

By Senator Posey

24-1294-05

1 A bill to be entitled
2 An act relating to the line of ordinary high
3 water dividing sovereign and riparian ownership
4 in certain navigable freshwater bodies;
5 creating s. 253.024, F.S.; defining the term
6 "ordinary high-water line" for purposes of ch.
7 253, F.S., relating to state lands; amending
8 ss. 197.502, 258.39, 258.399, 380.0555, and
9 403.813, F.S., relating to property
10 descriptions in tax deeds, boundaries of
11 aquatic preserves, and the Apalachicola Bay
12 Area; providing a definition; providing an
13 effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. Section 253.024, Florida Statutes, is
18 created to read:

19 253.024 Ordinary high-water line.--This section
20 applies when construing the term "ordinary high-water line" as
21 it is used in this chapter. The term "ordinary high-water
22 line" includes the terms "ordinary high-water mark," "line of
23 ordinary high water," and "ordinary high watermark." The
24 ordinary high-water line is the visible mark formed on the
25 bank of a fresh waterbody by the continuous presence and
26 action of water where it stands for most of the year and
27 wrests the bed of vegetation.

28 Section 2. Paragraph (h) of subsection (4) of section
29 197.502, Florida Statutes, is amended to read:

30 197.502 Application for obtaining tax deed by holder
31 of tax sale certificate; fees.--

1 (4) The tax collector shall deliver to the clerk of
2 the circuit court a statement that payment has been made for
3 all outstanding certificates or, if the certificate is held by
4 the county, that all appropriate fees have been deposited, and
5 stating that the following persons are to be notified prior to
6 the sale of the property:

7 (h) Any legal titleholder of record of property that
8 is contiguous to the property described in the tax
9 certificate, when the property described is either submerged
10 land or common elements of a subdivision, if the address of
11 the titleholder of contiguous property appears on the record
12 of conveyance of the land to that legal titleholder. However,
13 if the legal titleholder of property contiguous to the
14 property described in the tax certificate is the same as the
15 person to whom the property described in the tax certificate
16 was assessed on the tax roll for the year in which the
17 property was last assessed, the notice may be mailed only to
18 the address of the legal titleholder as it appears on the
19 latest assessment roll. As used in this chapter, the term
20 "contiguous" means touching, meeting, or joining at the
21 surface or border, other than at a corner or a single point,
22 and not separated by submerged lands. Submerged lands lying
23 below the ordinary high-water line, as defined in s. 253.024,
24 ~~mark~~ which are sovereignty lands are not part of the upland
25 contiguous property for purposes of notification.

26
27 The statement must be signed by the tax collector, with the
28 tax collector's seal affixed. The tax collector may purchase a
29 reasonable bond for errors and omissions of his or her office
30 in making such statement. The search of the official records
31 must be made by a direct and inverse search. "Direct" means

1 | the index in straight and continuous alphabetic order by
2 | grantor, and "inverse" means the index in straight and
3 | continuous alphabetic order by grantee.

4 | Section 3. Subsections (6) and (30) of section 258.39,
5 | Florida Statutes, is amended to read:

6 | 258.39 Boundaries of preserves.--The submerged lands
7 | included within the boundaries of Nassau, Duval, St. Johns,
8 | Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte,
9 | Pinellas, Martin, Palm Beach, Dade, Monroe, Collier, Lee,
10 | Citrus, Franklin, Gulf, Bay, Okaloosa, Marion, Santa Rosa,
11 | Hernando, and Escambia Counties, as hereinafter described,
12 | with the exception of privately held submerged lands lying
13 | landward of established bulkheads and of privately held
14 | submerged lands within Monroe County where the establishment
15 | of bulkhead lines is not required, are hereby declared to be
16 | aquatic preserves. Such aquatic preserve areas include:

17 | (6) Banana River Aquatic Preserve, as described in the
18 | Official Records of Brevard County in Book 1143, pages
19 | 195-198, and the sovereignty submerged lands lying within the
20 | following described boundaries: BEGIN at the intersection of
21 | the westerly ordinary high-water ~~high-water~~ line of Newfound
22 | Harbor with the North line of Section 12, Township 25 South,
23 | Range 36 East, Brevard County; Thence proceed northeasterly
24 | crossing Newfound Harbor to the intersection of the South line
25 | of Section 31, Township 24 South, Range 37 East, with the
26 | easterly ordinary high-water ~~high-water~~ line of said Newfound
27 | Harbor; thence proceed northerly along the easterly ordinary
28 | high-water ~~high-water~~ line of Newfound Harbor to its
29 | intersection with the easterly ordinary high-water ~~high-water~~
30 | line of Sykes Creek; thence proceed northerly along the
31 | easterly ordinary high-water ~~high-water~~ line of said creek to

