

CHAMBER ACTION

1 The State Infrastructure Council recommends the following:

2
3 **Council/Committee Substitute**

4 Remove the entire bill and insert:

5 A bill to be entitled

6 An act relating to waterfront property; amending s.
7 163.3174, F.S.; authorizing municipalities in certain
8 chartered counties to exercise exclusive land use planning
9 authority subject to the adoption of a resolution;
10 defining the scope of said authority; amending s.
11 163.3177, F.S.; requiring the future land use plan element
12 of a local comprehensive plan for a coastal county to
13 include criteria to encourage the preservation of
14 recreational and commercial working waterfronts; including
15 public access to waterways within those items indicated in
16 a recreation and open space element; amending s. 163.3178,
17 F.S.; providing requirements for the shoreline use
18 component of a coastal management element with respect to
19 recreational and commercial working waterfronts; amending
20 s. 163.3187, F.S.; including areas designated as rural
21 areas of critical economic concern in an exemption for
22 certain small scale amendments from a limit on the
23 frequency of amendments to the comprehensive plan of a

24 | county or a municipality; increasing various acreage
 25 | limitations governing eligibility for such exemption for a
 26 | small scale amendment within such an area; requiring
 27 | certification of the amendment to the Office of Tourism,
 28 | Trade, and Economic Development; requiring public review
 29 | of certain property; amending s. 253.002, F.S.; removing
 30 | an obsolete reference; revising the responsibilities of
 31 | the Department of Agriculture and Consumer Services for
 32 | aquaculture activities; amending s. 253.03, F.S.;
 33 | requiring the Board of Trustees of the Internal
 34 | Improvement Trust Fund to encourage certain uses for
 35 | sovereign submerged lands; amending s. 253.67, F.S.;
 36 | clarifying the definition of "aquaculture"; amending s.
 37 | 253.68, F.S.; providing authority to the board for certain
 38 | aquaculture activities; providing a definition; requiring
 39 | the board to establish certain guidelines by rule;
 40 | amending s. 253.74, F.S.; providing penalties for certain
 41 | unauthorized aquaculture activities; amending s. 253.75,
 42 | F.S.; revising the responsibilities of the board with
 43 | regard to certain aquaculture activities; establishing the
 44 | Waterfronts Florida Program within the Department of
 45 | Community Affairs; providing definitions; requiring that
 46 | the program implement the Waterfronts Florida Partnership
 47 | Program in coordination with the Department of
 48 | Environmental Protection; authorizing the Department of
 49 | Community Affairs to provide financial assistance to
 50 | certain local governments; requiring the Department of
 51 | Environmental Protection and water management districts to

52 | adopt programs to expedite the processing of permits for
53 | certain projects; requiring the Department of
54 | Environmental Protection, in coordination with the Fish
55 | and Wildlife Conservation Commission, to study the use of
56 | state parks for recreational boating; requiring that the
57 | department make recommendations to the Governor and the
58 | Legislature; amending s. 328.72, F.S.; revising the
59 | distribution of vessel registration fees; providing for a
60 | portion of the fees to be designated for certain trust
61 | funds; providing for a grant program for public launching
62 | facilities; providing priority consideration for certain
63 | counties; requiring certain counties to provide an annual
64 | report to the Fish and Wildlife Conservation Commission;
65 | requiring the commission to provide exemptions for certain
66 | counties; creating s. 342.07, F.S.; enunciating the
67 | state's interest in maintaining recreational and
68 | commercial working waterfronts; defining the term
69 | "recreational and commercial working waterfront"; creating
70 | ss. 197.303-197.3047, F.S.; authorizing county commissions
71 | to adopt tax deferral ordinances for recreational and
72 | commercial working waterfront properties; requiring
73 | bonding periods effective prior the deferral to remain in
74 | effect for certain properties; providing requirements for
75 | deferral notification and application for certain
76 | properties; providing a tax deferral for ad valorem taxes
77 | and non-ad valorem assessments authorized to be deferred
78 | by ordinance and levied on recreational and commercial
79 | working waterfronts; providing certain exceptions;

80 specifying the rate of the deferral; providing that the
 81 taxes, assessments, and interest deferred constitute a
 82 prior lien on the property; providing an application
 83 process; providing notice requirements; providing for a
 84 decision of the tax collector to be appealed to the value
 85 adjustment board; providing for calculating the deferral;
 86 providing requirements for deferred payment tax
 87 certificates; providing for the deferral to cease under
 88 certain circumstances; requiring notice to the tax
 89 collector; requiring payment of deferred taxes,
 90 assessments, and interest under certain circumstances;
 91 authorizing specified parties to make a prepayment of
 92 deferred taxes; providing for distribution of payments;
 93 providing for construction of provisions authorizing the
 94 deferments; providing penalties; providing for a penalty
 95 to be appealed to the value adjustment board; providing an
 96 effective date.

97

98 Be It Enacted by the Legislature of the State of Florida:

99

100 Section 1. Paragraph (b) of subsection (1) of section
 101 163.3174, Florida Statutes, is amended to read:

102 163.3174 Local planning agency.--

103 (1) The governing body of each local government,
 104 individually or in combination as provided in s. 163.3171, shall
 105 designate and by ordinance establish a "local planning agency,"
 106 unless the agency is otherwise established by law.

