

HOUSE OF REPRESENTATIVES LOCAL BILL STAFF ANALYSIS

BILL #: CS/CS/HB 831 Nassau County
SPONSOR(S): Agriculture & Natural Resources Policy Committee; Military & Local Affairs Policy Committee and Adkins
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Military & Local Affairs Policy Committee	11 Y, 2 N, As CS	Fudge	Hoagland
2) Agriculture & Natural Resources Policy Committee	9 Y, 0 N, As CS	Cunningham	Reese
3) Economic Development & Community Affairs Policy Council		Fudge	Tinker
4)			
5)			

SUMMARY ANALYSIS

The Nassau River-St. Johns River Marshes Aquatic Preserve (Preserve) was designated an aquatic preserve on November 24, 1969, for the primary purpose of preserving the biological resources of the Nassau Sound area marshes and associated waters. The Preserve extends south from A1A and east from State Road 17 in Nassau County, to the St. Johns River in Duval County, which includes portions of the Nassau, Amelia, and Fort George rivers. The Preserve is bordered by two incorporated cities, Fernandina Beach and Jacksonville.

Activities on sovereignty lands in aquatic preserves are regulated by the Department of Environmental Protection (department). Specifically, the department prohibits private residential single-family docks from having a terminal platform size more than 160 square feet.

The bill allows certain single-family docks within the Preserve to retain a terminal platform that does not exceed a cumulative total deck and roof area of 800 square feet. However, should more than 50 percent of a nonconforming structure fall into a state of disrepair or be destroyed as a result of any natural or manmade force, the entire structure shall be brought into full compliance with the current rules of the Board of Trustees of the Internal Improvement Trust Fund.

Pursuant to House Rule 5.5(b), a local bill providing an exemption from general law may not be placed on the Special Order Calendar for expedited consideration. The provisions of House Rule 5.5(b) appear to apply to this bill.

HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Current Situations

The Nassau River-St. Johns River Aquatic Preserve (Preserve) was designated an aquatic preserve on November 24, 1969, for the primary purpose of preserving the biological resources of the Nassau Sound area marshes and associated waters. The Preserve extends south from A1A and east from State Road 17 in Nassau County, to the St. Johns River in Duval County, which includes portions of the Nassau, Amelia, and Fort George Rivers. The Preserve is bordered by two incorporated cities, Fernandina Beach and Jacksonville.

Activities on sovereignty lands in aquatic preserves are regulated by Rule 18-20.004, F.A.C. Section (5) of the rule prescribes the standards and criteria for docking facilities. Under this rule, private residential single-family docks may not have a terminal platform size more than 160 square feet. In addition, "should more than 50 percent of a nonconforming structure fall into a state of disrepair or be destroyed as a result of any natural or manmade force, the entire structure shall be brought into full compliance with the current rules of the Board. This shall not be construed to prevent routine repair."¹

Effect of Proposed Changes

The bill affects an area within the Preserve between State Road 200 to the north and a line drawn between N30°32'44.890", W-81°33'08.68" and N30°32'40.001", W-81°32'55.79" to the south. This area encompasses approximately 99 docks that have terminal platforms that exceed 160 square feet.

Those existing single-family docks may be exempt from the 160 square feet requirement so long as cumulative total deck and roof area does not exceed 800 square feet and the owner applies for a letter of consent to use sovereignty submerged land from the Department of Environmental Protection (department). In addition, existing docks may be maintained or repaired within the footprint the same as or smaller than the footprint of the current structure. However, should more than 50 percent of a nonconforming structure fall into a state of disrepair or be destroyed as a result of any natural or manmade force, the entire structure shall be brought into full compliance with the current rules of the Board of Trustees of the Internal Improvement Trust Fund. The bill does not prohibit an owner from demolishing or removing his or her dock.

¹ Rule 18-20.004(5)(a)6., F.A.C.

Moreover, the bill does not prevent the department from taking enforcement action against the owner of the riparian parcel associated with a dock that does not meet the criteria after December 31, 2010.

B. SECTION DIRECTORY:

Section 1: Authorizes certain single-family docks to retain a terminal platform that does not exceed 800 square feet.

Section 2: Provides that the Department of Environmental Protection may take enforcement action against docks that do not meet the criteria in section 1 after December 31, 2010.

Section 3: Provides an effective date of upon becoming law.

II. NOTICE/REFERENDUM AND OTHER REQUIREMENTS

A. NOTICE PUBLISHED? Yes No

IF YES, WHEN? December 19, 2009.

WHERE? In the *Florida Times-Union*, a daily newspaper published in Nassau County, Florida.

B. REFERENDUM(S) REQUIRED? Yes No

IF YES, WHEN?

C. LOCAL BILL CERTIFICATION FILED? Yes, attached No

D. ECONOMIC IMPACT STATEMENT FILED? Yes, attached No

If the bill is not passed, property owners will be forced to deconstruct existing docks, thereby reducing property values for dock owners as well as surrounding property owners resulting in a corresponding reduction in ad valorem tax revenue.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:
None

B. RULE-MAKING AUTHORITY:
None

C. DRAFTING ISSUES OR OTHER COMMENTS:

Exemption from General Law

The bill exempts certain described single-family docks from the requirements of part IV of ch. 373, F.S., and ch. 258, F.S.

IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES

On March 15, 2010, the Military & Local Affairs Policy Committee adopted a PCS allowing, with stipulations, certain single-family docks within the Preserve to retain a terminal platform that does not exceed a cumulative total deck and roof area of 800 square feet. It specifically references the rule that defines "terminal platform."

On March 25, 2010, the Agriculture and Natural Resources Policy Committee adopted an amendment that corrects a scrivener's error in the GPS coordinates that were inadvertently omitted.