State Resources Council

Monday, April 10, 2006
4:00 PM
Reed Hall

REVISED

Allan G. Bense
Speaker

Marty Bowen
Chair

Council Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

State Resources Council

Start Date and Time:	Monday, April 10, 2006 04:00 pm
End Date and Time:	Monday, April 10, 2006 06:00 pm
Location:	Reed Hall (102 HOB)
Duration:	2.00 hrs

Consideration of the following bill(s):

HB 637 Consumer Protection by Seiler
HB 889 CS Fran Reich Preserve by Machek
HB 1015 CS Agricultural Economic Development by Pickens
HB 1155 Contaminated Drycleaning Facilities by Evers
HB 7245 Oil and Gas Drilling by Economic Development, Trade & Banking Committee
HB 1153 CS Concealed Weapons by Coley
HB 1501 CS Agent Licensing by Berfield

NOTICE FINALIZED on 04/06/2006 16:17 by REARDON.BILLIE

HB 637

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 637 Consumer Protection
SPONSOR(S): Seiler
TIED BILLS: None **IDEN./SIM. BILLS:** SB 202

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	9 Y, 0 N	Blanchette	Reese
2) Civil Justice Committee	6 Y, 0 N	Shaddock	Bond
3) Judiciary Appropriations Committee	4 Y, 0 N	Brazzell	DeBeaugrine
4) State Resources Council		Blanchette CB	Hamby ZZO
5)			

SUMMARY ANALYSIS

The bill amends the Florida Deceptive and Unfair Trade Practices Act to clarify that the court may allow a court-appointed person such as a receiver to address wrongdoing by bringing an action in the name of and on behalf of a defendant, such as the corporation over which the receiver has been appointed.

This bill does not appear to have a fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Current Law
The Florida Deceptive and Unfair Trade Practices Act (FDUTPA)[1] was enacted "[t]o protect the consuming public and legitimate business enterprises from those who engage in unfair methods of competition, or unconscionable, deceptive, or unfair acts or practices in the conduct of any trade or commerce."[2]

Businesses and individuals are afforded broad protection from unfair or deceptive acts or practices under the FDUTPA. The FDUTPA states a broad proscription that applies through civil enforcement across industries and business conduct generally in any medium. The FDUTPA, Part II of ch. 501, F.S., provides remedies and penalties for "[u]nfair methods of competition, unconscionable acts or practices, and unfair or deceptive acts or practices in the conduct of any trade or commerce..."[3]

Under the FDUTPA, the Attorney General or other enforcing authority may bring an action on behalf of a consumer[4] and seek the appointment of a receiver[5] or fiduciary to seek redress. A receiver only has the powers given to him or her by statute or by order of appointment.[6] Under most circumstances, it is the receiver's duty to safeguard the property in his or her custody and to protect the rights and interests of all claimants while still maintaining neutrality.[7] A receivership allows the court to accomplish "complete justice," with the goal of providing protection to the property at issue until the final disposition of the matter.[8] An appointment of a receiver is an equitable question and not a matter of right.[9] Typically, the appointment of a receiver is an ancillary remedy and can only be obtained in connection with some other action to obtain a specific relief.[10]

It is unclear whether under the FDUTPA a receiver or other court-appointed person has standing to bring a proceeding on behalf of defendants against a third party who may have an involvement in the wrongdoing.

Effect of Bill
The bill authorizes a court to permit actions in the name of and on behalf of the defendant enterprise. This would allow a receiver or other court-appointed person to address wrongdoing by filing suit on behalf of a defendant, such as a corporation over which the receiver has been appointed, against a third party who played some role in the alleged wrongdoing.

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[1] Sections 501.201-501.213, F.S.
[2] Section 501.202(2), F.S.
[3] Section 501.204, F.S.
[4] Section 501.207(1)(c), F.S.
[5] A "receiver" is defined as "[a] disinterested person appointed by a court, or by a corporation or other person, for the protection or collection of property that is the subject of diverse claims." Black's Law Dictionary 1275 (7th ed. 1999).
[6] 44 Fla. Jur. 2d Receivers s. 49 (2005).
[7] *Id.*
[8] 44 Fla. Jur. 2d Receivers s. 2 (2005).
[9] 44 Fla. Jur. 2d Receivers s. 3 (2005).
[10] *Id.*

The bill also amends ss. 501.203 and 501.204, F.S., to capture changes in federal law from 2001 to 2006.[11]

C. SECTION DIRECTORY:

Section 1. Amends s. 501.203, F.S., to change dates to capture changes in federal law up to July 1, 2006.

Section 2. Amends s. 501.204, F.S., to change dates to capture changes in federal law up to July 1, 2006.

Section 3. Amends s. 501.207, F.S., to broaden the powers of a receiver.

Section 4. Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

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[11] To directly link the statute to the interpretation of the federal courts and the Federal Trade Commission would be an unlawful delegation of legislative power. Therefore, the dates in the statute must be periodically updated.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A.

1 A bill to be entitled
2 An act relating to consumer protection; amending ss.
3 501.203 and 501.204, F.S.; changing obsolete dates;
4 reenacting and amending s. 501.207, F.S., relating to
5 remedies of the enforcing authority under the Florida
6 Deceptive and Unfair Trade Practices Act; providing that
7 the court may order actions brought under that act on
8 behalf of an enterprise; providing an effective date.
9
10 Be It Enacted by the Legislature of the State of Florida:
11
12 Section 1. Subsection (3) of section 501.203, Florida
13 Statutes, is amended to read:
14 501.203 Definitions.--As used in this chapter, unless the
15 context otherwise requires, the term:
16 (3) "Violation of this part" means any violation of this
17 act or the rules adopted under this act and may be based upon
18 any of the following as of July 1, 2006 ~~2001~~:
19 (a) Any rules promulgated pursuant to the Federal Trade
20 Commission Act, 15 U.S.C. ss. 41 et seq.;
21 (b) The standards of unfairness and deception set forth
22 and interpreted by the Federal Trade Commission or the federal
23 courts;
24 (c) Any law, statute, rule, regulation, or ordinance which
25 proscribes unfair methods of competition, or unfair, deceptive,
26 or unconscionable acts or practices.
27 Section 2. Subsection (2) of section 501.204, Florida
28 Statutes, is amended to read:

29 501.204 Unlawful acts and practices.--
30 (2) It is the intent of the Legislature that, in
31 construing subsection (1), due consideration and great weight
32 shall be given to the interpretations of the Federal Trade
33 Commission and the federal courts relating to s. 5(a)(1) of the
34 Federal Trade Commission Act, 15 U.S.C. s. 45(a)(1) as of July
35 1, 2006 ~~2001~~.
36 Section 3. Subsection (1) of section 501.207, Florida
37 Statutes, is reenacted, and subsection (3) of that section is
38 amended to read:
39 501.207 Remedies of enforcing authority.--
40 (1) The enforcing authority may bring:
41 (a) An action to obtain a declaratory judgment that an act
42 or practice violates this part.
43 (b) An action to enjoin any person who has violated, is
44 violating, or is otherwise likely to violate, this part.
45 (c) An action on behalf of one or more consumers or
46 governmental entities for the actual damages caused by an act or
47 practice in violation of this part. However, damages are not
48 recoverable under this section against a retailer who has in
49 good faith engaged in the dissemination of claims of a
50 manufacturer or wholesaler without actual knowledge that it
51 violated this part.
52 (3) Upon motion of the enforcing authority or any
53 interested party in any action brought under subsection (1), the
54 court may make appropriate orders, including, but not limited
55 to, appointment of a general or special magistrate or receiver
56 or sequestration or freezing of assets, to reimburse consumers

57 or governmental entities found to have been damaged; to carry
58 out a transaction in accordance with the reasonable expectations
59 of consumers or governmental entities; to strike or limit the
60 application of clauses of contracts to avoid an unconscionable
61 result; to bring actions in the name of and on behalf of the
62 defendant enterprise; to order any defendant to divest herself
63 or himself of any interest in any enterprise, including real
64 estate; to impose reasonable restrictions upon the future
65 activities of any defendant to impede her or him from engaging
66 in or establishing the same type of endeavor; to order the
67 dissolution or reorganization of any enterprise; or to grant
68 ~~legal, equitable, or~~ other appropriate relief. The court may
69 assess the expenses of a general or special magistrate or
70 receiver against a person who has violated, is violating, or is
71 otherwise likely to violate this part. Any injunctive order,
72 whether temporary or permanent, issued by the court shall be
73 effective throughout the state unless otherwise provided in the
74 order.
75 Section 4. This act shall take effect July 1, 2006.

HB 889 CS

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 889 CS Fran Reich Aquatic Preserve
SPONSOR(S): Machek
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Water & Natural Resources Committee	9 Y, 0 N, w/CS	Winker	Lotspeich
2) Agriculture & Environment Appropriations Committee	11 Y, 0 N	Dixon	Dixon
3) State Resources Council		Winker KW	Hamby
4)			
5)			

SUMMARY ANALYSIS

The bill designates the Site 1 Impoundment Project of the Comprehensive Everglades Restoration Plan sponsored by the South Florida Water Management District (SFWMD) as the Fran Reich Preserve. The bill directs the SFWMD to erect suitable markers designating the Fran Reich Preserve.

The bill has no fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

The Site 1 Impoundment Project is a joint project between the U.S. Army Corps of Engineers and the South Florida Water Management District as part of the Comprehensive Everglades Restoration Plan. The purpose of the project, which is located in Palm Beach County, is to supplement water deliveries to the Hillsboro Canal by capturing and storing excess water currently discharged to the Intracoastal Waterway. The supplemental water deliveries are intended to reduce the demands upon Lake Okeechobee.

As part of the project, an impoundment pool will also provide groundwater recharge, reduce seepage from adjacent natural areas, and prevent saltwater intrusion by releasing impounded water back into the Hillsboro Canal when conditions dictate. Some measure of flood protection may also be provided by the project along with water quality improvements. The project includes canal and structure relocations, canal conveyance improvements, water control structures, and an aboveground impoundment with a total storage capacity of 13,280 acre-feet located in the Hillsboro Canal Basin in southern Palm Beach County.

Fran Reich was born in New York City in 1914. After graduating from Queens College, Ms. Reich worked in a law office and married her husband Allan. She raised a family and continued to work and be active in numerous educational and civic group issues. In 1978, Ms. Reich and her husband moved to Boca Raton, Florida where she founded the West Boca Community Council in 1980. Ms. Reich served as the Council's President and Board Chair. Ms. Reich served on many local and county advisory committees including the Infrastructure Task Force, Traffic Performance Standards, Ethics Committee, and the Land Use Advisory Board.

Ms. Reich's many accomplishments include:

- Bringing a new middle school to West Boca;
- Leading the fight against a West Boca landfill and incinerator by convincing the County that there was no need for such facilities;
- Defeating a proposed airport in West Boca;
- Assisting in the establishment of a West Boca Medical Center;
- Advocating for parks, libraries, schools, post offices, fire stations, and youth activity centers in West Boca.

With Ms. Reich's leadership, the West Boca Community Council fought the establishment by the County of a landfill on the southeastern edge of the Loxahachee Wildlife Refuge and what has become the Site 1 Impoundment Project of the Comprehensive Everglades Restoration Plan.

Ms. Reich died in February, 2005.

C. SECTION DIRECTORY:

Section 1: Designates the Site 1 Impoundment Project of the Comprehensive Everglades Restoration Plan as the Fran Reich Preserve; directs the South Florida Water Management District to erect suitable markers.

Section 2: Provides that the act becomes effective on July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not appear to require cities or counties to spend funds or take actions requiring the expenditure of funds. Nor does the bill reduce the authority that cities and counties have to raise revenues in the aggregate or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

According to Department of Environmental Protection staff, designating the Site 1 Project water body as an aquatic preserve would place numerous restrictions upon the water body and would make it difficult to use it for the intended purpose of the Site 1 Project, which is essentially a water holding pond or an impoundment area. Staff recommends that the phrase "aquatic preserve" be removed from the bill and another appropriate designation be used.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 15, 2006, the Water and Natural Resources Committee adopted the bill with an amendment which removed the word "aquatic" from the bill.

CHAMBER ACTION

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1 The Water & Natural Resources Committee recommends the
2 following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to the Fran Reich Preserve; designating
8 the Site 1 Impoundment project of the Comprehensive
9 Everglades Restoration Plan sponsored by the South Florida
10 Water Management District as the Fran Reich Preserve;
11 directing the South Florida Water Management District to
12 erect suitable markers; providing an effective date.
13
14 WHEREAS, Fran Reich founded the West Boca Community Council
15 and proudly served on the council as President, Chairman of the
16 Board, and Chairman Emeritus, and
17 WHEREAS, Fran Reich was a dedicated activist who worked
18 diligently to protect the communities of South Florida and to
19 improve the lives of others, and
20 WHEREAS, Fran Reich successfully led the victory that
21 protected and preserved the Loxahatchee Wildlife Refuge, and
22 WHEREAS, such effort and commitment generated a legacy of
23 community awareness and involvement, NOW, THEREFORE,

24
25 Be It Enacted by the Legislature of the State of Florida:
26
27 Section 1. Fran Reich Preserve designated; South Florida
28 Water Management District to erect suitable markers.--
29 (1) The Site 1 Impoundment project of the Comprehensive
30 Everglades Restoration Plan sponsored by the South Florida Water
31 Management District is designated the "Fran Reich Preserve."
32 (2) The South Florida Water Management District is
33 directed to erect suitable markers designating the Fran Reich
34 Preserve as described in subsection (1).
35 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1015 CS Agricultural Economic Development
SPONSOR(S): Pickens and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1880

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	9 Y, 0 N, w/CS	Kaiser	Reese
2) Agriculture & Environment Appropriations Committee	11 Y, 0 N, w/CS	Davis	Dixon
3) State Resources Council		Kaiser	Hamby
4)			
5)			

SUMMARY ANALYSIS

HB 1015 reduces the notice period from 180 days to 90 days for property classified as agricultural under the Bert Harris Private Property Rights Protection Act.

The bill establishes an "agricultural enclave" designation and authorizes the landowners of such to apply for a comprehensive plan amendment (CPA) that includes land uses and intensities of use consistent with uses and intensities of use of surrounding industrial, commercial, or residential uses. The bill stipulates the property must meet Greenbelt criteria, have been in agricultural production for the past five years and meet additional criteria. An agricultural enclave may not exceed 2,560 acres, unless the property has existing or authorized residential development that will result in a build out density of at least 1,000 residents per square mile, in which case it should be determined urban and may not exceed 5,120 acres. The bill exempts the CPA from certain rules of the Department of Community Affairs (DCA) relating to urban sprawl.