107 Notwithstanding any special act to the contrary, all local

HB 955 CS

2005
CS

108 | planning agencies or equivalent agencies that first review
109 | rezoning and comprehensive plan amendments in each municipality
110 | and county shall include a representative of the school district
111 | appointed by the school board as a nonvoting member of the local
112 | planning agency or equivalent agency to attend those meetings at
113 | which the agency considers comprehensive plan amendments and
114 | rezonings that would, if approved, increase residential density
115 | on the property that is the subject of the application. However,
116 | this subsection does not prevent the governing body of the local
117 | government from granting voting status to the school board
118 | member. The governing body may designate itself as the local
119 | planning agency pursuant to this subsection with the addition of
120 | a nonvoting school board representative. The governing body
121 | shall notify the state land planning agency of the establishment
122 | of its local planning agency. All local planning agencies shall
123 | provide opportunities for involvement by applicable community
124 | college boards, which may be accomplished by formal
125 | representation, membership on technical advisory committees, or
126 | other appropriate means. The local planning agency shall prepare
127 | the comprehensive plan or plan amendment after hearings to be
128 | held after public notice and shall make recommendations to the
129 | governing body regarding the adoption or amendment of the plan.
130 | The agency may be a local planning commission, the planning
131 | department of the local government, or other instrumentality,
132 | including a countywide planning entity established by special
133 | act or a council of local government officials created pursuant
134 | to s. 163.02, provided the composition of the council is fairly

135 representative of all the governing bodies in the county or
136 planning area; however:

137 (b) In the case of chartered counties, the planning
138 responsibility between the county and the several municipalities
139 therein shall be as stipulated in the charter. A municipality
140 located in a county that adopts a charter form of government on
141 or after July 1, 2005, shall have the option to exercise
142 exclusive land use planning authority. The exercise of this
143 option shall require the municipality to adopt a resolution
144 approving the exercise of exclusive land use planning authority.
145 Exclusive land use planning authority includes platting, zoning,
146 the adoption of comprehensive plan amendments in accordance with
147 this chapter, and the issuance of development orders for the
148 area under municipal jurisdiction.

149 Section 2. Paragraphs (a) and (e) of subsection (6) of
150 section 163.3177, Florida Statutes, are amended to read:

151 163.3177 Required and optional elements of comprehensive
152 plan; studies and surveys.--

153 (6) In addition to the requirements of subsections (1)-
154 (5), the comprehensive plan shall include the following
155 elements:

156 (a) A future land use plan element designating proposed
157 future general distribution, location, and extent of the uses of
158 land for residential uses, commercial uses, industry,
159 agriculture, recreation, conservation, education, public
160 buildings and grounds, other public facilities, and other
161 categories of the public and private uses of land. Counties are
162 encouraged to designate rural land stewardship areas, pursuant

163 to the provisions of paragraph (11)(d), as overlays on the
164 future land use map. Each future land use category must be
165 defined in terms of uses included, and must include standards to
166 be followed in the control and distribution of population
167 densities and building and structure intensities. The proposed
168 distribution, location, and extent of the various categories of
169 land use shall be shown on a land use map or map series which
170 shall be supplemented by goals, policies, and measurable
171 objectives. The future land use plan shall be based upon
172 surveys, studies, and data regarding the area, including the
173 amount of land required to accommodate anticipated growth; the
174 projected population of the area; the character of undeveloped
175 land; the availability of public services; the need for
176 redevelopment, including the renewal of blighted areas and the
177 elimination of nonconforming uses which are inconsistent with
178 the character of the community; the compatibility of uses on
179 lands adjacent to or closely proximate to military
180 installations; and, in rural communities, the need for job
181 creation, capital investment, and economic development that will
182 strengthen and diversify the community's economy. The future
183 land use plan may designate areas for future planned development
184 use involving combinations of types of uses for which special
185 regulations may be necessary to ensure development in accord
186 with the principles and standards of the comprehensive plan and
187 this act. The future land use plan element shall include
188 criteria to be used to achieve the compatibility of adjacent or
189 closely proximate lands with military installations. In
190 addition, for rural communities, the amount of land designated

191 | for future planned industrial use shall be based upon surveys
 192 | and studies that reflect the need for job creation, capital
 193 | investment, and the necessity to strengthen and diversify the
 194 | local economies, and shall not be limited solely by the
 195 | projected population of the rural community. The future land use
 196 | plan of a county may also designate areas for possible future
 197 | municipal incorporation. The land use maps or map series shall
 198 | generally identify and depict historic district boundaries and
 199 | shall designate historically significant properties meriting
 200 | protection. For coastal counties, the future land use element
 201 | must include, without limitation, regulatory incentives and
 202 | criteria that encourage the preservation of recreational and
 203 | commercial working waterfronts as defined in s. 342.07. The
 204 | future land use element must clearly identify the land use
 205 | categories in which public schools are an allowable use. When
 206 | delineating the land use categories in which public schools are
 207 | an allowable use, a local government shall include in the
 208 | categories sufficient land proximate to residential development
 209 | to meet the projected needs for schools in coordination with
 210 | public school boards and may establish differing criteria for
 211 | schools of different type or size. Each local government shall
 212 | include lands contiguous to existing school sites, to the
 213 | maximum extent possible, within the land use categories in which
 214 | public schools are an allowable use. All comprehensive plans
 215 | must comply with the school siting requirements of this
 216 | paragraph no later than October 1, 1999. The failure by a local
 217 | government to comply with these school siting requirements by
 218 | October 1, 1999, will result in the prohibition of the local

HB 955 CS

2005
CS

219 government's ability to amend the local comprehensive plan,
220 except for plan amendments described in s. 163.3187(1)(b), until
221 the school siting requirements are met. Amendments proposed by a
222 local government for purposes of identifying the land use
223 categories in which public schools are an allowable use or for
224 adopting or amending the school-siting maps pursuant to s.
225 163.31776(3) are exempt from the limitation on the frequency of
226 plan amendments contained in s. 163.3187. The future land use
227 element shall include criteria that encourage the location of
228 schools proximate to urban residential areas to the extent
229 possible and shall require that the local government seek to
230 collocate public facilities, such as parks, libraries, and
231 community centers, with schools to the extent possible and to
232 encourage the use of elementary schools as focal points for
233 neighborhoods. For schools serving predominantly rural counties,
234 defined as a county with a population of 100,000 or fewer, an
235 agricultural land use category shall be eligible for the
236 location of public school facilities if the local comprehensive
237 plan contains school siting criteria and the location is
238 consistent with such criteria. Local governments required to
239 update or amend their comprehensive plan to include criteria and
240 address compatibility of adjacent or closely proximate lands
241 with existing military installations in their future land use
242 plan element shall transmit the update or amendment to the
243 department by June 30, 2006.

