

STORAGE NAME: h1085.ric.doc

DATE: February 13, 2002

**HOUSE OF REPRESENTATIVES
COUNCIL FOR READY INFRASTRUCTURE
ANALYSIS**

BILL #: HB 1085

RELATING TO: Fish & Wildlife Conservation Commission

SPONSOR(S): Representative(s) Baxley

TIED BILL(S):

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 12 NAYS 0
 - (2) COUNCIL FOR READY INFRASTRUCTURE
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

The bill transfers certain provisions relating to recreational saltwater fishing licenses from chapter 370 to chapter 372, Florida Statutes, thereby consolidating requirements for hunting, freshwater fishing, and saltwater fishing licenses and permits into one statutory chapter. The Fish and Wildlife Conservation Commission (FWCC) is authorized to create a 3-day recreational freshwater fishing license available to nonresidents to conform to a 3-day recreational saltwater fishing license, and fee increases for nonresident fishing licenses and turkey permits are authorized.

The bill creates section 372.002, Florida Statutes, to establish legislative intent that Florida's citizens have a right to hunt, fish, and take game subject to regulations and restrictions prescribed by general law and contained in the State Constitution. The bill authorizes a \$5 bass permit and creates section 372.5716, Florida Statutes, to provide that revenues from the sale of the bass permit will be used for the operation of the Florida Bass Center at the Richloam Fish Hatchery.

The bill provides for technical cross-reference corrections, authorizes the FWCC to establish a statewide-automated license system using competitive bid procedures, and repeals outdated provisions of Florida Statutes.

The bill has a substantial fiscal impact and takes effect on July 1, 2002.

On February 5, 2002, the House Natural Resources & Environmental Protection Committee unanimously adopted a "strike-everything" amendment that eliminated the fiscal impact of this bill by removing all license and permit fee increase from the bill. The amendment is traveling with the bill.

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 checked="" type="checkbox"/> | N/A <input 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:

Lower Taxes: The bill authorizes fee increases in certain licenses and permits issued by the FWCC.

B. PRESENT SITUATION:

Chapter 370, Florida Statutes

Chapter 370, Florida Statutes, provides for the regulation of Florida's commercial and recreational saltwater fisheries. Section 370.0603, F.S., provides for the Marine Resources Conservation Trust Fund (MRCTF) and establishes the purposes for which the fund may be used. Proceeds to be deposited into the MRCTF include commercial and recreational saltwater fishing license fees, vessel registration fees, fines, and penalties assessed for violations of saltwater fishing provisions, and fees for special saltwater permits. Section 370.0605, F.S., provides the Fish and Wildlife Conservation Commission (FWCC) with the authority to issue recreational saltwater fishing licenses and permits, and establishes the fees and conditions under which those licenses and permits can be issued. Types of licenses regulated under this section include annual resident and nonresident fishing licenses, 5-year fishing licenses, lifetime fishing licenses, vessel licenses, and pier licenses. Exemptions from license requirements, and free disability licenses also are provided in this section. Section 370.0608, F.S., provides for the distribution of recreational saltwater fishing licenses and specifies the purposes for which license fees can be expended.

Chapter 372, Florida Statutes

Chapter 372, Florida Statutes, provides for the regulation of Florida's commercial and recreational hunters and freshwater fishers. Section 372.105, F.S., establishes the Lifetime Fish and Wildlife Trust Fund, and provides that with the exception of the saltwater portion of the lifetime sportsman's license, all proceeds from the sale of lifetime licenses authorized in chapter 372 will be deposited into the fund. The principal of the trust fund cannot be expended. Interest income, which can be appropriated to further the mission of the FWCC, can be spent as the respective license holders reach 16 years of age, determined actuarially on an annual basis by the FWCC. Section 372.105, F.S., establishes the Dedicated License Trust Fund and provides that the fund will be credited with revenues collected from the sale of 5-year hunting and freshwater fishing licenses. One-fifth of the revenues in the Dedicated License Trust Fund can be appropriated annually.

Section 372.561, F.S., establishes the FWCC's authority to issues licenses and permits for the taking of wild animal life and freshwater aquatic life. The FWCC is further authorized to issue free licenses and permits to disabled persons meeting specific criteria. Section 372.57, F.S.,

establishes the fees for licenses and permits related to recreational hunting and freshwater fishing licenses for residents and nonresidents, and provides the conditions under which a license for hunting or fishing is not required. This section also contains the fees for management area permits, for recreational user fees for lands leased by the FWCC for hunting and fishing, special permits for hunting turkey, and authority for the FWCC to designate free fishing days.

