

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 Environment and Natural Resources

BILL: SB 606

INTRODUCER: Senator Bean

SUBJECT: Anchoring Limitation Areas

DATE: January 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Dyson	Rogers	EN	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 606 adds the Ortega and Cedar rivers to the list of designated anchoring limitation areas, which restricts the anchoring of a vessel in such areas at night with certain exceptions.

II. Present Situation:

Ortega River

The Ortega River is located approximately 4.2 miles southwest of Jacksonville in Duval County, and branches off of the St. Johns River.¹ The Ortega River is known for being the recreational boating center of northeast Florida.² It is home to the “Marina Mile” which features several marinas, boat shops, yacht sales, and other marine type shops.³

Cedar River

The Cedar River is located on the west side of Jacksonville, and runs into the Ortega River.⁴ The Cedar River area is well known for outstanding food, especially the Cedar River Restaurant which opened in 1976.⁵

¹ Marinas.com, *Ortega River Inlet*, https://marinas.com/view/inlet/wjiwq_Ortega_River_Inlet_Jacksonville_FL_United_States (last visited Nov. 7, 2019).

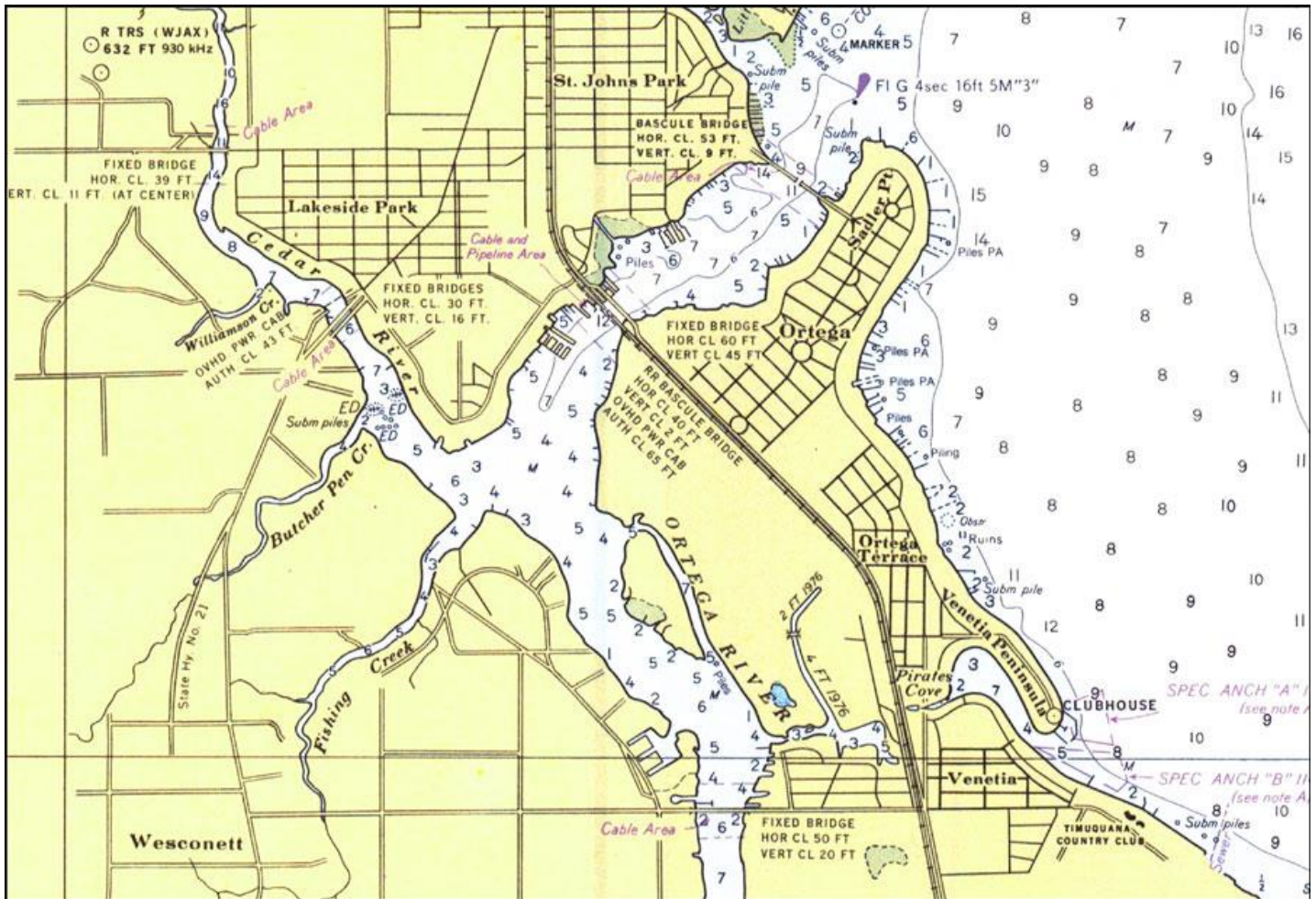
² Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Ortega River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/1> (last visited Nov. 7, 2019).

