

STORAGE NAME: h1285.gga.doc
DATE: February 17, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: HB 1285
RELATING TO: Environmental Protection
SPONSOR(S): Representative Clarke
TIED BILL(S):

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

- (1) NATURAL RESOURCES & ENVIRONMENTAL PROTECTION YEAS 11 NAYS 0
 - (2) GENERAL GOVERNMENT APPROPRIATIONS
 - (3) COUNCIL FOR READY INFRASTRUCTURE
 - (4)
 - (5)
-

I. SUMMARY:

HB 1285 provides an exemption from permitting requirements for the construction, installation, operation, or maintenance of floating vessel platforms or floating boat lifts of limited size that are not used for commercial purposes, provided certain location and construction requirements are met.

Authorizes the Department of Environmental Protection to adopt by rule a general permit for floating vessel platforms or floating boat lifts (platforms or lifts) that do not qualify for the exemption but do not cause significant adverse impacts. Provides that such general permit constitutes permission to use certain state lands. Restricts local government regulation of floating vessel platforms or floating boat lifts covered by such general permits.

HB 1285 shall take effect upon becoming a law.

THIS DOCUMENT IS NOT INTENDED TO BE USED FOR THE PURPOSE OF CONSTRUING STATUTES, OR TO BE CONSTRUED AS AFFECTING, DEFINING, LIMITING, CONTROLLING, SPECIFYING, CLARIFYING, OR MODIFYING ANY LEGISLATION OR STATUTE.

SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

Docks are currently permitted and regulated under chapters 253, 373, or 403 Florida Statutes. Section 253.12, F.S., contains requirements and procedures for the use and lease of submerged lands on which docks are located. Provisions of chapter 373, F.S., deal with the conveyance of lands to the water management districts and allowable uses of such lands. Thus many individuals with docks may fall under the purview of the districts. Finally, provisions of section 403, part V, F.S., outline general permitting procedures concerning activities involving the waters of the state. In addition this section of law also deals with permits issued by water management district offices.

Recently developments in boat storage have introduced a new product that is used in boat slips to lift boats out of the water thus helping in preserving their condition and reducing expenditures concerning maintenance. Regulatory authorities in addressing these platforms or lifts have chosen to treat this technology as a modification to existing dock permits. Because this technology has been determined to be a modification permit holders are required to seek changes and have their existing permits reviewed.

C. EFFECT OF PROPOSED CHANGES:

HB 1285 provides an exemption from permitting and proprietary requirements for installation of certain platforms or lifts under certain circumstances and requires DEP to develop a general permit for their use.

HB 1285 provides a permit exemption for a platform or lifts either of which floats at all times in the water for the sole purpose of supporting a vessel so that the vessel is out of the water when not in use if:

- The structures are wholly contained within a boat slip previously permitted or when associated with a dock that is exempt under subsection 403.813(2), F.S., or a permitted dock with no defined boat slip and such structures do not exceed a combined total of 500 square feet or 200 square feet in an Outstanding Florida Water;
- The structures cannot be used for any commercial purposes or for mooring additional vessels that remain in the water when not in use, cannot substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the traditional, or common law riparian rights of adjacent property owners; and
- The structures shall be constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities.

Structures that qualify for this exemption are relieved from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund (Trustees) and shall not be subject to any more stringent regulation by any local government.

By January 1, 2003, the DEP shall adopt a general permit by rule for those platforms or lifts which do not qualify for the exemptions, but do not cause significant adverse impacts to occur individually or cumulatively. The issuance of a general permit also constitutes permission to use or occupy lands owned by the Trustees. Upon the adoption of the rule creating such general permit, no local government shall impose a more stringent regulation on floating vessel platforms covered by the general permit.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 403.813, F.S., to create an exemption to allow limited installation of platforms or lifts within permitted boat slips or outside of slips subject to certain size, resource, and riparian rights restrictions. Provides that structures installed under this exemption do not require additional authorization from the Trustees and are not subject to more stringent local regulations. Directs DEP to develop a general permit to address the installation of larger floating vessel platforms or lifts where such structures have minimal individual or cumulative impact.

Section 2: Provides that this bill shall take effect upon becoming a law.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Minimal. There will be a small, un-measurable reduction in revenues to the Permit Fee Trust Fund to the extent that activities, which formerly required a permit and a permit application fee, are conducted under this exemption.

2. Expenditures:

N/A

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

N/A

2. Expenditures:

N/A

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

There is an economic savings for those that own or use floating vessel platforms or lifts provided by the provisions of the bill. They are:

- Those floating vessels platforms or lifts that fall under the exemption criteria provided by the bill will be exempt from a department dock permit.
- Those floating vessel platforms or lifts that do not meet the requirements of this bill and need a department general permit are expected to require less monetary resources and time than if the floating vessel platforms or lifts were permitted as a modification to existing dock permits under current law.

FISCAL COMMENTS:

N/A

III. 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 expend funds or to take an action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that counties or municipalities have to raise revenues in the aggregate.

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

The bill does not reduce the percentage of state tax shared with counties and municipalities.

IV. COMMENTS:

A. CONSTITUTIONAL ISSUES:

N/A

B. RULE-MAKING AUTHORITY:

DEP is authorized by this bill to adopt a general permit by rule for those floating vessel platforms or lifts which do not qualify for the exemptions, but do not cause significant adverse impacts to occur

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individually or cumulatively. The issuance of a general permit also constitutes permission to use or occupy lands owned by the Trustees.

C. OTHER COMMENTS:

N/A

V. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VI. SIGNATURES:

COMMITTEE ON NATURAL RESOURCES & ENVIRONMENTAL PROTECTION:

Prepared by:

Staff Director:

Noah C. McKinnon III

Wayne Kiger

AS REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:

Staff Director:

Lynn Dixon

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