

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Environmental Preservation and Conservation Committee

BILL: CS/SB 660

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Bennett

SUBJECT: Protection and Restoration of Seagrass Beds

DATE: March 7, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Bascom	Kiger	EP	Fav/CS
2.			CA	
3.			GA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The committee substitute (CS) creates a pilot program to provide for the immediate stabilization and restoration of damaged seagrass beds in Brevard, Charlotte, Lee, Manatee, Monroe and Pinellas counties, and to remediate the injury to or destruction of natural resources that depend on healthy and productive seagrass beds. The CS increases the number of members on the Florida Boating Advisory Council and creates a non-criminal violation for careless operation of a vessel outside a marked channel in an aquatic preserve.

The CS amends sections 253.04, 327.73, 327.803, and 403.1651, Florida Statutes, and creates an unnumbered section of Florida law.

II. Present Situation:

Seagrasses

Seagrass systems are highly productive communities that provide base resources for important fisheries, marine wildlife, and ecological processes. Seagrasses provide submerged habitat that supports many economically important saltwater fish, shellfish, and wildlife species. Seagrass meadows are responsible for generating up to approximately \$20,000 in fishery-related economic

benefits per acre each year. Seagrass is an important food source for manatees and sea turtles. Seagrass protection is essential for the maintenance of saltwater fisheries, wildlife, high quality marine environments, and recreational opportunities in the State of Florida.

Propeller scarring in seagrass is a recognized problem in areas of high boating use around the state which currently has over 1 million registered boats. A 1995 report generated by the Fish and Wildlife Research Institute (formerly Florida Marine Research Institute) determined that more than 173,000 acres of seagrass in shallow near-shore waters were scarred by watercraft. Subsequent analysis of seagrass systems have shown increases in both the number of propeller scars and the severity of scarring. A Charlotte Harbor assessment found a 71 percent increase in severely scarred seagrass habitat when aerial images taken in 2003 were compared with the aerial images used in the 1995 report. During this same period, vessel registrations grew from 16,896 to 22,252 boats in Charlotte County, an increase of 32 percent. These findings are consistent with observed high-density growth and development in coastal areas which will continue to bring growing vessel traffic in the shallow vegetated estuary waters of the state. Shallow water operated vessels, commonly referred to as “flats boats,” are one of the fastest growing segments of the watercraft industry. Sales of such vessels reflect the desire on the part of the boating public to operate vessels in shallow waters where seagrass can be damaged by propellers or other motorized watercraft.

The growing problem with seagrass damaged by boat propellers has compelled further management action. An active outreach campaign to instill marine resource stewardship has produced brochures, boater’s guides, public service announcements, and boat ramp information kiosks. Non-regulatory management efforts include signs that mark shallow seagrass beds. Many of these efforts involve partnerships with stakeholders.

An interagency Seagrass Working Group consisting of Fish and Wildlife Conservation Commission (FWC) and Department of Environmental (department) staff was assembled in 2004 to address the seagrass damage issue. At the initial stakeholder meeting in February, 2005, representatives from the boating, commercial and recreational fishing, environmental, and regulatory community assessed the extent of the problem and recommended resource management options. Many stakeholders agreed to partner with the Seagrass Working Group to provide guidance for implementation of agreed upon actions. One of the priorities was for the agencies to acquire the necessary legislative authority to address seagrass damage caused by vessel operation, and another was to explore the use of existing legislative authority to do so, if it existed. The Seagrass Working Group began to develop a refined operational guidance procedure to more effectively implement seagrass protection regulations available to regulatory agencies. This regulatory ability is based upon the department’s statutory authority to pursue civil penalties for natural resource damage on state lands and the FWC’s statutory responsibility to enforce state marine law.

The working group developed a pilot project protocol associated with implementing the operational guidance procedure and presented it to the stakeholders in August 2006. A consensus was reached to support legislation implementing a non-criminal infraction system where vessel operators causing propeller scarring could be fined for damaging seagrasses in aquatic preserves. A penalty system similar to the one being proposed by legislation exists in some state parks and

in Pinellas County. A more comprehensive federal penalty system exists in the Florida Keys National Marine Sanctuary.

Ecosystem Management and Restoration Trust Fund

The Ecosystem Management and Restoration Trust Fund was created in 1996 and is administered by the department to fund:

- The planning and implementation of ecosystem management and restoration.
- The development and implementation of surface water improvement projects.
- The restoration of polluted areas of the state.
- The restoration and rehabilitation of injured or destroyed coral reefs.
- Activities to recover money damages as a result of actions against any person for a violation of ch. 373, F.S.

Currently, any money damages collected as a result of an action taken against any person for the injury or destruction of seagrass beds are deposited into the General Revenue Fund or Internal Improvement Trust Fund. The damages are used as specified by rule, but are not typically used for the restoration or rehabilitation of seagrass beds which were injured or destroyed.

Florida Boating Advisory Council

The Florida Boating Advisory Council, established within the Fish and Wildlife Conservation Commission, is responsible for making recommendations to the commission and the Department of Community Affairs regarding issues affecting the boating community, including boating and diving safety education, boating-related facilities such as marinas and boat-testing facilities, boat usage and access, and working waterfronts. The Council has 18 members, representing a variety of recreational and commercial marine-related interests, the environmental community, and commercial and recreational fishing interests, who are nominated to serve by the executive director of the commission and appointed by the Governor for staggered 3-year terms. The Speaker of the House of Representatives and the Florida Senate each appoint one member of their respective bodies, and the Department of Environmental Protection, the United States Coast Guard Auxiliary, the United States Power Squadron, and the inland navigation districts each appoint one representative.

