00 by Sims-Davis.Linda

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

A secondary metals recycler is, generally, a person who is engaged in the business of obtaining ferrous¹ or nonferrous² metals, or converting metals into raw material products, or who has facilities for converting metals into raw material products.³ Secondary metals recyclers are currently regulated by the Department of Revenue (DOR) under Part II of ch. 538, F.S.

Required Records

Section 538.19, F.S., requires a secondary metals recycler to maintain legible paper and electronic records, approved by the Department of Law Enforcement, of all purchase transactions. Electronic records of a purchase transaction must be electronically transmitted to the appropriate law enforcement official no later than 10 a.m. of the business day following the date of the purchase transaction.

Inspections of Regulated Metals Property and Records

During the usual business hours of a secondary metals recycler, a properly identified law enforcement officer has the right to inspect any and all purchased regulated metals property in the possession of a secondary metals recycler and any and all records required to be maintained.⁴

Violations and Penalties

Pursuant to s. 538.23(1)(a), F.S., a secondary metals recycler commits a third degree felony⁵ if he or she knowingly and intentionally:

- Violates provisions related to inspections⁶ or hold notices;^{7,8}
- Engages in a pattern of failing to keep records;⁹
- Purchases regulated metals property, restricted regulated metals property, or ferrous metals from any seller when such property was not transported in a motor vehicle;¹⁰ or
- Violates provisions related to methods of payment.¹¹

¹ Section 538.18(3), F.S., defines ferrous metals as any metals containing significant quantities of iron or steel.

² Section 538.(6), F.S., defines nonferrous metals as metals not containing significant quantities of iron or steel, including, without limitation, copper, brass, aluminum, bronze, lead, zinc, nickel, and alloys, excluding precious metals.

³ See s. 538.18(11), F.S.

⁴ Section 538.20, F.S.

⁵ A third degree felony is punishable by up to five years imprisonment, or up to 10 years for habitual offenders, and a \$5,000 fine. Sections 772.082, 772.083, and 772.084, F.S.

⁶ Section 538.20, F.S.

⁷ Section 538.21, F.S.

⁸ If a law enforcement officer has a reasonable cause to believe that certain items of regulated metals property in possession of a secondary metals recycler has been stolen, the law enforcement officer may issue a hold notice. Upon receipt of the notice, the secondary metals recycler cannot process or remove the regulated metals property identified in the notice for 15 days after receipt of the notice.

⁹ Section 538.19, F.S.

¹⁰ Section 538.26(2), F.S.

¹¹ Section 538.235, F.S.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 771 Secondary Metals Recyclers
SPONSOR(S): Combee
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1182

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Renner <i>JR</i>	Blalock <i>MTB</i>
2) Appropriations Committee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Secondary metals recyclers are currently regulated by the Department of Revenue (DOR) under Part II of ch. 538, F.S. Current law requires a secondary metals recycler to register with DOR prior to engaging in business, provides for the inspection of regulated metals property and records, and provides certain prohibitions and penalties.

The bill includes the following revisions pertaining to the regulation of secondary metals recyclers:

- Transfers all powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of DOR relating to the administration of the laws governing secondary metals recyclers, by a type two transfer, to the Department of Agriculture and Consumer Services (DACS).
- Specifies that in order to be a secondary metals recycler, a person must register on an application form prescribed by DACS; increases the annual registration fee for each of the secondary metals recyclers locations from \$6 to \$350; requires each secondary metals recycler to maintain current and valid workers' compensation insurance and general liability insurance coverage in a minimum amount established by DACS throughout the registration period, and must provide DACS with written evidence of each before registering; and provides administrative penalties for noncompliance.
- Requires immediate suspension of a registration or application for registration if the registrant or applicant is convicted of certain felony offenses, such as theft, robbery, dealing in stolen property, and fraud; allows suspension, revocation, restriction of a registration if, within the previous 10 years (instead of 2 years as under current law), the registrant was convicted of certain crimes.
- Provides that a violation of certain prohibited acts and practices related to secondary metals recyclers constitutes a third degree felony; specifies that a person who knowingly provides false information and then receives money or other consideration from a secondary metals recycler in return for regulated metals property, commits a second or third degree felony depending on the value of the money or consideration received; and provides that a person commits a second degree felony if the money or other consideration received is for restricted regulated metals.
- Provides that, in addition to a law enforcement officer, an employee of DACS who is a non-sworn trained regulatory investigator has the right to inspect all purchased regulated metals property in possession of a secondary metals recycler, and all records maintained by a secondary metals recycler; authorizes DACS to seek an injunction in court if DACS personnel are denied access to a registrant's place of business in order to verify registration.
- Prohibits the purchase of regulated metals property, restricted regulated metals property, or ferrous metals at any time on Sundays; and prohibits the purchase of certain restricted regulated metals property without obtaining proof that the seller owns the regulated metals property.
- Removes the civil fine for violations pertaining to knowing and intentional violations of the registration requirements. Secondary metals recyclers that fail to register will continue to be committing a third degree felony.
- Authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

The bill appears to have a negative fiscal impact on the Department of Agriculture and Consumer Services (See Fiscal Comments Section). The bill does not appear to have a fiscal impact on local governments.

A person who knowingly gives false verification of ownership or gives a false or altered identification and who receives money or other consideration from a secondary metals recycler in return for regulated metals property commits:

- A third degree felony¹² if the value of the money or other consideration received is less than \$300.
- A second degree felony¹³ if the value of the money or other consideration received is \$300 or more.¹⁴

Registration

A person must register with DOR to engage in business as a secondary metals recycler at any location.¹⁵ DOR can only accept applications from a fixed business address and will not accept an application form that provides an address of a hotel or motel room, a vehicle, or a post office box. Furthermore, the registration must be conspicuously displayed at the place of business set forth on the registration.¹⁶

An application for registration must include a fee equal to the federal and state costs for processing required fingerprints.¹⁷ One application is required for each secondary metals recycler, and if a secondary metals recycler owns more than one location, the application must list each location and DOR will issue a duplicate registration for each location. A secondary metals recycler must pay a \$6 fee for each location at the time of registration and an annual renewal fee of \$6 per location on October 1 of each year. All fees, less cost of administration, are deposited into the DOR Operating Trust Fund.

DOR is authorized to impose a civil fine of up to \$10,000 for each knowing and intentional violation of the registration requirements in s. 538.25, F.S., and if the fine is not paid within 60 days, DOR is authorized to bring a civil action under the Administrative Procedure Act.¹⁸ The fine must be transferred into the General Revenue Fund.

A person acting as a secondary metals recycler who is not registered with DOR commits a third degree felony punishable by up to 5 years in prison, or up to 10 years for habitual offenders, and a fine not to exceed \$5,000.¹⁹

In addition to imposing fines for violations, DOR may deny, revoke, restrict, or suspend a registration if, within the preceding 24 months, the applicant or registrant, knowingly and intentionally:²⁰

- Violates provisions related to inspections²¹ or hold notices;²²
- Engages in a pattern of failing to keep records;²³
- Makes a material false statement in the application for registration; or
- Engages in a fraudulent act in connection with any purchase or sale of regulated metals property.

¹² See *supra* at note 5.

¹³ A second degree felony is punishable by up to 15 years imprisonment, or up to 30 years for habitual offenders, and a \$10,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

¹⁴ Section 538.23(3), F.S.

¹⁵ Section 538.25(1), F.S.

¹⁶ Section 538.25(2), F.S.

¹⁷ Section 538.25(1)(a), F.S.

¹⁸ Section 120.69, F.S.

¹⁹ Sections 775.082, 775.083, and 775.084, F.S.

²⁰ Section 538.25(4), F.S.

²¹ Section 538.20, F.S.

²² Section 538.21, F.S.

²³ Section 538.19, F.S.

The same penalties may be assessed if, within the preceding 24 months:

- The applicant or registrant has been convicted of, or entered a plea of guilty or nolo contendere to, a felony committed by the secondary metals recycler under state or federal involving theft, larceny, dealing in stolen property, receiving stolen property, burglary, embezzlement, obtaining property by false pretenses, possession of altered property, or any felony drug offense or of knowingly and intentionally violating the laws of the state relating to registration as a secondary metals recycler; or
- The applicant has, after receipt of written notice from the department of failure to pay sales tax, failed or refused to pay, within 30 days after the secondary metals recycler's receipt of such written notice, any sales tax owed to the department.

Prohibited Acts and Practices

Section 538.26, F.S., provides that it is unlawful for a secondary metals recycler to:

- Purchase regulated metals property, restricted regulated metals property, or ferrous metals before 7 a.m. or after 7 p.m.
- Purchase regulated metals property, restricted regulated metals property, or ferrous metals from any seller when such property was not transported in a motor vehicle.
- Purchase regulated metals property, restricted regulated metals property, or ferrous metals from any location other than a fixed location.
- Purchase regulated metals property from a seller who:
 - Uses a name other than his or her own name or the registered name of the seller's business;
 - Is younger than 18 years of age; or
 - Is visibly or apparently under the influence of drugs or alcohol.
- Purchase the following restricted regulated metals property without obtaining proof that the seller owns the regulated metals property:
 - A manhole cover.
 - An electric light pole or other utility structure and its fixtures, wires, and hardware that are readily identifiable as connected to the utility structure.
 - A guardrail.
 - A street sign, traffic sign, or traffic signal and its fixtures and hardware.
 - A funeral marker or funeral vase.
 - A historical marker.
 - Railroad equipment, including, but not limited to, a tie plate, signal house, control box, switch plate, E clip, or rail tie junction.
 - Communication, transmission, distribution, and service wire from a utility, including copper or aluminum bus bars, connectors, grounding plates, or grounding wire.
 - A copper, aluminum, or aluminum-copper condensing or evaporator coil, including its tubing or rods, from an air-conditioning or heating unit, excluding coils from window air-conditioning or heating units and motor vehicle air-conditioning or heating units.
 - An aluminum or stainless steel container or bottle designed to hold propane for fueling forklifts.
 - A stainless steel beer keg.
 - A catalytic converter or any nonferrous part of a catalytic converter unless purchased as part of a motor vehicle.
 - Metallic wire that has been burned in whole or in part to remove insulation.
 - A brass or bronze commercial valve or fitting, referred to as a "fire department connection and control valve" or an "FDC valve," that is commonly used on structures for access to water for the purpose of extinguishing fires.
 - A brass or bronze commercial potable water backflow preventer valve that is commonly used to prevent backflow of potable water from commercial structures into municipal domestic water service systems.

- A shopping cart.
- A brass water meter.
- A storm grate.
- A brass sprinkler head used in commercial agriculture.
- More than two lead-acid batteries, or any part or component of the battery, in a single purchase or from the same individual in a single day.²⁴

Confidentiality and Information Sharing

Section 213.053(2), F.S., provides that all information contained in returns, reports, accounts, or declarations received by DOR, including investigative reports and information and letters of technical advice, is confidential except for official purposes. This applies to certain taxes, trust funds, fees, and the registration of secondary metals recyclers.²⁵ Nevertheless, DOR may disclose information to governmental or nongovernmental agencies pursuant to a written agreement between the executive director of DOR and the agency. Furthermore, those agencies are bound by the same requirements of confidentiality as DOR.

Effect of Proposed Changes

Section 1. Transferring Regulation of Secondary Metals Recyclers from DOR to the Department of Agriculture and Consumer Services

The bill transfers all powers, duties, functions, records, personnel, property, pending issues, existing contracts, administrative authority, administrative rules, and unexpended balances of appropriations, allocations, and other funds of DOR relating to the administration of Part II of ch. 538, F.S., by a type two transfer,²⁶ to the Department of Agriculture and Consumer Services (DACS).

The transfer does not affect the validity of any judicial or administrative action pending as of 11:59 p.m. on the day before the effective date of the bill to which DOR is at that time a party, and DACS must be substituted as a party in interest in any such action.

All lawful orders issued by DOR relating to the administration of Part II of ch. 538, F.S., issued before the effective date of the bill must remain in effect and be enforceable after the effective date unless subsequently modified in accordance with law.

In addition, the rules of DOR relating to the administration of Part II of ch. 538, F.S., that were in effect at 11:59 p.m. on the day before the effective date of the bill must remain in effect and be enforceable after the effective date unless subsequently modified in accordance with law.

Section 2. Confidentiality and Information Sharing

The bill authorizes DOR to provide information related to taxes on sales, use, and other transactions, and to secondary metals recyclers to DACS.

Sections 3, 4, and 5. Provides Non-Substantive Revisions and Conforming Cross-References

²⁴ Section 538.26(5), F.S.

²⁵ Section 213.053(1), F.S.

²⁶ Section 20.06(2), F.S., defines a type two transfer as merging into another agency or department of an existing agency or department or a program, activity, or function of, if certain identifiable units or subunits, programs, activities, or functions are removed from the existing agency or department with the certain identifiable units or subunits, programs, activities, or functions removed therefrom or abolished. Any agency transferred by a type two transfer has all its statutory powers, duties, and functions. Unless provided by law, the administrative rules of any agency or department involved in the transfer which are in effect immediately before the transfer remain in effect until specifically changed in the manner provided by law.

Section 6. Inspection of Regulated Metals Property and Records

The bill provides that, in addition to a law enforcement officer, an employee of DACS who is a non-sworn trained regulatory investigator has the right to inspect all purchased regulated metals property in possession of a secondary metals recycler and all records maintained by a secondary metals recycler.

Sections 7. Provides Non-substantive Conforming Revisions

Sections 8 and 10. Prohibited Acts and Criminal Penalties

The bill amends s. 538.26, F.S., to prohibit the purchase of regulated metals property, restricted regulated metals property, or ferrous metals at any time on Sundays. The bill also adds the following metals to the list of regulated metals property that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller owns the property:

- A metal electric light pole and its fixtures and hardware that is readily identifiable as connected to a metal electric light structure.
- Jelly wire, waveguide (heliac), underground cable, or heavy-gauge copper or aluminum wire measuring 0.75 inches or greater in diameter without insulation or one inch or greater in diameter with insulation.
- Three or more lead-acid batteries, instead of two as required by current law.

In addition, the bill removes the following from the list of regulated metals property that a secondary metals recycler is prohibited from purchasing without first obtaining proof that the seller owns the property:

- Utility structures other than metal electric light poles, including their fixtures, wires, and hardware;
- Wires for metal electric light poles; and
- Grounding wires.

The bill amends s. 538.23, F.S., to specify that a person who knowingly and intentionally violates any of the prohibitions listed in s. 538.26, F.S., related to the purchasing of regulated metals property, described above, commits a third degree felony. Under current law, the only prohibited act listed under s. 538.26, F.S., that is a third degree felony is the purchase of regulated metals property, restricted regulated metals property, or ferrous metals from a seller when the property was not transported in a motor vehicle. Violations of the other provisions listed under s. 538.26, F.S., currently constitute a first degree misdemeanor,²⁷ with a fine not to exceed \$10,000.²⁸

The bill also amends s. 538.23, F.S., to state that a person who knowingly provides false information and receives money or other consideration from a secondary metals recycler in return for regulated metals property commits a third degree felony if the value of the money or other consideration is less than \$300. If the value of the money or other consideration is \$300 or more, the person commits a second degree felony. In addition, the bill provides that a person commits a second degree felony if the money or other consideration received is for *restricted* regulated metals.

Section 9. Registration

The bill specifies that in order to be a secondary metals recycler, a person must register on an application form prescribed by DACS. An application for registration must state the full name of the applicant, the place where the business is to be conducted, and any other relevant information required by DACS. If the applicant is not an individual, the applicant must state the full name and address of

²⁷ A first degree misdemeanor is punishable by a term of imprisonment not to exceed one year. Section 775.082, F.S.

²⁸ Section 538.07, F.S.

each direct or beneficial owner of at least 10 percent equity interest in the business. If the applicant is a corporation, the application must state the full name and address of each officer and director.

The bill increases the annual registration fee for each of the secondary metals recyclers locations from \$6 to \$350. The fee is submitted to DACS, and all fees collected must be transferred into the General Inspection Trust Fund.

The bill requires each secondary metals recycler to maintain current and valid workers' compensation insurance and general liability insurance coverage in a minimum amount established by DACS throughout the registration period, and must provide DACS with written evidence of each before registering. The bill also declares that failure to maintain workers' compensation insurance or general liability insurance constitutes an immediate threat to the public health, safety, and welfare of the residents of Florida. If a secondary metals recycler fails to maintain the required insurance coverage, DACS may immediately suspend the secondary metals recycler's registration or eligibility for registration and the secondary metals recycler must immediately cease operating in this state.

The bill requires a person applying for or renewing a local business tax receipt to engage in business as a secondary metals recycler to exhibit an active registration certificate from DACS before the local business tax receipt may be issued or renewed.

In addition, the bill requires a secondary metals recycler to allow DACS personnel to enter the secondary metals recycler's place of business in order to verify that a registration is valid. If DACS personnel are refused entry for this purpose, DACS can seek injunctive relief in a circuit court to obtain compliance with this requirement.

The bill repeals the civil fine of up to \$10,000 for each knowing and intentional violation of the registration requirements in s. 538.25, F.S. A secondary metal recycler that does not register as required in s. 538.25, F.S., still commits a third degree felony punishable by up to 5 years in prison, or up to 10 years for a habitual offender, and a fine not to exceed \$5,000.²⁹

The bill authorizes DACS to deny, suspend, revoke, or restrict a registration if within a 10-year period, as opposed to the current two-year period, immediately preceding the denial, suspension, revocation, or restriction, the applicant or registrant has been convicted of knowingly and intentionally violating certain requirements and regulations.

The bill also requires DACS to suspend the registration or the application for registration of any registrant or applicant who has been convicted of a felony under ch. 812³⁰ or ch. 817, F.S.,³¹ immediately upon receiving written verification of the conviction from a law enforcement agency, court, or state attorney's office of the Department of Law Enforcement.

Section 11. Administrative Penalties

The bill authorizes DACS, upon the entry of a final order determining that a violation of the provisions in ss. 538.19,³² 538.235,³³ or 538.26, F.S.,³⁴ has occurred, to take one or more of the following actions:

- Issue a notice of noncompliance pursuant to s. 120.695, F.S.,³⁵

²⁹ Section 538.23(5), F.S.

³⁰ Chapter 812, F.S., relates to theft, robbery, and related crimes.

³¹ Chapter 817, F.S., relates to fraudulent practices including false pretenses and frauds, credit card crimes, credit service organizations, and credit counseling services.

³² See discussion of s. 538.19, F.S., in the present situation, under the heading "Required Records."

³³ Section 538.235, F.S., provides specific restrictions and methods of payment for transactions involving secondary metals.

³⁴ See discussion of s. 538.26, F.S., in the present situation, under the heading "Prohibited Acts and Practices."

- Impose an administrative fine up to \$200 per violation, but not to exceed \$5,000 per inspection. Any fine collected must be deposited in the General Inspection Trust Fund. If a fine is not paid within 60 days after imposition, DACS is authorized to bring a civil action under s. 120.69, F.S.,³⁶ to recover the fine; or
- Direct that the secondary metals recycler cease and desist specified activities.

The bill also requires any administrative proceedings that could result in the entry of an order imposing any administrative penalties be conducted in accordance with ch. 120, F.S. (Administrative Procedure Act).

Section 12. Rulemaking Authority

The bill authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

Section 13. Provides an effective date of July 1, 2014

B. SECTION DIRECTORY:

Section 1. Transfers administration of Part II of ch. 538, F.S., relating to secondary metals recyclers, from DOR to DACS.

Section 2. Amends s. 213.053, F.S., relating to confidentiality and information sharing.

Section 3. Amends s. 319.30, F.S., conforming cross-references.

Section 4. Amends s. 538.18, F.S., conforming cross-references.

Section 5. Amends s. 538.19, F.S., conforming cross-references.

Section 6. Amends s. 538.20, F.S., relating to the inspection of regulated metals property and records.

Section 7. Amends s. 538.21, F.S., relating to hold notices.

Section 8. Amends s. 538.23, F.S., relating to violations and penalties.

Section 9. Amends s. 538.25, F.S., relating to registration.

Section 10. Amends s. 538.26, F.S., relating to prohibited acts and practices.

Section 11. Creates s. 538.27, F.S., relating to administrative penalties.

Section 12. Authorizing DACS to adopt rules.

Section 13. Provides an effective date of July 1, 2014.

³⁵ Section 120.695, F.S., provides that it is the policy of the state that the purpose of regulation is to protect the public by attaining compliance with the policies established by the Legislature. Fines and other penalties may be provided in order to assure compliance; however, the collection of fines and the imposition of penalties are intended to be secondary to the primary goal of attaining compliance with an agency's rules.

³⁶ Pursuant to s. 120.69, F.S., any agency may seek enforcement of an action by filing a petition of enforcement in the circuit court where the subject matter of the enforcement is located.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:
See Fiscal Comments.
2. Expenditures:
See Fiscal Comments

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:
The bill does not appear to have a fiscal impact on local government revenues.
2. Expenditures:
The bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill has a potentially negative fiscal impact on secondary metals recyclers. Under the bill, secondary metals recyclers must pay an annual \$350 registration fee for each site, instead of an annual \$6 fee for each site, as well as maintain current and valid workers' compensation insurance and general liability coverage.

D. FISCAL COMMENTS:

DACS provided the following fiscal analysis of the bill:³⁷

<u>Recurring Revenues</u>	<u>(FY 14-15)</u>	<u>(FY 15-16)</u>
Registration fees (900 dealers at \$350)	\$315,000	\$315,000
Fingerprinting fees (900 dealers at \$31.50)	\$28,350	\$28,350
Administrative penalties	Undetermined	Undetermined
Total Recurring Revenue	\$343,350	\$343,350
 <u>Recurring Expenditures</u>		
Salaries and Benefits:		
Regulatory Consultant (2)	\$97,606	\$97,606
Law enforcement Investigator II (1)	\$61,507	\$61,507
Investigation Specialist II (2)	\$97,606	\$97,606
 Expenses		
Professional-expense package (5)	\$31,305	\$31,305
Law Enforcement Package (1)	\$1,449	\$1,449
Uniform Allowance (1)	\$500	\$500

³⁷ DACS 2014 analysis. On file with Agriculture & Natural Resources Subcommittee staff.

Contracted Services		
FDLE Fingerprinting Services (900 at \$31.50)	\$28,350	\$28,350
Special Category		
Human Resources Allocation (5)	\$1,720	\$1,720
Total Recurring Cost	\$320,043	\$320,043

Non-Recurring - General Inspection Trust Fund

Expenses		
Professional-expense package (5)	\$18,865	\$0
Law Enforcement Package (1)	\$4,434	\$0
Contracted Services		
Software-develop, test, deploy (1,040 hours at \$85)	\$88,400	\$0
OCO		
Mobile and Portable Radios	\$8,800	\$0
Acquisition of Motor Vehicles (1)		
2014 Ford Expedition 4WD 4DR XL SSV	\$28,626	\$0
2014 Chevy Impala	\$40,312	\$0
Total Non-Recurring Cost	\$189,437	\$0
Total Recurring/Non-Recurring Cost	\$509,480	\$320,043
Non-Operating Cost		
Information Technology Support	\$4,845	\$4,845
Administrative/Indirect Cost	\$11,722	\$11,722
General Revenue Service Charge	\$25,200	\$25,200
Total Non-Operating Cost	\$41,767	\$41,767
Expenditures Grand Total	\$551,247	\$361,810

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes DACS to adopt rules to implement the laws governing secondary metals recyclers, which must include tiered penalties for violations of these laws.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The cross-reference to s. 538.26(2), F.S., on line 229 is duplicative under the bill, and, therefore, should be deleted.

