

STORAGE NAME: h4675.gg
DATE: April 20, 1998

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL RESEARCH & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4675

RELATING TO: Aquaculture

SPONSOR(S): Committee on Agriculture and Representative Bronson

COMPANION BILL(S): CS/SB 1924 (c), 1ST ENG/HB 4213 (c), CS/HB 3673 (c)

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

- (1) AGRICULTURE YEAS 7 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
-

I. SUMMARY:

Over the 1997 interim, the Speaker asked all substantive committees of the House to identify the programs, functions, and activities within the various agencies of the state. In doing so, staff identified areas where duplication of services seem to occur among various agencies, as well as areas of the statutes that are obsolete. The regulation of aquaculture is one area where an overlap of duties was identified.

Currently, three separate agencies, the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and the Game and Fresh Water Fish Commission (GFC), share regulatory authority over aquaculture activities. This bill transfers the regulatory authority for aquaculture to DACS, with the exception of those areas required by federal law, rule, or cooperative agreement to be regulated by another agency.

This bill has no fiscal impact. The expense and salary funds for the aquaculture programs in the Department of Environmental Protection and the Game and Fresh Water Fish Commission, are transferred to the Department of Agriculture and Consumer Services in the Appropriations Conference Report, contingent on this legislation becoming law.

II. SUBSTANTIVE RESEARCH:

A. PRESENT SITUATION:

Currently, aquaculture regulation is handled by three separate entities:

- **Department of Environmental Protection (DEP)**, which handles the issuance of special activities licenses (SAL's); regulation of aquaculture activities on sovereignty submerged lands or in the water column above such lands, marine and estuarine aquaculture activities that do not require a consumptive use permit, and aquaculture activities that exceed thresholds for aquaculture general permits;
- **Game and Fresh Water Fish Commission (GFWFC)**, which regulates aquaculture facilities and the alligator management and trapping program; and,
- **Department of Agriculture and Consumer Services (DACS)**, which is designated as the lead agency in encouraging the development of aquaculture in the state; authorized to issue and deny aquaculture certificates; coordinates the development, annual revision, and implementation of a state aquaculture plan; and, develops memorandums of agreement, as needed, with DEP and GFWFC, and other groups in the state aquaculture plan.

Since adoption of the 1996 aquaculture act, these agencies have worked hand-in-hand to affect a smooth permitting and application process. However, with several agencies involved, a concern about possible duplication of services has been identified through the House interim review of agency programs, functions, and activities.

B. EFFECT OF PROPOSED CHANGES:

This bill transfers the regulatory authority for aquaculture to the Department of Agriculture and Consumer Services (DACS), with the exception of those areas required by federal law, rule, or cooperative agreement to be regulated by another agency, such as consumptive use permits, NPDES permits, submerged land leases, etc. There would still continue to be some overlap of duties, but the bulk of regulatory authority would rest with DACS.

For a more detailed summary, please refer to II. E. Section-by-Section Research below.

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:

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

The expense and salary funds for the aquaculture programs in the Department of Environmental Protection and the Game and Fresh Water Fish Commission, are transferred to the budget for the DACS.

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

Funding transferred to the DACS is expected to allow for continuation of state aquaculture program functions with no additional cost to the agency.

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

Accountability for program activities will rest solely with the DACS instead of the present shared responsibilities with Department of Environmental Protection and the Game and Fresh Water Fish Commission.

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?

No.

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

No.

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

No.

3. Personal Responsibility:

- 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?

No.

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?

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 370.06, 370.26, 370.027, 372.0225, 372.65, 403.0885, 597.002, 597.003, and 597.004, F.S.

E. SECTION-BY-SECTION RESEARCH:

Section 1: Amends section 370.027, F.S., giving the Department of Agriculture and Consumer Services (DACS) rulemaking authority over marine species produced by an individual certified under s. 597.004, F.S. DACS is also authorized to regulate marine aquaculture producers.

