

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1063 w/CS The Fish and Wildlife Conservation Commission

**SPONSOR(S):** Baxley

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 2388

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Public Lands &amp; Water Resources</u>	<u>10 Y, 1 N</u>	<u>Camechis</u>	<u>Lotspeich</u>
2) <u>Natural Resources</u>	<u>15 Y, 0 N w/CS</u>	<u>Camechis</u>	<u>Lotspeich</u>
3) <u>Finance &amp; Tax</u>		<u>Levin</u>	<u>Diez-Arguelles</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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### SUMMARY ANALYSIS

This bill revises provisions pertaining to the operations of the Florida Fish and Wildlife Conservation Commission ("FWCC"). The revisions are summarized as follows:

- Clarifies FWCC authority to purchase and distribute certain promotional items;
- Deletes an obsolete reference relating to private game preserves and farms;
- Revises provisions specifying fees and requirements for recreational licenses, permits, and authorization numbers;
- Clarifies language relating to recreational vessel licenses;
- Authorizes the establishment of a recreational sport season crawfish permit in Monroe County and provides for a fee of up to \$10 to be established by rule of the Commission;
- Revises provisions relating to the expiration date of alligator trapping licenses;
- Revises provisions relating to license requirements for the sale and exhibition of wildlife;
- Requires clerks of the court to notify the Commission within a specified time period of the disposition of any citation issued under Chapter 372, F.S.;
- Authorizes the Executive Director of the FWCC to establish additional temporary, full-time FTEs needed to implement research contracts and grants, provided that all costs associated with the positions are fully funded through those contracts and grants, and that no position is established for longer than the term of the contract or grant; and
- Increases from \$25 to \$45 the fee for nonresident hunting licenses to take game for 10 consecutive days. According to FWCC, this fee increase will result in an estimated \$137,314 annual estimated increase in revenues; and
- Increases from \$5 to \$100 the fee for a nonresident annual turkey permit. According to FWCC, this fee increase will result in an estimated \$152,000 annual estimated increase in revenues.

This bill has a positive fiscal impact on state revenues.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. DOES THE BILL:

- |                                      |                              |  |   |
|--------------------------------------|------------------------------|--|---|
| 1. Reduce government?                | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 2. Lower taxes?                      | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 3. Expand individual freedom?        | Yes <input type="checkbox"/> | No <input checked="" type="checkbox"/> | N/A <input type="checkbox"/>            |
| 4. Increase personal responsibility? | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |
| 5. Empower families?                 | Yes <input type="checkbox"/> | No <input type="checkbox"/>            | N/A <input checked="" type="checkbox"/> |

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

This bill does not reduce government, lower taxes, or expand individual freedom by virtue of the fact that the bill creates a new Monroe County Recreational Sport Season Crawfish permit, and allows the FWCC to set a permit fee of up to \$10. There are no exemptions from the permit fee during the recreational sport season for the species in Monroe County. Nonresident hunting and turkey license fees are increased.

#### B. EFFECT OF PROPOSED CHANGES:

##### General Background Information:

Section 9, Art. IV of the Constitution of Florida requires the Florida Fish and Wildlife Conservation Commission (“FWCC”) to exercise all regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. All statutory requirements for recreational hunting, freshwater fishing, and saltwater fishing licenses and permits are contained in Chapter 372, F.S., which is administered and enforced by the FWCC.

In 2002, the Legislature transferred certain provisions relating to recreational saltwater fishing licenses from Chapter 370 to Chapter 372, Florida Statutes, thereby consolidating requirements for recreational hunting, freshwater fishing, and saltwater fishing licenses and permits into one statutory chapter.<sup>1</sup> However, several “glitches” in the revisions have since been discovered.

**Issue: Creating a definition of “Saltwater fish” and revising the definition of “Take”**

##### Present Situation:

The 2002 revisions included a transfer of the requirements relating to recreational saltwater fishing licenses. However, a definition of “saltwater fish” was inadvertently omitted from the revisions to Chapter 372, F.S. Section 370.01(14), F.S., continues to define “marine fish” as “any saltwater species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, and marine invertebrates in the classes Gastropoda, Bivalvia, and Crustacea, or the phylum Echinodermota, but does not include nonliving shells or Echinoderms.”