The bill removes the language that authorizes DOR to impose civil fines of up to \$10,000 for each knowing and intentional violation of the registration requirements. The intent was to replace this authority with the authority for DACS to impose an administrative fine up to \$200 per violation, but not to exceed \$5,000 per inspection. However, the cross-reference to s. 538.25, F.S., establishing the registration requirements, was inadvertently left out of the bill draft. This drafting error will be corrected in committee.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

HB 771

2014

1 A bill to be entitled
2 An act relating to secondary metals recyclers;
3 transferring administration of part II of chapter 538,
4 F.S., relating to secondary metals recyclers, from the
5 Department of Revenue to the Department of Agriculture
6 and Consumer Services; providing for applicability
7 with respect to pending actions, orders, and rules;
8 amending s. 213.053, F.S.; authorizing the Department
9 of Revenue to share certain confidential information
10 with the Department of Agriculture and Consumer
11 Services; amending ss. 319.30, 538.18, and 538.19,
12 F.S.; conforming provisions to changes made by the
13 act; amending s. 538.20, F.S.; authorizing specified
14 persons to inspect regulated metals property and
15 records; amending s. 538.21, F.S.; prohibiting a
16 secondary metals recycler from disposing of certain
17 property for a specified period; amending s. 538.23,
18 F.S.; revising violations subject to criminal
19 penalties; amending s. 538.25, F.S.; revising
20 application requirements for registration as a
21 secondary metals recycler; revising registration fees;
22 requiring such fees to be transferred into the General
23 Inspection Trust Fund; requiring secondary metals
24 recyclers to maintain specified insurance coverage;
25 requiring secondary metals recyclers to exhibit active
26 registration certificates from the Department of

HB 771

2014

27 Agriculture and Consumer Services before applying for
 28 or renewing a local business tax receipt; requiring
 29 secondary metals recyclers to allow department
 30 personnel to enter certain places of business for a
 31 specified purpose; revising penalties for
 32 noncompliance; requiring the department to suspend
 33 certain registrations or applications for registration
 34 under certain circumstances; amending s. 538.26, F.S.;
 35 prohibiting secondary metals recyclers from purchasing
 36 regulated metals property, restricted regulated metals
 37 property, or ferrous metals on Sundays; prohibiting
 38 the purchase of specified restricted regulated metals
 39 property without obtaining certain proof of the
 40 seller's transactions involving regulated metals
 41 property; creating s. 538.27, F.S.; providing
 42 penalties for noncompliance; creating s. 538.29, F.S.;
 43 authorizing the department to adopt rules; providing
 44 an effective date.

45
 46 Be It Enacted by the Legislature of the State of Florida:

47
 48 Section 1. (1) All powers, duties, functions, records,
 49 personnel, property, pending issues, existing contracts,
 50 administrative authority, administrative rules, and unexpended
 51 balances of appropriations, allocations, and other funds of the
 52 Department of Revenue relating to the administration of part II

53 of chapter 538, Florida Statutes, are transferred by a type two
 54 transfer, pursuant to s. 20.06(2), Florida Statutes, to the
 55 Department of Agriculture and Consumer Services.

56 (2) This section does not affect the validity of any
 57 judicial or administrative action pending as of 11:59 p.m. on
 58 the day before the effective date of this act to which the
 59 Department of Revenue is at that time a party, and the
 60 Department of Agriculture and Consumer Services shall be
 61 substituted as a party in interest in any such action.

62 (3) All lawful orders issued by the Department of Revenue
 63 relating to the administration of part II of chapter 538,
 64 Florida Statutes, issued before the effective date of this act
 65 shall remain in effect and be enforceable after the effective
 66 date of this section unless thereafter modified in accordance
 67 with law.

68 (4) The rules of the Department of Revenue relating to the
 69 administration of part II of chapter 538, Florida Statutes, that
 70 were in effect at 11:59 p.m. on the day before the effective
 71 date of this act shall remain in effect and be enforceable after
 72 the effective date of this section unless thereafter modified in
 73 accordance with law.

74 Section 2. Paragraph (cc) is added to subsection (8) of
 75 section 213.053, Florida Statutes, and subsection (11) of that
 76 section is amended, to read:

77 213.053 Confidentiality and information sharing.—

78 (8) Notwithstanding any other provision of this section,

79 | the department may provide:

80 | (cc) Information relative to chapter 212 and part II of
 81 | chapter 538 to the Department of Agriculture and Consumer
 82 | Services in the conduct of its official duties.

83 |

84 | Disclosure of information under this subsection shall be
 85 | pursuant to a written agreement between the executive director
 86 | and the agency. Such agencies, governmental or nongovernmental,
 87 | shall be bound by the same requirements of confidentiality as
 88 | the Department of Revenue. Breach of confidentiality is a
 89 | misdemeanor of the first degree, punishable as provided by s.
 90 | 775.082 or s. 775.083.

91 | (11) Notwithstanding any other provision of this section,
 92 | with respect to a request for verification of a certificate of
 93 | registration issued pursuant to s. 212.18 to a specified dealer
 94 | or taxpayer or with respect to a request by a law enforcement
 95 | officer for verification of a certificate of registration issued
 96 | pursuant to s. 538.09 to a specified secondhand dealer ~~or~~
 97 | ~~pursuant to s. 538.25 to a specified secondary metals recycler,~~
 98 | the department may disclose whether the specified person holds a
 99 | valid certificate, ~~or~~ whether a specified certificate number is
 100 | valid, ~~or~~ whether a specified certificate number has been
 101 | canceled or is inactive or invalid, and the name of the holder
 102 | of the certificate. This subsection shall not be construed to
 103 | create a duty to request verification of any certificate of
 104 | registration.

105 Section 3. Paragraph (b) of subsection (1) of section
 106 319.30, Florida Statutes, is amended to read:

107 319.30 Definitions; dismantling, destruction, change of
 108 identity of motor vehicle or mobile home; salvage.—

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

110 (b) "Certificate of registration number" means the
 111 certificate of registration number issued by the Department of
 112 Agriculture and Consumer Services Revenue ~~of the State of~~
 113 ~~Florida~~ pursuant to s. 538.25.

114 Section 4. Subsection (2) of section 538.18, Florida
 115 Statutes, is amended to read:

116 538.18 Definitions.—As used in this part, the term:

117 (2) "Department" means the Department of Agriculture and
 118 Consumer Services Revenue ~~Revenue~~.

119 Section 5. Subsections (1), (2), and (3) of section
 120 538.19, Florida Statutes, are amended to read:

121 538.19 Records required; limitation of liability.—

122 (1) A secondary metals recycler shall maintain a legible
 123 paper record of all purchase transactions to which such
 124 secondary metals recycler is a party. A secondary metals
 125 recycler shall also maintain a legible electronic record, in the
 126 English language, of all such purchase transactions. The
 127 appropriate law enforcement official may provide data
 128 specifications regarding the electronic record format, but such
 129 format must be approved by the department ~~of Law Enforcement~~. An
 130 electronic record of a purchase transaction shall be

HB 771

2014

131 | electronically transmitted to the appropriate law enforcement
 132 | official no later than 10 a.m. of the business day following the
 133 | date of the purchase transaction. The record transmitted to the
 134 | appropriate law enforcement official must not contain the price
 135 | paid for the items. A secondary metals recycler who transmits
 136 | such records electronically is not required to also deliver the
 137 | original or paper copies of the transaction forms to the
 138 | appropriate law enforcement official. However, such official
 139 | may, for purposes of a criminal investigation, request the
 140 | secondary metals recycler to make available the original
 141 | transaction form that was electronically transmitted. This
 142 | original transaction form must include the price paid for the
 143 | items. The secondary metals recycler shall make the form
 144 | available to the appropriate law enforcement official within 24
 145 | hours after receipt of the request.

146 | (2) The following information must be maintained on the
 147 | form approved by the department ~~of Law Enforcement~~ for each
 148 | purchase transaction:

149 | (a) The name and address of the secondary metals recycler.

150 | (b) The name, initials, or other identification of the
 151 | individual entering the information on the ticket.

152 | (c) The date and time of the transaction.

153 | (d) The weight, quantity, or volume, and a description of
 154 | the type of regulated metals property purchased in a purchase
 155 | transaction.

156 | (e) The amount of consideration given in a purchase

157 transaction for the regulated metals property.

158 (f) A signed statement from the person delivering the
 159 regulated metals property stating that she or he is the rightful
 160 owner of, or is entitled to sell, the regulated metals property
 161 being sold. If the purchase involves a stainless steel beer keg,
 162 the seller must provide written documentation from the
 163 manufacturer that the seller is the owner of the stainless steel
 164 beer keg or is an employee or agent of the manufacturer.

165 (g) The distinctive number from the personal
 166 identification card of the person delivering the regulated
 167 metals property to the secondary metals recycler.

168 (h) A description of the person from whom the regulated
 169 metals property was acquired, including:

170 1. Full name, current residential address, workplace, and
 171 home and work phone numbers.

172 2. Height, weight, date of birth, race, gender, hair
 173 color, eye color, and any other identifying marks.

174 3. The right thumbprint, free of smudges and smears.

175 4. Vehicle description to include the make, model, and tag
 176 number of the vehicle and trailer of the person selling the
 177 regulated metals property.

178 5. Any other information required by the form approved by
 179 the department of ~~Law Enforcement~~.

180 (i) A photograph, videotape, or digital image of the
 181 regulated metals being sold.

182 (j) A photograph, videotape, or similar likeness of the

HB 771

2014

183 person receiving consideration in which such person's facial
 184 features are clearly visible.

185 (3) A secondary metals recycler complies with the
 186 requirements of this section if it maintains an electronic
 187 database containing the information required by subsection (2)
 188 as long as the electronic information required by subsection
 189 (2), along with an electronic oath of ownership with an
 190 electronic signature of the seller of the secondary metals being
 191 purchased by the secondary metals recyclers and an electronic
 192 image of the seller's right thumbprint that has no smudges and
 193 smears, can be downloaded onto a paper form in the image of the
 194 form approved by the department ~~of Law Enforcement~~ as provided
 195 in subsection (2).

196 Section 6. Section 538.20, Florida Statutes, is amended to
 197 read:

198 538.20 Inspection of regulated metals property and
 199 records.—During the usual and customary business hours of a
 200 secondary metals recycler, a law enforcement officer or employee
 201 of the department who is a nonsworn trained regulatory
 202 investigator shall, after properly identifying herself or
 203 himself as such ~~a law enforcement officer~~, have the right to
 204 inspect:

205 (1) Any and all purchased regulated metals property in the
 206 possession of the secondary metals recycler. ~~and~~

207 (2) Any and all records required to be maintained under s.
 208 538.19.

HB 771

2014

209 Section 7. Subsection (3) of section 538.21, Florida
 210 Statutes, is amended to read:
 211 538.21 Hold notice.—
 212 (3) A secondary metals recycler may not dispose of any
 213 property identified by a hold notice or extended hold notice
 214 until the applicable hold period expires. At the expiration of
 215 the hold period or, if extended in accordance with this section,
 216 at the expiration of the extended hold period, the hold is
 217 automatically released and the secondary metals recycler may
 218 dispose of the regulated metals property unless other
 219 disposition has been ordered by a court of competent
 220 jurisdiction.

221 Section 8. Paragraph (a) of subsection (1) and subsection
 222 (3) of section 538.23, Florida Statutes, are amended to read:

223 538.23 Violations and penalties.—

224 (1)(a) Except as provided in paragraph (b), a secondary
 225 metals recycler who knowingly and intentionally:

- 226 1. Violates s. 538.20, ~~or~~ s. 538.21, or s. 538.26;
- 227 2. Engages in a pattern of failing to keep records
 228 required by s. 538.19;
- 229 3. Violates s. 538.26(2); or
- 230 4. Violates s. 538.235,

231
 232 commits a felony of the third degree, punishable as provided in
 233 s. 775.082, s. 775.083, or s. 775.084.

234 (3) Any person who knowingly provides false information,

235 | gives false verification of ownership, ~~or who~~ gives a false or
 236 | altered identification and who receives money or other
 237 | consideration from a secondary metals recycler in return for
 238 | regulated metals property commits:

239 | (a) A felony of the third degree, punishable as provided
 240 | in s. 775.082, s. 775.083, or s. 775.084, if the value of the
 241 | money or other consideration received is less than \$300.

242 | (b) A felony of the second degree, punishable as provided
 243 | in s. 775.082, s. 775.083, or s. 775.084, if the value of the
 244 | money or other consideration received is \$300 or more or if the
 245 | money or other consideration received is for restricted
 246 | regulated metals.

247 | Section 9. Subsections (1), (3), (4), and (6) of section
 248 | 538.25, Florida Statutes, are amended to read:

249 | 538.25 Registration.—

250 | (1) A person may not engage in business as a secondary
 251 | metals recycler at any location without registering with the
 252 | department on an application form prescribed by the department.
 253 | An application for registration must state the full name of the
 254 | applicant, the place where the business is to be conducted, and
 255 | any other relevant information required by the department. If
 256 | the applicant is not an individual, the applicant must state the
 257 | full name and address of each direct or beneficial owner of at
 258 | least 10-percent equity interest in the business. If the
 259 | applicant is a corporation, the application must state the full
 260 | name and address of each officer and director. The department

261 shall accept applications only from a fixed business address.
 262 The department may not accept an application that provides an
 263 address of a hotel room or motel room, a vehicle, or a post
 264 office box.

265 (a) A fee equal to the federal and state costs for
 266 processing required fingerprints must be submitted to the
 267 department with each application for registration. One
 268 application is required for each secondary metals recycler. If a
 269 secondary metals recycler is the owner of more than one
 270 secondary metals recycling location, the application must list
 271 each location, and the department shall issue a duplicate
 272 registration for each location. For purposes of subsections (3)
 273 and, ~~(4), and (5)~~, these duplicate registrations shall be deemed
 274 individual registrations. A secondary metals recycler shall
 275 remit an annual registration fee of \$350 to the department at
 276 the time of registration for each of the secondary metals
 277 recycler's business locations ~~pay a fee of \$6 per location at~~
 278 ~~the time of registration and an annual renewal fee of \$6 per~~
 279 ~~location on October 1 of each year.~~ All fees collected, ~~less~~
 280 ~~costs of administration,~~ shall be transferred into the General
 281 Inspection ~~Operating~~ Trust Fund.

282 (b) The department shall forward the full set of
 283 fingerprints to the Department of Law Enforcement for state and
 284 federal processing, provided the federal service is available,
 285 to be processed for any criminal justice information as defined
 286 in s. 943.045. The cost of processing such fingerprints shall be

287 payable to the Department of Law Enforcement by the department.
288 The department may issue a temporary registration to each
289 location pending completion of the background check by state and
290 federal law enforcement agencies but shall revoke such temporary
291 registration if the completed background check reveals a
292 prohibited criminal background. The Department of Law
293 Enforcement shall report its findings to the department ~~of~~
294 ~~Revenue~~ within 30 days after the date the fingerprints are
295 submitted for criminal justice information.

296 (c) An applicant for a secondary metals recycler
297 registration must be a natural person who has reached the age of
298 18 years or a corporation organized or qualified to do business
299 in the state.

300 1. If the applicant is a natural person, the registration
301 must include a complete set of her or his fingerprints,
302 certified by an authorized law enforcement officer, and a valid
303 ~~recent~~ fullface photographic identification card of herself or
304 himself.

305 2. If the applicant is a partnership, all the partners
306 must make application for registration.

307 3. If the applicant is a corporation, the registration
308 must include the name and address of such corporation's
309 registered agent for service of process in the state and a
310 certified copy of statement from the Secretary of State that the
311 corporation is duly organized in the state or, if the
312 corporation is organized in a state other than Florida, a

HB 771

2014

313 certified copy of the statement that the corporation is duly
 314 qualified to do business in this state.

315 (d) Each secondary metals recycler must maintain current
 316 and valid workers' compensation insurance and general liability
 317 insurance coverage in a minimum amount established by the
 318 department throughout the registration period. A secondary
 319 metals recycler must provide the department with written
 320 evidence of workers' compensation insurance coverage and general
 321 liability insurance coverage before registering with the
 322 department under this section. Failure to maintain workers'
 323 compensation insurance or general liability insurance in
 324 accordance with this paragraph constitutes an immediate threat
 325 to the public health, safety, and welfare of the residents of
 326 this state. If a secondary metals recycler fails to maintain
 327 insurance coverage as required by this paragraph, the department
 328 may immediately suspend the secondary metals recycler's
 329 registration or eligibility for registration and the secondary
 330 metals recycler must immediately cease operating in this state.

331 (e) A person applying for or renewing a local business tax
 332 receipt to engage in business as a secondary metals recycler
 333 must exhibit an active registration certificate from the
 334 department before the local business tax receipt may be issued
 335 or renewed.

336 (2) A secondary metals recycler's registration shall be
 337 conspicuously displayed at the place of business set forth on
 338 the registration. A secondary metals recycler must allow

339 department personnel to enter the secondary metals recycler's
 340 place of business in order to verify that a registration is
 341 valid. If department personnel are refused entry for this
 342 purpose, the department may seek injunctive relief in a circuit
 343 court to obtain compliance with this requirement ~~shall not~~
 344 ~~dispose of property at any location until any holding period has~~
 345 ~~expired.~~

346 ~~(3) The Department of Revenue may impose a civil fine of~~
 347 ~~up to \$10,000 for each knowing and intentional violation of this~~
 348 ~~section, which fine shall be transferred into the General~~
 349 ~~Revenue Fund. If the fine is not paid within 60 days, the~~
 350 ~~department may bring a civil action under s. 120.69 to recover~~
 351 ~~the fine.~~

352 ~~(3)(4)~~ In addition to the penalties ~~fine~~ provided in s.
 353 538.27 subsection (3), registration under this section may be
 354 denied or any registration granted may be revoked, restricted,
 355 or suspended by the department if, after October 2, 1989, and
 356 within a 10-year ~~24-month~~ period immediately preceding such
 357 denial, revocation, restriction, or suspension:

358 (a) The applicant or registrant has been convicted of
 359 knowingly and intentionally:

- 360 1. Violating s. 538.20, ~~or~~ s. 538.21, or s. 538.26;
- 361 2. Engaging in a pattern of failing to keep records as
 362 required by s. 538.19;
- 363 3. Making a material false statement in the application
 364 for registration; or

365 4. Engaging in a fraudulent act in connection with any
 366 purchase or sale of regulated metals property;

367 (b) The applicant or registrant has been convicted of, or
 368 entered a plea of guilty or nolo contendere to, a felony
 369 committed by the secondary metals recycler against the laws of
 370 the state or of the United States involving theft, larceny,
 371 dealing in stolen property, receiving stolen property, burglary,
 372 embezzlement, obtaining property by false pretenses, possession
 373 of altered property, or any felony drug offense or of knowingly
 374 and intentionally violating the laws of the state relating to
 375 registration as a secondary metals recycler; or

376 (c) The applicant has, after receipt of written notice
 377 from the Department of Revenue of failure to pay sales tax,
 378 failed or refused to pay, within 30 days after the secondary
 379 metals recycler's receipt of such written notice, any sales tax
 380 owed to the Department of Revenue.

381 ~~(4)(5)~~ A denial of an application, or a revocation,
 382 restriction, or suspension of a registration, by the department
 383 shall be probationary for a period of 12 months in the event
 384 that the secondary metals recycler subject to such action has
 385 not had any other application for registration denied, or any
 386 registration revoked, restricted, or suspended, by the
 387 department within the previous 24-month period.

388 (a) If, during the 12-month probationary period, the
 389 department does not again deny an application or revoke,
 390 restrict, or suspend the registration of the secondary metals

391 recycler, the action of the department shall be dismissed and
 392 the record of the secondary metals recycler cleared thereof.

393 (b) If, during the 12-month probationary period, the
 394 department, for reasons other than those existing before ~~prior~~
 395 ~~to~~ the original denial or revocation, restriction, or
 396 suspension, again denies an application or revokes, restricts,
 397 or suspends the registration of the secondary metals recycler,
 398 the probationary nature of such original action shall terminate
 399 and both the original action of the department and the action of
 400 the department causing the termination of the probationary
 401 nature thereof shall immediately be reinstated against the
 402 secondary metals recycler.

403 (5) The department shall suspend the registration or the
 404 application for registration of any registrant or applicant who
 405 has been convicted of a felony under chapter 812 or chapter 817
 406 immediately upon receiving written verification of the
 407 conviction from a law enforcement agency, court, or state
 408 attorney's office or the Department of Law Enforcement.

409 (6) Upon the request of a law enforcement official, the
 410 department ~~of Revenue~~ shall release to the official the name and
 411 address of any secondary metals recycler registered to do
 412 business within the official's jurisdiction.

413 Section 10. Subsection (1) and paragraph (b) of subsection
 414 (5) of section 538.26, Florida Statutes, are amended to read:

415 538.26 Certain acts and practices prohibited.—It is
 416 unlawful for a secondary metals recycler to do or allow any of

HB 771

2014

417 the following acts:

418 (1) Purchase regulated metals property, restricted
 419 regulated metals property, or ferrous metals between the hours
 420 of 7 p.m. and before 7 a.m. or any time on Sunday after 7 p.m.

421 (5)

422 (b) The purchase of any of the following regulated metals
 423 property is subject to the restrictions provided in paragraph

424 (a):

425 1. A manhole cover.

426 2. A metal ~~An~~ electric light pole ~~or other utility~~
 427 ~~structure~~ and its fixtures, ~~wires,~~ and hardware that is ~~are~~
 428 readily identifiable as connected to a metal electric light ~~the~~
 429 ~~utility~~ structure.

430 3. A guard rail.

431 4. A street sign, traffic sign, or traffic signal and its
 432 fixtures and hardware.

433 5. Communication, transmission, distribution, and service
 434 wire ~~from a utility,~~ including, but not limited to, jelly wire,
 435 copper or aluminum bus bars, connectors, grounding plates,
 436 waveguide (heliac), underground cable, or heavy-gauge copper or
 437 aluminum wire measuring 0.75 inches or greater in diameter
 438 without insulation or 1 inch or greater in diameter with
 439 insulation ~~grounding wire.~~

440 6. A funeral marker or funeral vase.

441 7. A historical marker.

442 8. Railroad equipment, including, but not limited to, a

HB 771

2014

443 tie plate, signal house, control box, switch plate, E clip, or
 444 rail tie junction.

445 9. Any metal item that is observably marked upon
 446 reasonable inspection with any form of the name, initials, or
 447 logo of a governmental entity, utility company, cemetery, or
 448 railroad.

449 10. A copper, aluminum, or aluminum-copper condensing or
 450 evaporator coil, including its tubing or rods, from an air-
 451 conditioning or heating unit, excluding coils from window air-
 452 conditioning or heating units and motor vehicle air-conditioning
 453 or heating units.

454 11. An aluminum or stainless steel container or bottle
 455 designed to hold propane for fueling forklifts.

456 12. A stainless steel beer keg.

457 13. A catalytic converter or any nonferrous part of a
 458 catalytic converter unless purchased as part of a motor vehicle.

459 14. Metallic wire that has been burned in whole or in part
 460 to remove insulation.

461 15. A brass or bronze commercial valve or fitting,
 462 referred to as a "fire department connection and control valve"
 463 or an "FDC valve," that is commonly used on structures for
 464 access to water for the purpose of extinguishing fires.

465 16. A brass or bronze commercial potable water backflow
 466 preventer valve that is commonly used to prevent backflow of
 467 potable water from commercial structures into municipal domestic
 468 water service systems.

- 469 17. A shopping cart.
- 470 18. A brass water meter.
- 471 19. A storm grate.
- 472 20. A brass sprinkler head used in commercial agriculture.
- 473 21. Three or more ~~than two~~ lead-acid batteries, or any
- 474 part or component thereof, in a single purchase or from the same
- 475 individual in a single day.

476 Section 11. Section 538.27, Florida Statutes, is created
477 to read:

478 538.27 Administrative penalties.-

479 (1) Upon the entry of a final order determining that a
480 violation of s. 538.19, s. 538.235, or s. 538.26 has occurred,
481 the department may take one or more of the following actions:

482 (a) Issue a notice of noncompliance pursuant to s.
483 120.695.

484 (b) Impose an administrative fine up to \$200 per
485 violation, but not to exceed \$5,000 per inspection. Any fine
486 collected shall be deposited in the General Inspection Trust
487 Fund. If a fine is not paid within 60 days after imposition, the
488 department may bring a civil action under s. 120.69 to recover
489 the fine.

490 (c) Direct that the secondary metals recycler cease and
491 desist specified activities.

