

**STORAGE NAME:** h1671a.wrm

**DATE:** March 13, 2000

**HOUSE OF REPRESENTATIVES  
COMMITTEE ON  
WATER AND RESOURCE MANAGEMENT  
ANALYSIS - LOCAL LEGISLATION**

**BILL #:** HB 1671

**RELATING TO:** Brevard County/Clam Harvesting Licenses

**SPONSOR(S):** Representative Futch

**TIED BILL(S):** None

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

- (1) WATER AND RESOURCE MANAGEMENT YEAS 10 NAYS 0
  - (2) COMMUNITY AFFAIRS
  - (3) GENERAL GOVERNMENT APPROPRIATIONS
  - (4)
  - (5)
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**I. SUMMARY:**

HB 1671 transfers the responsibilities relating to clam harvesting licenses in Brevard County from the Department of Environmental Protection to the Fish and Wildlife Conservation Commission to reflect the transfer of the responsibilities from the Marine Fisheries Commission to FWCC in 1999. The bill revises the provisions of chapter 94-419, Laws of Florida, relating to the use of proceeds from the collection of license fees and penalties by deleting the authority to use a portion of the proceeds for boat launching facilities and requiring proceeds to be used for clam resource restoration and enhancement projects.

HB 1671 does not appear to have a fiscal impact. The bill does not create new rulemaking authority for the participating entities. It does not appear to raise constitutional or other legal concerns.

HB 1671 shall take effect July 1, 2000.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |                             |   |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u>             | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u>      | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 370, F.S., regulates saltwater fisheries in Florida, including commercial harvest of a number of marine species. Among the regulations is the requirement that all people who harvest commercial quantities of finfish, shellfish or other marine life, or who sell or barter commercially caught seafood, or who use certain gear, must purchase a saltwater products license. The license costs \$50 for Florida residents and \$100 if issued to a boat registration number. The cost is higher for non-residents.

In 1985, the Legislature passed chapter 85-284, L.O.F., prohibiting persons from harvesting clams in Brevard County or Indian River County waters without a license issued by the Department of Natural Resources, now the DEP. Proceeds from the issuance of approximately 1,400 clam licenses over the life of the special act (1985-1990) were used to provide research funding to the Division of Marine Resources for further studies into hard clam life histories and spawning conditions in the Indian River. Chapter 85-284, L.O.F., contained a "sunset" provision effective July 1, 1990, and was not reenacted.

The 1994 Legislature enacted chapter 94-419, L.O.F., to address clam harvesting in Brevard County. Florida residents wishing to take commercial quantities of hard clams from the waters of Brevard County are required to obtain a saltwater products license and a 3-year resident clamming license. The 3-year resident clamming license costs \$300 with a late fee of \$1,200. Persons, firms or corporations who have had a previous clamming license suspended, in or out of state, are not eligible. An annual 61-day license issuance period begins on June 1 of each year, after which a \$1,200 late fee is applied.

In 1996, in 1998, and in 1999, the original special act was amended by the legislature.

In 1996, the Legislature passed chapter 96-463, L.O.F., which amended chapter 94-419, L.O.F., to prohibit the issuance of new clam licenses until the total number of active and renewed clam licenses in Brevard County fell below 500 for the previous year. The bill also classified hard clams as a restricted species (RS) and requires a valid saltwater products license bearing an RS endorsement upon demand by any law enforcement officer. Additionally, the legislation provided for a mandatory annual education seminar to renew a clam license. Also, it repealed the provision that a clam license issued for any other county of the state is valid in Brevard County as long as the total fee for the license is not less than the fee required by this act. Finally, the bill authorized an amount of the proceeds from

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license fees and penalties not to exceed \$200,000 to be used as matching funds for the construction of boat-launching facilities in Brevard County.

In 1999, the FWCC was created by the Legislature pursuant to the passage of Revision #5 to the State Constitution during the November 1998 General Election. The responsibilities of the Game and Fresh Water Fish Commission, the Marine Fisheries Commission and portions of the Division of Law Enforcement and the Division of Marine Resources from the DEP were transferred to FWCC to create one entity responsible for regulating wild animal life, freshwater aquatic life, and marine life. The legislation also transferred the Bureau of Marine Resource Regulation and Development from the DEP to the Department of Agriculture and Consumer Services.

C. EFFECT OF PROPOSED CHANGES:

HB 1671 transfers the responsibilities of issuing the Brevard County Clam License from the DEP to the FWCC, deletes the authority to use a portion of the proceeds as matching funds for boat launching facilities, and requires the proceeds to be used for clam resource restoration and enhancement projects. The bill also clarifies that the proceeds will only fund the initial testing of shellfish-harvesting waters in Brevard County and that no more than 40 percent of the proceeds may be used for marking open and closed waters in Brevard County.

D. SECTION-BY-SECTION ANALYSIS:

Section 1 amends chapter 94-419, as amended, to transfer duties relating to clam harvesting licensing from the DEP to the FWCC. Deletes the authority of the FWCC to use the proceeds from the the collection of license fees and penalties for boat launching facilities. Provides the remaining funds, less administrative costs, be used for initial testing and reclassification of shellfish harvesting waters in the county. Directs that not more than 40 percent of the proceeds will be used to mark open and closed shellfish waters in Brevard County. Allows for an additional portion of the proceeds to be used for clam restoration and enhancement projects.

Section 2 provides the act shall take effect July 1, 2000.

III. NOTICE/REFERENDUM AND OTHER REQUIREMENTS:

A. NOTICE PUBLISHED? Yes  No

IF YES, WHEN? February 3, 2000

WHERE? Florida Today Newspaper

B. REFERENDUM(S) REQUIRED? Yes  No

IF YES, WHEN?

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C. LOCAL BILL CERTIFICATION FILED? Yes, attached [X] No [ ]

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached [X] No [ ]

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

Amends chapter laws 94-419, 96-463, 98-486, and 99-416, Laws of Florida.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The Water and Resource Management Committee unanimously passed two amendments on March 23. The first amendment renamed the trust fund in order to comply with general law adopted in the 1999 Legislative Session. The second amendment added the Department of Agriculture and Consumer Services to the list of possible agencies holding the required educational seminar. Both amendments are traveling with the bill.

VI. SIGNATURES:

COMMITTEE ON WATER AND RESOURCE MANAGEMENT:

Prepared by:

Staff Director:

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Jason A. Heffley

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Joyce Pugh