The bill provides for good faith negotiations between the local government and landowner, with certain criteria to be met regarding the negotiations. Upon completion of negotiations, regardless of the outcome, the CPA must be transmitted to the DCA for review at the first available transmittal cycle. The bill forbids the DCA from using certain rules relating to urban sprawl as a factor in determining compliance of a CPA. If the landowner fails to negotiate in good faith, all DCA rules relating to urban sprawl apply to the CPA. The bill states, "Nothing relating to amendments to local comprehensive plans in regards to agricultural enclaves shall preempt or replace any protection currently existing for any property located within the boundaries of the Wekiva Study Area or the Everglades Protection Area."

The bill provides economic protection to an agricultural lessee when property for which an agricultural lease exists is purchased by the state or an agency of the state. The bill requires the purchasing agency to allow the lease to remain in full force for the remainder of the lease term. Where consistent with the purposes for which the property was acquired, the purchasing agency must make reasonable efforts to keep lands in agricultural production which are in agricultural production at the time of the purchase.

The bill establishes in law that agricultural self-supplied water users have limitations on their ability to develop alternative water supplies. Furthermore, the bill requires water management districts to notify agricultural applicants for consumptive use permits of the right to apply for permits valid for 20 years.

By July 1, 2007, the bill requires each water management district to enter into a memorandum of agreement (MOA) with the Department of Agriculture and Consumer Services (DACS) to determine whether an existing or proposed activity qualifies for the agricultural wetlands exemptions set forth in law.

The bill does not appear to have a fiscal impact requiring new state expenditures. The effective date of this legislation is upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty: The bill creates a process for owners of agricultural enclaves to request comprehensive plan amendments allowing land uses and intensities of use consistent with uses and intensities of use of surrounding industrial, commercial, or residential uses. The bill provides economic protection to an agricultural lessee when property for which an agricultural lease exists is purchased by the state or an agency of the state. Additionally, the bill reduces the notice period from 180 days to 90 days for property classified as agricultural under the Bert Harris Private Property Rights Protection Act.

B. EFFECT OF PROPOSED CHANGES:

Bert Harris Private Property Rights Protection Act
Currently, s. 70.001, F.S., sets forth the Bert Harris Act, which provides relief to property owners in instances where a specific action of a governmental entity has inordinately burdened the use of real property under circumstances that do not amount to a taking but result in the owner being permanently unable to attain the reasonable investment-backed expectation for the property. A 180-day time period is required between filing of a claim and the filing of an action to allow the government to make a written settlement offer. There is no special treatment for agricultural land which has been rezoned or subjected to a designation which lowers residential density. The bill reduces the time period from 180 days to 90 days.

Agricultural Enclaves
The Local Government Comprehensive Planning and Land Development Regulation Act of 1985 (act)[1] establishes a growth management system in Florida which requires each local government (or combination of local governments) to adopt a plan, capital improvements, and an intergovernmental coordination element. The local government comprehensive plan is intended to be the policy document guiding local governments in land use decision-making. Section 163.3184, F.S., sets forth certain requirements that must be met in the adoption of a comprehensive plan or plan amendment. The act contains a special designation and specific provisions relating to an urban infill and redevelopment area. However, there is neither a designation of property as an "agricultural enclave" nor any special provisions pertaining to such an area.

The bill establishes an "agricultural enclave" designation and authorizes the landowners of such to apply for a comprehensive plan amendment (CPA) that includes land uses and intensities of use consistent with uses and intensities of use of surrounding industrial, commercial, or residential uses. The property must meet Greenbelt criteria and have been in agricultural production for the past five years. An agricultural enclave is defined as an unincorporated, undeveloped parcel that:

- Is owned by a single person or entity;
- Has been in continuous use for bona fide agricultural purposes, as defined by statute[2] for a period of 5 years prior to the date of any comprehensive plan amendment application;
- Is surrounded on at least 75 percent of its perimeter by:
  - Property that has existing industrial, commercial, or residential development; or
  - Property that the local government has designated, in the local government's comprehensive plan, zoning map, and future land use map, as land that is to be developed for industrial, commercial, or residential purposes, and at least 75 percent of such property is existing industrial, commercial, or residential development;
- Has public services, including water, wastewater, transportation, schools, and recreation facilities, available or such public services are scheduled to be provided by the local

[1] ss. 163.3161-163.3244, F.S.
[2] s. 193.461, F.S.

government or by a alternative provider of local government infrastructure consistent with applicable concurrency provisions of s. 163.3180, F.S.; and

- Does not exceed 2,560 acres, however, if the property has existing or authorized residential development that will result in a build out density of at least 1,000 residents per square mile, the parcel shall be determined urban and may not exceed 5,120 acres.

The bill provides for good faith negotiations between the local government and landowner. The negotiation period is set for 180 days following the date the local government receives an application for a CPA. The bill requires, within 30 days of receipt by the local government of the application, for the local government and landowner to agree, in writing, to a schedule for information submittal, public hearings, negotiations, and final action on the CPA. This schedule may only be changed with the written consent of the local government and the landowner. Compliance with the schedule in written agreement constitutes good faith negotiations.

Upon completion of negotiations, regardless of the outcome, the CPA must be transmitted to the DCA for review at the first available transmittal cycle. The bill forbids the DCA from using certain rules relating to urban sprawl as a factor in determining compliance of a CPA.[3] If the landowner fails to negotiate in good faith, all rules of the DCA relating to urban sprawl apply to the CPA.

The bill states, "Nothing relating to amendments to local comprehensive plans in regards to agricultural enclaves shall preempt or replace any protection currently existing for any property located within the boundaries of the Wekiva Study Area or the Everglades Protection Area."

Land Acquisition

Chapter 259, F.S., is entitled "Land Acquisitions for Conservation and Recreation," and contains Florida's nationally recognized land acquisition programs:

- Conservation and Recreation Lands (CARL),
- Preservation 2000 (P2000), and
- Florida Forever.

The CARL program was created by the Legislature in 1979 to acquire and manage public lands and to conserve and protect environmentally unique and irreplaceable lands and lands of critical state concern. Documentary stamp tax revenues were deposited into the CARL Trust Fund to accomplish the program's purchases. The CARL program was replaced by the P2000 and Florida Forever program. Today, the CARL Trust Fund still receives documentary stamp tax and phosphate severance tax revenue which is used to manage conservation and recreation lands. However, it is not to be used for land acquisition without explicit permission from the Board of Trustees of the Internal Improvements Trust Fund.

The P2000 program was created in 1990 as a $3 billion land acquisition program funded through the annual sales of bonds. Each year for 10 years, the majority of $300 million in bond proceeds, less the cost of issuance, was distributed to the Department of Environmental Protection (DEP) for the purchase of environmental lands on the CARL list, the five water management districts for the purchase of water management lands, and the Department of Community Affairs for land acquisition loans and grants to local governments under the Florida Communities Trust Program. The Division of Forestry at the Department of Agriculture and Consumer Services (DACS) received P2000 funds as one of the smaller state acquisition programs.

The Florida Forever program was enacted by the Legislature in 1999 as a successor program to P2000. Florida Forever authorizes the issuance of not more than $3 billion in bonds over a 10-year period for land acquisition, water resource development projects, the preservation and restoration of open space and greenways, and for outdoor recreation purposes. Until the Florida Forever program

[3] *Id.*

was established, the title to lands purchased under the state's acquisition programs vested in the Board of Trustees of the Internal Improvement Trust Fund. Under Florida Forever, the Legislature provided public land acquisition agencies with authority to purchase eligible properties using alternatives to fee simple acquisitions. These "less than fee" acquisitions are one method of allowing agricultural lands to remain in production while preventing development on those lands. Public land acquisition agencies with remaining P2000 funds were also encouraged to pursue "less than fee" acquisitions.

The bill provides economic protection to an agricultural lessee when property, which has an agricultural lease, is purchased by the state or an agency of the state. The bill requires the purchasing agent to allow the lease to remain in full force for the remainder of the lease term. In addition, where consistent with the purposes for which the property was acquired, the purchasing agent must make reasonable efforts to keep in agricultural production lands which are in agricultural production at the time of purchase.

Regional Water Supply Planning
In the mid-1990's, when it became apparent that chief groundwater sources may not be sufficient to sustain Florida's population, the five water management districts were charged with developing regional water supply plans. Florida law [4] requires the plan to be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities, government-owned and privately-owned water utilities, multijurisdictional water supply entities, self-suppliers, and other affected and interested parties.

The bill establishes that agricultural self-supplied water users have limitations on their ability to develop alternative water supplies.

Consumptive Use Permits
Water use permits can be issued to non-government individuals or entities for a period of up to 20 years, but some applicants are not aware that they may request a 20-year permit for renewals as well as the initial permit. The bill requires water management districts to notify agricultural applicants for consumptive use permits of their right to apply for permits valid for 20 years.

Memorandum of Agreement for Agricultural Related Exemption
Section 373.406(2), F.S., provides an exemption to persons engaged in the occupation of agriculture, silviculture, floriculture, or horticulture to alter the topography of any tract of land for purposes consistent with the practice of such occupation. The law further states such alteration may not be for the sole or predominant purpose of impounding or obstructing surface waters.

The bill establishes a process by which each water management district enters into a memorandum of agreement (MOA) with the Department of Agriculture and Consumer Services (DACS) to determine whether an existing or proposed activity qualifies for the agricultural wetlands exemption set forth in s. 373.406(2), F.S.

C. SECTION DIRECTORY:

Section 1: Amends s. 70.001, F.S.; amending notice period for filing action.

Section 2: Amends s. 163.3162, F.S.; providing for owner of land classified as an agricultural enclave to apply for an amendment to the comprehensive plan; providing requirements relating to applications; and, exempting certain amendments from specific rules of the Department of Community Affairs under certain circumstances.

Section 3: Amends s. 163.3164, F.S.; providing a definition for agricultural enclave.

[4] s. 373.0361, F.S.

Section 4: Creates s. 259.047, F.S.; providing requirements relating to purchase of land on which an agricultural lease exists.

Section 5: Amending s. 373.0361, F.S.; recognizing that water source options for agricultural self-suppliers are limited.

Section 6: Amending s. 373.2234, F.S.; correcting a cross reference.

Section 7: Amending s. 373.236, F.S.; requiring water management districts to inform landowners of the option to obtain certain consumptive use permits.

Section 8: Amending s. 373.407, F.S.; providing for memoranda of agreement regarding qualification for agricultural-related exemptions.

Section 9: Providing an effective date of upon becoming law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   Indeterminate. See fiscal comments below.

2. Expenditures:

   See fiscal comments below.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   Indeterminate. It is unknown whether this bill will require local government expenditures.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Not discernable

D. FISCAL COMMENTS:

According to the Department of Agriculture and Consumer Services (DACS), this bill should have no significant impact on the Division of Forestry. Some revenue would be received from existing agricultural production leases when that land is acquired as a state forest. The actual revenue cannot be determined at this time as it is not known what existing agricultural leases will be a part of future state forest acquisitions.

Section 8 of the bill addresses the development of a memorandum of agreement between DACS and each water management district in which DACS would conduct a review to determine exemptions from existing statute. DACS states that this review, involving the Office of Water Policy, would have no fiscal impact.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   It is not known whether this bill will require counties or municipalities to take action requiring the expenditure of funds. It does not appear to reduce the authority that counties or municipalities have to raise revenue in the aggregate or appear to reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

   None

C. DRAFTING ISSUES OR OTHER COMMENTS:

   As currently drafted, section 163.3162(5)(c), F.S., dealing with the preemption for property located within the boundaries of the Wekiva Study Area or the Everglades Protection Area, is ambiguous as to legislative intent.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 22, 2006, the Committee on Agriculture adopted two amendments to HB 1015. **Amendment 1** amended the procedure for applying for a comprehensive plan amendment, which is now the same for anyone seeking to establish an agricultural enclave. **Amendment 2** amended the definition of an "agricultural enclave" to have only one acreage designation rather than two.

On April 4, 2006, the Agriculture and Environment Appropriations Committee adopted one amendment revising the definition of an agricultural enclave to comport with the U.S. Census Bureaus' and Department of Community Affairs' language defining urban.

CHAMBER ACTION

---

1 The Agriculture & Environment Appropriations Committee
2 recommends the following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6 A bill to be entitled
7 An act relating to agricultural economic development;
8 amending s. 70.001, F.S.; providing a deadline for an
9 owner of agricultural land to present a claim prior to
10 filing an action against a governmental entity regarding
11 private property rights; amending s. 163.3162, F.S.;
12 providing for application for an amendment to the local
13 government comprehensive plan by the owner of land that
14 meets certain provisions of the definition of an
15 agricultural enclave; providing requirements relating to
16 such applications; exempting certain amendments from
17 specified rules of the Department of Community Affairs
18 under certain circumstances; amending s. 163.3164, F.S.;
19 defining the term "agricultural enclave" for purposes of
20 the Local Government Comprehensive Planning and Land
21 Development Regulation Act; creating s. 259.047, F.S.;
22 providing requirements relating to the purchase of land on
23 which an agricultural lease exists; amending s. 373.0361,

24 F.S.; providing for recognition that alternative water
25 supply development options for agricultural self-suppliers
26 are limited; amending s. 373.2234, F.S.; conforming a
27 cross-reference; amending s. 373.236, F.S.; requiring
28 water management districts to inform landowners of the
29 option to obtain certain consumptive use permits; creating
30 s. 373.407, F.S.; providing for memoranda of agreement
31 regarding qualification for agricultural-related
32 exemptions; providing an effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Paragraphs (a) and (c) of subsection (4),
37 paragraph (a) of subsection (5), and paragraph (c) of subsection
38 (6) of section 70.001, Florida Statutes, are amended to read:
39 70.001 Private property rights protection.--
40 (4)(a) Not less than 180 days prior to filing an action
41 under this section against a governmental entity, a property
42 owner who seeks compensation under this section must present the
43 claim in writing to the head of the governmental entity<u>, except</u>
44 <u>that if the property is classified as agricultural pursuant to</u>
45 <u>s. 193.461, the notice period is 90 days</u>. The property owner
46 must submit, along with the claim, a bona fide, valid appraisal
47 that supports the claim and demonstrates the loss in fair market
48 value to the real property. If the action of government is the
49 culmination of a process that involves more than one
50 governmental entity, or if a complete resolution of all relevant
51 issues, in the view of the property owner or in the view of a

