

STORAGE NAME: h0723a.ca

DATE: March 5, 1999

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
COMMUNITY AFFAIRS
ANALYSIS**

BILL #: HB 723

RELATING TO: Placement of Rip Current Warning Signs

SPONSOR(S): Committee on Law Enforcement & Crime Prevention and Representative Futch

COMPANION BILL(S): SB 1622 (s)

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

- (1) COMMUNITY AFFAIRS
 - (2) TRANSPORTATION & ECONOMIC DEVELOPMENT APPROPRIATIONS
 - (3)
 - (4)
 - (5)
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I. SUMMARY:

The bill requires that the Department of Community Affairs, through the Florida Coastal Management program, develop a program to encourage the placement of rip current warning signs. The Department coordinates the program, develops uniform signage, and assists in the distribution and erection of signs, *whenever there is a request* for such assistance from local government. The bill also limits liability for state and local governments for any injury caused by the posting or failure to post rip current warning signs.

The economic impacts of this bill are dependent on whether funds are appropriated to the Department to establish and operate a program to encourage the placement of rip current warning signs in areas where there is significant threat of dangerous rip currents which pose a hazard to the public.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION:

Rip Currents

A rip current is a strong surface current of water flowing out past the surf zone that can pull even the strongest swimmer into deeper water beyond the sandbar. Most drownings occur when people caught in the rip current try to swim toward shore directly against the current. They become totally exhausted and drown. Sometimes, would-be rescuers are also caught in the currents and drown.

Rip currents are like rivers flowing out through the surf. They generally form as a result of wave action. Waves are formed by wind blowing across the water. Sea waves can result from storms, often hundreds of miles from shore. Waves are not all equal in size. Sometimes a group of larger waves comes ashore one after another, in a set of waves. When these waves break, water is pushed up the slope of the shore. Gravity pulls this water back toward the sea. If it converges in a narrow river-like current moving away from shore, it forms what is known as a rip current.

Rip currents may pull continuously, but they can suddenly appear or intensify after a set of waves, or when there is a breach in an offshore sandbar. Longshore currents, inshore currents, and other bottom conditions can contribute to the formation of rip currents.

How To Escape A Rip Current

Rip currents are normally from 10 to 30 yards wide. The best escape from them, especially for weak swimmers or non-swimmers is wade or swim parallel to the beach until you are beyond the out flowing rip current, then make your way to shore. A rip current often weakens rapidly only a relatively short distance seaward of the sandbar, and thus another means of escape is to float with the current beyond the breakers, then swim shoreward at an angle away from rip current.

A trained person can recognize a rip current from the shoreline. You can sometimes identify a rip current by its foamy and choppy surface. The water in a rip current can be dirty from the sand being turned up by the current. The water may be colder than the surrounding water. Waves do not break as readily in a rip current as in adjacent water. Common characteristics to look for are a discoloration of the water that extends in a band offshore, a foam or seaweed streak extending seaward from the breakers, or lowered and offset waves.

Death Toll From Rip Currents

Rip currents in Florida are, on average, more deadly than hurricanes, tropical storms, tornadoes, severe thunderstorms, and lightning. Since 1989, rip current drownings have averaged 23 per year, across the state. Volusia county leads the state with 25 deaths caused by rip currents from 1989-1996. Bay and Dade Counties each had 24 deaths during this time period. Numerous other deaths resulted from rip currents in Broward, Brevard, Duval, Escambia, Martin Nassau, Okaloosa, Palm Beach, Pinellas, St. Johns, Santa Rosa, and Sarasota Counties during this time period.

Rip currents can occur at any time of the year, but the majority of deaths occur from March through August, when the combination of a large number of bathers and favorable wind conditions coincide. Many victims are tourists who are unfamiliar with surf conditions. Most of these deaths occur on unguarded beaches.

Two tragic deaths occurred in Brevard County over the past few years as a result of rip currents. James McGriff, 19 years old and a star football player at Palm Bay High School, drowned April 17, 1998, after being caught in a powerful rip current. Brian Mannix, who was 44, died June 2, 1996, after rescuing his 5 year old nephew from strong rip currents. Brevard County has already installed rip current warning signs along its coastline. The cost was approximately \$10,000 for 200 signs.

