

Tab 1	SB 960 by Bennett ; (Compare to CS/H 0709) Liquefied Petroleum Gas						
636390	A	S	RCS	EP, Jones	Delete L.31:	03/10 04:15 PM	

Tab 2	SM 852 by Hays (CO-INTRODUCERS) Gaetz ; (Identical to H 0009) Supporting the Marketing of Florida Seafood						
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Tab 3	SB 882 by Detert ; (Similar to CS/H 0649) Water Management Districts						
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Tab 4	SB 392 by Jones (CO-INTRODUCERS) Latvala ; (Identical to H 0451) Commercial Parasailing						
783990	D	S		EP, Jones	Delete everything after	03/04 11:24 AM	
342652	D	S	RCS	EP, Jones	Delete everything after	03/10 04:15 PM	

Tab 5	SB 968 by Dean ; Boating Safety						
271416	D	S	RCS	EP, Dean	Delete everything after	03/10 04:15 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Dean, Chair
Senator Oelrich, Vice Chair

MEETING DATE: Thursday, March 10, 2011

TIME: 1:00 —3:00 p.m.

PLACE: *Toni Jennings Committee Room, 110 Senate Office Building*

MEMBERS: Senator Dean, Chair; Senator Oelrich, Vice Chair; Senators Detert, Jones, Latvala, Rich, and Sobel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 960 Bennett (Compare CS/H 709, CS/S 396)	Liquefied Petroleum Gas; Prohibits the Department of Agriculture and Consumer Services and other state agencies from requiring compliance with certain national standards for liquefied petroleum gas tanks unless the department or agencies require compliance with a specified edition of the national standards. Revises the term "propane" for purposes of the Florida Propane Gas Education, Safety, and Research Act, to incorporate changes to certain national standards in a reference thereto.	EP 03/10/2011 CM BC
2	SM 852 Hays (Identical HM 9)	Supporting the Marketing of Florida Seafood; Urges the Congress of the United States to support the marketing of Florida seafood.	EP 03/10/2011 CM AG
3	SB 882 Detert (Identical H 649)	Water Management Districts; Revises provisions relating to the membership of basin boards. Specifies the terms of service for basin board members designated by district governing board chairs. Provides that basin board members designated by district governing board chairs are voting members and counted for quorum purposes. Provides for designated district governing board members to serve as basin board chairs and co-chairs. Provides that a quorum of remaining members may conduct business if there is a vacancy on the board, etc.	EP 03/10/2011 GO BC

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Thursday, March 10, 2011, 1:00 —3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 392 Jones (Identical H 451)	Commercial Parasailing; Requires the owner of a vessel engaged in commercial parasailing to obtain and carry an insurance policy. Provides minimum coverage for the insurance policy. Provides requirements for proof of insurance. Specifies the insurance information that must be provided to each rider. Provides for the launch and recovery of riders from a towing vessel. Requires a person engaged in operating a vessel for commercial parasailing to have certain licenses. Requires certain equipment, etc. EP 03/10/2011 BI BC	
5	SB 968 Dean	Boating Safety; Provides for agents of the Fish and Wildlife Conservation Commission to issue boater safety identification cards that must be similar in appearance to cards issued by the commission. EP 03/10/2011 CA BC	
6	Status Report on the C.W. Bill Young Regional Reservoir by Tampa Bay Water		
7	Overview of Consumptive Use Permitting in Florida by the South Florida Water Management District		
8	Discussion of proposed legislation relating to onsite sewage treatment and disposal systems		

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 960

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Bennett

SUBJECT: Liquefied Petroleum Gas

DATE: March 10, 2011 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			CM	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The CS requires all state agencies to adopt standards relating to the separation distance between liquefied petroleum gas (LP) containers and structures, property lines, and sources of ignition contained in the 2011 edition of the National Fire Protection Association (NFPA) 58, also known as the Liquefied Petroleum Gas Code.

The bill amends sections 527.06 and 527.21 of the Florida Statutes.

II. Present Situation:

The National Fire Protection Association (NFPA) 58, Liquefied Petroleum Gas Code

The National Fire Protection Association (NFPA) is an international nonprofit organization that was established in 1896 to reduce the risks and effects of fires by establishing building consensus codes.¹ The NFPA 58, also known as the Liquefied Petroleum Gas Code, applies to “the storage, handling, transportation, and use of LP-Gas[es],” which is defined by the code to mean “gasses

¹ National Fire Protection Association Website, *Overview*, available online at <http://www.nfpa.org/categoryList.asp?categoryID=495&URL=About%20NFPA/Overview> (last visited on March 4, 2011).

at normal room temperature and atmospheric pressure [that] liquefy under moderate pressure and readily vaporize upon release of the pressure.”²

Section 527.06(3), F.S., provides the Department of Agriculture and Consumer Services (DACS), with the authority to adopt rules that are in substantial conformity with NFPA’s published safety standards. Subsection (3), specifically provides that:

Rules in substantial conformity with the published standards of the National Fire Protection Association shall be deemed to be in substantial conformity with the generally accepted standards of safety concerning the same subject matter.

The NFPA has recently published the 2011 edition of the NFPA 58, Liquefied Petroleum Gas Code. As a result, DACS has filed a Notice of Rule Development (Rule 5F-11.002) to adopt the 2011 edition of the NFPA 58, Liquefied Petroleum Gas Code.³ State agencies that currently enforce the LP gas container separation distances, adopt changes in the NFPA safety codes as standards evolve and technology changes.

III. Effect of Proposed Changes:

Section 1 amends 527.06, F.S., to require all state agencies to enforce the same LP gas container separation distances included in the 2011 version of NFPA 58. The CS provides for a sunset of this paragraph under certain circumstances.

Section 2 amends 527.21, F.S., to specify that the definition for propane is defined by the NFPA 58 Liquefied Petroleum Gas Code.

Section 3 provides that this act shall take effect July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

² National Fire Protection Association Website, *Document Scope of NFPA 58* available online at <http://www.nfpa.org/aboutthecodes/AboutTheCodes.asp?DocNum=58> (last visited on March 4, 2011).

³ Florida Department of Agriculture & Consumer Services, *Senate Bill 960 Fiscal Analysis* (Feb. 14, 2011) (on file with the Senate Committee on Community Affairs).

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

None.

B. Private Sector Impact:

To the extent that the new code reduces set back requirements for propane tanks from buildings and sources of ignition, the private sector may save on construction costs.

C. Government Sector Impact:

All state agencies will be required to adopt the same NFPA 58 LP gas container separation requirements.

VI. Technical Deficiencies:

None.

VII. Related Issues:**VIII. Additional Information:****A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Protection and Conservation Committee on March 10, 2011:
The CS provides for repeal under certain circumstances.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2011	.	
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The Committee on Environmental Preservation and Conservation (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete line 31
and insert:
distances of the 2011 edition of NFPA 58. This paragraph expires upon the last effective date of rules adopted, directly or incorporated by reference, by the department, the Florida Building Commission as part of the Florida Building Code, and the Office of State Fire Marshal as part of the Florida Fire Prevention Code of these minimum separation distances contained in the 2011 edition of NFPA 58, promulgated by the National Fire Protection Association.



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

And the title is amended as follows:

After line 8

insert:

providing for future expiration of such requirements;

By Senator Bennett

21-00938A-11

2011960__

1 A bill to be entitled
2 An act relating to liquefied petroleum gas; amending
3 s. 527.06, F.S.; prohibiting the Department of
4 Agriculture and Consumer Services and other state
5 agencies from requiring compliance with certain
6 national standards for liquefied petroleum gas tanks
7 unless the department or agencies require compliance
8 with a specified edition of the national standards;
9 amending s. 527.21, F.S.; revising the term "propane"
10 for purposes of the Florida Propane Gas Education,
11 Safety, and Research Act, to incorporate changes to
12 certain national standards in a reference thereto;
13 providing an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Subsection (3) of section 527.06, Florida
18 Statutes, is amended to read:

19 527.06 Rules.—

20 (3) (a) Rules in substantial conformity with the published
21 standards of the National Fire Protection Association (NFPA) are
22 ~~shall be~~ deemed to be in substantial conformity with the
23 generally accepted standards of safety concerning the same
24 subject matter.

25 (b) Notwithstanding any other law, the department or other
26 state agency may not require compliance with the minimum
27 separation distances of NFPA 58 for separation between a
28 liquefied petroleum gas tank and a building, adjoining property
29 line, other liquefied petroleum gas tank, or any source of

21-00938A-11

2011960__

30 ignition, except in compliance with the minimum separation
31 distances of the 2011 edition of NFPA 58.

32 Section 2. Subsection (11) of section 527.21, Florida
33 Statutes, is amended to read:

34 527.21 Definitions relating to Florida Propane Gas
35 Education, Safety, and Research Act.—As used in ss. 527.20-
36 527.23, the term:

37 (11) "Propane" includes propane, butane, mixtures, and
38 liquefied petroleum gas as defined by ~~the~~ National Fire
39 Protection Association (NFPA) Standard 58, For The Storage and
40 Handling of Liquefied Petroleum Gas Code Gases.

41 Section 3. This act shall take effect July 1, 2011.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SM 852

INTRODUCER: Senator Hays

SUBJECT: Supporting the Marketing of Florida Seafood

DATE: March 7, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Favorable
2.			CM	
3.			AG	
4.				
5.				
6.				

I. Summary:

This Senate Memorial urges the United States Congress to support the marketing of domestic seafood generally and Florida seafood specifically.

Specifically, the memorial urges that Congress allocate import tariffs generated from marine and fishery product imports to promote domestic and Florida seafood. It also urges that Congress dedicate funds from import tariffs to a national seafood marketing fund to promote domestic seafood products.

II. Present Situation:

Seafood Production for Florida and the United States

Fishery products are composed of both “edible” and “nonedible” products. Edible products are those fit for human consumption and are generally labeled “seafood.” Nonedible products are not, though some may be used as feed ingredients for animals. The U.S. imported 5.2 billion pounds of edible products worth \$13.1 billion in 2009. Shrimp accounts for 29 percent of the total, or \$3.8 billion.¹

Florida’s commercial production of seafood in 2009 was valued at more than \$152 million. There are approximately 13,000 licensed commercial fishermen and aquaculturists in the state.

¹ U.S. Dep’t of Commerce, NOAA Fisheries: Office of Science and Technology, *Fisheries of the United States – 2009: Foreign Trade*, available at: http://www.st.nmfs.noaa.gov/st1/fus/fus09/06_trade2009.pdf (last visited 03/04/2011).

The total economic impact from seafood harvesting activities was valued at more than \$600 million in 2009.²

Initial Deepwater Horizon Explosion

At approximately 10:00 p.m. on April 20, 2010, the Transocean drilling rig known as Deepwater Horizon exploded in the Gulf of Mexico with the loss of 11 missing and presumed dead crewmembers.³ With the resulting leakage of crude oil and natural gas from the well site, the Deepwater Horizon disaster is now considered by many to be the largest single environmental disaster in United States history.

At the time of the explosion, the Deepwater Horizon rig was moored approximately 45 miles southeast of the Louisiana coast. Drilling operations were being conducted at a sea depth of 5,000 feet and had progressed more than 18,000 feet below the sea floor where commercial oil deposits were discovered. The site, known as the Mississippi Canyon Block 252, is estimated to hold as much as 110 million barrels of product.^{4,5}

On April 22, 2010, the Deepwater Horizon rig capsized and sank. Two days later, underwater cameras detected crude oil and natural gas leaking from the surface riser pipes attached to the well-head safety device known as the blowout preventer. The blowout preventer malfunctioned and failed to shut off flow out of the well-head.

Initial estimates assessed leakage at 1,000 barrels per day. The estimate was subsequently revised to 5,000 barrels per day.⁶ Estimates about the flow rate from the broken well were a subject of controversy, with various scientists calculating different rates from the official government estimates. The actual daily rate of leakage was somewhere between 35,000 and 60,000 barrels per day. “The emerging consensus is that roughly five million barrels of oil were released by the Macondo well, with roughly 4.2 million barrels pouring into the waters of the Gulf of Mexico.” On August 4, 2010, BP reported that the “static kill” method effectively stopped the oil leak. Work on the relief well was completed on September 19, 2010, which sealed the well with a cement plug.⁷ The final incident report issued by then Governor Crist

² E-mail from Nelson Mongiovi, Director, Department of Agriculture and Consumer Services, Division of Marketing and Development, to author (March 3, 2011) (on file with the Senate Committee on Environmental Preservation and Conservation).

³ Wall Street Journal, Deepwater Horizon Rig Disaster – Timeline, available at <http://online.wsj.com/article/SB10001424052748704302304575213883555525958.html> (last visited 03/07/2011).

⁴ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6: Stopping the Spill: The Five-Month Effort to Kill the Macondo Well, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Containment%20Working%20Paper%2011%2022%2010.pdf%20> (last visited 12/22/2010).

⁵ A barrel of oil is equivalent to 42 U.S. gallons.

⁶ WSJ.com Deepwater Horizon Rig Disaster – Timeline.

⁷ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 3: The Amount and Fate of the Oil, available at <http://www.oilspillcommission.gov/sites/default/files/documents/Amount%20and%20Fate%20of%20the%20Oil%20Working%20Paper%2010%206%2010.pdf%20> (last visited 12/22/2010). “By initially underestimating the amount of oil flow and then, at the end of the summer, appearing to underestimate the amount of oil remaining in the Gulf, the federal government created the impression that it was either not fully competent to handle the spill or not fully candid with the American people about the scope of the problem.”

showed that 2,000 tons (500,000 gallons) of oil had been recovered from Florida's shoreline as of August 26, 2010.⁸

Florida Response

Governor Crist declared a state of emergency on April 30, 2010, as a result of the spreading oil spill in the Gulf of Mexico and included Escambia, Santa Rosa, Okaloosa, Walton, Bay and Gulf counties in the emergency declaration.⁹ The initial executive order was amended on May 3, 2010, to include Franklin, Wakulla, Jefferson, Taylor, Dixie, Levy, Citrus, Hernando, Pasco, Pinellas, Hillsborough, Manatee, and Sarasota counties.¹⁰ Subsequently, Charlotte, Lee, Collier, Monroe, Dade, Broward, and Palm Beach counties were added to the declaration.¹¹

Florida's emergency response system began immediate operations, which continued through the capping of the well.¹² The cost to Florida in terms of response costs, damage to Florida's economy and business community, individual workers who have lost jobs, decrease in property values, commercial fisheries and restoration of environmental damage cannot be calculated because of the ongoing nature of the effects.

As reported by the Governor's Gulf Oil Spill Economic Recovery Task Force at their monthly meeting in October 2010, state and local government institutions in Florida have been granted \$130 million in funding from BP to support environmental response and economic recovery efforts.¹³

Award	Amount
1. Response and Recovery Costs	
a. Booming/Consultant Cost	\$40,000,000
b. State Response Cost	\$10,000,000
2. Tourism	\$32,000,000
3. Natural Resource Damage Assessment	\$8,000,000
4. Employment and Training Activities	\$7,000,000
5. Research Impact on Gulf of Mexico	\$10,000,000
6. Mental Health Care	\$3,000,000
7. Fish and Shell Fish Testing and Marketing	\$20,000,000

On December 29, 2010, BP reported that it had invested nearly \$1.3 billion in Florida.¹⁴ The majority of those payments, 85 percent, were to individuals and business to offset economic losses from the oil spill.

⁸ Situation Report #114 (Final), Deepwater Horizon Response, available at http://www.dep.state.fl.us/deepwaterhorizon/files/sit_reports/0810/situation_report114_082610.pdf (last visited 03/07/2011).

⁹ Office of the Governor, Executive Order Number 10-99, dated April 30, 2010.

¹⁰ Office of the Governor, Executive Order Number 10-100, dated May 3, 2010.

¹¹ Office of the Governor, Executive Order Number 10-106, dated May 20, 2010.

¹² The operations transitioned to a monitoring status on August 27, 2010.

¹³ Governor's Gulf Oil Spill Economic Recovery Task Force, created by Executive Order No. 10-101. See the October 28, 2010 Report for detailed information on funding from BP.

¹⁴ BP Investments and Payments - Florida, Dec 29, 2010, available at <http://www.floridagulfresponse.com/go/doc/3059/979815/> (last visited on 1/5/11).

Effect of the Oil Spill on Florida's Fisheries

The spill caused the closure of 88,522 square miles of federal waters to fishing, and affected hundreds of miles of shoreline, bayous, and bays. In addition to closure of federal waters, the Florida Fish and Wildlife Conservation Commission (FWC) in conjunction with other state agencies declared parts of Escambia County closed to harvesting of saltwater fish, crabs and shrimp.¹⁵ The closure was in effect from June 14, 2010 to July 31, 2010 for saltwater fish and to August 17, 2010 for shrimp.¹⁶ State waters were reopened to all commercially harvested species on September 15, 2010 by FWC Executive Order 10-46.¹⁷

From April until July, several efforts were made to stop the flow of oil from the broken well. Most were unsuccessful. Finally, on July 15, 2010, (87 days after the blowout) the leaking well at the Deepwater Horizon site was capped and oil discharge into the ocean was stopped (the "top kill"). On September 19, 2010, 152 days after the April 20 blowout, Admiral Thad Allen announced that the well was "effectively dead."¹⁸

The Deepwater Horizon oil spill crippled Florida's seafood industry. Consumers across the nation were wary of eating any seafood from the Gulf of Mexico. Seafood sales plummeted immediately after the event. Many restaurants around the state began to put notices out that they were not serving seafood from the Gulf of Mexico. Staff at the Florida Department of Agriculture and Consumer Services (DACS) have documented that consumer confidence still remains unusually low. The public perception is that seafood from the Gulf of Mexico is tainted.¹⁹

Several polls have been conducted on behalf of the DACS since the Deepwater Horizon incident. One highlight of the polls shows that eight months after the first survey in May 2010, 61 percent of respondents said they were cautious and not buying as much seafood. Further, results show that Florida consumers remained "more concerned about":

- The long term-effects on availability (42%)
- Price increases due to spill (54%)
- Safety of Gulf seafood (48%)
- Potential of unforeseen risks (49%)²⁰

Florida's commercial fishermen continue to harvest quality seafood from the Gulf of Mexico and Atlantic Ocean, yet their sales are lagging. One of DACS' goals is to restore and improve

¹⁵ Press Release, Florida Fish and Wildlife Conservation Commission, *Oil forces partial fishing closure in Escambia County* (June 13, 2010) available at: http://www.myfwc.com/NEWSROOM/10/statewide/News_10_X_OilSpill19.htm (last visited 03/04/2011).

¹⁶ Press Release, Florida Fish and Wildlife Conservation Commission, *Closed shrimp-harvesting area in Escambia Co. reopens* (June 13, 2010) available at: http://www.myfwc.com/NEWSROOM/10/statewide/News_10_X_OilSpill39.htm (last visited 03/04/2011).

¹⁷ Florida Fish and Wildlife Conservation Commission, Order No. EO 10-46, *Reopening of State Waters of the Gulf of Mexico that were closed in response to the Deepwater Horizon Oil Spill* (Sep. 15, 2010) available at http://myfwc.com/media/310640/EO_10_46_ReopenStateWatersGulfDeepwaterHorizon.pdf (last visited 03/07/2011).

¹⁸ National Commission on the BP Deepwater Horizon Oil Spill and Offshore Drilling, Staff Working Paper No. 6.

¹⁹ See *supra* note 2.

²⁰ See *supra* note 2.

Florida's seafood sales and the livelihoods of all involved in the state's commercial fishing industry. This can only be accomplished by assuring consumers and commercial buyers that Florida seafood products are safe, fresh, and plentiful.²¹

III. Effect of Proposed Changes:

SM 852 urges Congress of the United States to support the marketing of Florida seafood. Specifically, the memorial urges Congress to:

- Allocate moneys generated from fishery product import tariffs for marketing Florida seafood;
- Pass legislation to create a national seafood marketing fund using fishery product import tariffs to finance the activities; and
- Urges the Florida Congressional Delegation to work with representatives of other seafood-producing states to promote domestic seafood.

Copies of the memorial are to be distributed to the President of the United States, to the President of the United States Senate, to the Speaker of the United States House of Representatives, and to each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

²¹ See *supra* note 2.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

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

None.

B. Amendments:

None.

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

By Senator Hays

20-01287-11

2011852

Senate Memorial

A memorial to the Congress of the United States,
urging Congress to support the marketing of Florida
seafood.