52 governmental entity to whom a claim is presented, requires the
53 active participation of more than one governmental entity, the
54 property owner shall present the claim as provided in this
55 section to each of the governmental entities.
56 (c) During the 90-day-notice period or the 180-day-notice
57 period, unless extended by agreement of the parties, the
58 governmental entity shall make a written settlement offer to
59 effectuate:
60 1. An adjustment of land development or permit standards
61 or other provisions controlling the development or use of land.
62 2. Increases or modifications in the density, intensity,
63 or use of areas of development.
64 3. The transfer of developmental rights.
65 4. Land swaps or exchanges.
66 5. Mitigation, including payments in lieu of onsite
67 mitigation.
68 6. Location on the least sensitive portion of the
69 property.
70 7. Conditioning the amount of development or use
71 permitted.
72 8. A requirement that issues be addressed on a more
73 comprehensive basis than a single proposed use or development.
74 9. Issuance of the development order, a variance, special
75 exception, or other extraordinary relief.
76 10. Purchase of the real property, or an interest therein,
77 by an appropriate governmental entity.
78 11. No changes to the action of the governmental entity.
79

80 If the property owner accepts the settlement offer, the
81 governmental entity may implement the settlement offer by
82 appropriate development agreement; by issuing a variance,
83 special exception, or other extraordinary relief; or by other
84 appropriate method, subject to paragraph (d).
85 (5)(a) During the 90-day-notice period or the 180-day-
86 notice period, unless a settlement offer is accepted by the
87 property owner, each of the governmental entities provided
88 notice pursuant to paragraph (4)(a) shall issue a written
89 ripeness decision identifying the allowable uses to which the
90 subject property may be put. The failure of the governmental
91 entity to issue a written ripeness decision during the
92 applicable 90-day-notice period or 180-day-notice period shall
93 be deemed to ripen the prior action of the governmental entity,
94 and shall operate as a ripeness decision that has been rejected
95 by the property owner. The ripeness decision, as a matter of
96 law, constitutes the last prerequisite to judicial review, and
97 the matter shall be deemed ripe or final for the purposes of the
98 judicial proceeding created by this section, notwithstanding the
99 availability of other administrative remedies.
100 (6)
101 (c)1. In any action filed pursuant to this section, the
102 property owner is entitled to recover reasonable costs and
103 attorney fees incurred by the property owner, from the
104 governmental entity or entities, according to their
105 proportionate share as determined by the court, from the date of
106 the filing of the circuit court action, if the property owner
107 prevails in the action and the court determines that the

108 settlement offer, including the ripeness decision, of the
109 governmental entity or entities did not constitute a bona fide
110 offer to the property owner which reasonably would have resolved
111 the claim, based upon the knowledge available to the
112 governmental entity or entities and the property owner during
113 the 90-day-notice period or the 180-day-notice period.
114 2. In any action filed pursuant to this section, the
115 governmental entity or entities are entitled to recover
116 reasonable costs and attorney fees incurred by the governmental
117 entity or entities from the date of the filing of the circuit
118 court action, if the governmental entity or entities prevail in
119 the action and the court determines that the property owner did
120 not accept a bona fide settlement offer, including the ripeness
121 decision, which reasonably would have resolved the claim fairly
122 to the property owner if the settlement offer had been accepted
123 by the property owner, based upon the knowledge available to the
124 governmental entity or entities and the property owner during
125 the 90-day-notice period or the 180-day-notice period.
126 3. The determination of total reasonable costs and
127 attorney fees pursuant to this paragraph shall be made by the
128 court and not by the jury. Any proposed settlement offer or any
129 proposed ripeness decision, except for the final written
130 settlement offer or the final written ripeness decision, and any
131 negotiations or rejections in regard to the formulation either
132 of the settlement offer or the ripeness decision, are
133 inadmissible in the subsequent proceeding established by this
134 section except for the purposes of the determination pursuant to
135 this paragraph.

136 Section 2. Subsection (5) is added to section 163.3162,
137 Florida Statutes, to read:
138 163.3162 Agricultural Lands and Practices Act.--
139 (5) AMENDMENT TO LOCAL GOVERNMENT COMPREHENSIVE PLAN.--The
140 owner of a parcel of land defined as an agricultural enclave
141 under s. 163.3164(33) may apply for an amendment to the local
142 government comprehensive plan pursuant to s. 163.3187. Such
143 amendment is not subject to rule 9J-5.006(5), Florida
144 Administrative Code, and may include land uses and intensities
145 of use that are consistent with the uses and intensities of use
146 of the industrial, commercial, or residential areas that
147 surround the parcel.
148 (a) The local government and the owner of a parcel of land
149 that is the subject of an application for an amendment shall
150 have 180 days following the date that the local government
151 receives an application to negotiate in good faith to reach
152 consensus on the land uses and intensities of use that are
153 consistent with the uses and intensities of use of the
154 industrial, commercial, or residential areas that surround the
155 parcel. Within 30 days after the local government's receipt of
156 such an application, the local government and owner must agree
157 in writing to a schedule for information submittal, public
158 hearings, negotiations, and final action on the amendment, which
159 schedule may thereafter be altered only with the written consent
160 of the local government and the owner. Compliance with the
161 schedule in the written agreement constitutes good-faith
162 negotiations for purposes of paragraph (c).

163 (b) Upon conclusion of good-faith negotiations under
164 paragraph (a), regardless of whether the local government and
165 owner reach consensus on the land uses and intensities of use
166 that are consistent with the uses and intensities of use of the
167 industrial, commercial, or residential areas that surround the
168 parcel, the amendment must be transmitted to the state land
169 planning agency for review pursuant to s. 163.3184. If the local
170 government fails to transmit the amendment within 180 days after
171 receipt of an application, the amendment must be immediately
172 transferred to the state land planning agency for such review at
173 the first available transmittal cycle. The state land planning
174 agency may not use any provision of rule 9J-5.006(5), Florida
175 Administrative Code, as a factor in determining compliance of an
176 amendment.
177 (c) If the owner fails to negotiate in good faith, rule
178 9J-5.006(5), Florida Administrative Code, shall apply throughout
179 the negotiation and amendment process.
180 (d) Nothing within this subsection relating to
181 agricultural enclaves shall preempt or replace any protection
182 currently existing for any property located within the
183 boundaries of the following areas:
184 1. The Wekiva Study Area, as described in s. 369.316; or
185 2. The Everglades Protection Area, as defined in s.
186 373.4592(2).
187 Section 3. Subsection (33) is added to section 163.3164,
188 Florida Statutes, to read:
189 163.3164 Local Government Comprehensive Planning and Land
190 Development Regulation Act; definitions.--As used in this act:

191 (33) "Agricultural enclave" means an unincorporated,
192 undeveloped parcel that:
193 (a) Is owned by a single person or entity;
194 (b) Has been in continuous use for bona fide agricultural
195 purposes, as defined by s. 193.461, for a period of 5 years
196 prior to the date of any comprehensive plan amendment
197 application;
198 (c) Is surrounded on at least 75 percent of its perimeter
199 by:
200 1. Property that has existing industrial, commercial, or
201 residential development; or
202 2. Property that the local government has designated, in
203 the local government's comprehensive plan, zoning map, and
204 future land use map, as land that is to be developed for
205 industrial, commercial, or residential purposes, and at least 75
206 percent of such property is existing industrial, commercial, or
207 residential development;
208 (d) Has public services, including water, wastewater,
209 transportation, schools, and recreation facilities, available or
210 such public services are scheduled to be provided by the local
211 government or by an alternative provider of local government
212 infrastructure consistent with applicable concurrency provisions
213 of s. 163.3180; and
214 (e) Does not exceed 2,560 acres; however, if the property
215 has existing or authorized residential development that will
216 result in a density at buildout of at least 1,000 residents per
217 square mile, then the area shall be determined to be urban and
218 the parcel may not exceed 5,120 acres.

219 Section 4. Section 259.047, Florida Statutes, is created
220 to read:
221 259.047 Acquisition of land on which an agricultural lease
222 exists.--
223 (1) When land with an existing agricultural lease is
224 acquired in fee simple pursuant to this chapter or chapter 375,
225 the existing agricultural lease may continue in force for the
226 actual time remaining on the lease agreement. Any entity
227 managing lands acquired under this section must consider
228 existing agricultural leases in the development of a land
229 management plan required under s. 253.034.
230 (2) Where consistent with the purposes for which the
231 property was acquired, the state or acquiring entity shall make
232 reasonable efforts to keep lands in agricultural production
233 which are in agricultural production at the time of acquisition.
234 Section 5. Paragraph (a) of subsection (2) of section
235 373.0361, Florida Statutes, is amended to read:
236 373.0361 Regional water supply planning.--
237 (2) Each regional water supply plan shall be based on at
238 least a 20-year planning period and shall include, but need not
239 be limited to:
240 (a) A water supply development component for each water
241 supply planning region identified by the district which
242 includes:
243 1. A quantification of the water supply needs for all
244 existing and future reasonable-beneficial uses within the
245 planning horizon. The level-of-certainty planning goal
246 associated with identifying the water supply needs of existing

247 and future reasonable-beneficial uses shall be based upon
248 meeting those needs for a 1-in-10-year drought event. Population
249 projections used for determining public water supply needs must
250 be based upon the best available data. In determining the best
251 available data, the district shall consider the University of
252 Florida's Bureau of Economic and Business Research (BEBR) medium
253 population projections and any population projection data and
254 analysis submitted by a local government pursuant to the public
255 workshop described in subsection (1) if the data and analysis
256 support the local government's comprehensive plan. Any
257 adjustment of or deviation from the BEBR projections must be
258 fully described, and the original BEBR data must be presented
259 along with the adjusted data.
260 2. A list of water supply development project options,
261 including traditional and alternative water supply project
262 options, from which local government, government-owned and
263 privately owned utilities, regional water supply authorities,
264 multijurisdictional water supply entities, self-suppliers, and
265 others may choose for water supply development. In addition to
266 projects listed by the district, such users may propose specific
267 projects for inclusion in the list of alternative water supply
268 projects. If such users propose a project to be listed as an
269 alternative water supply project, the district shall determine
270 whether it meets the goals of the plan, and, if so, it shall be
271 included in the list. The total capacity of the projects
272 included in the plan shall exceed the needs identified in
273 subparagraph 1. and shall take into account water conservation
274 and other demand management measures, as well as water resources

275 constraints, including adopted minimum flows and levels and
276 water reservations. Where the district determines it is
277 appropriate, the plan should specifically identify the need for
278 multijurisdictional approaches to project options that, based on
279 planning level analysis, are appropriate to supply the intended
280 uses and that, based on such analysis, appear to be permittable
281 and financially and technically feasible. The list of water
282 supply development options must contain provisions that
283 recognize that alternative water supply options for agricultural
284 self-suppliers are limited.
285 3. For each project option identified in subparagraph 2.,
286 the following shall be provided:
287 a. An estimate of the amount of water to become available
288 through the project.
289 b. The timeframe in which the project option should be
290 implemented and the estimated planning-level costs for capital
291 investment and operating and maintaining the project.
292 c. An analysis of funding needs and sources of possible
293 funding options. For alternative water supply projects the water
294 management districts shall provide funding assistance in
295 accordance with s. 373.1961(3).
296 d. Identification of the entity that should implement each
297 project option and the current status of project implementation.
298 Section 6. Section 373.2234, Florida Statutes, is amended
299 to read:
300 373.2234 Preferred water supply sources.--The governing
301 board of a water management district is authorized to adopt
302 rules that identify preferred water supply sources for

303 consumptive uses for which there is sufficient data to establish
304 that a preferred source will provide a substantial new water
305 supply to meet the existing and projected reasonable-beneficial
306 uses of a water supply planning region identified pursuant to s.
307 373.0361(1), while sustaining existing water resources and
308 natural systems. At a minimum, such rules must contain a
309 description of the preferred water supply source and an
310 assessment of the water the preferred source is projected to
311 produce. If an applicant proposes to use a preferred water
312 supply source, that applicant's proposed water use is subject to
313 s. 373.223(1), except that the proposed use of a preferred water
314 supply source must be considered by a water management district
315 when determining whether a permit applicant's proposed use of
316 water is consistent with the public interest pursuant to s.
317 373.223(1)(c). A consumptive use permit issued for the use of a
318 preferred water supply source must be granted, when requested by
319 the applicant, for at least a 20-year period and may be subject
320 to the compliance reporting provisions of s. 373.236(4) ~~(3)~~.
321 Nothing in this section shall be construed to exempt the use of
322 preferred water supply sources from the provisions of ss.
323 373.016(4) and 373.223(2) and (3), or be construed to provide
324 that permits issued for the use of a nonpreferred water supply
325 source must be issued for a duration of less than 20 years or
326 that the use of a nonpreferred water supply source is not
327 consistent with the public interest. Additionally, nothing in
328 this section shall be interpreted to require the use of a
329 preferred water supply source or to restrict or prohibit the use
330 of a nonpreferred water supply source. Rules adopted by the

331 governing board of a water management district to implement this
332 section shall specify that the use of a preferred water supply
333 source is not required and that the use of a nonpreferred water
334 supply source is not restricted or prohibited.
335 Section 7. Present subsections (2) and (3) of section
336 373.236, Florida Statutes, are renumbered as subsections (3) and
337 (4), respectively, present subsection (4) is renumbered as
338 subsection (5) and amended, and a new subsection (2) is added to
339 that section, to read:
340 373.236 Duration of permits; compliance reports.--
341 (2) The Legislature finds that some agricultural
342 landowners remain unaware of their ability to request a 20-year
343 consumptive use permit under subsection (1) for initial permits
344 or for renewals. Therefore, the water management districts shall
345 inform agricultural applicants of this option in the application
346 form.
347 (5) ~~(4)~~ Permits approved for the development of alternative
348 water supplies shall be granted for a term of at least 20 years.
349 However, if the permittee issues bonds for the construction of
350 the project, upon request of the permittee prior to the
351 expiration of the permit, that permit shall be extended for such
352 additional time as is required for the retirement of bonds, not
353 including any refunding or refinancing of such bonds, provided
354 that the governing board determines that the use will continue
355 to meet the conditions for the issuance of the permit. Such a
356 permit is subject to compliance reports under subsection (4) ~~(3)~~.
357 Section 8. Section 373.407, Florida Statutes, is created
358 to read:

359 373.407 Memorandum of agreement for an agricultural-
360 related exemption.--No later than July 1, 2007, the Department
361 of Agriculture and Consumer Services and each water management
362 district shall enter into a memorandum of agreement under which
363 the Department of Agricultural and Consumer Services shall
364 assist in a determination by a water management district as to
365 whether an existing or proposed activity qualifies for the
366 exemption in s. 373.406(2). The memorandum of agreement shall
367 provide a process by which, upon the request of a water
368 management district, the Department of Agriculture and Consumer
369 Services shall conduct a nonbinding review as to whether an
370 existing or proposed activity qualifies for an agricultural-
371 related exemption in s. 373.406(2). The memorandum of agreement
372 shall provide processes and procedures by which the Department
373 of Agriculture and Consumer Services shall undertake this review
374 effectively and efficiently and issue a recommendation.
375 Section 9. This act shall take effect upon becoming a law.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. **HB 1015 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: State Resources Council

2 Representative Pickens offered the following:

3

4 **Amendment**

5 On line 147, after the period, insert:

6 Each application for a comprehensive plan amendment under this
7 paragraph, for a parcel larger than 640 acres, must include
8 appropriate new urbanism concepts such as clustering, mixed-use
9 development, the creation of rural village and city centers, and
10 the transfer of development rights in order to discourage urban
11 sprawl while protecting landowner rights.
12

13

14

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. **HB 1015 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: State Resources Council
2 Representative Pickens offered the following:
3
4 **Amendment**
5 On lines 151 & 171 remove: an application
6 and insert: a complete application
7
8

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 3

Bill No. **HB 1015 CS**

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

---

1 Council/Committee hearing bill: State Resources Council

2 Representative Pickens offered the following:

3

4 **Amendment**

5 Remove lines 208-213 and insert:

6

7 (d) Has public services, including water, wastewater,
8 transportation, schools, and recreation facilities, available or
9 such public services are scheduled in the capital improvement
10 element to be provided by the local government or can be
11 provided by an alternative provider of local government
12 infrastructure in order to ensure consistency with applicable
13 concurrency provisions of s. 163.3180; and
14

15

16

17

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1153 CS Concealed Weapons
SPONSOR(S): Coley and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 1290

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	10 Y, 0 N	Kaiser	Reese
2) Military & Veteran Affairs Committee	7 Y, 0 N, w/CS	Marino	Cutchins
3) State Resources Council		Kaiser	Hamby
4)			
5)			

SUMMARY ANALYSIS

The Department of Agriculture and Consumer Services (department) authorizes the issuance and renewal of licenses to carry concealed weapons or firearms to persons qualified under the provisions of the Florida Statutes[1]. A licensee who fails to renew his/her license on or before the expiration date must pay a $15 late fee in order to renew the license. A license is deemed permanently expired, and will not be renewed, if 6 months or more have lapsed since its expiration. A person seeking renewal after permanent expiration must submit an application, an $85 fee, and the documentation required under the weapons and firearms chapter of the Florida Statutes[2]. The department currently makes every effort to accommodate active military personnel in the renewal of licenses without charging the late fee if license holders can show their military service impeded the renewal process.

