

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based only on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/CS/SB 806

SPONSOR: Fiscal Resource Committee, Natural Resources Committee, Agriculture Committee, and Senator Laurent

SUBJECT: Aquaculture

DATE: April 13, 2000 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Poole</u>	<u>AG</u>	<u>Favorable/CS</u>
2.	<u>Branning</u>	<u>Voigt</u>	<u>NR</u>	<u>Favorable/CS</u>
3.	<u>Keating</u>	<u>Wood</u>	<u>FR</u>	<u>Favorable/CS</u>
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____

I. Summary:

This Committee Substitute allows the Department of Agriculture and Consumer Services to expand its duties and responsibilities for administering the aquaculture program by transferring the regulation and licensing of aquaculture from various chapters throughout the statutes to ch. 597, F.S. Authorizes the department to perform certain duties and functions relating to aquaculture lease applications on behalf of the Board of Trustees for the Internal Improvement Trust Fund when so delegated by the Board of Trustees. Clarifies that the Board of Trustees would retain the authority to take final agency action in establishing any areas for leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases on sovereignty submerged lands. Prior to the granting of any lease by the Board of Trustees the Fish and Wildlife Conservation Commission shall comment when the application relates to bottom land in salt or fresh water. The comments are to be based on an assessment of the probable effect of the proposed lease on conservation of fish or wildlife or other programs under the constitutional or statutory authority of the commission.

Provides for fees collected for aquaculture leases to be deposited into the General Inspection Trust Fund rather than the Marine Resources Conservation Trust Fund. Increases the per acre lease surcharge from \$5 to \$10 per annum, beginning January 1, 2001. Requires that 40 percent of the registration fees from commercial vessels be transferred on a monthly basis by the Department of Highway Safety and Motor Vehicles to the General Inspection Trust Fund to be used for shellfish and aquaculture law enforcement and quality control programs. Provides for distribution of 4 percent of the total saltwater products dealers license fees from the Florida Saltwater Products Promotional Trust Fund to the Marine Resources Conservation Trust Fund of the FWCC for the purpose of processing the dealers licenses Requires first-time applicants of an Apalachicola Bay oyster harvesting license to attend an educational seminar which covers topics such as oyster biology, sanitary care of oysters, conservation of the Apalachicola Bay, small business management, and water safety.

Creates the Division of Aquaculture within the Department of Agriculture and Consumer Services and creates the position of Director within the division. Revises the regulation of noncultured shellfish harvesting. Authorizes the Fish and Wildlife Conservation Commission to adopt rules relating to noncultured shellfish harvesting seasons in Apalachicola Bay. Directs the commission to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Provides penalties for violations. Reallocates the distribution of fees for alligator egg collection permits and alligator hide validation tags to ensure that a portion of those fees are deposited into the General Inspection Trust Fund to provide marketing and education services for alligator products produced in the state.

Includes in the definition of “landowner” for the purpose of establishment of a community development district, the owner of a long term ground lease from a governmental entity in excess of 50 years. Include in the petition for the establishment of a community development district, a written consent to the establishment of the district by all “landowners” whose real property is included in the district and the written consent of a governmental entity when real property to be included in the district is owned by a governmental entity and subject to ground lease pursuant to s. S. 190.003(13), F.S. Provides that no levy of ad valorem taxes or non-ad valorem assessments by a board of a district on property of a governmental entity that is subject to a ground lease as described in s. 190.003(13), shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

This bill amends ss. 190.003, 190.005, 190.021, 253.002, 253.01, 253.67, 253.71, 253.72, 253.75, 270.22, 328.76, 370.06, 370.07, 370.16, 370.161, 372.071, 372.6673, 372.6674, 373.046, 403.814, 409.2598, 500.03, 570.18, 570.29, 597.003, 597.004, 597.0041, 597.005, and 597.006, F.S.

This bill repeals ss. 370.16(1)-(11), (13), (16), (17), (19), (22), (24)-(27) and 370.26(3), (4), and (5), F.S.

This bill creates ss. 570.61, 570.62, and 597.010, F.S

Section 370.071, F.S., is transferred and renumbered as s. 597.020, F.S., and is amended.

