

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1395 CS

Beach Safety

SPONSOR(S): Murzin

TIED BILLS:

IDEN./SIM. BILLS: SB 2426

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Environmental Regulation Committee</u>	<u>7 Y, 0 N, w/CS</u>	<u>Perkins</u>	<u>Kliner</u>
2) <u>Agriculture & Environment Appropriations Committee</u>	<u>8 Y, 0 N</u>	<u>Dixon</u>	<u>Dixon</u>
3) <u>State Resources Council</u>	<u>9 Y, 0 N, w/CS</u>	<u>Perkins</u>	<u>Hamby</u>
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill amends statutory language related to the uniform warning and safety flag program administered by the Department of Environmental Protection (DEP) at public beaches along the coast of the state. The bill:

- Provides participation in the uniform warning and safety flag program will be expanded to include non-life-guarded beaches.
- Deletes the provision that flags incorporate a numerical designation.
- Provides that local governments only display the beach warning and safety flags developed by DEP pursuant to section 380.276, F.S.
- Allows for grant funds from various sources to be utilized in funding the program.
- Revises the governmental entities participating in the program.
- Revises provisions relating to governmental immunity from liability.
- Authorizes DEP to develop and distribute educational information and materials related to beach safety.

The bill does not appear to have a significant fiscal impact on state or local government.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide Limited Government: The bill provides that governmental entities with beaches without life guards on duty will participate in the uniform warning and safety flag program.

Safeguard Individual Liberty and Promote Personal Responsibility: The bill provides that local governments only display the beach warning and safety flags developed by DEP pursuant to section 380.276, F.S. The bill provides that governmental entities with beaches without life guards on duty will participate in the uniform warning and safety flag program. The bill revises the governmental entities participating in the program and relieves government entity liability for loss of life as a result of changing surf conditions.

B. EFFECT OF PROPOSED CHANGES:

Issue – Beach Safety Flags Program

Present Situation

The Florida Coastal Management Program is based on a network of agencies implementing statutes that protect and enhance the state's natural, cultural, and economic coastal resources. The goal of the program is to coordinate local, state, and federal agency activities using existing laws to ensure that Florida's coast is as valuable to future generations as it is today. DEP is responsible for directing the implementation of the state-wide coastal management program.

The safety and enjoyment of Florida's public beaches is affected by changes in tide and surf conditions. Warning flags are posted by many coastal communities, but the flags used to identify different tide and surf conditions vary from beach to beach. Many residents and visitors travel to different parts of the state to enjoy public beaches. Differences in flag colors, size, and symbols can confuse the public at the beach, thereby decreasing the effectiveness of efforts to improve public safety.

Section 380.276, F.S., established by the 2002 Legislature, directed DEP through the Florida Coastal Management Program, to coordinate the uniform warning and safety flag program for the purpose of encouraging the placement of uniform warning and safety flags at all public life-guarded beaches. To minimize the risks of drowning or serious injury, DEP has worked with the Florida Beach Patrol Chiefs Association, the United States Lifesaving Association, and the International Lifesaving Federation to develop a uniform warning flag program for use by Florida's beachfront communities.

The Department's beach warning flag program uses the colors adopted by the International Lifesaving Federation, with symbols added to clarify the meaning of the flags. Each flag measures 29.25"H. x 39"W. The program also includes the placement of interpretive signs along the beach to explain the meaning of each flag used in the warning system. The signs are 30" x 36".¹

To the extent of available funds, the warning flags and interpretive signs are provided free of charge to local governments that provide public beach access. The communities that receive the free warning flags and interpretive signs are responsible for the installation, proper use, and maintenance of the flags and signs.

Section 380.276(6), F.S., provides that the state, state agencies, local governments, and local government agencies may not be held liable for any injury caused by the reasonable placement or location of uniform warning and safety flags or reasonably posted uniform notification signs or the

¹ <http://www.dep.state.fl.us/cmp/programs/flags.htm>

failure to install uniform warning and safety flags or posted uniform notification signs as provided by this section.

Effect of Proposed Change

The bill amends section 380.276, F.S., as follows:

- Participation in the uniform warning and safety flag program will be open to government entities with beaches with no life guards on duty.
- Deletes the provision that flags incorporate a numerical designation. DEP reports that the numerical designation flag feature was not recommended by the Florida Beach Patrol Chiefs Association and the United States Lifesaving Association because of potential conflict with signal communication between lifeguard stands, which involves the use of numbered flags for certain conditions or events.
- Provides that local governments only display the beach warning and safety flags developed by DEP pursuant to section 380.276, F.S.
- Allows for grant funds from various sources to be utilized in funding the program.
- Revises the governmental entities participating in the program.
- Provides that due to the inherent danger of constantly changing surf conditions along the coast of the state, state, local, or regional governmental entities or authorities, and their individual employees or agents shall not be held liable for any injury or loss of life caused by changing surf and other naturally occurring conditions along coastal areas whether or not uniform warning and safety flags or notification signs developed by DEP are displayed or posted.
- Authorizes DEP to develop and distribute educational information and materials related to beach safety.

The bill will aid in enhancing public safety and enjoyment of Florida's public beaches.

C. SECTION DIRECTORY:

Section 1. Amends s. 380.276, F.S., relating to the provision for placement of uniform warning and safety flags at public beaches and liability provisions for governmental entities participating in the program; and provides for DEP to develop educational information related to beach safety.

Section 2. Provides this act to take effect July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues: None.
2. Expenditures: Costs of providing flags to communities may be reduced since the bill allows grant funds to be utilized to assist funding the program.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues: None.
2. Expenditures: None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR: None.

D. FISCAL COMMENTS: The department states that they have already purchased enough flags to meet the demand.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other: None.

B. RULE-MAKING AUTHORITY: Rule making is not addressed in this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS: None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 23, 2005, the Environmental Regulation Committee favorable adopted two amendments to HB 1395:

- Amendment No. 1 – enlarges the governmental entity’s liability immunity to include instances where warning flags or notification signs are not posted.
- Amendment No. 2 – specifies that participation in the program is limited to the area of beach under a government’s jurisdiction, whether life-guarded or not.

On April 20, 2005, the State Resources Council favorably adopted one amendment relating to liability immunity associated with changing surf and other naturally occurring conditions along coastal areas whether or not uniform warning and safety flags or notification signs developed by DEP are displayed or posted.