

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

The bill does not appear to implicate any of the House Principles.

B. EFFECT OF PROPOSED CHANGES:

PRESENT SITUATION

Florida Coastal Management Act

The Florida Coastal Management Act¹ was adopted in 1978 as a means for complying with the federal Coastal Zone Management Act of 1972.² Florida's coastal zone management plan (adopted under the Florida Coastal Management Act), which was approved by the federal government for Florida to comply with the Coastal Zone Management Act, is based on existing statutes and rules, and is coordinated through the Florida Coastal Management Program in the Department of Environmental Protection.

It has become apparent over the last decade that this program has not been completely effective in achieving the goal of protecting and conserving the resources of Florida's coastal zone, and new measures will need to be taken to achieve this goal.

Florida Governor's Ocean Committee

In January 1998, Governor Lawton Chiles created the Florida Governor's Ocean Committee (FGOC) by Executive Order (98-13). The FGOC was charged to:

establish goals and recommend ocean policies and strategies for the public benefit and promote their efficient implementation. Such policies and strategies shall include but not be limited to: identifying ocean resource management opportunities and conflicts; developing policies and strategies that address these identified conflicts in a comprehensive and coordinated manner; providing for increased public awareness of ocean issues; and improving coordination and eliminating duplication among governments, agencies, task forces and organizations that implement ocean policy.

The FGOC submitted its final report, entitled "Florida's Ocean Strategies," to the Governor in June 1999. The Report made recommendations in three general areas:³

- Research
 - Expand and coordinate coastal and marine research
 - Identify research priorities
 - Implement long-term monitoring and assessment programs
 - Enhance data exchange and integration

- Management
 - Create intergovernmental and public/private partnerships

¹ Part II of Chapter 380, F.S., Coastal Planning, also known as the "Florida Coastal Management Act."

² 16 U.S.C. ss. 1451-1464

³ <http://www.dep.state.fl.us/cmp/programs/pdf/fgocfinal.pdf>

- Use management tools which minimize conflicts
 - Develop policies that address international issues such as tourism, trans-shipment, and pollution
 - Address the adequacy of water quality standards
 - Explore the use of various fisheries management tools
 - Encourage innovative techniques for habitat protection and restoration
 - Promote greater protection of highly migratory pelagic species, marine mammals, sea turtles, and sea birds
 - Continue implementation of best management practices for aquaculture
 - Enhance marine law enforcement
- Public awareness
 - Develop an ocean outreach program to educate tourists, residents, decision-makers, students, educators, and the media on the importance of ocean resources
 - Provide more support for volunteer research and conservation programs involving students and the general public
 - Partner with private industry to conduct ocean resource related classes, field trips, and other educational opportunities for students and the general public, as well as marine industry employees

No action was taken in response to the Report.

Florida Oceans Alliance

The Florida Ocean alliance was formed in late 1999 and evolved from those members participating in the FGOC. The Florida Ocean Alliance is a nonpartisan organization that brings together government, academic, and private sectors in Florida to protect and enhance Florida's coastal and ocean resources for continued social and economic benefits. The Alliance seeks to position Florida in an international leadership role to integrate ocean conservation, education, and responsible economic development. Its members represent both the private and public sector. Private sector members include representatives from ocean-related industries in tourism, ports, shipping, and cruising. Public members include representatives from federal and state governmental agencies, nonprofit research organizations, academia, and public interest groups. The Alliance serves as a clearinghouse for information on key ocean and coastal issues facing Florida. It monitors and publicizes actions related to the oceans and coasts. The Alliance focuses on outreach and educational activities for the public and policymakers, including conferences, papers on ocean and coastal policies, economic studies, and testimony to national or state agencies and commissions concerned with ocean or coastal policy.⁴

Governor's Oceans Initiative and Gulf of Mexico Alliance

In April of 2004, Governor Bush launched two efforts to improve Florida's management of its ocean resources and of the Gulf of Mexico: the Oceans Initiative and the Gulf of Mexico Alliance.⁵

Oceans Initiative

The Oceans Initiative has been undertaken to strengthen ocean and coastal management in Florida through sound science. This initiative was funded by a \$1 million appropriation in 2004-05 for the Coastal and Aquatic Managed Areas Office of the Department of Environmental Protection (DEP). The Initiative is organized into four themes:

⁴ <http://www.floridaoceanalliance.org/documents/one-pager-ocean.pdf>

⁵ "Oceans Initiative and Gulf of Mexico Alliance Update and Assessment," Memorandum of the Department of Environmental Protection, dated December 6, 2005

1. Closing the Science Gap to Improve Environmental Management
2. Establishing Partnerships to Enhance Recreation, Ecotourism and Commerce
3. Conserving and Restoring Critical Ocean Habitats
4. Enhancing Stewardship Through Education

The Coastal and Aquatic Managed Areas Office has engaged numerous government agencies, research institutions, and the private sector in partnership to strengthen Florida's ocean management. An update of the activities under each theme follow.