II. Present Situation:

Article X, section 11 of the State Constitution, provides that title to lands under navigable waters of the state is held by the state, in trust for all the people. Private use of portions of such lands may be authorized by law, but only when not contrary to the public interest.

Section 253.03, F.S., provides that the Board of Trustees of the Internal Improvement Trust Fund (Governor and Cabinet) is vested and charged with the acquisition, administration, management, control, supervision, conservation, protection and disposition of all lands owned by the state.

Section 253.77, F.S., provides that a person may not commence any excavation, construction, or other activity involving the use of sovereign or other lands of the state, the title to which is vested in the Board of Trustees of the Internal Improvement Trust Fund, until the person has received the required leases, license, easement, or other form of consent authorizing the proposed use.

Section 253.68, F.S., provides that to the extent that it is not contrary to the public interest, the Board of Trustees may lease submerged lands to which it has title for the conduct of aquaculture activities. This section provides that it shall be the policy of the state to foster aquaculture development when the aquaculture activity is consistent with state resource management goals, environmental protection, proprietary interests, and the state aquaculture plan.

Section 597.002, F.S., provides that the Legislature declares that aquaculture is agriculture and as such the Department of Agriculture and Consumer Services shall be the primary agency responsible for regulating aquaculture.

Section 597.003, F.S., provides that the Department of Agriculture and Consumer Services is designated the lead agency in encouraging the development of aquaculture in the state.

Chapters 373 and 403, F.S., provide for the Department of Environmental Protection and the water management districts to have powers to control and prohibit pollution of waters of the state and to regulate such activities through a system of permits.

Aquaculture leases may be granted for a 10-year term which is renewable. In addition to the fixed rental fees, a surcharge of \$5 per acre per year is levied on each lease. As provided in s. 270.22, F.S., sale, lease and rental proceeds from state lands are to be deposited into the Internal Improvement Trust Fund, except that proceeds from the lease of submerged lands for aquaculture are deposited into the Marine Resources Conservation Trust Fund in the DEP. The aquaculture fees are to be used for shellfish-related aquaculture activities, including research, lease compliance inspections, mapping, and siting.

The Marine Resources Conservation Trust Fund also receives funds collected from the registration of vessels through the Department of Highway Safety and Motor Vehicles and the state tax collectors. These funds are used for recreational channel marking; public launching facilities; law enforcement and quality control programs; aquatic weed control; manatee protection; and marine mammal protection and recovery.

Chapter 190, F.S., creates the "Uniform Community Development District Act of 1980". Section 190.003(13), F.S., defines "landowner" for the purpose of establishment of a community development district. Section 190.005(1), F.S., provides for the establishment of districts. The written consent to the establishment of a district by the owner or owners of 100 percent of the real property must be included in the petition for establishment. Section 190.021, F.S., gives the elected board of the district the power to levy and assess an ad valorem tax on all taxable property in the district.

III. Effect of Proposed Changes:

Section 1. Section 253.002, F.S., is amended to authorize the Department of Agriculture and Consumer Services (DACS) to perform the staff duties and functions related to the leasing of submerged state lands owned by the Board of Trustees of the Internal Improvement Trust Fund. The board of trustees may delegate to DACS the authority to take final agency action on behalf of the board of trustees on leases pursuant to ss. 253.67-253.75 and s. 597.010, F.S. However, the Board of Trustees shall retain the authority to take final agency action on establishing areas for

leasing, new leases, expanding existing lease areas, or changing the type of lease activity in existing leases. Upon the issuance of an aquaculture lease or other real property transaction relating to aquaculture, DACS must send a copy of the document and the accompanying survey to the DEP.

Section 2. Section 253.01, F.S., is amended to require aquaculture lease fees to be deposited into the General Inspection Trust Fund of the Department of Agriculture and Consumer Services.

Section 3. Section 253.67, F.S., is amended to revise the definition of “department” to mean the Department of Agriculture and Consumer Services instead of the DEP for purposes of ss. 253.67-253.75, F.S., relating to aquaculture leases on state-owned submerged land.