Section 372.001, F.S., defines “take” as “taking, attempting to take, pursuing, hunting, molesting, capturing or killing any wildlife or freshwater fish...,” but does not include a reference to saltwater fish even though Chapter 372, F.S., now regulates recreational saltwater fishing activities. Additionally, s. 372.57, F.S., provides that “no person shall hunt, fish, or take fur-bearing animals in this state” without a license issued pursuant to Chapter. 372, F.S.; however, Chapter. 372, F.S., does not include a definition of “hunt” or “fish”. This omission leads to ambiguity in the statute as to the extent and type of activity regulated by the statute.

<sup>1</sup> Ch. 2002-264, Laws of Florida (2002).

**Effect of Proposed Changes:**

This bill defines “saltwater fish” as “any saltwater species of finfish of the classes Agnatha, Chondrichthyes, and Osteichthyes, and marine invertebrates that of the classes Gastropoda, Bivalvia, or Crustacea, or the phylum Echinodermota, but does not include nonliving shells or echinoderms.” This definition is virtually identical to the definition of “marine fish” found in s. 370.01(14), F.S.

The bill also revises the definition of the term “take” to include “saltwater fish,” and deletes the words “hunt” and “fish” from s. 372.57, F.S. These revisions clarify that a license is required in order to saltwater fish for recreational purposes, and clarifies the definition of “take” by eliminating the undefined terms “hunt” and “fish.”

**Issue: The purchase of promotional items****Present Situation:**

Section 372.0222, F.S., authorizes the FWCC to enter into agreements to secure the private publication of public information brochures, pamphlets, audiotapes, videotapes, and related materials for distribution without charge to the public, and provides authorization to enter into agreements with private entities to enter into other business arrangements for the purpose of public relations.

According to the FWCC, in 2002, the Florida Office of the Comptroller questioned whether the FWCC has statutory authority to purchase promotional items for its boating safety and outreach efforts because s. 372.0222, F.S., was originally applicable to the former Florida Game and Freshwater Fish Commission not the FWCC in its current form.<sup>2</sup> As the successor agency, FWCC has continued to use s. 373.0222, F.S., to purchase boating safety and outreach promotional items.

**Effect of Proposed Changes:**

Section 372.0222, F.S., is clarified to clarify that the FWCC is authorized to purchase and distribute promotional items.

**Issue: Licensure of saltwater vessels****Present Situation:**

Section 372.57(7)(c)1., F.S., allows the licensing of a saltwater vessel that takes paying customers saltwater fishing but does not require each customer to obtain a personal saltwater fishing license. The price of a vessel license is determined by the number of customers the vessel is authorized to carry: 1) a vessel carrying six or fewer paying customers must obtain a \$200 per year license; 2) a vessel carrying no more than ten paying customers must obtain a \$400 per year license; in addition, a person may obtain a \$400 per year license to operate a vessel carrying six or less customers; 3) a vessel carrying more than ten paying customers must obtain an \$800 per year license; 4) a license for a recreational vessel, not for hire, in which no fee is paid by guests who saltwater fish noncommercially is \$2000 per year.

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<sup>22</sup> Chp. 97-217, Laws of Florida (1997).

In the 2002 rewrite of Chapter 372, F.S., a key phrase was unintentionally omitted from s. 372.57(7)(c)2, F.S., resulting in a vessel being allowed to purchase a \$200 license if it carries 6 or fewer paying customers rather than the correct fee of \$400 for 6 or fewer paying customers.

### **Effect of Proposed Changes**

The bill reinserts language stating that a \$200 annual saltwater vessel license authorizes the operator to carry four or fewer paying customers and clarifies that the saltwater vessel license to carry six or fewer paying customers costs \$400 per year.