WHEREAS, Florida seafood products face constantly
increasing domestic competition from imported seafood products,
with more than 80 percent of the total seafood consumed in the
United States currently originating in foreign countries, and

WHEREAS, effective domestic marketing of Florida seafood in
the face of aggressive competition from foreign products
requires innovative, forceful, and consistent promotion, and

WHEREAS, current annual funding for the domestic promotion
of Florida seafood is insufficient to effectively develop the
thriving markets that sustainable Florida seafood products
merit, especially when competing with nationally supported
promotional programs aimed at United States consumers by rival
seafood-producing countries, and

WHEREAS, duties and tariffs on imported seafood products
generate approximately \$280,000,000 annually for the United
States Treasury, and

WHEREAS, revenue from anti-dumping and countervailing
duties on imported seafood products collected by the Federal
Government total hundreds of millions of dollars annually, and

WHEREAS, federal revenue derived from the importation of
competing seafood products is not presently made available for
the marketing of seafood harvested and produced domestically,
and

WHEREAS, using a portion of the revenue collected on the

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30 importation of foreign seafood products to promote United States
31 seafood to domestic consumers will secure United States
32 fisheries and seafood processing jobs, create robust and
33 enduring domestic markets, and greatly enhance the nutritional
34 value of national diets, and

35 WHEREAS, throughout recent history each spill or leak
36 associated with the transportation or production of oil
37 negatively affects the seafood industry through the closure of
38 commercial and recreational fishing operations, the destruction
39 of wildlife and natural habitat, or loss of market share, and

40 WHEREAS, in a recent survey conducted by the University of
41 Minnesota, 54 percent of respondents said the Deepwater Horizon
42 oil spill has affected their seafood consumption habits
43 somewhat, 44 percent said they will not eat seafood from the
44 Gulf of Mexico, and 31 percent said they will eat less seafood
45 regardless of its origin, and

46 WHEREAS, a new National Seafood Marketing Fund designed to
47 promote and develop United States produced seafood would help
48 the United States seafood industry now and in the future recoup
49 damages related to oil spills that result in decreased market
50 demand for seafood, and

51 WHEREAS, a small portion of oil revenues are a logical
52 source of funding for a National Seafood Marketing Fund as
53 mitigation for real damages incurred by the seafood industry and
54 coastal communities, NOW, THEREFORE,

55
56 Be It Resolved by the Legislature of the State of Florida:

57
58 That the Congress of the United States is requested to

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59 allocate moneys generated from federal marine and fishery
60 product import tariffs for the domestic marketing of Florida
61 seafood.

62 BE IT FURTHER RESOLVED that the Congress of the United
63 States is urged to pass legislation dedicating a significant
64 portion of marine and fishery product import tariffs to a
65 national seafood marketing fund to promote domestic seafood
66 products that face competition from foreign imports.

67 BE IT FURTHER RESOLVED that the Florida Congressional
68 Delegation is urged to work with representatives of other
69 seafood-producing states to secure adequate funding for
70 effective and sustained domestic marketing of United States
71 seafood.

72 BE IT FURTHER RESOLVED that copies of this memorial be
73 dispatched to the President of the United States, to the
74 President of the United States Senate, to the Speaker of the
75 United States House of Representatives, and to each member of
76 the Florida delegation to the United States Congress.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: SB 882

INTRODUCER: Senator Detert

SUBJECT: Water Management Districts

DATE: March 2, 2011

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Uchino	Yeatman	EP	Favorable
2.			GO	
3.			BC	
4.				
5.				
6.				

I. Summary:

The bill makes technical revisions and clarifications to basin boards related to board constitution and voting conditions for basin board chairs. The bill exempts water management district cooperative funding programs from chapter 120, F.S., rulemaking requirements unless any portion of an approved program affects the substantial interests of a party.

Additionally, the bill clarifies that local governments can continue to implement water management district (WMD) landscape irrigation restrictions by adopting ordinances that implement restrictions. It also allows local governments to adopt ordinances for landscape irrigation restrictions that are set forth in WMD rules or orders.

Lastly, the bill allows the Suwannee River Water Management District (SRWMD) to use funds from the Water Protection and Sustainability Program Trust Fund for regional water supply planning and other water resource projects.

This bill substantially amends ss. 373.0693, 373.171, 373.228 and 373.707, Florida Statutes.

II. Present Situation:

Water Management Districts

WMD basin boards ensure that local concerns within the districts are addressed effectively. Each board has half of the districts' millage capacity to fund projects that address water supply, flood protection, water quality and natural systems issues in its watershed. Basin board members are appointed by the Governor and must be confirmed by the Senate.

Only two WMDs have basin boards in addition to their regular governing boards – the Southwest Florida Water Management District (SWFWMD) and the South Florida Water Management District (SFWMD). The SWFWMD maintains seven basin boards, the SFWMD, one. These boards provide guidance for local programs and projects that are specific to their watershed basins. Each basin is guided by a basin board, which is composed of not less than three members and must include one member from each of the basin's counties.¹ The WMDs interpret this to mean that, in the absence of at least one member from each county, the basin board is not properly constituted. When this occurs, a basin board is unable to transact official business until the Governor appoints an individual to fill the vacancy. While vacancies of this kind occur from time to time, if one were to coincide with the budget and tax levy processes, it is possible that a basin board would not be able to establish its annual budget or request its annual tax levy.

SWFWMD Governing Board Policy 110-8 provides that the Governing Board Chair may appoint more than one governing board member to serve as chair of a basin board on a rotating basis. This is inconsistent with subsection 373.0693(6), F.S. Further, nothing in s. 373.0693, F.S., indicates the actual status of the basin chairs with respect to voting or the establishment of a quorum.

Cooperative Funding

SB 2080, signed into law by then Governor Crist in 2009, addressed cooperative funding programs. However, its statutory placement limits its application instead of applying generally to all cooperative funding programs, as was intended. Cooperative funding is not considered a regulatory program. It is a cost-share program for local governments for projects that develop sustainable water resources, provide flood protection and enhance conservation efforts. Therefore, if a district needed to adopt rules for all of the procedures and policies in a cooperative funding program, it would be unable to adapt or modify the program as necessary.

Landscape Irrigation

Section 373.609, F.S., requires state, city, and county officials, upon request, to assist the governing board of any WMD in enforcing chapter 373, F.S., and the rules and regulations adopted to implement the provisions of the chapter. It is unclear whether the provisions allow local government adoption of ordinances to enforce WMD rules or if no such authority exists.

With limited exceptions, s. 373.217, F.S., states that Part II of chapter 373, F.S., preempts the regulation of consumptive use of water. Water use for landscape irrigation is a consumptive use of water. This provision may be construed to prohibit other government entities from adopting rules or ordinances to regulate consumptive uses of water, such as for landscape irrigation.

Alternative Water Supply Development

Section 373.707, F.S., allocates revenues deposited into the Water Protection and Sustainability Trust Fund Program to each WMD for assisting in the development of alternative water supply

¹ Section 373.0693(2), F.S. (2010)

and conservation projects. However, if a district does not have a regional water supply plan, or the plan does not identify the need for any alternative water supply projects, funds deposited in the district's trust fund may be used for water resource development projects. Four of the WMDs have one or more regional water supply plans, and most are assisting with the development of alternative supplies. The SRWMD recently completed its Water Supply Assessment Report and is in the process of developing regional water supply plans.

III. Effect of Proposed Changes:

Section 1 amends s. 373.0693, F.S., to provide that a member of the governing board serving as chair of a basin board be a regular, voting member of the basin board and be counted for purposes of establishing a quorum. In the event a vacancy occurs and a successor is not appointed within 180 days, the remaining members of the basin board will be able to continue to transact official business provided a quorum of the whole authorized number of members of the board is present. This will provide continuity in basin board operations, particularly during budget and tax levy times. The bill also provides for the appointment of more than one basin board chair from among the members of the governing board, to be consistent with governing board practice and policy. This section also contains technical and conforming changes.

Section 2 amends s. 373.171, F.S., to exempt cooperative funding programs from rulemaking requirements of chapter 120, F.S. Parties whose substantial interests are affected may still challenge these programs under s. 120.569, F.S.

Section 3 amends s. 373.228, F.S., to clarify that local governments can continue to implement WMD landscape irrigation restrictions for conservation purposes. Additionally, it authorizes local governments to adopt ordinances that implement landscape irrigation restrictions set forth in WMD rules or orders. This section also contains technical changes.

Section 4 amends s. 373.707, F.S., to allow the SRWMD to use funds deposited in the Water Protection and Sustainability Program Trust Fund to its credit for regional water supply planning and water resource projects. This section also contains technical changes.

Section 5 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

There may be some costs associated with complying with ordinances that enact WMD landscape irrigation restrictions. However, those costs are unknown. Private landscaping businesses and service providers may have reduced sales during watering restrictions. However, these businesses may also see an increase in sales of Florida-Friendly plants to offset any negative impacts. Landscape irrigation restrictions should lead to reduced water bills for the public during those times the restrictions are being enforced.

C. Government Sector Impact:

WMDs that establish cooperative funding programs may save time and money associated with the rulemaking process outside of chapter 120, F.S., review.

Additional efficiencies and continuity in the operation of the basin boards will be realized; however, the fiscal impact is indeterminate.

There may be some costs associated with ordinance development and adoption by local governments for landscape irrigation restrictions. However, local governments are not required to exercise the authority granted in this bill to implement such restrictions.

The SRWMD may access funds in the Water Protection and Sustainability Program Trust Fund dedicated for alternative water supply projects for other programs. This will maintain the SRWMD's flexibility to use these funds even though its need for alternative water supply projects may be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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

By Senator Detert

23-00310A-11

2011882

1 A bill to be entitled
2 An act relating to water management districts;
3 amending s. 373.0693, F.S.; revising provisions
4 relating to the membership of basin boards; specifying
5 the terms of service for basin board members
6 designated by district governing board chairs;
7 providing that basin board members designated by
8 district governing board chairs are voting members and
9 counted for quorum purposes; providing for designated
10 district governing board members to serve as basin
11 board chairs and co-chairs; providing that a quorum of
12 remaining members may conduct business if there is a
13 vacancy on the board; revising provisions relating to
14 the membership of the Manasota Basin Board; providing
15 for the designation of a member of the district
16 governing board to serve on the basin board; amending
17 s. 373.171, F.S.; exempting cooperative funding
18 programs from certain rulemaking requirements;
19 amending s. 373.228, F.S.; revising legislative intent
20 relating to landscape irrigation restrictions;
21 providing that local governments may adopt
22 restrictions set forth in district rules or orders;
23 amending s. 373.707, F.S.; authorizing water
24 management districts to use certain moneys in the
25 Water Protection and Sustainability Program Trust Fund
26 for water resource development projects; providing an
27 effective date.

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

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30
31 Section 1. Subsections (1) through (7) of section 373.0693,
32 Florida Statutes, are amended to read:

33 373.0693 Basins; basin boards.—

34 (1) (a) Any areas within a district may be designated by the
35 district governing board as subdistricts or basins. The
36 designations ~~of such basins~~ shall be made by resolution of the
37 district governing board ~~by resolutions thereof~~. The governing
38 board ~~of the district~~ may change the boundaries of such basins,
39 or create new basins, by resolution.

40 (b) No subdistrict or basin in the St. Johns River Water
41 Management District other than established by this act ~~is shall~~
42 ~~become~~ effective until approved by the Legislature.

43 (2) Each basin shall be under the control of a basin board
44 ~~which shall be~~ composed of at least not less than three members,
45 including one or more representatives ~~but shall include one~~
46 ~~representative~~ from each of the counties included in the basin.

47 (3) Except for a member of the district governing board
48 serving on a basin board pursuant to subsection (6), each member
49 of a ~~the various~~ basin board boards shall be appointed ~~serve~~ for
50 ~~a period of~~ 3 years or until a successor is appointed, but not
51 more than 180 days after the end of the term., ~~except that~~ The
52 ~~board~~ membership of each new basin board shall be divided into
53 three groups as equally as possible, with members in such groups
54 ~~to be~~ appointed for 1, 2, and 3 years, respectively. Each basin
55 board shall choose a vice chair and a secretary to serve for ~~a~~
56 ~~period of~~ 1 year. The term of office of a basin board member
57 shall ~~be construed to~~ commence on March 2 preceding the date of
58 appointment and ~~to~~ terminate March 1 of the year of the end of a

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59 term or ~~may continue~~ until a successor is appointed, but not
60 more than 180 days after the end of the expired term. A member
61 of the district governing board serving on a basin board
62 pursuant to subsection (6) shall serve for a period commensurate
63 with his or her term on the governing board.

64 (4) Except for a member of the district governing board
65 serving on a basin board pursuant to subsection (6), members of
66 a basin board ~~boards~~ shall be appointed by the Governor, subject
67 to confirmation by the Senate at the next regular session of the
68 Legislature. ~~and~~ The refusal or failure of the Senate to
69 confirm an appointment shall create a vacancy in the office to
70 which the appointment was made.

71 (5) Basin board members shall serve without ~~receive no~~
72 ~~compensation for services as such;~~ but are entitled to
73 reimbursement for per diem and travel expenses as provided in s.
74 112.061, ~~while officially on work for the district, they shall~~
75 ~~receive their actual travel expenses between their respective~~
76 ~~places of residence and the place where official district~~
77 ~~business is conducted, subsistence, lodging, and other expenses~~
78 ~~in the amount actually incurred. These expenses may not exceed~~
79 ~~the statutory amount allowed state officers and employees.~~ This
80 subsection applies retroactively to the effective date of the
81 creation of each of the five separate water management
82 districts.

83 (6) (a) Notwithstanding any other provision of the
84 ~~provisions of any other~~ general or special law ~~to the contrary,~~
85 a member of the district governing board ~~of the district~~
86 residing in the basin, or, if no member resides in the basin, a
87 member of the district governing board designated by the chair

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88 of the district governing board, shall be a voting member of the
89 basin board and counted for purposes of establishing a quorum.

90 (b) A governing board member shall serve as the chair of
91 the basin board. If more than one governing board member is
92 designated to a basin board, each shall rotate as co-chair of
93 the basin board. The chair or co-chair shall preside at all
94 meetings of the basin board, except that the vice chair may
95 preside in the his or her absence of the chair and co-chair. The
96 chair shall be the liaison officer of the district in all
97 affairs in the basin and shall be kept informed of all such
98 affairs.

99 (c) If a vacancy occurs on a basin board, a quorum of the
100 total remaining members may continue to transact official
101 business until a successor is appointed.

102 (d) ~~(b)~~ Basin boards within the Southwest Florida Water
103 Management District shall meet regularly as determined by a
104 majority vote of the basin board members. Subject to the notice
105 requirements of chapter 120, special meetings, both emergency
106 and nonemergency, may be called ~~either~~ by the chair or the
107 elected vice chair ~~of the basin board~~ or upon request of two
108 basin board members. The district staff shall include on the
109 agenda of any basin board meeting any item for discussion or
110 action requested by a member of that basin board. The district
111 staff shall notify any basin board, as well as their respective
112 counties, of any vacancies occurring in the district governing
113 board or their respective basin boards.

114 ~~(7) At 11:59 p.m. on December 31, 1976, the Manasota~~
115 ~~Watershed Basin of the Ridge and Lower Gulf Coast Water~~
116 ~~Management District, which is annexed to the Southwest Florida~~

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117 ~~Water Management District by change of its boundaries pursuant~~
118 ~~to chapter 76-243, Laws of Florida, shall be formed into a~~
119 ~~subdistrict or basin of the Southwest Florida Water Management~~
120 ~~District, subject to the same provisions as the other basins in~~
121 ~~such district. Such subdistrict shall be designated initially as~~
122 ~~the Manasota Basin. The members of the governing board of the~~
123 ~~Manasota Watershed Basin of the Ridge and Lower Gulf Coast Water~~
124 ~~Management District shall become members of the governing board~~
125 ~~of the Manasota Basin of the Southwest Florida Water Management~~
126 ~~District. Notwithstanding other provisions in this section,~~
127 ~~beginning on July 1, 2011 2001, the membership of the Manasota~~
128 ~~Basin Board shall be comprised of two members from Manatee~~
129 ~~County, and two members from Sarasota County, and any members of~~
130 ~~the district governing board designated by the chair of the~~
131 ~~district governing board pursuant to subsection (6). Matters~~
132 ~~relating to tie votes shall be resolved pursuant to subsection~~
133 ~~(6) by the chair designated by the governing board to vote in~~
134 ~~ease of a tie vote.~~

135 Section 2. Subsection (5) is added to section 373.171,
136 Florida Statutes, to read:

137 373.171 Rules.—

138 (5) Cooperative funding programs are not subject to the
139 rulemaking requirements of chapter 120. However, any portion of
140 an approved program which affects the substantial interests of a
141 party is subject to s. 120.569.

142 Section 3. Section 373.228, Florida Statutes, is amended to
143 read:

144 373.228 Landscape irrigation ~~design~~.—

145 (1) The Legislature finds that multiple areas throughout

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146 the state have been identified by water management districts as
147 water resource caution areas, which indicates that in the near
148 future water demand in those areas will exceed the current
149 available ~~water~~ supply and that conservation is one of the
150 mechanisms by which future water demand will be met.

151 (2) The Legislature finds that landscape irrigation
152 comprises a significant portion of water use and that current
153 typical landscape irrigation systems, ~~and~~ Florida-friendly
154 landscaping designs, and landscape irrigation restrictions offer
155 significant potential water conservation benefits.

156 (3) It is the intent of the Legislature to improve
157 landscape irrigation water use efficiency by ensuring that
158 landscape irrigation systems meet or exceed minimum design
159 criteria and that, pursuant to s. 373.609, the landscape
160 irrigation restrictions of a water management district may be
161 implemented by ordinance of the applicable local governments.

162 (4) The water management districts shall work with the
163 Florida Nursery, Growers and Landscape Association, the Florida
164 Native Plant Society, the Florida Chapter of the American
165 Society of Landscape Architects, the Florida Irrigation Society,
166 the Department of Agriculture and Consumer Services, the
167 Institute of Food and Agricultural Sciences, the Department of
168 Environmental Protection, the Department of Transportation, the
169 Florida League of Cities, the Florida Association of Counties,
170 and the Florida Association of Community Developers to develop
171 landscape irrigation and Florida-friendly landscaping design
172 standards for new construction which incorporate a landscape
173 irrigation system and develop scientifically based model
174 guidelines for urban, commercial, and residential landscape

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175 irrigation, including drip irrigation, for plants, trees, sod,
176 and other landscaping. The standards must ~~shall~~ be based on the
177 irrigation code defined in the Florida Building Code, Plumbing
178 Volume, Appendix F. Local governments shall use the standards
179 and guidelines when developing landscape irrigation and Florida-
180 friendly landscaping ordinances. By January 1, 2011, the
181 agencies and entities specified in this subsection shall review
182 the standards and guidelines to determine whether new research
183 findings require a change or modification of the standards and
184 guidelines.

185 (5) Notwithstanding s. 373.217, local governments may adopt
186 ordinances that implement landscape irrigation restrictions set
187 forth in water management district rules or orders. In
188 evaluating water use applications from public water suppliers,
189 water management districts shall consider whether the applicable
190 local government has adopted ordinances for landscaping and
191 irrigation systems consistent with the Florida-friendly
192 landscaping provisions of s. 373.185.

193 Section 4. Paragraph (c) of subsection (8) of section
194 373.707, Florida Statutes, is amended to read:

195 373.707 Alternative water supply development.—

196 (8)

197 (c) ~~The~~ Financial assistance for alternative water supply
198 projects allocated in each district's budget as required in
199 subsection (6) shall be combined with the state funds and used
200 to assist in funding the project construction costs of
201 alternative water supply projects and the project costs of
202 conservation projects that result in quantifiable water savings
203 selected by the governing board. ~~If the district has not~~

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204 ~~completed any regional water supply plan, or the regional water~~
205 ~~supply plan does not identify the need for any alternative water~~
206 ~~supply projects,~~ Funds deposited in the Water Protection and
207 Sustainability Program Trust Fund to the credit of the Suwannee
208 River Water Management District ~~that district's trust fund~~ may
209 also be used for regional water supply planning, water resource
210 development, and water resource projects, including, but not
211 limited to, springs protection.

212 Section 5. This act shall take effect July 1, 2011.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 392

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Jones

SUBJECT: Commercial Parasailing

DATE: March 11, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			BI	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

A. COMMITTEE SUBSTITUTE..... Statement of Substantial Changes

B. AMENDMENTS..... Technical amendments were recommended

Amendments were recommended

Significant amendments were recommended

I. Summary:

The CS provides standards for commercial parasailing and revises definitions related to the new standards. The bill provides requirements for conducting parasailing, specifies gear requirements and outlines locations and weather conditions in which commercial parasailing is prohibited. The CS requires the owner of a vessel engaged in commercial parasailing to carry liability insurance and specifies the minimum amount of coverage required. The CS also provides for a criminal penalty for violations of the commercial parasailing provisions.

The CS amends ss. 320.08, 327.02, 327.391, 328.17, 342.07, 713.78, and 715.07, and creates s. 327.375 of the Florida Statutes.

II. Present Situation:

The Florida Fish and Wildlife Conservation Commission ¹(FWC) estimates that there are 70 to 120 active commercial parasail operators in Florida. Most parasail businesses operate along the Atlantic Ocean and Gulf of Mexico coastlines. Presently, no state law specifically regulates

¹ Florida Fish and Wildlife Conservation Commission's staff analysis, SB 0392, dated 2/17/11.

commercial parasailing activities. Section 327.37, F.S., references parasailing and provides general guidelines for parasailing that include:

- requiring the person operating the vessel that is towing a person involved in parasailing observe the progress of the person being towed by utilizing a designated observer;
- prohibits parasailing between the hours from one-half hour after sunset to one-half hour before sunrise;
- requires wearing a personal flotation device;
- prohibits operating any vessel in such a way as to cause the parasailer to collide or strike against or be likely to collide or strike against any vessel, bridge, wharf, pier, dock, buoy, platform, piling, or other similar objects specified in statute;
- prohibits operating any vessel towing a parasail or engaged in parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway; and
- other requirements outlined in statute.

A violation of section 327.37 F.S., is a noncriminal infraction specified in section 327.73, F.S., which in part states:

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

According to the FWC, the Federal Aviation Administration (FAA) currently regulates parasails as “kites,” because a parasail is a parachute held aloft by wind resulting from the movement of the boat towing it. The FAA regulates kites only to the extent that they are objects in airspace. The regulations govern the distance from ground kites can fly, acceptable operating times, cloud cover limitations, ground visibility requirements, and airspace monitoring notice requirements. If needed, parasail operators may obtain a Certificate of Authorization or a waiver from FAA that allows them to deviate from the above mentioned regulations (e.g. visibility less than 2 miles, wind speed greater than 20 mph, restricted airspace, or less than 5 miles from an airport).