244 (e) A recreation and open space element indicating a
245 comprehensive system of public and private sites for recreation,
246 including, but not limited to, natural reservations, parks and

HB 955 CS

2005
CS

247 playgrounds, parkways, beaches and public access to beaches,
248 open spaces, waterways, and other recreational facilities.

249 Section 3. Paragraph (g) of subsection (2) of section
250 163.3178, Florida Statutes, is amended to read:

251 163.3178 Coastal management.--

252 (2) Each coastal management element required by s.
253 163.3177(6)(g) shall be based on studies, surveys, and data; be
254 consistent with coastal resource plans prepared and adopted
255 pursuant to general or special law; and contain:

256 (g) A shoreline use component that ~~which~~ identifies public
257 access to beach and shoreline areas and addresses the need for
258 water-dependent and water-related facilities, including marinas,
259 along shoreline areas. Such component must include the
260 strategies that will be used to preserve recreational and
261 commercial working waterfronts as defined in s. 342.07.

262 Section 4. Paragraph (c) of subsection (1) of section
263 163.3187, Florida Statutes, is amended, and paragraph (o) is
264 added to said subsection, to read:

265 163.3187 Amendment of adopted comprehensive plan.--

266 (1) Amendments to comprehensive plans adopted pursuant to
267 this part may be made not more than two times during any
268 calendar year, except:

269 (c) Any local government comprehensive plan amendments
270 directly related to proposed small scale development activities
271 may be approved without regard to statutory limits on the
272 frequency of consideration of amendments to the local
273 comprehensive plan. A small scale development amendment may be
274 adopted only under the following conditions:

275 | 1. The proposed amendment involves a use of 10 acres or
276 | fewer and:

277 | a. The cumulative annual effect of the acreage for all
278 | small scale development amendments adopted by the local
279 | government shall not exceed:

280 | (I) A maximum of 120 acres in a local government that
281 | contains areas specifically designated in the local
282 | comprehensive plan for urban infill, urban redevelopment, or
283 | downtown revitalization as defined in s. 163.3164, urban infill
284 | and redevelopment areas designated under s. 163.2517, areas
285 | designated by the Governor as rural areas of critical economic
286 | concern under s. 288.0656(7), transportation concurrency
287 | exception areas approved pursuant to s. 163.3180(5), or regional
288 | activity centers and urban central business districts approved
289 | pursuant to s. 380.06(2)(e); however, amendments under this
290 | paragraph may be applied to no more than 60 acres annually of
291 | property outside the designated areas listed in this sub-sub-
292 | subparagraph. Amendments adopted pursuant to paragraph (k) shall
293 | not be counted toward the acreage limitations for small scale
294 | amendments under this paragraph.

295 | (II) A maximum of 80 acres in a local government that does
296 | not contain any of the designated areas set forth in sub-sub-
297 | subparagraph (I).

298 | (III) A maximum of 120 acres in a county established
299 | pursuant to s. 9, Art. VIII of the State Constitution.

300 | b. The proposed amendment does not involve the same
301 | property granted a change within the prior 12 months.

302 c. The proposed amendment does not involve the same
 303 owner's property within 200 feet of property granted a change
 304 within the prior 12 months.

305 d. The proposed amendment does not involve a text change
 306 to the goals, policies, and objectives of the local government's
 307 comprehensive plan, but only proposes a land use change to the
 308 future land use map for a site-specific small scale development
 309 activity.

310 e. The property that is the subject of the proposed
 311 amendment is not located within an area of critical state
 312 concern, unless the project subject to the proposed amendment
 313 involves the construction of affordable housing units meeting
 314 the criteria of s. 420.0004(3), and is located within an area of
 315 critical state concern designated by s. 380.0552 or by the
 316 Administration Commission pursuant to s. 380.05(1). Such
 317 amendment is not subject to the density limitations of sub-
 318 subparagraph f., and shall be reviewed by the state land
 319 planning agency for consistency with the principles for guiding
 320 development applicable to the area of critical state concern
 321 where the amendment is located and shall not become effective
 322 until a final order is issued under s. 380.05(6).

323 f. If the proposed amendment involves a residential land
 324 use, the residential land use has a density of 10 units or less
 325 per acre, except that this limitation does not apply to small
 326 scale amendments described in sub-sub-subparagraph a.(I) that
 327 are designated in the local comprehensive plan for urban infill,
 328 urban redevelopment, or downtown revitalization as defined in s.
 329 163.3164, urban infill and redevelopment areas designated under

330 s. 163.2517, transportation concurrency exception areas approved
 331 pursuant to s. 163.3180(5), or regional activity centers and
 332 urban central business districts approved pursuant to s.
 333 380.06(2)(e).

334 2.a. A local government that proposes to consider a plan
 335 amendment pursuant to this paragraph is not required to comply
 336 with the procedures and public notice requirements of s.
 337 163.3184(15)(c) for such plan amendments if the local government
 338 complies with the provisions in s. 125.66(4)(a) for a county or
 339 in s. 166.041(3)(c) for a municipality. If a request for a plan
 340 amendment under this paragraph is initiated by other than the
 341 local government, public notice is required.

342 b. The local government shall send copies of the notice
 343 and amendment to the state land planning agency, the regional
 344 planning council, and any other person or entity requesting a
 345 copy. This information shall also include a statement
 346 identifying any property subject to the amendment that is
 347 located within a coastal high hazard area as identified in the
 348 local comprehensive plan.