#### **Issue: Monroe County Crawfish Permit**

##### **Present Situation:**

In order to harvest lobster in state waters, a saltwater fishing license as well as an annually issued crawfish permit, is required.<sup>3</sup> According to the FWCC the lobster two-day recreational mini-sport season in Monroe County attracted an average of 43,700-licensed participants per year from 1998 to 2000. The recreational bag limit is six lobsters per individual, per day; however, the FWCC considers bag limit abuse during the two-day season to be high. Concerns also have been raised about resource violations and reef damage. Local officials have expressed concerns to FWCC regarding vehicular and vessel traffic congestion as well as property damage. In addition, the FWCC believes that, in order to better understand the spiny lobster fishery and to fairly and accurately manage recreational and commercial spiny lobster harvests, it must develop more sound recreational data.

##### **Effect of Proposed Changes:**

The bill creates s. 372.57(8)(d)2., F.S., to require a new type of permit for any individual who takes or possesses crawfish during the two-day mini-season in Monroe County. The bill does not contain exemptions from the fee requirement that are currently allowed for other recreational licenses, e.g., exemptions for seniors, children under sixteen, and the disabled. The FWCC is authorized to establish a permit fee by rule up to \$10. The FWCC anticipates that revenues generated by the permit will be used to fund spiny lobster research and program costs.

The FWCC asserts that exemptions from the permit requirement will hinder its ability to develop comprehensive data regarding the actual harvest during the two-day mini-season. FWCC views establishing a special license for Monroe County as the first step to better management of the resource and understanding of the spiny lobster fishery in Monroe County.

#### **Issue: Alligator Trapping License Expiration Dates**

##### **Present Situation:**

Prior to July 1, 1996, the expiration dates of Florida's recreational hunting and fishing licenses and freshwater fish and wildlife related commercial licenses were effective from June 1 to June 30 of the following year (13 month licenses). In 1996, the Legislature amended the law to provide that all licenses are valid for 12 months after the date of issuance.

The FWCC recently discovered that the effective date of the alligator trapping license required by s. 372.6673, F.S., was not changed in like manner. Therefore, an alligator trapping license is effective from June 1 to June 30 of the following year, rather than for 12 months after the date of issuance.

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<sup>3</sup> ss. 370.57(1) and (8)(d), F.S.

**Effect of Proposed Changes:**

The bill amends 372.6673, F.S., to change the effective date of alligator trapping licenses to 12 months after the date of issuance regardless of the date the license is issued.

**Issue: Private Game Preserves and Farms****Current Situation:**

Section 372.921(1), F.S., requires a license for those businesses that exhibit or sell captive wildlife. However, a phrase was inserted into s. 372.921(2), F.S. that has the unintended consequence of requiring a license for persons who exhibit captive wildlife, but not for those who sell captive wildlife.

**Effect of Proposed Changes**

The bill deletes the phrase "for the exhibition of wildlife" from s. 372.921(2), F.S., which has the effect of reinstating the license requirement for persons who sell captive wildlife, as well as for those who exhibit captive wildlife. This change will create consistency between ss. 372.921(1) and 372.921(2), F.S.

**Issue: Clerk of Court Notification****Present Situation:**

Section 370.021, F.S., requires the court to notify FWCC within 10 days of the disposition of citations issued for violations of Chapter 370, F.S., including commercial saltwater fishing violations. In 2002, the Legislature transferred all saltwater recreational license requirements to Chapter 372, F.S., so that all recreational hunting, freshwater fishing, and saltwater fishing license requirements would be located in one chapter. However, the notification requirement for citations related to recreational saltwater fishing was inadvertently omitted from the revisions to Chapter 372, F.S.

**Effect of Proposed Changes:**

The bill requires Clerks of the Court to notify FWCC within 10 days of the disposition of any Chapter 372 citation. This requirement is consistent with the notification provisions for the disposition of Chapter 370 citations.

**Issue: Nonresident Turkey Hunting Permit Fees****Present Situation:**

Florida is home to one of the most sought after wild turkeys in the world: the Osceola turkey. The Osceola is allegedly among the most intelligent turkeys in the wild and, therefore, highly prized by turkey hunters. That being the case, many nonresident hunters travel to Florida specifically to hunt the Osceola, yet s. 357.57(8), F.S., imposes a fee of only \$5 for the privilege of hunting this native Florida bird. Other states charge fees substantially higher than Florida for nonresident turkey hunting permits, and for turkeys of lesser distinction than the Osceola.

