

**STORAGE NAME:** h3855.ca

**DATE:** March 9, 1998

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
COMMUNITY AFFAIRS  
BILL RESEARCH & ECONOMIC IMPACT STATEMENT - LOCAL LEGISLATION**

**BILL #:** HB 3855

**RELATING TO:** Brevard County/Clam Farming

**SPONSOR(S):** Representative Futch

**COMPANION BILL(S):** SB 1780 (I)

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

- (1) COMMUNITY AFFAIRS
  - (2)
  - (3)
  - (4)
  - (5)
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**I. SUMMARY:**

This bill requires Brevard County clam harvesters to maintain a 75-foot buffer zone from private property when clam harvesting. The bill reduces the number of hours of educational seminars required for clam license renewal from a maximum of eight hours to four hours.

The provisions of the bill expire July 1, 2001.

Based on the Economic Impact Statement, there appears to be no significant fiscal impact to the county or the Department of Environmental Protection.

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II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Chapter 94-419, Laws of Florida, provides for certain license restrictions, fees and requirements for clam harvesters in Brevard County. Only 500 clam licenses are issued for Brevard County at any one time. It provides criminal and civil penalties for violating provisions of the act. The act was subsequently amended by chapter 96-463, Laws of Florida.

The current laws also require clam harvesters to take a minimum of four hours and a maximum of eight hours of an educational seminar held by the Department of Environmental Protection in order to renew their clam license. The seminar consists of harvesting, health standards, and any other issues appropriate to the health of the clam resources and the clamming industry. Persons attending the seminars report that the seminars are generally completed in approximately two hours. However, attendees are unable to leave the seminar without violating the law because of present requirements.

It is reported that clam harvesting activity is sometimes performed close to private property. Private property owners seek some assurances that clam harvesting will not take place too close to their property.

No expiration date is provided for the act.

B. EFFECT OF PROPOSED CHANGES:

This local bill amends current Laws of Florida. The bill requires Brevard County clam farmers to maintain a 75-foot buffer zone from private property when clam harvesting. The zone is within 75 feet of a shoreline of the Indian River or the Banana River which abuts property that is used for residential purposes or within 75 feet of any canal bank. This requirement applies to clam harvesting for private use, commercial sale, or relaying. The requirement also applies to natural persons possessing or harvesting clams in noncommercial quantities during open season which is designated by law or regulation.

The bill reduces the number of hours required for an educational seminar for clam harvesters seeking licenses renewal. The seminar can be up to 4 hours, but not less than 2 hours. This allows the Department of Environmental Protection to lawfully end an educational seminar in two hours if necessary.

C. LAWS OF FLORIDA/FLORIDA STATUTES AFFECTED:

**Chapter 94-419, Laws of Florida, as amended by chapter 96-463, Laws of Florida.**

D. 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?

No.

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

No. Although, the Division of Law Enforcement (division) within the Department of Environmental Protection (department) is responsible for enforcing the provision requiring clambers to maintain a 75-foot buffer zone to private property, it does not consider this a new responsibility.

The reason, provided by the division, is that a Marine Fisheries Commission rule has currently closed significant areas along the Indian and Banana Rivers due to water quality issues. If these areas are reopened, the division is responsible for patrolling these areas anyway. The provisions of this bill would create a new responsibility along with some fiscal impact for the division, if these areas were not currently closed for other reasons.

(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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

N/A

- b. Does the bill require or authorize an increase in any fees?

N/A

- c. Does the bill reduce total taxes, both rates and revenues?

As to tax rates, no. However, the impact that the bill may have on recreational clambers may have a negative impact on Brevard County according to a representative from the Department of Environmental Protection. The 75-foot buffer zone requirement may keep recreational clambers away, thereby, negatively impacting the economy of Brevard County. Normal indirect economic multipliers such as gas, hotel, restaurant, and other such expenditures by recreational clambers might be reduced for the county, resulting in possible lower sales tax revenues. However, the actual decrease, if any, is indeterminable at this time.

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

N/A

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?

No.

4. Individual Freedom:

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

Private property owners near clam harvesting sites can better protect their property while maintaining their property values.

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

No.

5. Family Empowerment:

- a. If the bill purports to provide services to families or children:

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

- (4) Are families required to participate in a program?

N/A

- (5) Are families penalized for not participating in a program?

N/A

- b. Does the bill directly affect the legal rights and obligations between family members?

N/A

- c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

- (1) parents and guardians?

N/A

- (2) service providers?

N/A

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(3) government employees/agencies?

N/A

E. SECTION-BY-SECTION RESEARCH:

**Section 1** -- Amends chapter 94-419, Laws of Florida, reducing the required educational seminar hours needed to renew a clam license; providing that a natural person possessing or harvesting clams in noncommercial quantities during open season designated by law or regulation is not subject to this act with the exception of the 75-foot buffer requirement of this act; making it unlawful for any person to harvest clams in Brevard County, whether such harvesting is for private use, commercial sale, or relaying, from any submerged land that is within 75 feet of a shoreline of the Indian River or the Banana River which abuts property that is used for residential purposes or within 75 feet of any canal bank; and providing that the act will expire July 1, 2001.

**Section 2** -- Provides that the act shall take effect on July 1, 1998.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? January 31, 1998

WHERE? Florida Today Newspaper; Melbourne, Florida

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached  No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached  No

IV. COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

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VI. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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