349 3. Small scale development amendments adopted pursuant to
 350 this paragraph require only one public hearing before the
 351 governing board, which shall be an adoption hearing as described
 352 in s. 163.3184(7), and are not subject to the requirements of s.
 353 163.3184(3)-(6) unless the local government elects to have them
 354 subject to those requirements.

355 4. If the small scale development amendment involves a
 356 site within an area that is designated by the Governor as a
 357 rural area of critical economic concern under s. 288.0656(7),

358 for the duration of such designation, sub-subparagraph 1.c.
 359 shall not apply and the 10-acre limit listed in subparagraph 1.
 360 shall be increased by 100 percent to 20 acres. The local
 361 government approving the small scale plan amendment shall
 362 certify to the Office of Tourism, Trade, and Economic
 363 Development that the plan amendment furthers the economic
 364 objectives set forth in the executive order issued under s.
 365 288.0656(7), and the property subject to the plan amendment
 366 shall undergo public review to ensure that all concurrency
 367 requirements and federal, state, and local environmental permit
 368 requirements are met.

369 (o) A comprehensive plan amendment that is submitted by an
 370 area designated by the Governor as a rural area of critical
 371 economic concern under s. 288.0656(7) and that meets the
 372 economic development objectives may be approved without regard
 373 to the statutory limits on the frequency of adoption of
 374 amendments to the comprehensive plan.

375 Section 5. Subsection (1) of section 253.002, Florida
 376 Statutes, is amended to read:

377 253.002 Department of Environmental Protection, water
 378 management districts, and Department of Agriculture and Consumer
 379 Services; duties with respect to state lands.--

380 (1) The Department of Environmental Protection shall
 381 perform all staff duties and functions related to the
 382 acquisition, administration, and disposition of state lands,
 383 title to which is or will be vested in the Board of Trustees of
 384 the Internal Improvement Trust Fund. However, upon the effective
 385 date of rules adopted pursuant to s. 373.427, a water management

386 | district created under s. 373.069 shall perform the staff duties
 387 | and functions related to the review of any application for
 388 | authorization to use board of trustees-owned submerged lands
 389 | necessary for an activity regulated under part IV of chapter 373
 390 | for which the water management district has permitting
 391 | responsibility as set forth in an operating agreement adopted
 392 | pursuant to s. 373.046(4); and ~~effective July 1, 2000,~~ the
 393 | Department of Agriculture and Consumer Services shall perform
 394 | the staff duties and functions related to the review of
 395 | applications and compliance with ~~lease~~ conditions for use of
 396 | board of trustees-owned submerged lands under authorizations or
 397 | leases issued pursuant to ss. 253.67-253.75 and 597.010. Unless
 398 | expressly prohibited by law, the board of trustees may delegate
 399 | to the department any statutory duty or obligation relating to
 400 | the acquisition, administration, or disposition of lands, title
 401 | to which is or will be vested in the board of trustees. The
 402 | board of trustees may also delegate to any water management
 403 | district created under s. 373.069 the authority to take final
 404 | agency action, without any action on behalf of the board, on
 405 | applications for authorization to use board of trustees-owned
 406 | submerged lands for any activity regulated under part IV of
 407 | chapter 373 for which the water management district has
 408 | permitting responsibility as set forth in an operating agreement
 409 | adopted pursuant to s. 373.046(4). This water management
 410 | district responsibility under this subsection shall be subject
 411 | to the department's general supervisory authority pursuant to s.
 412 | 373.026(7). The board of trustees may also delegate to the
 413 | Department of Agriculture and Consumer Services the authority to

HB 955 CS

2005
CS

414 take final agency action on behalf of the board on applications
 415 to use board of trustees-owned submerged lands for any activity
 416 for which that department has responsibility pursuant to ss.
 417 253.67-253.75 and 597.010. However, the board of trustees shall
 418 retain the authority to take final agency action on establishing
 419 any areas for leasing, new leases, expanding existing lease
 420 areas, or changing the type of lease activity in existing
 421 leases. Upon issuance of an aquaculture lease or other real
 422 property transaction relating to aquaculture, the Department of
 423 Agriculture and Consumer Services must send a copy of the
 424 document and the accompanying survey to the Department of
 425 Environmental Protection.

426 Section 6. Subsection (15) of section 253.03, Florida
 427 Statutes, is renumbered as subsection (16), and a new subsection
 428 (15) is added to said section to read:

429 253.03 Board of trustees to administer state lands; lands
 430 enumerated.--

431 (15) The Board of Trustees of the Internal Improvement
 432 Trust Fund shall encourage the use of sovereign submerged lands
 433 for water-dependent uses and public access.

434 Section 7. Subsection (1) of section 253.67, Florida
 435 Statutes, is amended to read:

436 253.67 Definitions.--As used in ss. 253.67-253.75:

437 (1) "Aquaculture" means the cultivation of aquatic
 438 organisms and associated activities, including, but not limited
 439 to, grading, sorting, transporting, harvesting, holding,
 440 storing, growing, and planting.

441 Section 8. Subsection (1) and paragraph (a) of subsection
442 (2) of section 253.68, Florida Statutes, are amended to read:

443 253.68 Authority to lease or use submerged lands ~~land~~ and
444 water column for aquaculture activities.--

445 (1) To the extent that it is not contrary to the public
446 interest, and subject to limitations contained in ss. 253.67-
447 253.75, the board of trustees may lease or authorize the use of
448 submerged lands to which it has title for the conduct of
449 aquaculture activities and grant exclusive use of the bottom and
450 the water column to the extent required by such activities.

451 "Aquaculture activities" means any activities, as determined by
452 board rule, related to the production of aquacultural products,
453 including, but not limited to, producing, storing, handling,
454 grading, sorting, transporting, harvesting, and aquaculture
455 support docking. Such leases or authorizations may permit
456 ~~authorize~~ use of the submerged land and water column for either
457 commercial or experimental purposes. However, a resolution of
458 objection adopted by a majority of the county commission of a
459 county within whose boundaries the proposed leased area would
460 lie, if the boundaries were extended to the extent of the
461 interest of the state, may be filed with the board of trustees
462 within 30 days of the date of the first publication of notice as
463 required by s. 253.70. Prior to the granting of any such leases
464 or authorizations, the board shall by rule establish and publish
465 ~~a list of~~ guidelines to be followed when considering
466 applications for lease or authorization. Such guidelines shall
467 be designed to protect the public's interest in submerged lands
468 and the publicly owned water column.