³ *Id.*

⁴ Metro Jacksonville, *The Forgotten Rivers of Jacksonville, Cedar River* (Jun. 18, 2015), <https://www.metrojacksonville.com/article/2015-jun-the-forgotten-rivers-of-jacksonville/page/> (last visited Nov. 7, 2019).

⁵ *Id.*

A map of both rivers is provided below:⁶



Anchoring and Mooring

Anchoring or mooring refers to a boater’s practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.⁷ Mooring is accomplished through the utilization of moorings permanently affixed to the bottom of the water body. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.⁸

⁶ Maps Etc., *St. Johns River: Ortega*, 1977, <http://fcit.usf.edu/florida/maps/pages/3800/f3853/f3853.htm> (last visited Nov. 7, 2019).

⁷ Section 327.02, F.S., defines the term “vessel” to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

⁸ Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012), available at <https://www.law.ufl.edu/pdf/academics/centers-clinics/clinics/conservation/resources/anchaway.pdf>.

The anchoring of vessels has created issues in some areas of the state related to the use and enjoyment of the waters. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;
- Vessels that become derelict;⁹
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local government authority to regulate anchoring.¹⁰

In 2019 the Legislature directed the Fish and Wildlife Conservation Commission (FWC) to conduct a study that will:

- Investigate whether, and to what extent, long term stored vessels and vessels anchored or moored outside of public mooring fields for more than 30 days contribute to the number of derelict and abandoned vessels on the waters of the state;
- Investigate the impacts of long-term stored vessels, vessels anchored or moored outside of public mooring fields for more than 30 days, and vessels moored within public mooring fields on the local and state economies; public safety; public boat ramps, staging docks, and public marinas; and the environment during and after significant tropical storm and hurricane events; and
- Provide recommendations for appropriate management options for long-term stored vessels and vessels anchored or moored outside public mooring fields for more than 30 days to mitigate any identified negative impacts to local communities and this state.¹¹

The study should not take more than 2 years and must be submitted to the Governor and Legislature within 6 months after completion. The requirement for the study was contingent on an appropriation and funds have not been appropriated at this time.¹²

State Regulation of the Anchoring or Mooring of Vessels

The Board of Trustees of the Internal Improvement Trust Fund (Board), which consists of the Governor and the Cabinet, is responsible for administering, controlling, and managing sovereignty submerged lands.¹³ The Board is authorized to adopt rules governing all uses of

⁹ Section 823.11(1)(b), F.S. A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or beached upon the property of another without the consent of the owner of the property; Citizens that live along the Ortega River have expressed concerns about derelict vessels that have sunk. Vessels that have sunk create a significant danger because the mast can reach close to the surface but cannot be seen by incoming boats. See First Coast News, *Ortega River Homeowners Looking Forward to Removal of 'Abandoned' Boats from River* (Oct. 9, 2019), <https://www.firstcoastnews.com/article/news/local/ortega-river-homeowners-looking-forward-to-removal-of-abandoned-boats-from-river/77-b2c3bcc6-ac86-4570-b449-49ddc1c51a5c> (last visited Dec. 19, 2019).

¹⁰ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 31, 2016), available at <http://www.boatus.com/gov/assets/pdf/fwc-2016-anchoring-and-mooring-report.pdf>.

¹¹ Section 327.4109(6), F.S.