If proposed parasail operations are conducted within 5 miles of an airport, the holder of a Certificate of Waiver or Authorization shall contact the Air Traffic Control tower at least one week prior to conducting parasail operations for the purposes of providing real-time notice of activities. The notice must include the proposed area of operation, duration of activity, and altitude of parasail.

The US Coast Guard (USCG) regulates vessels towing parasails as commercial passenger vessels when operated on navigable waters. Navigable waters include oceans and navigable coastal and inland waters, lakes, rivers, and streams. The USCG initiates vessel inspections of all

commercial passenger vessels based upon vessel type, number of passengers, and operator licensing.

According to the FWC, a person operating a vessel used for commercial parasailing on the waters of the State is required to have a current and valid license issued by the USCG authorizing that person to engage in carrying passengers for hire. The license must be carried on the vessel and be available for inspection while commercial parasailing activities are conducted.

Parasailing accidents have the potential for severe consequences. From 2001-2011, seven parasailing accidents occurred in Florida, resulting in four fatalities. The most recent reported parasailing accident that resulted in a fatality occurred in Pinellas County in September 2010, when a towline snapped. The accident victims made a water landing, but then the parasail re-inflated and dragged them toward the beach. One subject was able to disconnect from the parasail, but the other victim was dragged onto the beach where she collided with a volleyball net post. She died as a result of her injuries.

Based on FWC reports, the majority of accidents are related to towline separations as a result of poor weather and/or equipment failures.

Florida's Sunrise Act

Section 11.62, F.S., provides guiding principles for the establishment of new regulatory programs for professions and occupations. Subsection (3) provides that in determining whether to regulate a profession or occupation, the Legislature shall consider certain factors, including: whether the unregulated practice of the profession or occupation will substantially harm or endanger the public health, safety, or welfare; whether the practice of the profession or occupation requires specialized skill or training; whether the regulation will have an unreasonable effect on job creation or job retention in the state; and whether the overall cost-effectiveness and economic impact of the proposed regulation, including the indirect costs to consumers, will be favorable.

Subsection (4) of s. 11.62, F.S., provides that the proponents of legislation that provides for the regulation of a profession or occupation not already subject to state regulation shall provide, *upon request*, certain information in writing to the state agency that is proposed to have jurisdiction over the regulation and to the legislative committees to which the legislation is referred. Similarly, subsection (5) provides that the agency shall provide the Legislature with information concerning the effect of proposed legislation that provides for new regulation of a profession or occupation, including the resources necessary to implement and enforce the proposed regulation.

III. Effect of Proposed Changes:

Section 1 amends s. 327.02, F.S., to define commercial parasailing as providing or offering to provide, for payment, any activity involving the towing of a person by a motorboat when:

- one or more persons are tethered to the towing vessel;
- the person or persons ascend above the water; and

- the person or persons remain suspended above the water while the vessel is underway.

It defines the term “support system” which is part of the equipment used in parasailing. It also provides a standard definition for “sustained wind speed.”

Section 2 creates s. 327.375, F.S., to provide the following guidelines for commercial parasailing:

- the owner of a vessel engaged in commercial parasailing is required to carry insurance against an accident, loss, injury, property damage, or other casualty caused by or resulting from the commercial parasailing activity;
- the policy shall provide minimum coverage of \$1 million per person and \$2 million per event;
- commercial parasail operators may only be able to launch riders from and recover riders to the vessel, and not from land or a dock;
- a person engaged in commercial parasailing must have a valid license issued by the USCG authorizing that person to engage in carrying passengers for hire;
- a person is not permitted to operate a vessel for commercial parasailing unless an observer 18 years or older, who is not a customer and has no other duties, is present in the vessel at all times to monitor the airborne parasail rider and parachute;
- a person may not operate any vessel engaged in parasailing unless all riders wear a USCG approved personal flotation device that is in serviceable condition and of the proper size;
- the vessel must be in full compliance with all USCG requirements related to crew and equipment including a functional VHF marine transceiver and a separate electronic device capable of access to National Weather Service forecasts and current weather conditions;
- no more than three persons may be permitted to be tethered to the towing vessel and ascend above the water at any time;
- prohibits commercial parasail activity on any coastal waters of the state less than 1,800 feet from the shore, including the vessel, towline, and rider;
- prohibits a person from operating a vessel towing a commercial parasailing rider so that the vessel, towline, or riders comes within 400 feet of an anchored vessel; a person in the water; or a structure, bridge, power line, wharf, pier, dock, buoy, platform, piling, marker, or other similar fixed object;
- prohibits commercial parasailing within 100 feet of the marked channel of the Florida Intracoastal Waterway;
- prohibits commercial parasailing when current sustained winds or forecasted sustained winds of 20 mph or higher are present in the area of operation;
- prohibits commercial parasailing during reduced visibility of 0.5 miles;
- prohibits commercial parasailing within 7 miles of a known lightning storm;
- requires the vessel captain to maintain a weather log and record the prevailing and forecasted weather conditions each time passengers are taken out on the water;
- towlines would have to be rated for a tensile strength that exceeds 4800 pounds;
- towlines used for commercial parasailing would not be permitted to exceed 500 feet in length.

Each passenger and parasail rider would have to be given a safety briefing before embarking or before the parasail activities commence. The CS provides for the safety briefing to include a description of the equipment, the parasail activity, inherent risks, and instruction on how to safely evacuate from the passenger support during a water landing. A person operating a vessel for commercial parasailing may not engage in parasailing activities one half hour after sunset to one half hour before sunrise.

Subsection (4) of s. 327.375, F.S., provides that a violation of any of the commercial parasailing provisions in this CS would be a second degree misdemeanor punishable as provided in s. 775.082, F.S., or s. 775.083, F.S. Misdemeanors of the second degree are punishable by imprisonment of up to 60 days and/or a fine of up to \$500.

Section 3 amends s. 320.08, F.S., to correct a cross-reference.

Section 4 amends s. 327.391, F.S., to correct a cross-reference.

Section 5 amends s. 328.17, F.S., to correct a cross-reference.

Section 6 amends s. 342.07, F.S., to correct a cross-reference.

Section 7 amends s. 713.78, F.S., to correct a cross-reference.

Section 8 amends s. 715.07, F.S., to correct a cross-reference.

Section 9 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

According to insurance industry experts, commercial parasailing operators in Florida will incur additional costs for acquiring the necessary insurance coverage. It is difficult to estimate those overall costs because they will vary with each operator's claims history and current coverage amounts. The approximate cost to the operator for \$1 million per person and \$2 million per event is between \$8-11,000 annually.

Some operators may have to purchase a different towline. Towlines that meet the minimum specifications described in the CS range from approximately \$500 to \$800.

Additional operating costs should be minimal because most operators are already complying on a voluntary basis with most of the regulations contained in the CS.

These additional regulations may reduce tort liability of commercial parasail operators.

C. Government Sector Impact:

According to the FWC, there may be a minor fiscal impact to the Commission from costs associated with providing information to current commercial parasailing operators and responding to inquiries related to the new regulations and how operators may come into compliance. These costs can be absorbed by FWC's current budget. However if the CS has its intended effect, it is possible that accident investigations may decline, thus reducing FWC's law enforcement work load and costs.

There is no known fiscal impact on other state agencies.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by the Committee on Environmental Preservation and Conservation on March 10, 2011:

Revises requirements to parasailing gear for industry consistency. The changes include removing the definition for "quick release" and "gondola system." The CS removes the section naming the bill the "Alejandra White Act." The CS specifies that the boat is equipped with a separate electronic device in addition to a functional VHF marine transceiver to monitor the weather conditions forecasted by the National Weather Service. The CS increases the number of people that may be tethered to a towing vessel

from two to three persons. It revises the insurance policy coverage requirements to \$1 million per person and \$2 million per event. It specifies that the new requirements apply to coastal not inland waters. The CS clarifies that other similar objects mean “fixed” objects. It amends the wind speed measurement from 20 knots or higher to 20 mph or higher. The CS shortens the allowed towline from 800 feet to 500 feet.

B. Amendments

None.

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



783990

LEGISLATIVE ACTION

Senate	.	House
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	.	
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	.	

The Committee on Environmental Preservation and Conservation (Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Section 327.02, Florida Statutes, is amended to read:

327.02 Definitions of terms used in this chapter and in chapter 328.—As used in this chapter and in chapter 328, unless the context clearly requires a different meaning, the term:

(1) "Airboat" means a vessel that is primarily designed for use in shallow waters and powered by an internal combustion engine with an airplane-type propeller mounted above the stern



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13 and used to push air across a set of rudders.

14 (2) "Alien" means a person who is not a citizen of the
15 United States.

16 (3) "Boating accident" means a collision, accident, or
17 casualty involving a vessel in or upon, or entering into or
18 exiting from, the water, including capsizing, collision with
19 another vessel or object, sinking, personal injury, death,
20 disappearance of any person from on board under circumstances
21 that which indicate the possibility of death or injury, or
22 property damage to any vessel or dock.

23 (4) "Canoe" means a light, narrow vessel with curved sides
24 and with both ends pointed. A canoe-like vessel with a transom
25 may not be excluded from the definition of a canoe if the width
26 of its transom is less than 45 percent of the width of its beam
27 or it has been designated as a canoe by the United States Coast
28 Guard.

29 (5) "Commercial parasailing" means providing or offering to
30 provide, for consideration, any activity involving the towing of
31 a person by a motorboat when:

32 (a) One or more persons are tethered to the towing vessel;

33 (b) The person or persons ascend above the water; and

34 (c) The person or persons remain suspended above the water
35 while the vessel is underway.

36 (6)-(5) "Commercial vessel" means:

37 (a) Any vessel primarily engaged in the taking or landing
38 of saltwater fish or saltwater products or freshwater fish or
39 freshwater products, or any vessel licensed pursuant to s.
40 379.361 from which commercial quantities of saltwater products
41 are harvested, from within and without the waters of this state



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42 for sale either to the consumer, retail dealer, or wholesale
43 dealer.

44 (b) Any other vessel, except a recreational vessel as
45 defined in this section.

46 ~~(7)(6)~~ "Commission" means the Fish and Wildlife
47 Conservation Commission.

48 ~~(8)(7)~~ "Dealer" means any person authorized by the
49 Department of Revenue to buy, sell, resell, or otherwise
50 distribute vessels. Such person shall have a valid sales tax
51 certificate of registration issued by the Department of Revenue
52 and a valid commercial or occupational license required by any
53 county, municipality, or political subdivision of the state in
54 which the person operates.

55 ~~(9)(8)~~ "Division" means the Division of Law Enforcement of
56 the Fish and Wildlife Conservation Commission.

57 ~~(10)(9)~~ "Documented vessel" means a vessel for which a
58 valid certificate of documentation is outstanding pursuant to 46
59 C.F.R. part 67.

60 ~~(11)(10)~~ "Floating structure" means a floating entity, with
61 or without accommodations built thereon, which is not primarily
62 used as a means of transportation on water but which serves
63 purposes or provides services typically associated with a
64 structure or other improvement to real property. The term
65 "floating structure" includes, but is not limited to, each
66 entity used as a residence, place of business or office with
67 public access, hotel or motel, restaurant or lounge, clubhouse,
68 meeting facility, storage or parking facility, mining platform,
69 dredge, dragline, or similar facility or entity represented as
70 such. Floating structures are expressly excluded from the



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71 definition of the term "vessel" provided in this section.
72 Incidental movement upon water or resting partially or entirely
73 on the bottom shall not, in and of itself, preclude an entity
74 from classification as a floating structure.

75 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
76 Intracoastal Waterway, the Georgia state line north of
77 Fernandina to Miami; the Port Canaveral lock and canal to the
78 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
79 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
80 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
81 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
82 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
83 Anclote open bay section (using Gulf of Mexico); the Gulf
84 Intracoastal Waterway, Carrabelle to the Alabama state line west
85 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
86 Rivers in Florida.

87 (13)~~(12)~~ "Homemade vessel" means any vessel built after
88 October 31, 1972, for which a federal hull identification number
89 is not required to be assigned by the manufacturer pursuant to
90 federal law, or any vessel constructed or assembled prior to
91 November 1, 1972, by other than a licensed manufacturer for his
92 or her own use or the use of a specific person. A vessel
93 assembled from a manufacturer's kit or constructed from an
94 unfinished manufactured hull shall be considered to be a
95 homemade vessel if such a vessel is not required to have a hull
96 identification number assigned by the United States Coast Guard.
97 A rebuilt or reconstructed vessel shall in no event be construed
98 to be a homemade vessel.

99 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used



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100 primarily as a residence for a minimum of 21 days during any 30-
101 day period, in a county of this state, and this residential use
102 of the vessel is to the preclusion of the use of the vessel as a
103 means of transportation.

104 ~~(15)-(14)~~ "Length" means the measurement from end to end
105 over the deck parallel to the centerline excluding sheer.

106 ~~(16)-(15)~~ "Lien" means a security interest that ~~which~~ is
107 reserved or created by a written agreement recorded with the
108 Department of Highway Safety and Motor Vehicles pursuant to s.
109 328.15 which secures payment or performance of an obligation and
110 is generally valid against third parties.

111 ~~(17)-(16)~~ "Lienholder" means a person holding a security
112 interest in a vessel, which interest is recorded with the
113 Department of Highway Safety and Motor Vehicles pursuant to s.
114 328.15.

115 ~~(18)-(17)~~ "Live-aboard vessel" means:

116 (a) Any vessel used solely as a residence and not for
117 navigation;

118 (b) Any vessel represented as a place of business or a
119 professional or other commercial enterprise; or

120 (c) Any vessel for which a declaration of domicile has been
121 filed pursuant to s. 222.17.

122
123 A commercial fishing boat is expressly excluded from the
124 term "live-aboard vessel."

125 ~~(19)-(18)~~ "Livery vessel" means any vessel leased, rented,
126 or chartered to another for consideration.

127 ~~(20)-(19)~~ "Manufactured vessel" means any vessel built after
128 October 31, 1972, for which a federal hull identification number



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129 is required pursuant to federal law, or any vessel constructed
130 or assembled prior to November 1, 1972, by a duly licensed
131 manufacturer.

132 (21)~~(20)~~ "Marina" means a licensed commercial facility that
133 ~~which~~ provides secured public moorings or dry storage for
134 vessels on a leased basis. A commercial establishment authorized
135 by a licensed vessel manufacturer as a dealership shall be
136 considered a marina for nonjudicial sale purposes.

137 (22)~~(21)~~ "Marine sanitation device" means any equipment
138 other than a toilet, for installation on board a vessel, which
139 is designed to receive, retain, treat, or discharge sewage, and
140 any process to treat such sewage. Marine sanitation device Types
141 I, II, and III shall be defined as provided in 33 C.F.R. part
142 159.

143 (23)~~(22)~~ "Marker" means any channel mark or other aid to
144 navigation, information or regulatory mark, isolated danger
145 mark, safe water mark, special mark, inland waters obstruction
146 mark, or mooring buoy in, on, or over the waters of the state or
147 the shores thereof, and includes, but is not limited to, a sign,
148 beacon, buoy, or light.

149 (24)~~(23)~~ "Motorboat" means any vessel equipped with
150 machinery for propulsion, irrespective of whether the propulsion
151 machinery is in actual operation.

152 (25)~~(24)~~ "Muffler" means an automotive-style sound-
153 suppression device or system designed to effectively abate the
154 sound of exhaust gases emitted from an internal combustion
155 engine and prevent excessive sound when installed on such an
156 engine.

157 (26)~~(25)~~ "Navigation rules" means the International



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158 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
159 1602, as amended, including the annexes thereto, for vessels on
160 waters outside of established navigational lines of demarcation
161 as specified in 33 C.F.R. part 80 or the Inland Navigational
162 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
163 including the annexes thereto, for vessels on all waters not
164 outside of such lines of demarcation.

165 ~~(27)~~~~(26)~~ "Nonresident" means a citizen of the United States
166 who has not established residence in this state and has not
167 continuously resided in this state for 1 year and in one county
168 for the 6 months immediately preceding the initiation of a
169 vessel titling or registration action.

170 ~~(28)~~~~(27)~~ "Operate" means to be in charge of or in command
171 of or in actual physical control of a vessel upon the waters of
172 this state, or to exercise control over or to have
173 responsibility for a vessel's navigation or safety while the
174 vessel is underway upon the waters of this state, or to control
175 or steer a vessel being towed by another vessel upon the waters
176 of the state.

177 ~~(29)~~~~(28)~~ "Owner" means a person, other than a lienholder,
178 having the property in or title to a vessel. The term includes a
179 person entitled to the use or possession of a vessel subject to
180 an interest in another person, reserved or created by agreement
181 and securing payment of performance of an obligation, but the
182 term excludes a lessee under a lease not intended as security.

183 ~~(30)~~~~(29)~~ "Person" means an individual, partnership, firm,
184 corporation, association, or other entity.

185 ~~(31)~~~~(30)~~ "Personal watercraft" means a vessel less than 16
186 feet in length which uses an inboard motor powering a water jet



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187 pump, as its primary source of motive power and which is
188 designed to be operated by a person sitting, standing, or
189 kneeling on the vessel, rather than in the conventional manner
190 of sitting or standing inside the vessel.

191 (32)~~(31)~~ "Portable toilet" means a device consisting of a
192 lid, seat, containment vessel, and support structure which ~~that~~
193 is specifically designed to receive, retain, and discharge human
194 waste and which ~~that~~ is capable of being removed from a vessel
195 by hand.

196 (33)~~(32)~~ "Prohibited activity" means such activity as will
197 impede or disturb navigation or creates a safety hazard on
198 waterways of this state.

199 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
200 means a manually propelled vessel that ~~which~~ is recognized by
201 national or international racing associations for use in
202 competitive racing and in which all occupants, with the
203 exception of a coxswain, if one is provided, row, scull, or
204 paddle, and that ~~which~~ is not designed to carry and does not
205 carry any equipment not solely for competitive racing.

206 (35)~~(34)~~ "Recreational vessel" means any vessel:

207 (a) Manufactured and used primarily for noncommercial
208 purposes; or

209 (b) Leased, rented, or chartered to a person for the
210 person's noncommercial use.

211 (36)~~(35)~~ "Registration" means a state operating license on
212 a vessel which is issued with an identifying number, an annual
213 certificate of registration, and a decal designating the year
214 for which a registration fee is paid.

215 (37)~~(36)~~ "Resident" means a citizen of the United States



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216 who has established residence in this state and has continuously
217 resided in this state for 1 year and in one county for the 6
218 months immediately preceding the initiation of a vessel titling
219 or registration action.

220 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
221 propulsion is the wind.

222 (39) "Support system" means a device used to tether,
223 connect, or otherwise suspend a person under the canopy.

224 (40) "Sustained wind speed" means a wind speed determined
225 by averaging the observed wind speed rounded to the nearest
226 whole knot over a 2-minute period.

227 (41)~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
228 including its machinery, rigging, and accessories, which is in
229 the physical possession of any marina, garage, or repair shop
230 for repairs, improvements, or other work with the knowledge of
231 the vessel owner and for which the costs of such services have
232 been unpaid for a period in excess of 90 days from the date
233 written notice of the completed work is given by the marina,
234 garage, or repair shop to the vessel owner.

235 (42)~~(39)~~ "Vessel" is synonymous with boat as referenced in
236 s. 1(b), Art. VII of the State Constitution and includes every
237 description of watercraft, barge, and airboat, other than a
238 seaplane on the water, used or capable of being used as a means
239 of transportation on water.

240 (43)~~(40)~~ "Waters of this state" means any navigable waters
241 of the United States within the territorial limits of this
242 state, and the marginal sea adjacent to this state and the high
243 seas when navigated as a part of a journey or ride to or from
244 the shore of this state, and all the inland lakes, rivers, and



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245 canals under the jurisdiction of this state.

246 Section 2. Section 327.375, Florida Statutes, is created to
247 read:

248 327.375 Commercial parasailing.-

249 (1) This section may be cited as the "Alejandra White Act."

250 (2) The owner of a vessel engaged in commercial parasailing
251 may not offer or provide for consideration any parasailing
252 activity unless the owner first obtains and carries in full
253 force and effect an insurance policy, from an insurance carrier
254 licensed in this state, or approved by the Florida Department of
255 Insurance, insuring against any accident, loss, injury, property
256 damage, death, or other casualty caused by or resulting from any
257 commercial parasailing activity. The insurance policy must
258 provide coverage of at least \$1 million per person, \$ 2 million
259 per event. Proof of insurance must be available for inspection
260 at the location where commercial parasailing is offered or
261 provided for consideration and each customer who requests it
262 shall be provided with the insurance carrier's name and address
263 and the insurance policy number.

264 (3) A person engaged in commercial parasailing must meet
265 the following requirements:

266 (a) Commercial parasail operators shall launch riders only
267 from and recover riders only to the vessel.

268 (b) A person may not operate a vessel engaged in commercial
269 parasailing on the waters of this state unless the person has a
270 current and valid license issued by the United States Coast
271 Guard authorizing that person to engage in carrying passengers
272 for hire. The license must be appropriate for the number of
273 passengers carried and the displacement of the vessel. The



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274 license must be carried on the vessel and be available for
275 inspection while commercial parasailing activities are
276 conducted.

277 (c) A person may not operate a vessel for commercial
278 parasailing unless an observer 18 years of age or older is
279 present in the vessel at all times to monitor the progress of
280 any tethered parasail rider and parasail equipment. The observer
281 may not be a customer, must be attentive to the parasail rider
282 or riders and equipment, and may not have any other duties while
283 the rider or riders are in the water or suspended above the
284 water.

