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DATE: March 28, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION
ANALYSIS**

BILL #: HB 1913 (PCB NREP 01-2)
RELATING TO: Fish & Wildlife Conservation Commission
SPONSOR(S): Committee on Natural Resources & Environmental Protection and
Representative Harrington

TIED BILL(S):

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

- (1) HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
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I. SUMMARY:

PCB 02 contains technical revisions to Chapters 370 and 372, Florida Statutes, regulating the Fish and Wildlife Conservation Commission. The proposed committee bill clarifies qualifying criteria for persons with disabilities to be declared exempt from licensing requirements, or eligible to receive free licenses, and provides that persons who qualified for disability licenses prior to July 1, 1997, can continue using those licenses.

Outdated provisions relating to appointments to federal fishery councils are revised, and provisions relating to depredation permits for the taking of stone crabs by marine aquaculture producers are amended. The Department of Environmental Protection is reinstated as the state agency responsible for permitting artificial reef construction, and the Fish & Wildlife Conservation Commission is designated as the state agency responsible for regulatory markers for manatee protection speed zones.

PCB 02 takes effect on July 1, 2001.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Chapter 2000-362, Laws of Florida (CS/CS/SB 386)

In the 2000 Regular Session, the Legislature revised sections 370.06, 370.0605, and 372.561, F.S., that regulate the circumstances under which persons with disabilities may either receive a free license or be declared exempt from commercial or recreational hunting and fishing license requirements. Prior to last session, persons could qualify as a totally and permanently disabled veteran; as someone declared totally and permanently disabled by the United States Social Security Administration; or with a letter from a physician certifying that the individual was permanently and totally disabled under workers compensation criteria established in chapter 440, Florida Statutes.

The Fish & Wildlife Conservation Commission specified two reasons for asking the Legislature to revise the criteria: The United States Social Security Administration does not certify persons as totally disabled, and persons without real and catastrophic disabilities appeared to be qualifying for the free license or the exemption using a physician's letter. The Legislature enacted CS/CS/SB 386, 2nd Engrossed, to provide the following:

- Totally and permanently disabled veterans qualify for a free license that has to be renewed upon request every five years.
- Persons certified as totally disabled by the United States Social Security Administration qualify for a free license by presenting the certificate of disability. Licenses issued under these provisions are two-year licenses and are renewable upon proof of certification.

However, problems still remain with the disability exemption criteria. The Railroad Retirement Board certifies former railway workers as totally and permanently disabled but under the new criteria, these persons are ineligible for the exemptions because they don't qualify under Social Security. Also, the Fish & Wildlife Conservation Commission declared that under the new law, all disability licenses issued prior to July 1, 1997 were invalid, and required persons in possession of those licenses to either surrender them and purchase a new license, or qualify for an exemption under the new criteria.

The FWCC decided to delay enforcing provisions of the law relating to licenses issued prior to July 1, 1997, until July 1, 2001, to give license holders time to qualify under the new criteria. However, there still appear to be questions surrounding the declaration of the licenses as invalid.

Chapter 2000-364, Laws of Florida (CS/CS/CS/SB 806)

In the 2000 Regular Session, the Legislature added subsection (3) to s. 370.13, F.S., to authorize the FWCC to issue a depredation endorsement entitling a saltwater products license holder to possess up to 75 stone crab traps and 75 blue crab traps for the incidental take of destructive or nuisance crabs within one mile of aquaculture shellfish beds. Although any saltwater products license holder could qualify for the free endorsement, the intent was to limit the depredation endorsement to certified marine aquaculture producers. Also, the sale of crabs taken with a depredation endorsement is prohibited. However, there is some confusion because the depredation endorsement is on the saltwater products license and the license itself authorizes the sale of saltwater products.

Additional Technical Revisions

Statutory language in ss. 370.19 and 370.20, F.S., authorizing appointments to the Atlantic States Marine Fisheries Commission and the Gulf States Marine Fisheries Commission is archaic and does not reflect the current structure of the Legislature. The Commissions promote better utilization of marine resources by development of joint programs for the promotion and protection of fisheries. The member states appoint representatives to the Commissions and under Florida law, one of the appointments to each Commission must be a member of the state legislature designed by the House Committee on Commerce and Reciprocal Trade. Since this committee no longer exists, statutory provisions must be updated.

The artificial reef construction program authorized in s. 370.25, F.S., was amended last year to transfer the permitting authority and the program functions from the Department of Environmental Protection (DEP) to the FWCC. Although the Commission actually performs the program functions, artificial reef construction and placement is permitted by the DEP.

Pursuant to s. 374.977, F.S., the DEP approves the posting of and joins in the selection of locations for regulatory markers for manatee protection. Responsibility for the protection, regulation, recovery and rehabilitation of manatees was transferred to the FWCC in 1999, and this provision should be updated to reflect that transfer.