HB 1153 provides that the concealed weapon or firearm license of a servicemember who is serving on military orders that take him or her over 35 miles away from his or her residence shall not expire until 180 days after his or her return to his or her residence. To take advantage of this extension, the bill requires the servicemember to provide, to the department, written verification in the form of military orders or a letter from their commanding officer.

This legislation has no fiscal impact on state or local government.

The effective date of this legislation is July 1, 2006.

[1] s. 790.06, F.S.
[2] Chapter 790, F.S.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Safeguard individual liberty: The bill provides an extension of 180 days for renewal of a license to carry a concealed weapon for a licensee who is a servicemember serving on military orders that take him or her over 35 miles away from his or her residence.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

The Department of Agriculture and Consumer Services (department) authorizes the issuance and renewal of licenses to carry concealed weapons or firearms to persons qualified under the provisions of s. 790.06, F.S. The license is valid for a period of five years from the date of issuance, and must be carried, along with valid identification, when the license holder is carrying his/her firearm in a concealed manner. The license and identification must be displayed to law enforcement officers upon demand. Violations of these provisions are a noncriminal violation with a fine of $25.[3]

The department is required to notify a licensee no later than 90 days prior to the expiration date of his/her license. The notification is by mail and includes a renewal form. License holders are required to notify the department of permanent address changes or after having a license lost or destroyed. Notification must take place within 30 days of either event. Failure to notify the department results in a noncriminal violation that carries a $25 fine for either offense.

A licensee who fails to renew his/her license on or before the expiration date must pay a $15 late fee in order to renew the license. A license is deemed permanently expired, and will not be renewed, if 6 months or more have lapsed since its expiration. A person seeking renewal after permanent expiration must submit an application, an $85 fee, and the documentation required under s. 790.06(5), F.S.

The department currently makes every effort to accommodate active military personnel in the renewal of licenses without charging the late fee if license holders can show their military service impeded the renewal process.

Effect of Proposed Changes

HB 1153 provides that the concealed weapon or firearm license of a servicemember[4] who is serving on military orders that take him or her over 35 miles away from his or her residence shall not expire until 180 days after his or her return to his or her residence. This appears to allow anyone called to federal or active duty, the opportunity to be free from paying late fees due to his or her license expiration date passing while he or she is deployed on military orders. However, such a licensee is still subject to the 180-day window between the adjusted expiration date (return from orders plus 180 days) and the permanent expiration as described in Current Situation above. The bill appears to help the servicemember by pushing these timelines to well after the servicemember has returned to his or her residence after fulfilling their military orders.

The bill also provides that in order to take advantage of this extension, the servicemember must provide written verification, in the form of their military orders or a letter from their commander, to the department.

---

[3] s. 790.06(1), F.S.

[4] As defined in s. 250.01, F.S.: "Servicemember" means any person serving as a member of the United States Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

C. SECTION DIRECTORY:

Section 1: Amends s. 790.06, F.S.; provides for an extension of 180 days for renewal of license to carry a concealed weapon for licensee who is a servicemember serving on military orders that take him or her over 35 miles away from his or her residence; provides that such licensee must provide written verification to the Department of Agriculture and Consumer Services to use extension.

Section 2: Provides an effective date of July 1, 2006.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None

2. Expenditures:

   None

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None

2. Expenditures:

   None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill eliminates additional costs incurred by the public in renewing concealed weapons permits after the expiration date of the license.

D. FISCAL COMMENTS:

Although the Department of Agriculture and Consumer Service (department) may not collect late fees from individuals who would benefit from the provisions of the bill, it would not fiscally impact the department due to the current practice of waiving late fees for military personnel whose military duty impedes the renewal process.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   The bill does not require counties or municipalities to take an action requiring the expenditure of funds, does not reduce the authority that counties or municipalities have to raise revenues in the aggregate, and does not reduce the percentage of state tax shared with counties or municipalities.

2. Other:

   None

B. RULE-MAKING AUTHORITY:

None

C. DRAFTING ISSUES OR OTHER COMMENTS:

None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Committee on Military & Veteran Affairs approved a strike-all amendment. The amendment changes those eligible for the extension in the bill from those who participated in Operations Iraqi Freedom and Enduring Freedom to any servicemember, as defined in 250.01, who is serving on military orders over 35 miles away from his or her residence. The amendment makes some technical changes, such as reorganizing the construction of the language of the bill.

CHAMBER ACTION

---

1 The Military & Veteran Affairs Committee recommends the
2 following:
3
4 **Council/Committee Substitute**
5 Remove the entire bill and insert:
6
7 A bill to be entitled
8 An act relating to concealed weapons; amending s. 790.06,
9 F.S.; providing that a concealed weapon or firearm license
10 of a servicemember serving on military orders away from
11 his or her residence shall not expire until 180 days after
12 the date upon which the servicemember returns from serving
13 on military orders; providing procedures and requirements
14 with respect to the extension; providing an effective
15 date.
16
17 Be It Enacted by the Legislature of the State of Florida:
18
19 Section 1. Subsection (11) of section 790.06, Florida
20 Statutes, is amended to read:
21 790.06 License to carry concealed weapon or firearm.--
22 (11)(a) No less than 90 days before ~~prior to~~ the
23 expiration date of the license, the Department of Agriculture

24 and Consumer Services shall mail to each licensee a written
25 notice of the expiration and a renewal form prescribed by the
26 Department of Agriculture and Consumer Services. The licensee
27 must renew his or her license on or before the expiration date
28 by filing with the Department of Agriculture and Consumer
29 Services the renewal form containing a notarized affidavit
30 stating that the licensee remains qualified pursuant to the
31 criteria specified in subsections (2) and (3), a color
32 photograph as specified in paragraph (5)(e), and the required
33 renewal fee. Out-of-state residents must also submit a completed
34 fingerprint card and fingerprint processing fee. The license
35 shall be renewed upon receipt of the completed renewal form,
36 color photograph, appropriate payment of fees, and, if
37 applicable, a completed fingerprint card. Additionally, a
38 licensee who fails to file a renewal application on or before
39 its expiration date must renew his or her license by paying a
40 late fee of $15. A ~~No~~ license may not ~~shall~~ be renewed 180 days
41 ~~6 months~~ or more after its expiration date, and this ~~such~~
42 license is ~~shall be~~ deemed to be permanently expired. A person
43 whose license has been permanently expired may reapply for
44 licensure; however, an application for licensure and fees under
45 ~~pursuant to~~ subsection (5) must be submitted, and a background
46 investigation shall be conducted pursuant to ~~the provisions of~~
47 this section. A person ~~Persons~~ who knowingly files ~~file~~ false
48 information under ~~pursuant to~~ this subsection is ~~shall be~~
49 subject to criminal prosecution under s. 837.06.
50 (b) A license issued to a servicemember, as defined in s.
51 250.01, shall be subject to paragraph (a); however, such a

52 license shall not expire while the servicemember is serving on
53 military orders that take him or her over 35 miles from his or
54 her residence and shall be extended for up to 180 days after his
55 or her return to his or her residence. If the license renewal
56 requirements in paragraph (a) are met within the 180-day
57 extension period, the servicemember shall not be charged any
58 additional costs, such as, but not limited to, late fees or
59 delinquency fees, above the normal license fees. The
60 servicemember must present to the department a copy of his or
61 her official military orders or a written verification from the
62 member's commanding officer before the end of the 180-day period
63 in order to qualify for the extension.
64 Section 2. This act shall take effect July 1, 2006.

HB 1155

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1155 Contaminated Drycleaning Facilities
SPONSOR(S): Evers
TIED BILLS: **IDEN./SIM. BILLS:** SB 2174

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Environmental Regulation Committee	5 Y, 0 N	Kliner	Kliner
2) Agriculture & Environment Appropriations Committee	11 Y, 0 N	Dixon	Dixon
3) State Resources Council		Kliner	Hamby
4)			
5)			

SUMMARY ANALYSIS

The bill will effectively re-open the Drycleaning Solvent Cleanup Program (the DSC Program) for a person who owns or operates (or owned or operated) a dry cleaning facility where there is contamination at the site as a result of an accident that occurred prior to January 1, 1975. "Accident" is defined as an unplanned and unanticipated occurrence beyond the control of the owner or operator that resulted in (1) physical damage to the facility and (2) contamination of the site that may reasonably be determined to have been caused by, or exacerbated by, actions of responders to the occurrence.

The DSC Program would be re-opened to persons whether or not they filed an application of eligibility on or before December 31, 1998, which is the termination date of the DSC Program whereby no cleanup costs would be absorbed at the expense of the dry cleaning restoration funds.

The fiscal impact is indeterminate. The Department of Environmental Protection (the DEP) knows of just one contaminated site that is not included in the program that may be eligible under the proposed law. There is no meaningful way to estimate how many claims of this type could be filed in the future resulting from accidents that occurred as contemplated by the bill language.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promotes Personal Responsibility: This bill effectively re-opens the Drycleaning Solvent Cleanup Program (the DSC Program) for a person who owns or operates (or owned or operated) a dry cleaning facility and there is contamination at the site as a result of an accident.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Dry Cleaning Generally:
Dry-cleaners are facilities engaged in the cleaning of fabrics in a nonaqueous solvent by means of one or more washes in a solvent, extraction of excess solvent by spinning, and drying by tumbling in an airstream. Such facilities include a washer, dryer, filter, and purification systems, emission control equipment, waste disposal systems, holding tanks, pumps and attendant piping and valves.

Dry-cleaning facilities utilizing the solvent perchloroethylene, or "perc," which is considered an air toxic or hazardous pollutant, are eligible to operate as a business in Florida under the terms of a Title V air permit pursuant to the requirements of Chapter 62-213, Florida Administrative Code.

Drycleaning Solvent Cleanup Program History:
In 1994, the Legislature enacted Chapter 94-355, Laws of Florida., to provide a source of funding for rehabilitation of sites and drinking water supplies contaminated by dry cleaning solvents. The act provided for the establishment of a registration program under which dry-cleaning facilities and wholesale suppliers were to register by June 30, 1995.

The DSC Program is administered by the DEP. Eligibility criteria for participation are as follows:

- The facility must have registered with the DEP;
- The facility was determined to have complied with the DEP rules;
- The facility was not operated in a grossly negligent manner;
- The facility was not listed on the Federal "Superfund" list;
- The facility was not under orders from the U. S. Environmental Protection Agency (EPA) and was not required to have a hazardous waste permit.

Further, the real property owner or the owner or operator of the dry cleaning facility or the wholesale supply facility must not have willfully concealed the discharge of dry-cleaning solvents, must have remitted all taxes due, must have provided evidence of contamination by dry cleaning solvents pursuant to DEP rules, and must have reported the contamination prior to December 31, 2005.

Generally, the program provides that the cleanup costs are to be absorbed at the expense of the dry cleaning funds available in the Water Quality Assurance Trust Fund. Deductibles are paid by the applicant as follows:

- For contamination reported by 6/30/97 -- $1,000 per incident.
- For contamination reported from 7/1/97 thru 9/30/98 -- $5,000 per incident.
- For contamination reported from 10/1/98 thru 12/31/98 -- $10,000 per incident.

For contamination reported after December 31, 1998, no cleanup costs will be absorbed at the expense of the dry cleaning restoration funds. In other words, contamination reported after this date will be cleaned up at the expense of the reporting entity.

Liability Protection is Provided Under the Program:
Dry-cleaning facility owners or operators, wholesale supply facilities, and real property owners are afforded certain liability protections and are not subject to administrative or judicial action brought by or on behalf of any person, or state or local government, for perc discharges provided certain specified conditions are met. Each owner or operator of a currently operating dry cleaning facility must obtain third-party liability insurance for $1 million.

A real property owner may conduct a voluntary cleanup pursuant to DEP rules whether or not the facility has been determined by the DEP to be eligible for the program. A real property owner or any other party that conducts such voluntary cleanup may not seek cost recovery from the program funds, but is immune from liability to any person, or state or local government, to compel site rehabilitation or pay for the cost of rehabilitation of environmental contamination, or to pay any fines or penalties regarding rehabilitation, so long as the real property owner complies with certain specified conditions.

Funding the Program
Funding for the program comes from three main sources:

- A two percent tax on gross receipts on businesses engaged in dry-cleaning and laundering,
- A $5 per gallon tax on perc sold to facilities in the state, a deductible payment based on the date of application for the program, and
- A $100 registration fee collected from the facilities.

According to the DEP, the annual collections have averaged $7.6 million. There are over 1,400 sites in the closed program and at the current rate of clean-up, it will take over 60 years to clean up all sites.

