

**STORAGE NAME:** h1591s1.ccc.doc

**DATE:** February 18, 2002

**HOUSE OF REPRESENTATIVES  
AS FURTHER REVISED BY  
COUNCIL FOR COMPETITIVE COMMERCE  
ANALYSIS**

**BILL #:** CS/HB 1591

**RELATING TO:** Placement of Uniform Warning and Safety Flags on Public Beaches

**SPONSOR(S):** Committee on Tourism and Representative Maygarden

**TIED BILL(S):** None

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

- (1) TOURISM YEAS 4 NAYS 0
  - (2) COUNCIL FOR COMPETITIVE COMMERCE
  - (3)
  - (4)
  - (5)
- 

**I. SUMMARY:**

CS/HB 1591 establishes that it is the Legislature's intent that state agencies and local governments cooperate in efforts to develop plans for and assist in the display of uniform safety and warning signs at all public beaches along the coast at which flags are displayed and lifeguards are on duty and in the placement of uniform notification signs indicating the meaning of flags displayed. Section 380.276, F.S., is created to direct the Department of Community Affairs (DCA), through the Florida Coastal Management Program, to develop a program for the display of uniform safety and warning flags and the placement of uniform notification signs. To the extent that funding is available, DCA is directed to fund the program and its implementation.

The department is provided with rulemaking authority to implement the provisions of the bill.

The state, state agencies, local governments and local governmental agencies cannot be held liable for injuries caused by the reasonable placement or location of safety and warning flags nor for the reasonable placement of notification signs for the meaning of flags displayed.

The bill, which takes effect July 1, 2002, has an indeterminate fiscal impact.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- |                                   |                              |  |   |
|-----------------------------------|------------------------------|--|---|
| 1. <u>Less Government</u>         | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input 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"/> |

The bill directs a state agency to create and fund a new program to implement statewide uniform standards for safety and warning flags and signage on public beaches along the coast that have lifeguards and fly safety and warning flags.

B. PRESENT SITUATION:

**Use of Warning Flags and Signage**

There is no set standard for uniformity of warning flags and signage on public beaches in Florida or in the country. Colors and signage of flags appearing on public beaches varies from state to state and from county to county. For example, in some areas of Florida a blue flag is flown to indicate that all is clear and in other areas of the state it means to be careful that sharks, jelly fish, etc. have been spotted in the water.

According to the Florida Beach Patrol Chief's Association, the majority of the state uses green to indicate calm water, yellow to indicate that the surf is rough and could create dangerous conditions, and red to indicate hazardous conditions. The greatest inconsistency in use is in the area from Panama City through Apalachicola. This organization strongly supports the need for uniformity in the use of flags to promote the protection of the public. At the same time they state that flags should not be flown in areas where there are no ocean lifeguards to observe the conditions and be able to change the flags when conditions change.

The only national organization involved with certification of municipal and county agencies responsible for ocean lifeguards is the United States Lifesaving Association (USLA). This organization is seeking to have a national uniform flag system. In May 2002, the organization will be meeting to consider such a recommendation and will, if passed, require the agencies it certifies to use the system it endorses. Examples of municipalities and counties in Florida certified by this organization are as follows: Boca Raton; Clearwater, Deerfield Beach, Fernandina Beach, City of Jacksonville, Palm Beach County, Palm Beach, Pompano Beach, Atlantic Beach, Brevard County, Cape Canaveral, Delray Beach, Gulf Islands National Seashore, Hollywood Beach, Lantana, and Sarasota County.

**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, F.S. The Department of Community Affairs' Florida Coastal Management Program (FCMP) uses a variety of tools to educate and inform Floridians 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's Center for Tourism Research and Development, to examine public access to coastal sites, and to develop recommendations for the state to address problems with public access.

The researchers found that only 35 percent of all access points owned by public entities were clearly marked as **public beach access points**. To eliminate user confusion, the study recommended that the FCMP develop a standardized, easily recognizable sign that could be placed for easy reading from adjacent roads. FCMP did develop standardized beach access signs for use across the state, and has been distributing the signs to local governments free-of-charge or at low cost.