1. Closing the Science Gap to Improve Environmental Management

In November 2004, DEP and the Fish and Wildlife Conservation Commission (FWCC) co-hosted a workshop of Florida ocean scientists and resource managers from around the state to agree on a process through which managers and scientists could develop ocean research priorities. Progress was made at the workshop to have these communities agree on such a decision-making framework and process.

DEP has spent over \$100,000 to purchase water quality observing equipment to expand the water quality network in Florida's Aquatic Preserves. With this equipment, the state will be able to detect long-term trends and address concerns before they become full-blown crises.

2. Establishing Partnerships to Enhance Recreation, Ecotourism and Commerce

DEP's Office of Greenways and Trails has begun a three-year project to complete the Florida Saltwater Circumnavigation Paddling Trail, and has hired a full time OPS staff person to oversee this effort. He is coordinating with local community efforts in the development of the trail. The trail will enhance citizens and visitors experience of coastal waters.

FWCC has also been holding workshops around the state to receive input from Floridians on the future of Florida's fisheries. The goal is to develop a strategy that maintains healthy and environmentally sound fisheries amidst increased development and growth.

DEP intends to sign a memorandum of agreement with Boat US and the National Oceanic and Atmospheric Administration (NOAA) to establish a partnership to educate recreational boaters concerning minimizing boating impacts to marine resources. This private/public partnership will teach hundreds of thousands of Florida boaters to avoid coral reefs, seagrass beds and other ocean habitats.

3. Conserving and Restoring Critical Ocean Habitats

To improve management of coral reefs, DEP has entered into a memorandum of agreement with Australia's Great Barrier Reef Marine Park Authority and NOAA to work together to study the concept of coral reef resilience to determine what management strategies can be taken to ensure that coral reefs are as resilient as they can be amidst growing development and use. Under this agreement, the three parties are to design research projects, exchange information about management successes and shortcomings, develop shared products, and increase capacity within their respective regions.

With funding from the Oceans Initiative, FWCC is completing Florida's base-line seagrass map. After this project is complete, Florida will have for the first time an up-to-date baseline map of seagrasses in Florida waters. Money from the Oceans Initiative is also funding three seagrass restoration projects, one in Pensacola and two in the Florida Keys.

Beach closings are on the rise in Florida; but for almost half of the closings, the source of the bacteria is unknown. The Florida Department of Health (DOH) is undertaking a bacterial source study to determine what is causing the beach closings at Mashers Sands near Alligator Point. With this study, DOH will be able to determine the sources of bacteria at Mashers Sands, so the problem can be addressed.

DEP, in partnership with the Coastal States Organization, is chairing a working group on Coastal Habitat Restoration and Conservation. This Working Group is made up of representatives of many state agencies from around the country. The purpose is to ensure that federal restoration and land acquisition programs meet the needs of the states. By undertaking this effort, the states will be able to leverage more federal dollars to support work to conserve and restore critical coastal and ocean habitats.

4. Enhancing Stewardship Through Education

DEP's Office of Environmental Education initiated the LIFE program: Learning in Florida's Environment. The initial program was conducted with the Franklin County School System. The LIFE program incorporates the Sunshine State Science Standards in a curricula which incorporates both classroom work and a field component. The field component was conducted by the teachers and staff at DEP's Apalachicola National Estuarine Research Reserve (NERR). The Office of Environmental Education is in the process of expanding the program to the Guana NERR in St. Augustine and some of the state parks.

Next steps for the Oceans Initiative include reassessing the Total Maximum Daily Load (TMDL) program to ensure it is adequately considering the coastal waters, undertaking a study to investigate options for potentially removing the ocean outfalls near the coral reefs of southeast Florida, installing mooring buoys in the state parks in the Keys to protect the critical marine habitats of our parks, and possibly undertaking a thorough assessment of the marine habitats of Florida to determine whether we are adequately protecting the full range of ocean habitats in Florida.