HB 955 CS

2005
CS

469 (2)(a) The Legislature finds that the state's ability to
 470 supply fresh seafood and other aquaculture products has been
 471 diminished by a combination of factors, including a diminution
 472 of the resources and restrictions on the harvest of certain
 473 marine species. The Legislature declares that it is in the
 474 state's economic, resource enhancement, and food production
 475 interests to promote aquaculture production of food and nonfood
 476 aquatic species by facilitating the review and approval
 477 processes for authorizing the use of ~~leasing~~ sovereignty
 478 submerged land or the water column; simplifying environmental
 479 permitting; supporting educational, research, and demonstration
 480 programs; and assisting certain local governments to develop
 481 aquaculture as a means to promote economic development. The
 482 Legislature declares that aquaculture shall be recognized as a
 483 practicable resource management alternative to produce marine
 484 aquaculture products, to protect and conserve natural resources,
 485 to reduce competition for natural stocks, and to augment and
 486 restore natural populations. Therefore, for the purpose of this
 487 section, the Legislature declares that aquaculture is in the
 488 public interest.

489 Section 9. Section 253.74, Florida Statutes, is amended to
 490 read:

491 253.74 Penalties.--

492 (1) Any person who conducts aquaculture activities in
 493 excess of those authorized by ~~lease agreement with~~ the board or
 494 who conducts such activities on state-owned submerged lands
 495 without having previously obtained an authorization from the
 496 board commits ~~leased the same shall be guilty of~~ a misdemeanor

HB 955 CS

2005
CS

497 | and shall be subject to imprisonment for not more than 6 months
 498 | or fine of not more than \$1,000, or both. In addition to such
 499 | fine and imprisonment, all works, improvements, animal and plant
 500 | life involved in the project, may be forfeited to the state.

501 | (2) Any person who is found by the department to have
 502 | violated the provisions of chapter 403 or chapter 597 shall be
 503 | subject to having his or her lease of state-owned submerged
 504 | lands canceled.

505 | Section 10. Subsection (1) of section 253.75, Florida
 506 | Statutes, is amended to read:

507 | 253.75 Studies and recommendations by the department and
 508 | the Fish and Wildlife Conservation Commission; designation of
 509 | recommended traditional and other use zones; supervision of
 510 | aquaculture operations.--

511 | (1) Prior to the granting of any form of authorization
 512 | ~~lease~~ under this act, the board shall request comments by the
 513 | Fish and Wildlife Conservation Commission when the application
 514 | relates to bottom land covered by fresh or salt water. Such
 515 | comments shall be based on such factors as an assessment of the
 516 | probable effect of the proposed use ~~lease~~ on the conservation of
 517 | fish or wildlife or other programs under the constitutional or
 518 | statutory authority of the Fish and Wildlife Conservation
 519 | Commission.

520 | Section 11. Waterfronts Florida Program.--

521 | (1) There is established within the Department of
 522 | Community Affairs the Waterfronts Florida Program to provide
 523 | technical assistance and support to communities in revitalizing
 524 | waterfront areas in this state.

525 (2) As used in this section, the term:

526 (a) "Waterfront community" means a municipality or county
 527 that is required to prepare a coastal element for its local
 528 government comprehensive plan.

529 (b) "Recreational and commercial working waterfront" means
 530 a parcel or parcels of real property that provide access for
 531 water-dependent commercial activities or provide access for the
 532 public to the navigable waters of the state. Recreational and
 533 commercial working waterfronts require direct access to or a
 534 location on, over, or adjacent to a navigable body of water. The
 535 term includes water-dependent facilities that are open to the
 536 public and offer public access by vessels to the waters of the
 537 state or that are support facilities for recreational,
 538 commercial, research, or governmental vessels. These facilities
 539 include docks, wharfs, lifts, wet and dry marinas, boat ramps,
 540 boat hauling and repair facilities, commercial fishing
 541 facilities, boat construction facilities, and other support
 542 structures over the water.

543 (3) The purpose of this program is to provide technical
 544 assistance, support, training, and financial assistance to
 545 waterfront communities in their efforts to revitalize waterfront
 546 areas. The program shall direct its efforts on the following
 547 priority concerns:

548 (a) Protecting environmental and cultural resources;

549 (b) Providing public access;

550 (c) Mitigating hazards; and

551 (d) Enhancing the viable traditional economy.

552 (4) The program is responsible for:

553 (a) Implementing the Waterfronts Florida Partnership
554 Program. The department, in coordination with the Department of
555 Environmental Protection, shall develop procedures and
556 requirements governing program eligibility, application
557 procedures, and application review. The department may provide
558 financial assistance to eligible local governments to develop
559 local plans to further the purpose of the program. In
560 recognition of limited funding, the department may limit the
561 number of local governments assisted by the program based on the
562 amount of funding appropriated to the department for the purpose
563 of the program.

564 (b) Serving as a source for information and technical
565 assistance for Florida's waterfront communities in preserving
566 traditional recreational and commercial working waterfronts.

567 Section 12. The Department of Environmental Protection
568 and, as appropriate, the water management districts created by
569 chapter 373, Florida Statutes, shall adopt programs to expedite
570 the processing of wetland resource and environmental resource
571 permits for marina projects that reserve at least 10 percent of
572 available boat slips for public use.

