

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Governmental Oversight and Productivity Committee

BILL: CS/CS/SB 2426

SPONSOR: Governmental Oversight and Productivity Committee, Environmental Preservation Committee, and Senator Clary

SUBJECT: Beach Safety/Warning Flags

DATE: April 20, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Branning</u>	<u>Kiger</u>	<u>EP</u>	<u>Fav/CS</u>
2.	<u>McKay</u>	<u>Wilson</u>	<u>GO</u>	<u>Fav/CS</u>
3.	_____	_____	<u>GA</u>	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill provides that only certain warning and safety flags may be displayed on public beaches. The authority of the Department of Environmental Protection (DEP) over the uniform warning and safety flag program is clarified. The uniform warning or safety flags may be displayed on any public beach regardless of whether or not that beach has a lifeguard. The DEP is authorized to use grant money to establish and operate the warning and safety flag program. The liability provisions as they relate to governmental entities are clarified. The DEP may develop a beach safety education program.

This bill substantially amends s. 380.276, F.S.

II. Present Situation:

In 1978, the Legislature adopted the Florida Coastal Management Act, codified as ch. 380, part II, F.S. The Florida Coastal Management Program is based on a network of agencies implementing statutes that protect and enhance the state's natural, cultural, and economic coastal resources. As stated in s. 380.21, F.S., the Legislature finds that the coastal zone is rich in a variety of natural, commercial, recreational, ecological, industrial, and aesthetic resources of immediate and potential value to the present and future well-being of the residents of this state and is an important factor in developing, adopting, amending, and implementing a program for management of the coastal zone, and management of the state's coastal zone requires a highly coordinated effort among state, regional, and local officials and agencies.

The safety and enjoyment of Florida's public beaches is affected by changes in tide and surf conditions. Warning flags may be posted by many coastal communities, but the flags used to

identify different tide and surf conditions may vary from beach to beach. Differences in flag colors, size, and symbols can confuse the public at the beach, thereby decreasing the effectiveness of efforts to improve public safety.

In 2002, the Legislature created s. 380.276, F.S., relating to the display of uniform warning and safety flags on public beaches. The Legislature recognized that because the varying natural conditions of Florida's public beaches and coastal areas pose significant risks to the safety of tourists and the general public, it is important to inform the public of the need to exercise caution. The Department of Environmental Protection (DEP), through the Florida Coastal Management Program, was directed to coordinate the uniform warning and safety flag program. The purpose of the program is to encourage the display of uniform warning and safety flags at all public beaches along the coast of the state at which warning and safety flags are displayed and lifeguards are on duty, and to encourage the placement of uniform notification signs that provide the meaning of the flags.

The DEP is authorized to establish and operate a program to encourage the display of uniform warning and safety flags on all public beaches along the coast of the state and to encourage the placement of uniform notification signs that provide the meaning of the flags displayed. The DEP would coordinate the implementation of the uniform warning and safety flag program with local governing bodies and the Florida Beach Patrol Chiefs Association.

The DEP's beach warning flag program uses the colors adopted by the International Lifesaving Federation, with symbols added to clarify the meaning of the flags. The program also includes the placement of interpretive signs along the beach to explain the meaning of each flag used in the warning system.

To the extent of available funds, the warning flags and interpretive signs are provided free of charge to local governments that provide public beach access. The communities that receive the free warning flags and interpretive signs are responsible for the installation, proper use, and maintenance of the flags and signs. Local governments with life-guarded public beaches are strongly encouraged to participate in the uniform warning flag program by adopting the same standard colors used by the Department and the International Lifesaving Federation.

Each flag measures 29.25"H. x 39"W. The signs are 30" x 36". The flag colors are:

- Double Red – Water Closed to Public
- Red – High Hazard (high surf and/or strong currents)
- Yellow – Medium Hazard (moderate surf and/or currents)
- Green – Low Hazard (calm conditions, exercise caution)
- Purple – Dangerous Marine Life

Subsection (6) of s. 380.276, F.S., provides that the state, state agencies, local governments, and local government agencies may not be held liable for any injury caused by the reasonable placement or location of uniform warning and safety flags or reasonably posted uniform notification signs or the failure to install uniform warning and safety flags or post uniform notification signs.

III. Effect of Proposed Changes:

This bill amends s. 380.276, F.S., to specifically provide that the Department of Environmental Protection (DEP) must develop, direct, and coordinate the uniform warning and safety flag program. The purpose of the program is to encourage the display of uniform warning and safety flags at public beaches along the coast of the state and to encourage the placement of uniform notification signs that provide the meaning of such flags.

The bill provides that only warning and safety flags developed by the DEP may be displayed. Participation in the program shall be open to any governmental entity having jurisdiction over a public beach along the coast, whether or not the beach has lifeguards.

The uniform warning and safety flag program shall provide:

- For posted notification of the meaning of each of the warning and safety flags at all designated public access points;
- The uniform notification signs be posted in a conspicuous location and be clearly legible; and
- The standard size, shape, color, and definition for each warning and safety flag.

The requirement that the flags incorporate a numerical designation to accommodate persons who are colorblind is deleted.

The DEP may use any appropriations or grants available to establish and operate a program to encourage the display of uniform warning and safety flags at all public beaches along the coast and to encourage the placement of uniform notification signs that provide the meaning of the flags displayed.

The bill specifically provides that due to the inherent danger of constantly changing surf and other naturally occurring conditions along the coast of the state, state, local, or regional governmental entities or authorities, and their individual employees or agents may not be held liable for any injury or loss of life caused by changing surf or other naturally occurring conditions along coastal areas whether or not uniform warning and safety flags or notification signs developed by the DEP are displayed or posted.

The DEP, through the Florida Coastal Management Program, may also develop and make available to the public other educational information and materials related to beach safety.

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:

The posting of uniform warning and safety flags on any public beach, whether or not that beach is manned by a lifeguard, may better protect the public's safety and welfare by informing the public of dangerous surf and water conditions. The flags and their meanings would be the same regardless of where the beach is located in Florida, thereby providing uniformity throughout the state.

C. Government Sector Impact:

By deleting the requirement that beach warning flags must display numerals, the costs of the flags should be reduced. This will allow more sets of flags to be provided to more communities free of charge.

By clarifying the liability provisions as they relate to governmental entities and their employees, governmental entities would have some immunity from damages resulting in water and surf incidents occurring in areas where flags are displayed.

The National Oceanic and Atmospheric Administration provides grant funding to the DEP for this program. The bill allows the DEP to use such grant funds.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

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