

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/CS/HB 7043 PCB NRPL 17-01 Vessels
SPONSOR(S): Government Accountability Committee; Agriculture & Natural Resources Appropriations Subcommittee; Natural Resources & Public Lands Subcommittee; Raschein and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 1338

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Natural Resources & Public Lands Subcommittee	12 Y, 0 N	Moore	Shugar
1) Agriculture & Natural Resources Appropriations Subcommittee	13 Y, 0 N, As CS	White	Pigott
2) Government Accountability Committee	24 Y, 0 N, As CS	Moore	Williamson

SUMMARY ANALYSIS

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore policy options for regulating the anchoring and mooring of vessels outside the boundaries of public mooring fields (pilot program). With the exception of those participating in the pilot program, local governments are prohibited from regulating the anchoring or mooring of vessels, other than live-aboard vessels, outside the marked boundaries of mooring fields. FWC was required to submit a report of its findings and recommendations on the pilot program to the Legislature by January 1, 2017.

The bill incorporates many of the findings and recommendations from the pilot program. The bill:

- Defines “barge,” “commercial fishing vessel,” “commercial vessel,” and “effective means of propulsion for safe navigation,” and revises the definition of “live-aboard vessel.”
- Provides that a vessel is at risk of becoming derelict if the vessel does not have effective means of propulsion for safe navigation within 72 hours after the owner or operator of the vessel receives notice of such from a law enforcement officer and cannot provide proof of purchase of parts necessary for repair.
- Removes the expiration of anchoring limitation areas.
- Prohibits a vessel or floating structure from anchoring or mooring within 150 feet of a marina, boat ramp, boatyard, or other vessel launching or loading facility, within 300 feet of a superyacht repair facility, or within 100 feet outward from the marked boundary of a public mooring field, and provides exemptions.
- Prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing to an unpermitted or unauthorized object that is on or affixed to the bottom of waters of the state.
- Provides penalties for operation with an expired registration and for anchoring or mooring where prohibited.
- Allows local governments to enact and enforce regulations related to proof of proper sewage disposal and removal of a vessel affixed to a public dock that is abandoned or lost property.
- Prohibits the Department of Highway Safety and Motor Vehicles from issuing a certificate of title for a derelict vessel, until the vessel is no longer deemed derelict.
- Provides that a law enforcement officer who has provided written notice through a citation to an owner of a derelict vessel is not required to send notice by certified mail.

The bill allows certain private residential multifamily docks to use sovereignty submerged lands to exceed the number of moored boats to the number of residential units as authorized under former administrative rule. The bill also allows FWC to establish boating-restricted areas to protect seagrasses on privately owned submerged lands if requested by the owner of submerged lands and certain conditions are met.

The bill may have an indeterminate fiscal impact on state and local governments and the private sector. See Fiscal Analysis & Economic Impact Statement section for discussion.

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

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FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Present Situation

Fish and Wildlife Conservation Commission Anchoring and Mooring Pilot Program

In 2009, the Legislature required the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to explore potential policy options for regulating the anchoring and mooring of vessels¹ outside the boundaries of public mooring fields, including the authority that should be granted to local governments to regulate such activities (pilot program).² A mooring field is a designated area on the water where vessels are authorized to moor to a permanent structure, such as a mooring buoy. Generally, mooring has more holding power, and causes less damage to the marine environment, than anchoring. With the exception of those participating in the pilot program, local governments are prohibited from enacting or enforcing regulations on the anchoring or mooring of vessels, other than live-aboard vessels,³ outside the marked boundaries of mooring fields.⁴

The goals of the pilot program were to encourage the establishment of additional mooring fields, and to develop and test policies and regulatory regimes that promote the establishment and use of public mooring fields, promote access to the waters of the state, enhance navigational safety, protect maritime infrastructure, protect the marine environment, and deter improperly stored, abandoned, or derelict vessels.⁵

Each location selected for inclusion in the pilot program was required to have a properly permitted mooring field.⁶ FWC, in consultation with the Department of Environmental Protection (DEP), selected two locations off the east coast, two locations off the west coast, and one location within Monroe County. The locations had to be geographically diverse and take into consideration various users and means of using the waters of the state.⁷ The pilot program participants include the City of St. Augustine,⁸ the City of St. Petersburg,⁹ the City of Sarasota,¹⁰ Martin County in partnership with the City of Stuart,¹¹ and Monroe County in partnership with the cities of Marathon and Key West.¹²