573 Section 13. The Department of Environmental Protection, in
574 coordination with the Fish and Wildlife Conservation Commission,
575 shall undertake a study evaluating the current use of state
576 parks for purposes of recreational boating and identify
577 opportunities for increasing recreational boating access within
578 the state park system. The study must include recommendations
579 regarding the most appropriate locations for expanding existing
580 recreational boating access and must identify state parks where

HB 955 CS

2005
CS

581 new recreational boating access may be located. The report must
 582 contain estimates of the costs necessary to expand and construct
 583 additional recreational boating facilities at specific state
 584 parks. The department shall submit a report summarizing its
 585 findings and recommendations to the Governor, the President of
 586 the Senate, and the Speaker of the House of Representatives by
 587 January 1, 2006.

588 Section 14. Subsection (15) of section 328.72, Florida
 589 Statutes, is amended to read:

590 328.72 Classification; registration; fees and charges;
 591 surcharge; disposition of fees; fines; marine turtle stickers.--

592 (15) DISTRIBUTION OF FEES.--Except for the first \$2, \$1
 593 of~~7~~ which shall be remitted to the state for deposit into the
 594 Save the Manatee Trust Fund created within the Fish and Wildlife
 595 Conservation Commission and \$1 of which shall be remitted to the
 596 state for deposit into the Marine Resources Conservation Trust
 597 Fund to fund a grant program for public launching facilities,
 598 pursuant to s. 327.47, giving priority consideration to counties
 599 with more than 35,000 registered vessels.~~7~~ Moneys designated for
 600 the use of the counties, as specified in subsection (1), shall
 601 be distributed by the tax collector to the board of county
 602 commissioners for use as provided in this section. Such moneys
 603 to be returned to the counties are for the sole purposes of
 604 providing recreational channel marking and public launching
 605 facilities and other boating-related activities, for removal of
 606 vessels and floating structures deemed a hazard to public safety
 607 and health for failure to comply with s. 327.53, and for manatee
 608 and marine mammal protection and recovery. Counties that

HB 955 CS

2005
CS

609 demonstrate through an annual detailed accounting report of
 610 vessel registration revenues that registration fees were spent
 611 on public launching facilities shall only be required to
 612 transfer the first \$1 of the fees to the Save the Manatee Trust
 613 Fund. This report shall be provided to the Fish and Wildlife
 614 Conservation Commission no later than November 1 of each year.
 615 The commission shall provide an exemption letter to the
 616 department by December 15 of each year for qualifying counties.

617 Section 15. Section 342.07, Florida Statutes, is created
 618 to read:

619 342.07 Recreational and commercial working waterfronts;
 620 legislative findings; definitions.--

621 (1) The Legislature recognizes that there is an important
 622 state interest in facilitating boating access to the state's
 623 navigable waters. This access is vital to recreational users and
 624 the marine industry in the state, to maintaining or enhancing
 625 the \$14 billion economic impact of boating in the state, and to
 626 ensuring continued access to all residents and visitors to the
 627 navigable waters of the state. The Legislature recognizes that
 628 there is an important state interest in maintaining viable
 629 water-dependent support facilities, such as boat hauling and
 630 repairing and commercial fishing facilities, and in maintaining
 631 the availability of public access to the navigable waters of the
 632 state. The Legislature further recognizes that the waterways of
 633 the state are important for engaging in commerce and the
 634 transportation of goods and people upon such waterways and that
 635 such commerce and transportation is not feasible unless there is

636 access to and from the navigable waters of the state through
 637 recreational and commercial working waterfronts.

638 (2) As used in this section, the term "recreational and
 639 commercial working waterfront" means a parcel or parcels of real
 640 property that provide access for water-dependent commercial
 641 activities or provide access for the public to the navigable
 642 waters of the state. Recreational and commercial working
 643 waterfronts require direct access to or a location on, over, or
 644 adjacent to a navigable body of water. The term includes water-
 645 dependent facilities that are open to the public and offer
 646 public access by vessels to the waters of the state or that are
 647 support facilities for recreational, commercial, research, or
 648 governmental vessels. These facilities include docks, wharfs,
 649 lifts, wet and dry marinas, boat ramps, boat hauling and repair
 650 facilities, commercial fishing facilities, boat construction
 651 facilities, and other support structures over the water. As used
 652 in this section, the term "vessel" has the same meaning as in s.
 653 327.02(37). Seaports are excluded from the definition.

654 Section 16. Sections 197.303, 197.304, 197.3041, 197.3042,
 655 197.3043, 197.3044, 197.3045, 197.3046, and 197.3047, Florida
 656 Statutes, are created to read:

657 197.303 Ad valorem tax deferral for recreational and
 658 commercial working waterfront properties.--

659 (1) The board of county commissioners of any county or the
 660 governing authority of any municipality may adopt an ordinance
 661 to allow for ad valorem tax deferrals for recreational and
 662 commercial working waterfront properties if the owners are
 663 engaging in the operation, rehabilitation, or renovation of such

664 properties in accordance with guidelines established in this
 665 section.

666 (2) The board of county commissioners or the governing
 667 authority of the municipality by ordinance may authorize the
 668 deferral of ad valorem taxation and non-ad valorem assessments
 669 for recreational and commercial working waterfront properties.

670 (3) The ordinance shall designate the type and location of
 671 working waterfront property for which deferrals may be granted,
 672 which may include any property meeting the provisions of s.
 673 342.07(2), which property may be further required to be located
 674 within a particular geographic area or areas of the county or
 675 municipality.

676 (4) The ordinance must specify that such deferrals apply
 677 only to taxes levied by the unit of government granting the
 678 deferral. The deferrals do not apply, however, to taxes or non-
 679 ad valorem assessments defined in s. 197.3632(1)(d) levied for
 680 the payment of bonds or to taxes authorized by a vote of the
 681 electors pursuant to s. 9(b) or s. 12, Art. VII of the State
 682 Constitution.