The FCMP explored a number of production and distribution options, including the possibility of having the Florida Department of Corrections manufacture the signs using state prisoners. However, the FCMP ultimately contracted with a commercial sign production facility and in November 1996, with the help of the Florida League of Cities and the Florida Association of Counties, surveyed local governments to determine their willingness to participate in a voluntary beach access sign program. The FCMP decided to implement the program, and for each interested local government entity, the FCMP agreed to supply signs free-of-charge while the local governments agreed to supply the labor and hardware necessary for sign installation. The beach access sign program is in the second cycle of sign distribution, and had more than 18 local governments participate in the first year.

#### C. EFFECT OF PROPOSED CHANGES:

CS/HB 1591 establishes that it is the Legislature's intent that state agencies and local governments cooperate in efforts to develop plans for and assist in the display of uniform safety and warning signs at all public beaches along the coast at which flags are displayed and lifeguards are on duty and in the placement of uniform notification signs indicating the meaning of flags displayed. Section 380.276, F.S., is created to direct the Department of Community Affairs (DCA), through the Florida Coastal Management Program, to develop a program for the display of uniform safety and warning flags and the placement of uniform notification signs. To the extent that funding is available, DCA is directed to fund the program and its implementation.

The program is required to provide for posted notification at all designated public access points and that such notification be conspicuous and be legible. Regarding safety and warning flags, the program must provide: a standard size, shape, color and definition for each flag; that numerical designations be on flags to assist persons who have difficulty distinguishing colors; guidelines for periodic replacement of flags; and that flags not specifically defined by the department must be defined by the entity flying the flags in the posted notification.

The department is provided with rulemaking authority to implement the provisions of the bill.

The state, state agencies, local governments and local governmental agencies cannot be held liable for injuries caused by the reasonable placement or location of safety and warning flags nor for the reasonable placement of notification signs for the meaning of flags displayed.

The bill takes effect July 1, 2002.

#### D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

There will be some impact for signage and replacement of flags. No quantifiable amount of impact on local governments has been provided.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

Implementation of the program by the Department of Community Affairs is based on the availability of funds. The department currently provides standardized beach access signs to any local government that requests them. For fiscal year 1998-99, 313 signs cost just under \$5,000 and the agency further reduced costs by having the signs shipped directly to the requesting local government.

The costs of this program depend on the number of flags and signs requested, the number of staff either assigned to, or hired to, implement the program. Although there is no state appropriation to the department to cover the costs of the program, limited funds for the production of the flags and signs and their distribution may be available through a federal Coastal Zone Management Award.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

CS/HB 1591 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:

CS/HB 1591 does not reduce the authority that municipalities or counties have to raise revenues.

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

CS/HB 1591 does not reduce the percentage of state tax revenues shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

CS/HB 1591 authorizes the department to adopt rules necessary to administer the program.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

On February 13, 2002, the Committee on Tourism unanimously passed the bill as a committee substitute. The differences between the original bill and the committee substitute are as follows:

1. The bill is no longer placed in the Department of Health chapter governing public swimming and bathing facilities but is moved to a newly created section in the statutes governing the Florida Coastal Management Program in the Department of Community Affairs.
2. The bill is no longer mandatory with no enforcement mechanisms but is a program that is to be developed with input from state and local agencies and will be encouraged to be used on a statewide basis.
3. Specific colors of flags and assigned meanings and other such specific details are removed. Instead this is to be determined by the program and its participants; however, broad direction is given to what is to be part of the program.
4. To the extent funding is available, DCA is directed to fund the placement of flags and notification signs.
5. The state, state agencies, local governments and local government agencies cannot be held liable for injuries caused by the reasonable placement or location of safety and warning flags nor for the reasonable placement of notification signs for the meaning of flags displayed.

VII. SIGNATURES:

COMMITTEE ON TOURISM:

Prepared by:

Judy C. McDonald

Staff Director:

Judy C. McDonald

AS REVISED BY THE COUNCIL FOR COMPETITIVE COMMERCE:

Prepared by:

Gabe Sheheane

Council Director:

Matthew Carter

**STORAGE NAME:** h1591s1.ccc.doc

**DATE:** February 18, 2002

**PAGE:** 6