Section 4. Section 253.71, F.S., is amended to increase the aquaculture lease contract surcharge from \$5 to \$10 per acre, or any fraction of an acre, per annum starting January 1, 2001. The performance requirements for effective cultivation are revised to reflect the business plan provided for in the lease contract.

Section 5. Section 253.72, F.S., is amended to require aquaculture lessees to stake off and mark areas under lease according to the conditions of the lease agreement and rules of the board of trustees. A cross-reference is corrected.

Section 6. Section 253.75, F.S., is amended to provide that prior to the granting of any lease, the Board of Trustees shall request comments from the Fish and Wildlife Conservation Commission when the application relates to bottom land covered by fresh or salt water. The comments shall be based on factors such as an assessment of the probable effect of the proposed lease on the conservation of fish or wildlife or other programs under the constitutional or statutory authority of the Fish and Wildlife Conservation Commission.

Section 7. Section 270.22, F.S., is amended to require rental fees for aquaculture leases to be deposited into the General Inspection Trust Fund of DACS instead of the Marine Resources Conservation Trust Fund.

Section 8. Section 328.76, F.S., is amended to require that 40 percent of the registration fees from commercial vessels is to be transferred by the Department of Highway Safety and Motor Vehicles, on a monthly basis, to the General Inspection Trust Fund. Currently, this 40 percent is to be used for law enforcement and quality control programs. These fees would now be designated to be used for shellfish and aquaculture law enforcement and quality control programs. This bill further clarifies that, on a monthly basis, 25 percent of the funds collected shall be transferred to the Florida Saltwater Products Promotion Trust Fund within DACS to provide marketing and extension services.

Section 9. Section 370.06, F.S., is amended to delete DACS’s authority to issue special activity licenses for the harvest or cultivation of oysters, clams, mussels, and crabs when the activities relate to quality control, sanitation, public health regulations, innovative technologies, or the protection of shellfish resources. The bill requires first-time applicants for an Apalachicola Bay oyster harvesting license to attend an educational seminar regarding oyster biology and sanitation, small business management, and water safety.

Section 10. Section 370.07, F.S., is amended to provide for distribution of 4 percent of the total saltwater products dealers license fees from the Florida Saltwater Products Promotional Trust Fund to the Marine Resources Conservation Trust Fund of the FWCC for the purpose of processing the dealers licenses. The bill also requires the Department of Revenue to transfer the Apalachicola Bay oyster surcharge to the General Inspection Trust Fund of DACS rather than the Marine Resources Conservation Trust Fund. The responsibility for supplying the Department of Revenue with a current list of wholesale saltwater products dealers is transferred from the commission to DACS.

Section 11. Section 370.16, F.S., is amended to revise the regulation of noncultured shellfish harvesting. The DEP's responsibility to improve, enlarge, and protect the natural oyster and clam reefs of the state is deleted. The Fish and Wildlife Conservation Commission is authorized to adopt rules relating to noncultured shellfish harvesting seasons in Apalachicola Bay. The dates previously designated for noncultured shellfish harvesting and dates the bay must be closed for the purpose of oyster relaying and transplanting and shell planting are deleted. The commission, in cooperation with DACS, shall monitor the impacts of the new harvesting schedule on the bay and on local shellfish harvesters to determine whether the new harvesting schedule should be discontinued. The requirement that the commission must consider, by rule, restricting harvesting on shellfish grants or leases to the same days of the week as harvesting on public beds is deleted. The language relating to special activity licenses for the harvest of shellfish by mechanical means is revised. The language requiring notification of the commission when a leaseholder plans to use a dredge or scrape on a lease is deleted. Also deleted is language that limits the number of dredges or scrapes to be operated on a lease at a time. The commission is directed to apply other statutes, rules, or conditions necessary to protect the environment and natural resources from improper transport, deployment, and operation of a dredge or scrape. Provides penalties for violations. Persons dealing in shellfish harvested from public reefs or beds are required to keep a record of items purchased, used, or handled, as well as other information. A definition for "commercial use" is deleted.