An ordinance enacted under the pilot program could not take effect or become enforceable until approved by FWC and FWC could not approve an ordinance that was inconsistent with the goals of the pilot program.¹³ FWC was required to provide consultation and technical assistance to each pilot program participant to facilitate accomplishment of pilot program goals, to coordinate the review of any proposed ordinance with DEP, the United States Coast Guard, the Florida Inland Navigation District or the West Coast Inland Navigation District, as appropriate, and associations or other organizations

¹ Section 327.02(43), F.S., provides the definition of “vessel.”

² Chapter 2009-86, Laws of Fla.; s. 327.4105, F.S.

³ Section 327.02(19), F.S., provides the definition of “live-aboard vessel.”

⁴ Sections 327.60(2)(f) and 327.60(3), F.S.

⁵ Section 327.4105(1)(a)-(f), F.S.

⁶ Section 373.118(4), F.S.; r. 62-330.420, F.A.C., DEP provides a general permit for local governments to develop and operate mooring fields, which can hold up to 100 vessels, including associated docks and parking facilities.

⁷ Section 327.4105(2), F.S.

⁸ City of St. Augustine ordinance, http://www.citystaug.com/document_center/Marina/Ord2011-10-2.pdf (last visited Feb. 14, 2017).

⁹ City of St. Petersburg ordinance, <http://myfwc.com/media/2221101/StPeteOrdinance.pdf> (last visited Feb. 14, 2017).

¹⁰ City of Sarasota ordinance, <http://myfwc.com/media/2405171/Sarasota-final-Ord-12-5003.pdf> (last visited Feb. 14, 2017).

¹¹ Martin County ordinance, <https://www.martin.fl.us/sites/default/files/151-538.pdf> (last visited Feb. 14, 2017).

¹² Monroe County anchoring and mooring ordinance, <https://fl-monroecounty.civicplus.com/Documentview.aspx?DID=4039> (last visited Feb. 14, 2017).

¹³ Section 327.4105(3), F.S.

representing vessel owners or operators, and to monitor and evaluate at least annually each pilot program participant, and to make modifications necessary to accomplish pilot program goals.¹⁴

FWC was also required to submit a report of its findings and recommendations of the pilot program to the Legislature by January 1, 2014.¹⁵ At that time, FWC recommended an extension of the pilot program for an additional three years to allow a more thorough and complete assessment of the implementation of ordinances adopted by the pilot program participants.¹⁶ The pilot program was extended by the Legislature, and FWC was required to submit an updated report by January 1, 2017.¹⁷

The pilot program and the ordinances adopted by the pilot program participants will expire on July 1, 2017, unless reenacted by the Legislature.¹⁸

FWC's Anchoring and Mooring Pilot Program Findings and Recommendations

On December 31, 2016, FWC submitted its report to the Legislature and made the following recommendations categorized by pilot program goal.

For promoting the establishment and use of public mooring fields, FWC recommended that there be additional safety precautions in the immediate vicinity of public mooring fields, such as establishing a 300 foot buffer outside the boundaries of public mooring fields within which no anchoring would be allowed. FWC also recommended that the state retain regulatory authority for the anchoring of vessels outside of mooring fields, but if authority were granted to local governments, then authority should be granted to counties only and with certain stipulations. FWC also recommended that research be conducted to quantify the economic benefits of mooring fields and on the environmental benefits of mooring fields.

For promoting access to the waters of the state, enhancing navigational safety, and protecting maritime infrastructure, FWC recommended creating a statewide anchoring limited area whereby anchoring would be prohibited within 150 feet of marinas, boat ramps, or other vessel launching and loading facilities. FWC also recommended that exceptions be established for when there is an unreasonable risk of harm due to weather conditions, for vessels owned by government entities, for construction and dredging vessels on an active job site, and for vessels engaged in commercial or recreational fishing.

