

STORAGE NAME: h3673.ag
DATE: March 9, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
AGRICULTURE
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 3673

RELATING TO: Aquaculture

SPONSOR(S): Representative Bronson

COMPANION BILL(S): SB 1924 (s) by Senator Bronson
HB 1491 (c) by Representative Horan
SB 1440 (c) by Senator Latvala

ORIGINATING COMMITTEE(S)/COMMITTEE(S) OF REFERENCE:

- (1) AGRICULTURE
 - (2) FINANCE & TAXATION
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

In 1996, the Florida Legislature passed an aquaculture bill requiring the Department of Environmental Protection to streamline applications and permitting procedures for aquaculture activities. As with the initial implementation of any new process, some oversights occurred. House Bill 3673 corrects these oversights and, in general, "fine-tunes" the legislation that was previously passed.

The bill clarifies jurisdiction over aquaculture activities and provisions relating to aquaculture general permits. It also provides for the streamlining of permit consolidation procedures.

The bill provides for the harvesting or possession of saltwater species for experimental, scientific, education, and/or exhibition purposes. It provides added protection for aquaculture products produced on submerged land leases by establishing a zone around the lease where harvesting is prohibited. The bill also authorizes the issuance of a special activity license for the use of special equipment in harvesting saltwater species for scientific and governmental purposes, and where allowable, for innovative fisheries.

The bill provides for the delegation of regulatory authority for certain aquaculture facilities and provides for a list of prioritized research needs for development of the aquaculture industry.

This bill has no fiscal impact.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

In 1996, the Florida Legislature passed an aquaculture bill requiring the Department of Environmental Protection (department) to consolidate permitting procedures for aquaculture operations. That piece of legislation also identified aquaculture producers and aquaculture products, as well as defined the responsibility of the various state agencies and their relationship to aquaculture activities.

Within the department's Division of Marine Resources, a new section was created to provide technical assistance to the aquaculture industry, act as a liaison between the aquaculture farmers and the regulatory agencies, and to develop a streamlined permitting process. However, in implementing this legislation it became apparent that several critical elements still needed to be addressed and some fine-tuning needed to occur.

Florida's aquaculture industry has shown a strong interest in culturing non-indigenous marine species. This interest is an outgrowth of the success that Florida's tropical fish industry has had with non-indigenous freshwater fish. While Florida's environmental and climatic conditions are well suited for growing non-indigenous species, these same factors are conducive to the establishment of non-indigenous nuisance species as well. Through the legislation passed in 1996, the Division of Marine Resources was given broad authority to regulate certain aquacultural activities, however, as that relates to the culture of certain non-indigenous marine species, the division's authority remains unclear.

B. EFFECT OF PROPOSED CHANGES:

HB 3673 provides added protection for aquaculture products produced on submerged land leases by establishing a zone around the lease where harvesting is prohibited. It allows the Department of Environmental Protection (department) to issue special activities licenses (SAL's) for use of non-conforming gear or equipment (trawls, seines, nets, etc.) for harvesting saltwater species for government or scientific purposes and for innovative fisheries, where allowable. In an effort to streamline the permitting process, it allows the department to adopt, by rule, application requirements, conditions, and restrictions for incorporation into each SAL, and sets the maximum term for a SAL at five years.

The bill also provides for importation or possession of non-indigenous saltwater species, through SAL's, for production of marine aquaculture products in marine aquaculture facilities. It requires specific management practices for these species, as well as anadromous sturgeon, to prevent their release into Florida waters to protect indigenous populations of saltwater species and aquaculture facilities.

The bill changes the reference from "marine plant or marine animal" to "saltwater species." It allows the department to authorize properly accredited persons to harvest or possess indigenous or non-indigenous saltwater species for experimental, scientific, education, or exhibition purposes. These authorizations could be revoked or suspended

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if the department determines that violations have occurred or false or inaccurate information was submitted during the application process.

The responsibility for protecting shellfish would become the obligation of the Division of Marine Resources. The bill creates a definition for "marine aquaculture facility," and includes a list of facilities that do not fall within the definition.

This bill allows a marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement to apply income from the sales of marine aquaculture products to renew an existing restricted species endorsement. This would not apply when acquiring a new restricted species endorsement.

Unless provided for in s. 597.004, F.S., holders of an aquaculture certificate would have to purchase and possess a saltwater products license in order to possess, transport, or sell saltwater products.