Section 12. Section 370.161, F.S., is amended to correct a cross-reference.

Section 13. Section 372.071, F.S., is amended to expand the arrest powers of law enforcement officers for DEP and the Fish and Wildlife Conservation Commission to specifically include violations of aquaculture statutes.

Section 14. Section 372.6673, F.S., currently allows the Fish and Wildlife Conservation Commission to assess a fee of up to \$5 for each alligator egg collected. Of that, \$1 may be transferred to the General Inspection Trust Fund in DACS. This bill requires that irrespective of whether an alligator fee is assessed, \$1 per egg collected and retained shall be transferred from the alligator management program to the General Inspection Trust Fund in DACS.

Section 15. Section 372.6674, F.S., currently allows the Fish and Wildlife Conservation Commission to assess a fee of up to \$30 for each alligator hide validation tag. Of that, \$5 per validated hide, excluding those validated from public hunt programs, may be transferred to the General Inspection Trust Fund in DACS. This bill requires that irrespective of whether an alligator hide validation tag fee is assessed, \$5 per validation hide, excluding those validated from

public hunt programs and alligator farms, shall be transferred from the alligator management program to the General Inspection Trust Fund in DACS.

Section 16. Section 373.046, is amended to delete the DEP's regulatory responsibility under part IV of ch. 373, F.S., relating to environmental permitting, for saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity. This section also deletes the DEP's authority to regulate aquaculture activities within the Northwest Florida Water Management District, and the water management districts' environmental permitting authority for certain aquaculture activities.

Section 17. Section 403.814, F.S., is amended to correct a cross-reference.

Section 18. Section 409.2598, F.S., is amended to allow the Department of Revenue to suspend or deny a license or permit issued under s. 597.010, F.S., (aquaculture activities) for any obligor with a delinquent child support obligation or who fails to comply with subpoenas, orders to appear, orders to show cause, or similar orders relating to paternity or child support hearings.

Section 19. Section 500.03, F.S., is amended to correct a cross-reference.

Section 20. Section 570.18, F.S., is amended to increase the number of divisions within DACS from 11 to 12.

Section 21. Section 570.29, F.S., is amended to add a new Division of Aquaculture to DACS.

Section 22. Section 570.61, F.S., is created to provide for the powers and duties of the Division of Aquaculture. The division shall:

- Administer the aquaculture certification program;
- Enforce shellfish sanitation standards;
- Administer the aquaculture and shellfish lease programs;
- Ensure that shellfish processing facilities comply with applicable food safety requirements;
- Mitigate, create, and enhance natural shellfish harvesting areas;
- Provide education to fishermen and aquaculturists;
- Promote aquaculture development;
- Purchase commodities as necessary to carry out the provisions of this section;
- Receive and accept grants, aids, gifts, and donations;
- Provide grants, aids, and other technical assistance; and
- Ensure the safety of Florida waters.

Section 23. Section 570.62, F.S., is created to provide for the duties of the Director of the Division of Aquaculture. The director is to be appointed by the Commissioner of Agriculture.

Section 24. Section 597.003, F.S., is amended to expand the powers and duties of DACS for aquaculture activities. A portion of profits from aquaculture contracts is to be set aside for funding aquaculture projects that have been recommended by the Aquaculture Review Council. The DACS is to make available state lands and the water column for the purpose of producing

aquaculture products when the aquaculture activity is compatible with state resource management goals, environmental protection, and propriety interest and when such state lands and waters are determined to be suitable for aquaculture development by the Board of Trustee of the Internal Improvement Trust Fund. Also, DACS is to be responsible for all saltwater aquaculture activities located on sovereignty submerged land or in the water column above such land and adjacent facilities directly related to the aquaculture activity.

The DACS shall act in cooperation with other state and local agencies and programs to identify and designate sovereignty lands and waters that would be suitable for aquaculture development. Also, the department shall identify and evaluate specific tracts of sovereignty submerged lands and water columns in various areas of the state to determine where such lands and waters are suitable for leasing for aquaculture purposes.

