

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: SB 1622

SPONSOR: Senator Bronson

SUBJECT: The Placement of Rip Current Warning Signs

DATE: April 16, 1999 REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Bowman</u>	<u>Yeatman</u>	<u>CA</u>	<u>Fav/3 amendments</u>
2.	<u>Hayes</u>	<u>Hadi</u>	<u>FP</u>	<u>Favorable</u>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

**I. Summary:**

The bill requires that the Department of Community Affairs (department), through the Florida Coastal Management Program, develop a program to encourage the placement of rip current warning signs. The department coordinates the program, develops uniform signage, and assists in the distribution and erection of signs. The department is required to make rip current warning signs available to any county or municipality for locations that local governments determine are appropriate for the placement of signs. The bill also limits liability for state and local governments for any injury caused by the posting or failure to post rip current warning signs.

This bill creates section 380.275, Florida Statutes.

**II. Present Situation:**

**Rip Currents**

A rip current is a strong surface current of water flowing out past the surf zone that can pull even the strongest swimmer into deeper water beyond the sandbar. Most drownings occur when people caught in the rip current try to swim toward shore directly against the current. They become totally exhausted and drown. Sometimes, would-be rescuers are also caught in the currents and drown.

Rip currents are like rivers flowing out through the surf. They generally form as a result of wave action. Sometimes a group of larger waves comes ashore one after another, in a set of waves. When these waves break, water is pushed up the slope of the shore. Gravity pulls this water back toward the sea. If it converges in a narrow river-like current moving away from shore, it forms what is known as a rip current.

Rip currents may pull continuously, but they can suddenly appear or intensify after a set of waves, or when there is a breach in an offshore sandbar. Long shore currents, inshore currents, and other bottom conditions can contribute to the formation of rip currents.

### **Death Toll From Rip Currents**

Rip currents in Florida are, on average, more deadly than hurricanes, tropical storms, tornadoes, severe thunderstorms, and lightning. Since 1989, rip current drownings have averaged 23 per year, across the state. Volusia county leads the state with 25 deaths caused by rip currents from 1989-1996. Bay and Dade Counties each had 24 deaths during this time period. Numerous other deaths resulted from rip currents in Broward, Brevard, Duval, Escambia, Martin, Nassau, Okaloosa, Palm Beach, Pinellas, St. Johns, Santa Rosa, and Sarasota Counties during this time period.

Rip currents can occur at any time of the year, but the majority of deaths occur from March through August, when the combination of a large number of bathers and favorable wind conditions coincide. Many victims are tourists who are unfamiliar with surf conditions. Most of these deaths occur on unguarded beaches.

Two tragic deaths occurred in Brevard County over the past few years as a result of rip currents. James McGriff, 19 years old and a star football player at Palm Bay High School, drowned April 17, 1998, after being caught in a powerful rip current. Brian Mannix, who was 44, died June 2, 1996, after rescuing his 5 year old nephew from strong rip currents. Brevard County has already installed rip current warning signs along its coastline. The cost was approximately \$10,000 for 200 signs.

### **Florida Coastal Management Program -- Current Sign Program For Marking Beach Access Points**

In 1978, the Florida Legislature adopted the Florida Coastal Management Act, codified as chapter 380, part II, Florida Statutes. The Florida Coastal Management Program (FCMP), under the auspices of the Department of Community Affairs, uses a variety of tools to educate, inform, and involve Floridians in decisions about coastal resources. In 1993, the Florida Coastal Management Program funded a study to identify all of the government-owned land parcels adjacent to the Atlantic and Gulf coasts. This study laid the foundation for a 1995 FCMP- funded issue paper by the University of Florida, Center for Tourism Research and Development to examine public access to the Florida Coast and to develop recommendations for the state to address problems with public access.