492 (2) The administrative proceedings that could result in
493 the entry of an order imposing any of the penalties specified in
494 this section shall be conducted in accordance with chapter 120.

HB 771

2014

495 Section 12. Section 538.29, Florida Statutes, is created
 496 to read:

497 538.29 Rulemaking authority.—The department may adopt
 498 rules to implement this part. Such rules shall include tiered
 499 penalties for violations of this part.

500 Section 13. This act shall take effect July 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Remove lines 282-494 and insert:

7 (b) The applicant's fingerprints must be submitted by the
 8 agency, entity, or vendor as authorized by s. 943.053(13). The
 9 fingerprints shall be forwarded to the Department of Law
 10 Enforcement for state processing, and the Department of Law
 11 Enforcement shall forward them to the Federal Bureau of
 12 Investigation for national processing.

13 (c) All fingerprints submitted to the Department of Law
 14 Enforcement as required under this subsection shall be retained
 15 by the Department of Law Enforcement as provided under s.
 16 943.05(2)(g) and (h) and enrolled in the Federal Bureau of
 17 Investigation's national retained print arrest notification
 18 program. Fingerprints shall be enrolled in the national retained

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Published On: 3/10/2014 7:02:27 PM



Amendment No. 1

19 print arrest notification program when the Department of Law
20 Enforcement begins participation with the Federal Bureau of
21 Investigation. Arrest fingerprints will be searched against the
22 retained prints by the Department of Law Enforcement and the
23 Federal Bureau of Investigation.

24 (d) The fees for state and national fingerprint processing,
25 along with the fingerprint retention fees, shall be borne by the
26 applicant. The state cost for fingerprint processing is that
27 authorized in s. 943.053(3)(b) for records provided to persons or
28 entities other than those specified as exceptions therein.

29 (e) For any renewal of the applicant's registration, the
30 department shall request the Department of Law Enforcement to
31 forward the retained fingerprints of the applicant to the
32 Federal Bureau of Investigation unless the applicant is enrolled
33 in the national retained print arrest notification program
34 described in paragraph (c). The fee for the national criminal
35 history check will be paid as part of the renewal fee to the
36 department and forwarded by the department to the Department of
37 Law Enforcement. If the applicant's fingerprints are retained
38 in the national retained print arrest notification program, the
39 applicant shall pay the state and national retention fee to the
40 department which will forward the fee to the Department of Law
41 Enforcement.

42 (f) The department shall notify the Department of Law
43 Enforcement regarding any person whose fingerprints have been
44 retained but who is no longer registered under this chapter.



Amendment No. 1

45 (g) The department shall screen background results to
46 determine if an applicant meets registration requirements.

47 ~~The department shall forward the full set of fingerprints to the~~
48 ~~Department of Law Enforcement for state and federal processing,~~
49 ~~provided the federal service is available, to be processed for~~
50 ~~any criminal justice information as defined in s. 943.045. The~~
51 ~~cost of processing such fingerprints shall be payable to the~~
52 ~~Department of Law Enforcement by the department. The department~~
53 ~~may issue a temporary registration to each location pending~~
54 ~~completion of the background check by state and federal law~~
55 ~~enforcement agencies but shall revoke such temporary~~
56 ~~registration if the completed background check reveals a~~
57 ~~prohibited criminal background. The Department of Law~~
58 ~~Enforcement shall report its findings to the department of~~
59 ~~Revenue within 30 days after the date the fingerprints are~~
60 ~~submitted for criminal justice information.~~

61 (h)-(e) An applicant for a secondary metals recycler
62 registration must be a natural person who has reached the age of
63 18 years or a corporation organized or qualified to do business
64 in the state.

65 1. If the applicant is a natural person, the registration
66 must include a complete set of her or his fingerprints,
67 certified by an authorized law enforcement officer, and a valid
68 ~~recent~~ fullface photographic identification card of herself or
69 himself.

70 2. If the applicant is a partnership, all the partners



Amendment No. 1

71 must make application for registration.

72 3. If the applicant is a corporation, the registration
73 must include the name and address of such corporation's
74 registered agent for service of process in the state and a
75 certified copy of statement from the Secretary of State that the
76 corporation is duly organized in the state or, if the
77 corporation is organized in a state other than Florida, a
78 certified copy of the statement that the corporation is duly
79 qualified to do business in this state.

80 (i) Each secondary metals recycler must maintain current
81 and valid workers' compensation insurance and general liability
82 insurance coverage in a minimum amount established by the
83 department throughout the registration period. A secondary
84 metals recycler must provide the department with written
85 evidence of workers' compensation insurance coverage and general
86 liability insurance coverage before registering with the
87 department under this section. Failure to maintain workers'
88 compensation insurance or general liability insurance in
89 accordance with this paragraph constitutes an immediate threat
90 to the public health, safety, and welfare of the residents of
91 this state. If a secondary metals recycler fails to maintain
92 insurance coverage as required by this paragraph, the department
93 may immediately suspend the secondary metals recycler's
94 registration or eligibility for registration and the secondary
95 metals recycler must immediately cease operating in this state.

96 (j) A person applying for or renewing a local business tax



Amendment No. 1

97 receipt to engage in business as a secondary metals recycler
98 must exhibit an active registration certificate from the
99 department before the local business tax receipt may be issued
100 or renewed.

101 (2) A secondary metals recycler's registration shall be
102 conspicuously displayed at the place of business set forth on
103 the registration. A secondary metals recycler must allow
104 department personnel to enter the secondary metals recycler's
105 place of business in order to verify that a registration is
106 valid. If department personnel are refused entry for this
107 purpose, the department may seek an inspection warrant pursuant
108 to ss. 993.20-993.30 to obtain compliance with this requirement
109 ~~shall not dispose of property at any location until any holding~~
110 ~~period has expired.~~

111 ~~(3) The Department of Revenue may impose a civil fine of~~
112 ~~up to \$10,000 for each knowing and intentional violation of this~~
113 ~~section, which fine shall be transferred into the General~~
114 ~~Revenue Fund. If the fine is not paid within 60 days, the~~
115 ~~department may bring a civil action under s. 120.69 to recover~~
116 ~~the fine.~~

117 (3)(4) In addition to the penalties fine provided in s.
118 538.27 subsection (3), registration under this section may be
119 denied or any registration granted may be revoked, restricted,
120 or suspended by the department if, after October 2, 1989, and
121 within a 10-year 24-month period immediately preceding such
122 denial, revocation, restriction, or suspension:



Amendment No. 1

123 (a) The applicant or registrant, or any owner, officer,
124 director or trustee of a registrant or applicant has been
125 convicted of knowingly and intentionally:

- 126 1. Violating s. 538.20, ~~or~~ s. 538.21, or s. 538.26;
127 2. Engaging in a pattern of failing to keep records as
128 required by s. 538.19;
129 3. Making a material false statement in the application
130 for registration; or
131 4. Engaging in a fraudulent act in connection with any
132 purchase or sale of regulated metals property;

133 (b) The applicant or registrant, or any owner, officer,
134 director or trustee of a registrant or applicant has been
135 convicted of, or entered a plea of guilty or nolo contendere to,
136 a felony ~~committed by the secondary metals recycler~~ against the
137 laws of the state or of the United States involving theft,
138 larceny, dealing in stolen property, receiving stolen property,
139 burglary, embezzlement, obtaining property by false pretenses,
140 possession of altered property, or any felony drug offense or of
141 knowingly and intentionally violating the laws of the state
142 relating to registration as a secondary metals recycler; or

143 (c) The applicant has, after receipt of written notice
144 from the Department of Revenue of failure to pay sales tax,
145 failed or refused to pay, within 30 days after the secondary
146 metals recycler's receipt of such written notice, any sales tax
147 owed to the Department of Revenue.

148 ~~(4)-(5)~~ A denial of an application, or a revocation,



Amendment No. 1

149 restriction, or suspension of a registration, by the department
150 shall be probationary for a period of 12 months in the event
151 that the secondary metals recycler subject to such action has
152 not had any other application for registration denied, or any
153 registration revoked, restricted, or suspended, by the
154 department within the previous 24-month period.

155 (a) If, during the 12-month probationary period, the
156 department does not again deny an application or revoke,
157 restrict, or suspend the registration of the secondary metals
158 recycler, the action of the department shall be dismissed and
159 the record of the secondary metals recycler cleared thereof.

160 (b) If, during the 12-month probationary period, the
161 department, for reasons other than those existing before ~~prior~~
162 ~~to~~ the original denial or revocation, restriction, or
163 suspension, again denies an application or revokes, restricts,
164 or suspends the registration of the secondary metals recycler,
165 the probationary nature of such original action shall terminate
166 and both the original action of the department and the action of
167 the department causing the termination of the probationary
168 nature thereof shall immediately be reinstated against the
169 secondary metals recycler.

170 (5) The department shall suspend the registration or the
171 application for registration of any registrant or applicant, if
172 that registrant or applicant, or any of its owners, officers,
173 directors or trustees have been convicted of a felony under
174 chapter 812 or chapter 817 immediately upon receiving written



Amendment No. 1

175 verification of the conviction from a law enforcement agency,
176 court, or state attorney's office or the Department of Law
177 Enforcement.

178 (6) Upon the request of a law enforcement official, the
179 department ~~of Revenue~~ shall release to the official the name and
180 address of any secondary metals recycler registered to do
181 business within the official's jurisdiction.

182 Section 10. Subsection (1) and paragraph (b) of subsection
183 (5) of section 538.26, Florida Statutes, are amended to read:

184 538.26 Certain acts and practices prohibited.—It is
185 unlawful for a secondary metals recycler to do or allow any of
186 the following acts:

187 (1) Purchase regulated metals property, restricted
188 regulated metals property, or ferrous metals between the hours
189 of 7 p.m. and before 7 a.m. or any time on Sunday after 7 p.m.

190 (5)

191 (b) The purchase of any of the following regulated metals
192 property is subject to the restrictions provided in paragraph

193 (a):

194 1. A manhole cover.

195 2. A metal ~~An~~ electric light pole ~~or other utility~~
196 ~~structure~~ and its fixtures, ~~wires,~~ and hardware that is ~~are~~
197 readily identifiable as connected to a metal electric light ~~the~~
198 ~~utility~~ structure.

199 3. A guard rail.

200 4. A street sign, traffic sign, or traffic signal and its



Amendment No. 1

201 fixtures and hardware.

202 5. Communication, transmission, distribution, and service
203 wire from a utility, including copper or aluminum bus bars,
204 connectors, grounding plates, or grounding wire.

205 6. A funeral marker or funeral vase.

206 7. A historical marker.

207 8. Railroad equipment, including, but not limited to, a
208 tie plate, signal house, control box, switch plate, E clip, or
209 rail tie junction.

210 9. Any metal item that is observably marked upon
211 reasonable inspection with any form of the name, initials, or
212 logo of a governmental entity, utility company, cemetery, or
213 railroad.

214 10. A copper, aluminum, or aluminum-copper condensing or
215 evaporator coil, including its tubing or rods, from an air-
216 conditioning or heating unit, excluding coils from window air-
217 conditioning or heating units and motor vehicle air-conditioning
218 or heating units.

219 11. An aluminum or stainless steel container or bottle
220 designed to hold propane for fueling forklifts.

221 12. A stainless steel beer keg.

222 13. A catalytic converter or any nonferrous part of a
223 catalytic converter unless purchased as part of a motor vehicle.

224 14. Metallic wire that has been burned in whole or in part
225 to remove insulation.

226 15. A brass or bronze commercial valve or fitting,

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Amendment No. 1

227 referred to as a "fire department connection and control valve"
228 or an "FDC valve," that is commonly used on structures for
229 access to water for the purpose of extinguishing fires.

230 16. A brass or bronze commercial potable water backflow
231 preventer valve that is commonly used to prevent backflow of
232 potable water from commercial structures into municipal domestic
233 water service systems.

234 17. A shopping cart.

235 18. A brass water meter.

236 19. A storm grate.

237 20. A brass sprinkler head used in commercial agriculture.

238 21. Three or more ~~than two~~ lead-acid batteries, or any
239 part or component thereof, in a single purchase or from the same
240 individual in a single day.

241 Section 11. Section 538.27, Florida Statutes, is created
242 to read:

243 538.27 Administrative penalties.—

244 (1) Upon a determination that a violation of s. 538.19, s.
245 538.235, s. 538.25, or s. 538.26 has occurred, the department
246 may take one or more of the following actions:

247 (a) Issue a notice of noncompliance pursuant to s.
248 120.695.

249 (b) Impose an administrative fine up to \$200 per
250 violation, but not to exceed \$5,000 per inspection. Any fine
251 collected shall be deposited in the General Inspection Trust
252 Fund. If a fine is not paid within 60 days after imposition, the



Amendment No. 1

253 department may bring a civil action under s. 120.69 to recover
254 the fine.

255 (c) Direct that the secondary metals recycler cease and
256 desist specified activities.

257 (2) The administrative proceedings that could result in
258 the entry of an order imposing any of the penalties specified in
259 this section shall be conducted in accordance with chapter 120.

260

261

262

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

263

Remove line 23 and insert:

264

Inspection Trust Fund; requiring applicant fingerprints to be

265

forwarded to the Department of Law Enforcement and to the

266

Federal Bureau of Investigation; providing that fees for

267

fingerprint processing shall be borne by the applicant;

268

requiring the department to request the Department of Law

269

Enforcement to forward retained fingerprints for the renewal of

270

the applicant's registration to the Federal Bureau of

271

Investigation unless applicant is enrolled in the national

272

retained print arrest notification; requiring secondary metals

273

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 791 Coastal Management
SPONSOR(S): Renuart
TIED BILLS: None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Renner <i>JR</i>	Blalock <i>AFB</i>
2) Agriculture & Natural Resources Appropriations Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

A coastal construction control line (CCCL) is an upland jurisdictional line established on a county by county basis by the Department of Environmental Protection (DEP) to define the portion of the beach and dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes. Unless exempted, applicants must receive a permit from DEP to construct a structure seaward of the CCCL. DEP is authorized to grant area-wide permits to local governments, other governmental agencies, and utility companies for activities that, due to the type, size, or temporary nature of the activity, will not cause measurable interference with the natural functioning of the beach-dune system or with marine turtles. DEP is also authorized to grant general permits for certain projects if the projects, due to type, size, or temporary nature, will not cause a measurable interference with the natural functioning of the beach-dune system or with marine turtles.

The bill expands the activities that qualify for a DEP issued area-wide permit to include minor structures. The bill also adds dune restoration and on-grade walkovers for accessibility or use in compliance with the Americans with Disabilities Act to the list of specific activities that are considered minor structures and special classes of activities. In addition, the bill authorizes DEP to grant a general permit for swimming pools that do not advance the line of existing construction and satisfy all siting and design requirements, and authorizes DEP to grant a general permit for the maintenance of existing coastal armoring structures.

In 1975, Florida enacted the Aquatic Preserve Act. An aquatic preserve is defined as an exceptional area of submerged lands and its associated waters set aside to be maintained essentially in its natural or existing condition. The state restricts certain activities in aquatic preserves in order to conserve their unique biological, aesthetic and scientific value. In addition, except for the expressed authority granted to the BOT to lease sovereign submerged lands for the purposes of oil and gas drilling and aquaculture activities, the BOT is not authorized to lease sovereign submerged lands, which includes aquatic preserves, to persons that are not riparian owners of the adjoining uplands.

The bill requires DEP to promote the public use of aquatic preserves, and authorizes DEP to grant a privilege, lease, concession, or permit for the accommodation of visitors and use of state-owned submerged lands and their associated uplands in aquatic preserves if the privilege, lease, concession, or permit does not deny or interfere with the public's free access to the lands and is not made or given pursuant to advertisement or through a competitive bidding process. In addition, the bill authorizes DEP to receive gifts and donations to promote the public use of aquatic preserves.

The bill appears to have a potentially indeterminate positive fiscal impact on DEP if DEP receives fees for issuing a privilege, lease, concession, or permit for the accommodation of visitors and use of submerged lands and uplands in aquatic preserves. The bill appears to have an insignificant negative fiscal impact on DEP as a result of reduced permit fees due to some activities shifting to an area-wide or general permit. The bill also has an indeterminate positive fiscal impact on local governments seeking area-wide permits or general permits for minor structures which would have reduced permit fees. (See Fiscal Comments Section)

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Regulation of Coastal Construction

Present Situation

A coastal construction control line (CCCL) is an upland jurisdictional line established on a county-by-county basis by the Department of Environmental Protection (DEP) to define the portion of the beach and dune system that is subject to severe fluctuations caused by a 100-year storm surge, storm waves, or other forces such as wind, wave, or water level changes.¹

Section 161.053(1)(a), F.S., establishes the state CCCL permitting program. This is the principal program used by DEP to regulate construction activities on Florida's beach-dune system. The purpose of the CCCL permitting program is to preserve and protect beaches from imprudent construction that can jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.² Unless exempted,³ applicants must receive a permit from DEP to construct a structure seaward of the CCCL.

Local governments are authorized to adopt their own coastal construction zoning and building codes in lieu of the state permitting program. However, these codes must be approved by DEP as being adequate to preserve and protect the beaches and coastal barrier dunes adjacent to such beaches, which are under DEP's jurisdiction, from imprudent construction that will jeopardize the stability of the beach-dune system, accelerate erosion, provide inadequate protection to upland structures, endanger adjacent properties, or interfere with public beach access.⁴ Additionally, DEP can revoke the authority granted to the local government if DEP determines that the local administration of coastal zoning and building codes is inadequate.

DEP is authorized to grant the following CCCL permits:⁵

- **Administrative Permits** - These permits are required for any coastal construction or activity that is likely to have a material physical effect on the beach-dune system seaward of the CCCL line.⁶ Administrative permits are processed in Tallahassee, and once the CCCL application is deemed complete, final agency action (approval or denial) is issued within 90 days. Activities typically authorized by an administrative permit include:
 - Armoring (seawalls, revetments, geotextile tubs)
 - Large multi-family, commercial, and recreational projects (condominiums, beachfront resorts, shopping centers, restaurants, and park improvements)
 - Single-family projects (new homes, pools, additions, and remodeling)
 - Non-habitable major structures (construction of gazebos, large decks, spas, pools); and
 - Minor structures and activities (minor projects that cannot be approved via field permits and require permit manager review)

¹ Chapter 62B-33.005(1), F.A.C.

² Section 161.053(1)(a), F.S.

³ Generally, structures existing or under construction before the establishment of the CCCL are exempt from the provisions of s. 161.053, F.S. See also Chapter 62B-33.004, F.A.C. for other exemptions.

⁴ Section 161.053(3), F.S.

⁵ DEP's "Chapter 4-The CCCL Program and Covered Activities." This information is on file with Agriculture & Natural Resources Subcommittee staff.

⁶ Chapter 62B-33, F.A.C., outlines the specific permitting, application, and approval processes.

- **General Permits** - These permits offer a streamlined application and approval process for minor activities or structures that will not interfere with the natural functioning of the beach-dune system or sea turtles or their nesting sites. Examples include dune walkovers, decks, fences, landscaping, sidewalks, driveways, pool resurfacing, minor pool repairs, and other non-habitable structures. A general permit may be issued for single-family homes that do not advance the "line of construction" or are located landward of an established General Permit Line (the line that defines the seaward limit where general permits can be issued). General permits cannot be used for home additions or multifamily habitable structures. A general permit requires the applicant to meet strict setbacks and dune protection rules and must be submitted as a complete application. Final agency action is issued within 30 days of the application submittal.⁷
- **Field Permits** - These permits are for certain minor structures and activities that have minor impacts and are typically issued by DEP field inspectors. However, permit managers in Tallahassee may also issue field permits.
- **After-the-Fact Permits** - These are administrative permits that authorize work that has already been completed. These are often subject to enforcement actions by DEP and are necessary to assure that the projects have been constructed in compliance with state law.
- **Emergency Permits** - As promulgated in Chapter 62B-33.014, F.A.C., emergency permit procedures are used to alleviate conditions resulting from a shoreline emergency.

In addition to these permits, DEP is authorized to grant area-wide permits to local governments, other governmental agencies, and utility companies for special classes of activities in areas under their general jurisdiction if these activities, due to the type, size, or temporary nature of the activity, will not cause measurable interference with the natural functioning of the beach-dune system or with marine turtles or their nesting sites.⁸ Current law specifies that such activities include, but are not limited to:

- Road repairs (not including new construction);
- Utility repairs and replacements;
- Beach cleaning; and
- Emergency response.

Effect of Proposed Changes

The bill expands the activities that qualify for a DEP issued area-wide permit to include minor structures. The term "minor structure" is not defined in the bill or the Florida Statutes for purposes of CCCLs. However, DEP's rules define a "structure" as the composite result of putting together or building related components in an ordered scheme,⁹ and defines a "minor structure" as a structure designed to:

- Be expendable,
- Minimize resistance to forces associated with high frequency storms,
- Break away when subjected to such forces, and
- Have a minor impact on the beach and dune system.¹⁰

The bill also adds to the list of specific activities that are considered minor structures and special classes of activities to include dune restoration and on-grade walkovers for accessibility or use in compliance with the Americans with Disabilities Act.

⁷ Section 161.053(18), F.S., as promulgated in Chapter 62B-34, F.A.C.

⁸ Section 161.053(17), F.S.

⁹ Chapter 62B-33.002(60), F.A.C.

¹⁰ Chapters 62B-33.002(60)(b) and 62B-33.002(60), F.A.C

In addition, the bill authorizes DEP to grant a general permit for swimming pools that do not advance the line of existing construction and satisfy all siting and design requirements and for the maintenance of existing coastal armoring structures.

Aquatic Preserves

Present Situation

The Florida Constitution provides that lands under navigable waters, including beaches below the mean high water line, are held by the state, by virtue of its sovereignty, in trust for all the people, and sale of these lands may be authorized by law, but only when in the public interest. Private use of portions of sovereign submerged lands can also be authorized by law, but only when not contrary to the public interest.

In 1975, Florida enacted the Aquatic Preserve Act¹¹ with the intent that the state-owned submerged lands in areas that have exceptional biological, aesthetic, and scientific value be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.¹² The Florida Statutes define an aquatic preserve as an exceptional area of submerged lands and its associated waters set aside for being maintained essentially in its natural or existing condition.¹³

DEP's Office of Coastal and Aquatic Managed Areas (CAMA) oversees the management of Florida's 41 aquatic preserves, three National Estuarine Research Reserves (NERR), National Marine Sanctuary and the Coral Reef Conservation Program. These protected areas encompass approximately 2.2 million acres.¹⁴

Section 258.41, F.S., authorizes the Board of Trustees of the Internal Improvement Trust Fund (BOT) to establish areas to be included in the aquatic preserve system, subject to confirmation by the Legislature, and provides that an aquatic preserve cannot be withdrawn from the state aquatic preserve system except by an act of the Legislature.

The Legislature has also designated by law certain areas to be included in the aquatic preserve system. These include the following:

- Cockroach Bay Aquatic Preserve.
- Gasparilla Sound-Charlotte Harbor Aquatic Preserve.
- Lemon Bay Aquatic Preserve.
- Terra Ceia Aquatic Preserve.
- Guana River Marsh Aquatic Preserve.
- Big Bend Seagrasses Aquatic Preserve.
- Boca Ciega Bay Aquatic Preserve.
- Biscayne Bay Aquatic Preserve.
- Oklawaha River Aquatic Preserve.

The state restricts certain activities such as the construction of utility cables and pipes and spoil disposal in aquatic preserves in order to conserve their unique biological, aesthetic and scientific value.¹⁵ Section 258.42, F.S., directs the BOT to maintain aquatic preserves subject to the following requirements:

¹¹ Sections 258.35 through 258.46, F.S.

¹² Section 258.036, F.S.

¹³ Section 258.37(1), F.S.

¹⁴ DEP website on Aquatic Preserves, available at <http://www.dep.state.fl.us/coastal/programs/aquatic.htm>

¹⁵ Chapter 18-20.004, F.A.C.