The DACS is to provide assistance in developing technologies applicable to aquaculture activities, evaluate practicable production alternatives, and provide agreements to develop innovative culture practices.

Regarding aquaculture, DACS is to act as a clearinghouse for aquaculture applications, and act as a liaison between the Fish and Wildlife Conservation Commission, the Division of State Lands, the DEP district offices, other divisions within the DEP, and the water management districts. Except as specifically provided, the Department of Agriculture shall be responsible for regulating marine aquaculture producers.

Section 25. Subsections (3), (4), and (5) of s. 370.26, F.S., are repealed. Subsection (3) which is repealed requires DACS to act as a clearinghouse and liaison with other agencies. That power has been moved to s. 597.003, F.S.

Subsection (4) which is repealed provides that the DEP shall make lands and water columns available for producing aquaculture products when such lands and waters are determined to be suitable for aquaculture development by the Board of Trustees of the Internal Improvement Trust Fund. This power was given to DACS in section 24 of this bill which amends s. 597.003, F.S.

Subsection (5) which is repealed provides that authorizations under part IV of ch. 373, F.S., shall be issued in conjunction with the authorization to use sovereignty submerged land for aquaculture when the aquaculture activities are authorized in the aquaculture lease agreement. This provision was not moved to s. 597.003, F.S.

Section 26. Section 597.004, F.S., is amended to revise provisions relating to aquaculture certificates of registration.

Section 27. Section 597.0041, F.S., is amended to provide penalties for violations of shellfish leases or by shellfish processors.

Section 28. Section 597.005, F.S., is amended to require the Aquaculture Review Council to review the annual aquaculture legislative budget requests for research projects that have been submitted to DACS and to rank them according to the state aquaculture plan.

Section 29. Section 597.006, F.S., is amended to revise the membership of the Aquaculture Interagency Coordinating Council to delete the water management districts from the council, and delete an obsolete reference to the Department of Commerce and replace it with the Office of Tourism, Trade, and Economic Development.

Section 30. Section 597.010, F.S., is created to provide for regulation and enforcement of shellfish leases by DACS. These provisions are essentially moved from s. 370.16, F.S., where they were regulated by the Fish and Wildlife Conservation Commission. The specific provisions include:

- Requiring any qualified person who desires to lease a part of the bottom, water column, or bed of any of the water of the state to submit a written application to DACS.
- Requiring lands leased to be as compact as possible. Provides conditions to be considered before lands are leased.
- Requiring DACS to use official maps, surveys, and reports as evidence of natural oyster and clam reefs and beds. Authorizes the department to make surveys of any natural oyster or clam reefs or beds when necessary, at the applicant's expense.
- Requiring DACS to provide the applicant with a copy of the lease and to retain a registered copy in a lease book. Requires the lessees to comply with lease provisions. The lessee is required to stake off the water bottoms leased. The department may stipulate specifications in each individual lease contract for the markers or corner posts. Failure of the lessee to keep the markers in good condition shall subject the lessee to a fine not exceeding \$100 for each and every offense. This is the same fine amount that was provided for in s. 370.16, F.S.
- Requiring all leases previously issued pursuant to s. 370.16, F.S., to be enforced under the authority of ch. 597, F.S., and continue in perpetuity. Currently, s. 370.16, F.S., provides that the rent charged for leases is a minimum of \$15 per acre, adjusted every 5 years based on the 5-year average of the Consumer Price Index. This bill provides that the annual rental fee would be a flat rate of \$15 per acre per year, to be adjusted every five years based on the Consumer Price Index. Rental fees collected are to be deposited into the General Inspection Trust Fund and used for shellfish aquaculture activities.
- Requiring lease contracts to stipulate that failure to timely pay the rent on or before January 1 of each year shall cause DACS to terminate and cancel the lease after 30-day notice to the lessee. A late fee is provided and the department is authorized to take possession of leases after notice has expired.
- Providing for a surcharge of \$10 per acre per year. Currently, the surcharge in s. 370.16, F.S., is \$5 per acre. This bill increases the surcharge to \$10 per acre. The purpose of the surcharge is to provide a mechanism to have financial resources immediately available for improvement of lease areas and for cleanup and rehabilitation of abandoned or vacated lease sites. The DACS is authorized to adopt rules. Moneys in the fund not needed for cleanup and rehabilitation may be invested as provided for by statute. Interest received on such

investment shall be credited to the fund. The funds received from the surcharge may only be used for certain specified purposes.