1 | its intersection with the southerly right-of-way of Hall Road;
2 | thence proceed westerly along said right-of-way to the
3 | westerly ordinary high-water ~~high-water~~ line of Sykes Creek;
4 | thence southerly along said ordinary high-water ~~high-water~~
5 | line to its intersection with the ordinary high-water ~~high~~
6 | ~~water~~ line of Newfound Harbor; thence proceed southerly along
7 | the westerly ordinary high-water ~~high-water~~ line of Newfound
8 | Harbor to the POINT OF BEGINNING. As used in this subsection,
9 | the term "ordinary high-water line" has the same meaning as in
10 | s. 253.024.

11 | (30) Wekiva River Aquatic Preserve, the boundaries of
12 | which are generally: All the state-owned sovereignty lands
13 | lying waterward of the ordinary high-water line ~~mark~~ of the
14 | Wekiva River and the Little Wekiva River and their tributaries
15 | lying and being in Lake, Seminole, and Orange counties and
16 | more particularly described as follows:

17 | (a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29,
18 | and 30, Township 20 South, Range 29 East. These sections are
19 | also depicted on the Forest City Quadrangle (U.S.G.S. 7.5
20 | minute series-topographic) 1959 (70PR); and

21 | (b) In Sections 3, 4, 8, 9, and 10, Township 20 South,
22 | Range 29 East and in Sections 21, 28, and 33, Township 19
23 | South, Range 29 East lying north of the right-of-way for the
24 | Atlantic Coast Line Railroad and that part of Section 33,
25 | Township 19 South, Range 29 East lying between the Lake and
26 | Orange County lines and the right-of-way of the Atlantic Coast
27 | Line Railroad. These sections are also depicted on the
28 | Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic)
29 | 1965 (70-1); and

30 | (c) All state-owned sovereignty lands, public lands,
31 | and lands whether public or private below the ordinary

1 | high-water line ~~mark~~ of the Wekiva River and the Little Wekiva
2 | and their tributaries within the Peter Miranda Grant in Lake
3 | County lying below the 10 foot m.s.l. contour line nearest the
4 | meander line of the Wekiva River and all state-owned
5 | sovereignty lands, public lands, and lands whether public or
6 | private below the ordinary high-water line ~~mark~~ of the Wekiva
7 | River and the Little Wekiva and their tributaries within the
8 | Moses E. Levy Grant in Lake County below the 10 foot m.s.l.
9 | contour line nearest the meander lines of the Wekiva River and
10 | Black Water Creek as depicted on the PINE LAKES 1962 (70-1),
11 | ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W.
12 | 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

13 | (d) All state-owned sovereignty lands, public lands,
14 | and lands whether public or private below the ordinary
15 | high-water line ~~mark~~ of the Wekiva River and the Little Wekiva
16 | River and their tributaries lying below the 10 foot m.s.l.
17 | contour line nearest the meander line of the Wekiva and St.
18 | John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD
19 | 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES
20 | (U.S.G.S. 7.5 minute topographic) within the following
21 | described property: Beginning at a point on the south
22 | boundary of the Moses E. Levy Grant, Township 19 South, Range
23 | 29 East, at its intersection with the meander line of the
24 | Wekiva River; thence south 60 1/2 degrees east along said
25 | boundary line 4,915.68 feet; thence north 29 1/2 degrees east
26 | 15,516.5 feet to the meander line of the St. John's River;
27 | thence northerly along the meander line of the St. John's
28 | River to the mouth of the Wekiva River; thence southerly along
29 | the meander line of the Wekiva River to the beginning; and

30 | (e) All state-owned sovereignty lands, public lands,
31 | and lands whether public or private below the ordinary