For the prevention of derelict vessels,¹⁹ FWC recommended that a hold be placed on the title of a derelict vessel, which would be released upon court order or when a responsible party came forward to take possession of the vessel and remove it from the waters of the state. FWC also recommended that renewal of a vessel registration should be limited to the owner or person with power of attorney over the vessel. FWC recommended increasing the penalty for a repeat violation of an expired vessel registration that is expired by more than six months to mirror that in current motor vehicle law.²⁰ This would elevate the penalty for a second and any subsequent time a vessel owner is cited for having a registration expired for more than six months from a non-criminal infraction²¹ to a second degree

¹⁴ Section 327.4105(4), F.S.

¹⁵ Section 327.4105(5), F.S.

¹⁶ FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 31, 2013), <http://myfwc.com/media/2704721/FindingsRecommendations.pdf> (last visited Feb. 14, 2017).

¹⁷ Chapter 2014-136, Laws of Fla.; s. 327.4105(5), F.S.

¹⁸ Section 327.4105(6), F.S.

¹⁹ Section 823.11(1)(b), F.S., provides the definition of "derelict vessel."

²⁰ Section 320.07(3), F.S., provides for the expiration of motor vehicle registrations.

²¹ Sections 327.73(1)(g), and 328.72(13), F.S., provide that a person cited for operation of an expired vessel registration is charged with a noncriminal infraction. The civil penalty for an infraction is \$50. A person who fails to appear or otherwise properly respond to the citation will, in addition to the civil penalty, be charged with failing to respond to the citation and upon conviction will be guilty of a misdemeanor of the second degree.

misdemeanor.²² FWC recommended that the certified mailing requirement for abandoned or lost property²³ be waived in instances where the owner of a derelict vessel has been notified by law enforcement through a written citation. FWC recommended that a 60-day exception be established for deeming a vessel derelict when the vessel has become derelict as a result of a declared natural disaster or state of emergency. The 60-day exemption would begin following the declaration. FWC also recommended that an additional condition be created for when a vessel may be determined to be at risk of becoming a derelict vessel. The additional condition would include instances where an owner or operator of a vessel cannot demonstrate, after 72 hours of notification by a law enforcement officer, that the vessel has an effective means of propulsion for the purpose of safe navigation. An effective means of propulsion for the purpose of safe navigation for a sailing vessel would mean that there is a steering system, rigging, and sail(s) in working order and is equipped with a functioning motor, and for all other vessels would mean there is a functioning motor, controls, and steering system.

For protecting the marine environment, FWC recommended that a vessel or floating structure²⁴ should be prohibited from mooring to unauthorized moorings, with the exception of private moorings on privately-owned bottomland. FWC also recommended penalties be assessed as follows:

- For a first violation, the penalty would be a noncriminal infraction; and
- For a second and subsequent violation, the penalty would be a second degree misdemeanor.²⁵

Though the pilot program and pilot program participants tried to address issues associated with stored vessels, inoperable vessels being used as residences, marine sanitation concerns, and setbacks from shorelines or private docks these issues remained unresolved. FWC provided the following discussion on these unresolved issues as follows.

For stored vessels, FWC noted that the ordinances created by the city of St. Petersburg and Monroe County in partnership with the cities of Marathon and Key West prohibited vessels from remaining on the water if conditions existed that indicated the vessel could not effectively navigate, the city of St. Augustine's ordinance required vessels to demonstrate operability twice annually by navigating to the city's marina to receive a decal which served to verify operability, and Martin County in partnership with the City of Stuart required that a vessel demonstrate operability if it remained in certain areas for more than 10 consecutive days, but acknowledged that enacting a statewide law regarding stored vessels would be very challenging to implement. Instead, FWC suggested that implementing some of its recommendations would serve to remedy many of the problems associated with long-term storage of vessels on the water, particularly, establishing a statewide 300 foot no anchoring buffer outside the permitted boundaries of public mooring fields, establishing a statewide prohibition on anchoring within 150 feet of any marina, boat ramp, or other vessel launching or loading facility, increasing the penalty for repeat violations of an expired vessel registration that is expired for more than six months, providing an additional condition for determining when a vessel may be at risk of becoming derelict to include instances where, after 72 hours of notification by law enforcement, an owner or operator of a vessel cannot demonstrate that the vessel has an effective means of propulsion for the purpose of safe navigation, and prohibiting a vessel or floating structure from mooring to unauthorized moorings.