683 (5) The ordinance must specify that any deferral granted
 684 remains in effect regardless of any change in the authority of
 685 the county or municipality to grant the deferral. In order to
 686 retain the deferral, however, the use and ownership of the
 687 property as a working waterfront must be maintained over the
 688 period for which the deferral is granted.

689 (6) While bonds currently outstanding remain outstanding
 690 on properties located within a community redevelopment area
 691 prior to the adoption and implementation of the tax deferral

692 shall remain in effect, and such properties shall not be
 693 eligible for a tax deferral, until the bonds have matured or the
 694 bondholders have been defeased. The community redevelopment
 695 agency shall notify the property owner who previously applied
 696 for a tax deferral but was not eligible for a complete deferral
 697 because of the bonds outstanding and the tax collector 1 year
 698 prior to the bonds having matured or having been defeased. The
 699 existence of a community redevelopment area shall not prevent
 700 deferral of any taxes not pledged as a revenue source for bonds
 701 outstanding at the time of the application. Following the
 702 maturity or defeasance of the bonds outstanding at the time of
 703 the original application, issuance of bonds by the community
 704 redevelopment agency may not be based on the tax revenue
 705 generated by a property applying for a tax deferral or under a
 706 tax deferral.

707 197.304 Tax deferral for recreational and commercial
 708 working waterfronts.--

709 (1) Any property owner in a jurisdiction that has adopted
 710 a tax deferral ordinance pursuant to s. 197.303 that owns a
 711 recreational and commercial working waterfront facility as
 712 defined in s. 342.07 may elect to defer payment of those ad
 713 valorem taxes and non-ad valorem assessments designated in the
 714 ordinance authorizing the deferral by filing an annual
 715 application for tax deferral with the county tax collector on or
 716 before January 31 following the year in which the taxes and non-
 717 ad valorem assessments are assessed. The applicant has the
 718 burden to affirmatively demonstrate compliance with the
 719 requirements of this section.

720 (2) Approval of an application for tax deferral shall
 721 defer that portion of the combined total of ad valorem taxes and
 722 any non-ad valorem assessments that are authorized to be
 723 deferred by the ordinance authorizing the deferral.

724 (3) A tax deferral may not be granted if:

725 (a) The total amount of deferred taxes, non-ad valorem
 726 assessments, and interest plus the total amount of all other
 727 unsatisfied liens on the property exceeds 85 percent of the
 728 assessed value of the property; or

729 (b) The primary financing on the property is for an amount
 730 that exceeds 70 percent of the assessed value of the property.

731 (4) The amount of taxes, non-ad valorem assessments, and
 732 interest deferred shall accrue interest at a rate equal to the
 733 semiannually compounded rate of one-half of 1 percent plus the
 734 average yield to maturity of the long-term fixed-income portion
 735 of the Florida Retirement System investments as of the end of
 736 the quarter preceding the date of the sale of the deferred
 737 payment tax certificates; however, the interest rate may not
 738 exceed 9.5 percent.

739 (5) The taxes, non-ad valorem assessments, and interest
 740 deferred pursuant to this section constitute a prior lien and
 741 shall attach as of the date and in the same manner and be
 742 collected as other liens for taxes, as provided for under this
 743 chapter, but such deferred taxes, non-ad valorem assessments,
 744 and interest shall only be due, payable, and delinquent as
 745 provided in ss. 197.303-197.3047.

746 197.3041 Tax deferral for recreational and commercial
 747 working waterfronts; application.--

748 (1) The application for deferral must be made annually
749 upon a form prescribed by the department and furnished by the
750 county tax collector. The application form must be signed upon
751 oath by the applicant before an officer authorized by the state
752 to administer oaths. The tax collector may require the applicant
753 to submit any other evidence and documentation as deemed
754 necessary by the tax collector in considering the application.
755 The application form must provide notice to the applicant of the
756 manner in which interest is computed. Each application form must
757 contain an explanation of the conditions to be met for approval
758 and the conditions under which deferred taxes and interest
759 become due, payable, and delinquent. Each application must
760 clearly state that all deferrals pursuant to ss. 197.303-
761 197.3047 constitute a lien on the applicant's property.

762 (2)(a) The tax collector shall consider and render his or
763 her findings, determinations, and decision on each annual
764 application for a tax deferral for recreational and commercial
765 working waterfronts within 45 days after the date the
766 application is filed. The tax collector shall exercise
767 reasonable discretion based upon applicable information
768 available under this section. The determinations and findings of
769 the tax collector as provided for in this paragraph are not
770 quasi judicial and are subject exclusively to review by the
771 value adjustment board as provided by this section. A tax
772 collector who finds that the applicant is entitled to the tax
773 deferral shall approve the application and file the application
774 in the permanent records. A tax collector who finds that the
775 applicant is not entitled to the deferral shall send a notice of

776 disapproval within 45 days after the date the application is
777 filed, giving reasons for the disapproval to the applicant. The
778 notice must be sent by personal delivery or registered mail to
779 the mailing address given by the applicant in the manner in
780 which the original notice thereof was served upon the applicant
781 and must be filed among the permanent records of the tax
782 collector's office. The original notice of disapproval sent to
783 the applicant shall advise the applicant of the right to appeal
784 the decision of the tax collector to the value adjustment board
785 and inform the applicant of the procedure for filing such an
786 appeal.

787 (b) An appeal of the decision of the tax collector to the
788 value adjustment board must be in writing on a form prescribed
789 by the department and furnished by the tax collector. The appeal
790 must be filed with the value adjustment board within 20 days
791 after the applicant's receipt of the notice of disapproval, and
792 the board must approve or disapprove the appeal within 30 days
793 after receipt. The value adjustment board shall review the
794 application and the evidence presented to the tax collector upon
795 which the applicant based his or her claim for tax deferral and,
796 at the election of the applicant, shall hear the applicant in
797 person, or by agent on the applicant's behalf, on his or her
798 right to the tax deferral. The value adjustment board shall
799 reverse the decision of the tax collector and grant a tax
800 deferral to the applicant if, in its judgment, the applicant is
801 entitled to the tax deferral or shall affirm the decision of the
802 tax collector. Action by the value adjustment board is final
803 unless the applicant or tax collector or other lienholder,

804 within 15 days after the date of disapproval of the application
 805 by the board, files in the circuit court of the county in which
 806 the property is located a de novo proceeding for a declaratory
 807 judgment or other appropriate proceeding.