¹² *Id.*

¹³ Section 253.03(7), F.S.

sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages. Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.¹⁴

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in case of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in or adjacent to heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.¹⁵ Interference with navigation is a noncriminal infraction and punishable by a fine of \$50.¹⁶

FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. FWC or any law enforcement agency that relocates or removes a vessel under these circumstances must be held harmless for all damages to the vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹⁷ The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.¹⁸

Anchoring Limitation Areas

Section 327.4108 F.S., designates three “anchoring limitation areas” that are characterized as “densely populated urban areas, which have narrow state waterways, residential docking facilities, and significant recreational boating traffic.” These anchoring limitation areas include:

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County;
- Sunset Lake in Miami Dade County; and
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - River Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island; and
 - San Marco Island and Biscayne Island.¹⁹

Within these anchoring limitation areas, a person may not anchor a vessel at any time during the period between one-half hour after sunset and one-half hour before sunrise.²⁰ A person may anchor a vessel in an anchoring limitation area:

- If the vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may anchor for 3 business days or until the vessel is repaired, whichever occurs first;
- If imminent or existing weather conditions in the vicinity of the vessel pose an unreasonable risk of harm to the vessel or the persons onboard unless the vessel anchors. The vessel may

¹⁴ See Fla. Admin. Code Ch. 18-21.

¹⁵ Section 327.44(2), F.S.

¹⁶ Section 327.73, F.S.

¹⁷ Section 327.44(3), F.S.

¹⁸ Section 327.44(5), F.S.

¹⁹ Section 327.4108(1), F.S.

²⁰ Section 327.4108(2), F.S.

anchor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired; or

- During a regatta, race, marine parade, tournament, exhibition,²¹ or other special events, including, but not limited to, public music performances, local government waterfront activities, or fireworks displays. A vessel may anchor for the lesser of the duration of the special event or three days.²²

These limitations do not apply to:

- Vessels owned or operated by a governmental entity or law enforcement, firefighting, military, or rescue purposes;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; or
- Vessels engaged in recreational fishing if the persons onboard are actively tending hook and line fishing gear or nets.²³

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.²⁴ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters for which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scrapping and painting are not authorized within such mooring fields.²⁵

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures or live-aboard vessels within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.²⁶ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels other than live-aboard vessels outside the marked boundaries of permitted mooring fields.²⁷

²¹ Section 327.48, F.S.

²² Section 327.4108(3), F.S.

²³ Section 327.4108(4), F.S.

²⁴ Section. 373.118, F.S., and Rule 62-330.420(1), F.A.C.

²⁵ See Rule 62-330.420, F.A.C.

²⁶ Section 327.60(3), F.S.; See s. 327.02, F.S., which defines the term “floating structure” as a floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such.

²⁷ Section 327.60(2)(f), F.S.; see s. 327.02, F.S., which defines the term “live-aboard vessel” as a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 327.4108, F.S., adding the Ortega and Cedar rivers in Duval County to the list of anchoring limitation areas. This means that a person may not anchor their vessel in the Ortega or Cedar rivers during the period between one-half hour after sunset and one-half hour before sunrise, with certain exceptions.

Section 2 of the bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Art. III, s. 10 of the Florida Constitution prohibits the Legislature from enacting any special law unless notice is first published or a referendum is conducted. A special law or “local law” relates to or operates upon a particular person, thing, or part of the state; it does not apply with geographic uniformity across the state and bears no reasonable relationship to differences in population or other legitimate criteria.²⁸ On the other hand, a general law of local application relates to a class of persons or things or subdivisions of the state, based upon distinctions or differences that are inherent or particular to the class or location. The Legislature is granted wide discretion in making such classifications.²⁹ If a particular condition exists in only a portion of the state, enactments that reference the limited geographic area may be general laws.³⁰ “[I]f a law utilizes a classification that is geographical in its terms but the purpose of the statute is one of statewide importance and impact, and the classification is reasonably related to the law’s purpose, it is a valid general law.”³¹

²⁸ See *State ex rel. Landis v. Harris*, 163 So. 237, 240 (Fla. 1934); *Lawnwood Medical Center, Inc. v. Seeger*, 990 So.2d 503 (Fla. 2008).

²⁹ *Shelton v. Reeder*, 121 So. 2d 145, 151 (Fla. 1960); see also Art. X, s. 11 of the Florida Constitution.

³⁰ *Schrader v. Florida Keys Aqueduct Authority*, 840 So.2d 1050, 1055 (Fla. 2003).

³¹ *Id.* at 1056.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends s. 327.4108 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.