- No further sale, lease, or transfer of sovereignty submerged lands shall be approved or consummated by the BOT except when such sale, lease, or transfer is in the public interest.¹⁶
- The BOT cannot approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.¹⁷
- No further dredging or filling of submerged lands may be approved by the BOT except for certain activities that must be authorized pursuant to a permit.¹⁸

Furthermore, structures may not be erected within the aquatic preserve, except:

- Private residential docks may be approved for reasonable ingress or egress of riparian owners. Slips at private residential single-family docks that contain boat lifts or davits that do not float in the water when loaded may not, in whole or in part, be enclosed by walls, but may be roofed if the roof does not overhang more than one foot beyond the footprint of the lift and the boat stored at the lift. These roofs are not included in the square-footage calculation of a terminal platform.¹⁹
- Private residential multislip docks may be approved if located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance must be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.²⁰
- Commercial docking facilities shown to be consistent with the use or management criteria of the preserve may be approved if the facilities are located within a reasonable distance of a publicly maintained navigation channel, or a natural channel of adequate depth and width to allow operation of the watercraft for which the docking facility is designed without the craft having an adverse impact on marine resources. The distance must be determined in accordance with criteria established by the trustees by rule, based on the depth of the water, nature and condition of bottom, and presence of manatees.²¹
- Structures for shore protection, including restoration of seawalls at their previous location or upland of, or within 18 inches waterward of their previous location, approved navigational aids, or public utility crossings may be approved.²²

Section 258.43, F.S., grants the BOT with rulemaking authority to implement the provisions of the Florida Aquatic Preserves Act. DEP rules²³ provide that only minimal or maintenance dredging is permitted in a preserve, and any alteration of the preserves' physical conditions is restricted unless the alteration enhances the quality or utility of the preserve or the public health generally. Minerals may not be mined (with the exception of oyster shells), and oil and gas well drilling is prohibited. However, the state is not prohibited from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the BOT. Docking facilities and even structures for shore protection are restricted as to size and location.

¹⁶ Section 258.42(1)(a), F.S.

¹⁷ Section 258.42(2), F.S.

¹⁸ Section 258.42(3)(a), F.S.

¹⁹ Section 258.42(3)(e), F.S.

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ Administrative rules applicable to aquatic preserves generally may be found in Chapters 18-20, F.A.C., Management Policies, Standards and Criteria. However, every aquatic preserve in the state has specific restrictions and policies that are set out in the Florida Administrative Code.

In determining whether to approve or deny any request for activities on sovereign submerged lands in aquatic preserves, BOT will evaluate each on a case-by-case basis and utilize a balancing test to determine whether the social, economic, and/or environmental benefits clearly exceed the costs.²⁴ BOT may authorize a lease, easement, or consent for the following activities:

- A public navigation project;
- Maintenance of an existing navigational channel;
- Installation or maintenance approved navigational aids;
- Creation or maintenance of a commercial/industrial dock, pier or a marina;
- Creation or maintenance of private docking facilities for reasonable ingress and egress of riparian owners;
- Minimum dredging for navigation channels attendant to docking facilities;
- Creation or maintenance of a shore protection structure, except that restoration of a seawall or riprap at its previous location, upland of its previous location, or within one foot waterward of its previous location is exempted from any requirement to make application for consent of use;
- Installation or maintenance of oil and gas transportation facilities;
- Creation, maintenance, replacement or expansion of facilities required for the provision of public utilities; and
- Other activities that are a public necessity or that are necessary to enhance the quality or utility of the aquatic preserve.²⁵

For the activities listed above, the activity must be designed so that the structure or structures to be built in, on, or over sovereign submerged lands are limited to structures necessary to conduct water dependent activities. Other uses of the aquatic preserve, or human activity within the aquatic preserve, although not originally contemplated, may be approved by BOT, but only subsequent to a formal finding of compatibility with the provisions of ch. 258, F.S. or ch. 18-20, F.A.C.²⁶ Furthermore, all proposed activities in aquatic preserves having management plans adopted by the BOT must demonstrate that such activities are consistent with the management plan.²⁷

Except for the expressed authority granted to the BOT to lease sovereign submerged lands for the purposes of oil and gas drilling²⁸ and aquaculture activities,²⁹ The BOT cannot lease sovereign submerged lands, which includes aquatic preserves, to persons that are not riparian owners of the adjoining uplands.

Effect of Proposed Changes

The bill requires DEP to promote the public use of aquatic preserves, and authorizes DEP to grant a privilege,³⁰ lease, concession, or permit for the accommodation of visitors and use of state-owned submerged lands and their associated uplands in aquatic preserves if the privilege, lease, concession, or permit:

- Does not deny or interfere with the public's free access to the lands; and
- Is not made or given pursuant to advertisement or through a competitive bidding process.

²⁴ Chapter 18-20.004(1)(a) and (2), F.A.C.

²⁵ Chapter 18-20.004(1)(e), F.A.C.

²⁶ Chapter 18-20.004(1)(f) and (l), F.A.C.

²⁷ Chapter 18-20.004(3), F.A.C.

²⁸ Section 253.47, F.S.

²⁹ Section 253.68, F.S.

³⁰ A privilege is not defined in statute or rule. According to DEP's definition, a privilege is not a regulatory function. It is granting a request for public use of the natural resource that is in concert with the Acquisition and Restoration Council-approved management plan, but is a use which occurs only with special permission.

According to DEP, a competitive bidding process is not currently needed due to the fact that this is a new program and it is necessary to encourage small businesses, research untested markets, and preserve the trade secrets or intellectual property of others. The opportunity to advertise for competitive bids will be available to DEP when the untested program matures and is proven. Furthermore, the percentage of income DEP would receive from concessionaires will be outlined in the contract with each concessionaire.³¹

The bill specifies that a privilege, lease, concession, or permit may not be assigned or transferred by a grantee without DEP's consent.

In addition, the bill authorizes DEP to receive gifts and donations to promote the public use of aquatic preserves. Money received by DEP in trust, or by gift, devise, appropriation, or otherwise must be deposited into the Land Acquisition Trust Fund and appropriated to DEP for the administration, development, improvement, promotion, and maintenance of state-owned submerged lands and their associated uplands in aquatic preserves and for any future acquisition and development of state-owned submerged lands and their associated uplands.

B. SECTION DIRECTORY:

Section 1. Amends s. 161.053, F.S., relating to the regulation of coastal construction and excavation.

Section 2. Creates s. 258.435, F.S., requiring DEP to promote the public use of aquatic preserves.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See Fiscal Comments Section.

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

The bill has a potentially positive fiscal impact on local governments seeking general permits for minor structures that would otherwise require an administrative permit. See Fiscal Comments for discussion of permit fees.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a positive fiscal impact on private parties who wish to provide goods or services, such as providing food or boat rentals, to visitors in aquatic preserves.

D. FISCAL COMMENTS:

The bill appears to have a potentially indeterminate positive fiscal impact on DEP if DEP receives fees for issuing a privilege, lease, concession, or permit for the accommodation of visitors and use of state-

³¹ DEP email to Agriculture & Natural Resources Subcommittee staff on March 6, 2014. On file with Agriculture & Natural Resources Subcommittee staff.
STORAGE NAME: h0791.ANRS.DOCX
DATE: 3/7/2014

owned submerged lands and their associated uplands in aquatic preserves. The bill also authorizes DEP to receive certain gifts or donations.

The bill has a potentially negative fiscal impact on DEP as a result of the expansion of activities that qualify for a DEP-issued area-wide permit and the authorization to issue general permits for swimming pools that do not advance the line of existing construction and satisfy all siting and design requirements, and for the maintenance of existing coastal armoring structures. DEP issues approximately 500 administrative permits per year. According to DEP, the fee for an administrative permit varies from \$300 for a dune walkover to \$1,000 for a swimming pool. The fee for a general permit varies from \$300 for a minor structure to \$500 for a major structure. A DEP-issued area-wide permit cost \$500. DEP anticipates a fee reduction of \$66,800 for permits that currently qualify for administrative permits or general permits and that will qualify for general permits or DEP-issued area-wide permits under the bill.³²

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

This bill may implicate the single subject provision in Art. III, s. 6 of the Florida Constitution, which provides that "every law enacted by the Legislature shall embrace but one subject matter and properly connected therewith ..." The Florida Supreme Court has described the purpose of the single subject rule as twofold. First, it attempts to avoid surprise and fraud by ensuring that both the public and the legislators involved receive fair and reasonable notice of the contents of a proposed act. Secondly, the limitation prevents hodgepodge, logrolling legislation. With regard to the test to be applied by a court in determining whether a particular provision violates the single subject rule, the fact that the scope of a legislative enactment is broad and comprehensive is not fatal so long as the matters included in the enactment have a natural or logical connection.³³ The bill contains one section that pertains to coastal construction permits and another section that pertains to the use of aquatic preserves, which are not necessarily in coastal areas.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

Lines 27 and 32 of the bill provide for the expansion of area-wide permits to include minor structures. Minor structures are defined in Rule 62B-33.002(60), F.A.C.; however, the bill does not provide a definition for a minor structure.

Line 39 of the bill provides that DEP *may* adopt rules to establish criteria and guidelines for permit applicants. Since the bill is expanding the activities that qualify for a DEP issued area-wide permit to include minor structures, language may need to be added to provide that DEP *shall* adopt rules to implement the expanded use of DEP issued area-wide permits.

³² DEP 2014 analysis. On file with Agriculture & Natural Resources Subcommittee staff.

³³ *Franklin v. State*, 887 So. 2d 1063 (Fla. 2004)

Line 37 of the bill lists dune restoration as a minor structure or special activity that is eligible for an area-wide permit. There is no definition of dune restoration in statute or rule, nor are there any restrictions or limitations for what qualifies as dune restoration.

Line 85 of the bill uses the term 'permit' in regard to what DEP may grant for the accommodation of visitors. DEP states³⁴ that no permits are actually granted to promote the public use of aquatic preserves.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

³⁴ Agriculture & Natural Resources Subcommittee staff met with DEP staff on January 5, 2014, to discuss HB 791.
STORAGE NAME: h0791.ANRS.DOCX
DATE: 3/7/2014

1 A bill to be entitled
 2 An act relating to coastal management; amending s.
 3 161.053, F.S.; revising permit requirements;
 4 authorizing the Department of Environmental Protection
 5 to grant areawide permits for certain structures;
 6 creating s. 258.435, F.S.; requiring the Department of
 7 Environmental Protection to promote the public use of
 8 aquatic preserves; authorizing the department to grant
 9 privileges, leases, concessions, or permits for the
 10 use of certain state-owned lands for the accommodation
 11 of visitors in aquatic preserves; providing
 12 restrictions on such privileges, leases, concessions,
 13 or permits and prohibiting them from being assigned or
 14 transferred without the department's consent;
 15 authorizing the department to receive gifts and
 16 donations; providing restrictions for moneys received;
 17 providing an effective date.

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

20
 21 Section 1. Subsections (17) and (18) of section 161.053,
 22 Florida Statutes, are amended to read:
 23 161.053 Coastal construction and excavation; regulation on
 24 county basis.—
 25 (17) The department may grant areawide permits to local
 26 governments, other governmental agencies, and utility companies

27 for minor structures or other special classes of activities in
 28 areas under their general jurisdiction or responsibility if
 29 these activities, due to the type, size, or temporary nature of
 30 the activity, will not cause measurable interference with the
 31 natural functioning of the beach-dune system or with marine
 32 turtles or their nesting sites. Minor structures and special
 33 classes of ~~Such~~ activities must comply with this section, and
 34 may include, but are not limited to: road repairs, not including
 35 new construction; utility repairs and replacements, or other
 36 minor activities necessary to provide utility services; beach
 37 cleaning; dune restoration; on-grade walkovers for accessibility
 38 or use in compliance with the Americans with Disabilities Act;
 39 and emergency response. The department may adopt rules to
 40 establish criteria and guidelines for permit applicants. The
 41 department must require notice provisions appropriate to the
 42 type and nature of the activities for which the areawide permits
 43 are sought.

44 (18) (a) The department may grant general permits for
 45 projects, including dune walkovers, decks, fences, landscaping,
 46 sidewalks, driveways, pool resurfacing, minor pool repairs, and
 47 other nonhabitable structures, if the projects, due to type,
 48 size, or temporary nature, will not cause a measurable
 49 interference with the natural functioning of the beach-dune
 50 system or with marine turtles or their nesting sites.
 51 Multifamily habitable structures do not qualify for general
 52 permits. However, single-family habitable structures and

53 swimming pools that do not advance the line of existing
 54 construction and satisfy all siting and design requirements of
 55 this section and maintenance of existing coastal armoring
 56 structures may be eligible for a general permit.

57 (b) The department may adopt rules to establish criteria
 58 and guidelines for permit applicants.

59 (c)~~(a)~~ Persons wishing to use the general permits must, at
 60 least 30 days before beginning any work, notify the department
 61 in writing on forms adopted by the department. The notice must
 62 include a description of the proposed project and supporting
 63 documents depicting the proposed project, its location, and
 64 other pertinent information as required by rule, to demonstrate
 65 that the proposed project qualifies for the requested general
 66 permit. Persons who undertake projects without proof of notice
 67 to the department, but whose projects would otherwise qualify
 68 for general permits, shall be considered to have undertaken a
 69 project without a permit and are subject to enforcement pursuant
 70 to s. 161.121.

71 (d)~~(b)~~ Persons wishing to use a general permit must
 72 provide notice as required by the applicable local building code
 73 where the project will be located. If a building code requires
 74 no notice, any person wishing to use a general permit must, at a
 75 minimum, post a sign describing the project on the property at
 76 least 5 days before commencing construction. The sign must be at
 77 least 88 square inches, with letters no smaller than one-quarter
 78 inch.

79 Section 2. Section 258.435, Florida Statutes, is created
 80 to read:

81 258.435 Use of aquatic preserves for the accommodation of
 82 visitors.—The Department of Environmental Protection shall
 83 promote the public use of aquatic preserves.

84 (1) The department may grant a privilege, lease,
 85 concession, or permit for the accommodation of visitors and use
 86 of state-owned submerged lands and their associated uplands in
 87 aquatic preserves if the privilege, lease, concession, or
 88 permit:

89 (a) Does not deny or interfere with the public's free
 90 access to such lands; and

91 (b) Is not made or given pursuant to advertisement or
 92 through a competitive bidding process.

93 (2) A privilege, lease, concession, or permit granted
 94 under this section may not be assigned or transferred by a
 95 grantee without the consent of the department.

96 (3) The department may receive gifts and donations to
 97 carry out the purpose of this section. Money received by the
 98 department in trust, subject to the terms of such trust, or by
 99 gift, devise, appropriation, or otherwise shall be deposited
 100 into the Land Acquisition Trust Fund and appropriated to the
 101 department for the administration, development, improvement,
 102 promotion, and maintenance of state-owned submerged lands and
 103 their associated uplands in aquatic preserves and for any future
 104 acquisition and development of state-owned submerged lands and

HB 791

2014

105 | their associated uplands.

106 | Section 3. This act shall take effect July 1, 2014.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Remove everything after the enacting clause and insert:

Section 1. Subsections (17) and (18) of section 161.053,
Florida Statutes, are amended to read:

161.053 Coastal construction and excavation; regulation on
county basis.-

(17) The department may grant areawide permits to local
governments, other governmental agencies, and utility companies
for special classes of activities in areas under their general
jurisdiction or responsibility or for the construction of minor
structures, if these activities or structures, due to the type,
size, or temporary nature of the activity or structure, will not

Amendment No. 1

17 cause measurable interference with the natural functioning of
18 the beach-dune system or with marine turtles or their nesting
19 sites. Such activities or structures must comply with this
20 section and may include, but are not limited to: road repairs,
21 not including new construction; utility repairs and
22 replacements, or other minor activities necessary to provide
23 utility services; beach cleaning; dune restoration; on-grade
24 walkovers for enhancing accessibility or usage in compliance
25 with the Americans with Disabilities Act; and emergency
26 response. The department shall ~~may~~ adopt rules to establish
27 criteria and guidelines for permit applicants. The department
28 must
29 require notice provisions appropriate to the type and nature of
30 the activities for which the areawide permits are sought.

31 (18) (a) The department may grant general permits for
32 projects, including dune restoration, dune walkovers, decks,
33 fences, landscaping, sidewalks, driveways, pool resurfacing,
34 minor pool repairs, and other nonhabitable structures, if the
35 projects, due to type, size, or temporary nature, will not cause
36 a measurable interference with the natural functioning of the
37 beach-dune system or with marine turtles or their nesting sites.
38 Multifamily habitable structures do not qualify for general
39 permits. However, single-family habitable structures and
40 swimming pools associated with such single-family habitable
41 structures that do not advance the line of existing construction
42 and satisfy all siting and design requirements of this section,

Amendment No. 1

43 and minor reconstruction for existing coastal armoring
44 structures may be eligible for a general permit.

45 (b) The department may adopt rules to establish criteria
46 and guidelines for permit applicants.

47 (c)(a) Persons wishing to use the general permits must, at
48 least 30 days before beginning any work, notify the department
49 in writing on forms adopted by the department. The notice must
50 include a description of the proposed project and supporting
51 documents depicting the proposed project, its location, and
52 other pertinent information as required by rule, to demonstrate
53 that the proposed project qualifies for the requested general
54 permit. Persons who undertake projects without proof of notice
55 to the department, but whose projects would otherwise qualify
56 for general permits, shall be considered to have undertaken a
57 project without a permit and are subject to enforcement pursuant
58 to s. 161.121.

59 (d)(b) Persons wishing to use a general permit must
60 provide notice as required by the applicable local building code
61 where the project will be located. If a building code requires
62 no notice, any person wishing to use a general permit must, at a
63 minimum, post a sign describing the project on the property at
64 least 5 days before commencing construction. The sign must be at
65 least 88 square inches, with letters no smaller than one-quarter
66 inch.

67 Section 2. Section 258.435, Florida Statutes, is created
68 to read:

Amendment No. 1

69 258.435 Use of aquatic preserves for the accommodation of
70 visitors.-

71 (1) The Department of Environmental Protection shall
72 promote the public use of aquatic preserves and their associated
73 uplands. The department may receive gifts and donations to carry
74 out the purpose of Part II of Chapter 258, F.S. Money received
75 in trust by the department by gift, devise, appropriation, or
76 otherwise, subject to the terms of such trust, shall be
77 deposited into the Land Acquisition Trust Fund and appropriated
78 to the department for the administration, development,
79 improvement, promotion, and maintenance of aquatic preserves and
80 their associated uplands and for any future acquisition or
81 development of aquatic preserves and their associated uplands.

82 (2) The department may grant a privilege or concession for
83 the accommodation of visitors in and use of aquatic preserves
84 and their associated state-owned uplands if the privilege or
85 concession does not deny or interfere with the public's access
86 to such lands and is compatible with the aquatic preserve's
87 management plan as approved by ARC. A privilege or concession
88 may be granted without advertisement or without using a
89 competitive bidding process. A privilege or concession may not
90 be assigned or transferred by the grantee without the consent of
91 the department.

92 Section 3. This act shall take effect July 1, 2014.

93

94

Amendment No. 1

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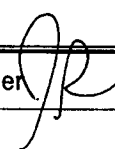
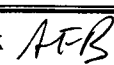
T I T L E A M E N D M E N T

Remove everything before the enacting clause and insert:

A bill to be entitled
An act relating to coastal management; amending s. 161.053,
F.S.; revising permit requirements; authorizing the Department
of Environmental Protection to grant areawide permits for
certain structures; creating s. 258.435, F.S.; requiring the
Department of Environmental Protection to promote the public use
of aquatic preserves; authorizing the department to receive
gifts and donations; providing restrictions for moneys received;
authorizing the department to grant privileges or concessions
for the use of certain state-owned lands for the accommodation
of visitors in aquatic preserves; providing restrictions on such
privileges or concessions and prohibiting them from being
assigned or transferred without the department's consent;
providing an effective date.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 955 Fish and Wildlife Conservation FWC
SPONSOR(S): Goodson
TIED BILLS: None **IDEN./SIM. BILLS:** SB 1126

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

SUMMARY ANALYSIS

The bill makes the following revisions related to various programs under the authority of the Florida Fish and Wildlife Conservation Commission (FWC):

- Allows a person who is required to take a boating safety course due to a boating violation to do so online; and specifies that people who must take the course because they were convicted of operating a vessel after consuming alcohol under the age of 21 must take the course at their own expense.
- Extends the pilot program for the mooring of vessels to July 1, 2017, and requires an updated report to be submitted to the Governor and Legislature on January 1, 2017.
- Allows counties to use their portion of vessel registration revenues for additional boating-related activities.
- Creates a definition for "wildlife" and provides that the term means a wild or non-domesticated bird, mammal, fur-bearing animal, reptile, or amphibian; and authorizes the FWC to require a hunting license for the taking of wildlife on public lands, if determined by the FWC to be necessary for the proper management of natural resources, public safety, or public access. Thus, under the bill, if it were determined by the FWC to be necessary, the FWC would be able to require a person to possess a hunting permit, license, or authorization in order to take "wildlife," such as wild hogs.
- Amends the definition of the term "game" by deleting the provision, "where designated by commission rules" and the reference to wild hogs. The definition of "game" will now include all species specifically listed in the current definition regardless of whether FWC rule designated a species as such or not. Therefore, each of the specific species listed under the definition of game in statute will now require a person to obtain a hunting license in order to legally take such species. However, FWC rules have already designated all of these animals as "game," so this does not have any practical effect on current law or result in any additional hunting license requirements.
- Specifies that the annual military gold sportsman's license authorizes the same activities as the annual gold sportsman's license.
- Specifies that any person seeking to take game, fur-bearing animals, or other wildlife that the FWC determines is required to have a license, permit, or authorization number must have proof of compliance with the hunter licensing requirements; and requires a valid hunter safety certification card number in order to purchase a hunting license, provides that once the license is issued, the license indicates completion of the hunter safety course.
- Repeals the \$2 (under 18) and \$5 (18 and older) fee the FWC is authorized to charge for hunting on areas subject to cooperative agreements between the FWC and the U.S. Forest Service.
- Repeals the provision allowing any person that meets certain requirements to trawl for shrimp for personal food use in the St. Johns River, if noncommercial trawling is authorized by the FWC. Noncommercial trawling has not been authorized by FWC since 1996.
- Repeals the now outdated Special Recreational Spiny Lobster license.
- Repeals the \$50 fee associated with the statewide freshwater trawl seine gear license and the \$100 fee associated with the statewide haul seine gear license.
- Repeals the FWC's authority to issue haul seine and trawl permits used in Lake Okeechobee and collect fees.

The bill has a potentially positive fiscal impact on the FWC for hunting license revenues paid by hunters wishing to hunt wild hogs or other species on public lands for which a license is not currently required. This bill has an insignificant negative fiscal impact on the FWC for the repeal of the Okeechobee haul seine and trawl permit fees and the statewide freshwater trawl and haul seine annual gear license fees. The bill does not appear to have a fiscal impact on local government.

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

STORAGE NAME: h0955.ANRS.DOCX

DATE: 2/7/2014

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Sections 1 and 3. Boater Safety Course Requirements

Present Situation

A person born on or after January 1, 1988, cannot operate a vessel powered by a motor of 10 horsepower or greater unless that person has in his or her possession aboard the vessel photographic identification and a boater safety identification card issued by the Florida Fish and Wildlife Conservation Commission (FWC) showing that he or she has:¹

- Completed a FWC-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators;
- Passed a course equivalency examination approved by the FWC; or
- Passed a temporary certificate examination developed or approved by the FWC.

These courses can be taken in person, in a classroom setting, or can be completed online. Failure to comply with the boating safety education requirement is a noncriminal infraction and is punishable by a \$50 fine.²

Section 327.355, F.S., provides that any person under the age of 21 who is convicted of being in control of a vessel with a breath-alcohol level of 0.02 or higher must enroll in, attend, and successfully complete a boating safety course that meets minimum standards established by the FWC by rule.³

Section 327.731, F.S., requires the following people to enroll in, attend, and successfully complete a boating safety course that meets minimum standards established by the FWC by rule:⁴

- A person convicted of a criminal violation of ch. 327, F.S., relating to vessel safety;⁵
- A person convicted of a noncriminal infraction under ch. 327, F.S., where the infraction resulted in a reportable boating accident;⁶ and
- A person convicted of two noncriminal infractions when the infractions occur within a 12-month period.⁷

¹ Section 327.395(1), F.S.