Revenues from the sale of licenses and permits authorized in section 372.57, F. S., are deposited into the State Game Trust Fund, the primary operating fund of the FWCC.

Fees for Licenses and Permits

In addition to the annual hunting licenses, s 372.57, F.S., requires that residents and nonresidents who want to hunt wild turkeys purchase a turkey permit for a fee of \$5, the same as the permit cost when it was created in 1985. Through November 30 of this fiscal year, 11,562 hunters purchased a turkey permit in addition to a hunting license generating revenues of \$57,810.

Section 372.16, F.S., provides for a \$5 annual fee (created in 1929) for persons maintaining a private game preserve or farm that is 640 acres or smaller. Private preserves or farms produce and rear birds and animals for private and commercial purposes. Through November 30, 2001, 213 permits were issued generating a total of \$1,065.

Section 372.661, F.S., provides for a \$25 annual license (created in 1959) to operate private hunting preserves commercially. Through November 30, 2001, 74 hunting preserve licenses were issued generating revenues of \$1,850.

Section 372.921, F.S., establishes the fees for wildlife exhibitor licenses (created in 1967). To exhibit 10 animals or less, the fee is \$5 per year; to exhibit 11 or more animals, the fee is \$25 per year. Through November 30, 2001, 449 licenses for persons exhibiting 10 or fewer animals generated \$2,245, and 1,267 licenses for persons exhibiting 11 or more animals generated \$31,675 in revenue.

Office of Program Policy Analysis and Government Accountability (OPPAGA)

In October 2001, OPPAGA issued a Justification Review of the FWCC, which found that the commission is facing a crisis in its financial status. According to the report, the FWCC projects that three of six trust funds will be in deficit positions by FY 2004-05. Many of the FWCC's programs are funded through the sale of hunting and fishing licenses. OPPAGA recommends that the FWCC continue its efforts to increase the sale of those licenses to decrease projected deficits, and suggests that the Legislature authorize the FWCC to increase existing fees. Further, the FWCC should be allowed to set fees for licenses and permits currently issued without charge. In FY 1999-00, the FWCC estimated expenditures of approximately \$1 million to issue more than 162,000 free permits and licenses.

C. EFFECT OF PROPOSED CHANGES:

The bill contains the following technical changes:

- Transfers recreational saltwater fishing license provisions contained in chapter 370, Florida Statutes, to chapter 372, Florida Statutes.
- Substantially rewords portions of chapter 372 to clearly delineate the FWCC's authority to issue licenses, to provide for exemptions from license requirements, and to clearly establish the fees and requirements for licenses and permits.
- Contains various cross-reference corrections.
- Repeals s. 370.0605, F.S., relating to recreational saltwater fishing licenses.

- Repeals s. 370.0615, F.S., relating to recreational saltwater lifetime fishing licenses.
- Repeals s. 370.111, F.S., relating to the regulation of snook.
- Repeals subsections (10) and (11) of s. 370.14, F.S., relating to the regulation of crawfish, including a \$2 crawfish permit and competitions for designing crawfish stamps.

The bill contains the following substantive changes:

- Authorizes the FWCC to establish an automated license system using competitive bid procedures.
- Amends qualifying language for disability exemptions for recreational hunting and fishing licenses.
- Increases fees for certain licenses and permits issued by the FWCC.
- Establishes legislative intent with regard to the right to hunt, fish, and take game.
- Creates a 3-day nonresident freshwater fishing license to conform with a 3-day nonresident saltwater fishing license, and establishes a \$10 fee for each.
- Increases the fee for 7-day nonresident fishing license from \$15 to \$20.
- Increases the fee for nonresident turkey permit from \$5 to \$100.
- Creates a \$5 Florida bass permit and provides for the use of revenues raised by the permit.
- Creates a convenient annual gold sportsman's license for Florida residents at a cost of \$87 per year.
- Authorizes the FWCC to sell annual permits at five times the cost to match five-year hunting and fishing licenses.
- Eliminates age restrictions on boating safety course requirements to require that all persons born after 1980 will have to take a boating safety course.
- Authorizes a \$5 dismissal fee for boaters, hunters, and fishers who are stopped for "no license" violations upon proof of a current license.
- Provides that "derelict vessels" may be considered as abandoned property to provide local governments with additional flexibility in removal of those vessels.
- Codifies in statute that the FWCC has the authority to accept federal property.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends s. 212.06, F.S., to correct a cross-reference.

Section 2. Amends s. 215.20, F.S., to correct certain cross-references.