285 (d) A person may not operate any vessel engaged in
286 commercial parasailing unless:

287 1. All riders wear an appropriate floatation device
288 approved by the United States Coast Guard, other than an
289 inflatable device, which is in serviceable condition and of the
290 proper size;

291 2. The vessel is in full compliance with all requirements
292 of the United States Coast Guard governing crewing and equipment
293 carriage for passenger-carrying vessels as specified in the Code
294 of Federal Regulations or as otherwise specified by the United
295 States Coast Guard in the vessel's certificate of inspection;
296 and

297 3. The vessel is equipped with a functional VHF marine
298 transceiver and a separate electronic device capable of access
299 to National Weather Service forecasts and current weather
300 conditions.

301 (e) No more than three persons may be tethered to the
302 towing vessel and ascend above the water at any time.



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303 (f) A person may not operate a vessel towing a commercial
304 parasailing rider on any coastal waters of the state less than
305 1,800 feet from the shore. This restriction applies to the
306 entire commercial parasailing apparatus, including the vessel,
307 towline, and rider.

308 (g) A person may not operate a vessel towing a commercial
309 parasailing rider so that the vessel, towline, or rider comes
310 within 400 feet of:

- 311 1. An anchored vessel;
312 2. A person in the water; or
313 3. A structure, bridge, power line, wharf, pier, dock,
314 platform, piling, marker, or other similar fixed objects.

315 (h) A person may not operate any vessel towing a parasail
316 or engage in parasailing within 100 feet of the marked channel
317 of the Florida Intracoastal Waterway.

318 (i) Commercial parasailing is prohibited when the current
319 conditions or those forecasted by the National Weather Service
320 include a sustained wind speed of over 20 mph in the area of
321 operation, rain or heavy fog that results in reduced visibility
322 of less than 0.5 miles, or a known lightning storm within 7
323 miles of the parasailing area.

324 (j) The vessel captain shall use all available means to
325 determine prevailing and forecasted weather conditions and
326 record this information in a weather log each time passengers
327 are to be taken out on the water. The weather log must be
328 available for inspection at all times at the place of business.

329 (k) Towlines used for commercial parasailing must be rated
330 for a tensile strength that exceeds 4,800 pounds, must be
331 braided, and a low-stretch type and may not exceed 500 feet in



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332 length.

333 (1) Each passenger and parasail rider must be given a
334 safety briefing before embarking or before the parasail activity
335 commences. This briefing must include a description of the
336 equipment, the parasail activity, inherent risks, and
337 instruction on how to safely evacuate from the passenger support
338 during a water landing.

339 (m) A person operating a vessel for commercial parasailing
340 may not engage in parasailing, or any similar activity at any
341 time between the hours of one-half hour after sunset to one-half
342 hour before sunrise.

343 (4) A person or operator who violates this section commits
344 a misdemeanor of the second degree, punishable as provided in s.
345 775.082 or s. 775.083.

346 Section 3. Paragraph (d) of subsection (5) of section
347 320.08, Florida Statutes, is amended to read:

348 320.08 License taxes.—Except as otherwise provided herein,
349 there are hereby levied and imposed annual license taxes for the
350 operation of motor vehicles, mopeds, motorized bicycles as
351 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
352 and mobile homes, as defined in s. 320.01, which shall be paid
353 to and collected by the department or its agent upon the
354 registration or renewal of registration of the following:

355 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
356 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

357 (d) A wrecker, as defined in s. 320.01(40), which is used
358 to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a
359 disabled, abandoned, stolen-recovered, or impounded motor
360 vehicle as defined in s. 320.01(38), or a replacement motor



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361 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
362 shall be deposited into the General Revenue Fund.

363 Section 4. Subsection (1) of section 327.391, Florida
364 Statutes, is amended to read:

365 327.391 Airboats regulated.—

366 (1) The exhaust of every internal combustion engine used on
367 any airboat operated on the waters of this state shall be
368 provided with an automotive-style factory muffler, underwater
369 exhaust, or other manufactured device capable of adequately
370 muffling the sound of the exhaust of the engine as described in
371 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
372 the sole source of muffling is prohibited, except as provided in
373 subsection (4). Any person who violates this subsection commits
374 a noncriminal infraction punishable as provided in s. 327.73(1).

375 Section 5. Subsection (4) of section 328.17, Florida
376 Statutes, is amended to read:

377 328.17 Nonjudicial sale of vessels.—

378 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
379 shall have:

380 (a) A possessory lien upon any vessel for storage fees,
381 dockage fees, repairs, improvements, or other work-related
382 storage charges, and for expenses necessary for preservation of
383 the vessel or expenses reasonably incurred in the sale or other
384 disposition of the vessel. The possessory lien shall attach as
385 of the date the vessel is brought to the marina or as of the
386 date the vessel first occupies rental space at the marina
387 facility.

388 (b) A possessory lien upon any vessel in a wrecked, junked,
389 or substantially dismantled condition, which has been left



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390 abandoned at a marina, for expenses reasonably incurred in the
391 removal and disposal of the vessel. The possessory lien shall
392 attach as of the date the vessel arrives at the marina or as of
393 the date the vessel first occupies rental space at the marina
394 facility. If the funds recovered from the sale of the vessel, or
395 from the scrap or salvage value of the vessel, are insufficient
396 to cover the expenses reasonably incurred by the marina in
397 removing and disposing of the vessel, all costs in excess of
398 recovery shall be recoverable against the owner of the vessel.
399 For a vessel damaged as a result of a named storm, the
400 provisions of this paragraph shall be suspended for 60 days
401 following the date the vessel is damaged in the named storm. The
402 operation of the provisions specified in this paragraph run
403 concurrently with, and do not extend, the 60-day notice periods
404 provided in subsections (5) and (7).

405 Section 6. Subsection (2) of section 342.07, Florida
406 Statutes, is amended to read:

407 342.07 Recreational and commercial working waterfronts;
408 legislative findings; definitions.—

409 (2) As used in this section, the term "recreational and
410 commercial working waterfront" means a parcel or parcels of real
411 property which ~~that~~ provide access for water-dependent
412 commercial activities, including hotels and motels as defined in
413 s. 509.242(1), or provide access for the public to the navigable
414 waters of the state. Recreational and commercial working
415 waterfronts require direct access to or a location on, over, or
416 adjacent to a navigable body of water. The term includes water-
417 dependent facilities that are open to the public and offer
418 public access by vessels to the waters of the state or that are



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419 support facilities for recreational, commercial, research, or
420 governmental vessels. These facilities include public lodging
421 establishments, docks, wharfs, lifts, wet and dry marinas, boat
422 ramps, boat hauling and repair facilities, commercial fishing
423 facilities, boat construction facilities, and other support
424 structures over the water. As used in this section, the term
425 "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~.
426 Seaports are excluded from the definition.

427 Section 7. Paragraph (b) of subsection (1) of section
428 713.78, Florida Statutes, is amended to read:

429 713.78 Liens for recovering, towing, or storing vehicles
430 and vessels.—

431 (1) For the purposes of this section, the term:

432 (b) "Vessel" means every description of watercraft, barge,
433 and airboat used or capable of being used as a means of
434 transportation on water, other than a seaplane or a "documented
435 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

436 Section 8. Paragraph (b) of subsection (1) of section
437 715.07, Florida Statutes, is amended to read:

438 715.07 Vehicles or vessels parked on private property;
439 towing.—

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

441 (b) "Vessel" means every description of watercraft, barge,
442 and airboat used or capable of being used as a means of
443 transportation on water, other than a seaplane or a "documented
444 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

445 Section 9. This act shall take effect July 1, 2011.
446
447



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

449 And the title is amended as follows:

450 Delete everything before the enacting clause
451 and insert:

452 A bill to be entitled

453 An act relating to commercial parasailing ; amending
454 s.327.02, F.S.; providing a short title; requiring the owner of
455 a vessel engaged in commercial parasailing to obtain and carry
456 an insurance policy; providing minimum coverage for the
457 insurance policy; providing requirements for proof of insurance;
458 specifying the insurance information that must be provided to
459 each rider; providing for the launch and recovery of riders from
460 a towing vessel; requiring a person engaged in operating a
461 vessel for commercial parasailing to have certain licenses;
462 requiring certain equipment; prohibiting commercial parasailing
463 in certain areas; under certain weather conditions, and during
464 certain hours; requiring a safety briefing for passengers and
465 parasail riders; providing penalties; amending ss. 320.08,
466 327.391,328.17,342.07,713.78, and 715.07, F.S.; conforming
467 cross-references to changes made by the act; providing an
468 effective date.



342652

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2011	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Jones) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 327.02, Florida Statutes, is amended to
read:

327.02 Definitions of terms used in this chapter and in
chapter 328.—As used in this chapter and in chapter 328, unless
the context clearly requires a different meaning, the term:

(1) "Airboat" means a vessel that is primarily designed for
use in shallow waters and powered by an internal combustion
engine with an airplane-type propeller mounted above the stern



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13 and used to push air across a set of rudders.

14 (2) "Alien" means a person who is not a citizen of the
15 United States.

16 (3) "Boating accident" means a collision, accident, or
17 casualty involving a vessel in or upon, or entering into or
18 exiting from, the water, including capsizing, collision with
19 another vessel or object, sinking, personal injury, death,
20 disappearance of any person from on board under circumstances
21 that which indicate the possibility of death or injury, or
22 property damage to any vessel or dock.

23 (4) "Canoe" means a light, narrow vessel with curved sides
24 and with both ends pointed. A canoe-like vessel with a transom
25 may not be excluded from the definition of a canoe if the width
26 of its transom is less than 45 percent of the width of its beam
27 or it has been designated as a canoe by the United States Coast
28 Guard.

29 (5) "Commercial parasailing" means providing or offering to
30 provide, for consideration, any activity involving the towing of
31 a person by a motorboat when:

32 (a) One or more persons are tethered to the towing vessel;
33 (b) The person or persons ascend above the water; and
34 (c) The person or persons remain suspended above the water
35 while the vessel is underway.

36 (6)-(5) "Commercial vessel" means:

37 (a) Any vessel primarily engaged in the taking or landing
38 of saltwater fish or saltwater products or freshwater fish or
39 freshwater products, or any vessel licensed pursuant to s.
40 379.361 from which commercial quantities of saltwater products
41 are harvested, from within and without the waters of this state



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42 for sale either to the consumer, retail dealer, or wholesale
43 dealer.

44 (b) Any other vessel, except a recreational vessel as
45 defined in this section.

46 ~~(7)~~⁽⁶⁾ "Commission" means the Fish and Wildlife
47 Conservation Commission.

48 ~~(8)~~⁽⁷⁾ "Dealer" means any person authorized by the
49 Department of Revenue to buy, sell, resell, or otherwise
50 distribute vessels. Such person shall have a valid sales tax
51 certificate of registration issued by the Department of Revenue
52 and a valid commercial or occupational license required by any
53 county, municipality, or political subdivision of the state in
54 which the person operates.

55 ~~(9)~~⁽⁸⁾ "Division" means the Division of Law Enforcement of
56 the Fish and Wildlife Conservation Commission.

57 ~~(10)~~⁽⁹⁾ "Documented vessel" means a vessel for which a
58 valid certificate of documentation is outstanding pursuant to 46
59 C.F.R. part 67.

60 ~~(11)~~⁽¹⁰⁾ "Floating structure" means a floating entity, with
61 or without accommodations built thereon, which is not primarily
62 used as a means of transportation on water but which serves
63 purposes or provides services typically associated with a
64 structure or other improvement to real property. The term
65 "floating structure" includes, but is not limited to, each
66 entity used as a residence, place of business or office with
67 public access, hotel or motel, restaurant or lounge, clubhouse,
68 meeting facility, storage or parking facility, mining platform,
69 dredge, dragline, or similar facility or entity represented as
70 such. Floating structures are expressly excluded from the



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71 definition of the term "vessel" provided in this section.
72 Incidental movement upon water or resting partially or entirely
73 on the bottom shall not, in and of itself, preclude an entity
74 from classification as a floating structure.

75 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
76 Intracoastal Waterway, the Georgia state line north of
77 Fernandina to Miami; the Port Canaveral lock and canal to the
78 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
79 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
80 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
81 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
82 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
83 Anclote open bay section (using Gulf of Mexico); the Gulf
84 Intracoastal Waterway, Carrabelle to the Alabama state line west
85 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
86 Rivers in Florida.

87 (13)~~(12)~~ "Homemade vessel" means any vessel built after
88 October 31, 1972, for which a federal hull identification number
89 is not required to be assigned by the manufacturer pursuant to
90 federal law, or any vessel constructed or assembled prior to
91 November 1, 1972, by other than a licensed manufacturer for his
92 or her own use or the use of a specific person. A vessel
93 assembled from a manufacturer's kit or constructed from an
94 unfinished manufactured hull shall be considered to be a
95 homemade vessel if such a vessel is not required to have a hull
96 identification number assigned by the United States Coast Guard.
97 A rebuilt or reconstructed vessel shall in no event be construed
98 to be a homemade vessel.

99 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used



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100 primarily as a residence for a minimum of 21 days during any 30-
101 day period, in a county of this state, and this residential use
102 of the vessel is to the preclusion of the use of the vessel as a
103 means of transportation.

104 ~~(15)-(14)~~ "Length" means the measurement from end to end
105 over the deck parallel to the centerline excluding sheer.

106 ~~(16)-(15)~~ "Lien" means a security interest that ~~which~~ is
107 reserved or created by a written agreement recorded with the
108 Department of Highway Safety and Motor Vehicles pursuant to s.
109 328.15 which secures payment or performance of an obligation and
110 is generally valid against third parties.

111 ~~(17)-(16)~~ "Lienholder" means a person holding a security
112 interest in a vessel, which interest is recorded with the
113 Department of Highway Safety and Motor Vehicles pursuant to s.
114 328.15.

115 ~~(18)-(17)~~ "Live-aboard vessel" means:

116 (a) Any vessel used solely as a residence and not for
117 navigation;

118 (b) Any vessel represented as a place of business or a
119 professional or other commercial enterprise; or

120 (c) Any vessel for which a declaration of domicile has been
121 filed pursuant to s. 222.17.

122
123 A commercial fishing boat is expressly excluded from the
124 term "live-aboard vessel."

125 ~~(19)-(18)~~ "Livery vessel" means any vessel leased, rented,
126 or chartered to another for consideration.

127 ~~(20)-(19)~~ "Manufactured vessel" means any vessel built after
128 October 31, 1972, for which a federal hull identification number



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129 is required pursuant to federal law, or any vessel constructed
130 or assembled prior to November 1, 1972, by a duly licensed
131 manufacturer.

132 (21)~~(20)~~ "Marina" means a licensed commercial facility that
133 ~~which~~ provides secured public moorings or dry storage for
134 vessels on a leased basis. A commercial establishment authorized
135 by a licensed vessel manufacturer as a dealership shall be
136 considered a marina for nonjudicial sale purposes.

137 (22)~~(21)~~ "Marine sanitation device" means any equipment
138 other than a toilet, for installation on board a vessel, which
139 is designed to receive, retain, treat, or discharge sewage, and
140 any process to treat such sewage. Marine sanitation device Types
141 I, II, and III shall be defined as provided in 33 C.F.R. part
142 159.

143 (23)~~(22)~~ "Marker" means any channel mark or other aid to
144 navigation, information or regulatory mark, isolated danger
145 mark, safe water mark, special mark, inland waters obstruction
146 mark, or mooring buoy in, on, or over the waters of the state or
147 the shores thereof, and includes, but is not limited to, a sign,
148 beacon, buoy, or light.

149 (24)~~(23)~~ "Motorboat" means any vessel equipped with
150 machinery for propulsion, irrespective of whether the propulsion
151 machinery is in actual operation.

152 (25)~~(24)~~ "Muffler" means an automotive-style sound-
153 suppression device or system designed to effectively abate the
154 sound of exhaust gases emitted from an internal combustion
155 engine and prevent excessive sound when installed on such an
156 engine.

157 (26)~~(25)~~ "Navigation rules" means the International



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158 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
159 1602, as amended, including the annexes thereto, for vessels on
160 waters outside of established navigational lines of demarcation
161 as specified in 33 C.F.R. part 80 or the Inland Navigational
162 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
163 including the annexes thereto, for vessels on all waters not
164 outside of such lines of demarcation.

165 ~~(27)~~~~(26)~~ "Nonresident" means a citizen of the United States
166 who has not established residence in this state and has not
167 continuously resided in this state for 1 year and in one county
168 for the 6 months immediately preceding the initiation of a
169 vessel titling or registration action.

170 ~~(28)~~~~(27)~~ "Operate" means to be in charge of or in command
171 of or in actual physical control of a vessel upon the waters of
172 this state, or to exercise control over or to have
173 responsibility for a vessel's navigation or safety while the
174 vessel is underway upon the waters of this state, or to control
175 or steer a vessel being towed by another vessel upon the waters
176 of the state.

177 ~~(29)~~~~(28)~~ "Owner" means a person, other than a lienholder,
178 having the property in or title to a vessel. The term includes a
179 person entitled to the use or possession of a vessel subject to
180 an interest in another person, reserved or created by agreement
181 and securing payment of performance of an obligation, but the
182 term excludes a lessee under a lease not intended as security.

183 ~~(30)~~~~(29)~~ "Person" means an individual, partnership, firm,
184 corporation, association, or other entity.

185 ~~(31)~~~~(30)~~ "Personal watercraft" means a vessel less than 16
186 feet in length which uses an inboard motor powering a water jet



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187 pump, as its primary source of motive power and which is
188 designed to be operated by a person sitting, standing, or
189 kneeling on the vessel, rather than in the conventional manner
190 of sitting or standing inside the vessel.

191 (32)~~(31)~~ "Portable toilet" means a device consisting of a
192 lid, seat, containment vessel, and support structure which ~~that~~
193 is specifically designed to receive, retain, and discharge human
194 waste and which ~~that~~ is capable of being removed from a vessel
195 by hand.

196 (33)~~(32)~~ "Prohibited activity" means such activity as will
197 impede or disturb navigation or creates a safety hazard on
198 waterways of this state.

199 (34)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
200 means a manually propelled vessel that ~~which~~ is recognized by
201 national or international racing associations for use in
202 competitive racing and in which all occupants, with the
203 exception of a coxswain, if one is provided, row, scull, or
204 paddle, and that ~~which~~ is not designed to carry and does not
205 carry any equipment not solely for competitive racing.

206 (35)~~(34)~~ "Recreational vessel" means any vessel:

207 (a) Manufactured and used primarily for noncommercial
208 purposes; or

209 (b) Leased, rented, or chartered to a person for the
210 person's noncommercial use.

211 (36)~~(35)~~ "Registration" means a state operating license on
212 a vessel which is issued with an identifying number, an annual
213 certificate of registration, and a decal designating the year
214 for which a registration fee is paid.

215 (37)~~(36)~~ "Resident" means a citizen of the United States



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216 who has established residence in this state and has continuously
217 resided in this state for 1 year and in one county for the 6
218 months immediately preceding the initiation of a vessel titling
219 or registration action.

220 (38)~~(37)~~ "Sailboat" means any vessel whose sole source of
221 propulsion is the wind.

222 (39) "Support system" means a device used to tether,
223 connect, or otherwise suspend a person under the canopy.

224 (40) "Sustained wind speed" means a wind speed determined
225 by averaging the observed wind speed rounded to the nearest
226 whole knot over a 2-minute period.

227 (41)~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
228 including its machinery, rigging, and accessories, which is in
229 the physical possession of any marina, garage, or repair shop
230 for repairs, improvements, or other work with the knowledge of
231 the vessel owner and for which the costs of such services have
232 been unpaid for a period in excess of 90 days from the date
233 written notice of the completed work is given by the marina,
234 garage, or repair shop to the vessel owner.

235 (42)~~(39)~~ "Vessel" is synonymous with boat as referenced in
236 s. 1(b), Art. VII of the State Constitution and includes every
237 description of watercraft, barge, and airboat, other than a
238 seaplane on the water, used or capable of being used as a means
239 of transportation on water.

240 (43)~~(40)~~ "Waters of this state" means any navigable waters
241 of the United States within the territorial limits of this
242 state, and the marginal sea adjacent to this state and the high
243 seas when navigated as a part of a journey or ride to or from
244 the shore of this state, and all the inland lakes, rivers, and



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245 canals under the jurisdiction of this state.

246 Section 2. Section 327.375, Florida Statutes, is created to
247 read:

248 327.375 Commercial parasailing.-

249 (1) The owner of a vessel engaged in commercial parasailing
250 may not offer or provide for consideration any parasailing
251 activity unless the owner first obtains and carries in full
252 force and effect an insurance policy, from an insurance carrier
253 licensed in this state, or approved by the Florida Department of
254 Insurance, insuring against any accident, loss, injury, property
255 damage, death, or other casualty caused by or resulting from any
256 commercial parasailing activity. The insurance policy must
257 provide coverage of at least \$1 million per person, \$ 2 million
258 per event. Proof of insurance must be available for inspection
259 at the location where commercial parasailing is offered or
260 provided for consideration and each customer who requests it
261 shall be provided with the insurance carrier's name and address
262 and the insurance policy number.

263 (2) A person engaged in commercial parasailing must meet
264 the following requirements:

265 (a) Commercial parasail operators shall launch riders only
266 from and recover riders only to the vessel.

