

# FLORIDA HOUSE OF REPRESENTATIVES

## FINAL BILL ANALYSIS

*This bill analysis was prepared by nonpartisan committee staff and does not constitute an official statement of legislative intent.*

**BILL #:** [HB 735](#)

**TITLE:** Water Access Facilities

**SPONSOR(S):** Brackett

**COMPANION BILL:** [SB 1162](#) (Leek)

**LINKED BILLS:** None

**RELATED BILLS:** None

**FINAL HOUSE FLOOR ACTION:** 112 Y's

0 N's

**GOVERNOR'S ACTION:** Pending

### SUMMARY

#### Effect of the Bill:

The bill allows marine manufacturers to participate in the Department of Environmental Protection's Clean Marina Program. The bill also expands the Florida Boating Improvement Program (FBIP) to allow the program to provide grants for publicly-owned parking for boat-hauling vehicles and trailers.

#### Fiscal or Economic Impact:

The bill may have an indeterminate positive fiscal impact on local governments that receive grants through the FBIP. The bill may have an indeterminate insignificant positive fiscal impact on marine manufacturers that participate in the Clean Marina Program.

[JUMP TO](#)

[SUMMARY](#)

[ANALYSIS](#)

[RELEVANT INFORMATION](#)

### ANALYSIS

#### **EFFECT OF THE BILL:**

The bill allows marine manufacturers to participate in the Department of Environmental Protection's [Clean Marina Program](#), which, among other benefits, allows participating facilities to receive a discount of 10 percent on their annual lease fee for [sovereign submerged lands](#). (Section [1](#))

The bill expands the [Florida Boating Improvement Program](#) (FBIP), which provides grants for boating access projects and other boating-related activities, to allow the program to provide grants for publicly-owned parking for boat-hauling vehicles and trailers. (Section [2](#))

Subject the Governor's veto powers, the effective date of this bill is July 1, 2025. (Section [3](#))

#### **RULEMAKING:**

The Fish and Wildlife Conservation Commission (FWC) has adopted rules to implement the FBIP.<sup>1</sup> Because this bill expands the FBIP, FWC may need to revise its rules to implement the changes.

***Lawmaking is a legislative power; however, the Legislature may delegate a portion of such power to executive branch agencies to create rules that have the force of law. To exercise this delegated power, an agency must have a grant of rulemaking authority and a law to implement.***

#### **FISCAL OR ECONOMIC IMPACT:**

##### **LOCAL GOVERNMENT:**

The bill may have an indeterminate positive fiscal impact on local governments that receive grants through the FBIP for publicly-owned parking for boat-hauling vehicles and trailers.

<sup>1</sup> Rule [68-1.003, F.A.C.](#)

## PRIVATE SECTOR:

The bill may have an indeterminate insignificant positive fiscal impact on marine manufacturers that participate in the Clean Marina Program and receive a discount on their submerged land lease fees.

## RELEVANT INFORMATION

### SUBJECT OVERVIEW:

#### Sovereign Submerged Lands

Upon attaining statehood in 1845, “the state of Florida by virtue of its sovereignty assumed title to and sovereignty over the navigable waters in the state and lands thereunder.”<sup>2</sup> The title to lands under navigable waters passed from the United States to the state through operation of the federal “equal footing” doctrine,<sup>3</sup> and included the submerged bed up to the “ordinary high water mark” of navigable rivers and lakes.<sup>4</sup>

Sovereign submerged lands include, but are not limited to, tidal lands, islands, sandbars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable freshwater or tidally-influenced waters. Title to sovereign submerged lands is held by the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees).<sup>5</sup> The Board of Trustees is responsible for the acquisition, administration, management, control, supervision, conservation, protection, and disposition of all lands owned by the state, including all sovereign submerged lands.<sup>6</sup> The Division of State Lands within the Department of Environmental Protection (DEP) carries out the duties and functions related to the administration of sovereign submerged land on behalf of the Board of Trustees.<sup>7</sup>

Current law prohibits a person from commencing excavation, construction, or any other activity involving the use of sovereign or other lands of the state where the title is vested in the Board of Trustees until the person has received the required lease, license, easement, or other form of consent from the Board of Trustees authorizing the proposed use.<sup>8</sup> The Board of Trustees provides exceptions from these requirements for certain activities.<sup>9</sup> Annual lease fees are required for certain types of structures, such as single-family homes, condominiums, and commercial marinas.<sup>10</sup>

#### Clean Marina Program

The Clean Marina Program (CMP) is a voluntary designation program that encourages marina facilities to incorporate environmental best management practices (BMPs),<sup>11</sup> which are established by DEP and exceed regulatory requirements. The CMP aims to create partnerships with local communities and businesses to protect natural resources and promote economic growth. To achieve this goal, CMP assists facilities with incorporating BMPs into their operating procedures, provides compliance assistance, supplies education on storm readiness through the Clean & Resilient Program, and aims to designate every marina, boatyard, and marine retailer possible. The CMP also encourages the provision of services such as sewage pumpout stations, recycling, and proper disposal of hazardous materials to ensure a sustainable future for marine and freshwater

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<sup>2</sup> *Merrill-Stevens Co. v. Durkee*, 57 So. 428, 432 (Fla. 1912)

<sup>3</sup> *Pollard v. Hagan*, 44 U.S. 212 (1845) (Under the Equal Footing Doctrine, the new states admitted into the Union since the adoption of the Constitution were given the same rights in submerged lands as the original states).

