

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 Appropriations Subcommittee on General Government

BILL: CS/SB 1094

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Dean

SUBJECT: Aquatic Preserves

DATE: March 14, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Gudeman</u>	<u>Uchino</u>	<u>EP</u>	Fav/CS
2.	<u>Howard</u>	<u>DeLoach</u>	<u>AGG</u>	Favorable
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1094 designates the coastal region of Pasco, Hernando, and Citrus counties as the Nature Coast Aquatic Preserve (preserve) and provides legislative intent. The bill provides the Board of Trustees of the Internal Improvement Trust Fund (BOT) with the authority to maintain the preserve in a manner that is in the public interest and specifies authorized and prohibited activities within the preserve. The bill requires the BOT to adopt and enforce rules related to the management and preservation of the preserve and specifies that the creation of the preserve shall not infringe upon the riparian rights of adjacent property owners. The bill provides for civil penalties and specifies the preserve is subject to ss. 403.501-403.518, F.S.

There is no fiscal impact to the state.

II. Present Situation:

Aquatic Preserves

The Florida Aquatic Preserve Act was enacted in 1975 to set aside and protect state-owned submerged lands that have “exceptional biological, aesthetic, and scientific value.”¹ There are 41 aquatic preserves protecting approximately 2.2 million acres in Florida.²

¹ See ss. 258.35-258.394 and 258.40-258.46, F.S.

² DEP, *Florida's Aquatic Preserves*, <http://www.dep.state.fl.us/coastal/programs/aquatic.htm> (last visited Mar. 3, 2014).

Aquatic preserves serve many valuable ecological and economic functions. The aquatic preserves provide nurseries for juvenile fish and other aquatic life, maintain water quality, and provide habitat for shorebirds. The aquatic preserves are also valuable tourist destinations, providing a host of outdoor activities such as fishing, diving, snorkeling, swimming, bird watching, and boating.³

The Department of Environmental Protection (DEP) is responsible for managing the state's aquatic preserves by maintaining a healthy balance of resource protection and promoting public access to the preserves.⁴ The DEP adopted Rule Chapters 18-18 and 18-20, Florida Administrative Code, which specify the additional resource protections, management criteria, and regulations related to human activity that are permitted within an aquatic preserve.

The Nature Coast

“The Nature Coast” is located along Florida’s Big Bend region and encompasses 980,000 acres across eight counties (Citrus, Dixie, Hernando, Jefferson, Pasco, Levy, Taylor, and Wakulla).⁵ This area is a sanctuary for 19 endangered species⁶ and has many natural resources, including mangroves, spring fed rivers, limestone outcroppings, sandy beaches, oyster bars, mud flats, and seagrass beds.⁷ There are two designated aquatic preserves within the Nature Coast: the Big Bend Seagrass Aquatic Preserve, which extends from St. Marks to Cedar Key, and the St. Martins Marsh Aquatic Preserve, which extends from Crystal Bay through Homosassa Bay. The Nature Coast is bordered to the south by the Pinellas County Aquatic Preserve. The area between the Big Bend Seagrass Aquatic Preserve and the Pinellas County Aquatic Preserve, with the exception of the St. Martins Marsh Aquatic Preserve, is an undesignated shoreline consisting of Pasco, Hernando, and Citrus counties.

III. Effect of Proposed Changes:

Section 1 creates s. 258.3991, F.S., to designate the Nature Coast Aquatic Preserve under the Florida Aquatic Preserve Act of 1975. The boundaries of the preserve are the area of state-owned submerged lands lying west of the west right-of-way line of U.S. Highway 19 within Pasco, Citrus, and Hernando counties, bordering St. Martins Marsh Aquatic Preserve. (See map on next page.)

³ DEP, *Florida’s Aquatic Preserves, Protecting our most Values Resource: A Program Overview*, available at http://www.dep.state.fl.us/coastal/downloads/Aquatic_Preserve_Overview_Jun06.pdf (last visited Mar. 3, 2014).