- Providing cultivation requirements for leased lands. The DACS is authorized to stipulate in each individual lease contract the types, shape, depth, size, and height of clutch materials on lease bottoms. Time frames for cultivation of leased areas are provided. The DACS may revoke leases under certain conditions. The department is authorized to adopt rules pertaining to the water column over shellfish leases.
- Prohibiting the transfer of leases under this section without the written approval of DACS. Currently, a \$50 transfer fee is provided in s. 370.16, F.S. This bill maintains the \$50 transfer fee. The department is required to keep proper indexes so that all original leases and all subsequent changes and transfers can be easily and accurately ascertained.
- Providing for cancellation of a lease to natural reefs or beds when a petition is filed with DACS. Currently, s. 370.16, F.S., provides for a \$10 deposit to defray expenses. This bill increases the amount of the deposit to \$500.
- Authorizing DACS, if it deems it to be in the best interest of the state, to include natural reefs or beds in a lease. The department is authorized to fix a reasonable value on the natural area, to be paid by the applicant for lease of such submerged land. Natural reefs may not be included in any shellfish or aquaculture lease granted in Franklin County. The department is required to settle all disputes as to boundaries between lessees.
- Prohibiting trespassing on leased beds.
- Requiring DACS, as well as the Fish and Wildlife Conservation Commission, to improve, enlarge and protect the state's natural oyster and clam reefs and beds. The department, in cooperation with the commission, is required to provide the Legislature with recommendations for development and protection of the rights of the state and private holders with respect to the oyster and clam business.
- Authorizing DACS to issue special activity licenses to permit the harvest or cultivation of oysters, clams, mussels, and crabs.
- Creating a violation for staking off water bottoms or bedding oysters without first obtaining a lease. Certain exceptions are provided.
- Authorizing the Fish and Wildlife Conservation Commission to adopt rules for setting the noncultured shellfish harvesting seasons in Apalachicola Bay. Requiring the commission, in cooperation with the department, to monitor the impacts of any new harvesting schedules on the bay and on local shellfish harvesters.
- Prohibiting the use of a dredge or any implement other than hand tongs in removing oysters from natural or artificial state reefs or beds. This restriction applies to all areas of Apalachicola Bay, excluding private grounds leased or granted prior to July 1, 1989, if the lease or grant specifically authorizes the use of implements other than hand tongs for

harvesting. The Fish and Wildlife Conservation Commission may issue a special activity license for harvesters wishing to use a dredge or machinery for harvesting clams or mussels. The department may approve harvesting of shellfish by dredge or other mechanical means from privately held leases or grants in Apalachicola Bay under certain conditions. Provides for revocation of the license and/or lease under certain conditions.

- Authorizing DACS to designate areas, as well as conditions, for the taking of oysters and clams to be transplanted on leases, grants, and public areas.
- Allowing the boards of county commissions to appropriate and expend funds for the purpose of planting and transplanting shellfish to enhance the oyster and clam industries of the state.
- Prohibiting the dredging of dead shell deposits in the state.
- Requiring DACS to cooperate with the United States Fish and Wildlife Service. Authorizing the department to accept donations, grants, and matching funds from the federal government to carry out its oyster resource and development responsibilities.
- Authorizing DACS to claim 50 percent of all shells from oysters and clams shucked commercially in the state, with some exceptions. Providing for the sale of excess shells.
- Providing for the protection of all clam beds, oyster beds, shellfish grounds, and oyster reefs by DACS, in cooperation with the Fish and Wildlife Conservation Commission and the DEP. The Department of Health is authorized to make available its laboratory testing facilities and apparatus when needed.
- Requiring all vessels used for harvesting, gathering, or transporting oysters or clams for commercial purpose to be constructed and maintained to prevent contamination or deterioration of shellfish.