For inoperable vessels being used as residences, FWC provided that clarification to the definition of a "live-aboard vessel" may help local governments in their efforts to regulate live-aboard vessels that are inoperable.

For marine sanitation issues, FWC provided that clarification relating to whether local governments are authorized to regulate the use of a marine sanitation device²⁶ on a live-aboard vessel would be helpful.

²² Sections 775.082 and 775.083, F.S., provide that a person who has been convicted of a misdemeanor of the second degree may be sentenced by a definite term of imprisonment not exceeding 60 days, and may be sentenced to pay a fine which must not exceed \$500.

²³ Section 705.103, F.S.

²⁴ Section 327.02(11), F.S., provides the definition of "floating structure."

²⁵ FWC, *Anchoring and Mooring Pilot Program Proposed Report of Findings and Recommendations* (Dec. 21, 2016), <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Feb. 14, 2017).

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Under the pilot program, ordinances created by Martin County in partnership with the City of Stuart, and Monroe County in partnership with the cities of Marathon and Key West required a proof of pumpout for vessels subject to marine sanitation requirements.²⁷ FWC noted that many marinas on Florida's waterways offer pumpout services, but there are considerable expanses of state waters where these services are limited thereby making it difficult to create a statewide program. FWC also noted that attempting to enact a statewide pumpout program would be costly and extremely difficult to implement. FWC suggested the topic warrants further consideration, perhaps resulting in enhancements to marine sanitation laws and/or expansion of pumpout services around the state.

For setbacks from shorelines and private docks, FWC noted that though much discussion had occurred throughout the timeframe of the pilot program and the cities of Sarasota and St. Augustine authorized a setback from either the shoreline or private docks, these efforts did not yield a clear resolution, and a consensus on a statewide setback could not be identified that would be practical throughout the state.²⁸

Private Residential Docks on Sovereignty Submerged Lands

Sovereignty submerged lands include tidal lands, islands, sandbars, shallow banks and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters.²⁹ The state holds title to sovereignty submerged lands.³⁰ In order to use sovereignty submerged lands, such as to build a dock, a person must apply to DEP or water management district for a lease or easement.³¹ These leases and easements include fees, term renewals, modifications and assignment to new upland owners.³² Structures that were built on sovereignty submerged lands before the Board of Trustees of the Internal Improvement Trust Fund adopted regulations were "grandfathered" into a lease or easement without having to meet current regulations.³³

To determine the amount of private residential lease fees for the use of sovereignty submerged lands, calculations generally include a determination on the number of boats for the housing involved and a calculation for a preempted area.³⁴ In some circumstances, lease fees are not required, for instance, for a private residential multifamily dock that is designed to moor boats up to the number of units within the development is not required to pay lease fees for a preempted area that is equal to or less than 10 times the shoreline times the number of units within the development.³⁵

Boating-restricted Areas

Boating-restricted areas may be established to protect the safety of the public if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards.³⁶ Seagrasses are grass-like flowering plants that live completely submerged in marine and estuarine waters at shallow depths where high levels of light are received.³⁷ Seagrass scarring occurs when a boat propeller tears and cuts up seagrass roots, stems and leaves, leaving a long, narrow furrow devoid of seagrasses. This damage can take up to 10 years

²⁶ Section 327.02(23), F.S., provides the definition of "marine sanitation device."

²⁷ Section 327.53, F.S.

²⁸ FWC, *Anchoring and Mooring Pilot Program Proposed Report of Findings and Recommendations* (Dec. 21, 2016), <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Feb. 14, 2017).

²⁹ Rule 18-21.003(61), F.A.C.

³⁰ Section 253.03(1), F.S.

³¹ Rule 18-21.005, F.A.C.

³² DEP, *Sovereignty Submerged Lands*, <http://www.dep.state.fl.us/lands/submerged.htm> (last visited Mar. 21, 2017).

³³ Former r. 18-21.00405, F.A.C. and r. 18-21.0081, F.A.C.