267 (b) A person may not operate a vessel engaged in commercial
268 parasailing on the waters of this state unless the person has a
269 current and valid license issued by the United States Coast
270 Guard authorizing that person to engage in carrying passengers
271 for hire. The license must be appropriate for the number of
272 passengers carried and the displacement of the vessel. The
273 license must be carried on the vessel and be available for



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274 inspection while commercial parasailing activities are
275 conducted.

276 (c) A person may not operate a vessel for commercial
277 parasailing unless an observer 18 years of age or older is
278 present in the vessel at all times to monitor the progress of
279 any tethered parasail rider and parasail equipment. The observer
280 may not be a customer, must be attentive to the parasail rider
281 or riders and equipment, and may not have any other duties while
282 the rider or riders are in the water or suspended above the
283 water.

284 (d) A person may not operate any vessel engaged in
285 commercial parasailing unless:

286 1. All riders wear an appropriate floatation device
287 approved by the United States Coast Guard, other than an
288 inflatable device, which is in serviceable condition and of the
289 proper size;

290 2. The vessel is in full compliance with all requirements
291 of the United States Coast Guard governing crewing and equipment
292 carriage for passenger-carrying vessels as specified in the Code
293 of Federal Regulations or as otherwise specified by the United
294 States Coast Guard in the vessel's certificate of inspection;
295 and

296 3. The vessel is equipped with a functional VHF marine
297 transceiver and a separate electronic device capable of access
298 to National Weather Service forecasts and current weather
299 conditions.

300 (e) No more than three persons may be tethered to the
301 towing vessel and ascend above the water at any time.

302 (f) A person may not operate a vessel towing a commercial



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303 parasailing rider on any coastal waters of the state less than
304 1,800 feet from the shore. This restriction applies to the
305 entire commercial parasailing apparatus, including the vessel,
306 towline, and rider.

307 (g) A person may not operate a vessel towing a commercial
308 parasailing rider so that the vessel, towline, or rider comes
309 within 400 feet of:

310 1. An anchored vessel;

311 2. A person in the water; or

312 3. A structure, bridge, power line, wharf, pier, dock,
313 platform, piling, marker, or other similar fixed objects.

314 (h) A person may not operate any vessel towing a parasail
315 or engage in parasailing within 100 feet of the marked channel
316 of the Florida Intracoastal Waterway.

317 (i) Commercial parasailing is prohibited when the current
318 conditions or those forecasted by the National Weather Service
319 include a sustained wind speed of over 20 mph in the area of
320 operation, rain or heavy fog that results in reduced visibility
321 of less than 0.5 miles, or a known lightning storm within 7
322 miles of the parasailing area.

323 (j) The vessel captain shall use all available means to
324 determine prevailing and forecasted weather conditions and
325 record this information in a weather log each time passengers
326 are to be taken out on the water. The weather log must be
327 available for inspection at all times at the place of business.

328 (k) Towlines used for commercial parasailing must be rated
329 for a tensile strength that exceeds 4,800 pounds, must be
330 braided, and a low-stretch type and may not exceed 500 feet in
331 length.



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332 (1) Each passenger and parasail rider must be given a
333 safety briefing before embarking or before the parasail activity
334 commences. This briefing must include a description of the
335 equipment, the parasail activity, inherent risks, and
336 instruction on how to safely evacuate from the passenger support
337 during a water landing.

338 (m) A person operating a vessel for commercial parasailing
339 may not engage in parasailing, or any similar activity at any
340 time between the hours of one-half hour after sunset to one-half
341 hour before sunrise.

342 (3) A person or operator who violates this section commits
343 a misdemeanor of the second degree, punishable as provided in s.
344 775.082 or s. 775.083.

345 Section 3. Paragraph (d) of subsection (5) of section
346 320.08, Florida Statutes, is amended to read:

347 320.08 License taxes.—Except as otherwise provided herein,
348 there are hereby levied and imposed annual license taxes for the
349 operation of motor vehicles, mopeds, motorized bicycles as
350 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
351 and mobile homes, as defined in s. 320.01, which shall be paid
352 to and collected by the department or its agent upon the
353 registration or renewal of registration of the following:

354 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
355 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

356 (d) A wrecker, as defined in s. 320.01(40), which is used
357 to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a
358 disabled, abandoned, stolen-recovered, or impounded motor
359 vehicle as defined in s. 320.01(38), or a replacement motor
360 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11



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361 shall be deposited into the General Revenue Fund.

362 Section 4. Subsection (1) of section 327.391, Florida
363 Statutes, is amended to read:

364 327.391 Airboats regulated.—

365 (1) The exhaust of every internal combustion engine used on
366 any airboat operated on the waters of this state shall be
367 provided with an automotive-style factory muffler, underwater
368 exhaust, or other manufactured device capable of adequately
369 muffling the sound of the exhaust of the engine as described in
370 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
371 the sole source of muffling is prohibited, except as provided in
372 subsection (4). Any person who violates this subsection commits
373 a noncriminal infraction punishable as provided in s. 327.73(1).

374 Section 5. Subsection (4) of section 328.17, Florida
375 Statutes, is amended to read:

376 328.17 Nonjudicial sale of vessels.—

377 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
378 shall have:

379 (a) A possessory lien upon any vessel for storage fees,
380 dockage fees, repairs, improvements, or other work-related
381 storage charges, and for expenses necessary for preservation of
382 the vessel or expenses reasonably incurred in the sale or other
383 disposition of the vessel. The possessory lien shall attach as
384 of the date the vessel is brought to the marina or as of the
385 date the vessel first occupies rental space at the marina
386 facility.

387 (b) A possessory lien upon any vessel in a wrecked, junked,
388 or substantially dismantled condition, which has been left
389 abandoned at a marina, for expenses reasonably incurred in the



390 removal and disposal of the vessel. The possessory lien shall
391 attach as of the date the vessel arrives at the marina or as of
392 the date the vessel first occupies rental space at the marina
393 facility. If the funds recovered from the sale of the vessel, or
394 from the scrap or salvage value of the vessel, are insufficient
395 to cover the expenses reasonably incurred by the marina in
396 removing and disposing of the vessel, all costs in excess of
397 recovery shall be recoverable against the owner of the vessel.
398 For a vessel damaged as a result of a named storm, the
399 provisions of this paragraph shall be suspended for 60 days
400 following the date the vessel is damaged in the named storm. The
401 operation of the provisions specified in this paragraph run
402 concurrently with, and do not extend, the 60-day notice periods
403 provided in subsections (5) and (7).

404 Section 6. Subsection (2) of section 342.07, Florida
405 Statutes, is amended to read:

406 342.07 Recreational and commercial working waterfronts;
407 legislative findings; definitions.—

408 (2) As used in this section, the term "recreational and
409 commercial working waterfront" means a parcel or parcels of real
410 property which ~~that~~ provide access for water-dependent
411 commercial activities, including hotels and motels as defined in
412 s. 509.242(1), or provide access for the public to the navigable
413 waters of the state. Recreational and commercial working
414 waterfronts require direct access to or a location on, over, or
415 adjacent to a navigable body of water. The term includes water-
416 dependent facilities that are open to the public and offer
417 public access by vessels to the waters of the state or that are
418 support facilities for recreational, commercial, research, or



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419 governmental vessels. These facilities include public lodging
420 establishments, docks, wharfs, lifts, wet and dry marinas, boat
421 ramps, boat hauling and repair facilities, commercial fishing
422 facilities, boat construction facilities, and other support
423 structures over the water. As used in this section, the term
424 "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~.
425 Seaports are excluded from the definition.

426 Section 7. Paragraph (b) of subsection (1) of section
427 713.78, Florida Statutes, is amended to read:

428 713.78 Liens for recovering, towing, or storing vehicles
429 and vessels.-

430 (1) For the purposes of this section, the term:

431 (b) "Vessel" means every description of watercraft, barge,
432 and airboat used or capable of being used as a means of
433 transportation on water, other than a seaplane or a "documented
434 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

435 Section 8. Paragraph (b) of subsection (1) of section
436 715.07, Florida Statutes, is amended to read:

437 715.07 Vehicles or vessels parked on private property;
438 towing.-

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

440 (b) "Vessel" means every description of watercraft, barge,
441 and airboat used or capable of being used as a means of
442 transportation on water, other than a seaplane or a "documented
443 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

444 Section 9. This act shall take effect July 1, 2011.

445

446

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



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448 And the title is amended as follows:

449 Delete everything before the enacting clause
450 and insert:

451 A bill to be entitled

452 An act relating to commercial parasailing ; amending
453 s.327.02, F.S.; requiring the owner of a vessel engaged in
454 commercial parasailing to obtain and carry an insurance policy;
455 providing minimum coverage for the insurance policy; providing
456 requirements for proof of insurance; specifying the insurance
457 information that must be provided to each rider; providing for
458 the launch and recovery of riders from a towing vessel;
459 requiring a person engaged in operating a vessel for commercial
460 parasailing to have certain licenses; requiring certain
461 equipment; prohibiting commercial parasailing in certain areas;
462 under certain weather conditions, and during certain hours;
463 requiring a safety briefing for passengers and parasail riders;
464 providing penalties; amending ss. 320.08,
465 327.391, 328.17, 342.07, 713.78, and 715.07, F.S.; conforming
466 cross-references to changes made by the act; providing an
467 effective date.

By Senator Jones

13-00501-11

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1 A bill to be entitled
2 An act relating to commercial parasailing; amending s.
3 327.02, F.S.; providing definitions; creating s.
4 327.375, F.S.; providing a short title; requiring the
5 owner of a vessel engaged in commercial parasailing to
6 obtain and carry an insurance policy; providing
7 minimum coverage for the insurance policy; providing
8 requirements for proof of insurance; specifying the
9 insurance information that must be provided to each
10 rider; providing for the launch and recovery of riders
11 from a towing vessel; requiring a person engaged in
12 operating a vessel for commercial parasailing to have
13 certain licenses; requiring certain equipment;
14 prohibiting commercial parasailing in certain areas,
15 under certain weather conditions, and during certain
16 hours; requiring a safety briefing for passengers and
17 parasail riders; providing penalties; amending ss.
18 320.08, 327.391, 328.17, 342.07, 713.78, and 715.07,
19 F.S.; conforming cross-references to changes made by
20 the act; providing an effective date.

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

23
24 Section 1. Section 327.02, Florida Statutes, is amended to
25 read:

26 327.02 Definitions of terms used in this chapter and in
27 chapter 328.—As used in this chapter and in chapter 328, unless
28 the context clearly requires a different meaning, the term:

29 (1) "Airboat" means a vessel that is primarily designed for

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30 use in shallow waters and powered by an internal combustion
31 engine with an airplane-type propeller mounted above the stern
32 and used to push air across a set of rudders.

33 (2) "Alien" means a person who is not a citizen of the
34 United States.

35 (3) "Boating accident" means a collision, accident, or
36 casualty involving a vessel in or upon, or entering into or
37 exiting from, the water, including capsizing, collision with
38 another vessel or object, sinking, personal injury, death,
39 disappearance of any person from on board under circumstances
40 that ~~which~~ indicate the possibility of death or injury, or
41 property damage to any vessel or dock.

42 (4) "Canoe" means a light, narrow vessel with curved sides
43 and with both ends pointed. A canoe-like vessel with a transom
44 may not be excluded from the definition of a canoe if the width
45 of its transom is less than 45 percent of the width of its beam
46 or it has been designated as a canoe by the United States Coast
47 Guard.

48 (5) "Commercial parasailing" means providing or offering to
49 provide, for consideration, any activity involving the towing of
50 a person by a motorboat when:

51 (a) One or more persons are tethered to the towing vessel;

52 (b) The person or persons ascend above the water; and

53 (c) The person or persons remain suspended above the water
54 while the vessel is underway.

55 (6)~~(5)~~ "Commercial vessel" means:

56 (a) Any vessel primarily engaged in the taking or landing
57 of saltwater fish or saltwater products or freshwater fish or
58 freshwater products, or any vessel licensed pursuant to s.

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59 379.361 from which commercial quantities of saltwater products
60 are harvested, from within and without the waters of this state
61 for sale either to the consumer, retail dealer, or wholesale
62 dealer.

63 (b) Any other vessel, except a recreational vessel as
64 defined in this section.

65 (7)~~(6)~~ "Commission" means the Fish and Wildlife
66 Conservation Commission.

67 (8)~~(7)~~ "Dealer" means any person authorized by the
68 Department of Revenue to buy, sell, resell, or otherwise
69 distribute vessels. Such person shall have a valid sales tax
70 certificate of registration issued by the Department of Revenue
71 and a valid commercial or occupational license required by any
72 county, municipality, or political subdivision of the state in
73 which the person operates.

74 (9)~~(8)~~ "Division" means the Division of Law Enforcement of
75 the Fish and Wildlife Conservation Commission.

76 (10)~~(9)~~ "Documented vessel" means a vessel for which a
77 valid certificate of documentation is outstanding pursuant to 46
78 C.F.R. part 67.

79 (11)~~(10)~~ "Floating structure" means a floating entity, with
80 or without accommodations built thereon, which is not primarily
81 used as a means of transportation on water but which serves
82 purposes or provides services typically associated with a
83 structure or other improvement to real property. The term
84 "floating structure" includes, but is not limited to, each
85 entity used as a residence, place of business or office with
86 public access, hotel or motel, restaurant or lounge, clubhouse,
87 meeting facility, storage or parking facility, mining platform,

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88 dredge, dragline, or similar facility or entity represented as
89 such. Floating structures are expressly excluded from the
90 definition of the term "vessel" provided in this section.

91 Incidental movement upon water or resting partially or entirely
92 on the bottom shall not, in and of itself, preclude an entity
93 from classification as a floating structure.

94 (12)~~(11)~~ "Florida Intracoastal Waterway" means the Atlantic
95 Intracoastal Waterway, the Georgia state line north of
96 Fernandina to Miami; the Port Canaveral lock and canal to the
97 Atlantic Intracoastal Waterway; the Atlantic Intracoastal
98 Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to
99 Fort Myers; the St. Johns River, Jacksonville to Sanford; the
100 Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf
101 Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to
102 Anclote open bay section (using Gulf of Mexico); the Gulf
103 Intracoastal Waterway, Carrabelle to the Alabama state line west
104 of Pensacola; and the Apalachicola, Chattahoochee, and Flint
105 Rivers in Florida.

106 (13)~~(12)~~ "Homemade vessel" means any vessel built after
107 October 31, 1972, for which a federal hull identification number
108 is not required to be assigned by the manufacturer pursuant to
109 federal law, or any vessel constructed or assembled prior to
110 November 1, 1972, by other than a licensed manufacturer for his
111 or her own use or the use of a specific person. A vessel
112 assembled from a manufacturer's kit or constructed from an
113 unfinished manufactured hull shall be considered to be a
114 homemade vessel if such a vessel is not required to have a hull
115 identification number assigned by the United States Coast Guard.
116 A rebuilt or reconstructed vessel shall in no event be construed

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117 to be a homemade vessel.

118 (14)~~(13)~~ "Houseboat" means any vessel that ~~which~~ is used
119 primarily as a residence for a minimum of 21 days during any 30-
120 day period, in a county of this state, and this residential use
121 of the vessel is to the preclusion of the use of the vessel as a
122 means of transportation.

123 (15)~~(14)~~ "Length" means the measurement from end to end
124 over the deck parallel to the centerline excluding sheer.

125 (16)~~(15)~~ "Lien" means a security interest that ~~which~~ is
126 reserved or created by a written agreement recorded with the
127 Department of Highway Safety and Motor Vehicles pursuant to s.
128 328.15 which secures payment or performance of an obligation and
129 is generally valid against third parties.

130 (17)~~(16)~~ "Lienholder" means a person holding a security
131 interest in a vessel, which interest is recorded with the
132 Department of Highway Safety and Motor Vehicles pursuant to s.
133 328.15.

134 (18)~~(17)~~ "Live-aboard vessel" means:

135 (a) Any vessel used solely as a residence and not for
136 navigation;

137 (b) Any vessel represented as a place of business or a
138 professional or other commercial enterprise; or

139 (c) Any vessel for which a declaration of domicile has been
140 filed pursuant to s. 222.17.

141
142 A commercial fishing boat is expressly excluded from the term
143 "live-aboard vessel."

144 (19)~~(18)~~ "Livery vessel" means any vessel leased, rented,
145 or chartered to another for consideration.

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146 (20)~~(19)~~ "Manufactured vessel" means any vessel built after
147 October 31, 1972, for which a federal hull identification number
148 is required pursuant to federal law, or any vessel constructed
149 or assembled prior to November 1, 1972, by a duly licensed
150 manufacturer.

151 (21)~~(20)~~ "Marina" means a licensed commercial facility that
152 ~~which~~ provides secured public moorings or dry storage for
153 vessels on a leased basis. A commercial establishment authorized
154 by a licensed vessel manufacturer as a dealership shall be
155 considered a marina for nonjudicial sale purposes.

156 (22)~~(21)~~ "Marine sanitation device" means any equipment
157 other than a toilet, for installation on board a vessel, which
158 is designed to receive, retain, treat, or discharge sewage, and
159 any process to treat such sewage. Marine sanitation device Types
160 I, II, and III shall be defined as provided in 33 C.F.R. part
161 159.

162 (23)~~(22)~~ "Marker" means any channel mark or other aid to
163 navigation, information or regulatory mark, isolated danger
164 mark, safe water mark, special mark, inland waters obstruction
165 mark, or mooring buoy in, on, or over the waters of the state or
166 the shores thereof, and includes, but is not limited to, a sign,
167 beacon, buoy, or light.

168 (24)~~(23)~~ "Motorboat" means any vessel equipped with
169 machinery for propulsion, irrespective of whether the propulsion
170 machinery is in actual operation.

171 (25)~~(24)~~ "Muffler" means an automotive-style sound-
172 suppression device or system designed to effectively abate the
173 sound of exhaust gases emitted from an internal combustion
174 engine and prevent excessive sound when installed on such an

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175 engine.

176 (26)~~(25)~~ "Navigation rules" means the International
177 Navigational Rules Act of 1977, 33 U.S.C. appendix following s.
178 1602, as amended, including the annexes thereto, for vessels on
179 waters outside of established navigational lines of demarcation
180 as specified in 33 C.F.R. part 80 or the Inland Navigational
181 Rules Act of 1980, 33 U.S.C. ss. 2001 et seq., as amended,
182 including the annexes thereto, for vessels on all waters not
183 outside of such lines of demarcation.

184 (27)~~(26)~~ "Nonresident" means a citizen of the United States
185 who has not established residence in this state and has not
186 continuously resided in this state for 1 year and in one county
187 for the 6 months immediately preceding the initiation of a
188 vessel titling or registration action.

189 (28)~~(27)~~ "Operate" means to be in charge of or in command
190 of or in actual physical control of a vessel upon the waters of
191 this state, or to exercise control over or to have
192 responsibility for a vessel's navigation or safety while the
193 vessel is underway upon the waters of this state, or to control
194 or steer a vessel being towed by another vessel upon the waters
195 of the state.

196 (29)~~(28)~~ "Owner" means a person, other than a lienholder,
197 having the property in or title to a vessel. The term includes a
198 person entitled to the use or possession of a vessel subject to
199 an interest in another person, reserved or created by agreement
200 and securing payment of performance of an obligation, but the
201 term excludes a lessee under a lease not intended as security.

202 (30)~~(29)~~ "Person" means an individual, partnership, firm,
203 corporation, association, or other entity.

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204 (31)~~(30)~~ "Personal watercraft" means a vessel less than 16
205 feet in length which uses an inboard motor powering a water jet
206 pump, as its primary source of motive power and which is
207 designed to be operated by a person sitting, standing, or
208 kneeling on the vessel, rather than in the conventional manner
209 of sitting or standing inside the vessel.

210 (32)~~(31)~~ "Portable toilet" means a device consisting of a
211 lid, seat, containment vessel, and support structure which ~~that~~
212 is specifically designed to receive, retain, and discharge human
213 waste and which ~~that~~ is capable of being removed from a vessel
214 by hand.

215 (33)~~(32)~~ "Prohibited activity" means such activity as will
216 impede or disturb navigation or creates a safety hazard on
217 waterways of this state.

218 (34) "Quick release" means a device that enables the
219 tethered or connected person to quickly release or remove
220 himself or herself from his or her support system.

221 (35)~~(33)~~ "Racing shell," "rowing scull," or "racing kayak"
222 means a manually propelled vessel that ~~which~~ is recognized by
223 national or international racing associations for use in
224 competitive racing and in which all occupants, with the
225 exception of a coxswain, if one is provided, row, scull, or
226 paddle, and that ~~which~~ is not designed to carry and does not
227 carry any equipment not solely for competitive racing.

228 (36)~~(34)~~ "Recreational vessel" means any vessel:

229 (a) Manufactured and used primarily for noncommercial
230 purposes; or

231 (b) Leased, rented, or chartered to a person for the
232 person's noncommercial use.

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233 ~~(37)~~~~(35)~~ "Registration" means a state operating license on
234 a vessel which is issued with an identifying number, an annual
235 certificate of registration, and a decal designating the year
236 for which a registration fee is paid.

237 ~~(38)~~~~(36)~~ "Resident" means a citizen of the United States
238 who has established residence in this state and has continuously
239 resided in this state for 1 year and in one county for the 6
240 months immediately preceding the initiation of a vessel titling
241 or registration action.

242 ~~(39)~~~~(37)~~ "Sailboat" means any vessel whose sole source of
243 propulsion is the wind.

244 (40) "Support system" means a device used to tether,
245 connect, or otherwise suspend a person under the canopy.