² Section 327.395(7), F.S.

³ Section 327.355(5)(c), F.S.

⁴ Section 327.731(1)(a), F.S.

⁵ Criminal violations of ch. 327, F.S., include, but are not limited to: unlawfully leaving the scene of a boating accident; reckless operation of a vessel or personal watercraft; boating under the influence of alcohol or drugs; operating a vessel while the privilege to operate is suspended; skiing while impaired or under the influence; allowing a person under the age of 14 to operate a personal watercraft; vessel title or registration fraud; and altering or removing a hull identification number.

⁶ A reportable boating accident occurs when the operator of a vessel is in any manner involved in an accident resulting in: personal injury requiring medical treatment beyond first aid; the death of a person; the disappearance of a person under circumstances that indicate the possibility of death or injury; or damage to a vessel or other property that totals \$2,000 or more.

⁷ Section 327.73(1)(h)-(k), (m), (o), (p), and (s)-(x), F.S., defines noncriminal infractions to include violations relating to the following: careless operation; water skiing, aquaplaning, parasailing, and similar activities; interference with navigation; boating-restricted areas and speed limits; required safety equipment, lights, and shapes; a violation of navigation rules that does not result in an accident or that results in an accident not causing serious bodily injury or death, for which there are certain penalties; personal watercraft; boater safety education; operation of overloaded or overpowered vessels;

These safety courses are considered Mandatory Education for Violators (MEV) and require a person to enroll in, attend, and successfully complete an in-person boating safety course.⁸ Currently, the requirement may not be completed through an online course.⁹ The FWC may waive, by rule, attendance requirements for violators of this section residing in areas where a classroom presentation of the course is not available.¹⁰ There are approximately 500 boat operators who are required to complete MEV requirements each year.

Effect of Proposed Changes

The bill amends ss. 327.355 and 327.731, F.S., to allow a person who is required to take the boating safety course as a result of violating certain boating laws to do so online.

The bill also specifies that a person who must take the boating safety course because he or she was convicted of operating a vessel after consuming alcohol under the age of 21 must take the boating safety course at his or her own expense.

In addition, the bill eliminates the FWC's authority to provide waivers of the attendance requirement for violators residing in areas where classroom presentation of the course is not available. This provision would no longer be necessary since the boating safety class would be offered online.

Section 2. Pilot Program for the Regulation of Mooring Vessels Outside of Public Mooring Fields

Present Situation

Under current law, local governments are prohibited from regulating the anchoring of vessels (other than live-aboard vessels) outside of legally permitted mooring fields.¹¹ According to FWC, the unregulated anchoring and mooring leads to various problems, including:

- The accumulation of anchored vessels in inappropriate locations;
- Unattended vessels;
- Vessels with no anchor watch (dragging anchor, no lights, bilge);
- Vessels that are not properly maintained;
- Vessels ignored by owners that tend to become derelict; and
- Confusion in the interpretation of statutes that provide jurisdictional guidance for local governments.

In 2009, s. 327.4105, F.S., was enacted, creating the Anchoring and Mooring Pilot Program (program). The program directed the FWC, in consultation with the Department of Environmental Protection (DEP), to establish a pilot program to explore potential options for regulating the anchoring and mooring of non-live-aboard vessels outside the marked boundaries of public mooring fields in five locations around the state.¹² The goals of the program are to encourage the establishment of additional public mooring fields and to develop and test policies and regulations that:

- Promote the establishment and use of public mooring fields;

divers-down flags; requirement for an adequate muffler on an airboat; and carelessly causing seagrass scarring, for which there are certain civil penalties upon conviction.

⁸ FWC 2014 analysis. On file with Agriculture & Natural Resources Subcommittee staff.

⁹ *Id.*

¹⁰ Section 327.731, F.S.

¹¹ Section 327.60, F.S.

¹² The five locations include the City of St. Augustine, the City of St. Petersburg, the City of Sarasota, and Monroe County in partnership with the cities of Marathon and Key West, and Marion County in partnership with the City of Stuart.

- Promote public access to the waters of this state;
- Enhance navigational safety;
- Protect maritime infrastructure;
- Protect the marine environment; and
- Deter improperly stored, abandoned, or derelict vessels.

The program also required a report to be submitted to the Governor and the Legislature by January 1, 2014. The program and all ordinances adopted under the program will expire on July 1, 2014, unless reenacted by the Legislature.

According to the FWC, the process of developing, approving, and adopting the local government ordinances was a more lengthy process than originally anticipated. The FWC met with boating and local government stakeholders in October 2013 to discuss the program findings and challenges that have affected the progress of the program. FWC's recommendation was to extend the program for an additional three years to July 2017.

Effect of Proposed Changes

The bill extends the pilot program to July 1, 2017, and requires an updated report to be submitted to the Governor and Legislature on January 1, 2017.

Section 4. County Vessel Registration Revenues

Present Situation

Current law¹³ defines a vessel¹⁴ 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. All vessels operated, used, or stored on state waters are required to be registered with the Florida Department of Highway Safety and Motor Vehicles as either commercial or recreational vehicles, with the following exceptions:¹⁵

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

Vessel registration fees are based on the length of the vessel as follows:¹⁶

- **Class A-1** – Less than 12 feet in length, except all canoes to which propulsion motors have been attached are included regardless of length: \$5.50 for each 12-month period registered.
- **Class A-2** – 12 feet or more and less than 16 feet in length; \$16.25 for each 12-month period registered. (County Portion: \$2.85 for each 12-month period registered).
- **Class 1** – 16 feet or more and less than 26 feet in length: \$28.75 for each 12-month period registered (County Portion: \$8.85 for each 12-month period registered).
- **Class 2** – 26 feet or more and less than 40 feet in length: \$78.25 for each 12-month period registered (County Portion: \$32.85 for each 12-month period registered).
- **Class 3** – 40 feet or more and less than 65 feet in length: \$127.75 for each 12-month period registered (County Portion: \$56.85 for each 12-month period registered).

¹³ Section 327.02(39), F.S.

¹⁴ A vessel is synonymous with a boat, as referenced in Article VII, s. 1(b), of the Florida Constitution.

¹⁵ Section 328.48(2), F.S.

¹⁶ Section 328.72(1), F.S.

- **Class 4** – 65 feet or more and less than 110 feet in length: \$152.75 for each 12-month period registered (County Portion: \$68.85 for each 12-month period registered).
- **Class 5** – 110 feet or more in length: \$189.75 for each 12-month period registered (County Portion: \$86.85 for each 12-month period registered).

The county portion of the vessel registration fee is part of the total fee (not in addition to) and is derived from recreational vessels only.

Section 328.72(15), F.S., specifies how vessel registration fees are distributed. The portion of vessel registration fees retained by the counties can only be used to provide:

- Recreational channel marking and other uniform waterway markers,
- Public boat ramps, lifts, and hoists;
- Marine railways; and
- Other public launching facilities, derelict vessel removal, and removal of vessels and floating structures deemed a hazard to public safety and health.

In 2006, HB 7175 was signed into law by the Governor¹⁷ and provided, in part, that counties must report annually, by November 1, to the FWC how all county-retained vessel registration revenues are spent, and if the report is not submitted by January 1, the county portion of the vessel registration fee revenues must be deposited into the Marine Resources Conservation Trust Fund. The FWC must return those fees to the county if the county complies with the reporting requirement within the calendar year. According to the FWC,¹⁸ all counties have complied with this reporting requirement, and no county portions of vessel registration fees have been deposited into the Marine Resources Conservation Trust Fund.

Effect of Proposed Changes

The bill amends s. 328.72, F.S., to allow counties to use their portion of vessel registration revenues for the following additional boating-related activities:

- Providing boat piers, docks, and mooring buoys;
- Maintaining or operating recreational channel marking and other uniform waterway markers; public boat ramps, lifts, and hoists; marine railways; boat piers; docks; mooring buoys; and other public launching facilities; and
- Removing derelict vessels and debris that specifically impede boat access (not including the dredging of channels).

Sections 5, 9, and 11. Definitions; Recreational Licenses, Permits, and Authorization Numbers; Hunter Safety Courses

Present Situation

Section 379.101, F.S., provides definitions for terms used throughout ch. 379, F.S., relating to the FWC. "Game" is defined as deer, bear, squirrel, rabbits, and where designated by FWC rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves. Therefore, a person is not required to have a hunting license to hunt those species that have not been designated as "game" by the FWC, such as wild hogs. "Closed season" is defined as that portion of the year wherein the laws or rules of Florida forbid the taking of particular species of game or varieties of fish.¹⁹ "Open season" is defined as that portion of the year wherein the laws of

¹⁷ Ch. 2006-305, L.O.F.

¹⁸ FWC 2014 analysis, *supra* at note 8.

¹⁹ Section 379.101(3), F.S.

Florida for the preservation of fish and game permit the taking of particular species of game or varieties of fish.²⁰

Section 379.354(1), F.S., provides that no person may take game, freshwater or saltwater fish, or fur-bearing animals²¹ within Florida without first obtaining a hunting license,²² permit, or authorization number and paying the required fees. The license, permit, or authorization number authorizes the person to whom it is issued to take game, freshwater or saltwater fish, or fur-bearing animals, and participate in outdoor recreational activities in accordance with the laws of the state and the rules of the FWC.²³ Each license, permit, or authorization number must be in the personal possession of the person to whom it is issued while such person is taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur-bearing animals.

Any person taking, attempting to take, or possessing game, freshwater or saltwater fish, or fur bearing animals, who fails to produce a license, permit, or authorization number at the request of an FWC law enforcement officer, commits a violation of the law.²⁴ Under current FWC rules, wild hogs are not designated as game or a fur-bearing animal. Therefore, a hunting license is not required to take wild hogs.

Pursuant to s. 379.354(4), F.S., an annual gold sportsman's license authorizes the person to whom it is issued to take freshwater fish, saltwater fish, and game, subject to the state and federal laws, rules, and regulations, including rules of the FWC, in effect at the time of taking. Other authorized activities include activities authorized by a management area permit, a muzzle-loading gun season permit, a crossbow season permit, a turkey permit, a Florida waterfowl permit, a deer permit, an archery season permit, a snook permit, or a spiny lobster permit. An annual military gold sportsman's license is the same as an annual gold sportsman's license; however, only a resident who is an active or retired member of the United States Armed Forces, the United States Armed Forces Reserve, the National Guard, the United States Coast Guard, or the United States Coast Guard Reserve is eligible to purchase the military gold sportsman's license upon submission of a current military identification card.

Pursuant to s. 379.3581, F.S., no person born on or after June 1, 1975, (unless specifically exempted) may be issued a license to take wild animal life using a firearm, gun, bow, or crossbow in Florida without first completing a hunter safety course, and without having in his or her personal possession a hunter safety certification card. However, an individual who has not completed a hunter safety course may apply for a special authorization to hunt under supervision, which allows the individual to hunt in the presence of a person who is licensed to hunt and is at least 21 years of age.

All persons must have in their personal possession proof of compliance with the hunter safety course requirements while taking or attempting to take wildlife with the use of a firearm, gun, bow, or crossbow, and must display a valid hunter safety certification card in order to purchase a hunting license. After the issuance of a license, the license itself will serve as proof of compliance. A holder of a lifetime license whose license does not indicate on its face that a hunter safety course has been completed must have in his or her personal possession a hunter safety certification card while attempting to take wild animal life with the use of a firearm, gun, bow, or crossbow.

²⁰ Section 379.101(27), F.S.

²¹ Section 379.101(19), F.S., defines fur-bearing animals to mean muskrat, mink, raccoon, otter, civet cat, skunk, red and gray fox, and opossum.

²² A list of the various hunting and fishing licenses and fees can be found in s. 379.354, F.S.

²³ Section 379.354(1), F.S.

²⁴ Section 379.354(3), F.S.

Effect of Proposed Changes

The bill amends s. 379.101, F.S., to:

- Create definitions for the following terms:
 - Public lands - means lands within the state that are available for public use and are owned, operated, or managed by a federal, state, county, or municipal governmental entity.
 - Wildlife - means a wild or non-domesticated bird, mammal, fur-bearing animal, reptile, or amphibian.

- Redefine definitions for the following terms:
 - Closed season - The bill replaces the word "game" in the current definition with the word "wildlife." This provision is a conforming provision that allows FWC to also restrict the hunting of various wildlife species, which have been determined by FWC to need a hunting license, during certain times of the year.
 - Game - The bill deletes the provision "where designated by commission rules" and the reference to wild hogs from the definition of game. The definition of game will now include all species listed in the current definition regardless of whether such species has been designated as game by FWC rule. Therefore, each of the specific species listed under the definition of game in statute will now require a person to obtain a hunting license in order to legally take such species. However, FWC rules have already designated all of these animals as game under the current definition, so this does not have any practical effect on current law.
 - Open season - The bill replaces the word "game" in the current definition with the word "wildlife." This provision is also a conforming provision that allows the FWC to authorize the hunting of the various wildlife species that FWC has determined requires a hunting license during certain time of the year.

The bill amends s. 379.354(1), F.S., to authorize the FWC to require a hunting license, permit, or authorization number for the taking of wildlife, other than game species, on public lands if it is determined by the FWC to be necessary for the proper management of natural resources, public safety, or public access. Thus, under the bill, if it were determined by the FWC to be necessary, the FWC would now be able to require a person to possess a hunting permit, license, or authorization in order to take non-game species such as wild hogs. According to the FWC, commission staff intends to move forward with a rule proposal requiring a hunting license and hunter safety education for the taking of wild hogs on public lands.

The bill amends s. 379.354(4), F.S., to specify that the annual military gold sportsman's license authorizes the same activities as the annual gold sportsman's license.

The bill amends s. 379.3581, F.S., to specify that proof of compliance with the hunter licensing requirements discussed above is required for any person seeking to take game, fur-bearing animals, or other wildlife for which the FWC determines that a license, permit, or authorization number is required. The bill also provides that a person only needs to provide a hunter safety certification card number in order to purchase a hunting license. Once issued, a hunting license indicates the completion of the hunter safety course and serves as proof of compliance. Otherwise, the only acceptable proof of compliance with this section is a valid hunter safety certification card. Furthermore, a license with a special authorization to hunt under supervision serves as proof of compliance.

Section 6. Fees to Hunt on Areas Subject to Cooperative Agreements between the FWC and the U.S. Forest Service

Present Situation

Pursuant to s. 379.2257(1), F.S., the Florida Legislature authorizes the FWC to enter into cooperative agreements with the U.S. Forest Service to manage species in designated national forests and to further better hunting on these lands. In addition, s. 379.2257(3), F.S., authorizes the FWC to charge, in addition to hunting license fees,²⁵ up to an additional \$5 for every person 18 years of age or older, and up to an additional \$2 for every person under the age of 18 for hunting on lands covered by the cooperative agreements. However, the FWC has not charged these fees since 1978.

The FWC also issues a management area permit for residents or nonresidents to hunt on lands owned, leased, or managed by the FWC.²⁶ This permit is required to hunt on the lands covered by cooperative agreements between the U.S. Forest Service and the FWC that have been established as wildlife management areas. Revenue from these permits is used for the lease, management, and protection of lands for public hunting and other outdoor recreation. As a result, the permissible fees for hunting on areas covered by cooperative agreements between the U.S. Forest Service and the FWC are duplicative and obsolete.

Effect of Proposed Changes

The bill repeals s. 379.2257(3), F.S., which authorizes the FWC to charge the \$2 (under 18) and \$5 (18 and older) fees for hunting on areas subject to cooperative agreements between the FWC and the U.S. Forest Service discussed above. Because the FWC issues management area permits to hunt on these lands, the fees are duplicative and obsolete.

Section 7. Regulation of Shrimp Fishing

Present Situation

Section 379.247(5), F.S., authorizes any person to trawl for shrimp in the St. Johns River for his or her own food, if noncommercial trawling is authorized by the FWC, under the following conditions:

- Each person who desires to trawl for shrimp for use as food must obtain a noncommercial trawling permit from the local office of the FWC upon filling out an application on a form prescribed by the FWC and upon paying a \$50 fee for the permit.
- All trawling must be restricted to the confines of the St. Johns River proper in the area north of the Acosta Bridge in Jacksonville and at least 100 yards from the nearest shoreline.
- No shrimp caught by a person licensed under the provisions of this subsection may be sold or offered for sale.

In January 1996, the Marine Fisheries Commission (predecessor to the FWC) adopted a rule prohibiting the use of trawls in the recreational shrimp fishery.²⁷ Trawls are only allowed for commercial harvest of shrimp, not for recreational harvest. As a result, noncommercial trawling permits have not been issued since the activity was prohibited in 1996.

²⁵ Section 379.354, F.S., provides the various fees for hunting licenses.

²⁶ Section 379.354(8)(g), F.S.

²⁷ Chapter 68B-31.007, F.A.C.

Effect of Proposed Changes

The bill repeals s. 379.247(5), F.S., which establishes the permit requirement and \$50 fee for noncommercial shrimp trawling for personal food use in the St. Johns River. The activity has been prohibited since 1996, so the requirement is obsolete.

Section 8. Recreational Hunting and Fishing License Exemptions

Present Situation

A person who wants to recreationally hunt or fish in Florida must obtain a recreational license, permit, or authorization number and pay the appropriate fee.²⁸

Section 379.353(2), F.S., exempts specified individuals from having to possess a recreational license while hunting or fishing. Section 379.353(2)(g), F.S., provides an exemption for any person fishing who has been accepted as a client for developmental disabilities services by the Department of Children and Family Services (DCF), provided DCF furnishes proof.

In 2004, HB 1823 was signed into law by the Governor,²⁹ creating the Agency for Persons with Disabilities (APD) as an entity separate from DCF. The APD was subsequently tasked with serving the need of Floridians with developmental disabilities. Consequently, s. 379.353(2)(g), F.S., has an incorrect statutory reference.

Effect of Proposed Changes

The bill amends s. 379.353(2)(g), F.S., to fix the incorrect reference by changing DCF to APD.

The bill also conforms a related cross-reference.

Section 10. Special Recreational Spiny Lobster License

Present Situation

The spiny lobster can be harvested both recreationally and commercially in Florida. Spiny lobsters and stone crabs may be harvested recreationally by anyone who has a valid recreational saltwater fishing license.³⁰ The current recreational bag limit (the number of a species a person may legally harvest) for spiny lobster is six per person, per day during the regular recreational season, which runs from August 6 to March 31.³¹ The special spiny lobster sport season occurs annually on the last consecutive Wednesday and Thursday of July.³² Recreational fishermen may still only harvest six spiny lobsters per day in Monroe County or Biscayne National Park, but may harvest 12 spiny lobsters per day elsewhere. Recreational spiny lobster fishermen must possess a recreational saltwater fishing license and a lobster permit.

The commercial spiny lobster fishing season also runs from August 6 to March 31.³³ However, there is no daily bag limit for commercial spiny lobster fishermen using traps.³⁴ Commercial spiny lobster fishermen must possess a valid saltwater products license (SPL).³⁵ A saltwater product is defined as

²⁸ Section 379.354, F.S.

²⁹ Ch. 2004-267, L.O.F.

³⁰ See s. 379.354, F.S.

³¹ Chapter 68B-24.005(1), F.A.C.

³² Chapter 68B.005(2), F.A.C.

³³ Chapter 68B-24.005(1), F.A.C.

³⁴ For those in the dive fishing industry using bully nets, the commercial daily bag limit is 250.

³⁵ Section 379.361, F.S.

any species of saltwater fish, marine plant, or echinoderm, except shells, and salted, cured, canned, or smoked seafood.³⁶

There are three types of SPLs in Florida:

- Individual SPL – This license authorizes one person to engage in commercial fishing activities from the shore or a vessel, is issued in the individual’s name, and is not tied to any one vessel.³⁷
- Crew SPL – This license is the same as an individual SPL, but also authorizes each person who is fishing with the named individual aboard a vessel to engage in such activities. This allows the license holder to take a crew on any vessel and that crew is covered under the person’s SPL.³⁸
- Vessel SPL – This license is issued to a valid commercial vessel registration number and authorizes each person aboard that registered vessel to engage in commercial saltwater fishing activities. This is issued to a vessel, not a named individual.³⁹

A restricted species (RS) endorsement is required for those who possess an SPL and commercially harvest or sell the following species: Spanish mackerel, king mackerel, black drum, spotted sea trout, grouper, snapper, red porgy, gray triggerfish, banded rudderfish, almaco jack, golden tilefish, amberjack, sea bass/tropical/ornamental “marine life,” black mullet, silver mullet, bluefish, hogfish, blue crab, stone crab, crawfish/spiny lobster, African pompano, Florida pompano, permit, sheepshead, tripletail, clams (Brevard County only), shrimp, flounder, cobia, wahoo, and dolphin.⁴⁰

A RS endorsement is free; however, licensed commercial fishermen, firms, or corporations must qualify or show proof of landings reported under their SPL providing that a specified amount or percentage of their total annual income (\$5,000 or 25 percent) during one of the past three years is attributable to reported landings and sales of saltwater products to a Florida wholesale dealer.⁴¹

In 1994, the spiny lobster was designated a RS.⁴² That same year the Florida Legislature created the “special recreational crawfish license,” which is now known as the “special recreational spiny lobster license” (SRL).⁴³ The license, which costs \$100, was created to allow individuals who possessed an SPL and a crawfish endorsement on their SPL (and who were legally able to harvest and sell lobster commercially) to exceed the recreational bag limit for personal use. To be eligible, a person must have held both an SPL and a crawfish endorsement during the 1993-94 license year, and only those initially qualified to purchase the license were allowed to receive the license.

After the creation of the SRL, a new recreational spiny lobster rule was implemented, which⁴⁴ established a daily bag limit beginning with 50 during the 2003-04 season to phase out the SRL, which was only given to certain commercial fishermen so that their bag limit could exceed the recreational bag limit for personal use. Each subsequent year’s daily bag limit for the SRL was reduced by five, and by the 2012-2013 license year, the SRL bag limit was less than the daily recreational bag limit, which is currently six. Consequently, this eliminated any reason for a person to obtain an SRL and no SRLs were issued for the 2012-2013 season.

³⁶ Section 379.101, F.S.

³⁷ Section 379.354, F.S.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ Chapter 68B, F.A.C.

⁴¹ Section 379.361(b), F.S.

⁴² Chapter 68B-24.001(4), F.A.C.

⁴³ Section 379.355, F.S.

⁴⁴ Chapter 68B-24.0035, F.A.C.

Effect of Proposed Changes

The bill repeals s. 379.355, F.S., relating to the now outdated and unnecessary Special Recreational Spiny Lobster license.

Section 12. Annual Gear License Fee

Present Situation

Under current law, all commercial fishing operators permitted to fish in freshwaters with trawl seine nets (bag-like nets that are pulled behind a boat to harvest fish)⁴⁵ are required to pay a \$50 annual gear license fee.⁴⁶ All commercial fishing operators permitted to fish in freshwaters with haul seines (long nets pulled by boats to harvest fish)⁴⁷ must pay a \$100 annual gear license fee.⁴⁸ Both fees have been unchanged since 1978.

The FWC issues five statewide freshwater haul seine annual gear licenses each year, which are currently limited to use in Polk and Hillsborough Counties. An FWC rule dictates the number of statewide freshwater haul seines and the locations. The FWC has not issued a statewide trawl seine license in over 25 years.

Effect of Proposed Changes

The bill amends s. 379.363, F.S., to repeal the \$50 fee associated with the statewide freshwater trawl seine gear license and the \$100 fee associated with the statewide haul seine gear license.

Section 13. Haul Seine and Trawl Permits Used in Lake Okeechobee.