The bill allows the department to delegate regulatory authority to the water management districts for aquaculture facilities subject to the general permitting criteria. It also clarifies the regulatory authority for the department and the water management districts as it relates to permitting of aquaculture facilities.

The bill allows, based on the specific aquaculture operation, for regulatory responsibilities to be reassigned to achieve a more efficient permitting process provided the applicant, the department, and the applicable water management district are all in agreement. The applicable water management district would have the additional responsibility of ensuring compliance with general permits, when it has regulatory responsibility for the facility pursuant to s. 373.046, F.S.

In regards to general permits, aquatic species would include saltwater and freshwater fish, animals, and marine organisms. The exception to alligators still applies.

And lastly, the bill requires the Aquaculture Review Council to provide, by August 1 of each year, a list of prioritized research needs critical to the development of the aquaculture industry to the leadership of the House and Senate and the chairs of their respective budgetary committees.

An effective date of July 1 of the year in which enacted is provided.

C. APPLICATION OF PRINCIPLES:

1. Less Government:

a. Does the bill create, increase or reduce, either directly or indirectly:

(1) any authority to make rules or adjudicate disputes?

No.

- (2) any new responsibilities, obligations or work for other governmental or private organizations or individuals?

No.

- (3) any entitlement to a government service or benefit?

No.

- b. If an agency or program is eliminated or reduced: **Not Applicable**

- (1) what responsibilities, costs and powers are passed on to another program, agency, level of government, or private entity?

- (2) what is the cost of such responsibility at the new level/agency?

- (3) how is the new agency accountable to the people governed?

2. Lower Taxes:

- a. Does the bill increase anyone's taxes?

No.

- b. Does the bill require or authorize an increase in any fees?

No.

- c. Does the bill reduce total taxes, both rates and revenues?

N/A

- d. Does the bill reduce total fees, both rates and revenues?

N/A

- e. Does the bill authorize any fee or tax increase by any local government?

No.

3. Personal Responsibility:

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- a. Does the bill reduce or eliminate an entitlement to government services or subsidy?

No.

- b. Do the beneficiaries of the legislation directly pay any portion of the cost of implementation and operation?

N/A

4. Individual Freedom:

- a. Does the bill increase the allowable options of individuals or private organizations/associations to conduct their own affairs?

No.

- b. Does the bill prohibit, or create new government interference with, any presently lawful activity?

No.

5. Family Empowerment: **Not Applicable.**

- a. If the bill purports to provide services to families or children:

(1) Who evaluates the family's needs?

(2) Who makes the decisions?

(3) Are private alternatives permitted?

(4) Are families required to participate in a program?

(5) Are families penalized for not participating in a program?

- b. Does the bill directly affect the legal rights and obligations between family members?

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c. If the bill creates or changes a program providing services to families or children, in which of the following does the bill vest control of the program, either through direct participation or appointment authority:

(1) parents and guardians?

(2) service providers?

(3) government employees/agencies?

D. STATUTE(S) AFFECTED:

Sections 253.72, 370.06, 370.081, 370.10, 370.16, 370.26, 373.046, 403.814, and 597.005, Florida Statutes

E. SECTION-BY-SECTION RESEARCH:

Section 1. amends section 253.72, F.S., to prohibit the harvesting of shellfish within a distance of 25 feet surrounding lawfully marked lease boundaries or within setback and access corridors within specifically designated high-density aquaculture lease areas and aquaculture use zones.

Section 2. amends section 370.06, F.S., to require a person to hold a special activity license (SAL) to harvest saltwater species using gear or equipment not authorized. The department may issue a SAL for the use of non-conforming gear or equipment, including, but not limited to, trawls, seines and nets, traps, and hook and line gear, for harvesting saltwater species for scientific and government purposes, and where allowable, for innovative fisheries. The department may adopt, by rule, application requirements, conditions, and restrictions for incorporation into each SAL. This section does not apply to gear/equipment used by certain marine aquaculturists to harvest marine aquaculture products.

In regards to SAL's for anadromous sturgeon, a provision is made for "specific" management practices rather than "best" management practices. The reference "from sturgeon borne disease" is deleted as it relates to the protection of indigenous populations of saltwater species.

The bill allows for issuance of SAL's for importation and possession of non-indigenous saltwater species for the production of marine aquaculture products in marine aquaculture facilities. Specific management practices to prevent the escape and release of cultured species and to protect indigenous saltwater species and aquaculture facilities are provided.