246 (41) "Sustained wind speed" means a wind speed determined
247 by averaging the observed wind speed rounded to the nearest
248 whole knot over a 2-minute period.

249 ~~(42)~~~~(38)~~ "Unclaimed vessel" means any undocumented vessel,
250 including its machinery, rigging, and accessories, which is in
251 the physical possession of any marina, garage, or repair shop
252 for repairs, improvements, or other work with the knowledge of
253 the vessel owner and for which the costs of such services have
254 been unpaid for a period in excess of 90 days from the date
255 written notice of the completed work is given by the marina,
256 garage, or repair shop to the vessel owner.

257 ~~(43)~~~~(39)~~ "Vessel" is synonymous with boat as referenced in
258 s. 1(b), Art. VII of the State Constitution and includes every
259 description of watercraft, barge, and airboat, other than a
260 seaplane on the water, used or capable of being used as a means
261 of transportation on water.

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262 ~~(44)~~(40) "Waters of this state" means any navigable waters
263 of the United States within the territorial limits of this
264 state, and the marginal sea adjacent to this state and the high
265 seas when navigated as a part of a journey or ride to or from
266 the shore of this state, and all the inland lakes, rivers, and
267 canals under the jurisdiction of this state.

268 Section 2. Section 327.375, Florida Statutes, is created to
269 read:

270 327.375 Commercial parasailing.-

271 (1) This section may be cited as the "Alejandra White Act."

272 (2) The owner of a vessel engaged in commercial parasailing
273 may not offer or provide for consideration any parasailing
274 activity unless the owner first obtains and carries in full
275 force and effect an insurance policy, from an insurance carrier
276 licensed in this state, insuring against any accident, loss,
277 injury, property damage, death, or other casualty caused by or
278 resulting from any commercial parasailing activity. The
279 insurance policy must provide coverage of at least \$1 million
280 per person, per event. Proof of insurance must be available for
281 inspection at the location where commercial parasailing is
282 offered or provided for consideration and each customer who
283 requests it shall be provided with the insurance carrier's name
284 and address and the insurance policy number.

285 (3) A person engaged in commercial parasailing must meet
286 the following requirements:

287 (a) Commercial parasail operators shall launch riders only
288 from and recover riders only to the vessel.

289 (b) A person may not operate a vessel engaged in commercial
290 parasailing on the waters of this state unless the person has a

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291 current and valid license issued by the United States Coast
292 Guard authorizing that person to engage in carrying passengers
293 for hire. The license must be appropriate for the number of
294 passengers carried and the displacement of the vessel. The
295 license must be carried on the vessel and be available for
296 inspection while commercial parasailing activities are
297 conducted.

298 (c) A person may not operate a vessel for commercial
299 parasailing unless an observer 18 years of age or older is
300 present in the vessel at all times to monitor the progress of
301 any tethered parasail rider and parasail equipment. The observer
302 may not be a customer, must be attentive to the parasail rider
303 or riders and equipment, and may not have any other duties while
304 the rider or riders are in the water or suspended above the
305 water.

306 (d) A person may not operate any vessel engaged in
307 commercial parasailing unless:

308 1. All riders wear an appropriate floatation device
309 approved by the United States Coast Guard, other than an
310 inflatable device, which is in serviceable condition and of the
311 proper size;

312 2. All riders are equipped with a support system that
313 includes a harness that has a quick release or is a "gondola
314 style" system that allows the rider to quickly self evacuate
315 during an emergency.

316 3. The vessel is in full compliance with all requirements
317 of the United States Coast Guard governing crewing and equipment
318 carriage for passenger-carrying vessels as specified in the Code
319 of Federal Regulations or as otherwise specified by the United

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320 States Coast Guard in the vessel's certificate of inspection;
321 and

322 4. The vessel is equipped with a functional VHF marine
323 transceiver that can monitor National Weather Service forecasts
324 and send and receive and monitor channel 16.

325 (e) No more than two persons may be tethered to the towing
326 vessel and ascend above the water at any time.

327 (f) A person may not operate a vessel towing a commercial
328 parasailing rider on any waters of the state less than 1,800
329 feet from the shore. This restriction applies to the entire
330 commercial parasailing apparatus, including the vessel, towline,
331 and rider.

332 (g) A person may not operate a vessel towing a commercial
333 parasailing rider so that the vessel, towline, or rider comes
334 within 400 feet of:

335 1. An anchored vessel;

336 2. A person in the water; or

337 3. A structure, bridge, power line, wharf, pier, dock,
338 platform, piling, marker, or other similar object.

339 (h) A person may not operate any vessel towing a parasail
340 or engage in parasailing within 100 feet of the marked channel
341 of the Florida Intracoastal Waterway.

342 (i) Commercial parasailing is prohibited when the current
343 conditions or those forecasted by the National Weather Service
344 include a sustained wind speed of 20 knots or higher in the area
345 of operation, rain or heavy fog that results in reduced
346 visibility of less than 0.5 miles, or a known lightning storm
347 within 7 miles of the parasailing area.

348 (j) The vessel captain shall use all available means to

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349 determine prevailing and forecasted weather conditions and
350 record this information in a weather log each time passengers
351 are to be taken out on the water. The weather log must be
352 available for inspection at all times at the place of business.

353 (k) Towlines used for commercial parasailing must be rated
354 for a tensile strength that exceeds 4,800 pounds, must be double
355 braided, low-stretch type, and may not exceed 800 feet in
356 length.

357 (l) Each passenger and parasail rider must be given a
358 safety briefing before embarking or before the parasail activity
359 commences. This briefing must include a description of the
360 equipment, the parasail activity, inherent risks, and
361 instruction on how to safely evacuate from the passenger support
362 during a water landing.

363 (m) A person operating a vessel for commercial parasailing
364 may not engage in parasailing, or any similar activity at any
365 time between the hours of one-half hour after sunset to one-half
366 hour before sunrise.

367 (4) A person or operator who violates this section commits
368 a misdemeanor of the second degree, punishable as provided in s.
369 775.082 or s. 775.083.

370 Section 3. Paragraph (d) of subsection (5) of section
371 320.08, Florida Statutes, is amended to read:

372 320.08 License taxes.—Except as otherwise provided herein,
373 there are hereby levied and imposed annual license taxes for the
374 operation of motor vehicles, mopeds, motorized bicycles as
375 defined in s. 316.003(2), tri-vehicles as defined in s. 316.003,
376 and mobile homes, as defined in s. 320.01, which shall be paid
377 to and collected by the department or its agent upon the

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378 registration or renewal of registration of the following:

379 (5) SEMITRAILERS, FEES ACCORDING TO GROSS VEHICLE WEIGHT;
380 SCHOOL BUSES; SPECIAL PURPOSE VEHICLES.—

381 (d) A wrecker, as defined in s. 320.01(40), which is used
382 to tow a vessel as defined in s. 327.02(43) ~~s. 327.02(39)~~, a
383 disabled, abandoned, stolen-recovered, or impounded motor
384 vehicle as defined in s. 320.01(38), or a replacement motor
385 vehicle as defined in s. 320.01(39): \$41 flat, of which \$11
386 shall be deposited into the General Revenue Fund.

387 Section 4. Subsection (1) of section 327.391, Florida
388 Statutes, is amended to read:

389 327.391 Airboats regulated.—

390 (1) The exhaust of every internal combustion engine used on
391 any airboat operated on the waters of this state shall be
392 provided with an automotive-style factory muffler, underwater
393 exhaust, or other manufactured device capable of adequately
394 muffling the sound of the exhaust of the engine as described in
395 s. 327.02(25) ~~s. 327.02(24)~~. The use of cutouts or flex pipe as
396 the sole source of muffling is prohibited, except as provided in
397 subsection (4). Any person who violates this subsection commits
398 a noncriminal infraction punishable as provided in s. 327.73(1).

399 Section 5. Subsection (4) of section 328.17, Florida
400 Statutes, is amended to read:

401 328.17 Nonjudicial sale of vessels.—

402 (4) A marina, as defined in s. 327.02(21) ~~s. 327.02(20)~~,
403 shall have:

404 (a) A possessory lien upon any vessel for storage fees,
405 dockage fees, repairs, improvements, or other work-related
406 storage charges, and for expenses necessary for preservation of

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407 the vessel or expenses reasonably incurred in the sale or other
408 disposition of the vessel. The possessory lien shall attach as
409 of the date the vessel is brought to the marina or as of the
410 date the vessel first occupies rental space at the marina
411 facility.

412 (b) A possessory lien upon any vessel in a wrecked, junked,
413 or substantially dismantled condition, which has been left
414 abandoned at a marina, for expenses reasonably incurred in the
415 removal and disposal of the vessel. The possessory lien shall
416 attach as of the date the vessel arrives at the marina or as of
417 the date the vessel first occupies rental space at the marina
418 facility. If the funds recovered from the sale of the vessel, or
419 from the scrap or salvage value of the vessel, are insufficient
420 to cover the expenses reasonably incurred by the marina in
421 removing and disposing of the vessel, all costs in excess of
422 recovery shall be recoverable against the owner of the vessel.
423 For a vessel damaged as a result of a named storm, the
424 provisions of this paragraph shall be suspended for 60 days
425 following the date the vessel is damaged in the named storm. The
426 operation of the provisions specified in this paragraph run
427 concurrently with, and do not extend, the 60-day notice periods
428 provided in subsections (5) and (7).

429 Section 6. Subsection (2) of section 342.07, Florida
430 Statutes, is amended to read:

431 342.07 Recreational and commercial working waterfronts;
432 legislative findings; definitions.—

433 (2) As used in this section, the term "recreational and
434 commercial working waterfront" means a parcel or parcels of real
435 property which ~~that~~ provide access for water-dependent

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436 commercial activities, including hotels and motels as defined in
437 s. 509.242(1), or provide access for the public to the navigable
438 waters of the state. Recreational and commercial working
439 waterfronts require direct access to or a location on, over, or
440 adjacent to a navigable body of water. The term includes water-
441 dependent facilities that are open to the public and offer
442 public access by vessels to the waters of the state or that are
443 support facilities for recreational, commercial, research, or
444 governmental vessels. These facilities include public lodging
445 establishments, docks, wharfs, lifts, wet and dry marinas, boat
446 ramps, boat hauling and repair facilities, commercial fishing
447 facilities, boat construction facilities, and other support
448 structures over the water. As used in this section, the term
449 "vessel" has the same meaning as in s. 327.02(43) ~~s. 327.02(39)~~.
450 Seaports are excluded from the definition.

451 Section 7. Paragraph (b) of subsection (1) of section
452 713.78, Florida Statutes, is amended to read:

453 713.78 Liens for recovering, towing, or storing vehicles
454 and vessels.—

455 (1) For the purposes of this section, the term:

456 (b) "Vessel" means every description of watercraft, barge,
457 and airboat used or capable of being used as a means of
458 transportation on water, other than a seaplane or a "documented
459 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

460 Section 8. Paragraph (b) of subsection (1) of section
461 715.07, Florida Statutes, is amended to read:

462 715.07 Vehicles or vessels parked on private property;
463 towing.—

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

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465 (b) "Vessel" means every description of watercraft, barge,
466 and airboat used or capable of being used as a means of
467 transportation on water, other than a seaplane or a "documented
468 vessel" as defined in s. 327.02(10) ~~s. 327.02(9)~~.

469 Section 9. This act shall take effect July 1, 2011.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 968

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Dean

SUBJECT: Boating Safety

DATE: March 11, 2011 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiggins	Yeatman	EP	Fav/CS
2.			CA	
3.			BC	
4.				
5.				
6.				

I. Summary:

The CS provides boaters who can present proof of boater safety course completion and photo identification to operate a motor vessel without waiting to receive the Florida Fish and Wildlife Conservation Commission Boating Identification card in the mail. The Boater Education Certificate must include the student’s first and last name, date of birth, and the date he or she passed the course examination.

The CS amends sections 327.395 and 327.54 of the Florida Statutes.

II. Present Situation:

Section 327.395, F.S., requires that a person born after January 1, 1988 must have a boater safety identification card to operate a vessel powered by a motor of 10 horsepower or greater. In order to obtain a boater safety identification card the person must have completed a commission-approved boater education course that meets the minimum 8-hour instruction requirement established by the National Association of State Boating Law Administrators. A person may also obtain a boater safety identification card by passing a course equivalency examination approved by FWC or pass a temporary certificate examination developed or approved by FWC.

The boater safety course may be taken in person at one of FWC’s state offices at no charge. An applicant may also take the course online at a cost of up to \$30. FWC lists the approved online courses on their website.¹ The United States Coast Guard also offers an FWC approved course for \$35. FWC may appoint liveries, marinas, or other agents to administer the boater safety

http://myfwc.com/SAFETY/Safety_Boat_Safety_OnlineClasses.htm (last visited Feb. 28, 2011).

course as long as the entities adhere to FWC's established guidelines. These private entities offer the course for approximately \$30. However, these entities may not issue a boater safety card on the premises. These private entities must send a \$2 exam fee to FWC in addition to providing proof that the applicant successfully passed the course. FWC also allows the private entities to charge and keep an additional \$1 service fee.²

Once FWC has received documented proof that the applicant successfully completed the course then FWC will mail a boater safety identification card to the applicant. It currently takes FWC up to 10 days to mail a card to an applicant who has successfully completed the boating safety course and has provided all of the necessary identification documentation. Incomplete applications may take longer as FWC must contact the applicant and retrieve any missing information.

III. Effect of Proposed Changes:

Section 1 amends s. 327.395(6)(f), F.S., to allow the operation of a vessel without an FWC issued Boater Identification card, for up to 90 days, for a boater who can prove boater safety course completion and provide photo identification. In order to prove boater safety course completion, the boater must be able to provide a Boater Education Certificate that includes the student's first and last name, date of birth, and the date he or she passed the course.

Section 2 amends s. 327.54(2), F.S., to provide an exemption to allow liveries to accept boater education certificates that contain specific data, under specified conditions outlined in s. 327.395, F.S., as proof of successfully completing the Boater Education Course.

Section 3 provides an effective date of July 1, 2011.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

² See s. 327.395(4), F.S.

B. Private Sector Impact:

The CS would allow liveries to accept the Boater Education Certificate as proof that the course was successfully completed. The Boater Education Certificate must include the boater's first and last name, date of birth, and the date that he or she passed the course. Private entities may see an increase in business if they are allowed to accept the Boater Education Certificate as individuals may rent boats on the premises after successfully completing the boater education course.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by the Committee on Environmental Preservation and Conservation on March 10, 2011:**

The CS provides boaters who can present proof of boater safety course completion and photo identification to begin boating without waiting to receive the FWC Boating ID card.

B. Amendments:

None.



271416

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/10/2011	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Dean) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (6) of section 327.395, Florida
Statutes, is amended to read:

327.395 Boating safety identification cards.—

(6) A person is exempt from subsection (1) if he or she:

(a) Is licensed by the United States Coast Guard to serve
as master of a vessel.

(b) Operates a vessel only on a private lake or pond.



271416

13 (c) Is accompanied in the vessel by a person who is exempt
14 from this section or who holds an identification card in
15 compliance with this section, is 18 years of age or older, and
16 is attendant to the operation of the vessel and responsible for
17 the safe operation of the vessel and for any violation that
18 occurs during the operation.

19 (d) Is a nonresident who has in his or her possession proof
20 that he or she has completed a boater education course or
21 equivalency examination in another state which meets or exceeds
22 the requirements of subsection (1).

23 (e) Is operating a vessel within 90 days after the purchase
24 of that vessel and has available for inspection aboard that
25 vessel a bill of sale meeting the requirements of s. 328.46(1).

26 (f) Is operating a vessel within 90 days after completing
27 the requirements of (1)(a) or (b) of this section and has
28 available for inspection photographic identification and his or
29 her Boater Education Certificate as proof that the course was
30 successfully completed. The Boater Education Certificate must
31 provide, at a minimum, the student's first and last name, date
32 of birth and the date he or she passed the course examination.

33 (g)~~(f)~~ Is exempted by rule of the commission.

34 Section 2. Subsection (2) of section 327.54, Florida
35 Statutes, is amended to read:

36 327.54 Liveries; safety regulations; penalty.—

37 (2) A livery may not knowingly lease, hire, or rent any
38 vessel powered by a motor of 10 horsepower or greater to any
39 person who is required to comply with s. 327.395, unless such
40 person presents to the livery a valid boater safety
41 identification card ~~to the livery~~ or proof of meeting the



271416

42 temporary exemption provided by s. 327.395(6)(f).

43 Section 3. This act shall take effect July 1, 2011.

44

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

46 And the title is amended as follows:

47 Delete everything before the enacting clause

48 and insert:

49

A bill to be entitled

50 An act relating to boating safety; amending s.

51 327.395, F.S.; providing an exemption for requiring

52 boating safety identification cards under certain

53 circumstances; amending s. 327.54, F.S.; requiring

54 liveries to require proof of valid boater safety

55 identification card or proof that person passed the

56 boating education safety course examination; providing

57 an effective date.

By Senator Dean

3-01328-11

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1 A bill to be entitled
2 An act relating to boating safety; amending s.
3 327.395, F.S.; providing for agents of the Fish and
4 Wildlife Conservation Commission to issue boater
5 safety identification cards that must be similar in
6 appearance to cards issued by the commission;
7 providing an effective date.
8

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

11 Section 1. Subsections (1) and (4) of section 327.395,
12 Florida Statutes, are amended to read:

13 327.395 Boating safety identification cards.—

14 (1) A person born on or after January 1, 1988, may not
15 operate a vessel powered by a motor of 10 horsepower or greater
16 unless such person has in his or her possession aboard the
17 vessel photographic identification and a boater safety
18 identification card issued by the commission or its agent, as
19 described in subsection (4), which shows that he or she has:

20 (a) Completed a commission-approved boater education course
21 that meets the minimum 8-hour instruction requirement
22 established by the National Association of State Boating Law
23 Administrators;

24 (b) Passed a course equivalency examination approved by the
25 commission; or

26 (c) Passed a temporary certificate examination developed or
27 approved by the commission.

28 (4) The commission may appoint liveries, marinas, or other
29 persons as its agents to administer the course, course

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30 equivalency examination, or temporary certificate examination
31 and issue identification cards under guidelines established by
32 the commission. An agent may issue commission-approved
33 identification cards that must be similar in appearance to the
34 cards issued by the commission. An agent must charge the \$2
35 examination fee, which must be forwarded to the commission with
36 proof of passage of the examination and may charge and keep a \$1
37 service fee.