1 high-water line ~~mark~~ of the Wekiva River and the Little Wekiva
2 River and their tributaries within the Peter Miranda Grant
3 lying east of the Wekiva River, less the following:
4 1. State Road 46 and all land lying south of said
5 State Road No. 46.
6 2. Beginning 15.56 chains West of the Southeast corner
7 of the SW 1/4 of the NE 1/4 of Section 21, Township 19
8 South, Range 29 East, run east 600 feet; thence north 960
9 feet; thence west 340 feet to the Wekiva River; thence
10 southwesterly along said Wekiva River to point of beginning.
11 3. That part of the east 1/4 of the SW 1/4 of
12 Section 22, Township 19 South, Range 29 East, lying within the
13 Peter Miranda Grant east of the Wekiva River.
14 (f) All the sovereignty submerged lands lying within
15 the following described boundaries: Begin at the intersection
16 of State Road 44 and the westerly ordinary high-water ~~high~~
17 ~~water~~ line of the St. Johns River, Section 22, Township 17
18 South, Range 29 East, Lake County: Thence proceed southerly
19 along the westerly ordinary high-water ~~high-water~~ line of said
20 river and its tributaries to the intersection of the northerly
21 right-of-way of State Road 400; thence proceed northeasterly
22 along said right-of-way to the easterly ordinary high-water
23 ~~high-water~~ line of the St. Johns River; thence proceed
24 northerly along said ordinary high-water ~~high-water~~ line of
25 the St. Johns River and its tributaries to its intersection
26 with the easterly ordinary high-water ~~high-water~~ line of Lake
27 Beresford; thence proceed northerly along the ordinary
28 high-water ~~high-water~~ line of said lake to its intersection
29 with the westerly line of Section 24, Township 17 South, Range
30 29 East; thence proceed northerly to the southerly
31 right-of-way of West New York Avenue; thence proceed westerly

1 along the southerly right-of-way of said avenue to its
2 intersection with the southerly right-of-way line of State
3 Road 44; thence proceed southwesterly along said right-of-way
4 to the point of beginning.

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6 As used in this subsection, the term "ordinary high-water
7 line" has the same meaning as in s. 253.024.

8 Section 4. Section 258.399, Florida Statutes, is
9 amended to read:

10 258.399 Oklawaha River Aquatic Preserve.--The
11 following described area in Marion County is designated by the
12 Legislature for inclusion into the aquatic preserve system
13 under the Florida Aquatic Preserve Act of 1975. Such area, to
14 be known as the Oklawaha River Aquatic Preserve, shall be
15 included in the aquatic preserve system and shall include the
16 following described property. The Oklawaha River Aquatic
17 Preserve shall consist of those state-owned sovereignty
18 submerged lands lying below the ordinary high-water ~~high-water~~
19 line of said land, located in Marion County. The preserve is
20 more specifically described as: Begin at the intersection of
21 the southerly right-of-way of county road 316 and the westerly
22 ordinary high-water ~~high-water~~ line of the Oklawaha River,
23 located in Section 9, Township 13 South, Range 24 East.
24 Thence from said point of beginning proceed southerly along
25 the ordinary high-water ~~high-water~~ line of the Oklawaha River
26 and its tributaries to its intersection with the eastern line
27 of Section 36, Township 15 South, Range 23 East. Thence
28 proceed northerly along said Section line to its intersection
29 with the easterly ordinary high-water ~~high-water~~ line of the
30 Oklawaha River. Thence proceed northerly along said ordinary
31 high-water ~~high-water~~ line to its intersection with the

1 southerly right-of-way of county road 316. Thence proceed west
2 along said road to the point of beginning; including Eaton
3 Creek upstream to the northern line of Section 3, Township 14
4 South, Range 24 East, Daisy Creek upstream to county road 315,
5 Silver River upstream to the western line of Section 5,
6 Township 15 South, Range 23 East. Less and except Dead River
7 and Orange Drain. As used in this section, the term "ordinary
8 high-water line" has the same meaning as in s. 253.024.

9 Section 5. Paragraph (a) of subsection (10) of section
10 380.0555, Florida Statutes, is amended to read:

11 380.0555 Apalachicola Bay Area; protection and
12 designation as area of critical state concern.--

13 (10) REQUIREMENTS; LOCAL GOVERNMENTS.--

14 (a) As used in this subsection:

15 1. "Alternative onsite system" means any approved
16 onsite disposal system used in lieu of a standard subsurface
17 system.

18 2. "Critical shoreline zone" means all land within a
19 distance of 150 feet landward of the mean high-water line in
20 tidal areas, the ordinary high-water line, as defined in s.
21 253.024, in nontidal areas, or the inland wetland areas
22 existing along the streams, lakes, rivers, bays, and sounds
23 within the Apalachicola Bay Area.

24 3. "Pollution-sensitive segment of the critical
25 shoreline" means an area which, due to its proximity to highly
26 sensitive resources, including, but not limited to, productive
27 shellfish beds and nursery areas, requires special regulatory
28 attention.

29 4. "Low-income family" means a group of persons
30 residing together whose combined income does not exceed 200
31 percent of the 1985 Poverty Income Guidelines for all states

1 and the District of Columbia, promulgated by the United States
2 Department of Health and Human Services, as published in
3 Volume 50, No. 46 of the Federal Register, pages 9517-18.
4 Income shall be as defined in said guidelines.