Effect of Proposed Changes

The bill will effectively re-open the DSC Program for a person who owns or operates (or owned or operated) a dry-cleaning facility where there is (or was) contamination at the site as a result of an accident which occurred prior to January 1, 1975. "Accident" is defined as an unplanned and unanticipated occurrence beyond the control of the owner or operator that resulted in (1) physical damage to the facility and (2) contamination of the site that may reasonably be determined to have been caused by, or exacerbated by, actions of responders to the occurrence.

The DSC Program would be re-opened to persons whether or not they filed an application of eligibility on or before December 31, 1998, which is the termination date of the program whereby no cleanup costs would be absorbed at the expense of the dry cleaning restoration funds.

Example 1: On April 6, 2004, a dump truck driver sets the parking brake and leaves the cab of his vehicle to check his load. The braking system fails and the truck rolls down a hill and crashes into the Pressed 4 Time dry-cleaning facility, extensively damaging the building and breaching the perc storage container. The spill is otherwise controlled by the containment system that was installed by the owner; however, the firemen responding to the accident hoses down the site which results in a perc contamination of the surrounding land area. Under the proposed law, the Pressed 4 Time owner/operator would not be permitted to submit the site for cleanup under the otherwise closed program.

Example 2: The same scenario as above, except the date of the accident occurred on April 6, 1974. The owner did not file an application under the program. Under the proposed law, the owner would be eligible for cleanup under the otherwise closed program.

Example 3: The same scenario as above, except that the responders do not hose down the site and do not exacerbate the spill. As such, the conditions do not permit eligibility into the program and any contamination will be the responsibility of the owner/operator.

C. SECTION DIRECTORY:

Section 1 Amends s. 376.3078, Florida Statutes, adding a new paragraph (i) to subsection (3), and redesignating all subsequent paragraphs, providing that a dry-cleaning facility where there exists contamination as a result of an accident that occurred prior to January 1, 1975, is eligible under the DSC Program, regardless of whether an application for eligibility was filed on or before the termination date of the program. This section also provides a definition of the term "accident."

Section 2 Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

   None.

2. Expenditures:

   See Fiscal Comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill would re-open the DSC Program for an owner or operator of a dry cleaning facility with contamination that is the result of an accident that occurred prior to January 1, 1975, and which the contamination was caused or exacerbated by responders to the accident.

D. FISCAL COMMENTS:

The program originally provided for deductibles paid by the applicant. The deductible amounts varied in cost from $1,000 to $10,000, depending on the date the application was filed. The bill does not provide for deductibles so it is assumed that the entire cost of the cleanup would be borne by the trust fund.

Clean-up of a contaminated facility can range from approximately $30,000 to $2 million; the average cost being approximately $475,000. The DEP knows of only one incident whereby an auto accident and the actions of responders exacerbated a spill of perc. The site in question is not currently eligible for inclusion in the program for clean-up. The DEP has no record of how many other potential sites may be affected by this proposed legislation. According to the DEP, if the program is not reopened as envisioned by the bill and under current funding levels, the clean-up will take approximately 60 years.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

   None.

B. RULE-MAKING AUTHORITY:

No rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

N/A

1 A bill to be entitled
2 An act relating to contaminated drycleaning facilities;
3 amending s. 376.3078, F.S.; providing that contaminated
4 drycleaning facilities damaged by accident prior to a
5 specified date are eligible for state-funded site
6 rehabilitation; defining the term "accident"; providing an
7 effective date.
8
9 Be It Enacted by the Legislature of the State of Florida:
10
11 Section 1. Subsection (3) of section 376.3078, Florida
12 Statutes, is amended to read:
13 376.3078 Drycleaning facility restoration; funds; uses;
14 liability; recovery of expenditures.--
15 (3) REHABILITATION LIABILITY.--
16 (a) In accordance with the eligibility provisions of this
17 section, a real property owner, nearby real property owner, or
18 person who owns or operates, or who otherwise could be liable as
19 a result of the operation of, a drycleaning facility or a
20 wholesale supply facility is not liable for or subject to
21 administrative or judicial action brought by or on behalf of any
22 state or local government or agency thereof or by or on behalf
23 of any person to compel rehabilitation or pay for the costs of
24 rehabilitation of environmental contamination resulting from the
25 discharge of drycleaning solvents. Subject to the delays that
26 may occur as a result of the prioritization of sites under this
27 section for any qualified site, costs for activities described
28 in paragraph (2)(b) shall be absorbed at the expense of the

29 drycleaning facility restoration funds, without recourse to
30 reimbursement or recovery from the real property owner, nearby
31 real property owner, or owner or operator of the drycleaning
32 facility or the wholesale supply facility. Notwithstanding any
33 other provision of this chapter, this subsection applies to
34 causes of action accruing on or after the effective date of this
35 act and applies retroactively to causes of action accruing
36 before the effective date of this act for which a lawsuit has
37 not been filed before the effective date of this act.
38 (b) With regard to drycleaning facilities or wholesale
39 supply facilities that have operated as drycleaning facilities
40 or wholesale supply facilities on or after October 1, 1994, any
41 such drycleaning facility or wholesale supply facility at which
42 there exists contamination by drycleaning solvents shall be
43 eligible under this subsection regardless of when the
44 drycleaning contamination was discovered, provided that the
45 drycleaning facility or the wholesale supply facility:
46 1. Has been registered with the department;
47 2. Is determined by the department to be in compliance
48 with the department's rules regulating drycleaning solvents,
49 drycleaning facilities, or wholesale supply facilities on or
50 after November 19, 1980;
51 3. Has not been operated in a grossly negligent manner at
52 any time on or after November 19, 1980;
53 4. Has not been identified to qualify for listing, nor is
54 listed, on the National Priority List pursuant to the
55 Comprehensive Environmental Response, Compensation, and
56 Liability Act of 1980 as amended by the Superfund Amendments and

57 Reauthorization Act of 1986, and as subsequently amended;
58 5. Is not under an order from the United States
59 Environmental Protection Agency pursuant to s. 3008(h) of the
60 Resource Conservation and Recovery Act as amended (42 U.S.C.A.
61 s. 6928(h)), or has not obtained and is not required to obtain a
62 permit for the operation of a hazardous waste treatment,
63 storage, or disposal facility, a postclosure permit, or a permit
64 pursuant to the federal Hazardous and Solid Waste Amendments of
65 1984;
66
67 and provided that the real property owner or the owner or
68 operator of the drycleaning facility or the wholesale supply
69 facility has not willfully concealed the discharge of
70 drycleaning solvents and has remitted all taxes due pursuant to
71 ss. 376.70 and 376.75, has provided documented evidence of
72 contamination by drycleaning solvents as required by the rules
73 developed pursuant to this section, has reported the
74 contamination prior to December 31, 1998, and has not denied the
75 department access to the site.
76 (c) With regard to drycleaning facilities or wholesale
77 supply facilities that cease to be operated as drycleaning
78 facilities or wholesale supply facilities prior to October 1,
79 1994, such facilities, at which there exists contamination by
80 drycleaning solvents, shall be eligible under this subsection
81 regardless of when the contamination was discovered, provided
82 that the drycleaning facility or wholesale supply facility:
83 1. Was not determined by the department, within a
84 reasonable time after the department's discovery, to have been

85 out of compliance with the department rules regulating
86 drycleaning solvents, drycleaning facilities, or wholesale
87 supply facilities implemented at any time on or after November
88 19, 1980;
89 2. Was not operated in a grossly negligent manner at any
90 time on or after November 19, 1980;
91 3. Has not been identified to qualify for listing, nor is
92 listed, on the National Priority List pursuant to the
93 Comprehensive Environmental Response, Compensation, and
94 Liability Act of 1980, as amended by the Superfund Amendments
95 and Reauthorization Act of 1986, and as subsequently amended;
96 and
97 4. Is not under an order from the United States
98 Environmental Protection Agency pursuant to s. 3008(h) of the
99 Resource Conservation and Recovery Act, as amended, or has not
100 obtained and is not required to obtain a permit for the
101 operation of a hazardous waste treatment, storage, or disposal
102 facility, a postclosure permit, or a permit pursuant to the
103 federal Hazardous and Solid Waste Amendments of 1984;
104
105 and provided that the real property owner or the owner or
106 operator of the drycleaning facility or the wholesale supply
107 facility has not willfully concealed the discharge of
108 drycleaning solvents, has provided documented evidence of
109 contamination by drycleaning solvents as required by the rules
110 developed pursuant to this section, has reported the
111 contamination prior to December 31, 1998, and has not denied the
112 department access to the site.

113 (d) For purposes of determining eligibility, a drycleaning
114 facility or wholesale supply facility was operated in a grossly
115 negligent manner if the department determines that the owner or
116 operator of the drycleaning facility or the wholesale supply
117 facility:
118 1. Willfully discharged drycleaning solvents onto the
119 soils or into the waters of the state after November 19, 1980,
120 with the knowledge, intent, and purpose that the discharge would
121 result in harm to the environment or to public health or result
122 in a violation of the law;
123 2. Willfully concealed a discharge of drycleaning solvents
124 with the knowledge, intent, and purpose that the concealment
125 would result in harm to the environment or to public health or
126 result in a violation of the law; or
127 3. Willfully violated a local, state, or federal law or
128 rule regulating the operation of drycleaning facilities or
129 wholesale supply facilities with the knowledge, intent, and
130 purpose that the act would result in harm to the environment or
131 to public health or result in a violation of the law.
132 (e)1. With respect to eligible drycleaning solvent
133 contamination reported to the department as part of a completed
134 application as required by the rules developed pursuant to this
135 section by June 30, 1997, the costs of activities described in
136 paragraph (2)(b) shall be absorbed at the expense of the
137 drycleaning facility restoration funds, less a $1,000 deductible
138 per incident, which shall be paid by the applicant or current
139 property owner. The deductible shall be paid within 60 days
140 after receipt of billing by the department.

141 2. For contamination reported to the department as part of
142 a completed application as required by the rules developed under
143 this section, from July 1, 1997, through September 30, 1998, the
144 costs shall be absorbed at the expense of the drycleaning
145 facility restoration funds, less a $5,000 deductible per
146 incident. The deductible shall be paid within 60 days after
147 receipt of billing by the department.
148 3. For contamination reported to the department as part of
149 a completed application as required by the rules developed
150 pursuant to this section from October 1, 1998, through December
151 31, 1998, the costs shall be absorbed at the expense of the
152 drycleaning facility restoration funds, less a $10,000
153 deductible per incident. The deductible shall be paid within 60
154 days after receipt of billing by the department.
155 4. For contamination reported after December 31, 1998, no
156 costs will be absorbed at the expense of the drycleaning
157 facility restoration funds.
158 (f) ~~The provisions of~~ This subsection does ~~shall~~ not apply
159 to any site where the department has been denied site access to
160 implement the provisions of this section.
161 (g) In order to identify those drycleaning facilities and
162 wholesale supply facilities that have experienced contamination
163 resulting from the discharge of drycleaning solvents and to
164 ensure the most expedient rehabilitation of such sites, the
165 owners and operators of drycleaning facilities and wholesale
166 supply facilities are encouraged to detect and report
167 contamination from drycleaning solvents related to the operation
168 of drycleaning facilities and wholesale supply facilities. The

169 department shall establish reasonable guidelines for the written
170 reporting of drycleaning contamination and shall distribute
171 forms to registrants under s. 376.303(1)(d), and to other
172 interested parties upon request, to be used for such purpose.
173 (h) A report of drycleaning solvent contamination at a
174 drycleaning facility or wholesale supply facility made to the
175 department by any person in accordance with this subsection, or
176 any rules promulgated pursuant hereto, may not be used directly
177 as evidence of liability for such discharge in any civil or
178 criminal trial arising out of the discharge.
179 (i) A drycleaning facility at which contamination by
180 drycleaning solvents exists and which was damaged by accident
181 prior to January 1, 1975, is eligible under this subsection,
182 regardless of whether an application for eligibility was filed
183 on or before December 31, 1998. As used in this paragraph, the
184 term "accident" means an unplanned and unanticipated occurrence
185 beyond the control of the owner or operator of a drycleaning
186 facility which resulted in physical damage to the facility when
187 the actions of responders to such occurrence could reasonably be
188 determined to have caused or exacerbated contamination by
189 drycleaning solvents at such facility.
190 (j) ~~(i)~~ ~~The provisions of~~ This subsection does ~~shall~~ not
191 apply to drycleaning facilities owned or operated by the state
192 or Federal Government.
193 (k) ~~(j)~~ Due to the value of Florida's potable water, it is
194 the intent of the Legislature that the department initiate and
195 facilitate as many cleanups as possible utilizing the resources
196 of the state, local governments, and the private sector. The

197 department is authorized to adopt necessary rules and enter into
198 contracts to carry out the intent of this subsection and to
199 limit or prevent future contamination from the operation of
200 drycleaning facilities and wholesale supply facilities.
201 (l) ~~(k)~~ It is not the intent of the Legislature that the
202 state become the owner or operator of a drycleaning facility or
203 wholesale supply facility by engaging in state-conducted
204 cleanup.
205 (m) ~~(l)~~ The owner, operator, and either the real property
206 owner or agent of the real property owner may apply for the
207 Drycleaning Contamination Cleanup Program by jointly submitting
208 a completed application package to the department pursuant to
209 the rules that shall be adopted by the department. If the
210 application cannot be jointly submitted, then the applicant
211 shall provide notice of the application to other interested
212 parties. After reviewing the completed application package, the
213 department shall notify the applicant in writing as to whether
214 the drycleaning facility or wholesale supply facility is
215 eligible for the program. If the department denies eligibility
216 for a completed application package, the notice of denial shall
217 specify the reasons for the denial, including specific and
218 substantive findings of fact, and shall constitute agency action
219 subject to the provisions of chapter 120. For the purposes of
220 ss. 120.569 and 120.57, the real property owner and the owner
221 and operator of a drycleaning facility or wholesale supply
222 facility which is the subject of a decision by the department
223 with regard to eligibility shall be deemed to be parties whose
224 substantial interests are determined by the department's

225 decision to approve or deny eligibility.
226 (n) ~~(m)~~ Eligibility under this subsection applies to the
227 drycleaning facility or wholesale supply facility, and attendant
228 site rehabilitation applies to such facilities and to any place
229 where drycleaning-solvent contamination migrating from the
230 eligible facility is found. A determination of eligibility or
231 ineligibility shall not be affected by any conveyance of the
232 ownership of the drycleaning facility, wholesale supply
233 facility, or the real property on which such facility is
234 located. Nothing contained in this chapter shall be construed to
235 allow a drycleaning facility or wholesale supply facility which
236 would not be eligible under this subsection to become eligible
237 as a result of the conveyance of the ownership of the ineligible
238 drycleaning facility or wholesale supply facility to another
239 owner.
240 (o) ~~(n)~~ If funding for the drycleaning contamination
241 rehabilitation program is eliminated, the provisions of this
242 subsection shall not apply.
243 (p) ~~(o)~~1. The department shall have the authority to cancel
244 the eligibility of any drycleaning facility or wholesale supply
245 facility that submits fraudulent information in the application
246 package or that fails to continuously comply with the conditions
247 of eligibility set forth in this subsection, or has not remitted
248 all fees pursuant to s. 376.303(1)(d), or has not remitted the
249 deductible payments pursuant to paragraph (e).
250 2. If the program eligibility of a drycleaning facility or
251 wholesale supply facility is subject to cancellation pursuant to
252 this section, then the department shall notify the applicant in

