

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

BILL: CS/SB 510

SPONSOR: Natural Resources Committee and Senator Brown-Waite

SUBJECT: Environmental Protection

DATE: March 12, 2002 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Branning	Voigt	NR	Favorable/CS
2.	_____	_____	CA	_____
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

This bill allows any water management district or the Department of Environmental Protection to adopt rules to exempt from permitting certain mining activities. Extends the time the Environmental Protection Agency has to approve Florida's revisions to its Title V program with regard to citrus juice processing facilities. Provides that the date by which the DEP must adopt a wetland mitigation assessment method rule is extended until July 31, 2002. Provides that the rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters. Deletes an obsolete provision requiring the Office of Program Policy Analysis and Government Accountability to conduct a cumulative impact study. Clarifies the permit exemption for maintenance dredging activities to allow for better management of return flow waters. Exempts certain floating vessel platforms from having to obtain a permit. Provides for the Department of Environmental Protection to adopt by rule a general permit for certain floating vessel platforms. Provides a permit exemption for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway within the Northwest Florida Water Management District. Provides for a report to the Governor and the Legislature by March 4, 2004.

This bill amends ss. 373.406, 373.414, 403.08725, and 403.813, F.S.

II. Present Situation:

Many wetland and surface water dredging and filling activities require environmental resource permits (ERPs) that are issued by either the Department of Environmental Protection (DEP) or the water management districts. These permits describe the conditions under which the activities

will be allowed. In addition to state permits, many of these activities also require a federal Clean Water Act Section 404 permit that is issued by the U.S. Army Corps of Engineers.

Currently, multiple activities are statutorily exempt from ERP requirements. These exempted activities are listed in s. 403.813, F.S., and include:

- The installation of overhead transmission lines, and the installation, replacement, or repair of subaqueous transmission and distribution lines;
- The installation and repair of certain mooring pilings, and the replacement and repair of certain existing docks, piers, and boat ramps;
- The restoration and construction of particular seawalls, and the construction of some private docks;
- Maintenance dredging of existing manmade canals, channels, intake, and discharge structures;
- The maintenance and restoration of existing insect control structures;
- The construction, operation, or maintenance of stormwater management facilities, and the repair or replacement of existing stormwater conveyance structures;
- The construction and maintenance of swales;
- The installation of aids to navigation;
- The repair or replacement of certain existing bridges; and

The removal of aquatic plants, tussocks and associated removal of organic matter when such activities are authorized through either an aquatic plan management permit or exemption granted under s. 369.20, F.S., or s. 369.25, F.S.

III. Effect of Proposed Changes:

Section 1. Section 373.406, F.S., is amended to allow any water management district or the Department of Environmental Protection to exempt from permit regulation under part IV ch. 373, F.S., relating to the management and storage of surface waters, any system for a mining or mining related activity that is described in or covered by an exemption confirmation letter issued by the district pursuant to applicable rules implementing part IV that were in effect at the time the letter was issued, if it will not be harmful to the water resources. The rules may include provisions for the duration of this exemption.

Section 2. Section 373.414, F.S., requires the DEP and the water management districts to develop a uniform wetland mitigation assessment method. This bill provides that the DEP and the water management districts must develop a uniform mitigation assessment method for wetlands and other surface waters. The date by which the DEP must adopt by rule the wetland

mitigation assessment method is extended from January 31, 2002, to July 31, 2002. The rule shall provide an exclusive and consistent process for determining the amount of mitigation required to offset impacts to wetlands and other surface waters, and once effective, shall supercede all rules, ordinances, and variance procedures from ordinances that determine the amount of mitigation needed to offset such impacts. Deletes an obsolete provision that required the Office of Program Policy Analysis and Government Accountability to conduct a cumulative impact study.

Section 3. Section 403.08725, F.S., is amended to extend the time the Environmental Protection Agency (EPA) has to approve Florida's revision to its Title V program with regard to citrus juice processing facilities. Originally, the EPA had 2 years to approve the revisions. EPA has not yet acted on the request to approve the revisions. This bill extends the time period one more year.

Section 4. Section 403.813, F.S., is amended to clarify the permit exemption for maintenance dredging activities to allow for better management of return flow waters. This section is also amended to provide for a permit exemption for a floating vessel platform or floating boat lift if such structures:

- Float 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;
- Are wholly contained within a boat slip previously permitted under ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or, when associated with a dock that is exempt under s. 403.812(2), F.S., or a permitted dock with no defined boat slip, do not exceed a combined total of 500 square feet, or 200 square feet in an Outstanding Florida Water;
- Are not used for any commercial purpose or for mooring vessels that remain in the water when not in use, and do not substantially impede the flow of water, create a navigational hazard, or unreasonably infringe upon the riparian rights of adjacent property owners;
- Are constructed and used so as to minimize adverse impacts to submerged lands, wetlands, shellfish areas, aquatic plant and animal species, and other biological communities, including locating such structures in areas where no seagrasses exist if such areas are present adjacent to the dock; and
- Are not constructed in areas specifically prohibited for boat mooring under conditions of a permit issued in accordance with ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, or part IV of ch. 373, F.S., or other form of authorization issued by a local government.

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 are not 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 floating vessel platforms 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 a general permit, no local government may impose a more stringent regulation on floating vessel platforms covered by the general permit.

Further, a permit exemption is provided for the repair, stabilization, or paving of existing county maintained roads and the repair or replacement of bridges that are part of the roadway within the Northwest Florida Water Management District if certain conditions are met. Those conditions include:

- The road and associated bridge had to be in existence and in use as a public road or bridge, and maintained by the county as a public road or bridge on or before January 1, 2002.
- The construction activity does not realign the road or expand the number of existing traffic lanes of the existing road. However, the work may include the provision of safety shoulders, clearance of vegetation, and other work reasonably necessary to repair, stabilize, pave, or repave the road, provided the work is constructed by generally accepted engineering standards.
- The construction activity does not expand the existing width of an existing vehicular bridge in excess of that reasonably necessary to properly connect the bridge with the road being repaired, stabilized, paved, or repaved to safely accommodate the traffic expected on the road, which may include expanding the width of the bridge to match the existing connected road. However, no debris from the original bridge shall be allowed to remain in waters of the state, including wetlands.
- Best management practices for erosion control must be used to prevent water quality violations.
- Roadside swales or other effective means of stormwater treatment must be incorporated as part of the project.
- No more dredging or filling of wetlands or waters of the state is performed than that which is reasonably necessary to repair, stabilize, pave, or repave the road or to repair or replace the bridge, in accordance with generally accepted engineering standards.

The DEP is required to submit a report to the Governor and the Legislature by March 2, 2004, to evaluate the effects of this exemption and make recommendations for the exemption to apply statewide.

Section 5. This act shall take effect on becoming a law.

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:**

None.

B. Private Sector Impact:

This bill would allow boat owners to use the relatively new technology of using floating vessel platforms in existing boat slips without having to obtain an additional permit. This technology allows boat owners to lift their boats out of the water thus helping preserve the boat's condition and reduce certain maintenance costs associated with boats resting in the water when not in use.

Certain road paving and bridge construction activities in the Northwest Florida Water Management District would not be required to obtain a permit prior to conducting such activities. This would allow such work to proceed without permit delays and could reduce the costs associated with such work.

C. Government Sector Impact:

Local governments are preempted from adopting more stringent requirements for floating vessel platforms that are covered by either the exemption or the general permit.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.