³⁴ Section 253.0347, F.S.

³⁵ *Id.*

³⁶ Section 327.46(1), F.S.

³⁷ Section 253.04(3)(a)1., F.S.; DEP, *What are Seagrasses?*, <http://www.dep.state.fl.us/coastal/habitats/seagrass/default.htm> (last visited Mar. 21, 2017).

to repair. With severe scarring these areas may never completely recover.³⁸ Currently, there are no boating-restricted areas to protect boaters from running aground in seagrass areas.

Effect of Proposed Changes

The bill amends s. 253.0347, F.S., to allow private residential multifamily docks that were grandfathered to use sovereignty submerged lands by January 1, 1998, as previously authorized under former rule 18-21.00405, F.A.C., to exceed the number of moored boats to the number of units within the private multifamily development as previously authorized under the rule.

The bill amends s. 327.02, F.S., revising the definition of “live-aboard vessel” to remove a vessel represented as a place of business or a professional or other commercial enterprise from the definition, to include within the definition a vessel used as a residence that does not have an effective means of propulsion for safe navigation, and to exempt a commercial fishing vessel from the definition. The bill defines a “barge” as a vessel that does not have living quarters, is not propelled by its own power, and is designed to be pushed or pulled by another vessel. The bill defines a “commercial fishing vessel” as a vessel primarily engaged in the taking or landing of saltwater fish or saltwater products or freshwater fish or freshwater products, or a vessel licensed pursuant to s. 379.361, F.S., from which commercial quantities of saltwater products are harvested, from within and without the waters of this state for sale to the consumer or to a retail or wholesale dealer. The bill defines a “commercial vessel” as a vessel used as a place of business or a professional or other commercial enterprise. The bill defines “effective means of propulsion for safe navigation” to mean a vessel, other than a barge, that is equipped with a functioning motor, controls, and steering system, or rigging and sails that are present and in good working order, and a functioning steering system.

The bill amends s. 327.391, F.S., regarding the regulation of airboats, to conform a cross-reference.

The bill amends s. 327.4107, F.S., regarding vessels at risk of becoming derelict on waters of the state, to include that a vessel is at risk of becoming derelict if the vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives telephonic or written notice, which may be provided by facsimile, electronic mail, or other electronic means, of such from an officer, and the vessel owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. The bill also provides that FWC may adopt rules to implement this provision.

The bill amends s. 327.4108, F.S., regarding the anchoring of vessels in anchoring limitation areas, to save the section from expiring upon the Legislature’s adoption of recommendations from the pilot program.

The bill creates s. 327.4109, F.S., prohibiting anchoring or mooring in certain areas, providing exceptions, and penalties. The bill prohibits an owner or operator of a vessel or floating structure from anchoring or mooring such that the nearest approach of the anchored vessel or floating structure is within 150 feet of any marina, boat ramp, boatyard, or other vessel launching or loading facility, within 300 feet of a superyacht repair facility, defining a superyacht repair facility as a facility that services or repairs a yacht with a water line of 120 feet or more in length, or within 100 feet outward from the marked boundary of a public mooring field or a lesser distance if approved by FWC upon request by a local government within which the mooring field is located. The bill allows FWC to adopt rules to implement this local government request.

The bill provides exemptions from these anchoring or mooring prohibitions for a vessel that is owned or operated by a governmental entity, a construction or dredging vessel on an active job site, a

³⁸ Section 253.04(3)(a)2., F.S.; DEP, *Seagrass Conservation Issues*, <http://www.dep.state.fl.us/coastal/habitats/seagrass/issues.htm> (last visited Mar. 21, 2017); DEP, *Boating Tips to Protect Seagrasses and Your Boat*, <http://www.dep.state.fl.us/coastal/habitats/seagrass/boating.htm> (last visited Mar. 21, 2017).

commercial fishing vessel actively engaged in commercial fishing, or a vessel actively engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.

