

STORAGE NAME: h1491a.wrm

DATE: April 17, 1997

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
WATER & RESOURCE MANAGEMENT
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 1491

RELATING TO: Saltwater plants and animals

SPONSOR(S): Representative Horan

STATUTE(S) AFFECTED: Amends sections 370.01, 370.06, 370.081, 370.10, and 370.14, Florida Statutes (F.S.) Creates s.370.1405, F.S.

COMPANION BILL(S): SB 580 (s)

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) WATER & RESOURCE MANAGEMENT YEAS 9 NAYS 0
- (2) BUSINESS REGULATION & CONSUMER AFFAIRS
- (3)
- (4)
- (5)

I. SUMMARY:

HB 1491 authorizes the Department of Environmental Protection (DEP) to issue special activity licenses permitting the cultivation of indigenous and non-indigenous saltwater species, if the aquacultural activities address quality control, sanitation, public health regulations and protection of indigenous marine life.

The bill also provides a process by which Florida Marine Patrol (FMP) officers can be present at the weigh-in of crawfish during the closed season, and requires the filing of certain reports by seafood dealers of crawfish during the closed season.

As drafted, the bill has a minimal fiscal impact on governmental agencies, but has generated a number of financial concerns among people involved in the aquaculture industry.

HB 1491 takes effect July 1, 1997.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 370, F.S., gives DEP the authority to regulate a variety of activities involving marine life. However, the agency lacks specific authority to control the spread of non-native, or exotic, plants and animals in saltwaters of the state, with the exception of an importation ban on several species listed in statute and requiring a permit for the importation of sea snakes by zoos.

In 1996, the Legislature enacted Chapter 96-247, Laws of Florida, a major package of initiatives to jump-start the marine aquaculture industry in the state. For example, the legislation requires DEP to develop a streamlined permitting process for aquaculturists that consolidates a number of different regulatory requirements so that there is a single application and a single fee for marine aquaculture activities regulated by DEP.

Since the passage of the 1996 legislation, DEP staff has re-evaluated whether there are sufficient safeguards to prevent the introduction of non-native or diseased marine life into Florida's marine environment, and has come to the conclusion that additional regulation is needed.

Manpower constraints relating to enforcement of Chapter 370, F.S., requirements is another issue of concern for DEP. The Florida Marine Patrol (FMP), DEP's enforcement arm, is responsible for a broad range of fisheries enforcement, including the requirement that an FMP officer must be present during the weighing of crawfish imported during the closed season.

B. EFFECT OF PROPOSED CHANGES:

HB 1491 would:

- o Clarify DEP's authority to control the release of diseased and non-indigenous species into marine waters for which the state is responsible by adding new conditions to the special activity licenses. These special activity licenses will be issued in accordance with existing laws on shellfish processing, importation of exotic species, and aquaculture permits, where such activities involve quality control, sanitation, public health regulations, and protection of native marine populations.
- o Deletes "rabbitfish" from the list of marine species which it is illegal to import to Florida. DEP staff has determined that rabbitfish pose minimal threat to native marine life.
- o Specifies that DEP may allow the importation, cultivation or possession of non-native saltwater species for aquaculture or scientific purposes, and gives DEP the authority to implement a number of measures. For example, certified aquaculture producers and people licensed to harvest marine life for scientific, exhibition, or research purposes will be the only persons granted the authorization. DEP also can require aquaculture operators to submit a facility plan that addresses ways to prevent the accidental release of non-native, or farm-bred stocks into the wild.

- o Extends DEP authority over saltwater animals used for experimental, scientific, or exhibition purposes to all saltwater species.
- o Amends requirement that an FMP officer must be present at the weigh-in of crawfish during the closed season. Instead, the operator of the fish house must notify the FMP when the weigh-in will occur; postpone the weigh-in up to four hours at the FMP's request; make the crawfish available for FMP inspection; and submit within 48 hours after weigh-in a signed receipt of the number of pounds the crawfish weighed.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

Not specifically, but HB 1491 does expand DEP's general regulatory authority over aquacultural activities, and the importation of non-native plants and animals into marine waters. It is likely that DEP would attempt to use its existing rulemaking authority to draft specific requirements related to these regulations.

(2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

DEP would receive specific authority to regulate the importation of non-native marine life, as it relates primarily to aquaculture activities. The aquaculture industry would be obligated to adhere to new requirements, such as facility plans to guard against accidental release of captive stocks in the wild.

(3) any entitlement to a government service or benefit?