Present Situation

The FWC is authorized to issue permits for the commercial use of haul or trawl seines on Lake Okeechobee.⁴⁹ Fees for the three types of permits, which have not changed since 1976, are as follows:

- Resident trawl seine permit - \$50
- Resident haul seine permit - \$100
- Nonresident trawl or haul seine permit - \$500

Currently, the FWC issues six resident haul seine permits for commercial activity on Lake Okeechobee. Permits for resident trawl seines for commercial activity have not been issued in over 30 years and a nonresident trawl or haul seine permit has never been issued.⁵⁰

For commercial fishers on Lake Okeechobee, the haul and trawl seine permit fees are required in addition to purchasing a freshwater commercial fishing license and a fish dealer's license (see above for license fees and numbers issued).

⁴⁵ FWC 2014 analysis, *supra* at footnote 8.

⁴⁶ Section 379.363(1)(h), F.S.

⁴⁷ FWC 2014 analysis, *supra* at footnote 8.

⁴⁸ Section 379.363(1)(i), F.S.

⁴⁹ Section 379.3635, F.S.

⁵⁰ *Supra* at footnote 8.

Effect of Proposed Changes

The bill repeals s. 379.3635, F.S., relating to haul seine and trawl permits and fees used in Lake Okeechobee. Pursuant to their constitutional authority, the FWC currently requires permits to use a trawl and haul seine on Lake Okeechobee. Therefore, the bill will only eliminate the fees, not the permitting requirements.

Sections 14, 15, 16, and 17 conform cross-references

Section 18 provides an effective date of July 1, 2014

B. SECTION DIRECTORY:

Section 1. Amends s. 327.355, F.S., relating to the operation of vessels by persons under 21 years of age who have consumed alcoholic beverages.

Section 2. Amends s. 327.4105, F.S., relating to the pilot program for the regulation of mooring vessels outside of public mooring fields.

Section 3. Amends s. 327.731, F.S., relating to mandatory education for violators.

Section 4. Amends s. 328.72, F.S., relating to classification, registration, fees and charges, surcharges, disposition of fees, fines, and marine turtle stickers.

Section 5. Amends s. 379.101, F.S., relating to definitions.

Section 6. Repeals s. 379.2257, F.S., relating to a charge to be applied to areas covered by the cooperative agreements with the U.S. Forest Service.

Section 7. Amends s. 379.247, F.S., relating to the regulation of shrimp fishing.

Section 8. Amends s. 379.353, F.S., relating to the recreational hunting and fishing license exemption.

Section 9. Amends s. 379.354, F.S., relating to recreational licenses, permits, and authorization numbers.

Section 10. Repeals s. 379.355, F.S., relating to the Special Recreational Spiny Lobster license.

Section 11. Amends s. 379.3581, F.S., relating to hunter safety courses, requirements, and penalties.

Section 12. Repeals s. 379.363, F.S., relating to the annual gear license fee.

Section 13. Repeals s. 379.3635, F.S., relating to haul seine and trawl permits used in Lake Okeechobee.

Section 14. Amends s. 379.208, F.S., conforming cross-references.

Section 15. Amends s. 379.337, F.S., conforming cross-references.

Section 16. Amends s. 379.401, F.S., conforming cross-references.

Section 17. Amends s. 589.19, F.S., conforming cross-references.

Section 18. Provides an effective date of July 1, 2014.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

FWC offered the following:

Recreational licenses, permits, and authorization numbers- The bill has a potentially positive fiscal impact on the FWC from hunting license revenues paid by hunters wishing to hunt wild hogs or other species on public lands for which a license is not currently required.

Statewide freshwater trawl and haul seine annual gear license fees- The bill has a potentially insignificant negative fiscal impact on the FWC as a result of repealing the statewide trawl and haul seine annual gear license fees. Five licenses are issued each year, resulting in a \$500 annual loss of revenue for the FWC.

Haul seine and trawl permits used in Lake Okeechobee- The bill appears to have an insignificant negative fiscal impact on the FWC as a result of repealing the Okeechobee haul seine and trawl permit fees. Six licenses are issued annually and each license is \$100 per year, resulting in a \$600 annual loss of revenue for the FWC.

2. Expenditures:

The bill does not appear to have a fiscal impact on state expenditures.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

This bill does not appear to have a fiscal impact on local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The FWC offered the following:

Boater safety course requirements- There may be a small negative fiscal impact on organizations that offer only classroom, in-person courses, but these entities will have the option of making the course available online. It is anticipated that any fiscal impact to these organizations will be minimal. Students taking courses to meet mandatory education requirements make up a small part of the organizations' student load.

Those individuals who will be subject to MEV requirements may experience a small positive fiscal impact if the proposal is implemented since the cost to the student for an MEV classroom course ranges from \$30 to \$50 and the cost to a student for online courses ranges from free to \$30. For some of these violators, the positive fiscal impact may be even larger since, under current law, they may be required to travel longer distances to find a classroom course in order to comply with the statute.

Recreational licenses, permits, and authorization numbers- The bill has a potentially insignificant negative fiscal impact on hunters who would have to purchase a hunting license in order to hunt wild hogs or other species on public lands for which a license is not currently required.

Statewide freshwater trawl and haul seine annual gear license fees: Eliminating these fees would result in a \$100 annual positive fiscal impact for commercial fishermen.

Okeechobee haul seine and trawl permit fees: Eliminating these fees would result in a \$100 annual positive fiscal impact for commercial fishermen.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill authorizes the FWC to require a person, by rule, to obtain a hunting license, permit, or authorization number for the taking of certain wildlife on public lands.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled

2 An act relating to the Fish and Wildlife Conservation
3 Commission; amending s. 327.355, F.S.; providing that
4 a boating safety course may be offered in a classroom
5 or online; conforming provisions relating to the
6 reassignment of the boating safety program from the
7 Department of Environmental Protection to the
8 commission; amending s. 327.4105, F.S.; requiring the
9 commission to submit an updated report relating to the
10 regulation of mooring vessels; extending the
11 expiration date of the pilot program for the
12 regulation of mooring vessels; amending s. 327.731,
13 F.S.; providing that a boating safety course may be
14 offered in a classroom or online; eliminating an
15 exemption from boating safety education requirements
16 for boating law violators; amending s. 328.72, F.S.;
17 expanding a county's authorization to use moneys
18 collected from vessel registration fees; amending s.
19 379.101, F.S.; redefining and defining certain terms;
20 conforming a cross-reference; repealing s.
21 379.2257(3), F.S., relating to a charge to be applied
22 to areas covered by cooperative agreements with the
23 United States Forest Service over and above the
24 license fee for hunting; amending s. 379.247, F.S.;
25 removing provisions relating to noncommercial
26 trawling; amending s. 379.353, F.S.; conforming

27 provisions relating to the change in responsibility
 28 for providing developmental disabilities services,
 29 from the Department of Children and Families to the
 30 Agency for Persons with Disabilities; conforming
 31 provisions to changes made by the act; amending s.
 32 379.354, F.S.; authorizing the commission to require a
 33 license, permit, or authorization number for a person
 34 to take certain wildlife on public lands; clarifying
 35 that a license to take fur-bearing animals is required
 36 unless otherwise provided; conforming provisions to
 37 changes made by the act; repealing s. 379.355, F.S.,
 38 relating to special recreational spiny lobster
 39 licenses; amending s. 379.3581, F.S.; revising the
 40 proof of compliance that certain people must have in
 41 their personal possession to take game, fur-bearing
 42 animals, or other wildlife; requiring certain people
 43 to provide a valid hunter safety certification card
 44 number in order to purchase a Florida hunting license;
 45 providing that such license indicates completion of
 46 the hunter safety course; providing that a license
 47 with a special authorization to hunt under supervision
 48 serves as proof of compliance; conforming provisions
 49 to changes made by the act; repealing s. 379.363(1)(h)
 50 and (i), F.S., relating to the annual gear license
 51 fee; repealing s. 379.3635, F.S., relating to haul
 52 seine and trawl permits to be used in Lake Okeechobee;

53 amending ss. 379.208, 379.337, 379.401 and 589.19,
 54 F.S.; conforming cross-references and provisions to
 55 changes made by the act; providing an effective date.
 56

57 Be It Enacted by the Legislature of the State of Florida:
 58

59 Section 1. Subsection (5) of section 327.355, Florida
 60 Statutes, is amended to read:

61 327.355 Operation of vessels by persons under 21 years of
 62 age who have consumed alcoholic beverages.—

63 (5) A ~~Any person who is~~ convicted of a violation of
 64 subsection (1) shall be ordered by the court to ~~be punished as~~
 65 ~~follows:~~

66 (a) ~~The court shall order the defendant to~~ Participate in
 67 public service or a community work project for a minimum of 50
 68 hours;

69 (b) ~~The court shall order the defendant to~~ Refrain from
 70 operating any vessel until the 50 hours of public service or
 71 community work has been performed; and

72 (c) Enroll in, attend, and successfully complete, at his
 73 or her own expense, a classroom or online boating safety course
 74 that meets minimum standards established by commission ~~the~~
 75 ~~department~~ by rule.

76 Section 2. Subsections (5) and (6) of section 327.4105,
 77 Florida Statutes, are amended to read:

78 327.4105 Pilot program for regulation of mooring vessels

79 outside of public mooring fields.—The Fish and Wildlife
 80 Conservation Commission, in consultation with the Department of
 81 Environmental Protection, is directed to establish a pilot
 82 program to explore potential options for regulating the
 83 anchoring or mooring of non-live-aboard vessels outside the
 84 marked boundaries of public mooring fields.

85 (5) The commission shall submit a report of its findings
 86 and recommendations to the Governor, the President of the
 87 Senate, and the Speaker of the House of Representatives by
 88 January 1, 2014, and shall submit an updated report by January
 89 1, 2017.

90 (6) The pilot program shall expire on July 1, 2017 ~~2014~~,
 91 unless reenacted by the Legislature. All ordinances enacted
 92 under this section shall expire concurrently with the expiration
 93 of the pilot program and shall be inoperative and unenforceable
 94 thereafter.

95 Section 3. Subsection (1) of section 327.731, Florida
 96 Statutes, is amended to read:

97 327.731 Mandatory education for violators.—

98 (1) A ~~Every~~ person convicted of a criminal violation under
 99 ~~of~~ this chapter, ~~every person~~ convicted of a noncriminal
 100 infraction under this chapter if the infraction resulted in a
 101 reportable boating accident, or ~~and every person~~ convicted of
 102 two noncriminal infractions as specified ~~defined~~ in s.
 103 327.73(1)(h)-(k), (m), (o), (p), and (s)-(x), said infractions
 104 occurring within a 12-month period, must:

105 (a) Enroll in, attend, and successfully complete, at his
 106 or her own expense, a classroom or online boating safety course
 107 that is approved by and meets the minimum standards established
 108 by the commission by rule; ~~however, the commission may provide~~
 109 ~~by rule pursuant to chapter 120 for waivers of the attendance~~
 110 ~~requirement for violators residing in areas where classroom~~
 111 ~~presentation of the course is not available;~~

112 (b) File with the commission within 90 days proof of
 113 successful completion of the course; and

114 (c) Refrain from operating a vessel until he or she has
 115 filed ~~the~~ proof of successful completion of the course with the
 116 commission.

117

118 ~~Any person who has successfully completed an approved boating~~
 119 ~~course shall be exempt from these provisions upon showing proof~~
 120 ~~to the commission as specified in paragraph (b).~~

121 Section 4. Subsection (15) of section 328.72, Florida
 122 Statutes, is amended to read:

123 328.72 Classification; registration; fees and charges;
 124 surcharge; disposition of fees; fines; marine turtle stickers.—

125 (15) DISTRIBUTION OF FEES.—Except for the first \$2, \$1 of
 126 which shall be remitted to the state for deposit into the Save
 127 the Manatee Trust Fund created within the Fish and Wildlife
 128 Conservation Commission and \$1 of which shall be remitted to the
 129 state for deposit into the Marine Resources Conservation Trust
 130 Fund to fund a grant program for public launching facilities,

131 | pursuant to s. 206.606, giving priority consideration to
 132 | counties with more than 35,000 registered vessels, moneys
 133 | designated for the use of the counties, as specified in
 134 | subsection (1), shall be distributed by the tax collector to the
 135 | board of county commissioners for use only as provided in this
 136 | section. Such moneys to be returned to the counties are for the
 137 | sole purposes of providing, maintaining, or operating
 138 | recreational channel marking and other uniform waterway markers,
 139 | public boat ramps, lifts, and hoists, marine railways, boat
 140 | piers, docks, mooring buoys, and other public launching
 141 | facilities; and removing derelict vessels, debris that
 142 | specifically impede boat access, not including the dredging of
 143 | channels ~~vessel removal~~, and ~~removal of~~ vessels and floating
 144 | structures deemed a hazard to public safety and health for
 145 | failure to comply with s. 327.53. Counties shall demonstrate
 146 | through an annual detailed accounting report of vessel
 147 | registration revenues that the registration fees were spent as
 148 | provided in this subsection. This report shall be provided to
 149 | the Fish and Wildlife Conservation Commission no later than
 150 | November 1 of each year. If, before ~~prior to~~ January 1 of each
 151 | calendar year, the ~~annual detailed~~ accounting report meeting the
 152 | prescribed criteria has still not been provided to the
 153 | commission, the tax collector of that county may ~~shall~~ not
 154 | distribute the moneys designated for the use of counties, as
 155 | specified in subsection (1), to the board of county
 156 | commissioners but shall, ~~instead,~~ for the next calendar year,

157 remit such moneys to the state for deposit into the Marine
 158 Resources Conservation Trust Fund. The commission shall return
 159 those moneys to the county if the county fully complies with
 160 this section within that calendar year. If the county does not
 161 fully comply with this section within that calendar year, the
 162 moneys shall remain within the Marine Resources Trust Fund and
 163 may be appropriated for the purposes specified in this
 164 subsection.

165 Section 5. Present subsections (29) through (39) of
 166 section 379.101, Florida Statutes, are renumbered as subsections
 167 (30) through (40), respectively, new subsections (29) and (41)
 168 are added to that section, and subsections (3), (20), and (27)
 169 and present subsection (30) of that section are amended, to
 170 read:

171 379.101 Definitions.—In construing these statutes, where
 172 the context does not clearly indicate otherwise, the word,
 173 phrase, or term:

174 (3) "Closed season" means ~~shall be~~ that portion of the
 175 year during which ~~wherein the laws or rules of Florida forbid~~
 176 the taking of particular species of wildlife ~~game~~ or varieties
 177 of fish is prohibited by state law or by commission rule.

178 (20) "Game" means deer, bear, squirrel, rabbits, ~~and,~~
 179 ~~where designated by commission rules, wild hogs,~~ ducks, geese,
 180 rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse,
 181 pheasants, quail, and doves.

182 (27) "Open season" means ~~shall be~~ that portion of the year

183 during which state ~~wherein the laws allow for of Florida for the~~
 184 ~~preservation of fish and game permit~~ the taking of particular
 185 species of wildlife ~~game~~ or varieties of fish.

186 (29) "Public lands" means lands within the state which are
 187 available for public use and are owned, operated, or managed by
 188 a federal, state, county, or municipal governmental entity.

189 (31) ~~(30)~~ "Resident" or "resident of Florida" means:

190 (a) For purposes of part VII ~~and for purposes of s.~~
 191 ~~379.355~~, a citizen of the United States who has continuously
 192 resided in this state for 1 year before applying for a hunting,
 193 fishing, or other license. However, for purposes of ss. 379.363,
 194 ~~379.3635~~, 379.364, 379.3711, 379.3712, 379.372, 379.373,
 195 379.374, 379.3751, 379.3752, 379.3761, and 379.3762, the term
 196 ~~"resident" or "resident of Florida"~~ means a citizen of the
 197 United States who has continuously resided in this state for 6
 198 months before applying for a hunting, fishing, or other license.

199 (b) For purposes of part VI, ~~except s. 379.355:~~

200 1. A ~~Any~~ member of the United States Armed Forces who is
 201 stationed in the state and his or her family members residing
 202 with such member; or

203 2. A ~~Any~~ person who has declared Florida as his or her
 204 only state of residence as evidenced by a valid Florida driver
 205 license or identification card that has ~~with~~ both a Florida
 206 address and a Florida residency verified by the Department of
 207 Highway Safety and Motor Vehicles, or, in the absence thereof,
 208 one of the following:

- 209 a. A current Florida voter information card;
- 210 b. A sworn statement manifesting and evidencing domicile
- 211 in Florida in accordance with s. 222.17;
- 212 c. Proof of a current Florida homestead exemption; or
- 213 d. For a child younger than 18 years of age, a student
- 214 identification card from a Florida school or, if ~~when~~
- 215 accompanied by his or her parent at the time of purchase, the
- 216 parent's proof of residency.

217 (41) "Wildlife" means a wild or nondomesticated bird,

218 mammal, fur-bearing animal, reptile, or amphibian.

219 Section 6. Subsection (3) of section 379.2257, Florida

220 Statutes, is repealed.

221 Section 7. Paragraph (d) of subsection (4) and subsection

222 (5) of section 379.247, Florida Statutes, are amended to read:

223 379.247 Regulation of shrimp fishing; Clay, Duval, Nassau,

224 Putnam, Flagler, and St. Johns Counties.—

225 (4) DEAD SHRIMP PRODUCTION.—Any person may operate as a

226 commercial dead shrimp producer provided that:

227 (d) ~~No person holding a dead shrimp production permit~~

228 ~~issued pursuant to this subsection shall simultaneously hold a~~

229 ~~permit for noncommercial trawling under the provisions of~~

230 ~~subsection (5).~~ The number of permits issued by the commission

231 for commercial trawling or dead shrimp production in any one

232 year shall be limited to those active in the base year, 1976,

233 and renewed annually since 1976. All permits for dead shrimp

234 production issued pursuant to this section shall be inheritable

235 or transferable to an immediate family member and annually
 236 renewable by the holder thereof. Such inheritance or transfer
 237 shall be valid upon being registered with the commission. Each
 238 permit not renewed shall expire and shall not be renewed under
 239 any circumstances.

240 ~~(5) NONCOMMERCIAL TRAWLING. If noncommercial trawling is~~
 241 ~~authorized by the Fish and Wildlife Conservation Commission, any~~
 242 ~~person may trawl for shrimp in the St. Johns River for his or~~
 243 ~~her own use as food under the following conditions:~~

244 ~~(a) Each person who desires to trawl for shrimp for use as~~
 245 ~~food shall obtain a noncommercial trawling permit from the local~~
 246 ~~office of the Fish and Wildlife Conservation Commission upon~~
 247 ~~filling out an application on a form prescribed by the~~
 248 ~~commission and upon paying a fee for the permit, which shall~~
 249 ~~cost \$50.~~

250 ~~(b) All trawling shall be restricted to the confines of~~
 251 ~~the St. Johns River proper in the area north of the Acosta~~
 252 ~~Bridge in Jacksonville and at least 100 yards from the nearest~~
 253 ~~shoreline.~~

254 ~~(c) No shrimp caught by a person licensed under the~~
 255 ~~provisions of this subsection may be sold or offered for sale.~~

256 Section 8. Paragraphs (g) and (o) of subsection (2) of
 257 section 379.353, Florida Statutes, are amended to read:

258 379.353 Recreational licenses and permits; exemptions from
 259 fees and requirements.—

260 (2) A hunting, freshwater fishing, or saltwater fishing

261 license or permit is not required for:

262 (g) Any person fishing who has been accepted as a client
 263 for developmental disabilities services by the Agency for
 264 Persons with Disabilities if ~~Department of Children and Family~~
 265 ~~Services,~~ provided the agency ~~department~~ furnishes proof
 266 thereof.

267 (o) Any employee of the commission who takes freshwater
 268 fish, saltwater fish, or wildlife ~~game~~ as part of employment
 269 with the commission, or any other person authorized by
 270 commission permit to take freshwater fish, saltwater fish, or
 271 wildlife ~~game~~ for scientific or educational purposes.

272 Section 9. Subsections (1), (3), (4), (5), and (9),
 273 paragraph (b) of subsection (11), paragraph (b) of subsection
 274 (12), and subsection (17) of section 379.354, Florida Statutes,
 275 are amended to read:

276 379.354 Recreational licenses, permits, and authorization
 277 numbers; fees established.—

278 (1) LICENSE, PERMIT, OR AUTHORIZATION NUMBER REQUIRED.—

279 (a) Except as provided in s. 379.353, a ne person may not
 280 ~~shall~~ take game, freshwater or saltwater fish, or fur-bearing
 281 animals within this state without ~~having~~ first obtaining
 282 ~~obtained~~ a license, permit, or authorization number and paying
 283 ~~paid~~ the fees set forth in this chapter.

284 (b) A license, permit, or authorization number may be
 285 required by commission rule or order for the taking of other
 286 wildlife on public lands if determined by the commission to be

287 necessary for the proper management of natural resources, public
 288 safety, or public access.

289 (c) A ~~Such~~ license, permit, or authorization number
 290 authorizes ~~shall authorize~~ the person to whom it is issued to
 291 take the wildlife or game, freshwater or saltwater fish for
 292 which the license, permit, or authorization number is issued, ~~or~~
 293 ~~fur-bearing animals,~~ and to participate in outdoor recreational
 294 activities in accordance with ~~the laws of the state~~ laws and
 295 ~~rules of the commission~~ rules.

296 (3) PERSONAL POSSESSION REQUIRED.—Each license, permit, or
 297 authorization number must be in the personal possession of the
 298 person to whom it is issued while such person is taking,
 299 attempting to take, or possessing ~~game,~~ freshwater or saltwater
 300 fish, or wildlife if a license, permit, or authorization number
 301 is required pursuant to this section or s. 379.353 ~~fur-bearing~~
 302 ~~animals.~~ A Any person taking, attempting to take, or possessing
 303 wildlife or game, freshwater or saltwater fish, ~~or fur-bearing~~
 304 ~~animals~~ who fails to produce a license, permit, or authorization
 305 number at the request of a commission law enforcement officer
 306 violates this subsection ~~commits a violation of the law.~~

307 (4) RESIDENT HUNTING AND FISHING LICENSES.—The licenses
 308 and fees for residents participating in hunting and fishing
 309 activities in this state are as follows:

- 310 (a) Annual freshwater fishing license, \$15.50.
- 311 (b) Annual saltwater fishing license, \$15.50.
- 312 (c) Annual hunting license to take wildlife ~~game,~~ \$15.50.

313 (d) Annual combination hunting and freshwater fishing
 314 license, \$31.

315 (e) Annual combination freshwater fishing and saltwater
 316 fishing license, \$31.

317 (f) Annual combination hunting, freshwater fishing, and
 318 saltwater fishing license, \$46.50.

319 (g) Annual license to take fur-bearing animals, \$25.

320 Notwithstanding a license issued under this section or a license
 321 or exemption under s. 379.353, this license is required to take
 322 fur-bearing animals unless otherwise provided in this paragraph.

323 ~~However,~~ A resident with a valid hunting license or a no-cost
 324 license who is taking fur-bearing animals for noncommercial
 325 purposes using guns or dogs only, and not traps or other
 326 devices, is not required to purchase this license. Also, a
 327 resident 65 years of age or older is not required to purchase
 328 this license.

329 (h) Annual sportsman's license, \$79, except that an annual
 330 sportsman's license for a resident 64 years of age or older is
 331 \$12. A sportsman's license authorizes the person to whom it is
 332 issued to take wildlife ~~game~~ and freshwater fish, subject to the
 333 state and federal laws, rules, and regulations, including rules
 334 of the commission, in effect at the time of the taking. Other
 335 authorized activities include activities authorized by a
 336 management area permit, a muzzle-loading gun season permit, a
 337 crossbow season permit, a turkey permit, a Florida waterfowl
 338 permit, a deer permit, and an archery season permit.

339 (i) Annual gold sportsman's license, \$98.50. The gold
 340 sportsman's license authorizes the person to whom it is issued
 341 to take freshwater fish, saltwater fish, and wildlife ~~game~~,
 342 subject to the state and federal laws, rules, and regulations,
 343 including rules of the commission, in effect at the time of
 344 taking. Other authorized activities include those ~~activities~~
 345 authorized by a management area permit, a muzzle-loading gun
 346 season permit, a crossbow season permit, a turkey permit, a
 347 Florida waterfowl permit, a deer permit, an archery season
 348 permit, a snook permit, and a spiny lobster permit.