38 Section 2. This act shall take effect July 1, 2011.

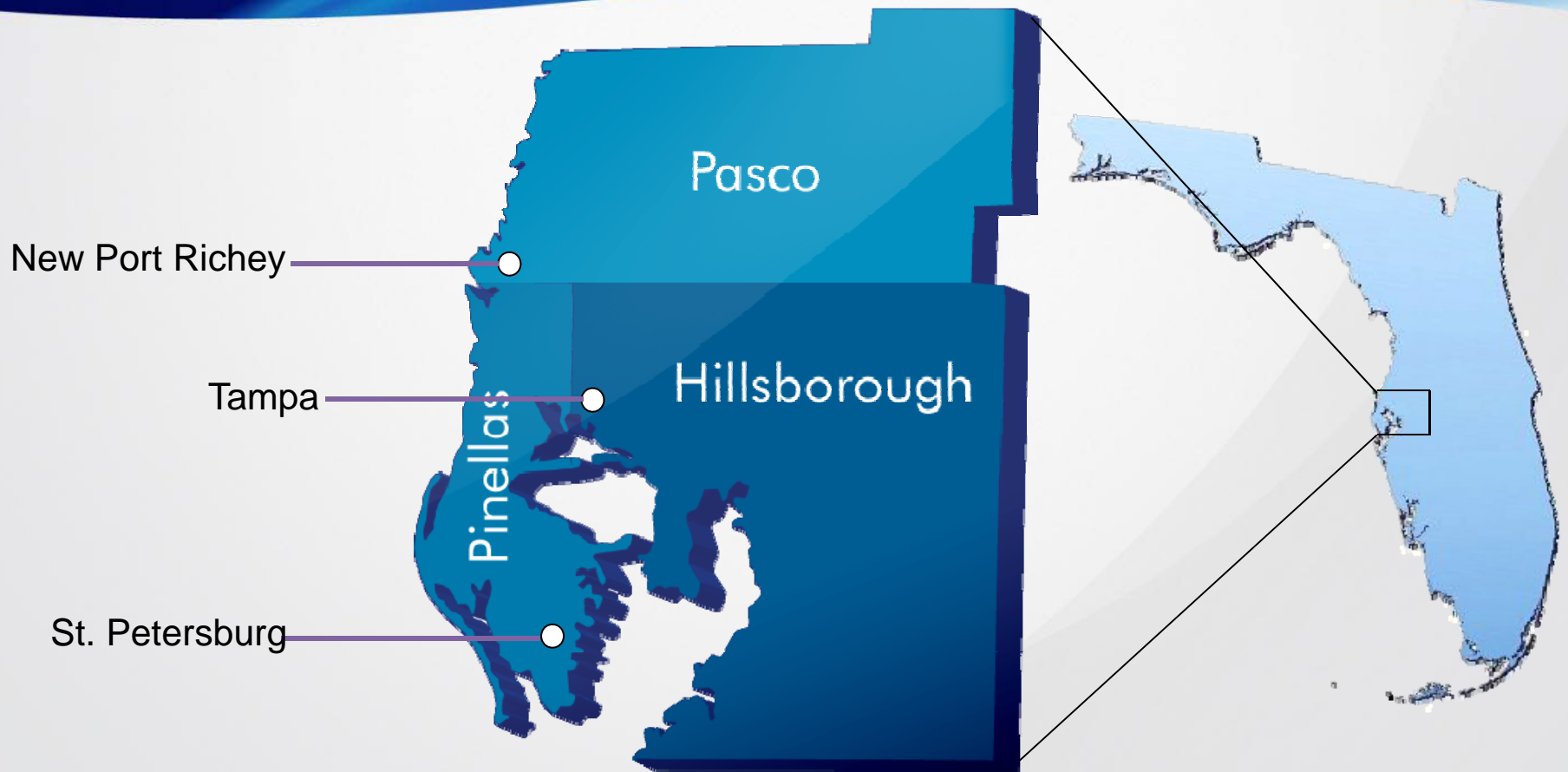


Renovating the Regional Reservoir

*Committee on Environmental
Preservation and Conservation*

March 10, 2011

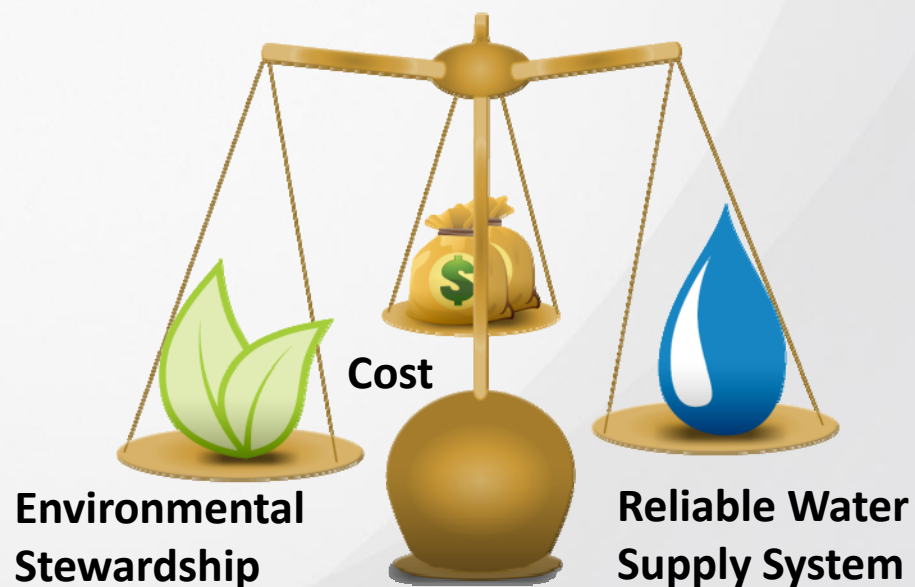
Who We Are



Agency Goals from 1998

Three goals emerged:

- Be reliable
- Be sustainable
- Be affordable



What We've Accomplished

- Ended litigation
- Increased capital investment by \$1 billion
- Developed river water and desalinated seawater alternative supplies
- Reduced groundwater pumping from 147 mgd in 1998 to 79 mgd in 2010

15.5 Billion Gallon Reservoir Provides Essential Storage

Regional Reservoir:

- A critical component
- Savings account for dry times
- Meets 25% of the region's needs for six months

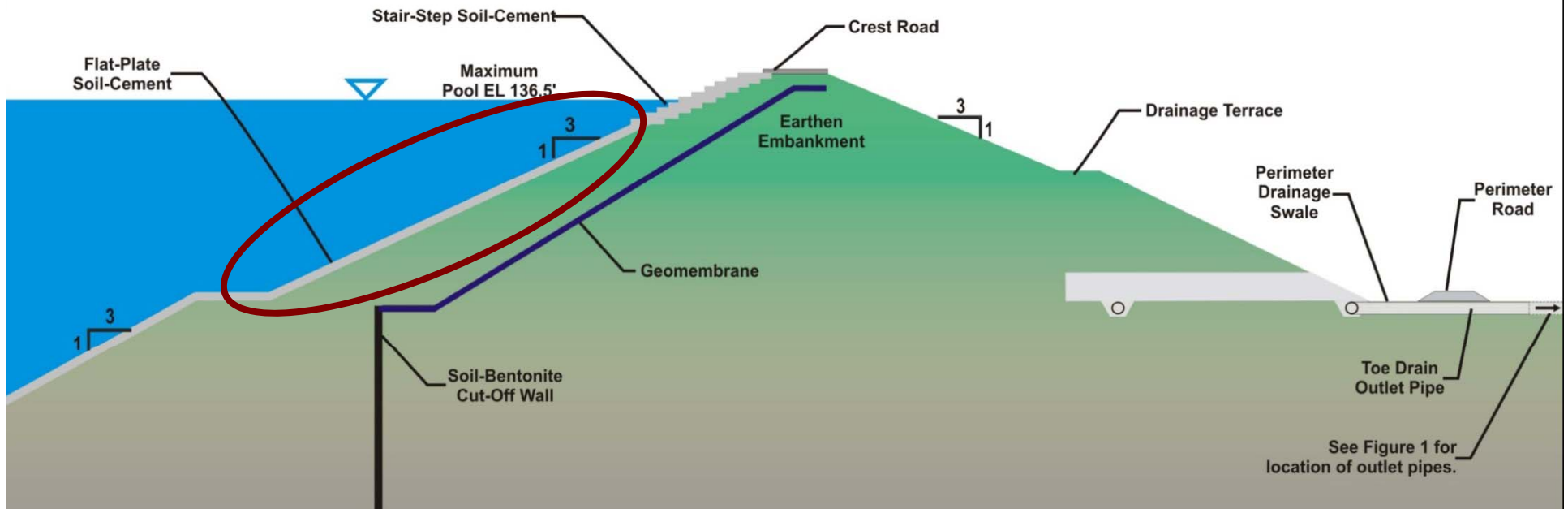


Soil Cement Cracking

- 2006: Noticed first cracks
- 2007: Short-term fix, FDEP approves modified operation
- 2009 FDEP approved regular operation



Soil Cement Cracking



Reservoir Renovation Project

- June 2009: Board approved permanent fix
- April 2010: Industry Day
- May 2010: Received Five Statements of Qualifications
- June 2010: Issued Request for Proposals
- April 2011: Proposals Due



- Settlement with Construction Dynamics Group
- Settlement with Barnard Construction
- Ongoing litigation with HDR Engineering



Sharing Information and Experiences



- 12 years of experience as operating regional utility
- Groundwater, river water and desalinated seawater all part of system
- Resource for others

Questions



Overview of Consumptive Use Permitting in Florida South Florida Water Management District

Florida Senate

Environmental Preservation and Conservation Committee

Senator Charlie Dean, Chairman

March 10, 2011

Background

- **Water is an essential, unique resource**
 - Fuels our way of life
 - Highly Variable: Location, Time, & Quality
- **Florida Water Resources Act (1972)**
 - A Model Water Code
 - Created water management districts
 - Exclusive authority to issue consumptive use permits
 - Based on “certainty” concept
 - Water must be physically available and sufficiently secure
 - Allows for investment in infrastructure
 - Flexibility to adapt



Background, cont.

- **Overall Legislative Direction:**
 - **Achieve sustainable resource management in a manner that affords certainty**
 - **Comprehensive set of “Tools” and standards**
 - **Reservations: Protect fish and wildlife**
 - **Consumptive Use Permits: harm**
 - **Minimum Flows and Levels: significant harm**
 - **Water shortage: serious harm**
- **Balancing and resolving potential conflicts:**
 - **Regional Water Supply Plans**



Background, cont.

Water Supply Plan Role:

- **Supply sources**
 - Identify available sources
 - Identify limitations on sources (Permit criteria, MFL's, reservations)
- **Demands (20 year horizon)**
- **Is supply sufficient to meet demand without harm?**
 - If not, what is plan to fix specific deficiencies?
 - Jointly identify projects, funding options, implement
 - E.g.: Storage project, reverse osmosis, conservation, etc.
- **Use “tools” to implement plan**



Implementation: **Consumptive Use Permit**

“The 3 Prong Test”

The proposed use must meet the following:

- 1. Reasonable-beneficial use as defined in §373.019(4);**
 - Demand
 - Resource impact
- 2. Will not interfere with any presently existing legal use of water; and**
- 3. Is consistent with the public interest**



Implementation in SFWMD

Permitted Allocations

■ SFWMD Allocation:

- One volume allocated for permit duration
 - E.g.: 30 mgd allocated; use at any point in time
- No annual increases embedded in permit

■ Why?

- Permittee substantiated need for water, projecting growth over time at time of application submittal
- Full impact analysis completed; monitoring if needed
- Certainty of knowing full water right available



Implementation in SFWMD: Permitted Allocations for Irrigation

■ SFWMD Allocation:

- Allocations based on:
 - Delivery system efficiency
 - Crop type
 - Amount to supplement demands in 1 in 10 year drought
 - Full, permitted volumes only used in 1 in 10 event
- Users will not use water unnecessarily
 - Costs; crop damage

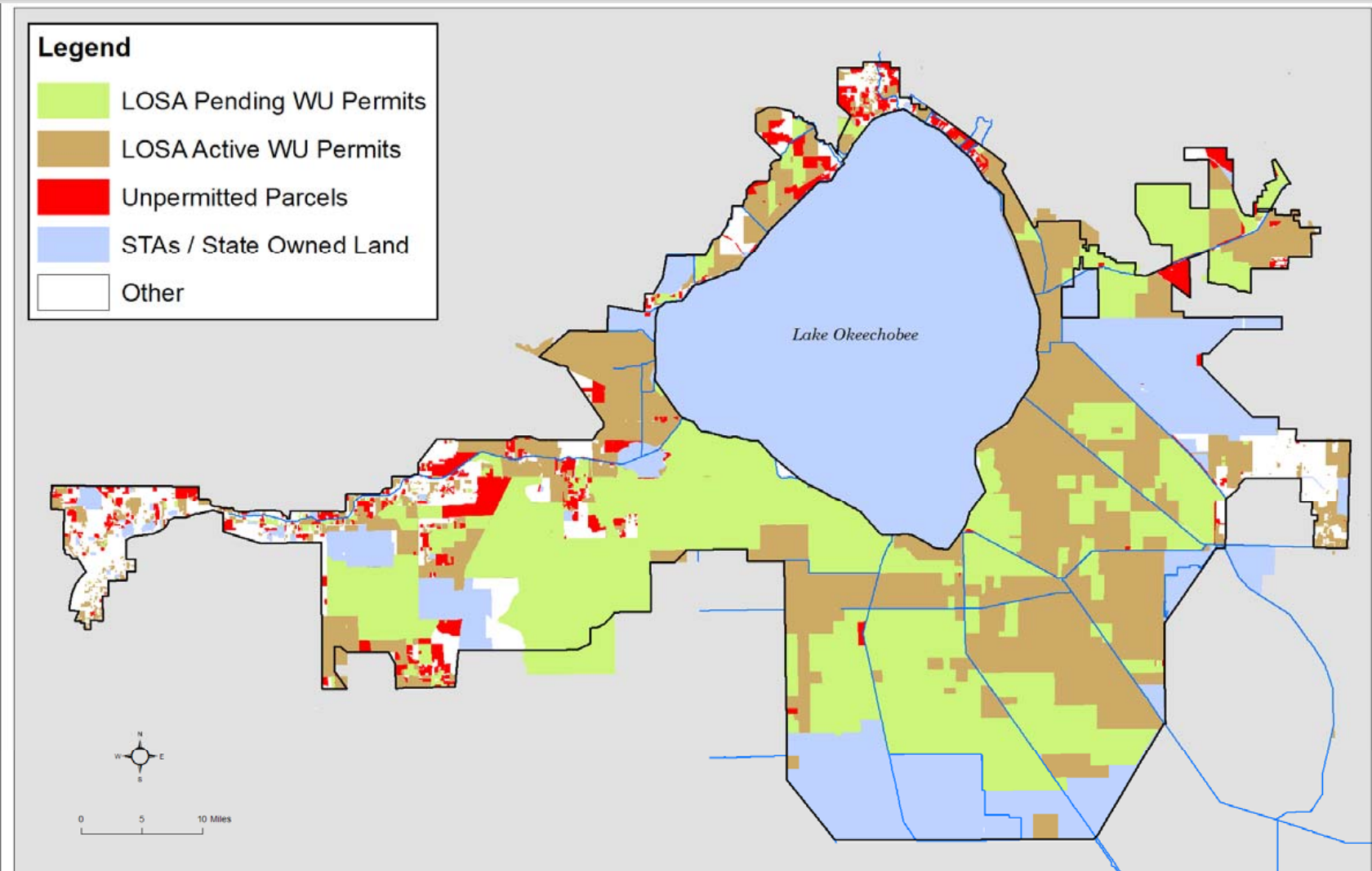


Implementation in SFWMD: Permitted Allocations for Irrigation, cont.

- **Lake Okeechobee Service Area – Permit Renewal Process**
 - 700,000 acres of irrigated agricultural lands
 - “No Farmer Left Behind”
 - Identify all users and assure water right permit issued
 - Extensive outreach effort with assistance from state agencies and industry
 - Public meetings and application assistance
 - Result:
 - Nearly all acres issued permit or have pending application
 - 20 year duration permits



Permit Status – February 2010



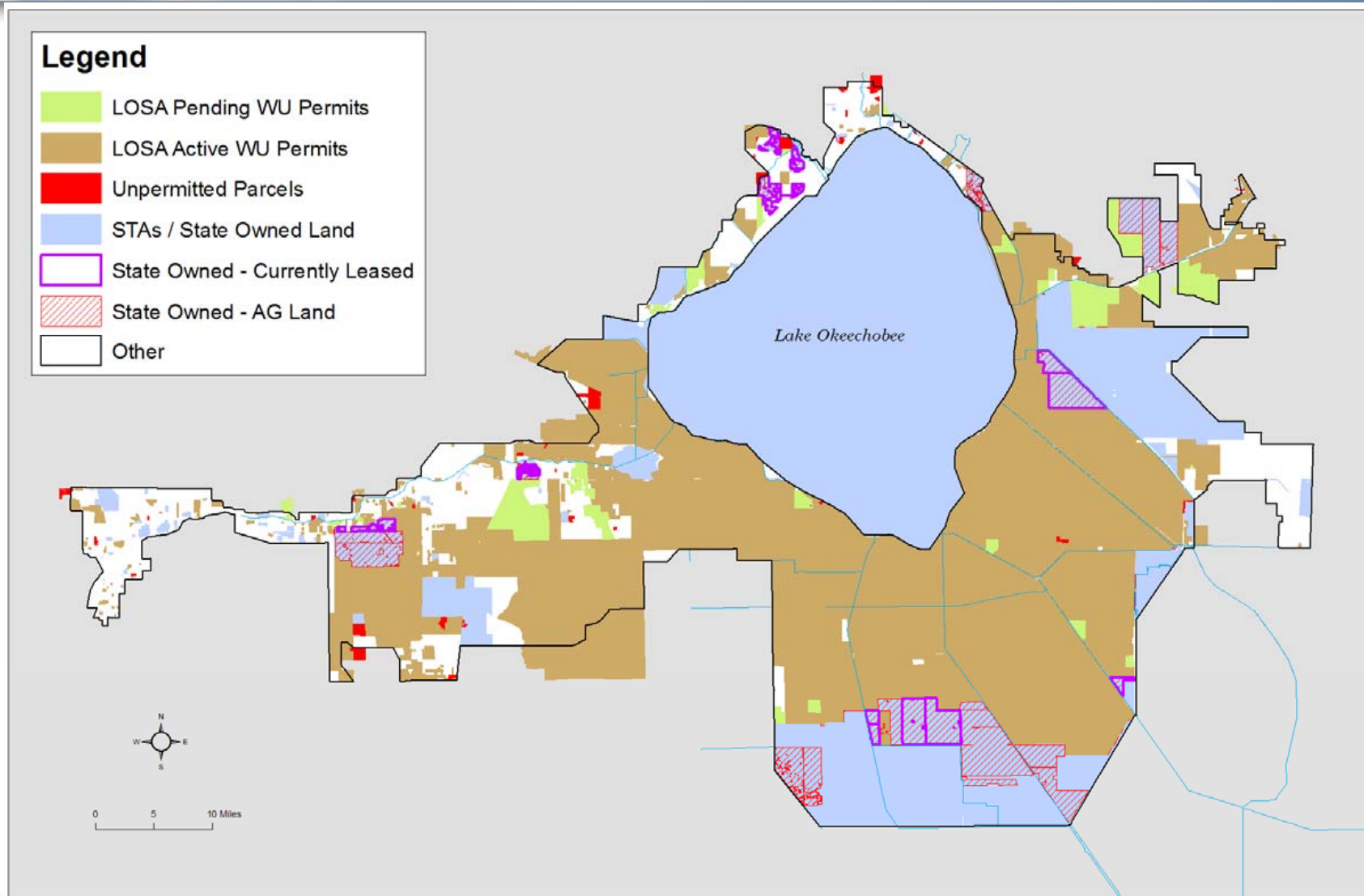
sfwmd.gov
 South Florida Water Management District
 Water Use Regulation
 3301 Gun Club Road, West Palm Beach,
 FL 33406
 561-686-8800 – www.sfwmd.gov

LOSA Water Use Permit Renewal Status - February, 2010

DISCLAIMER:
 This map is a conceptual tool utilized for project development and implementation only. This map is not self-executing or binding, and does not otherwise affect the interests of any person including any vested rights or existing uses of real property. Any information, including but not limited to maps and data, received from the SFWMD is provided "as is" without any warranty and the SFWMD expressly disclaims all express and implied warranties of merchantability and fitness for a particular purpose. The District does not make any representations regarding the use, or the results of the use, of the information provided to you by the District.



Permit Status – October 2010



sfwmd.gov
 South Florida Water Management District
 Water Use Regulation
 3301 Gun Club Road, West Palm Beach, FL 33406
 561-686-8800 – www.sfwmd.gov

LOSAs Water Use Permit Renewal Status - October, 2010

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Implementation in SFWMD: Compliance Reporting

- **Background:**
 - 1997 Legislation required 20 year duration permits, if conditions satisfied for duration
 - 5 year compliance reports
- **Compliance Reporting - Historic Implementation:**
 - Focused reporting on continued demand for water (“truing up” projection with actual demand, identifying if trend existed)
 - Not re-modeling resource impacts
 - Ongoing meetings: Incentives for conservation; extend duration
- **SB 550 (2010) – Changed 5 year to 10 year reporting**
 - Letters to all permittees resulted in permit modification
 - Legislation fully implemented



Implementation in SFWMD: Timing of Alternative Water Supply

■ Background:

- Traditional supply source maximized
- Demands projected to increase
 - Alternative water supply project required
 - Develop on a schedule
 - “Borrowing” may be allowed

■ Issue and program:

- Demands increase at a slower rate so that alternative source not needed until later
- Modify permit to delay alternative source; maximize use of traditional source

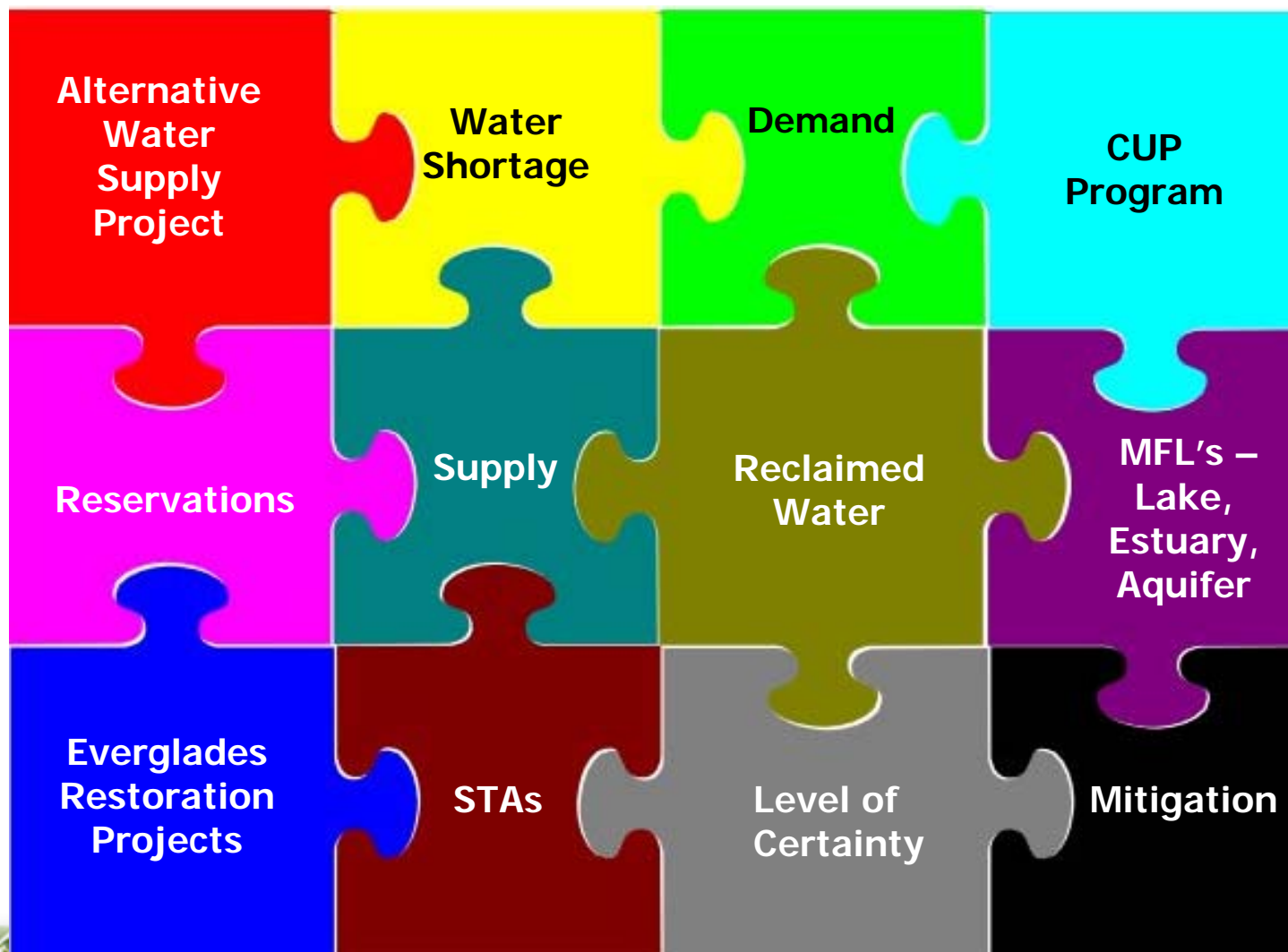


Implementation in SFWMD: Minimum Flows and Levels

- **MFL Definition:**
 - “Significant harm” - temporary loss of function; recovery in 2+ years
- **MFL Implementation Strategy:**
 - MFL criteria established (peer reviewed, scientific studies)
 - MFL & recovery/prevention strategy - both in water supply plan
 - Typically: Storage project; not curtail permitted uses
 - Water shortage cutback triggers (1 in 10 years)
 - If MFL violation, no additional impacts from more consumptive use permits
- **Assurance to all stakeholders of implementation strategy**



Comprehensive framework



Questions

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Director of Legislative Affairs
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(561) 951-2840

Summary of Proposed Septic Tank Legislation

The draft bill:

1. Repeals all provisions of the septic tank evaluation program from SB 550, except for the ban on land spreading of septage. This activity is prohibited after January 1, 2016.
2. Directs the Department of Health to develop a model septic tank evaluation program ordinance.
3. Makes adoption of an evaluation program voluntary for municipalities and counties with Outstanding Florida Waters or nutrient impaired water bodies.
4. Allows the Department of Environmental Protection (DEP) and the municipalities and counties to cooperate to exempt geographic areas from the ordinance requirements. Directs the DEP to adopt rules to provide scientific methodologies, data or tools to assist them in this process.
5. Allows municipalities and counties to adopt stricter evaluation procedures than the model ordinance if they meet certain criteria. All documentation must become part of the public record before adoption of stricter procedures.
6. Grandfathers in any municipality or county that adopts evaluation procedures before January 1, 2012.

