

**STORAGE NAME:** h1065s1.lgva.doc

**DATE:** April 10, 2001

**HOUSE OF REPRESENTATIVES  
AS REVISED BY THE COMMITTEE ON  
LOCAL GOVERNMENT & VETERANS AFFAIRS  
ANALYSIS**

**BILL #:** CS/HB 1065

**RELATING TO:** Rip Current Warning Signs

**SPONSOR(S):** Committee on Natural Resources & Environmental Protection and  
Representative(s) Needelman

**TIED BILL(S):** None

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION (RIC) YEAS 12 NAYS 0
  - (2) LOCAL GOVERNMENT & VETERANS AFFAIRS (SGC)
  - (3) COUNCIL FOR READY INFRASTRUCTURE
  - (4)
  - (5)
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**I. SUMMARY:**

CS/HB 1065 establishes the Legislature's intent that state agencies and local governments cooperate in efforts to develop plans for and assist in the placement of rip current warning signs along the public beaches and coastal access areas of the state. Section 380.275, Florida Statutes, is created to direct that the Department of Community Affairs (DCA), through the Florida Coastal Management Program, develop a uniform rip current warning sign for use at any public beach or coastal access point where there may be a significant threat to the public as a result of rip currents. To the extent that funding is available, DCA is further directed to fund the placement of rip current warning signs.

The DCA is provided with rulemaking authority to implement the provisions of the bill. The state, state agencies, local governments and local government agencies cannot be held liable for injuries caused by the placement of, or maintenance of, rip current warning signs, but are not relieved of responsibility imposed by other provisions of law with regard to the posting of rip current warning signs.

This bill has an insignificant fiscal impact.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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:

CS/HB 1065 does not support less government because it directs a state agency to create and fund a new program for the development and placement of rip current and rip current warning signs.

B. 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 and become totally exhausted.

Rip currents are like rivers flowing out through the surf. They generally form as a result of wave action when waves come ashore one after another. When the waves break, the water is pushed up the slope of the shore and gravity pulls it back toward the sea. Rip currents form when the water that is pulled back to the sea forms a narrow river-like current moving away from the shore.

Rip currents can pull continuously, or can suddenly appear or intensify after a set of waves, or a breach in an offshore sandbar. Longshore currents, inshore currents, and other bottom conditions can contribute to the formation of rip currents.

**Death Toll From Rip Currents**

Rip currents in Florida average out to be deadlier than hurricanes, tropical storms, tornadoes, severe thunderstorms, and lightning. Since 1989, rip current drownings have averaged 23 persons 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 the same time period. Other counties reporting deaths from rip currents include Broward, Brevard, Duval, Escambia, Martin, Nassau, Okaloosa, Palm Beach, Pinellas, St. Johns, Santa Rosa, and Sarasota counties.

Rip tides can occur at any time of year, but the majority of deaths occur from March through August, when the combination of a large number of swimmers and favorable wind conditions coincide. Brevard County has installed rip current warning signs along its coastline at an approximate cost of \$10,000 for 200 signs.

## **Florida Coastal Management Program – Current Sign Program for Marking Beach Access**

In 1978, the Florida Legislature adopted the Florida Coastal Management Act, codified as Chapter 380, Part II, Florida Statutes. The DCA's Florida Coastal Management Program (FCMP) uses a variety of tools to educate and inform Floridians 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's Center for Tourism Research and Development, to examine public access to coastal sites, and to develop recommendations for the state to address problems with public access.

The researchers found that only 35 percent of all access points owned by public entities were clearly marked as **public beach access points**. To eliminate user confusion, the study recommended that the FCMP develop a standardized, easily recognizable sign that could be placed for easy reading from adjacent roads. FCMP did develop standardized beach access signs for use across the state, and has been distributing the signs to local governments free-of-charge or at low cost.

The FCMP explored a number of production and distribution options, including the possibility of having the Florida Department of Corrections manufacture the signs using state prisoners. However, the FCMP ultimately contracted with a commercial sign production facility and in November 1996, with the help of the Florida League of Cities and the Florida Association of Counties, surveyed local governments to determine their willingness to participate in a voluntary beach access sign program. The FCMP decided to implement the program, and for each interested local government entity, the FCMP agreed to supply signs free-of-charge while the local governments agreed to supply the labor and hardware necessary for sign installation.