349 (j) Annual military gold sportsman's license, \$18.50. A
 350 ~~The gold sportsman's license authorizes the person to whom it is~~
 351 ~~issued to take freshwater fish, saltwater fish, and game,~~
 352 ~~subject to the state and federal laws, rules, and regulations,~~
 353 ~~including rules of the commission, in effect at the time of~~
 354 ~~taking. Other authorized activities include activities~~
 355 ~~authorized by a management area permit, a muzzle-loading gun~~
 356 ~~season permit, a crossbow season permit, a turkey permit, a~~
 357 ~~Florida waterfowl permit, a deer permit, an archery season~~
 358 ~~permit, a snook permit, and a spiny lobster permit. Any resident~~
 359 who is an active or retired member of the United States Armed
 360 Forces, the United States Armed Forces Reserve, the National
 361 Guard, the United States Coast Guard, or the United States Coast
 362 Guard Reserve may ~~is eligible to~~ purchase the military gold
 363 sportsman's license upon submission of a current military
 364 identification card. The annual military gold sportsman's

365 license authorizes the same activities as the annual gold
 366 sportsman's license.

367 (k) An annual resident shoreline fishing license shall be
 368 issued without a fee to allow a ~~any~~ resident to saltwater fish
 369 from land or from a structure fixed to the land. This license is
 370 not required for a ~~any~~ resident issued any other license
 371 identified in this section which allows the taking of saltwater
 372 fish.

373 (5) NONRESIDENT HUNTING AND FISHING LICENSES.—The licenses
 374 and fees for nonresidents participating in hunting and fishing
 375 activities in the state are as follows:

376 (a) Freshwater fishing license to take freshwater fish for
 377 3 consecutive days, \$15.50.

378 (b) Freshwater fishing license to take freshwater fish for
 379 7 consecutive days, \$28.50.

380 (c) Saltwater fishing license to take saltwater fish for 3
 381 consecutive days, \$15.50.

382 (d) Saltwater fishing license to take saltwater fish for 7
 383 consecutive days, \$28.50.

384 (e) Annual freshwater fishing license, \$45.50.

385 (f) Annual saltwater fishing license, \$45.50.

386 (g) Hunting license to take wildlife ~~game~~ for 10
 387 consecutive days, \$45.

388 (h) Annual hunting license to take wildlife ~~game~~, \$150.

389 (i) Annual license to take fur-bearing animals, \$25.

390 Notwithstanding a license issued under this section or a license

391 or exemption under s. 379.353, this license is required to take
 392 fur-bearing animals unless otherwise provided in this paragraph.

393 ~~However,~~ A nonresident with a valid Florida hunting license who
 394 is taking fur-bearing animals for noncommercial purposes using
 395 guns or dogs only, and not traps or other devices, is not
 396 required to purchase this license.

397 (9) RESIDENT 5-YEAR HUNTING AND FISHING LICENSES.—

398 (a) Five-year licenses are available for residents only,
 399 as follows:

400 1. A 5-year freshwater fishing or saltwater fishing
 401 license is \$77.50 for each type of license and authorizes the
 402 person to whom the license is issued to take or attempt to take
 403 or possess freshwater fish or saltwater fish consistent with the
 404 state and federal laws and regulations and rules of the
 405 commission in effect at the time of taking.

406 2. A 5-year hunting license is \$77.50 and authorizes the
 407 person to whom it is issued to take or attempt to take or
 408 possess wildlife game consistent with the state and federal laws
 409 and regulations and rules of the commission in effect at the
 410 time of taking.

411 3. The commission may ~~is authorized to~~ sell the hunting,
 412 fishing, and recreational activity permits authorized under ~~in~~
 413 subsection (8) for a 5-year period to coincide with ~~match~~ the
 414 purchase of 5-year fishing and hunting licenses. The fee for
 415 each permit issued under this paragraph is ~~shall be~~ five times
 416 the annual fee cost established in subsection (8).

417 (b) Proceeds from the sale of all 5-year licenses and
 418 permits shall be deposited into the Dedicated License Trust
 419 Fund, to be distributed in accordance with ~~the provisions of s.~~
 420 379.203.

421 (11) RESIDENT LIFETIME HUNTING LICENSES.—

422 (b) The following activities are authorized by the
 423 purchase of a lifetime hunting license:

424 1. Taking, or attempting to take or possess, wildlife game
 425 consistent with the state and federal laws and regulations and
 426 rules of the commission in effect at the time of the taking.

427 2. All activities authorized by a muzzle-loading gun
 428 season permit, a crossbow season permit, a turkey permit, an
 429 archery season permit, a Florida waterfowl permit, a deer
 430 permit, and a management area permit, excluding fishing.

431 (12) RESIDENT LIFETIME SPORTSMAN'S LICENSES.—

432 (b) The following activities are authorized by the
 433 purchase of a lifetime sportsman's license:

434 1. Taking, or attempting to take or possess, freshwater
 435 and saltwater fish~~7~~ and wildlife game, consistent with the state
 436 and federal laws and regulations and rules of the commission in
 437 effect at the time of taking.

438 2. All activities authorized by a management area permit,
 439 a muzzle-loading gun season permit, a crossbow season permit, a
 440 turkey permit, an archery season permit, a Florida waterfowl
 441 permit, a deer permit, a snook permit, and a spiny lobster
 442 permit.

443 (17) SUSPENDED OR REVOKED LICENSES.—A person may not take
 444 game, freshwater fish, saltwater fish, ~~or~~ fur-bearing animals,
 445 or other wildlife for which the commission determines that a
 446 license, permit, or authorization number is required under
 447 subsection (1) within this state if a license issued to such
 448 person as required under this section or a privilege granted to
 449 such person under s. 379.353 is suspended or revoked. A person
 450 who violates this subsection commits a Level Three violation
 451 under s. 379.401.

452 Section 10. Section 379.355, Florida Statutes, is
 453 repealed.

454 Section 11. Subsections (2) and (6) of section 379.3581,
 455 Florida Statutes, are amended to read:

456 379.3581 Hunter safety course; requirements; penalty.—

457 (2)(a) Except as provided in paragraph (b), a person born
 458 on or after June 1, 1975, may not be issued a license pursuant
 459 to s. 379.353 or s. 379.354 to take wildlife ~~wild animal~~ life
 460 with the use of a firearm, gun, bow, or crossbow in this state
 461 without having first successfully completed a hunter safety
 462 course, as provided in this section, and without having in his
 463 or her personal possession a hunter safety certification card,
 464 as provided in this section.

465 (b) A person born on or after June 1, 1975, who has not
 466 successfully completed a hunter safety course may apply to the
 467 commission for a special authorization to hunt under
 468 supervision. The special authorization for supervised hunting

469 shall be designated on any license or permit required under this
 470 chapter for a person to take wildlife ~~game or fur-bearing~~
 471 ~~animals~~. A person issued a license with a special authorization
 472 to hunt under supervision must hunt under the supervision of,
 473 and in the presence of, a person 21 years of age or older who is
 474 licensed to hunt pursuant to s. 379.354 or who is exempt from
 475 licensure ~~licensing requirements~~ or eligible for a free license
 476 pursuant to s. 379.353.

477 (6) A person ~~All persons~~ subject to the requirements of
 478 subsection (2) must have in his or her ~~their~~ personal possession
 479 proof of compliance with this section, while taking or
 480 attempting to take, wildlife with the use of a firearm, gun,
 481 bow, or crossbow, game, fur-bearing animals, or other wildlife
 482 for which the commission determines that a license, permit, or
 483 authorization number is required under s. 379.354(1).

484 (a) A person subject to paragraph (2)(a) must provide ~~and~~
 485 ~~must, unless the requirement to complete a hunter safety course~~
 486 ~~is deferred pursuant to this section, display~~ a valid hunter
 487 safety certification card number in order to purchase a Florida
 488 hunting license. After the issuance of such a license, the
 489 license indicates the completion of the hunter safety course and
 490 serves itself shall serve as proof of compliance with this
 491 section. Otherwise, the only acceptable proof of compliance with
 492 this section for a person subject to paragraph (2)(a) is a valid
 493 hunter safety certification card.

494 (b) For a person subject to paragraph (2)(b), a license

495 with a special authorization to hunt under supervision issued
 496 pursuant to paragraph (2)(b) serves as proof of compliance with
 497 this section ~~A holder of a lifetime license whose license does~~
 498 ~~not indicate on the face of the license that a hunter safety~~
 499 ~~course has been completed must have in his or her personal~~
 500 ~~possession a hunter safety certification card, as provided by~~
 501 ~~this section, while attempting to take wild animal life with the~~
 502 ~~use of a firearm, gun, bow, or crossbow.~~

503 Section 12. Paragraphs (h) and (i) of subsection (1) of
 504 section 379.363, Florida Statutes, are repealed.

505 Section 13. Section 379.3635, Florida Statutes, is
 506 repealed.

507 Section 14. Paragraph (c) of subsection (2) of section
 508 379.208, Florida Statutes, is amended to read:

509 379.208 Marine Resources Conservation Trust Fund;
 510 purposes.—

511 (2) The Marine Resources Conservation Trust Fund shall
 512 receive the proceeds from:

513 (c) All fees collected under ss. 379.2424, ~~379.355,~~
 514 379.357, 379.365, 379.366, and 379.3671.

515 Section 15. Paragraph (d) of subsection (5) of section
 516 379.337, Florida Statutes, is amended to read:

517 379.337 Confiscation, seizure, and forfeiture of property
 518 and products.—

519 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
 520 PRODUCTS; PROCEDURE.—

521 (d) For purposes of confiscation under this subsection,
 522 the term "saltwater products" has the same meaning as provided
 523 ~~set out~~ in s. 379.101(36), except that the term does not include
 524 saltwater products harvested under the authority of a
 525 recreational license unless the amount of such harvested
 526 products exceeds three times the applicable recreational bag
 527 limit for trout, snook, or redfish.

528 Section 16. Paragraph (a) of subsection (1) and paragraph
 529 (a) of subsection (3) of section 379.401, Florida Statutes, are
 530 amended to read:

531 379.401 . Penalties and violations; civil penalties for
 532 noncriminal infractions; criminal penalties; suspension and
 533 forfeiture of licenses and permits.—

534 (1) (a) LEVEL ONE VIOLATIONS.—A person commits a Level One
 535 violation if he or she violates any of the following provisions:

536 1. Rules or orders of the commission relating to the
 537 filing of reports or other documents required to be filed by
 538 persons who hold recreational licenses and permits issued by the
 539 commission.

540 2. Rules or orders of the commission relating to quota
 541 hunt permits, daily use permits, hunting zone assignments,
 542 camping, alcoholic beverages, vehicles, and check stations
 543 within wildlife management areas or other areas managed by the
 544 commission.

545 3. Rules or orders of the commission relating to daily use
 546 permits, alcoholic beverages, swimming, possession of firearms,

547 operation of vehicles, and watercraft speed within fish
 548 management areas managed by the commission.

549 4. Rules or orders of the commission relating to vessel
 550 size or specifying motor restrictions on specified water bodies.

551 ~~5. Section 379.355, providing for special recreational~~
 552 ~~spiny lobster licenses.~~

553 5.6. Section 379.354(1)-(15), providing for recreational
 554 licenses to hunt, fish, and trap.

555 6.7. Section 379.3581, providing hunter safety course
 556 requirements.

557 7.8. Section 379.3003, prohibiting deer hunting unless
 558 required clothing is worn.

559 (3)(a) LEVEL THREE VIOLATIONS.—A person commits a Level
 560 Three violation if he or she violates any of the following
 561 provisions:

562 1. Rules or orders of the commission prohibiting the sale
 563 of saltwater fish.

564 2. Rules or orders of the commission prohibiting the
 565 illegal importation or possession of exotic marine plants or
 566 animals.

567 3. Section 379.407(2), establishing major violations.

568 4. Section 379.407(4), prohibiting the possession of
 569 certain finfish in excess of recreational daily bag limits.

570 5. Section 379.28, prohibiting the importation of
 571 freshwater fish.

572 6. Section 379.354(17), prohibiting the taking of game,

573 freshwater fish, or saltwater fish, fur-bearing animals, or
 574 other wildlife while a required license is suspended or revoked.

575 7. Section 379.3014, prohibiting the illegal sale or
 576 possession of alligators.

577 8. Section 379.404(1), (3), and (5) ~~(6)~~, prohibiting the
 578 illegal taking and possession of deer and wild turkey.

579 9. Section 379.406, prohibiting the possession and
 580 transportation of commercial quantities of freshwater game fish.

581 Section 17. Paragraph (b) of subsection (4) of section
 582 589.19, Florida Statutes, is amended to read:

583 589.19 Creation of certain state forests; naming of
 584 certain state forests; Operation Outdoor Freedom Program.—

585 (4)

586 (b) Participation in the Operation Outdoor Freedom Program
 587 is shall be limited to Florida residents, as defined in s.
 588 379.101(31)(b) ~~s. 379.101(30)(b)~~, who:

589 1. Are honorably discharged military veterans certified by
 590 the United States Department of Veterans Affairs or its
 591 predecessor or by any branch of the United States Armed Forces
 592 to be at least 30 percent permanently service-connected
 593 disabled;

594 2. Have been awarded the Military Order of the Purple
 595 Heart; or

596 3. Are active duty servicemembers with a service-connected
 597 injury as determined by his or her branch of the United States
 598 Armed Forces.

HB 955

2014

599

600 Proof of eligibility under this subsection, as prescribed by the
601 Florida Forest Service, may be required.

602 Section 18. This act shall take effect July 1, 2014.



Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Between lines 220 and 221, insert:

Section 7. Subsection (2) of section 379.233, Florida Statutes, is amended to read:

379.233 Release of balloons.—

(2) A ~~It is unlawful for any~~ person, firm, or corporation may not ~~to~~ intentionally release, organize the release, or intentionally cause to be released within a 24-hour period 10 or more balloons inflated with a gas that is lighter than air except for:

(a) Balloons released by a person on behalf of a governmental agency or pursuant to a governmental contract for scientific or meteorological purposes;



Amendment No. 1

- 18 (b) Hot air balloons that are recovered after launching;
- 19 (c) Balloons released indoors; ~~or~~
- 20 (d) One hundred or fewer balloons released as a part of a
- 21 funeral, memorial service, or nonprofit faith-based event; or
- 22 (e) ~~(d)~~ Balloons that are ~~either~~ biodegradable or
- 23 photodegradable, as determined by rule of the Fish and Wildlife
- 24 Conservation Commission, and which are closed by a hand-tied
- 25 knot in the stem of the balloon without string, ribbon, or other
- 26 attachments. If ~~In the event that~~ any balloons are released
- 27 pursuant to ~~the exemption established in~~ this paragraph, the
- 28 party responsible for the release shall make available to any
- 29 law enforcement officer evidence of the biodegradability or
- 30 photodegradability of the said balloons in the form of a
- 31 certificate executed by the manufacturer. Failure to provide
- 32 such said evidence is ~~shall be~~ prima facie evidence of a
- 33 violation of this act.

34

35 -----

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

37 Remove line 24 and insert:

38 license fee for hunting; amending s. 379.233, F.S.;

39 providing an exception to restrictions on the release

40 of balloons inflated with a gas that is lighter than

41 air; amending s. 379.247, F.S.;



Amendment No. 2

COMMITTEE/SUBCOMMITTEE ACTION

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

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

Amendment (with title amendment)

Remove lines 165-580 and insert:

Section 5. Subsection (30) of section 379.101, Florida Statutes, is amended, to read:

379.101 Definitions.—In construing these statutes, where the context does not clearly indicate otherwise, the word, phrase, or term:

(30) "Resident" or "resident of Florida" means:

(a) For purposes of part VII ~~and for purposes of s.~~
~~379.355,~~ a citizen of the United States who has continuously
 resided in this state for 1 year before applying for a hunting,
 fishing, or other license. However, for purposes of ss. 379.363,
~~379.3635,~~ 379.364, 379.3711, 379.3712, 379.372, 379.373,



Amendment No. 2

18 379.374, 379.3751, 379.3752, 379.3761, and 379.3762, the term
19 ~~"resident" or "resident of Florida"~~ means a citizen of the
20 United States who has continuously resided in this state for 6
21 months before applying for a hunting, fishing, or other license.

22 (b) For purposes of part VI, ~~except s. 379.355~~:

23 1. A ~~Any~~ member of the United States Armed Forces who is
24 stationed in the state and his or her family members residing
25 with such member; or

26 2. A ~~Any~~ person who has declared Florida as his or her
27 only state of residence as evidenced by a valid Florida driver
28 license or identification card that has ~~with~~ both a Florida
29 address and a Florida residency verified by the Department of
30 Highway Safety and Motor Vehicles, or, in the absence thereof,
31 one of the following:

32 a. A current Florida voter information card;

33 b. A sworn statement manifesting and evidencing domicile
34 in Florida in accordance with s. 222.17;

35 c. Proof of a current Florida homestead exemption; or

36 d. For a child younger than 18 years of age, a student
37 identification card from a Florida school or, if ~~when~~
38 accompanied by his or her parent at the time of purchase, the
39 parent's proof of residency.

40 Section 6. Subsection (3) of section 379.2257, Florida
41 Statutes, is repealed.

42 Section 7. Paragraph (d) of subsection (4) and subsection
43 (5) of section 379.247, Florida Statutes, are amended to read:



Amendment No. 2

44 379.247 Regulation of shrimp fishing; Clay, Duval, Nassau,
45 Putnam, Flagler, and St. Johns Counties.--

46 (4) DEAD SHRIMP PRODUCTION.--Any person may operate as a
47 commercial dead shrimp producer provided that:

48 ~~(d) No person holding a dead shrimp production permit~~
49 ~~issued pursuant to this subsection shall simultaneously hold a~~
50 ~~permit for noncommercial trawling under the provisions of~~
51 ~~subsection (5).~~ The number of permits issued by the commission
52 for commercial trawling or dead shrimp production in any one
53 year shall be limited to those active in the base year, 1976,
54 and renewed annually since 1976. All permits for dead shrimp
55 production issued pursuant to this section shall be inheritable
56 or transferable to an immediate family member and annually
57 renewable by the holder thereof. Such inheritance or transfer
58 shall be valid upon being registered with the commission. Each
59 permit not renewed shall expire and shall not be renewed under
60 any circumstances.

61 ~~(5) NONCOMMERCIAL TRAWLING.--If noncommercial trawling is~~
62 ~~authorized by the Fish and Wildlife Conservation Commission, any~~
63 ~~person may trawl for shrimp in the St. Johns River for his or~~
64 ~~her own use as food under the following conditions:~~

65 ~~(a) Each person who desires to trawl for shrimp for use as~~
66 ~~food shall obtain a noncommercial trawling permit from the local~~
67 ~~office of the Fish and Wildlife Conservation Commission upon~~
68 ~~filling out an application on a form prescribed by the~~



Amendment No. 2

69 ~~commission and upon paying a fee for the permit, which shall~~
70 ~~cost \$50.~~

71 ~~(b) All trawling shall be restricted to the confines of~~
72 ~~the St. Johns River proper in the area north of the Acosta~~
73 ~~Bridge in Jacksonville and at least 100 yards from the nearest~~
74 ~~shoreline.~~

75 ~~(c) No shrimp caught by a person licensed under the~~
76 ~~provisions of this subsection may be sold or offered for sale.~~

77 Section 8. Paragraph (g) of subsection (2) of section
78 379.353, Florida Statutes, are amended to read:

79 379.353 Recreational licenses and permits; exemptions from
80 fees and requirements.—

81 (2) A hunting, freshwater fishing, or saltwater fishing
82 license or permit is not required for:

83 (g) Any person fishing who has been accepted as a client
84 for developmental disabilities services by the Agency for
85 Persons with Disabilities if ~~Department of Children and Family~~
86 ~~Services, provided the agency department~~ furnishes proof
87 thereof.

88 Section 9. Paragraph (j) of subsection (4) of section
89 379.354, Florida Statutes, is amended to read:

90 379.354 Recreational licenses, permits, and authorization
91 numbers; fees established.—

92 (4) RESIDENT HUNTING AND FISHING LICENSES.—The licenses
93 and fees for residents participating in hunting and fishing
94 activities in this state are as follows:



Amendment No. 2

95 (j) Annual military gold sportsman's license, \$18.50. A
96 ~~The gold sportsman's license authorizes the person to whom it is~~
97 ~~issued to take freshwater fish, saltwater fish, and game,~~
98 ~~subject to the state and federal laws, rules, and regulations,~~
99 ~~including rules of the commission, in effect at the time of~~
100 ~~taking. Other authorized activities include activities~~
101 ~~authorized by a management area permit, a muzzle-loading gun~~
102 ~~season permit, a crossbow season permit, a turkey permit, a~~
103 ~~Florida waterfowl permit, a deer permit, an archery season~~
104 ~~permit, a snook permit, and a spiny lobster permit. Any resident~~
105 ~~who is an active or retired member of the United States Armed~~
106 ~~Forces, the United States Armed Forces Reserve, the National~~
107 ~~Guard, the United States Coast Guard, or the United States Coast~~
108 ~~Guard Reserve may ~~is eligible to~~ purchase the military gold~~
109 ~~sportsman's license upon submission of a current military~~
110 ~~identification card. The annual military gold sportsman's~~
111 ~~license authorizes the same activities as the annual gold~~
112 ~~sportsman's license.~~

113 Section 10. Section 379.355, Florida Statutes, is
114 repealed.

115 Section 11. Paragraphs (h) and (i) of subsection (1) of
116 section 379.363, Florida Statutes, are repealed.

117 Section 12. Section 379.3635, Florida Statutes, is
118 repealed.

119 Section 13. Paragraph (c) of subsection (2) of section
120 379.208, Florida Statutes, is amended to read:



Amendment No. 2

121 379.208 Marine Resources Conservation Trust Fund;
122 purposes.—

123 (2) The Marine Resources Conservation Trust Fund shall
124 receive the proceeds from:

125 (c) All fees collected under ss. 379.2424, ~~379.355,~~
126 379.357, 379.365, 379.366, and 379.3671.

127 Section 14. Paragraph (d) of subsection (5) of section
128 379.337, Florida Statutes, is amended to read:

129 379.337 Confiscation, seizure, and forfeiture of property
130 and products.—

131 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER
132 PRODUCTS; PROCEDURE.—

133 (d) For purposes of confiscation under this subsection,
134 the term "saltwater products" has the same meaning as provided
135 ~~set out~~ in s. 379.101(36), except that the term does not include
136 saltwater products harvested under the authority of a
137 recreational license unless the amount of such harvested
138 products exceeds three times the applicable recreational bag
139 limit for trout, snook, or redfish.

140 Section 15. Paragraph (a) of subsection (1) and paragraph
141 (a) of subsection (3) of section 379.401, Florida Statutes, are
142 amended to read:

143 379.401 Penalties and violations; civil penalties for
144 noncriminal infractions; criminal penalties; suspension and
145 forfeiture of licenses and permits.—



Amendment No. 2

146 (1) (a) LEVEL ONE VIOLATIONS.—A person commits a Level One
147 violation if he or she violates any of the following provisions:

148 1. Rules or orders of the commission relating to the
149 filing of reports or other documents required to be filed by
150 persons who hold recreational licenses and permits issued by the
151 commission.

152 2. Rules or orders of the commission relating to quota
153 hunt permits, daily use permits, hunting zone assignments,
154 camping, alcoholic beverages, vehicles, and check stations
155 within wildlife management areas or other areas managed by the
156 commission.

157 3. Rules or orders of the commission relating to daily use
158 permits, alcoholic beverages, swimming, possession of firearms,
159 operation of vehicles, and watercraft speed within fish
160 management areas managed by the commission.

161 4. Rules or orders of the commission relating to vessel
162 size or specifying motor restrictions on specified water bodies.

163 ~~5. Section 379.355, providing for special recreational~~
164 ~~spiny lobster licenses.~~

165 ~~5.6.~~ Section 379.354(1)-(15), providing for recreational
166 licenses to hunt, fish, and trap.