5 Section 6. Paragraph (u) of subsection (2) of section
6 403.813, Florida Statutes, is amended to read:

7 403.813 Permits issued at district centers;
8 exceptions.--

9 (2) A permit is not required under this chapter,
10 chapter 373, chapter 61-691, Laws of Florida, or chapter 25214
11 or chapter 25270, 1949, Laws of Florida, for activities
12 associated with the following types of projects; however,
13 except as otherwise provided in this subsection, nothing in
14 this subsection relieves an applicant from any requirement to
15 obtain permission to use or occupy lands owned by the Board of
16 Trustees of the Internal Improvement Trust Fund or any water
17 management district in its governmental or proprietary
18 capacity or from complying with applicable local pollution
19 control programs authorized under this chapter or other
20 requirements of county and municipal governments:

21 (u) Notwithstanding any provision to the contrary in
22 this subsection, a permit or other authorization under chapter
23 253, chapter 369, chapter 373, or this chapter is not required
24 for an individual residential property owner for the removal
25 of organic detrital material from freshwater rivers or lakes
26 that have a natural sand or rocky substrate and that are not
27 Aquatic Preserves or for the associated removal and replanting
28 of aquatic vegetation for the purpose of environmental
29 enhancement, providing that:

30 1. No activities under this exemption are conducted in
31 wetland areas, as defined by s. 373.019(22), which are

1 supported by a natural soil as shown in applicable United
2 States Department of Agriculture county soil surveys.

3 2. No filling or peat mining is allowed.

4 3. No removal of native wetland trees, including, but
5 not limited to, ash, bay, cypress, gum, maple, or tupelo,
6 occurs.

7 4. When removing organic detrital material, no portion
8 of the underlying natural mineral substrate or rocky substrate
9 is removed.

10 5. Organic detrital material and plant material
11 removed is deposited in an upland site in a manner that will
12 not cause water quality violations.

13 6. All activities are conducted in such a manner, and
14 with appropriate turbidity controls, so as to prevent any
15 water quality violations outside the immediate work area.

16 7. Replanting with a variety of aquatic plants native
17 to the state shall occur in a minimum of 25 percent of the
18 preexisting vegetated areas where organic detrital material is
19 removed, except for areas where the material is removed to
20 bare rocky substrate; however, an area may be maintained clear
21 of vegetation as an access corridor. The access corridor width
22 may not exceed 50 percent of the property owner's frontage or
23 50 feet, whichever is less, and may be a sufficient length
24 waterward to create a corridor to allow access for a boat or
25 swimmer to reach open water. Replanting must be at a minimum
26 density of 2 feet on center and be completed within 90 days
27 after removal of existing aquatic vegetation, except that
28 under dewatered conditions replanting must be completed within
29 90 days after reflooding. The area to be replanted must extend
30 waterward from the ordinary high-water ~~high-water~~ line, as
31 defined in s. 253.024, to a point where normal water depth

1 | would be 3 feet or the preexisting vegetation line, whichever
2 | is less. Individuals are required to make a reasonable effort
3 | to maintain planting density for a period of 6 months after
4 | replanting is complete, and the plants, including naturally
5 | recruited native aquatic plants, must be allowed to expand and
6 | fill in the revegetation area. Native aquatic plants to be
7 | used for revegetation must be salvaged from the enhancement
8 | project site or obtained from an aquatic plant nursery
9 | regulated by the Department of Agriculture and Consumer
10 | Services. Plants that are not native to the state may not be
11 | used for replanting.

12 | 8. No activity occurs any farther than 100 feet
13 | waterward of the ordinary high-water ~~high-water~~ line, as
14 | defined in s. 253.024, and all activities must be designed and
15 | conducted in a manner that will not unreasonably restrict or
16 | infringe upon the riparian rights of adjacent upland riparian
17 | owners.

18 | 9. The person seeking this exemption notifies the
19 | applicable department district office in writing at least 30
20 | days before commencing work and allows the department to
21 | conduct a preconstruction site inspection. Notice must include
22 | an organic-detrital-material removal and disposal plan and, if
23 | applicable, a vegetation-removal and revegetation plan.

24 | 10. The department is provided written certification
25 | of compliance with the terms and conditions of this paragraph
26 | within 30 days after completion of any activity occurring
27 | under this exemption.

28 | Section 7. This act shall take effect July 1, 2005.
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SENATE SUMMARY

Defines the line of ordinary high water which divides sovereign and riparian ownership in certain navigable freshwater bodies. Adds conforming definitions.