III. Effect of Proposed Changes:

Section 1: The CS creates an unnumbered section of Florida Statute to provide for the pilot program for restoration of seagrass beds in which:

- Subsection (1) provides definitions.
- Subsection (2) establishes the following legislative findings:
 - The preservation of seagrass beds is critical to the protection of marine life, water quality and the ocean-based economy of the state.
 - The state's multimillion-dollar fishing and diving industries depend on the health and productivity of seagrass beds.
 - Seagrass beds and associated natural resources are subject to unforeseen and instantaneous injury or loss from a variety of negligent and willful acts.

- Funds for the extraordinary expenses incurred by the department in seeking compensation on behalf of Florida's residents for the injury, damage or destruction of seagrass beds have not been available.
- Monetary damages collected from the injury or destruction of seagrass beds and associated natural resources are deposited into the general accounts of the State Treasury and are not specifically set aside for restoration or rehabilitation of seagrasses.
- Subsection (3) establishes a pilot program to provide for the immediate stabilization and restoration of seagrass beds in Brevard, Charlotte, Lee, Manatee, Monroe and Pinellas counties where damage has occurred, and to provide for the remediation of injury to or destruction of natural resources that depend on healthy and productive seagrass beds.
- Subsection (4) provides that all damages recovered by or on behalf of the state for injury to or destruction of seagrass beds in the pilot program areas will be deposited into the Ecosystem Management and Restoration Trust Fund until expended by the department under the pilot program.
 - Moneys in the fund may only be expended for restoration, assessment, or rehabilitation of injured or destroyed seagrass beds and natural resources through contracts with qualified persons.
 - To prevent further erosion, turbidity, or potential loss of natural resources, each contract must require assessment and stabilization within 30 days of an incident where damage occurs.
 - The contract must use a stabilization protocol following guidelines in the Final Programmatic Environmental Impact Statement for Seagrass Restoration in the Florida Keys National Marine Sanctuary.
 - Each contract and must use established stabilization techniques that are scientifically proven and peer-reviewed.
- Subsection (5) provides that each recipient of disbursements from the trust fund must agree in advance to an audit of its accounts and records of expenditures. A final written report describing the recipient's expenditures must be submitted within 90 days after funds are expended. Payments to a state agency will be considered payments for extraordinary expenses, and other agency appropriations may not be reduced by any amount as a result of such payments.
- Subsection (6) requires the department must evaluate the pilot program and report to the President of the Senate and the Speaker of the House of Representatives by January 1, 2010.
- Subsection (7) provides rulemaking authority to the department.

Section 2: The CS amends s. 253.04, F.S., effective October 1, 2008, to create a non-criminal violation for any person who operates a vessel outside a lawfully marked channel in a careless manner that causes propeller scarring within an aquatic preserve. Each violation is a separate offense and must be charged on a uniform boating citation as provided in s. 327.74, F.S. Persons who refuse to post a bond or accept and sign a uniform boating citation commit a second degree misdemeanor, punishable as provided in s. 775.083 or s. 775.083, F.S.

All civil penalties imposed and collected must be deposited into the Internal Improvement Trust Fund and used solely for implementation, administration, and enforcement efforts, seagrass

restoration, an a boating education program about the need to protect seagrasses from vessel damage.

Section 3: The CS amends s. 327.73, F.S., effective October 1, 2008, to create civil penalties for violations ranging from \$50 for a first violation, to \$1,000 for a fourth or subsequent offense.

Section 4: The CS amends s. 327.803, F.S., to increase the membership of the Florida Boating Advisory Council from 18 to 19 members, and requires that one representative of the recreational airboating community be appointed to the council.

Section 5: The CS amends s. 403.1651, F.S., to authorize that damages collected under the seagrass bed restoration pilot program may be deposited into the Ecosystem Management and Restoration Trust Fund and expended for the pilot program.

Section 6: The CS provides that except as otherwise provided, the act shall take effect July 1, 2008.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill does not require cities and counties to expend funds or limit their authority to raise revenues or receive state-shared revenues as specified by s. 18, Art. VII, State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Persons who violate the provisions of this bill may be charged with a non-criminal boating infraction that can carry a fine of \$50 to \$1000 based on type or subsequent number of offenses.

The recipients of contracts for restoration, assessment, and rehabilitation of seagrass beds may receive some financial benefit under the bill.

C. Government Sector Impact:

Currently, funds collected from damages to seagrass beds are placed into the General Revenue Fund or the Internal Improvement Trust Fund. The bill requires that funds from damages incurred in the pilot program areas be placed into the Ecosystem Management and Restoration Trust Fund and expended for the purposes of the pilot program.

An unknown amount of revenue may be generated based on the number of violations for boating violations in aquatic preserves and the fines or penalties collected. The DEP indicates that seagrass restoration projects can cost upwards of \$100,000 or more for a meaningful project; however, the amount of damages collected under this pilot program is unlikely to provide enough funding for a significant restoration project.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

The CS adds Charlotte County to the list of counties that are included in the pilot program.

The CS removes a provision in the original bill that required OPPAGA to evaluate the recreational marine industry and report to the Legislature.

B. Amendments:

None.