**Effect of Proposed Changes:**

This bill increases the fee for an annual Florida turkey permit to take wild turkeys within the state from \$5 to \$100. According to FWCC, this fee increase will result in an estimated \$152,000 annual estimated increase in revenues.

**Issue: Nonresident Hunting Licenses**

## **Present Situation:**

Currently, s. 357.57(5), F.S., imposes a fee of \$25 for a nonresident license to take game for 10 consecutive days. This fee is less than the fees typically charged in other states for similar permits.

## **Effect of Proposed Changes:**

This bill increases the fee for a nonresident license to take game for 10 consecutive days from \$25 to \$45. According to FWCC, this fee increase will result in an estimated \$137,314 annual estimated increase in revenues.

### **C. SECTION DIRECTORY:**

Section 1. Amends s. 372.001, F.S., to create a definition of "Saltwater fish" and revise the definition of "Take."

Section 2. Amends s. 372.0222, F.S., to authorize the Commission to purchase promotional items.

Section 3. Amends s. 372.05, F.S., to authorize the limited establishment of temporary full-time positions to implement research and contract grants.

Section 4. Amends s. 372.16, F.S., to delete an obsolete reference.

Section 5. Amends s. 372.57, F.S., to revise provisions related to fees and requirements for recreational licenses, permits, and authorization numbers; clarifies language relating to recreational vessel licenses; authorizes the establishment of a recreational sport season crawfish permit in Monroe County and providing for a fee to be established by the County Commission. Increases fees for nonresident hunting and turkey licenses.

Section 6. Amends s. 372.6673, F.S., to revise provisions related to the issuance and expiration dates of alligator trapping licenses.

Section 7. Amends 372.921, F.S., to revise provisions related to license requirements for the sale and exhibition of wildlife.

Section 8. Amends 372.99, F.S., to require clerks of the court to notify the Commission within a specified time period of the disposition of any citation issued under Chapter 372, F.S.

Section 9. Provides an effective date.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

#### **1. Revenues:**

The new Monroe County Recreational Sport Season Crawfish permit will result in an indeterminate positive impact on revenues, the total impact depending upon the amount of the permit fee and the number of licensees.

The bill increases from \$25 to \$45 the fee for nonresident hunting licenses to take game for 10 consecutive days. According to FWCC, this fee increase will result in an estimated \$137,314 annual estimated increase in revenues. Additionally, the bill increases from \$5 to \$100 the fee for a nonresident annual turkey permit. According to FWCC, this fee increase will result in an estimated \$152,000 annual estimated increase in revenues.

2. Expenditures: None.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues: None.

2. Expenditures: None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

If the Commission establishes by rule a Monroe County recreational sport season crawfish permit, any person who wishes to take or possess a crawfish during the recreational sport season for the species in Monroe County will be required to obtain a permit and pay a permit fee of not more than \$10.00.

The bill increases certain hunting license fees for nonresidents.

**D. FISCAL COMMENTS:** None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not affect municipal or county government.

2. Other: None.

**B. RULE-MAKING AUTHORITY:**

The bill authorizes the Commission to establish by rule a Monroe County Recreational Sport Season Crawfish Permit, and requires the Commission to set the license fee at no more than \$10.00.

**C. DRAFTING ISSUES OR OTHER COMMENTS:** None.

**IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES**

On April 2, 2003, the Committee on Natural Resources adopted the following amendments:

Amendment No. 1: This amendment amends s. 372.05, F.S., to authorize the Executive Director of the FWCC to establish additional temporary, full-time FTEs needed to implement research contracts and grants, provided that all costs associated with the positions are fully funded through those contracts and grants, and that no position is established for longer than the term of the contract or grant.

Amendment No. 2: This amendment increases from \$25 to \$45 the fee for nonresident hunting licenses to take game for 10 consecutive days. According to FWCC, this fee increase will result in an estimated \$137,314 annual estimated increase in revenues.

Amendment No. 3: This amendment increases from \$5 to \$100 the fee for a nonresident annual turkey permit. According to FWCC, this fee increase will result in an estimated \$152,000 annual estimated increase in revenues.