Using the information obtained in 1993, the researchers surveyed each government-owned land parcel for its access characteristics and concluded that of all the access points owned by public entities, only 35 percent were clearly marked as public beach access points. The study concluded that residents and tourists often experience confusion when they encounter legitimate public access points that are inaccurately marked as private or simply do not appear to be publicly used areas. The study recommended that the FCMP work to develop a standardized, easily recognizable sign that could be placed so that it can be read from adjacent roads. As a result, the

FCMP designed and developed a standard beach access sign for use across the state, with the goal of distributing them to local governments free or at a low cost.

The FCMP explored a number of production and distribution options prior to initiating the project, including the possibility of the Florida Department of Corrections using state prisoners to manufacture signs. This did not prove to be a viable option and the FCMP ultimately contracted with a commercial sign production facility for the project. In November 1996, the FCMP, with the help of the League of Cities and the Florida Association of Counties, conducted a poll of local governments and municipalities regarding their willingness to participate in a voluntary beach access sign program. After getting positive responses from an adequate number of local governments, the FCMP decided to implement the sign program. For each interested local government or municipality, the FCMP agreed to supply signs free-of-charge. In turn, the local government or municipality supplied the FCMP with the number of public access points in its jurisdiction, and agreed to provide the labor and hardware necessary to install the signs. The program has proven to be quite popular, with 18 different local governments participating during the first year. The FCMP is currently in its second cycle of sign distribution.

**III. Effect of Proposed Changes:**

The bill provides for a cooperative effort between the FCMP and local governments to plan for and placement in the placement of rip current warning signs along the beaches and coastal areas of the state. The bill directs the Department of Community Affairs, through the FCMP, to develop and coordinate the rip current warning sign program.

Subsection (2) of section 2, describes the rip current warning sign program as requiring the placement of rip current warning signs in areas that pose a significant risk to the public, and that such signs shall be located where the public has established an access way to the beach. The bill does not specify whether the department or the local government is ultimately responsible for erecting the rip current warning signs.

The bill requires the department to adopt a uniform rip current warning sign to be placed at appropriate public access ways to the beaches or coastal areas. The department must make rip current warning signs available, and coordinate with the local government in the distribution and erection of these signs, when there is a request for assistance. The bill also states that the department may promulgate such rules and forms as are necessary to carry out the purposes of this act.

The state, state agencies, local governments, and local government agencies are not liable for any injury caused by the placement or maintenance of rip current warning signs or the failure to install or maintain rip current warning signs.

The bill provides that the act shall take effect October 1, 1999.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Economic Impact and Fiscal Note:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The department will incur staff and resource costs in implementing the program. The costs to the department are dependent upon the number of signs requested and provided each year and whether the department provides funding for the distribution and erection of the signs. While the department provided beach access signs to requesting local governments at a total cost of \$4,867.15 for 313 signs, or a cost of \$15.55 per sign, it estimates that the cost of a single completed rip current sign, including installation cost, would be significantly higher. This conclusion is based upon information provided by Brevard County that estimates the cost of purchasing and erecting a rip tide warning sign at \$88.00 per sign.

Local governments may incur costs in determining the appropriate location for rip current warning signs.

**VI. Technical Deficiencies:**

On page 3, line 3, the word “wherever” should be changed to “whenever.”

On page 3, line 5, the bill states that the department “may adopt such rules and forms as are necessary to carry out the purposes of this section...” This language is permissive and may not be construed as specific enough to grant rule making authority to the department under s. 120.536, F.S.

**VII. Related Issues:**

None.

**VIII. Amendments:**

#1 by Committee on Comprehensive Planning, Local and Military Affairs:

The amendment is a technical correction to substitute the word “whenever” for “wherever”.

#2 by Committee on Comprehensive Planning, Local and Military Affairs:

The amendment substitutes the word “shall” for “may” to clarify that the Department of Community Affairs is authorized to adopt any rules necessary to implement the rip tide warning sign program.

#3 by Committee on Comprehensive Planning, Local and Military Affairs:

The amendment requires the Department of Community Affairs to, by rule, adopt procedures for the review of projects and activities subject to federal consistency review under the federal Coastal Zone Management Act. The rule must include a list of the data and information needed for consistency review, including National Environmental Policy Act documents, when such documents are prepared in conjunction with a proposed federal project.

---

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

---