Florida Coastal Management Program -- Current Sign Program For Marking Beach Access Points

In 1978, the Florida Legislature adopted the Florida Coastal Management Act, codified as Chapter 380, Part II, Florida Statutes. The Florida Coastal Management Program (FCMP), under the auspices of the Department of Community Affairs, uses a variety of tools to educate, inform, and involve Floridians in decisions about coastal resources. In 1993, the Florida Coastal Management Program funded a study to identify all of the government-owned land parcels adjacent to the Atlantic and Gulf coasts. This study laid the foundation for a 1995 FCMP- funded issue paper by the University of Florida, Center for Tourism Research and Development to examine public access to the Florida Coast and to develop recommendations for the state to address problems with public access.

Using the information obtained in 1993, the researchers surveyed each government-owned land parcel for its access characteristics and concluded that of all the access points owned by public entities, only 35 percent were clearly marked as *public beach access points*. The study concluded that residents and tourists often experience confusion when they encounter legitimate public access points that are inaccurately marked as private or simply do not appear to be publicly used areas. The study recommended that the FCMP work to develop a standardized, easily recognizable sign that could be placed so that it can be read from adjacent roads. As a result, the FCMP designed and developed a standard beach access sign for use across the state, with the goal of distributing them to local governments free or at low cost.

The FCMP explored a number of production and distribution options prior to initiating the project, including the possibility of sign manufacture by the Florida Department of Corrections, using state prisoners. This did not prove to be a viable option and the FCMP ultimately contracted with a commercial sign production facility for the project. In November 1996, the FCMP, with the help of the League of Cities and the Florida Association of Counties, conducted a poll of local governments and municipalities regarding their willingness to participate in a voluntary beach access sign program. After getting positive responses from an adequate number of local governments, the FCMP decided to implement the sign program. For each interested local government or municipality, the FCMP agreed to supply signs free-of-charge. In turn, the local government or municipality supplied the FCMP with the number of public access points in its jurisdiction, and agreed to provide the labor and hardware necessary to install the signs. The program has proven to be quite popular, with 18 different local governments participating during the first year. The FCMP is currently in its second cycle of sign distribution.

B. EFFECT OF PROPOSED CHANGES:

This bill is designed to build on the expertise acquired by the Florida Coastal Management Program with its current *beach access sign program*. The bill provides for a cooperative effort between the FCMP and local governments to plan for and placement in the placement of *rip current warning signs* along the beaches and coastal areas of the state. The bill directs the Department of Community Affairs, through the FCMP, to develop and coordinate the rip current warning sign program. The program encourages the placement of rip current warning signs in coastal areas which may pose a significant risk to the public.

The bill requires that the Department adopt a uniform rip current warning sign to be placed at appropriate public access ways to the beaches or coastal areas. The Department makes rip current warning signs available, and assist the local governing body with the distribution and erection of rip current warning signs, whenever there is a request for such assistance. The bill also authorizes the Department to promulgate such rules and forms as are necessary to carry out the purposes of this act.

The placement of rip current warning signs is not mandatory. The bill allows local governments the option to choose whether or not rip current warning signs are appropriate for beach access points within their jurisdiction. For those jurisdictions which want to consider obtaining such signage, the Department assists in the distribution and erection of uniform rip current warning signs. The state, state agencies, local governments, and local government agencies are not liable for any injury caused by the placement or maintenance of rip current warning signs or the failure to install or maintain rip current warning signs.

In summary, the bill requires that the Department of Community Affairs, through the Florida Coastal Management Program, develop a program to encourage the placement of rip current warning signs. The Department would coordinate the program, develop uniform signage, and

assist in the distribution and erection of signs, *whenever* [the bill incorrectly states "wherever"] *there is a request* for such assistance from local government. Also, the bill limits liability for state and local governments for any injury caused by the posting or failure to post rip current warning signs.

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?

Yes, this bill requires the Department of Community Affairs to such promulgate rules and forms as are necessary to carry out the purposes of s. 380.275 and to ensure that all projects and assistance rendered under this section are for the purpose of providing and erecting rip current warning signs.

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

The Department of Community Affairs, through the FCMP, is responsible for the establishment and operation of a rip current warning sign program including the following: development of a uniform rip current warning sign; coordination with local governments for the distribution and erection of the signs, and development of necessary rules and forms necessary to carry out the purposes of the program.

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

No, this is a voluntary program and the Department is authorized to provide assistance within the limits of its appropriations for such purposes.