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Conditions and specific management practices established in the section could be set forth either through the SAL's or incorporated into permits and authorizations issued pursuant to Chapters 253, 370, 373, or 403, F.S.

SAL's issued pursuant to this section are for terms not to exceed five years.

Section 3. amends section 370.081, F.S., to change the reference from "subsection (4)" to "this section." Rabbitfish are removed from the list of marine animals not to be imported into the state. The reference to "marine plant or marine animal" is changed to "saltwater species."

Section 4. amends section 370.10, F.S., to allow the department to authorize, rather than issuing a permit, properly accredited persons to harvest or possess indigenous or non-indigenous saltwater species for experimental, scientific, education and exhibition purposes. Authorizations issued under these provisions could be suspended or revoked if the department finds that the person has violated this section, department rules or orders, or terms or conditions of the authorization, or has submitted false or inaccurate information in his/her application.

Section 5. amends section 370.16, F.S., to add the protection of shellfish to the list of responsibilities of the Division of Marine Resources. The harvest of shellfish within a distance of 25 feet surrounding lawfully marked lease boundaries or within setback and access corridors of aquaculture lease areas or use zones is prohibited.

Section 6. amends section 370.26, F.S., to create a definition for "marine aquaculture facility," and include a list of facilities that do not constitute marine aquaculture facilities.

A marine aquaculture producer possessing a valid saltwater products license with a restricted species endorsement is allowed to apply income from the sales of marine aquaculture products to renew an existing restricted species endorsement. This does not apply when acquiring a new restricted species endorsement.

The holder of an aquaculture certificate is required to have a saltwater products license in his/her possession in order to possess, transport, or sell saltwater products not provided for in s. 597.04, F.S.

Clarification is made that criteria developed to temporarily permit aquaculture activities would not constitute rules within the meaning of s. 120.52, F.S. The department is allowed to delegate regulatory authority to the water management districts for aquaculture facilities subject to the general permitting criteria for this subsection.

Section 7. amends section 373.046, F.S., to clarify the regulatory responsibilities of the department and the water management districts as they relate to the permitting of aquaculture facilities.

When all parties involved (the applicant, the department, and the applicable water management district) are in agreement, regulatory responsibilities could be reassigned to achieve a more efficient permitting process, based on the specific aquaculture operation.

Section 8. amends section 403.814, F.S., to state that in regards to general permits, aquatic species include saltwater and freshwater fish, animals and marine organisms. The exception to alligators still applies.

The applicable water management district has the additional responsibility of ensuring compliance with general permits, when it has regulatory responsibility for the facility pursuant to s. 373.046, F.S.

Section 9. amends section 597.005, F.S., to require the Aquaculture Review Council to provide a list of prioritized research needs critical to development of the aquaculture industry to the leadership of the Senate and the House, as well as the chairs of their respective budgetary committees, by August 1 of each year.

Section 10. provides an effective date of July 1 of the year in which enacted.

III. FISCAL RESEARCH & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

Based on the substantial increase in demands for services since the aquaculture legislation passed in 1996, it is anticipated that the aquaculture industry within the state will continue to place increasing demands on the Department of Environmental Protection and its staff.

4. Total Revenues and Expenditures:

Some revenue, approximately \$2,500, is currently generated from certain special activity licenses.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

No added costs to local governments are anticipated. However, positive economic impacts can be anticipated in communities where aquaculture operations are successful.

C. **DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

Once the "one-stop" application and permitting process are fully implemented, there should be substantial savings to the private sector. Also, by changing the definition of marine aquaculture products, aquaculture producers and commercial fishers are able to apply the sales of their aquaculture products to renew their restricted species endorsements. This is not available to fishers who are obtaining a restricted species endorsement for the first time.

3. Effects on Competition, Private Enterprise and Employment Markets:

The successful development of aquaculture is anticipated to increase competition between seafood products from natural stock and similar aquaculture-raised products. It is difficult to predict supply and demand reactions, but the increased production of aquacultural products is expected to reduce the demand on natural stocks and serve as a responsible resource management practice.

D. **FISCAL COMMENTS:**

None.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. **APPLICABILITY OF THE MANDATES PROVISION:**

The mandates provision is not applicable to an analysis of HB 3673 because the bill does not require counties or municipalities to spend funds or take actions requiring expenditure of funds.

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B. REDUCTION OF REVENUE RAISING AUTHORITY:

HB 3673 does not reduce the revenue raising authority of any county or municipality.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

HB 3673 does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

None

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

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