The bill allows an owner or operator of a vessel to anchor or moor where prohibited in this section if the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard the vessel and allows the owner or operator of the vessel to anchor or moor for five business days or until the vessel is repaired, whichever occurs first. The bill also allows a vessel to anchor or moor where prohibited in this section if there is imminent or existing weather conditions in the vicinity of the vessel that pose an unreasonable risk of harm to the vessel or the persons onboard. The bill allows the owner or operator of the vessel to anchor or moor until weather conditions no longer pose such risk. The bill provides that during a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

The bill prohibits an owner or operator of a vessel or floating structure from anchoring or mooring within the marked boundary of a public mooring field unless the owner or operator has a lawful right to do so by contractual agreement or other business arrangement.

The bill also prohibits an owner or operator of a vessel or floating structure to anchor, moor, tie, or otherwise affix or allow the vessel or floating structure to remain anchored, moored, tied or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of the waters of this state. The bill exempts a private mooring owned by the owner of private submerged lands from these requirements.

The bill provides that a violation of these anchoring or mooring prohibitions is a noncriminal infraction.

The bill amends s. 327.44, F.S., to provide that a person may not moor, except in case of emergency, such that it unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel, or moor under bridges or in or adjacent to heavily traveled channels if it is unreasonable under the prevailing circumstances.

The bill amends s. 327.46, F.S., to allow the establishment of boating-restricted areas to protect seagrasses on privately owned submerged lands. The bill provides that owners of private submerged lands that are adjacent to Outstanding Florida Waters, as defined in s. 403.061(27), F.S., or an aquatic preserve established under ss. 258.39-258.399, F.S., may request FWC to establish boating-restricted areas solely to protect any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. The bill requires an owner making such request to demonstrate clear ownership of the submerged lands to FWC. The bill requires FWC to adopt rules establishing an application process and criteria for such boating-restricted areas and to establish each approved boating-restricted area by rule. The bill requires property owners to apply to FWC for a uniform waterway marker permit in accordance with ss. 327.40, F.S. and 327.41, F.S., for marking these boating-restricted zones, and to be responsible for marking the boating-restricted zone in accordance with the permit.

The bill provides that the term “seagrass” has the same meaning as in s. 253.04, F.S.

The bill amends s. 327.60, F.S., regarding local government regulations, to clarify that local governments may regulate the anchoring of live-aboard vessels and commercial vessels, , except commercial fishing vessels. The bill allows a local government to enact and enforce regulations requiring owners or operators of vessels or floating structures subject to the marine sanitation requirements of s. 327.53, F.S., to provide proof of proper sewage disposal by means of an approved sewage pumpout service, approved sewage pumpout facility, or approved waste reception facility when anchored or moored for more than 10 consecutive days within the marked boundaries of a permitted mooring field under the jurisdiction of the local government, within no-discharge zones established for Destin Harbor, the City of Key West, and the Florida Keys National Marine Sanctuary, or within no

discharge zones established pursuant to 40 C.F.R. s. 1700.10. The bill requires a local government adopting such ordinance to ensure that there are approved sewage pumpout services, approved sewage pumpout facilities, or approved waste reception facilities available within its jurisdiction, and for FWC to review and approve the ordinance if it is consistent with these requirements. The bill allows FWC to adopt rules to implement this ordinance process. The bill also provides that a local government may enact or enforce pumpout requirements for live-aboard vessels, floating structures, and commercial vessels, excluding commercial fishing vessels, within any areas of its jurisdiction.

The bill allows a local government to enact and enforce regulations for the local government law enforcement to remove a vessel that is affixed to a public dock that is abandoned or lost property pursuant to s. 705.103(1), F.S. Such regulations must require the local government law enforcement to post a written notice at least 24 hours before removing the vessel.

The bill amends s. 327.70, F.S., regarding enforcement, to provide that a violation of s. 327.4109, F.S., for anchoring or mooring where prohibited may be enforced by a uniform boating citation that is mailed to the registered owner of an unattended vessel or floating structure, or issued to the owner or operator of the vessel or floating structure.

The bill amends s. 327.73, F.S., revising the noncriminal infraction for operating with an expired registration as follows:

- For a first or subsequent offense of operating a vessel with an expired registration of six months or less, up to a maximum of \$50.
- For a first offense of operating a vessel with an expired registration of more than six months, up to a maximum of \$250.
- For a second or subsequent offense of operating a vessel with an expired registration of more than six months, up to a maximum of \$500, and the violator must appear in county court.