253 writing of its intent to cancel program eligibility and shall
254 state the reason or reasons for cancellation. The applicant
255 shall have 45 days to resolve the reason or reasons for
256 cancellation to the satisfaction of the department. If, after 45
257 days, the applicant has not resolved the reason or reasons for
258 cancellation to the satisfaction of the department, the order of
259 cancellation shall become final and shall be subject to the
260 provisions of chapter 120.
261 (q) ~~(p)~~ A real property owner shall not be subject to
262 administrative or judicial action brought by or on behalf of any
263 person or local or state government, or agency thereof, for
264 gross negligence or violations of department rules prior to
265 January 1, 1990, which resulted from the operation of a
266 drycleaning facility, provided that the real property owner
267 demonstrates that:
268 1. The real property owner had ownership in the property
269 at the time of the gross negligence or violation of department
270 rules and did not cause or contribute to contamination on the
271 property;
272 2. The real property owner was a distinct and separate
273 entity from the owner and operator of the drycleaning facility,
274 and did not have an ownership interest in or share in the
275 profits of the drycleaning facility;
276 3. The real property owner did not participate in the
277 operation or management of the drycleaning facility;
278 4. The real property owner complied with all discharge
279 reporting requirements, and did not conceal any contamination;
280 and

281 5. The department has not been denied access.
282
283 The defense provided by this paragraph does not apply to any
284 liability under a federally delegated program.
285 (r) ~~(q)~~ A person whose property becomes contaminated due to
286 geophysical or hydrologic reasons from the operation of a nearby
287 drycleaning or wholesale supply facility and whose property has
288 never been occupied by a business that utilized or stored
289 drycleaning solvents or similar constituents is not subject to
290 administrative or judicial action brought by or on behalf of
291 another to compel the rehabilitation of or the payment of the
292 costs for the rehabilitation of sites contaminated by
293 drycleaning solvents, provided that the person:
294 1. Does not own and has never held an ownership interest
295 in, or shared in the profits of, the drycleaning facility
296 operated at the source location;
297 2. Did not participate in the operation or management of
298 the drycleaning facility at the source location; and
299 3. Did not cause, contribute to, or exacerbate the release
300 or threat of release of any hazardous substance through any act
301 or omission.
302
303 The defense provided by this paragraph does not apply to any
304 liability under a federally delegated program.
305 (s) ~~(r)~~ Nothing in this subsection precludes the department
306 from considering information and documentation provided by
307 private consultants, local government programs, federal
308 agencies, or any individual which is relevant to an eligibility

309 determination if the department provides the applicant with
310 reasonable access to the information and its origin.
311 Section 2. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1501 CS Agent Licensing
SPONSOR(S): Berfield
TIED BILLS: **IDEN./SIM. BILLS:** SB 2432

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Agriculture Committee	9 Y, 0 N	Blanchette	Reese
2) Insurance Committee	18 Y, 0 N, w/CS	Freire	Cooper
3) State Resources Council		Blanchette	Hamby
4)			
5)			

SUMMARY ANALYSIS

Part I of Chapter 636, F.S., requires the Office of Insurance Regulation to license and regulate prepaid limited health service organizations (PLHSOs). While similar to health maintenance organizations, PLHSOs offer a narrower variety of services and no surgical hospital services or emergency services. Current law states "[w]ith respect to a prepaid limited health services contract, a person may not, unless licensed and appointed as a health insurance agent in accordance with the applicable provisions of the insurance code" solicit contracts or procure applications.

This bill provides that a person registered as a seller of travel with the Department of Agriculture and Consumer Services may engage in the solicitation and sale of a prepaid limited health services contract that covers the cost of transportation by an air ambulance when that air ambulance service is licensed under Florida law. However, a contract for such coverage is subject to all applicable provisions of law pertaining to prepaid limited health service organizations.

This bill does not have a fiscal impact on state or local governments.

This bill is effective July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

This bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

Part I of Chapter 636, F.S., requires the Office of Insurance Regulation (OIR) to license and regulate prepaid limited health service organizations (PLHSOs). These organizations are similar to health maintenance organizations (HMOs), but are limited to providing the following services: ambulance, dental care, vision care, mental health, substance abuse, chiropractic care, podiatric care, and pharmaceutical services under s. 636.003(5), F.S. A PLHSO may not offer inpatient or surgical hospital services or emergency services, except as such services are incidental to a limited health service. PLHSO enrollees are under a prepayment arrangement (i.e., either a prepaid per capita sum or a prepaid aggregate fixed sum) and receive services from an exclusive panel of providers such as physicians, dentists, health providers or other persons or institutions which are licensed in Florida to deliver limited health services, as defined in s. 636.003(7), F.S.

According to representatives with the OIR, there are twenty-two authorized prepaid limited health service organizations which have received a certificate of authority to operate in Florida. Under s. 636.044, F.S., only licensed and appointed health insurance agents may sell PLHSO contracts. Officials with the Department of Financial Services (DFS) state that the agency licenses approximately 4,620 health or life, health and variable annuity agents which have been appointed to offer prepaid limited health service organization contracts. Although requirements vary by line of authority, general requirements for agent licensure include: being 18 years of age; submitting an application; paying required fees; satisfying pre-licensing examination requirements, when applicable; complying with requirements as to knowledge, experience, or instruction; and submitting fingerprints. Applicants for a resident agent license must be Florida residents. Once authorized, most lines of agents must take continuing education courses.[1]

As provided under s. 636.005, F.S., PLHSOs must be incorporated, and they may be either a for-profit or not-for-profit corporation. Such an organization may be incorporated in a state other than Florida, if it maintains a certificate of authority or license in that state to provide the same services which it intends to provide in Florida at the time it applies for a certificate of authority from the OIR. Section 636.006, F.S., prohibits PLHSOs from transacting any insurance business, other than that specified under the act or under their certificate of authority.

Sellers of Travel

Under Part XI of Chapter 559, F.S., the Department of Agriculture and Consumer Services (DACS) is responsible for registering "sellers of travel," which is any resident or nonresident who offers for sale, at wholesale or retail, prearranged travel or tour-guide services for individuals or groups.[2] Sellers of travel must annually register with the DACS, pay a fee of $300, and receive a certificate evidencing proof of registration. If the seller of travel offers vacation certificates, the seller must obtain a performance bond not to exceed $25,000.

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[1] Chapter 626, F.S.
[2] Section 559.928, F.S.

Air Ambulance Services

Air ambulance services are regulated under Part III of Chapter 401, F.S., by the Department of Health (DOH). An "air ambulance" is any fixed-wing or rotary-wing aircraft used for transporting sick or injured persons requiring, or likely to require, medical attention during transport.[3] An "air ambulance service" is a publicly or privately owned service, licensed by the DOH, which operates air ambulances to transport persons requiring medical attention during transport.[4] To be licensed, an air ambulance service must apply to DOH, pay fees, meet specified standards and obtain insurance. To be permitted by the department, each transport vehicle is required to meet specified safety standards, have an appropriate communication system, and be furnished with essential medical supplies and equipment.

The United States Center for Disease Control and Prevention estimates that almost 50% of U.S. travelers heading to another country will experience some kind of health problem.[5] A large majority of U.S. insurance companies, HMOs, PPOs, and Medicare do not provide adequate travel medical insurance, nor do they provide the necessary emergency medical evacuation which includes air ambulance transportation.[6] International medical evacuation and air ambulance cost anywhere between $8,000 and $100,000 for a one-way flight.[7] Air ambulances, sometimes the only way to safely transport a patient, are "specially equipped aircraft designed for relocating patients from one facility to another with continuous medical monitoring to ensure their safety."[8]

Effect of the Bill

This bill provides that a person registered as a seller of travel under s. 559.928, F.S., may engage in the solicitation and sale of prepaid limited health service contracts covering the cost of transportation by an air ambulance when that air ambulance service is licensed under s. 401.251, F.S. However, the contract for such coverage is subject to all applicable provisions pertaining to prepaid limited health service organizations under Chapter 636, F.S.

This provision allows any travel agent, as opposed to a health insurance agent, to sell a prepaid limited health services contract to any person to cover the cost of transportation provided by an air ambulance service. An individual's own health insurance may cover the cost of such transportation as well.

C. SECTION DIRECTORY:

Section 1. Creates s. 636.044(5), F.S., to allow persons registered in accordance with s. 559.928, F.S., as a seller of travel, to engage in the solicitation and sale of prepaid limited health service contracts that cover the cost of transportation by an air ambulance when that air ambulance service is licensed under s. 401.251, F.S.

Section 2. This act takes effect July 1, 2006.

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[3] Section 401.23(3), F.S.
[4] Section 401.23(4), F.S.
[5] www.worldwidemedical.com.
[6] *Id.*
[7] www.medjets.com/hlthcr.htm.
[8] www.usairambulance.com/s-1/01.htm?usapn=8009481216.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: There may be an increase in the total amount of collected registration fees that are deposited by the Chief Financial Officer to the credit of the General Inspection Trust Fund of the Department of Agriculture and Consumer Services pursuant to s. 570.20, F.S.[9]

2. Expenditures:

   None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

   None.

2. Expenditures:

   None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

See "Fiscal Comments."

D. FISCAL COMMENTS:

Companies that provide air ambulance services will economically benefit by no longer being required to have travel agents licensed as health insurance agents in order to sell prepaid contracts for this service. Travel agents will also benefit by this change. An individual who purchases this product may be buying duplicate coverage as his or her own current health insurance may cover air ambulance transportation services.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

   This bill does not appear to require the counties or cities to take an action requiring the expenditure of funds, does not appear to reduce the authority that cities or counties have to raise revenues in the aggregate, and does not appear to reduce the percentage of a state tax shared with counties or municipalities.

3. Other:

   None.

B. RULE-MAKING AUTHORITY:

None.

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[9] Registration fees shall be $300 per year per registrant according to s. 559.928(2), F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The Department of Agriculture and Consumer Services has expressed concern about possible limited recourse for consumers (who have purchased insurance that covers the cost of transportation by an air ambulance) should the seller of travel subsequently go out of business before paying for that service. However, consumers may have an action for a breach of contract.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On April 5, 2006, the Insurance Committee approved HB 1501 with one technical amendment. The amendment substituted the word "insurance" in the original bill with the term "prepaid limited health service contract."

This analysis has been updated to reflect the changes made by the Insurance Committee at its April 5, 2006 meeting.

CHAMBER ACTION

1 The Insurance Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to agent licensing; amending s. 636.044,
7 F.S.; authorizing certain travel agents to solicit and
8 sell air ambulance transportation prepaid limited health
9 service contracts under certain circumstances; providing
10 requirements; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsection (5) is added to section 636.044,
15 Florida Statutes, to read:
16 636.044 Agent licensing.--
17 (5) Notwithstanding the provisions of this section, a
18 person registered in accordance with part XI of chapter 559 as a
19 seller of travel may engage in the solicitation and sale of
20 prepaid limited health service contracts covering the cost of
21 transportation by air ambulance, as defined in s. 401.23(4),
22 that is provided by an air ambulance service licensed pursuant
23 to s. 401.251. The prepaid limited health service contract

24 providing this coverage is subject to all applicable provisions
25 of this chapter.
26 Section 2. This act shall take effect July 1, 2006.

HB 7245

CHAMBER ACTION

1 The Insurance Committee recommends the following:
2
3 **Council/Committee Substitute**
4 Remove the entire bill and insert:
5 A bill to be entitled
6 An act relating to agent licensing; amending s. 636.044,
7 F.S.; authorizing certain travel agents to solicit and
8 sell air ambulance transportation prepaid limited health
9 service contracts under certain circumstances; providing
10 requirements; providing an effective date.
11
12 Be It Enacted by the Legislature of the State of Florida:
13
14 Section 1. Subsection (5) is added to section 636.044,
15 Florida Statutes, to read:
16 636.044 Agent licensing.--
17 (5) Notwithstanding the provisions of this section, a
18 person registered in accordance with part XI of chapter 559 as a
19 seller of travel may engage in the solicitation and sale of
20 prepaid limited health service contracts covering the cost of
21 transportation by air ambulance, as defined in s. 401.23(4),
22 that is provided by an air ambulance service licensed pursuant
23 to s. 401.251. The prepaid limited health service contract

24 providing this coverage is subject to all applicable provisions
25 of this chapter.
26 Section 2. This act shall take effect July 1, 2006.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 7245 PCB EDTB 06-05 Oil & Gas Drilling
SPONSOR(S): Economic Development, Trade & Banking Committee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
Orig. Comm.: Economic Development, Trade & Banking Committee	12 Y, 0 N	Carlson	Carlson
1) State Resources Council		Lotspeich RAL	Hamby JDR
2) Commerce Council			
3)			
4)			
5)			

SUMMARY ANALYSIS

The bill prohibits the exploration for and production of oil, gas and other petroleum products in sovereignty submerged lands and waterways over which the State of Florida has control, now or in the future. This will expand the current statutory prohibitions against drilling in the submerged lands within the state's jurisdiction to any submerged lands seaward of the state's jurisdictional boundaries in the Atlantic Ocean and the Gulf of Mexico over which the federal government may grant control to the state in the future.

The bill prohibits the state from permitting the exploration for, drilling and production of oil and gas in the Outer Continental Shelf, which includes those submerged lands seaward of the state's sovereignty submerged lands.

The bill also prohibits the state or a local government from approving any license, permit, activity or project that violates the provisions of the bill.

The bill requires the Department of Environmental Protection to file with the U.S. Department of Commerce within six months of the effective date of the bill an amended coastal zone management plan to include these prohibitions.

The bill has an effective date of July 1, 2006.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Limited Government – The bill asserts state government authority to prohibit oil or gas drilling and associated activities.