Section 3. Amends s. 327.395, F.S., to require that persons born after September 30, 1980, may not operate a vessel powered by a motor of 10 horsepower or greater unless such person has completed and passed a boating safety course approved by the FWCC.

Section 4. Amends s. 327.73, F.S., to provide that persons charged with violating requirements for a boating safety identification card can pay a \$5 fee to the Clerk of Court if prior to or at the time of appearance, the person can produce a valid card.

Section 5. Amends s. 370.0603, F.S., to correct a cross-reference.

Section 6. Amends s. 370.063, F.S., to correct a cross-reference.

Section 7. Amends s. 370.25, F.S., to provide that state universities can participate in the FWCC's artificial reef grant program. Authorizes the FWCC to accept title on behalf of the state to vessels for use in the artificial reef program, and authorizes the FWCC to adopt by rule criteria implementing the transfer of vessel titles to the state for use in the artificial reef program.

Section 8. Amends s. 372.001, F.S., to revise and reorganize definitions.

Section 9. Creates s. 372.002, F.S., establishing the Legislature's intent that Florida citizens have the right to hunt, fish, and take game in accordance with general laws and the State Constitution.

Section 10. Amends s. 372.105, F.S., to provide for the deposit of revenues from the sale of saltwater lifetime licenses into the Lifetime Fish and Wildlife Trust Fund. Provides that the interest income received from the sale of saltwater lifetime licenses may be used only for marine law enforcement efforts, marine research, and marine fishery enhancement.

Section 11. Amends s. 372.106, F.S., to provide for the deposit of revenues from the sale of 5-year saltwater fishing licenses into the Dedicated License Trust Fund. Provides that one-fifth of the total proceeds from the sale of 5-year saltwater licenses shall be appropriated annually to the Marine Resources Conservation Trust Fund.

Section 12. Amends s. 372.16, F.S., to raise the fee for private game preserves and farms from \$5 to \$25 per year.

Section 13. Creates s. 372.551, F.S., to allow the FWCC to create a process and a fee for establishing a statewide, automated license system using a competitive bid procedure.

Section 14. Substantially rewords s. 372.561, F.S., to clarify the FWCC's authority to issue licenses, permits, and authorizations to take wild animal life, freshwater aquatic life, and marine life. Provides the FWCC with necessary rulemaking authority under chapter 120, F.S.

Section 15. Creates s. 372.562, F.S., to provide for free licenses and permits, and for exemptions from license and permit requirements when certain conditions have been met.

Section 16. Substantially rewords s. 372.57, F.S., to incorporate and clarify provisions from s. 370.0605, F.S., relating to saltwater recreational fishing licenses. Creates a 3-day nonresident freshwater fishing license to conform to the 3-day nonresident saltwater fishing licenses and establishes a \$10 fee for each. Increases the fee for a 7-day nonresident fishing license from \$15 to \$20, and raises the annual fee for a nonresident fishing license from \$30 to \$32. Creates a \$5 Florida bass permit, and raises the nonresident turkey permit fee from \$5 to \$100. Increases the annual resident sportsman's license from \$66 to \$71 to accommodate the bass permit, and creates a convenient annual resident gold sportsman's license for \$87. Authorizes the FWCC to sell annual permits for five times the cost to accommodate 5-year hunting and fishing licenses.

Section 17. Renumbers s. 370.0608, F.S., as s. 372.5701, F.S., and provides that recreational saltwater fishing license fee will be distributed as follows:

- Not more than 7.5 percent of the total fees collected, for administration of the licensing program and for information and education.
- Not less than 30 percent of the total fees collected, for law enforcement.
- Not less than 32.5 percent of the total fees collected, for marine research and management.
- Not less than 30 percent of the total fees collected for fishery enhancement.

Section 18. Renumbers s. 370.0609, F.S., as s. 372.5702, F.S., and adds the Smithsonian Marine Station at Ft. Pierce to the list of institutions that may receive research grants and contracts from the FWCC.

Section 19. Renumbers s. 370.062, F.S., as s. 372.5704, F.S., and provides technical changes allowing tax collectors to submit all un-issued tarpon tags for the previous fiscal year to the FWCC by August 15 of each year.

Section 20. Amends s. 372.571, F.S., to correct cross-references.

Section 21. Amends s. 372.5712, F.S., to correct cross-references.

Section 22. Amends s. 372.5715, F.S., to correct cross-references.