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?

N/A

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

N/A

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

N/A

2. Lower Taxes:

a. Does the bill increase anyone's taxes?

N/A

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

N/A

- 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?

N/A

3. Personal Responsibility:

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

N/A

- 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?

N/A

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

N/A

5. Family Empowerment:

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

- (1) Who evaluates the family's needs?

N/A

- (2) Who makes the decisions?

N/A

- (3) Are private alternatives permitted?

N/A

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

N/A

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

N/A

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

N/A

- 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?

N/A

- (2) service providers?

N/A

- (3) government employees/agencies?

N/A

D. STATUTE(S) AFFECTED:

Chapter 380, Florida Statutes

E. SECTION-BY-SECTION ANALYSIS:

Section 1: Provides that this act may be cited as the "McGriff-Mannix Act" in honor of James McGriff and Brian Mannix, who lost their lives as a result of rip currents.

Section 2: Creates section 380.275, providing as follows:

- Providing the intent of the act is to create a cooperative effort among state agencies and local governments to develop a plan for and assist in the placement of rip current warning signs along public beaches and costal areas of the state.
- Authorizing the Department of Community Affairs, through the Florida Coastal Management Program, must direct and coordinate the rip current warning sign program (the purpose of the program is to encourage the placement of rip current warning signs in areas which may pose a significant risk to the public due to rip currents).
- Authorizing the Department of Community Affairs to develop a uniform rip current warning sign for use at any public beach or along any coastal area where there may be a significant threat to the public as a result of rip currents.
- Authorizing the Department of Community Affairs to, within the limits of appropriations available for such purposes, to establish and operate a program to encourage the placement of rip current warning signs in areas where the public has established an access way to a beach or coastal area subject to significant threat of dangerous rip currents. The Department must coordinate with the local governing body for the distribution and erection of the warning signs whenever [incorrectly stated in the bill as "wherever"] there is a request for such assistance, by a local government.
- Authorizing the Department of Community Affairs to promulgate rules and forms as may be necessary to carry out the purpose of section 380.275. To ensure that all projects to which assistance is rendered under section 380.275, are for the purpose of providing and erecting rip current warning signs.
- Providing for liability protection for the State, state agencies, local governments, and local government agencies for any injury caused by the placement or maintenance of rip current warning signs or the failure to install or maintain the signs.

Section 3: Provides an effective date of October 1, 1999.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

Indeterminate.

2. Recurring Effects:

Indeterminate.

3. Long Run Effects Other Than Normal Growth:

N/A

4. Total Revenues and Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

Indeterminate, as this is a voluntary program and local governments are not required to participate.

2. Recurring Effects:

Indeterminate, as this is a voluntary program and local governments are not required to participate.

3. Long Run Effects Other Than Normal Growth:

Indeterminate, as this is a voluntary program and local governments are not required to participate.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

N/A

2. Direct Private Sector Benefits:

N/A

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

N/A

D. FISCAL COMMENTS:

This is a voluntary program and local governments are not required to participate. However, in its initial offering of *beach access signs*, the FCMP provided 313 signs at a cost of \$15.55 per sign (for the sign alone), costing a total of \$4,867.15. Brevard County's *rip current warning signs* (including signs, hardware, and placement) cost approximately \$10,000 for 200 signs, or about \$50 per sign. It is not known how many local governments might make requests for rip current

warning signs or how many locations each local government may recommend for placement of rip current warning signs.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require municipalities or counties to spend money or to take action that requires a significant expenditure of money.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill is not anticipated to reduce the authority of municipalities or counties to raise total aggregate revenues.

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

This bill does not reduce the total aggregate municipality/county percentage share of a state tax.

V. COMMENTS:

Department of Community Affairs: The Department of Community Affairs does not object to this bill.

Florida League of Cities: The League supports HB 723 in its current form.

Florida Association of Counties: The Florida Association of Counties is neutral on the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

The sponsor has agreed to an amendment to specify the Department's rulemaking authority authorization, under this section, is limited to the development of a program to provide assistance to local governments and to provide assistance for the placement and erection of rip current signs.

A technical amendment will be offered to correct a drafting error changing "wherever" to "whenever."

VII. SIGNATURES:

COMMITTEE ON COMMUNITY AFFAIRS:

Prepared by:

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