B. EFFECT OF PROPOSED CHANGES:

BACKGROUND

Offshore Drilling for Oil and Natural Gas

The Outer Continental Shelf

The Outer Continental Shelf (OCS) consists of the submerged lands, subsoil, and seabed, lying between the seaward extent of the States' jurisdiction and the seaward extent of Federal jurisdiction. The continental shelf is the gently sloping undersea plain between a continent and the deep ocean. The United States OCS has been divided into four leasing regions. They are the Gulf of Mexico OCS Region, the Atlantic OCS Region, the Pacific OCS Region, and the Alaska OCS Region. In 1953, Congress designated the Secretary of the Department of Interior to administer mineral exploration and development of the entire OCS through the Outer Continental Shelf Lands Act (OCSLA). The OCSLA was amended in 1978 directing the secretary to:[1]

- conserve the Nation's natural resources;
- develop natural gas and oil reserves in an orderly and timely manner;
- meet the energy needs of the country;
- protect the human, marine, and coastal environments; and
- receive a fair and equitable return on the resources of the OCS.

State jurisdiction over the OCS is defined as follows:

- Texas and the Gulf coast of Florida are extended 3 marine leagues (approximately 9 nautical miles) seaward from the shoreline.
- Louisiana is extended 3 imperial nautical miles (imperial nautical mile = 6080.2 feet) seaward from the shoreline.
- All other States' seaward limits are extended 3 nautical miles (approximately 3.3 statute miles) seaward from the shoreline.

Federal jurisdiction over the OCS is defined under accepted principles of international law. The seaward limit is defined as the farthest of 200 nautical miles seaward of the shoreline or, if the continental shelf can be shown to exceed 200 nautical miles, a distance not greater than a line 100 nautical miles from the 2,500-meter isobath or a line 350 nautical miles from the shoreline.[2]

The Outer Continental Shelf is a significant source of oil and gas for the nation's energy supply. The OCS supplies more than 25 percent of the country's natural gas production and more than 30 percent of total domestic oil production. The offshore areas of the United States contain the majority of future oil

[1] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html
[2] http://www.gomr.mms.gov/homepg/whoismms/whatsocs.html

and gas resources. It is estimated that 60 percent of the oil and 59 percent of the gas yet to be discovered in the United States are located on the OCS.[3]

The OCS Lands Act requires the Department of Interior (DOI) to prepare a 5-year program that specifies the size, timing and location of areas to be assessed for Federal offshore natural gas and oil leasing. It is the role of DOI to ensure that the U.S. government receives fair market value for acreage made available for leasing and that any oil and gas activities conserve resources, operate safely, and protect the environment. OCS oil and gas lease sales are held on an area-wide basis with annual sales in the Central and Western Gulf of Mexico with less frequent sales held in the Eastern Gulf of Mexico and offshore Alaska. The program operates along all the coasts of the United States - with oil and gas production occurring in the Gulf of Mexico, the Pacific, and Alaska.[4]

The Minerals Management Service

The Minerals Management Service (MMS), a bureau in the DOI, is the federal agency that manages the nation's natural gas, oil and other mineral resources on the OCS. The MMS also collects, accounts for and disburses more than $8 billion per year in revenues from federal offshore mineral leases. The MMS oversees two major programs: Offshore Minerals and Minerals Revenue Management. The Offshore Minerals program, which manages the mineral resources on the OCS, comprises three coastal regions: Alaska, the Pacific, and the Gulf of Mexico.[5]

The Gulf of Mexico OCS Region is made up of three planning areas along the Gulf Coast - the Western, Central, and Eastern Gulf of Mexico Planning Areas. These areas contain 43 million acres under lease. There are 3,911 offshore production platforms active in the search for natural gas and oil on the Gulf OCS. These production facilities contribute significantly to the nation's energy supply.[6]

Eastern Gulf of Mexico Planning Area[7]

The Eastern Gulf of Mexico Planning Area extends along the Gulf's northeastern coast for some 700 miles, from Baldwin County, Alabama, southward to the Florida Keys. The area encompasses approximately 76 million acres, with water depths ranging from approximately 30 feet to nearly 10,000 feet. The area extends for more than 300 miles seaward of the state/federal boundary (9 miles off the Florida coast).

Since the late 1980's, a limited amount of OCS activity has taken place in the Eastern Gulf of Mexico Planning Area because of administrative deferrals and annual congressional moratoria.

The MMS has estimated that between 6.95 and 9.22 trillion cubic feet of natural gas and 1.57 and 2.78 billion barrels of oil and condensate are contained in the Eastern Gulf of Mexico Planning Area. Drilling for natural gas and oil has been occurring in the Eastern Gulf of Mexico offshore Alabama and Florida for more than three decades. The first of 11 natural gas and oil lease sales held offshore Florida occurred in 1959 and resulted in the issuance of 23 leases. Additional lease sales have been held periodically in the Eastern Gulf from 1973 through 2003. Currently, there are 241 active leases in the Eastern Gulf of Mexico Planning Area.

Exploratory drilling started in the Eastern Gulf of Mexico in the mid-1970's with the drilling of Destin Dome Block 162, located 40 miles south of Panama City, Florida. After two years of drilling and 15 dry holes, exploration stopped. To date, over 54 exploratory wells have been drilled in the Eastern Gulf of Mexico. Thirteen wells discovered natural gas, condensate, and crude oil.

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[3] http://www.mms.gov/offshore/
[4] http://www.mms.gov/offshore/
[5] http://www.mms.gov/aboutmms/
[6] http://www.gomr.mms.gov/homepg/offshore/gulfocs/gulfocs.html
[7] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html

Three Eastern Gulf lease sales were made in the 1980's and there was renewed industry interest in the Destin Dome area. In the late 1980's, Chevron U.S.A. and Gulfstar made natural gas discoveries in the area.

In October 1995, 73 oil and gas leases located *south* of 26° N. latitude (the approximate latitude of Naples, Florida) were returned to the federal government as part of a litigation settlement. Consequently, no active Federal natural gas and oil leases exist off southwest Florida. Likewise, no active leases exist in the Straits of Florida Planning Area or off Florida's east coast (South Atlantic Planning Area).

In 1996, a development plan was filed by Chevron U.S.A. and partners on the Destin Dome 56 Unit. On July 24, 2000, Chevron U.S.A. and partners filed a lawsuit against the U.S. government for denying the companies "timely and fair review" of plans and permits relating to the Destin Dome 56 Unit. In May 2002, the Department agreed to settle the litigation with the oil companies. The companies -- Chevron, Conoco and Murphy Oil -- relinquished seven of nine leases in the unit that were the subject of the litigation in exchange for $115 million. The remaining two leases, Destin Dome Blocks 56 and 57, are to be held by Murphy and will be suspended until at least 2012, under the terms of the agreement. Murphy agreed not to submit a development plan on the two remaining leases before 2012, the year when the current moratoria will expire. Under the terms of the agreement, the leases cannot be developed unless approved by both the federal government and the State of Florida.

Unocal began the first production in the Eastern Gulf Planning Area in mid-February 1999 on Pensacola Block 881. Located approximately 12 miles offshore Alabama, this site involves the production of some 5 million cubic feet of natural gas per day.

In October 1999, Gulfstream Natural Gas Systems (ANR) and Buccaneer Gas Pipeline Company (Transco/Williams) submitted pipeline right-of-way applications to the MMS for the construction of two 400-mile (36-inch) natural gas pipelines spanning the Eastern Gulf of Mexico. The Gulfstream right-of-way was approved by MMS on June 1, 2001. This line went into service in June 2002.

In November 1996, DOI released the OCS Oil and Gas Leasing Program (1997-2002). The program included 16 lease sales, with one sale proposed for the Eastern Gulf of Mexico in 2001. The original sale area was reviewed to be consistent with the State of Florida's opposition to offshore oil and gas activities within 100 miles of its coast. The first steps in the 3-year planning process began on January 25, 1999, with the release of the Call for Interest and Information and the Notice of Intent to Prepare an Environmental Impact Statement (EIS). A draft environmental impact statement was released in December 2000 and a final EIS was made available to the public in July 2001.

In July 2001, Sale 181 was adjusted from 5.9 million acres to about 1.5 million acres or 256 blocks. The adjusted area lies more than 100 miles off the Alabama/Florida State line. Twenty-three blocks in this area were under lease at that time. Lease Sale 181 was held on December 5, 2001. The MMS awarded leases on 95 tracts involving $340,474,113. Seventeen companies participated in this sale.

On December 10, 2003, Eastern Gulf of Mexico Sale 189 was held. Six companies participated in the lease sale that offered 138 blocks comprising approximately 794,880 acres offshore Alabama. The highest bid received was $2.2 million, submitted by Shell and Nexen.

In an August 22, 2005, Department of Interior news release, it was announced that the MMS was seeking initial public comment on the development of its 2007-2012 five-year leasing plan for energy development on the OCS and accompanying environmental impact statement.[8] This includes the Eastern Gulf of Mexico Planning Area. The announcement stated:

[8] http://www.doi.gov/news/05_News_Releases/050822.htm

"The announcement is the first step in a two-year process to develop the leasing plan. It does not include proposals for new lease sales but instead asks the public for general information and comment not only on energy development but also on other economic and environmental issues in the OCS areas.

'The Outer Continental Shelf contains billions of barrels of oil and trillions of cubic feet of natural gas that can be safely produced,' Interior Secretary Gale Norton said. 'With our reliance on imports of foreign oil climbing each year, we would be irresponsible if we did not consider how we might develop these abundant domestic resources.'

Presidential withdrawals or congressional moratoria have placed more than 85 percent of the OCS off the lower 48 states off limits to energy development.

The Bush Administration has repeatedly expressed its support for the existing moratoria, based upon deference to the wishes of the states to determine what activities take place off their coasts.

However, recent energy legislation passed by Congress calls for a comprehensive inventory and analysis of the oil and natural gas resources for all areas of the OCS.

Therefore, as MMS undertakes the process of drafting its proposal, the agency is seeking comment on the potential resources available in all areas of the OCS, recognizing that many of these areas are subject to existing moratoria and will not be fully analyzed for possible leasing. In seeking public comment, Secretary Norton reaffirmed the Bush Administration's pledge not to conduct any new leasing under the 2007-2012 five-year plan within 100 miles of Florida's coast, in the Eastern Gulf of Mexico Planning Area. MMS is also asking the public to comment specifically on whether the existing withdrawals or moratoria should be modified or expanded to include other areas in the OCS; and whether the Interior Department should work with Congress to develop gas-only leases.

The 2007-2012 OCS oil and gas leasing program will be the seventh program prepared since Congress passed the OCS Lands Act in 1978. The Act requires the Secretary of the Interior to prepare and maintain five-year programs for offshore oil and natural gas leasing. The current program runs through June 30, 2007.

Once public comment is received, MMS will develop a draft proposed program followed by a proposed program and draft EIS. The public will have an opportunity to comment on both documents.

The following is the schedule for the 2007-2012 five-year program:"

Date	Step
August 24, 2005	Solicit comments and information (Federal Register Notice)
Winter 2005	Issue draft proposed program (60-day comment period)
Summer 2006	Issue proposed program and draft EIS (90-day comment period)
Winter 2007	Issue proposed final program and final EIS (60-day waiting period)
Spring 2007	Approve five-year program for July 2007-July 2012

The Exploration and Development Process

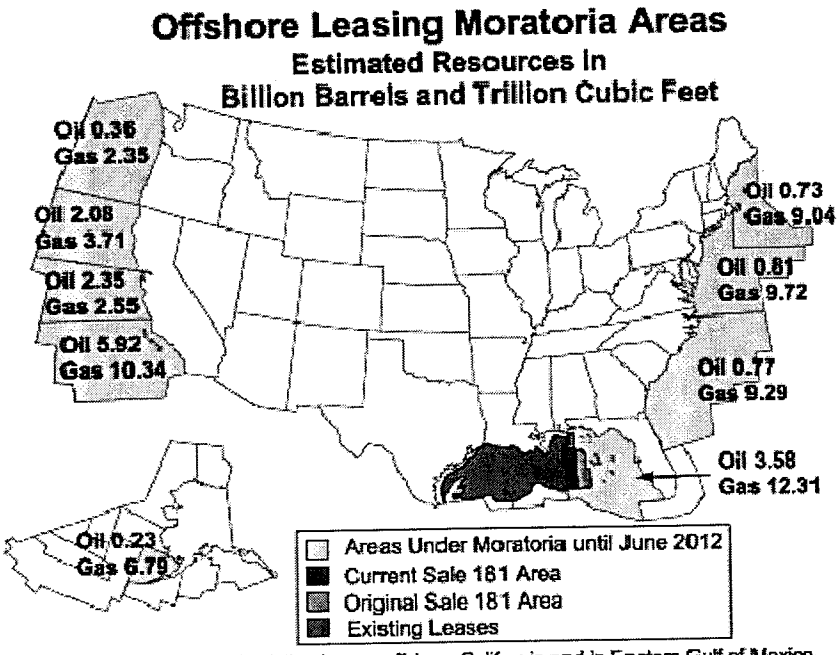
Once a company acquires a lease, the company has to prepare an exploration plan and have it approved by the MMS and other federal and state agencies in order to drill a well. Typical exploration plans propose the drilling of one or more exploratory wells. The MMS conducts an environmental review of the impacts of drilling the well. Should a discovery be made, the company may then prepare and file a development plan. The exploration and development plans must be consistent with the affected state's Coastal Zone Management Plan

During exploratory drilling or production operations on the OCS, the MMS inspection program calls for MMS inspectors to review operations and periodically visit and inspect facilities to ensure clean and environmentally safe operations.

To prepare for lease sales and to protect the environment during offshore drilling operations, the MMS conducts environmental studies. Several new studies are planned and/or currently underway.[9]

Federal Moratoria

Congress and past Presidents have placed moratoria on offshore drilling and development on the OCS on both the U.S. East and West Coasts. Included in the moratoria is the Eastern Gulf of Mexico. The consequence of the moratoria is to foreclose, until at least 2012, any effort to explore for critical oil and gas resources that are estimated to lie beneath these areas. In response to recent sharp increases in fuel and home heating oil, several attempts have been made in Congress to limit or remove these moratoria. The map below illustrates these moratoria areas.[10]



Note: Locations of existing leases offshore California and in Eastern Gulf of Mexico are approximate and intended to be representative only.

Source: Minerals Management Service

[9] http://www.gomr.mms.gov/homepg/offshore/egom/eastern.html
[10] http://api-ep.api.org/issues/index.cfm

Current State Law

Under the provisions of Chapter 253, F.S., the Governor and Cabinet sitting as the Trustees of the Internal Improvement Trust Fund have been granted the powers and duties with regard to the control of private uses of "sovereignty submerged lands." Sovereignty submerged lands are those lands including but not limited to, tidal lands, islands, sand bars, shallow banks, and lands waterward of the ordinary or mean high water line, beneath navigable fresh water or beneath tidally-influenced waters, to which the State of Florida acquired title on March 3, 1845, by virtue of statehood, and which have not been heretofore conveyed or alienated.[11] These submerged lands are owned by the State of Florida.