<sup>4</sup> *Coastal Petroleum Co. v. American Cyanamid Co.*, 492 So. 2d 339, 342 (Fla. 1986); *Tilden v. Smith*, 113 So. 708, 712 (Fla. 1927) (Concerning the boundary of fresh waters, the ordinary high water mark is the point where the presence and action of the water are so common and usual as to leave a mark upon the soil).

<sup>5</sup> Department of Environmental Protection (DEP), *Submerged Lands Management*, available at <https://floridadep.gov/lands/bureau-public-land-administration/content/submerged-lands-management> (last visited Mar. 15, 2025).

<sup>6</sup> Section [253.03\(1\), F.S.](#)

<sup>7</sup> Rules [18-21.002](#) and [18-21.003, F.A.C.](#)

<sup>8</sup> Section [253.77, F.S.](#)

<sup>9</sup> Rule [18-21.005\(1\)\(a\), F.A.C.](#)

<sup>10</sup> See Rule [18-21.011, F.A.C.](#)

<sup>11</sup> These BMPs are practices and policies that address critical environmental issues such as sensitive habitats, waste management, stormwater control, spill prevention, and emergency preparedness.

environments.<sup>12</sup> For a facility to be designated under the CMP, it must comply with all regulatory requirements and implement at least 60 percent of the established BMPs at their facility.

When a facility is designated as a Clean Marina, Clean Boatyard, or Clean Marine Retailer in the Clean Marina Program, it receives a 10 percent discount on its annual sovereign submerged land lease fee.<sup>13</sup> To remain eligible for the discount, the facility must remain in good standing with all terms of its lease and with the requirements of the CMP.<sup>14</sup>

Facilities may also receive a Clean & Resilient<sup>15</sup> designation. This designation is an additional level of environmental responsibility and sustainability. Facilities that expand on Clean Marina BMPs by strengthening the facility's ability to withstand natural and humanmade disasters qualify for Clean & Resilient designation. Program participants receive ongoing technical support from the CMP staff, the Clean Boating Partnership, and mentors who volunteer their time to assist other marine facilities seeking designation.<sup>16</sup>

### **Fish and Wildlife Conservation Commission**

The Fish and Wildlife Conservation Commission (FWC) was created by Article IV, s. 9 of the Florida Constitution and is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources. FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Senate.<sup>17</sup> Pursuant to its constitutional authority, FWC exercises the regulatory and executive powers of the state with respect to wild animal life, freshwater aquatic life, and marine life. FWC is also the agency responsible for the Florida Boating Improvement Program, which provides funding through competitive grants for boating access projects and other boating-related activities benefitting motorized vessels in Florida. Eligible program participants include county governments, municipalities, and other governmental entities of the state.<sup>18</sup>

### **Florida Boating Improvement Program**

The Florida Boating Improvement Program (FBIP) is a grant program that was created in 2003<sup>19</sup> and assigns tax revenues generated by the sale of motor fuel and other fuels at marinas to the Marine Resources Conservation Trust Fund, which is managed by FWC. FBIP grants can be used for:

- The construction and maintenance of publicly owned boat ramps, piers, and docks;
- Boater education;
- Deployment of manatee technical avoidance technology; and
- Economic development initiatives that promote boating in the state.<sup>20</sup>

Applications for FBIP grants are reviewed and scored by an evaluation committee chaired by the FBIP Administrator and comprised of no less than four evaluators approved by FWC's Director of the Division of Law Enforcement. The evaluators review and assign a score to each application based on the evaluation criteria found in the FBIP Guidelines. The final score for each application is the average of the individual evaluators' scores plus the technical score. Complete applications are then ranked in descending order. Grants are awarded to the highest-ranking applications until all funds have been awarded.<sup>21</sup> Funding for the FBIP is contingent on appropriation by the Legislature.

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<sup>12</sup> DEP, *Clean Marina Program*, available at <https://floridadep.gov/rcp/clean-marina/content/clean-marina-program> (last visited Mar. 15, 2025).

<sup>13</sup> Section [253.0346\(3\), F.S.](#)

<sup>14</sup> *Id.*

<sup>15</sup> See DEP, *Clean & Resilient Marina*, available at <https://floridadep.gov/rcp/clean-marina/content/clean-resilient-marina> (last visited Mar. 15, 2025).

<sup>16</sup> *Id.*

<sup>17</sup> Article [IV, s. 9, Fla. Const.](#)

<sup>18</sup> FWC, *Florida Boating Improvement Program (FBIP)*, available at <https://myfwc.com/boating/grants-programs/fbip/> (last visited Mar. 15, 2025).

<sup>19</sup> Chapter [2003-156, Laws of Fla.](#)

<sup>20</sup> Section [327.47, F.S.](#)

<sup>21</sup> FWC, *Florida Boating Improvement Guidelines*, 5 (November 2022), available at <https://myfwc.com/media/21828/fbip-programguidelines.pdf> (last visited on Mar. 15, 2025).

**OTHER RESOURCES:**

[Florida Clean Marina Guide to Designation](#)  
[Florida Boating Improvement Program Guidelines](#)