167 ~~6.7.~~ Section 379.3581, providing hunter safety course
168 requirements.

169 ~~7.8.~~ Section 379.3003, prohibiting deer hunting unless
170 required clothing is worn.



Amendment No. 2

171 (3) (a) LEVEL THREE VIOLATIONS.—A person commits a Level
172 Three violation if he or she violates any of the following
173 provisions:

174 1. Rules or orders of the commission prohibiting the sale
175 of saltwater fish.

176 2. Rules or orders of the commission prohibiting the
177 illegal importation or possession of exotic marine plants or
178 animals.

179 3. Section 379.407(2), establishing major violations.

180 4. Section 379.407(4), prohibiting the possession of
181 certain finfish in excess of recreational daily bag limits.

182 5. Section 379.28, prohibiting the importation of
183 freshwater fish.

184 6. Section 379.354(17), prohibiting the taking of game,
185 freshwater fish, or saltwater fish while a required license is
186 suspended or revoked.

187 7. Section 379.3014, prohibiting the illegal sale or
188 possession of alligators.

189 8. Section 379.404(1), (3), and (5) ~~(6)~~, prohibiting the
190 illegal taking and possession of deer and wild turkey.

191 9. Section 379.406, prohibiting the possession and
192 transportation of commercial quantities of freshwater game fish.

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Amendment No. 2

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

Remove lines 19-52 and insert:

379.101, F.S.; conforming a cross-reference; repealing s.
379.2257(3), F.S., relating to a charge to be applied to areas
covered by cooperative agreements with the United States Forest
Service over and above the license fee for hunting; amending s.
379.247, F.S.; removing provisions relating to noncommercial
trawling; amending s. 379.353, F.S.; conforming provisions
relating to the change in responsibility for providing
developmental disabilities services, from the Department of
Children and Families to the Agency for Persons with
Disabilities; amending s. 379.354, F.S.; specifying that the
annual military gold sportsman's license authorizes the same
activities as the annual gold sportsman's license; repealing s.
379.355, F.S., relating to special recreational spiny lobster
licenses; repealing s. 379.363(1)(h) and (i), F.S., relating to
the annual gear license fee; repealing s. 379.3635, F.S.,
relating to haul seine and trawl permits to be used in Lake
Okeechobee;

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 987 Local Government Infrastructure Surtax

SPONSOR(S): Goodson

TIED BILLS: None **IDEN./SIM. BILLS:** SB 1102

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Agriculture & Natural Resources Subcommittee		Renner <i>JR</i>	Blalock <i>MFR</i>
2) Finance & Tax Subcommittee			
3) State Affairs Committee			

SUMMARY ANALYSIS

Current law authorizes the levy and collection of Florida's sales and use tax and provides exemptions and credits for certain items or uses under specified circumstances. Counties are authorized to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions as well as on communications services. The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent.

One of the authorized discretionary sales surtaxes is the local government infrastructure surtax, which may be levied at the rate of 0.5 percent or 1 percent if adopted by ordinance, approved by a majority of the county commission, and approved by a majority of voters of the county voting in a referendum on the surtax. In certain cases, municipalities may also initiate imposition of the surtax by calling for a countywide referendum. In those cases, the surtax must also be approved by a majority of voters in the county voting in the referendum.

Surtax proceeds must be expended by the school district; by the county or cities within the county; or, in the case of a negotiated joint county agreement, by the county within another county, to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of local government-owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances.

The bill provides that if a countywide referendum approves the county's exclusive use of the surtax for a project involving the capital restoration or maintenance of natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies, then the proceeds from the surtax, or the bonds pledging the surtax for this use, may be used for the project.

The bill also specifies that expenditures may include the cost of planning, engineering, equipment, improvements required to reduce pollutant source input, restoration of natural filtration systems, dredging operations related to economically or ecologically beneficial muck removal, or any other activities deemed necessary to implement the county's restoration or maintenance plan.

The bill does not appear to have a fiscal impact on state or local government because it does not provide additional taxing authority. However, the bill does allow counties to use surtax proceeds for an additional purpose.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Chapter 212, F.S., contains the laws authorizing the levy and collection of Florida's sales and use tax, as well as the exemptions and credits applicable to certain items or uses under specified circumstances. A 6 percent sales and use tax is levied on sales or rentals of most tangible personal property,¹ admissions,² storage,³ rentals of transient accommodations,⁴ rentals of commercial real estate,⁵ and a limited number of services. Sales tax is added to the price of the taxable good or service and collected from the purchaser at the time of sale.⁶ The Florida Department of Revenue is responsible for administering, collecting, and enforcing all sales and use taxes.

Section 212.055, F.S., authorizes counties to impose eight local discretionary sales surtaxes on all transactions occurring in the county subject to the state tax imposed on sales, use, services, rental, admissions, and other transactions by chapter 212, F.S., and on communications services as defined in chapter 202, F.S.⁷ The discretionary sales surtax is based on the rate in the county where the taxable goods or services are sold, or delivered into, and is levied in addition to the state sales and use tax of 6 percent. The surtax does not apply to the sales price above \$5,000 on any item of tangible personal property. This \$5,000 cap does not apply to the sale of any service, rentals of real property, or transient rentals.

The eight discretionary sales surtaxes and their maximum rates are:

- Charter County and Regional Transportation System Surtax, 1 percent;
- Emergency Fire Rescue Services and Facilities Surtax, 1 percent;
- Local Government Infrastructure Surtax, 1 percent;
- Small County Surtax, 1 percent;
- Indigent Care and Trauma Center Surtax, 0.5 percent;
- County Public Hospital Surtax, 0.5 percent;
- School Capital Outlay Surtax, 0.5 percent; and
- Voter-Approved Indigent Care Surtax, 1 percent.

Section 212.055(2), F.S., establishes the local government infrastructure surtax and authorizes the governing authority in each county to levy a discretionary sales surtax of 0.5 percent or 1 percent if adopted by ordinance approved by a majority of the county commission and approved by a majority of voters of the county voting in a referendum on the surtax. In lieu of action by the county's governing body, municipalities representing a majority of the county's population may initiate the surtax through the adoption of uniform resolutions calling for a countywide referendum on the issue.⁸ The levy takes effect if approved by a majority of the voters voting in the referendum.

¹ s. 212.05, F.S.

² s. 212.04, F.S.

³ s. 212.06, F.S.

⁴ s. 212.03, F.S.

⁵ s. 212.031, F.S.

⁶ s. 212.06(3)(a), F.S.

⁷ The tax rates, duration of the surtax, method of imposition, and proceed uses are individually specified in s. 215.055, F.S. General limitations, administration, and collection procedures are set forth in s. 212.054, F.S. See also pg. 211 of the REC's 2013 Florida Tax Handbook, available at <http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2013.pdf>.

⁸ *2012 Local Government Financial Information Handbook*, The Florida Legislature's Office of Economic and Demographic Research, p. 171.

The proceeds of the surtax must be expended by the school district; by the county or cities within the county; or, in the case of a negotiated joint county agreement, by the county within another county to:

- Finance, plan, and construct infrastructure;
- Acquire land for public recreation, conservation, or protection of natural resources;
- Provide loans, grants, or rebates to residential or commercial property owners who make energy efficiency improvements to their residential or commercial property, if a local government ordinance authorizing the use is approved by referendum; or
- Finance the closure of county-owned or municipally owned solid waste landfills that have been closed or are required to be closed by order of the Department of Environmental Protection.⁹

Counties are also authorized to use surtax proceeds for other purposes under certain circumstances. All counties are authorized to levy the surtax, and 17 counties levied the tax during the 2013 calendar year.¹⁰

Additionally, the surtax may not be levied beyond the time established in the ordinance if the surtax was levied pursuant to a referendum held before July 1, 1993. If the pre-July 1, 1993 ordinance did not limit the period of the levy, the surtax may not be levied for more than 15 years. There is no state-mandated limit on the length of levy for those surtax ordinances enacted after July 1, 1993. The levy may only be extended by voter approval in a countywide referendum. This surtax is one of several surtaxes subject to a combined rate limitation. A county shall not levy this surtax and the Small County Surtax, Indigent Care and Trauma Center Surtax, and County Public Hospital Surtax in excess of a combined rate of 1 percent.¹¹

Effect of Proposed Changes

The bill provides that if a countywide referendum approves the county's exclusive use of the surtax for a project involving the capital restoration or maintenance of natural water bodies for public use, including tributaries, canals, stormwater conveyance systems, and channels connected to natural water bodies, the proceeds from the surtax, or the bonds pledging the surtax for this use, may be used for the project.

The bill specifies that expenditures may include the cost of planning, engineering, equipment, improvements required to reduce pollutant source input, restoration of natural filtration systems, dredging operations related to economically or ecologically beneficial muck removal, or any other activities deemed necessary to implement the county's restoration or maintenance plan.

B. SECTION DIRECTORY:

Section 1. Amends s. 215.055, F.S., relating to discretionary sales surtaxes.

Section 2. Provides an effective date of July 1, 2014.

⁹ s. 212.055(2)(d), F.S.

¹⁰ 2013 Florida Tax Handbook, p. 222.

¹¹ Information in this paragraph was obtained from the 2012 Local Government Financial Information Handbook, The Florida Legislature's Office of Economic and Demographic Research, at p. 171.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

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

2. Expenditures:

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

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

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

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill does not appear to have a fiscal impact on the private sector.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or require additional rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Not applicable.

1 A bill to be entitled
 2 An act relating to the local government infrastructure
 3 surtax; amending s. 212.055, F.S.; authorizing the use
 4 of the surtax for the restoration or maintenance of
 5 natural water bodies for public use; providing an
 6 effective date.

7
 8 Be It Enacted by the Legislature of the State of Florida:

9
 10 Section 1. Paragraph (i) is added to subsection (2) of
 11 section 212.055, Florida Statutes, to read:

12 212.055 Discretionary sales surtaxes; legislative intent;
 13 authorization and use of proceeds.—It is the legislative intent
 14 that any authorization for imposition of a discretionary sales
 15 surtax shall be published in the Florida Statutes as a
 16 subsection of this section, irrespective of the duration of the
 17 levy. Each enactment shall specify the types of counties
 18 authorized to levy; the rate or rates which may be imposed; the
 19 maximum length of time the surtax may be imposed, if any; the
 20 procedure which must be followed to secure voter approval, if
 21 required; the purpose for which the proceeds may be expended;
 22 and such other requirements as the Legislature may provide.
 23 Taxable transactions and administrative procedures shall be as
 24 provided in s. 212.054.

25 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

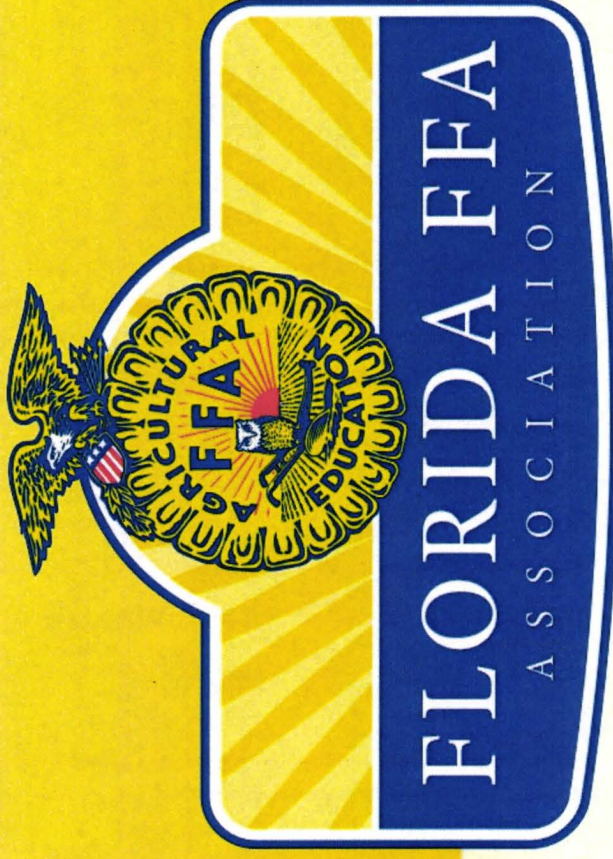
26 (i) Notwithstanding paragraph (d), if a countywide

HB 987

2014

27 referendum approves the county's exclusive use of the surtax for
28 a project involving the capital restoration or maintenance of
29 natural water bodies for public use, including tributaries,
30 canals, stormwater conveyance systems, and channels connected to
31 such natural water bodies, the proceeds from the surtax, or the
32 bonds pledging the surtax for such use, may be used for such
33 purpose. Expenditures may include the cost of planning,
34 engineering, equipment, improvements required to reduce
35 pollutant source input, restoration of natural filtration
36 systems, dredging operations related to economically or
37 ecologically beneficial muck removal, or any other activities
38 deemed necessary to implement the county's restoration or
39 maintenance plan.

40 Section 2. This act shall take effect July 1, 2014.



Agricultural Education in Florida

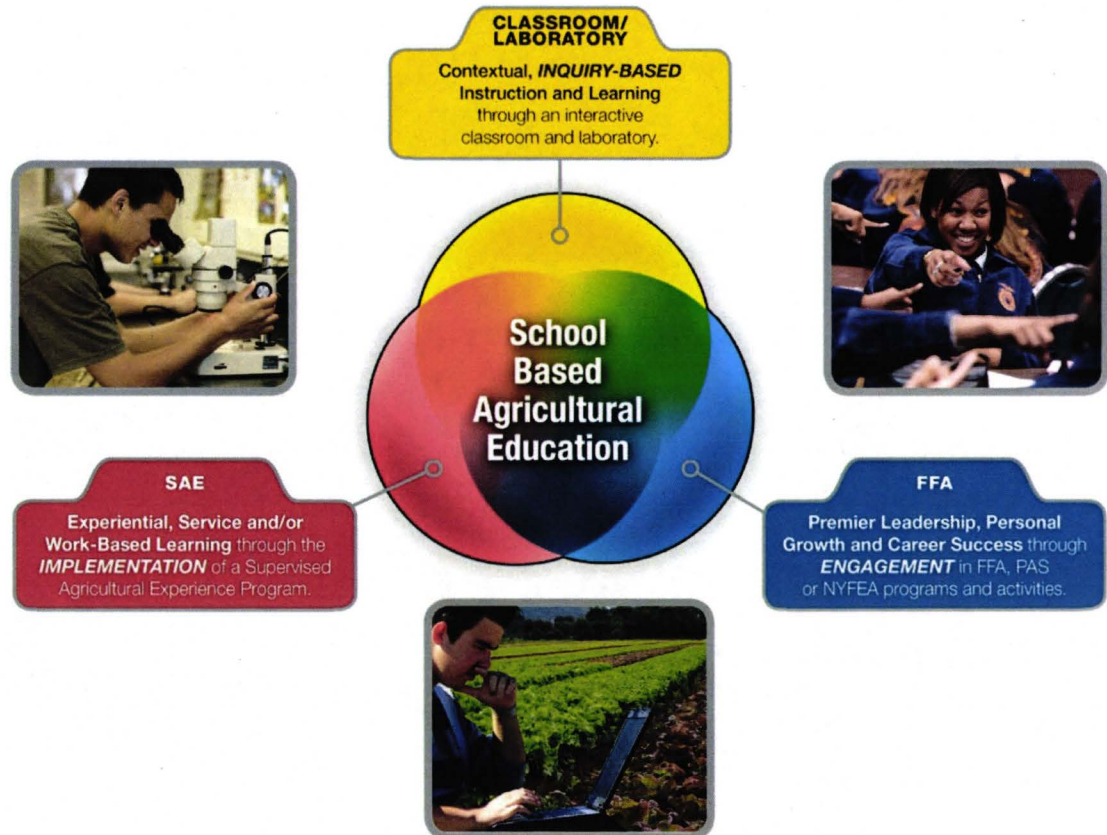
Megan Stein and Wally Martin
Florida FFA Association





Agricultural Education

- Classroom/Labory Instruction
- Work-based Learning (Supervised Agricultural Experience)
- Leadership Development (I





Florida's Agriculture Education at a glance

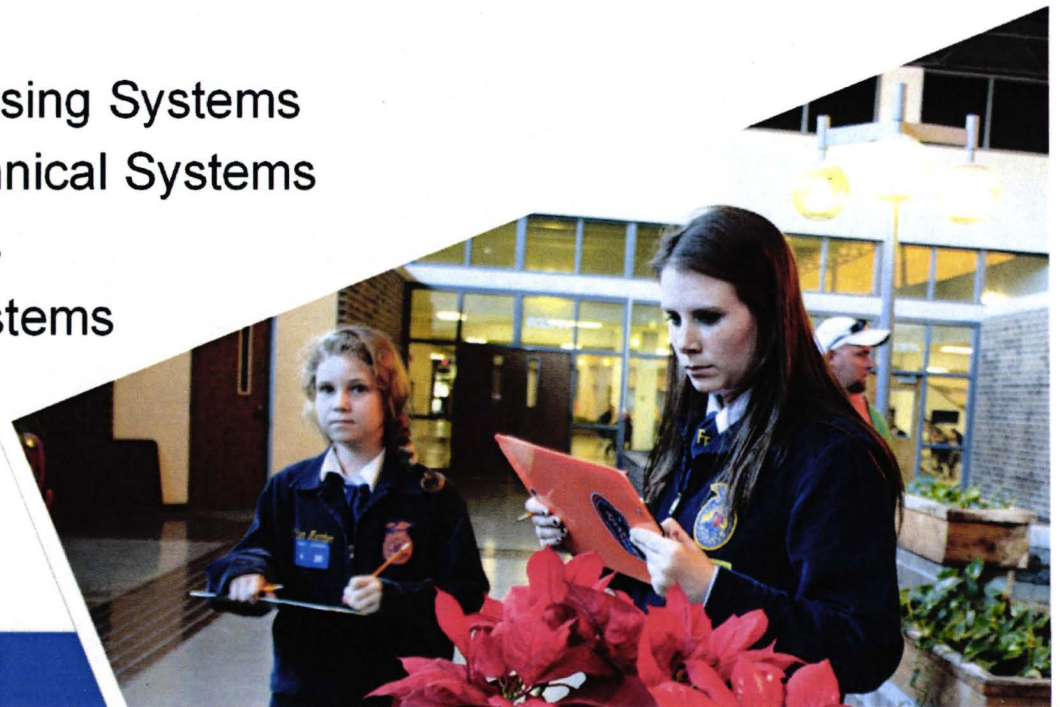
- 60,000 high school and middle students currently enrolled in Agriculture education programs from Pensacola to Miami.
- DOE currently recognizes 9 agriculture programs as STEM programs.
- Agriculture programs offer a variety of topics such as vet assisting, food safety, agriculture biotechnology, horticulture science, and technical agriculture operations.





Classroom/Laboratory Instruction

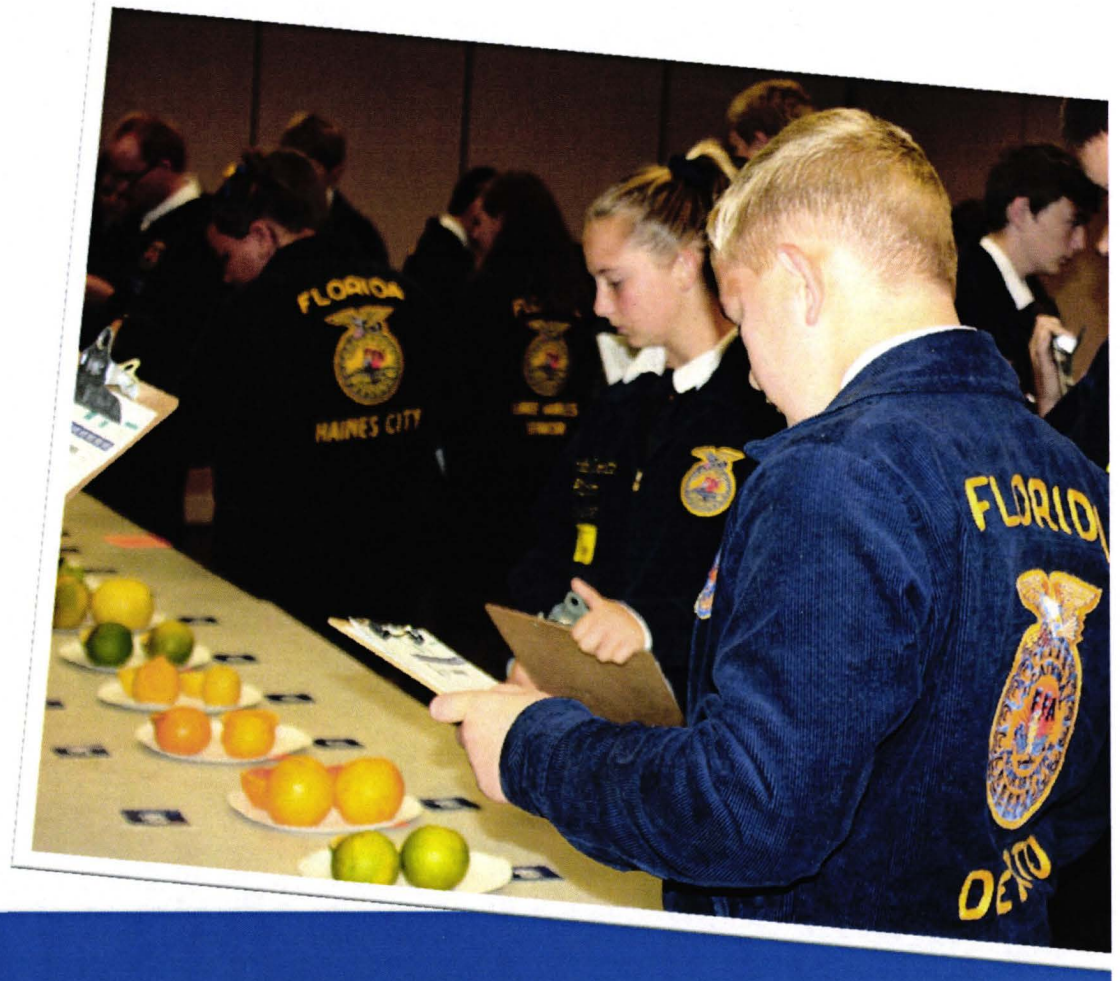
- Integrates academic concepts with technical agriculture skills
- Prepares students for work and postsecondary education in more than 300 careers
 - Animal Systems
 - Plant Systems
 - Food Products and Processing Systems
 - Power, Structural and Technical Systems
 - Natural Resource Systems
 - Environmental Service Systems
 - Agribusiness Systems
 - Biotechnology





Supervised Agricultural Experience

- Practical application of classroom/laboratory concepts conducted outside of class time
- Explore careers
 - Research
 - Placement
 - Ownership
- Earn money
- Learn work place skills
 - Team work
 - Responsibility
 - Communication skills
- Last year over 200 student were able to earn FFA State Degrees because of there work with SAE projects.





National FFA Organization

- Founded in 1928
- Chartered by U.S. Congress
- Approximately 540,379 members nationwide
 - 34% Urban and Suburban
 - 39% Rural, Non-Farm
 - 27% Rural, Farm
- Integral part of a school's agricultural education program
- Florida has had a total of 22 national officers, 6 national presidents





FFA Values

- Builds leadership skills for life
- Reinforces instruction
- Recognizes excellence
- Gives students opportunities to make a positive difference in their schools and communities





FFA Mission

FFA makes a positive difference in the lives of students by developing their potential for *premier leadership*, *personal growth*, and *career success* through agricultural education.





Florida FFA by the numbers

- Nearly 17,000 middle and high school members across the state
- Over 400 agriculture educators around the state
- Over 300 chapters





Challenges of Growth

- *Record* numbers of participation in all activities
- *Record* membership
- The organization is at capacity regarding services offered
- Recruiting and retaining certified, quality agriculture educators
- Financial resources do not support classroom size



Thank You

- On behalf of every Florida FFA member and agriculture student, thank you for all that you do for Florida FFA and agriculture education.