1 A bill to be entitled

2 An act relating to onsite sewage treatment and disposal
3 systems; amending s. 381.0065, F.S.; revising legislative
4 intent; directing the Department of Health to develop a model
5 septic tank ordinance; providing minimum requirements for the
6 model ordinance; allowing qualifying counties and municipalities
7 to adopt a septic tank evaluation program ordinance; allowing
8 adoption of more stringent procedures providing certain criteria
9 are met; exempting counties or municipalities that adopt a
10 septic tank evaluation program ordinance before January 1, 2012;
11 eliminating provisions directing the Department of Health to
12 create and administer a statewide septic tank evaluation
13 program; eliminating procedures and criteria for the evaluation
14 program; repealing s. 381.00656, F.S., to terminate the grant
15 program for repair of onsite sewage treatment disposal systems
16 identified pursuant to the evaluation program, to conform;
17 amending s. 381.0066, F.S.; eliminating provisions authorizing
18 the department to collect an evaluation report fee; eliminating
19 provisions relating to disposition of fee proceeds and a
20 revenue-neutral fee schedule; providing an effective date.

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

23 Section 1. Paragraph (a) of subsection (1) of section
24 381.0065, Florida Statutes is amended, and paragraphs (a)
25 through (i) of subsection (5), of that section, are repealed,
26 and new paragraphs (a) through (f), of that section, are added
27 to read:

28 381.0065 Onsite sewage treatment and disposal systems;
29 regulation.—

30 (1) LEGISLATIVE INTENT.—

31 (a) It is the intent of the Legislature that proper
32 management of onsite sewage treatment and disposal systems is
33 paramount to the health, safety, and welfare of the public.—~~It~~
34 ~~is further the intent of the Legislature that the department~~
35 ~~shall administer an evaluation program to ensure the operational~~
36 ~~condition of the system and identify any failure with the~~
37 ~~system.~~

38 (5) EVALUATION AND ASSESSMENT.—

39 (a) The department shall develop a model septic tank
40 evaluation program ordinance by January 1, 2012, that may be
41 adopted and enforced by counties and municipalities. The
42 ordinance must, at a minimum:

43 1. Require evaluations of all septic tanks within the
44 county's or municipality's jurisdiction every five years.

45 2. Require a licensed septic tank contractor to evaluate
46 the septic tank, mound and drainfield to ensure compliance with
47 Chapter 64E-6, Florida Administrative Code.

48 3. Require a licensed septic tank contractor to determine
49 whether the septic tank requires a pumpout. If the contractor
50 determines a pumpout is not necessary, he or she must estimate
51 the date when a pumpout will become necessary and provide that
52 date to the septic tank owner and the local health unit.

53 4. Exempt septic systems that require an operating permit.

54 5. Require 60 days notification to the septic tank owner
55 that the septic tank is due for an evaluation.

56 6. Authorize the local health units of the department to
57 assess a fee paid by the owner of the septic tank to cover the
58 costs of administering the evaluation program.

59 7. Provide penalties for licensed septic tank contractors
60 who do not comply with the requirements of the adopted
61 ordinance.

62 8. Provide penalties for septic tank owners who do not
63 comply with requirements of the adopted ordinance.

64 (b) A county or municipality located within the watershed
65 of a water body or water segment that is listed as impaired by
66 nutrients pursuant to s. 403.067, or an Outstanding Florida
67 Water as designated by the Department of Environmental
68 Protection, may adopt the model ordinance developed by the
69 department for a five-year septic tank evaluation program. A
70 county or municipality may adopt additional or more stringent
71 procedures than the model ordinance if it documents that it has
72 considered all relevant scientific information, including input
73 from the department and the Department of Environmental
74 Protection, on the need for additional or more stringent
75 evaluation procedures. The additional or more stringent
76 procedures must address septic tank use as a contributor to
77 nutrient loading to a water body. All documentation must become
78 part of the public record before adoption of the additional or
79 more stringent procedures.

80 (c) Any county or municipality that adopts its own septic
81 tank evaluation program by ordinance before January 1, 2012, is
82 exempt from this subsection. Such ordinances adopted or amended
83 on or after January 1, 2012, must substantively conform to the
84 most recent version of the model septic tank evaluation program
85 ordinance and are subject to this subsection, as applicable.

86 (d) By January 1, 2012, the Department of Environmental
87 Protection shall adopt rules that provide the minimum scientific

88 methodologies, data, or tools that shall be used by a county or
89 municipality to support the request for an exemption as provided
90 for in paragraph (e).

91 (e) A county or municipality, upon application to the
92 Department of Environmental Protection, may seek to have
93 specific geographic areas exempted from the requirements of a
94 septic tank evaluation program ordinance by demonstrating that
95 activities within such areas will not lead to new or continued
96 nutrient loading.

97 (f) Pursuant to paragraph (e), the Department of
98 Environmental Protection may approve or deny an application for
99 an exemption, or may modify the boundaries of the specific
100 geographic areas for which an exemption is sought. The ruling of
101 the Department of Environmental Protection on the applicant's
102 request shall constitute a final agency action subject to review
103 pursuant to ss. 120.569 and 120.57.

104 ~~(a) Beginning January 1, 2011, the department shall~~
105 ~~administer an onsite sewage treatment and disposal system~~
106 ~~evaluation program for the purpose of assessing the fundamental~~
107 ~~operational condition of systems and identifying any failures~~
108 ~~within the systems. The department shall adopt rules~~
109 ~~implementing the program standards, procedures, and~~
110 ~~requirements, including, but not limited to, a schedule for a 5-~~
111 ~~year evaluation cycle, requirements for the pump-out of a system~~
112 ~~or repair of a failing system, enforcement procedures for~~
113 ~~failure of a system owner to obtain an evaluation of the system,~~
114 ~~and failure of a contractor to timely submit evaluation results~~
115 ~~to the department and the system owner. The department shall~~
116 ~~ensure statewide implementation of the evaluation and assessment~~

117 ~~program by January 1, 2016.~~

118 ~~(b) Owners of an onsite sewage treatment and disposal~~
119 ~~system, excluding a system that is required to obtain an~~
120 ~~operating permit, shall have the system evaluated at least once~~
121 ~~every 5 years to assess the fundamental operational condition of~~
122 ~~the system, and identify any failure within the system.~~

123 ~~(c) All evaluation procedures must be documented and~~
124 ~~nothing in this subsection limits the amount of detail an~~
125 ~~evaluator may provide at his or her professional discretion. The~~
126 ~~evaluation must include a tank and drainfield evaluation, a~~
127 ~~written assessment of the condition of the system, and, if~~
128 ~~necessary, a disclosure statement pursuant to the department's~~
129 ~~procedure.~~

130 ~~(d)1. Systems being evaluated that were installed prior to~~
131 ~~January 1, 1983, shall meet a minimum 6-inch separation from the~~
132 ~~bottom of the drainfield to the wettest season water table~~
133 ~~elevation as defined by department rule. All drainfield repairs,~~
134 ~~replacements or modifications to systems installed prior to~~
135 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
136 ~~the bottom of the drainfield to the wettest season water table~~
137 ~~elevation as defined by department rule.~~

138 ~~2. Systems being evaluated that were installed on or after~~
139 ~~January 1, 1983, shall meet a minimum 12-inch separation from~~
140 ~~the bottom of the drainfield to the wettest season water table~~
141 ~~elevation as defined by department rule. All drainfield repairs,~~
142 ~~replacements or modification to systems developed on or after~~
143 ~~January 1, 1983, shall meet a minimum 24-inch separation from~~
144 ~~the bottom of the drainfield to the wettest season water table~~
145 ~~elevation.~~

146 ~~(c) If documentation of a tank pump out or a permitted new~~
147 ~~installation, repair, or modification of the system within the~~
148 ~~previous 5 years is provided, and states the capacity of the~~
149 ~~tank and indicates that the condition of the tank is not a~~
150 ~~sanitary or public health nuisance pursuant to department rule,~~
151 ~~a pump out of the system is not required.~~

152 ~~(f) Owners are responsible for paying the cost of any~~
153 ~~required pump out, repair, or replacement pursuant to department~~
154 ~~rule, and may not request partial evaluation or the omission of~~
155 ~~portions of the evaluation.~~

156 ~~(g) Each evaluation or pump out required under this~~
157 ~~subsection must be performed by a septic tank contractor or~~
158 ~~master septic tank contractor registered under part III of~~
159 ~~chapter 489, a professional engineer with wastewater treatment~~
160 ~~system experience licensed pursuant to chapter 471, or an~~
161 ~~environmental health professional certified under chapter 381 in~~
162 ~~the area of onsite sewage treatment and disposal system~~
163 ~~evaluation.~~

164 ~~(h) The evaluation report fee collected pursuant to s.~~
165 ~~381.0066(2)(b) shall be remitted to the department by the~~
166 ~~evaluator at the time the report is submitted.~~

167 ~~(i) Prior to any evaluation deadline, the department must~~
168 ~~provide a minimum of 60 days' notice to owners that their~~
169 ~~systems must be evaluated by that deadline. The department may~~
170 ~~include a copy of any homeowner educational materials developed~~
171 ~~pursuant to this section which provides information on the~~
172 ~~proper maintenance of onsite sewage treatment and disposal~~
173 ~~systems.~~

174 Section 2. Section 381.00656, Florida Statutes, is

175 repealed:

176 ~~381.00656 Grant program for repair of onsite sewage~~
177 ~~treatment disposal systems. Effective January 1, 2012, the~~
178 ~~department shall administer a grant program to assist owners of~~
179 ~~onsite sewage treatment and disposal systems identified pursuant~~
180 ~~to s. 381.0065 or the rules adopted thereunder. A grant under~~
181 ~~the program may be awarded to an owner only for the purpose of~~
182 ~~inspecting, pumping, repairing, or replacing a system serving a~~
183 ~~single-family residence occupied by an owner with a family~~
184 ~~income of less than or equal to 133 percent of the federal~~
185 ~~poverty level at the time of application. The department may~~
186 ~~prioritize applications for an award of grant funds based upon~~
187 ~~the severity of a system's failure, its relative environmental~~
188 ~~impact, the income of the family, or any combination thereof.~~
189 ~~The department shall adopt rules establishing the grant~~
190 ~~application and award process, including an application form.~~
191 ~~The department shall seek to make grants in each fiscal year~~
192 ~~equal to the total amount of grant funds available, with any~~
193 ~~excess funds used for grant awards in subsequent fiscal years.~~

194 Section 3. Subsection (2) of section 381.0066, Florida
195 Statutes, is amended to read:

196 381.0066 Onsite sewage treatment and disposal systems;
197 fees.—

198 (2) The minimum fees in the following fee schedule apply
199 until changed by rule by the department within the following
200 limits:

201 (a) Application review, permit issuance, or system
202 inspection, including repair of a subsurface, mound, filled, or
203 other alternative system or permitting of an abandoned system: a

204 fee of not less than \$25, or more than \$125.

205 ~~(b) A 5-year evaluation report submitted pursuant to s.~~
206 ~~381.0065(5): a fee not less than \$15, or more than \$30. At least~~
207 ~~\$1 and no more than \$5 collected pursuant to this paragraph~~
208 ~~shall be used to fund a grant program established under s.~~
209 ~~381.00656.~~

210 (b)(e) Site evaluation, site reevaluation, evaluation of a
211 system previously in use, or a per annum septage disposal site
212 evaluation: a fee of not less than \$40, or more than \$115.

213 (c)(d) Biennial Operating permit for aerobic treatment
214 units or performance-based treatment systems: a fee of not more
215 than \$100.

216 (d)(e) Annual operating permit for systems located in areas
217 zoned for industrial manufacturing or equivalent uses or where
218 the system is expected to receive wastewater which is not
219 domestic in nature: a fee of not less than \$150, or more than
220 \$300.

221 (e)(f) Innovative technology: a fee not to exceed \$25,000.

222 (f)(g) Septage disposal service, septage stabilization
223 facility, portable or temporary toilet service, tank
224 manufacturer inspection: a fee of not less than \$25, or more
225 than \$200, per year.

226 (g)(h) Application for variance: a fee of not less than
227 \$150, or more than \$300.

228 (h)(i) Annual operating permit for waterless, incinerating,
229 or organic waste composting toilets: a fee of not less than \$50,
230 or more than \$150.

231 (i)(j) Aerobic treatment unit or performance-based
232 treatment system maintenance entity permit: a fee of not less

233 than \$25, or more than \$150, per year.

234 (j)~~(k)~~ Reinspection fee per visit for site inspection after
235 system construction approval or for noncompliant system
236 installation per site visit: a fee of not less than \$25, or more
237 than \$100.

238 (k)~~(l)~~ Research: An additional \$5 fee shall be added to
239 each new system construction permit issued to be used to fund
240 onsite sewage treatment and disposal system research,
241 demonstration, and training projects. Five dollars from any
242 repair permit fee collected under this section shall be used for
243 funding the hands-on training centers described in s.
244 381.0065(3)(j).

245 (l)~~(m)~~ Annual operating permit, including annual inspection
246 and any required sampling and laboratory analysis of effluent,
247 for an engineer-designed performance-based system: a fee of not
248 less than \$150, or more than \$300.

249
250 ~~On or before January 1, 2011, the Surgeon General, after~~
251 ~~consultation with the Revenue Estimating Conference, shall~~
252 ~~determine a revenue neutral fee schedule for services provided~~
253 ~~pursuant to s. 381.0065(5) within the parameters set in~~
254 ~~paragraph (b). Such determination is not subject to the~~
255 ~~provisions of chapter 120. The funds collected pursuant to this~~
256 ~~subsection must be deposited in a trust fund administered by the~~
257 ~~department, to be used for the purposes stated in this section~~
258 ~~and ss. 381.0065 and 381.00655.~~

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

Comments from Commissioner Brummer - draft bill relating to onsite wastewater treatment and disposal:

The draft is an excellent start to the legislative process. I believed that we would not have time this session to implement a program that protects both the property owner and the environment. The draft convinces me that it is possible to do so.

Line 39: "The department shall develop a model ordinance..." It is not that the Department of Health is without credibility in this matter; it is that we are in desperate fear of the DoH Division of Onsite Wastewater Systems.

I realize that it would be a challenge to include a model ordinance in the bill. If that is not possible, is there another alternative that removes the bureaucrats at DoH Division of Onsite Wastewater Systems from spoiling good legislation in their interpretation and application?

One proposal is for the Technical Review and Advisory Panel (TRAP) to be charged with drafting the bill. TRAP is a volunteer group that does an excellent service and has saved homeowners from the bureaucrats at DoH Division of Onsite Wastewater Systems. I am not certain they would be able to spend the time it would require to draft an appropriate model ordinance. I would also be concerned about their ordinance drafting capacity as the group is soil scientists, septic system professionals, engineers, home builders, and realtors.

Line 44: "Evaluations" will require a definition. A pump out every five years required for the evaluation would leave us in the same situation as SB 550. A definition of evaluation by DoH can be presumed to be a pump out every five years. This requirement created the outcry over SB 550.

Line 46: "compliance with Chapter 64E-6, Florida Administrative Code." is an overwhelming statement. I am not certain anyone would be able to assure the general public that property owners can be protected. The statement "compliance with Chapter 64E-6, Florida Administrative Code." eliminates local control in the evaluation process and reverts it to DoH irrespective of the intent of the legislation.

The concern being that a full pump out and inspection would be required in order to "evaluate" "compliance with Chapter 64E-6."

It is my understanding that some existing septic systems do not meet 64E-6 but that they operate properly and pose not threat to the environment, ground water or water bodies.

Line 48: "Require a licensed septic tank contractor" presently skepticism is high regarding this legislation because of the furor caused by SB 550. I would suggest looking at some requirement that provides separation between the licensed contractor doing the inspections and the licensed contractor doing the repair or replacement work.

Not certain there is an easy answer to this issue.

Line 50: “must estimate when a pump out will become necessary.” A competent septic professional tells me that one cannot project such an estimate.

Line 54: Notice is good. This item addresses an outcry over private property access that was in SB 550.

Lines 39 & 64: Sections (5) (a.) & (b.), I do not understand the difference between the first sentence in each. It appears to me they both accomplish the same objective.

Should the second sentence in (5) (b.) also refer to nutrients pursuant to s. 403.067?

Line 62: The model ordinance must have a reasonable limit on penalties that county commissions would not be permitted to exceed.

Line 73: “the Department of Environmental Protection,” the only thing more frightening than the bureaucrats at DoH Division of Onsite Wastewater Systems is the bureaucrats at FDEP. Is there anyway to exclude FDEP input?

Line 77: “nutrient loading...” It is my understanding that DoH’s TRAP committee is of the position that nutrient loading from septic systems is not currently quantified. Should this sentence be removed?

It would appear practical to assess a failed septic system’s impact upon a water body. Elimination of the failed system should be prompt. Additional setback for the replacement system, if possible, would be appropriate in the ordinance.

Allowing increased setbacks for new septic systems on water bodies would be appropriate in the ordinance.

Line 91: The exemption provision is very practical. The provision may be the item that would restore public confidence in the septic system management process. Deferring to FDEP would effectively nullify the exemption possibility and make it extremely costly to the county to administer the septic evaluation ordinance. FDEP will not approve exemptions.

County commissions should know or be able to determine the areas in their county for which exemption from evaluation would be appropriate.

Please understand that our fear of DoH & DEP is rational and comes from the experience of dealing with this issue since 2005.

One of the major concerns with DoH was its proposed rules for the implementation of SB 550. The DoH proposed rule could have required the upgrade to current standards systems successfully operating as designed and causing no threat to environmental health.

In the T.R.A.P. committee meeting regarding the proposed rule the Senate sponsor of SB 550 acknowledged that the proposed rule far exceeded any intention of the law.

It is imperative that any legislation be clear that a system that is “not failing” should not be required to be brought to standards above those in place when the system was originally installed.

General items: The State has funded two phases of the statewide passive system study. It is our hope that the study will produce improved passive septic systems that are cost feasible that are better at protecting the environment at a cost and effectiveness than the performance based treatment systems that were going to be forced upon the Wekiva Study area by DoH.

There is skepticism whether implementation of the septic system evaluation legislation before the completion of the studies is appropriate. I believe the two items must be separated. Obviously, any evaluation legislation may need to be updated upon completion of the studies; however, evaluation of existing systems is separate from future systems.

It is my understanding the DoH Division of Onsite Wastewater Systems is moving the study toward non-passive systems. It is the position of the DoH that non-passive systems are passive. This is a great concern in the community following the matter.

Continued funding of the study by the Legislature is imperative.

Pump out of septic tanks is recommended at different times depending on system size and number of users. Any requirement for pumping must not be more frequent than every five years. We may need to limit the county ordinances to a five year minimum. Any pump out requirement above five years should include a reference to a professional or technical standard that considers size and use.

There are 33 first magnitude springs in 20 counties. 21 of the first magnitude springs are located on land owned by a county, a water management district, the State of Florida or the Federal government. 12 of the first magnitude springs are on private property. Those 12 springs are in 9 counties.

Protect those nine springs individually.