The United States Supreme Court held that the Submerged Lands Act granted to Florida "a three-marine-league belt of submerged land under the Gulf of Mexico seaward from its coastline." "Three marine leagues" are defined as "nine marine, nautical, or geographic miles, or approximately 10 ½ land, statute or English miles."[12] Accordingly, these state-owned submerged lands extend waterward from the shoreline for approximately 9 miles into the Gulf of Mexico and 3 miles into Atlantic Ocean.[13]

Section 253.61, F.S., expressly prohibits the Trustees from granting any "oil or natural gas *lease*" on state-owned submerged lands off the State's west coast.

Part I of Chapter 377, F.S., provides for the regulation of the oil and gas resources in the state. Section 377.24, F.S., sets forth the parameters for the issuance of *permits* by the Department of Environmental Protection for drilling wells for oil and natural gas. Section 377.24, F.S., prohibits the DEP from issuing permits for certain types of wells. Specifically listed in these prohibitions is any "well in search of oil or gas" on state-owned submerged lands.[14]

Coastal Zone Management

Federal Coastal Zone Management Act

In order to attempt to resolve increasing conflicts over limited coastal resources, in 1972, the U.S. Congress passed the Coastal Zone Management Act (CZMA).[15] The CZMA sought to preserve, protect, develop, and where possible, to restore and enhance the resources of the nation's coastal zone. It encouraged coastal states to develop and implement comprehensive management programs which balance the need for coastal resource protection with the need for economic growth and development within the coastal zone.

If the management program developed by the coastal states receives the approval of the U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), the state is empowered by the CZMA and its implementing regulations to review federal activities within or adjacent to its coastal zone to determine whether the activity complies with the requirements of the state's approved management program.

Federal Consistency

The authority of a state to review federal activities to determine their compliance with the state's approved management program is referred to as "federal consistency." The federal consistency process allows states to review the following activities for compliance with the requirements of their approved management program:

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[11] See Rule 18-21.900, Florida Administrative Code.
[12] *U.S. v. Fla.*, 363 U.S. 121 (1960).
[13] Section 1, Article II, Florida Constitution.
[14] Subsection 377.24(9), F.S.
[15] 16 U.S.C. ss. 1451-1464

- Activities conducted by or on behalf of a federal government agency;
- Federally funded activities;
- Activities which require a federal license or permit; and
- Activities conducted pursuant to an Outer Continental Shelf Lands Act minerals exploration plan or lease.

If a state with an approved management program determines that a proposed federal activity is "inconsistent" (fails to comply) with the requirements of the state's approved program, the applicant/federal agency is prohibited from conducting the activity. If the applicant/federal agency appeals or requests mediation from the U.S. Department of Commerce, the final determination is made by the Secretary of the U.S. Department of Commerce.

Consistency in Florida

In 1978, the Florida Legislature passed the Florida Coastal Management Act. The Act sets forth legislative intent with regard to Florida's coastal management program, defines Florida's "coastal zone," and sets forth the parameters for determining federal consistency. The Florida Coastal Management Act is found in Part II of Chapter 380, F.S.

The Florida Coastal Management Program (FCMP) was approved by NOAA in 1981. The FCMP consists of a network of 23 chapters of Florida Statutes administered by eleven state agencies and four water management districts. The FCMP is designed to: (1) ensure the wise use and protection of the state's water, cultural, historic, and biological resources; (2) minimize the state's vulnerability to coastal hazards; (3) ensure compliance with the state's growth management laws; (4) protect the state's transportation system; and (5) protect the state's proprietary interest as the owner of sovereign submerged lands.[16] The Act currently gives to the Florida Department of Environmental Protection the authority to maintain and update the FCMP.[17] Any updates to the FCMP must be submitted by DEP to NOAA for approval.[18]

The Legislature has chosen to limit Florida's federal consistency review to the federal licenses or permits specified in paragraph 380.23(3), F.S. On this list are permits and licenses for activities that are proposed *seaward* of the state's jurisdiction, including:

- Permits and licenses required under the OCS Lands Act for drilling, mining, pipelines, on public lands and
- Permits and licenses for areas leased under the OCS Lands Act, including leases and approvals of exploration, development, and production plans.[19]

In those instances where a state permit is also required for the activity, the consistency of federally permitted actions is determined by the issuance or denial of the state permit.[20]

Federal agencies, and applicants seeking federal licenses and permits (or federal financial assistance), are required by the CZMA to provide the state with the information needed to determine whether federal actions conducted in or adjacent to the state impact the resources of state's coastal zone, and whether impacts to the state's coastal resources are consistent with the enforceable policies contained in the FCMP. The Florida State Clearinghouse, located within the DEP, serves as the single point of

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[16] http://www.dep.state.fl.us/cmp/federal/index.htm
[17] s. 380.22, F.S.
[18] 16 U.S.C. ss. 1451 et seq.
[19] Subparagraphs 380.23(3)(c)7 and 8, F.S.
[20] Subsection 380.23(1), F.S.

contact for the receipt of documents which require federal consistency review. During the review, each FCMP agency ensures that the federal activities comply with the requirements of the FCMP statutes and authorities within its jurisdiction. Recommendations regarding the activities' consistency with the FCMP are provided by the agencies to the DEP, which makes the final consistency determination, and provides that determination to the federal agency/applicant.[21]

The Governor's Office of Planning and Budgeting (OPB) supports the management of the FCMP by providing conflict mediation and resolution services. OPB also supports the program by coordinating the state's consistency review of OCS Lands Act minerals exploration plans and leases.[22]

EFFECT OF PROPOSED CHANGES

Ban on Drilling in Sovereignty Submerged Lands

The bill creates a new Section 377.061, F.S., to reiterate current law to prohibit the exploration for and production of oil and gas in sovereignty submerged lands and waterways. The bill expands the current prohibition to include submerged lands and waterways over which the state "has control, now or in the future." This will apply the prohibition not only to the submerged lands three miles into the Atlantic Ocean and approximately nine miles into the Gulf of Mexico, but to any submerged lands seaward of those jurisdictional boundaries over which the federal government may grant control to the state in the future.

Ban on Energy Activities in the Outer Continental Shelf

The bill prohibits the state from permitting any Outer Continental Shelf energy activities, as those activities are defined by the Coastal Zone Management Act. The Act defines the term "Outer Continental Shelf energy activity" to mean the exploration for, or any development or production of, oil or natural gas in the Outer Continental Shelf, or the siting, construction, expansion, or operation of any new or expanded energy facilities directly required by such exploration, development or production.[23]

The term "outer continental shelf" is defined to mean those submerged lands seaward and outside of the area of lands beneath the navigable waters within the state's jurisdiction.[24] This prohibition will therefore apply in those submerged lands seaward of the state's sovereignty submerged lands.

Prohibition on Permits for Infrastructure

The bill also prohibits the state or a local government from approving any license, permit, activity or project that violates the provisions of the bill. This provision is intended to prevent the state or a local government from permitting activities associated with the infrastructure supporting offshore oil or gas drilling.

Amendment of Coastal Zone Management Plan

The bill requires the Department of Environmental Protection to file with the U.S. Department of Commerce within six months of the effective date of the bill an amended coastal zone management plan to include these prohibitions.

C. SECTION DIRECTORY:

Section 1. Creates s. 377.061, F.S., relating to the prohibition on oil and gas drilling.
Section 2. Requires the Department of Environmental Protection to submit an amendment to the Florida coastal management program
Section 3. Provides an effective date of July 1, 2006.

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[21] http://www.dep.state.fl.us/cmp/federal/index.htm
[22] Id.
[23] 16 U.S.C. s. 1453(13).
[24] See 43 U.S.C. ss. 1301 and 1331.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.

2. Expenditures: None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.

2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The bill will have a negative impact on private entities in Florida who seek to engage in oil or gas drilling activities in the sovereign submerged lands of the state. The actual impact on the private sector is unknown.

D. FISCAL COMMENTS: None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill does not require counties or municipalities to spend funds or to take an action requiring the expenditure of funds. This bill does not reduce the percentage of a state tax shared with counties or municipalities. This bill does not reduce the authority that municipalities have to raise revenue.

2. Other: None.

B. RULE-MAKING AUTHORITY: None.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2006, the Economic Development, Trade and Banking Committee adopted a strike-all amendment to the bill. The amendment provides the following:

- Provides that it is the policy of Florida that the exploration for and production of oil, gas and other petroleum products in sovereignty submerged lands and waterways over which the State of Florida has control, now or in the future, be prohibited.

- Bans the exploration for, drilling and production of oil and gas in the Outer Continental Shelf, which includes those submerged lands seaward of the state's sovereignty submerged lands.

- Requires the Department of Environmental Protection to file an amended coastal zone management plan with the United States Department of Commerce to include these prohibitions within six months of the effective date of the bill.

- Prohibits the state or a local government from approving any license, permit, activity or project that violates the provisions of the bill.
- Provides a series of "whereas" clauses regarding the value of the ocean and tourism economies, the effects of oil and gas drilling on the natural environment and the state's interest in protecting the citizens, economy and environment.

This analysis has been revised to reflect the strike-all amendment.

1 A bill to be entitled
2 An act relating to oil and gas drilling; creating s.
3 377.061, F.S.; prohibiting activities associated with the
4 exploration for and production of oil, gas, or other
5 petroleum products in sovereignty submerged lands and
6 waterways; prohibiting Outer Continental Shelf energy
7 activities; prohibiting local governments and state
8 agencies from granting approval for certain licenses,
9 permits, activities, and projects; requiring the
10 Department of Environmental Protection to submit such
11 provisions to the United States Department of Commerce to
12 be made part of the state's coastal zone management
13 program; providing an effective date.
14
15 WHEREAS, the State of Florida is comprised of 2,276 miles
16 of tidal shoreline, 8,426 miles of detailed tidal shoreline, and
17 WHEREAS, sand beaches comprise 1,350 miles of coastline,
18 and
19 WHEREAS, in 2004, 13 million state residents lived along
20 the coastline, and
21 WHEREAS, the tourism industry attracted 79.7 million
22 tourists to Florida, who spent $57 billion in the state and
23 generated $3.4 billion of tax revenues in 2004, and
24 WHEREAS, tourists are attracted to Florida by virtue of the
25 pristine beaches, waterways, and coastal recreational
26 activities, and
27 WHEREAS, saltwater fishing contributed $5.8 billion and
28 59,418 jobs to Florida in 2005, and

29 WHEREAS, the commercial fishing industry generated an
30 estimated $562 million of revenue and provided 9,787 jobs to
31 Florida in 2005, and
32 WHEREAS, Florida has more seafood processing plants than
33 any other state and the seafood processing industry shipped $614
34 million worth of products and provided 3,108 jobs statewide in
35 2005, and
36 WHEREAS, Florida fishers catch more than 90 percent of the
37 nation's supply of grouper, pompano, mullet, stone crab, pink
38 shrimp, spiny lobsters, and Spanish mackerel, and
39 WHEREAS, the value of Florida aquaculture sales ranks third
40 in the nation and reached $95.5 million in 2003, and
41 WHEREAS, the total economic impact of Florida's seafood
42 harvest is more than $1 billion annually, and creates more than
43 20,000 full-time and 10,000 part-time jobs, and
44 WHEREAS, the coral reef in Key West is the third largest in
45 the world and the largest in North America, and
46 WHEREAS, oil and gas drilling would potentially damage or
47 destroy living bottom communities, beaches, coastal barrier
48 islands, wetlands, seagrass beds, mangroves, corals, and animal
49 life, and
50 WHEREAS, such damage would result from pipeline placement,
51 increased barge and tanker traffic, construction of supporting
52 facilities, discharge of trash and debris, and rig construction
53 and removal, and
54 WHEREAS, the release of hydrocarbons, chrome, lead, barium,
55 cadmium, copper, antimony, arsenic, mercury, and other toxic
56 chemicals would result from the discharge of drilling muds,

57 production waters, and oil or gas, and
58 WHEREAS, the chemicals released into the environment from
59 these discharges are virtually nonrecoverable and are extremely
60 toxic, and
61 WHEREAS, the Legislature declares that the state has a
62 vital interest and responsibility to protect its citizens,
63 coastal areas, natural wildlife, and economy, and
64 WHEREAS, the Legislature further declares that the
65 possibility for spillage of oil or other pollutants as a result
66 of the activities associated with the exploration and production
67 of oil, gas, or other petroleum products in certain lands and
68 waters surrounding the state constitutes a grave threat to the
69 health and welfare of the state's citizens, coastal areas,
70 natural wildlife, and economy, and
71 WHEREAS, the Legislature finds that despite safeguards that
72 could be imposed on the activities associated with the
73 exploration and production of oil, gas, or other petroleum
74 products from certain lands and waters surrounding the state,
75 the potential serious harm caused by these activities cannot be
76 eliminated, and
77 WHEREAS, the possibility of an oil spill cannot be
78 eliminated and pollution from an oil spill would be catastrophic
79 to the citizens, coastal areas, natural wildlife, and economy of
80 this state, NOW, THEREFORE,
81
82 Be It Enacted by the Legislature of the State of Florida:
83
84 Section 1. Section 377.061, Florida Statutes, is created

85 to read:
86 377.061 Prohibition of exploration for and production of
87 oil, gas, or other petroleum products.--
88 (1) The exploration for and production of oil, gas, or
89 other petroleum products in the sovereignty submerged lands and
90 waterways over which the state has jurisdiction or control, now
91 or in the future, is prohibited.
92 (2) No Outer Continental Shelf energy activity, as defined
93 under s. 1453 of the Coastal Zone Management Act of 1972, as
94 amended, shall be permitted by this state.
95 (3) No state agency or local government shall approve any
96 license, permit, activity, or project that violates this
97 section.
98 Section 2. Prior to October 1, 2007, the provisions of
99 this act shall be submitted by the Florida Department of
100 Environmental Protection to the United States Department of
101 Commerce pursuant to the Coastal Zone Management Act of 1972, as
102 amended, to be made part of the state's coastal zone management
103 program under chapter 380, Florida Statutes.
104 Section 3. This act shall take effect July 1, 2006.

State Resources Council

Monday, April 10, 2006
4:00 PM
Reed Hall

ADDENDUM A (4/10/06; 11:05 AM)
Amendments

Allan G. Bense
Speaker

Marty Bowen
Chair

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 4

Bill No. HB 1015 CS

COUNCIL/COMMITTEE ACTION

ADOPTED	__	(Y/N)
ADOPTED AS AMENDED	__	(Y/N)
ADOPTED W/O OBJECTION	__	(Y/N)
FAILED TO ADOPT	__	(Y/N)
WITHDRAWN	__	(Y/N)
OTHER	____	

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1 Council/Committee hearing bill: State Resources Council
2 Representative Machek offered the following:
3
4 **Amendment**
5 On line 215, remove has
6 and insert: is surrounded by

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1015-06-04.doc