No.

b. If an agency or program is eliminated or reduced:

(1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

Not applicable.

(2) what is the cost of such responsibility at the new level/agency?

Not applicable.

(3) how is the new agency accountable to the people governed?

Not applicable.

2. Lower Taxes:

Not applicable.

3. Personal Responsibility:

a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

There will be costs associated with private-sector compliance of the increased regulation, but no specific fee will be charged.

4. Individual Freedom:

a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

HB 1491 is an attempt by DEP to close what it considers a loophole in the 1996 aquaculture legislation -- that the statutes are silent on DEP's ability to regulate the importation and release of non-native or diseased animals and plants that likely will be used by the industry. Currently, it is legal to import non-native species, that are not banned in statutes, for aquaculture and other purposes.

5. Family Empowerment:

Not applicable.

D. SECTION-BY-SECTION RESEARCH:

Section 1: Amends s. 370.01, F.S., to define "non-indigenous saltwater species."

Section 2: Amends s. 370.06, F.S., to expand DEP authority to issue special activity licenses for a number of activities, not only those related to shellfish and clam aquaculture activities. Specifies that these special activity licenses are necessary when the operations address quality control, sanitation, public health regulations and protection of indigenous populations of saltwater species.

Section 3: Amends s. 370.081, to delete rabbitfish from the list of marine life it is illegal to import. Specifies that DEP has the authority to regulate the importation, cultivation, or possession of non-native saltwater species within the state for aquaculture or scientific purposes. Lists a number of requirements and conditions. Corrects a cross-reference.

Section 4: Amends s. 370.10, F.S., to extend DEP regulation over the taking of non-indigenous saltwater species to persons involved in scientific, experimental and exhibitional activities.

Section 5: Amends s. 370.14, F.S., to make it discretionary for an FMP officer to be present at weigh-in of crawfish during its closed season. Adds notification requirements.

Section 6: Creates s. 370.1405, F.S., to specify reporting requirements of dealers in crawfish during its closed season.

Section 7: Provides that this act shall take effect July 1, 1997.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

Minimal. DEP may incur some expenses related to increased oversight of aquaculture operations and other facilities that deal in non-native marine species.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

Minimal.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

Aquaculture operations and other facilities that would fall under HB 1491's increased regulation likely will experience increased costs, but the amount is indeterminate.

2. Direct Private Sector Benefits:

The public will generally benefit if native marine life remains healthy and abundant.

3. Effects on Competition, Private Enterprise and Employment Markets:

Indeterminate, but the aquaculture industry has expressed concerns that the provisions of HB 1491 may adversely impact its ability to compete with its counterparts in other states.

Additionally, the definition of "nonindigenous saltwater species" includes any saltwater organism that did not originate "in Florida saltwaters or any geographic subregions therein..." This is being construed to mean even native fish whose traditional habitat is an estuarine system in the Big Bend area could not be introduced into an estuarine system in southwest Florida.

D. FISCAL COMMENTS:

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

The mandates provision is not applicable to a research discussion of HB 1491 because the bill does not require counties and municipalities to spend funds, nor to take actions requiring the expenditure of funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

Not applicable.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

Not applicable.

V. COMMENTS:

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On April 15, 1997, the Committee on Water and Resource Management adopted a strike-everything-after-the-enacting clause amendment and five amendments to the amendment. The strike-everything amendment deleted the original bill's aquaculture-related provisions. The other amendments:

- Specifies paperwork which Florida commercial fishermen who legally harvest mullet with gill nets in Alabama waters can show, if stopped by law enforcement officers.
- Clarifies language related to special activity licenses for aquaculturists who cultivate sturgeon.
- Amends s. 370.15, F.S., to specify that the use of currently legal shrimp trawls outside of nearshore and inshore waters shall continue to be allowed until the Florida Marine Fisheries Commission adopts valid rules on such gear.
- Amends s. 253.68, F.S., to delete county commissions' current authority to object to the state lease of sovereign submerged lands for aquaculture purposes.
- Amends s. 253.03 F.S., to allow owners of historical structures on submerged lands to apply for submerged land leases when their current leases, or when their grandfathering-in provisions, expire.

The committee had adopted the bill by a vote of 11-0, and then later in the meeting voted to reconsider it to add more amendments. The amendments passed, and then the bill was readopted by a final vote of 9-0.

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VII. SIGNATURES:

COMMITTEE ON WATER & RESOURCE MANAGEMENT:

Prepared by:

Legislative Research Director:

Joyce Pugh

Joyce Pugh