Gulf of Mexico Alliance

In April 2004, Governor Bush wrote to the governors of the other four Gulf states to invite them to participate in a state-led effort to improve management of the Gulf of Mexico. DEP has had very productive discussions with the other four states. The states agreed that the initial focus of a stronger alliance between the states should focus on protecting public health, specifically to address closing of beaches and shellfish beds.

Currently, NOAA is developing regional ocean observing systems. DEP is recommending that the Gulf governors need to request that these systems address the critical needs of the states. These systems should incorporate a real-time alert system for the closure of beaches and shellfish beds. Such a system would provide protection for human health and ensure that beaches and shellfish beds are closed for the minimum amount of time necessary. The ocean observing systems should also include the development of the infrastructure for a bacterial source rapid detection system that would provide the states information concerning what is causing the closings so that the problems causing the contamination can be addressed. Over the next year, the states would work together to identify and design goals and priorities for future action of the Gulf Alliance.

U.S. Commission on Ocean Policy

In 2000, the U.S. Congress recognized the threats to the oceans when it passed the Oceans Act of 2000. The Act called for the establishment of the Commission on Ocean Policy which was subsequently appointed by the President. The Commission took testimony at numerous public meetings around the country and conducted several site visits. The message from both the experts and the general public was the same: "*our oceans, coasts and Great Lakes are in trouble and major changes are urgently needed in the way we manage them.*" In September 2004, the Commission released its Final Report "An Ocean Blueprint for the 21st Century."⁶

The Commission's Report highlights the serious problems facing our nation's marine environment and its resources. The Report offers over 200 recommendations that, taken collectively, offer a strategy for

⁶ http://www.oceancommission.gov/documents/full_color_rpt/welcome.html

promoting multiple uses and balancing competing stakeholder interests in our nation's oceans, coasts and Great Lakes.

On December 17, 2004, the President issued his response to the Report in the form of the "U.S. Ocean Action Plan."⁷ In the U.S. Ocean Action Plan, it is stated that

The Bush Administration is focused on achieving meaningful results – making our oceans, coasts, and Great Lakes cleaner, healthier, and more productive. We see a key challenge in developing management strategies that ensure continued conservation of coastal and marine habitats and living resources while at the same time ensuring that the American public enjoys and benefits from those same resources. To advance the next generation of ocean, coastal, and Great Lakes policy, we will employ the best science and data to inform our decision-making. The Administration will continue to work towards an ecosystem-based approach in making decisions related to water, land, and resource management in ways that do not erode local and State authorities and are flexible to address local conditions. Our policies will encourage innovation and employ economic incentives over mandates where possible and will establish strong partnerships between Federal, State, Tribal, and local governments, the private sector, international partners, and other interests. This Administration strongly values the importance of local involvement and these partnerships are absolutely essential in managing and protecting our ocean, coastal, and Great Lakes resources.

Our response, "U.S. Ocean Action Plan," reflects these values and goals and outlines the fundamental components, both in response to the Oceans Commission report as well as recent action, which together provide the foundation to advance the next generation of ocean, coastal, and Great Lakes policy. Taken in its entirety, this response engenders responsible use and stewardship of ocean and coastal resources for the benefit of all Americans. We encourage readers to visit ocean.ceq.gov for a comprehensive listing of activities that benefit our oceans, coasts, and Great Lakes.

Pursuant to the Ocean Action Plan, President Bush established by Executive Order a Cabinet-level "Committee on Ocean Policy" to "coordinate the activities of executive branch departments and agencies regarding ocean-related matters in an integrated and effective manner to advance the environmental and economic interests of present and future generations of Americans." The President also directed the Executive branch agencies to facilitate coordination and consultation regarding ocean-related matters among Federal, state, tribal, local governments, the private sector, foreign governments, and international organizations.

EFFECT OF PROPOSED CHANGES

The bill acknowledges the trends identified in the Final Report of the U.S. Commission on Ocean Policy, and creates the Florida Oceans and Coastal Resources Council to assist the state to determine what new management strategies should be implemented to achieve the goal of maximizing the protection and conservation of the resources of Florida's coastal zone. Public-private partnerships are encouraged as a means to achieve this goal.