The beach access sign program is in the second cycle of sign distribution, and had more than 18 local governments participate in the first year.

### **C. EFFECT OF PROPOSED CHANGES:**

This bill establishes legislative intent for the development of and placement of rip current warning signs.

This bill directs the DCA, through the Florida Coastal Management Program, to direct and coordinate a uniform rip current warning sign program.

This bill requires that rip current warning signs be posted in areas posing a significant risk to the public as a result of rip currents.

Under the terms of the cooperative effort between the DCA and local governments, it is not clear whether the DCA or the local government is actually responsible for erecting the rip current warning signs.

The provision that limits liability likely broadens the immunity from liability that is available to state and local governments for injuries caused by the failure to install rip current warning signs. The state waives its immunity from suit under tort only to the extent provided statutorily, under s. 768.28, F.S. Specifically, the state, its agencies, and political subdivisions are liable for tort claims in the same manner and to the same extent as a similarly-situated, private individual, up to capped amounts, set in statute, of \$100,000 per person or \$200,000 per incident.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Creates section 380.275, Florida Statutes, and establishes the Legislature's intent that state agencies and local governments cooperate their efforts to develop, plan for, and place rip current warning signs along the public beaches and coastal areas of the state. Provides that rip currents pose significant threats to the public, and establishes the importance of public warnings in coastal areas where rip currents occur.

Provides that the DCA, through the Florida Coastal Management Program, will direct and coordinate the rip current warning sign program.

Requires that signs will be located in areas where local government entities have established access ways to beaches or coastal areas.

Provides that the DCA will develop a uniform rip current warning sign for use at any public beach or along any coastal area where there may be significant threats to the public from rip currents. Provides that the DCA will fund the rip current warning sign program within the limits of appropriated funds. Provides that the DCA and local governments will coordinate their efforts in determining appropriation locations, distributing and placing rip current warning signs.

Provides the DCA with rulemaking authority to implement the provisions of the bill. Provides that the state, state agencies, local governments, and local government agencies shall not be held liable for injuries caused by the failure to install the uniform rip current warning signs. Provides that immunity from liability does not relieve those governmental entities of the responsibility to follow the law.

Section 2. Provides an effective date of October 1, 2001.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

This bill has no fiscal impact on state revenues.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

This bill has no fiscal impact on local government revenues.

2. Expenditures:

Expenditures by local governments are limited to funds spent to install the rip current warning signs.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill has no adverse fiscal impact on the private sector.

D. FISCAL COMMENTS:

State funding is limited to amounts appropriated by the agency to the Florida Coastal Management Program for the rip current warning sign program. The DCA currently provides standardized beach access signs to any local government that requests them. For fiscal year 1998-1999, 313 signs cost just under \$5,000 and the agency further reduced costs by having the signs shipped directly to the requesting local government.

True costs for this program depend on the number of signs requested, the number of staff either assigned to, or hired to, implement the program. Although there is no state appropriation to the DCA to cover the costs of the rip current warning sign program, limited funds for production and distribution of the signs may be available through a federal Coastal Zone Management Award.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 1065 does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

CS/HB 1065 does not reduce the authority that municipalities or counties have to raise revenues.

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

CS/HB 1065 does not reduce the percentage of state tax revenues shared with counties or municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

CS/HB 1065 authorizes the DCA to adopt the necessary program rules and forms.

C. OTHER COMMENTS:

A representative with the Florida League of Cities indicates that the League does not oppose this bill.

An attorney with the Florida Association of Counties has been contacted and has not responded, to date.

SB 262 by Senator Bronson is identical to HB 1065. On March 6, 2001, the Senate Comprehensive Planning, Local and Military Affairs Committee considered SB 262 and adopted one amendment to combine the liability provisions of the bill. The House sponsor is expected to offer an identical amendment.

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V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On March 20, 2001, the Natural Resources & Environmental Protection Committee unanimously adopted one amendment to combine the provisions of the bill that relate to immunity from liability and the responsibilities of governmental entities to enforce the provisions of the bill. The bill, as amended, was approved as a committee substitute.

VI. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

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