Section 23. Creates s. 372.5716, F.S., to establish uses for the Florida bass permit revenues. Provides that revenues must be used exclusively for the construction, maintenance, and operation of the Florida Bass Center at the Richloam Hatchery in Sumter County, including programs to benefit research and management of Florida bass, with special emphasis on the subspecies of largemouth bass unique to Florida.

Section 24. Amends s. 372.5717, F.S., to correct cross-references.

Section 25. Amends s. 372.573, F.S., to correct cross-references.

Section 26. Amends s. 372.574, F.S., delete repetitive language for provisions relocated to s. 372.551, F.S.

Section 27. Amends s. 372.65, F.S., to correct a cross-reference.

Section 28. Amends s. 372.661, F.S., to increase the license fee for private hunting preserves from \$25 to \$50, and to correct cross-references.

Section 29. Amends s. 372.7015, F.S., to correct a cross-reference.

Section 30. Amends s. 372.7016, F.S., to correct a cross-reference.

Section 31. Amends s. 372.711, F.S., to provide that persons charged with violating requirements for personal possession of licenses or permits can pay a \$5 fee to the Clerk of Court if prior to or at the time of appearance, the person can produce a valid license or permit.

Section 32. Reenacts s. 372.83, F.S., relating to noncriminal infractions, to incorporate the transfer of saltwater fishing provisions from s. 370.0605, F.S., to s. 372.57, F.S.

Section 33. Amends s. 372.87, F.S., to increase the annual fee for keeping, possessing, or exhibiting poisonous or venomous reptiles from \$5 to \$25.

Section 34. Amends s. 372.921, F.S., to provide that the permit fee to exhibit not more than 25 Class I or Class II animals is \$100 per year (current permit – 10 animals / \$5 per year). Provides that the fee to exhibit more than 25 Class I or Class II animals is \$250 a year (current permit – more than 10 animals / \$25 per year). Provides that the fee to exhibit any number of Class III animals is \$25 per year.

Section 35. Amends s. 372.922, F.S., to provide that persons in personal possession of Class III wildlife must obtain a no-cost permit from the FWCC. Provides that persons possessing a permit to exhibit or sell wildlife under s. 372.921, F.S., do not have to pay for a personal possession permit under s. 372.922, F.S.

Section 36. Amends s. 705.101, F.S., to provide that derelict vessels are included in the definition of “abandoned property.”

Section 37. Amends s. 810.09, F.S., to correct a cross-reference.

Section 38. Repeals ss. 370.0605, 370.0615, 370.1111, subsections (10) and (11) of s. 370.14, subsection (4) of s. 372.05, and s. 372.06, Florida Statutes.

Section 39. Provides an effective date of July 1, 2002.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill is expected to substantially increase revenues deposited into the Marine Resources Conservation Trust Fund as well as the State Game Trust Fund. Please see "Fiscal Comments" section of this analysis.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill contains fee increases that will mostly affect nonresidents who like to recreationally hunt and fish, especially those hunting for turkey. Fishing license fees are raised approximately \$5 each for most nonresident licenses, and nonresident turkey permit fees are raised from \$5 to \$100. The bill creates a \$5 annual bass permit that will be required for all persons fishing for bass. Also, the bill provides fee increases for permits to exhibit wildlife, private game preserve permits, and private hunting preserve permits.

D. FISCAL COMMENTS:

Although the bill as filed had a significant fiscal impact, the bill sponsor filed an amendment to the bill that removed all fee increases, thereby negating the fiscal impact. (See Amendments or Committee Substitute Changes.)

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill 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:

The bill does not reduce the authority that municipalities or counties have to raise revenues.

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

The bill does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The bill includes an assortment of duties performed by the FWCC beginning with boating education, and including the sale of recreational fishing and hunting licenses. This may violate the "single-subject" provisions of section 6, Article III of the State Constitution.

B. RULE-MAKING AUTHORITY:

Section 7 of the bill provides the FWCC with rulemaking authority to adopt criteria to implement the transfer of vessel titles under the artificial reef program.

Section 34 of the bill provides the FWCC with rulemaking authority to adopt rules relating to issuing permits for the exhibition of wildlife.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 5, 2002, the members of the House Natural Resources & Environmental Protection Committee unanimously adopted a traveling "strike-everything" amendment that eliminated the fiscal impact of the bill as filed by removing all fee increases by removing all license and permit fee increases from the bill. The amendment is traveling with the bill.

VII. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Karon A. Molloy

Wayne S. Kiger

AS REVISED BY THE COUNCIL FOR READY INFRASTRUCTURE:

Prepared by:

Council Director:

C. Scott Jenkins

Thomas J. Randle