808 (3) Each application must contain a list of, and the
 809 current value of, all outstanding liens on the applicant's
 810 property.

811 (4) For approved applications, the date of receipt by the
 812 tax collector of the application for tax deferral shall be used
 813 in calculating taxes due and payable net of discounts for early
 814 payment.

815 (5) If such proof has not been furnished with a prior
 816 application, each applicant shall furnish proof of fire and
 817 extended coverage insurance in an amount that is in excess of
 818 the sum of all outstanding liens and deferred taxes and interest
 819 with a loss payable clause to the county tax collector.

820 (6) The tax collector shall notify the property appraiser
 821 in writing of those parcels for which taxes have been deferred.

822 (7) The property appraiser shall promptly notify the tax
 823 collector of changes in ownership or use of properties that have
 824 been granted a tax deferral.

825 197.3042 Deferred payment tax certificates.--

826 (1) The tax collector shall notify each local governing
 827 body of the amount of taxes and non-ad valorem assessments
 828 deferred which would otherwise have been collected for such
 829 governing body. The county shall then, at the time of the tax
 830 certificate sale held pursuant to s. 197.432, strike each
 831 certificate off to the county. Certificates issued pursuant to

832 this section are exempt from the public sale of tax certificates
 833 held pursuant to s. 197.432.

834 (2) The certificates so held by the county shall bear
 835 interest at a rate equal to the semiannually compounded rate of
 836 0.5 percent plus the average yield to maturity of the long-term
 837 fixed-income portion of the Florida Retirement System
 838 investments as of the end of the quarter preceding the date of
 839 the sale of the deferred payment tax certificates; however, the
 840 interest rate may not exceed 9.5 percent.

841 197.3043 Change in use or ownership of property.--

842 (1) If there is a change in use or ownership of the tax-
 843 deferred property such that the owner is no longer entitled to
 844 claim the property as a recreational or commercial working
 845 waterfront facility, or there is a change in the legal or
 846 beneficial ownership of the property, or the owner fails to
 847 maintain the required fire and extended insurance coverage, the
 848 total amount of deferred taxes and interest for all previous
 849 years becomes due and payable November 1 of the year in which
 850 the change in use or ownership occurs or on the date failure to
 851 maintain insurance occurs, and is delinquent on April 1 of the
 852 year following the year in which the change in use or ownership
 853 or failure to maintain insurance occurs.

854 (2) Whenever the property appraiser discovers that there
 855 has been a change in the use or ownership of the property that
 856 has been granted a tax deferral, the property appraiser shall
 857 notify the tax collector in writing of the date such change
 858 occurs, and the tax collector shall collect any taxes and
 859 interest due or delinquent.

860 (3) During any year in which the total amount of deferred
 861 taxes, interest, and all other unsatisfied liens on the property
 862 exceeds 85 percent of the assessed value of the property, the
 863 tax collector shall immediately notify the owner of the property
 864 on which taxes and interest have been deferred that the portion
 865 of taxes and interest which exceeds 85 percent of the assessed
 866 value of the property is due and payable within 30 days after
 867 receipt of the notice. Failure to pay the amount due shall cause
 868 the total amount of deferred taxes and interest to become
 869 delinquent.

870 (4) If deferred taxes become delinquent under this
 871 chapter, on or before June 1 following the date the taxes become
 872 delinquent, the tax collector shall sell a tax certificate for
 873 the delinquent taxes and interest in the manner provided by s.
 874 197.432.

875 197.3044 Prepayment of deferred taxes.--

876 (1) All or part of the deferred taxes and accrued interest
 877 may at any time be paid to the tax collector by:

878 (a) The owner of the property.

879 (b) The next of kin of the owner, heir of the owner, child
 880 of the owner, or any person having or claiming a legal or
 881 equitable interest in the property, if no objection is made by
 882 the owner within 30 days after the tax collector notifies the
 883 owner of the fact that such payment has been tendered.

884 (2) Any partial payment made pursuant to this section
 885 shall be applied first to accrued interest.

886 197.3045 Distribution of payments.--When any deferred
 887 taxes or interest is collected, the tax collector shall maintain

888 a record of the payment, setting forth a description of the
 889 property and the amount of taxes or interest collected for the
 890 property. The tax collector shall distribute payments received
 891 in accordance with the procedures for distributing ad valorem
 892 taxes or redemption moneys as prescribed in this chapter.

893 197.3046 Construction.--Sections 197.303-197.3047 do not
 894 prevent the collection of personal property taxes that become a
 895 lien against tax-deferred property, defer payment of special
 896 assessments to benefited property other than those specifically
 897 allowed to be deferred, or affect any provision of any mortgage
 898 or other instrument relating to property requiring a person to
 899 pay ad valorem taxes or non-ad valorem assessments.

900 197.3047 Penalties.--

901 (1) The following penalties shall be imposed on any person
 902 who willfully files information required under ss. 197.303-
 903 197.3047 which is incorrect:

904 (a) The person shall pay the total amount of taxes and
 905 interest deferred, which amount shall immediately become due;

906 (b) The person shall be disqualified from filing a tax
 907 deferral application for the next 3 years; and

908 (c) The person shall pay a penalty of 25 percent of the
 909 total amount of taxes and interest deferred.

910 (2) Any person against whom the penalties prescribed in
 911 this section have been imposed may appeal the penalties imposed
 912 to the value adjustment board within 30 days after the penalties
 913 are imposed.

914 Section 17. This act shall take effect July 1, 2005.