The Council would be composed of 15 members appointed by the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Florida Oceans Alliance. The membership of the Council is to be representative of certain industries and groups, including the boating and dive industries, the commercial and recreational fishing industries, the energy industry, the environmental community, the development industry, ocean research and development, ports and marine transportation, the tourist industry, the ecotourism industry, and university ocean education. The Council will also include members of the House and Senate. The secretaries of DEP, DCA, and the Department of State, the Commissioners of Agriculture and Education, and the Executive Director of the FWCC are to serve as ex-officio members.

⁷ <http://ocean.ceq.gov/actionplan.pdf>

The initial responsibility of the Council would be to review the September 2004 Final Report of the U.S. Commission on Ocean Policy and other similar reports in order to identify those specific issues of concern which apply to Florida.

The Council would conduct a comprehensive evaluation of the state's current coastal zone management plan for the purpose of understanding how that plan is being implemented and why it has not been effective in achieving the goal of protecting and conserving the resources of Florida's coastal zone.

The Council would be required to identify specific, quantifiable goals which can be achieved to meet the overall goal of protecting and conserving the resources of Florida's coastal zone.

The Council would create two task forces to assist its work: a research task force and a management task force.

The **research task force** would be composed of representatives from Florida's marine science institutions, other organizations conducting scientific research on coastal habitat, and will be appointed by the Council. The research task force would be responsible for identifying specific inadequacies in the information and data that are essential to the implementation of effective management strategies for achieving the identified goals. The research task force would make recommendations to the Council for specific research projects that can be conducted to provide the needed information.

The **management task force** would be composed of representatives from the Department of Environmental Protection, the Fish and Wildlife Conservation Commission, each of the five water management districts, the South Atlantic Fisheries Management Council, and the Gulf of Mexico Fisheries Management Council. The management task force would be responsible for identifying specific inadequacies in the current management of the state's coastal resources. The management task force would make recommendations to the Council for specific changes to the current management programs that can be implemented to address those management inadequacies.

The Council would have continuing responsibilities to: (1) seek funding for research and (2) propose legislation for new management strategies and realignment of current management responsibilities.

The Council would be required to submit a preliminary report of its work to the Governor, the President of the Senate and the Speaker of the House by February 1, 2006. Thereafter, the Council would report annually. The report would include: (1) recommendations for research needs and management strategies, (2) recommendations for legislative appropriations, and (3) proposed legislation needed to implement any recommended changes to management strategies.

The bill provides for a pilot project to demonstrate the feasibility of collaborative research efforts by the state's marine research institutions.

C. SECTION DIRECTORY:

Section 1. Creates s. 380.29, F.S., to provide for the creation of the Oceans and Coastal Resources Council.

Section 2. Provides for a pilot research project.

Section 3. Provides for an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None

2. Expenditures:

Minor indeterminate expenditures would be needed for the travel and per diem expenses of the Council members.

It is estimated that the cost of the pilot research project will be between \$500,000 and \$750,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None

2. Expenditures:

None

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None

D. FISCAL COMMENTS:

It is possible that the cost of the pilot research project could be offset by matching funds from the private sector.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable, because this bill does not appear to: require the counties or cities to spend funds or take an action 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:

The bill does not require the promulgation of rules by nor alter the rulemaking authority of any state agency.

C. DRAFTING ISSUES OR OTHER COMMENTS: None

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 30, 2005, the Water & Natural Resources Committee adopted four amendments to the bill.

The first amendment corrects the statutory reference for the Oceans and Resources Council to place the new language in Chapter 380 instead of Chapter 161, F.S.

The second amendment revises the composition of the Oceans and Resources Council to provide for 15 members, and specifies that the membership is to be representative of certain industries and groups, and is to include members of the House and Senate. The secretaries of DEP, DCA, and the Department of State, the Commissioners of Agriculture and Education, and the Executive Director of the FWCC are to serve as ex-officio members.

The third amendment provides for a pilot project to demonstrate the feasibility of collaborative research efforts by the state's marine research institutions.

The fourth amendment highlights the Legislature's intent that there be public-private partnerships to achieve the goal of protecting and conserving the state's coastal waters, both in terms of conducting the needed research and implementing appropriate management strategies.

On April 6, 2005, the Committee on Environmental Regulation adopted one amendment which expanded the membership of the research task force to include other organizations conducting scientific research on coastal habitat.