⁴ See ss. 258.35-258.394 and 258.40-258.46, F.S.

⁵ Nature Coast Coalition, *Nature Coast*, <http://www.naturecoastcoalition.com/nchistory.htm> (last visited Mar. 3, 2014).

⁶ *Id.*

⁷ DEP, *Senate Bill 1094 Agency Analysis* (Mar. 3, 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

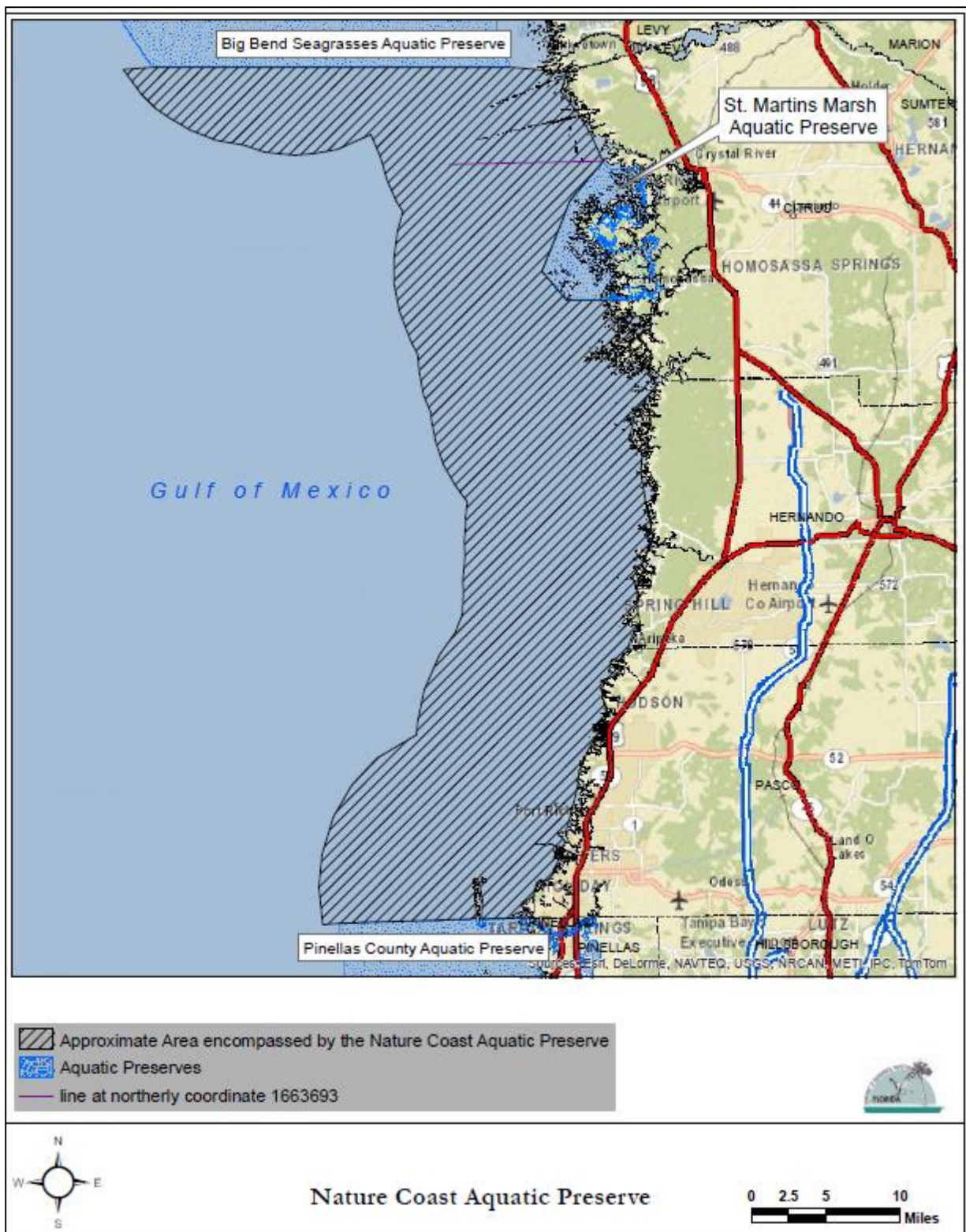


Figure 1: Nature Coast Aquatic Preserve.