Section 31. Section 370.071, F.S., is renumbered as s. 597.020, F.S., and is amended to authorize DACS to regulate shellfish processors. The regulation of shellfish processors includes processors processing scallops. The department is authorized to require a fee for licensure or certification of processing facilities, and levy an administrative fine for violation of rules relating to regulation of shellfish processors.

Section 32. Section 190.003(13), F.S., is amended to include in the definition of “landowner” for the purpose of establishment of a community development district, the owner of a long term ground lease from a governmental entity in excess of 50 years.

Section 33. Section 190.005(1), F.S., is amended to include in the petition for the establishment of a community development district, a written consent to the establishment of the district by all “landowners” whose real property is included in the district and the written consent of a governmental entity when real property to be included in the district is owned by a governmental entity and subject to ground lease pursuant to s. S. 190.003(13), F.S.

Section 34. Subsection (10) is added to s. 190.021, F.S., providing that no levy of ad valorem taxes or non-ad valorem assessments by a board of a district on property of a governmental entity that is subject to a ground lease as described in s. 190.003(13), shall constitute a lien or encumbrance on the underlying fee interest of such governmental entity.

Section 35. This act shall take effect July 1, 2000.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

Currently, there is a \$5 surcharge on aquaculture lease contracts. This bill increases the surcharge to \$10.

Currently, the Fish and Wildlife Conservation Commission is authorized to collect a fee of \$5 per alligator egg taken, of which \$1 may be transferred to the General Inspection Trust Fund for marketing purposes. This bill reduces the fee to \$4 and requires the commission to collect an additional \$1 to be transferred to the General Inspection Trust Fund.

Currently, the Fish and Wildlife Conservation Commission is authorized to collect of fee of \$30 for each alligator hide validation tag, of which \$5 may be transferred to the General Inspection Trust Fund for marketing purposes. This bill reduces the fee to \$25 and requires the commission to collect an additional \$5 to be transferred to the General Inspection Trust Fund.

Lease rental fees are currently statutorily set at a minimum of \$15 per acre. This bill provides that fee will be \$15.

Currently, a \$10 deposit is required to defray expenses on a canceled lease. This bill increases that deposit to \$500.

B. Private Sector Impact:

The Cultured Shellfish Theft Reward Program was created in 1999, but was not funded. Section 597.0045, F.S., provides that each person who provides information leading to the arrest and conviction of an individual or individuals for illegally possessing, harvesting, or attempting to harvest cultured shellfish is eligible for a reward of up to \$2,500. The \$5 increase in the aquaculture lease surcharge will fund the program. This program is intended to discourage theft and increase productivity for farmers.

C. Government Sector Impact:

According to the Fish and Wildlife Conservation Commission, the commission suspended the collection of the alligator hide validation tag fees last year and have subsequently decided not to require a fee for those validation tags. At the time the alligator licenses are sold, the farmer receives a number of validation tags which are attached to the hide once a hide is taken. The farmer then sends the fee for that tag when it is affixed to the hide. Since the commission is no longer charging for these validation tags, no money is available for transfer to the General Inspection Trust Fund. This bill would require the commission to at least collect \$5 and then transfer that amount to the General Inspection Trust Fund.

The bill also reduces the fee that the commission may charge for each alligator egg collected. Currently, the commission assess a \$5 fee per egg, of which \$1 may be transferred to the General Inspection Trust Fund. This bill would statutorily reduce the fee to \$4 and requires the commission to collect an additional \$1 for transfer to the General Inspection Trust Fund. This would reduce the commission's revenues.

Most of the fees in the bill associated with the aquaculture leases are currently being assessed. The bill moves the program to the Department of Agriculture and Consumer Services. However, there is at least one instance where there is a substantial increase. Currently, s. 370.16, F.S., provides for a \$10 deposit to defray certain expenses when a lease is canceled. This bill increases the amount to \$500. While \$10 may be an unreasonably low amount, it is not clear whether \$500 is excessive.

The \$5-increase in the surcharge on leases is expected to produce an additional \$9,000 per year for next 3 fiscal years.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