C. EFFECT OF PROPOSED CHANGES:

PCB 02 provides the following:

- Authorizes disability license exemptions for persons certified as totally and permanently disabled by the Railroad Retirement Board.
- Revises disability license exemptions for persons certified disabled by the U.S. Social Security Administration.
- Disability licenses issued prior to July 1, 1997, are valid when produced upon request.
- The DEP will permit artificial reef construction.
- The FWCC is responsible for regulatory markers for manatee protection speed zones.
- Revises certain reporting requirements for tax collectors.
- Authorizes citizen support organizations to receive funding from the FWCC and the FMRI.
- Clarifies that funds deposited into the MRCTF will be used for saltwater fisheries.
- Updates language authorizing appoints to the Gulf States and Atlantic States Marine Fisheries Commissions.

D. SECTION-BY-SECTION ANALYSIS:

Section 1. Amends subsection (2) of s. 370.06, F.S., to provide an exemption from the income requirement for issuing a restricted species endorsement on saltwater products license for residents certified to be totally and permanently disabled by the Railroad Retirement Board. Deletes language providing that a Disability Award Notice issued by the U.S. Social Security Administration is not sufficient certification for a resident to obtain the income exemption.

Section 2. Amends s. 370.0605, F.S., to provide for free saltwater fishing licenses for residents declared totally and permanently disabled by the Railroad Retirement Board. Authorizes the FWCC to issue free licenses to persons certified as disabled by the U.S. Social Security Administration and corrects language requiring a certificate of total disability that Social Security does not issue. Provides that notwithstanding other provisions of s. 370.0605, F.S., disability licenses issued prior to July 1, 1997, are valid when produced upon request.

Section 3. Amends s. 370.0608, F.S., to clarify that funds deposited into the Marine Research Conservation Trust Fund will be used for programs, research, and additional responsibilities of the FWCC related to saltwater fisheries. Provides that not less than 30 percent of recreational saltwater fishing license revenues deposited into the Marine Resources Conservation Trust Fund will be used for marine law enforcement efforts. Deletes outdated provisions requiring that saltwater license fees will be deposited into the Marine Resources Conservation Trust Fund within a 7-day period.

Section 4. Amends s. 370.0609, F.S., to delete language requiring the FWCC to expend grants and research money from the Marine Resources Conservation Trust Fund to the Florida Marine Research Institute (FMRI) and the Indian River Research Institute. The FMRI, which is part of the FWCC, receives direct appropriations through the legislative process as a program category of the agency. The Indian River Research Institute is defunct.

Section 5. Amends s. 370.062, F.S., to provide that tax collectors must submit all unissued tags from the tarpon license program by August 15 of each year. Deletes outdated provisions requiring the deposit of tarpon tag fees into the Marine Resources Conservation Trust Fund within a 7-day period.

Section 6. Amends subsection (3) of s. 370.13, F.S., to clarify provisions relating to the depredation endorsement issued by the FWCC for the incidental take of stone crabs and blue crabs.

Section 7. Amends s. 370.19, F.S., to provide that the Legislature will name one legislator as an appointee to the Atlantic States Marine Fisheries Commission. The President of the Senate and the Speaker of the House make appointments on a rotating basis, and the first appointee will be a House member.

Section 8. Amends s. 370.20, F.S., to provide that the Legislature will name one legislator as an appointee to the Gulf States Marine Fisheries Commission. The President of the Senate and the Speaker of the House make appointments on a rotating basis, and the first appointee will be a Senate member.

Section 9. Amends subsection (6) of s. 370.25, F.S., to provide that DEP, and not the FWCC, will issue artificial reef permits.

Section 10. Amends subsection (1) of s. 372.0215, F.S., to provide that citizen support organizations can receive funding from the FWCC or the FMRI.

Section 11. Amends subsection (5) of s. 372.561, F.S., to provide for free hunting and freshwater fishing licenses for residents declared totally and permanently disabled by the Railroad Retirement Board. Authorizes the FWCC to issue free licenses to persons certified as disabled by the U.S. Social Security Administration to correct language requiring a certificate of total disability that Social Security does not issue. Provides that notwithstanding any other provisions of the subsection, disability licenses issued prior to July 1, 1997, are valid when produced upon request.

Section 12. Amends s. 374.977, F.S., to provide that the FWCC is responsible for posting and maintaining regulatory markers for manatee speed zones.

Section 13. Provides an effective date of July 1, 2001.

III. 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:

PCB 02 will have a minimal economic impact on the private sector. However, disabled persons in possession of free licenses issued prior to July 1, 1997, will benefit because they will not be required to either purchase licenses or qualify under the new criteria.

D. FISCAL COMMENTS:

None.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

PCB 02 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:

PCB 02 does not reduce the authority that municipalities or counties have to raise revenues.

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

PCB 02 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The FWCC has expressed two concerns regarding the reinstatement of disability licenses issued prior to July 1, 1997:

- Public outcry from disabled persons who were issued a free license under the old criteria but no longer have the license in their possession.
- A question of fairness – all disabled persons should have to qualify under the same criteria and no disability exemption should result in a free lifetime license.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON HOUSE NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

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