Section 2: Amends section 370.06, F.S., exempting the holder of an aquaculture certificate under s. 597.004, F.S., from needing a saltwater products license to possess, transport, or sell marine aquaculture products. Marine aquaculture producers possessing a valid saltwater license with a restricted species endorsement may apply income from the sale of marine aquaculture products towards renewal of an existing restricted species endorsement. This section also exempts individuals certified under s. 597.004, F.S., from needing a special activity license (SAL) to use special gear or equipment in harvesting saltwater species. Unless delegated to DACS, the Department of Environmental Protection (DEP) has the authority to issue SAL's to permit cultivation of shellfish when such activities relate to quality control, sanitation, and public health regulations. This section also requires specific management practices to prevent the release and escape of non-indigenous species.

Section 3: Amends section 370.26, F.S., eliminating the Aquaculture Section within the Bureau of Marine Resource Regulation and Development within the Division of Marine Resources. It designates DACS as the clearinghouse for aquaculture applications and

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the liaison between the various agencies and offices involved in the permitting process. This section gives DACS the authority for regulating marine aquaculture producers except as specifically provided.

Section 4: Amends section 372.0225, F.S., relieving the Division of Fisheries of the Game and Fresh Water Fish Commission of its responsibility to regulate aquaculture facilities.

Section 5: Amends section 372.65, F.S., exempting holders of an aquaculture certificate from needing a freshwater fish dealers license.

Section 6: Amends section 403.0885, F.S., exempting certified aquaculture operations whose annual production and water discharge are less than the parameters established by the National Pollutant Discharge Elimination System program (NPDES), as long as best management practices are followed.

Section 7: Amends section 597.002, F.S., designating DACS as the regulatory authority for aquaculture. The only exceptions are those areas required by federal law, rule, or cooperative agreement to be regulated by another agency.

Section 8: Amends section 597.003, F.S., authorizing DACS to issue or deny licenses or permits authorized or delegated by the Legislature or through memorandum of understanding with other state or federal agencies.

Section 9: Amends section 597.004, F.S., removing unnecessary dates. DACS is authorized to issue aquaculture certificates to aquatic plant producers and alligator producers permitted by the Game and Fresh Water Fish Commission (GFWFC). This section eliminates the transfer of funds from DACS to GFWFC. GFWFC will retain jurisdiction over alligators as aquaculture products. The appropriate fee must accompany the application for an aquaculture certificate. And lastly, aquaculture certificates will be valid for one (1) 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:

The Appropriations Conference Report contains appropriations for aquaculture activities as follows:

\$175,000 from the General Revenue Fund and \$87,727 from the Saltwater Products Promotion Trust Fund and 4 FTE for FY 98-99. Proviso language states that these funds are provided for aquaculture activities, contingent on

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legislation becoming law which transfers the functions from the Department of Environmental Protection and Game & Fresh Water Fish Commission. In the event that such legislation does not become law, the Executive Office of the Governor is authorized to transfer the appropriations to the Department of Environmental Protection and Game & Fresh Water Fish Commission to continue the programs.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

See A.2. above.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

The transfer of regulatory authority to one agency will streamline the permitting process.

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

None.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or take actions requiring expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the revenue raising authority of any county or municipality.

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

The bill does not reduce any state tax revenues shared with counties and municipalities.

V. COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

Amendments adopted in the House Agriculture Committee make the following changes to the original proposed bill:

- substitute the phrase “marine aquaculture products” for “marine species” for clarification purposes;
- insert the phrase “for harvesting marine aquaculture products from marine aquaculture facilities” to clarify gear usage;
- make a technical change in punctuation to correspond to another section in the statutes;
- exempt aquaculture producers from needing a freshwater dealer’s license to do business;
- leave the alligator management and trapping program with the Florida Game and Fresh Water Fish Commission;
- require the management practices of those aquaculture producers exempt from wastewater management regulations to be authorized by the U.S. Environmental Protection Agency; and,
- specify the freshwater aquatic species that may not be sold without restriction.

These changes are reflected in the bill and in this Research & Economic Impact Statement.

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VII. SIGNATURES:

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