The bill specifies that the Nature Coast Aquatic Preserve includes the submerged bottom lands, the water column, and the publicly owned lands within the boundaries of the preserve. Privately owned uplands are excluded unless the private landowner negotiates an arrangement with the BOT to have the uplands included in the preserve.

The bill authorizes the BOT to maintain the preserve according to the following provisions:

- The sale, transfer, or lease of the sovereignty submerged lands may not be approved by the BOT unless there is extreme hardship by the applicant and the sale, transfer, or lease is in the public interest; and
- Dredging or filling of submerged lands within the aquatic preserve may not be approved except:
 - For existing navigation projects, as a public necessity, or for the preservation of the preserve;
 - For physical alterations necessary to enhance the quality and utility of the preserve;
 - For the construction and maintenance of marinas, piers, or docks, and the maintenance of existing attendant navigation channels and access roads; and
 - If the BOT determines that dredging is necessary to eliminate hazardous conditions, to the public health, or to enhance the aesthetic and environmental quality and utility of the preserve.

The bill specifies that the BOT must provide public notice prior to any dredging or filling activities as required under s. 253.115, F.S.

The bill prohibits drilling wells, excavating for shells or minerals, or erecting structures in the preserve. The bill also prohibits the BOT from approving the seaward relocation of bulkhead lines, or further establishment of bulkhead lines except when located at the mean high water line. The BOT may only approve construction, replacement, or relocation of a seawall within the preserve through a letter of consent.

The bill authorizes the BOT to:

- Enter into agreements to establish lines delineating sovereignty lands and privately owned lands;
- Enter into agreements to exchange sovereignty lands for privately owned lands;
- Accept gifts of land within or contiguous to the aquatic preserve;
- Enter into agreements with owners of lands contiguous to public lands for public or private use of lands;
- Take action that is necessary to accomplish the purpose of the act;
- Conduct restoration and enhancement efforts in the aquatic preserves; and
- Stabilize eroding shorelines that are contributing to turbidity by planting natural vegetation and placing riprap.

The bill requires the BOT to adopt and enforce rules to carry out the act and specifies that the rules include:

- Additional preserve management criteria as necessary; and
- Regulation of human activities within the aquatic preserve that do not interfere with traditional public uses.

The bill specifies the establishment or management of the preserve may not infringe on the riparian rights of upland property owners. It also authorizes the BOT or the DEP to make improvements for ingress and egress, mosquito control, shore protection, public utility expansion, or other similar activities and requires public notice as required under s. 253.115, F.S. The bill provides civil penalties in accordance with s. 403.412, F.S., and specifies that act is subject to ss. 403.501-403.518, F.S., the “Florida Electrical Plant Siting Act.”

The effective date of the bill is July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

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:

The creation of the Nature Coast Aquatic Preserve would limit the type of private and commercial development that may have been authorized prior to the establishment of the aquatic preserve. The impact on the private sector is indeterminate and may be offset by increased tourism.

C. Government Sector Impact:

There are no costs associated with the designation of the preserve. The DEP Florida Coastal Office has sufficient staff and budget to manage the aquatic preserve with existing resources (current budget includes 88 positions and \$12 million).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 258.3991 of the Florida Statutes.

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environmental Preservation and Conservation on March 6, 2014:

The committee substitute resolves the technical deficiency that was present in the bill by allowing construction of a dock, pier, or marina within the aquatic preserve.

- B. **Amendments:**

None.