The bill also creates the following noncriminal infractions for anchoring or mooring where prohibited:

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

The bill amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to an applicant for a vessel that has been deemed derelict by a law enforcement officer under s. 823.11, F.S., to require a law enforcement officer to inform DHSMV in writing, including facsimile, electronic mail or by other electronic means, of the vessel's derelict status, and supply the vessel title number or vessel identification number, and to allow DHSMV to issue a certificate of title once a law enforcement officer has verified in writing, including facsimile, electronic mail or by other electronic means, that the vessel is no longer a derelict vessel.

The bill amends s. 328.70, F.S., providing that a commercial fishing vessel be classified and registered as a commercial vessel.

The bill amends s. 328.72, F.S., regarding an expired vessel registration, to provide that an owner or operator of a vessel with an expired registration of six months or less commits a noncriminal infraction, punishable as provided in s. 327.73(1)(g)1., F.S., and for an owner or operator of a vessel with an expired registration of more than six months commits a noncriminal infraction punishable as provided in s. 327.73(1)(g)2. and 3., F.S.

The bill amends s. 705.103, F.S., regarding the procedure for abandoned or lost property, to exempt a law enforcement officer who has issued a citation for a violation of derelict vessel laws to the owner of the derelict vessel is not required to mail a copy of the notice by certified mail to the owner.

B. SECTION DIRECTORY:

- Section 1. Amends s. 253.0347, F.S., regarding leases of sovereignty submerged lands for private residential docks and piers.
- Section 2. Amends s. 327.02, F.S., providing and revising definitions.
- Section 3. Amends s. 327.391, F.S., conforming a cross-reference.
- Section 4. Amends s. 327.4107, F.S., regarding vessels at risk of becoming derelict.
- Section 5. Amends s. 327.4108, F.S., regarding anchoring of vessels in anchoring limitation areas.
- Section 6. Creates s. 327.4109, F.S., prohibiting anchoring or mooring in certain areas; providing exceptions; penalties.
- Section 7. Amends s. 327.44, F.S., regarding interference with navigation.
- Section 8. Amends s. 327.46, F.S., regarding boating-restricted areas.
- Section 9. Amends s. 327.60, F.S., regarding local regulations.
- Section 10. Amends s. 327.70, F.S., regarding enforcement.
- Section 11. Amends s. 327.73, F.S., regarding noncriminal infractions of vessel laws of the state.
- Section 12. Amends s. 328.09, F.S., regarding refusal to issue a certificate of title.
- Section 13. Amends s. 328.70, F.S., regarding uniform registration fee, and classification of vessels.
- Section 14. Amends s. 328.72, F.S., regarding an expired vessel registration.
- Section 15. Amends s. 705.103, F.S., regarding procedures for abandoned or lost property.
- Section 16. Provides an effective date of July 1, 2017.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill may have an indeterminate positive fiscal impact on state government revenues. FWC may experience positive fiscal impacts to the Marine Resources Conservation Trust Fund resulting from the issuance of boating citations. Any revenues received for these citations are required to be used for boating safety education.³⁹

2. Expenditures:

FWC may have an increased workload from the rulemaking requirements of the bill, but this may be handled within existing resources.

³⁹ Section 327.73(8), F.S.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill creates tiered noncriminal boating infractions for operation of a vessel with an expired registration and for anchoring or mooring where prohibited. As such, a violator would be charged with a noncriminal infraction, cited, and ordered to appear in county court. A person who fails to appear or otherwise properly respond to the citation would, in addition to the civil penalty, be charged with failing to respond to the citation and upon conviction would be guilty of a misdemeanor of the second degree, punishable by a term of imprisonment not exceeding 60 days or a fine which may not exceed \$500.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill provides FWC with rulemaking authority to:

- Implement rules for vessels that are at risk of becoming derelict on waters of the state if the vessel does not have an effective means of propulsion for safe navigation;
- Establish a process for a local government requesting vessels or floating structures be allowed to anchor or moor within less than 100 feet of public mooring field boundaries;
- Establish an application process and criteria for establishing a boating-restricted area to protect seagrasses on privately owned submerged lands; and
- Establish a process for FWC's review of a local government ordinance establishing a proof of pumpout requirement.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On March 21, 2017, the Agriculture & Natural Resources Appropriations Subcommittee adopted a strike-all amendment and reported the bill favorably with committee substitute. The strike-all amendment:

- Provided that private residential multifamily docks, which were grandfathered to use sovereignty submerged lands by January 1, 1998, as authorized under former rule, to exceed the number of moored boats to the number of units within the private multifamily development, as previously authorized.
- Defined “barge,” exempts a barge from the definition of “effective means of propulsion for safe navigation,” and clarifies the definition of a “live-aboard vessel.”
- Allowed an owner or operator of a vessel that is at risk of becoming derelict to provide documentation of purchased or ordered necessary parts for repair as proof that the vessel is not at risk of becoming derelict. The bill allowed FWC to adopt rules to implement this procedure.
- Provided that the nearest approach of an anchored or moored vessel or floating structure is the measuring point for determining distance.
- Added that a vessel or floating structure cannot anchor or moor within 150 feet of a boatyard, within 300 feet of a superyacht repair facility, and defines superyacht repair facility, or within 100 feet of a public mooring field boundary, or a lesser distance if requested by a local government, and approved by FWC. The bill authorized FWC to adopt rules to implement such request.
- Allowed an owner or operator of a vessel or floating structure suffering mechanical failure to anchor or moor where otherwise prohibited for five business days.
- Allowed FWC to establish boating-restricted areas to protect seagrasses on privately owned submerged lands and provided FWC with rulemaking authority to establish an application process and criteria for meeting the requirements of establishing such boating-restricted areas.
- Provided that regulation by a local government requiring owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of sewage disposal applies when a vessel is anchored or moored for more than 10 consecutive days.
- Allowed a local government to enact and enforce regulations for removal of a vessel affixed to a public dock that is lost or abandoned property.
- Allowed a uniform boating citation to be mailed to the registered owner of an unattended vessel or floating structure that is anchored, aground, or moored in an area where prohibited.
- Provided civil penalties for vessels operating with an expired registration and anchored or moored where prohibited.
- Provided that DHSMV may not issue a certificate of title to an applicant if the vessel has been deemed derelict by a law enforcement officer.
- Required a law enforcement officer to notify DHSMV of a vessel’s derelict status and to provide certain information.
- Provided that DHSMV may issue the certificate of title when the vessel is no longer deemed derelict.
- Provided that a law enforcement officer who has provided notice of a violation of derelict vessel laws, and issued a citation for the violation to the owner of a derelict vessel is not required to mail a copy of the notice by certified mail to the owner.

On April 19, 2017, the Government Accountability Committee adopted a strike-all amendment and an amendment to the strike-all amendment, and reported the bill favorably with committee substitute. The amendment:

- Revised the definitions of barge and live-aboard vessel;
- Defined commercial fishing vessel and commercial vessel;
- Provided that a law enforcement officer may give notice of a vessel that does not have an effective means of propulsion for safe navigation by telephonic means to the owner or operator of the vessel;
- Revised the definition of superyacht repair facility;
- Clarified that the measurement for anchoring outside a public mooring field is outward from the marked boundary;

- Prohibited an owner or operator of a vessel or floating structure from anchoring or mooring within the marked boundary of a public mooring field unless the owner or operator has a lawful right to anchor or moor in the mooring field by contractual agreement or other business arrangement;
- Prohibited a person to moor in a manner that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel;
- Required a permittee of a uniform waterway marker for a boating restricted area for the protection of seagrasses on privately owned submerged lands to mark the boating-restricted zone in accordance with the permit;
- Required a local government adopting a sewage pumpout ordinance to ensure that there are approved sewage pumpout services, approved sewage pumpout facilities, or approved waste reception facilities available within its jurisdiction;
- Required a local government that adopts an ordinance for the removal of a vessel affixed to a public dock within its jurisdiction that is lost or abandoned to post written notice no less than 24 hours before removal; and
- Clarified that a commercial fishing vessel be classified and registered as a commercial vessel.

This analysis is drafted to the committee substitute as approved by the Government Accountability Committee.