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 Committee on Agriculture

BILL:	SB 1318
INTRODUCER:	Senator Dean
SUBJECT:	Shellfish Regulations
DATE:	January 29, 2016
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Akhavein	Becker	AG	**Pre-meeting**
2.			EP	
3.			FP	

I. Summary:

SB 1318 authorizes the use of dredges or mechanical harvesting devices for the harvest of shellfish from submerged land leases when approved by the Governor and Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund.

II. Present Situation:

Oysters were originally harvested by wading into coastal waters and picking them up from an oyster bar, but as the number of people eating the oysters increased, boats were needed to collect them from bars farther out. Hand tongs were developed to pick up the oysters from a boat. The tongs are a long scissor-like tool with metal rakes on the ends. The harvester stands on the side of his boat, opens the tongs, and reaches down in water that might be 15 or more feet deep. He closes the tongs, scooping the oysters between the rakes. He then lifts the tongs into the boat and dumps the oysters onto the culling board. The tongs are very long, heavy, and hard to manage.[1]

To enhance efficiency of the harvest operation, rake-like mechanical dredges can be used to harvest planted shellfish seed or to collect naturally recruited stocks from leased beds. The type of mechanical dredge used depends on the type of shellfish harvested. Oysters may be collected by dragging a steel frame with bladed teeth behind the boat with a collection bag or by using a suction dredge. Clams may be collected by a hydraulic dredge which loosens the clams with high pressure jets and collects the clams in chain mesh bags. Harvesters collect scallops with a steel-framed structure with a cutting bar on the leading edge which rides above the surface of the submerged lands, kicking up sea scallops and collecting them into an attached bag.[2] Historically, opinions on the best methods for shellfish harvest have varied widely. Fishermen who use hand tongs or rakes often consider dredging detrimental to shellfish, while those who operate

[1] http://www.marinersmuseum.org/sites/micro/cbhf/waterman/wat009.html, (last visited January 12, 2016).
[2] National Oceanic and Atmospheric Administration, Review of the Ecological Effects of Dredging in the Cultivation and Harvest of Molluscan Shellfish, http://www.nefsc.noaa.gov/publications/tm/tm220/, (last visited January 12, 2016).

mechanical dredges believe that dredging of the seafloor enhances the environment for clam and oyster recruitment.[3]

The Florida Legislature and the Governor and Cabinet, sitting as the Board of Trustees of the Internal Improvement Trust Fund, have recognized that it is in the state's economic, resource, and food production interest to promote aquacultural production by leasing sovereign submerged lands. These are state waters in the Atlantic Ocean three nautical miles seaward from shore and in the Gulf of Mexico, nine nautical miles seaward from shore. Florida's Aquaculture Lease Program for sovereignty submerged state lands and the overlying water column is administered by the Division of Aquaculture's Bureau of Aquaculture Development. The policies, conditions, and criteria for using sovereign state lands for aquacultural production are provided in the Florida Aquaculture Policy Act and ch. 18-21, F.A.C., with authorization for their use from the Governor and Cabinet.[4] Currently, all ch. 253, F.S., submerged land aquaculture leases prohibit the use of dredges or mechanical harvesting devices. Some ch. 379, F.S., shellfish leases (in perpetuity leases) do allow the use of dredges or mechanical harvesting devices, but only if the lease document specifically allows such harvesting devices. Several "in perpetuity leases" located in Franklin County have the ability to use dredges as the result of a court ruling.[5]

Individuals who propose to use a dredge or mechanical harvesting device will be required to obtain authorization from the Army Corp of Engineers pursuant to Section 10 of the Rivers and Harbors Act of 1899 and Section 404 of the Clean Water Act.[6] Individuals who commercially harvest, possess, or sell shellfish must obtain a Saltwater Products License[7] and a shellfish endorsement[8] or Apalachicola Bay Oyster Harvesting License from the Florida Fish and Wildlife Conservation Commission, unless they are harvesting from an aquaculture lease under the authority of an Aquaculture Certificate of Registration issued by the department.[9] Individuals may not commercially harvest bay scallops or freshwater mussels.[10]

III. Effect of Proposed Changes:

Section 1 amends s. 597.010, F.S., to:

- Define the term "aquaculture lease" to mean the sovereignty submerged land leases authorized by the Board of Trustees of the Internal Improvement Trust Fund.
- Define the term "shellfish" to mean oysters, clams, mussels, and scallops.
- Define the term "shellfish lease" to mean oyster and clam leases that were authorized in perpetuity before July 1, 1989.
- Delete a prohibition against harvesting oysters by means other than hand tongs in certain areas of Apalachicola Bay.

---

[3] National Oceanic and Atmospheric Administration, Review of the Ecological Effects of Dredging in the Cultivation and Harvest of Molluscan Shellfish, http://www.nefsc.noaa.gov/publications/tm/tm220/, (last visited January 12, 2016).
[4] Http://www.freshfromflorida.com/Divisions-Offices/Aquaculture/Business-Services/Aquafarm-Proram/Aquaculture-Leasing, (last visited January 25, 2016).
[5] Analysis by the Department of Agriculture and Consumer Services for SB 1318, p. 1 (January 19, 2016).
[6] Ibid.
[7] Section 379.361, F.S.
[8] Rules 68B-17.009 and 68B-27.018(1), F.A.C.
[9] FWC, *Shellfish*, available at: http://myfwc.com/fishing/saltwater/commercial/shellfish/ (last visited January 26, 2016).
[10] Rules 68B-18.004 and 68A-23.015, F.A.C.

- Authorize the Board of Trustees of the Internal Improvement Trust Fund to allow the use of mechanical harvesting devices to harvest shellfish from aquaculture leases when the public health, public safety, and natural resources are not adversely impacted. It revises conditions for such authorizations.
- Authorize lessees or grantees who hold valid aquaculture leases to request modifications of their lease agreements to include special lease conditions for using mechanical harvesting devices. Requests must be submitted in writing to the department.
- Authorize the Board of Trustees of the Infernal Improvement Trust Fund to approve the use of a mechanical harvesting device in removing oysters and clams from shellfish leases.
- Provide penalties for violations.

Section 2 provides that this act shall take effect July 1, 2016.

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:

Indeterminate.

C. Government Sector Impact:

Indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 597.010 of the Florida Statutes.

IX. Additional Information:

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

None.

B. Amendments:

None.