

STORAGE NAME: h4213.gg
DATE: March 13, 1998

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
BILL ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: HB 4213 (PCB GG 98-02)

RELATING TO: Implementing the General Government Appropriations Act for FY 1998-1999

SPONSOR(S): General Government Appropriations Committee

STATUTE(S) AFFECTED: Sections 376.11; 212.20; 206.606; 369.20-369.252; 581.145; 370,027;
370.06; 372.0225; 372.65; 372.6672; 403.0885; 597.002-597.004,
Florida Statutes

COMPANION BILL(S): None

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

- (1) GENERAL GOVERNMENT APPROPRIATIONS YEAS 12 NAYS 0
- (2)
- (3)
- (4)
- (5)

I. SUMMARY:

This bill implements the General Appropriations Act in the area of general government for FY 1998-1999.

II. SUBSTANTIVE ANALYSIS:

A. PRESENT SITUATION::

In the past, substantive language was included in proviso or in separate sections of the General Appropriations Act to clarify how funds contained in the act were to be expended. However, decisions such as Brown v. Firestone, 382 So. 2nd 654 (Fla. 1980), and Graham v. Firestone, Circuit Court of the Second Judicial Circuit, #82-1703, Leon County Florida, 1982, have found such proviso language in the annual General Appropriations Act to be unconstitutional and void.

B. EFFECT OF PROPOSED CHANGES:

This legislation provides the necessary statutory authority to temporarily implement and execute specific appropriations in the General Appropriations Act in lieu of the apparent unconstitutional methods utilized prior to the historic court decisions.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Provides legislative intent.

Section 2. Amends s. 376.11, F.S., to authorize up to \$17 million from the Florida Coastal Protection Trust Fund for the purpose of funding statewide beach renourishment, restoration, and inlet management plans. Implements Specific Appropriation 1358 of the 1998-1999 General Appropriations Act.

Section 3. Amends s. 212.20, F.S., to authorize \$10 million to be transferred from the Solid Waste Management Trust Fund for the surface water improvement and management program. Implements Specific Appropriation 1299 of the 1998-99 General Appropriations Act.

Sections 4 through 14 transfer responsibilities for aquatic plants from the Department of Environmental Protection to the Game and Fresh Water Fish Commission and implement Specific Appropriations 1501, 1501A, 1501B, 1501C, and 1501D of the 1998-1999 General Appropriations Bill.

Section 4. Transfers all powers of the Department of Environmental Protection relating to aquatic plant control to the Game and Fresh Water Fish Commission. (Authorizes a type two transfer from the Department of Environmental Protection to the Game and Fresh Water Fish Commission.)

Section 5. Requires the Game and Fresh Water Commission to recognize aquatic plant control permits issued by the Department of Environmental Protection until expiration of the term of the person's permit.

Section 6. Amends s. 206.606, F.S., providing for the distribution of moneys deposited in the Fuel Tax Collection Trust Fund. Transfers \$1.25 million to the Department of Environmental Protection for boating-related activities, transfers \$6.30 million to the Game and Fresh Water Fish Commission for aquatic plant management, boating improvement, and freshwater fisheries

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management and requires the Game and Fresh Water Fish commission to allocate at least \$1 million to the eradication of melaleuca.

- Section 7. Amends s. 206.606, F.S., as amended by s. (8) 96-321, L.O.F., effective July 1, 1999, which provides for the distribution of moneys deposited in the Fuel Tax Collection Trust Fund to be used by the Department of Environmental Protection for boating-related activities. It also provides transfers to the Game and Fresh Water Fish Commission for aquatic plant management, boating improvement, and freshwater fisheries management and research.
- Section 8. Amends s. 369.20, F.S., to authorize the Game and Fresh Water Fish Commission to carry out duties relating to the Florida Aquatic Weed Control Act.
- Section 9. Amends s. 369.22, F.S., to authorize the Game and Fresh Water Fish Commission to carry out duties relating to the Florida Nonindigenous Plant Control Act.
- Section 10. Amends s. 369.25, F.S., defining the powers of the Game and Fresh Water Fish Commission relating to regulation of aquatic plants.
- Section 11. Amends s. 369.251, F.S., authorizing the Game and Fresh Water Fish Commission to promulgate rules regarding invasive non-native plants.
- Section 12. Amends s. 369.252, F.S., authorizing the Game and Fresh Water Fish Commission to establish a program to control invasive exotic plant control on public lands.
- Section 13. Amends s. 581.145, F.S., authorizes the Game and Fresh Water Fish Commission to carry out permit requirements related to aquatic plant nursery registration.
- Section 14. Provides for a type two transfer from Department of Environmental Protection to the Game and Fresh Water Fish Commission of the regulatory authority over aquatic plant control and the conforming amendments to implement Specific Appropriation 1501, 1501A, 1501B, 1501C and 1501D of the 1998-99 Appropriations Act. Further provides that this act shall expire on July 1, 1999 and shall revert by a like type two transfer to such authority as it existed on June 30, 1998.

Sections 15 through 25 transfer aquaculture responsibilities, not already in the Department of Agriculture and Consumer Services, from the Department of Environmental Protection and the Game and Fresh Water Fish Commission to the Department of Agriculture and Consumer Services and implement Specific Appropriations 1116 and 1118 of the 1998-1999 General Appropriations Bill.

- Section 15. Amends s. 370.027, F.S. to prohibit rulemaking by the Marine Fisheries Commission over marine species produced by individuals certified by s. 597.004, F.S.; provides regulation of marine aquaculture producers by the Department of Agriculture and Consumer Services.

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- Section 16. Amends s. 370.06, F.S., to exempt holders of aquaculture certificate under s. 597.004 from purchasing or possessing a saltwater products license or special activity licenses.
- Section 17. Amends s. 370.26, F.S., to provide a definition for "marine aquaculture facility" and to abolish the Aquaculture Section within the Division of Marine Resources at the Department of Environmental Protection. Also provides that the Department of Agriculture and Consumer Services shall be responsible for regulating marine aquaculture producers, but may delegate authority for regulation of aquaculture facilities to the water management districts.
- Section 18. Amends s. 372.0225, F.S., to delete the provision requiring the Division of Fisheries of the Game and Fresh Water Fish Commission to regulate aquacultural facilities.
- Section 19. Amends s. 372.65, F.S., to exempt an individual or business issued an aquaculture certificate pursuant to s. 597.004, F.S., from having to possess a freshwater fish dealer's license.
- Section 20. Amends s. 372.6672, F.S., to define "wild alligator" and provide for commission authority over the wild alligator management and trapping program implementation.
- Section 21. Amends s. 403.0885, F.S., to exempt aquaculture facilities whose annual production and water discharge are less than the National Pollutant Discharge Elimination System (NPDES) program parameters from wastewater management regulations if the Department of Agriculture and Consumer Services "Best Management Practices" are followed.
- Section 22. Amends s. 597.002, F.S., recognizing the Department of Agriculture and Consumer Services as the primary agency responsible regulating aquaculture.
- Section 23. Adds paragraph 597.003 (1)(j), F.S., to authorize the Department of Agriculture and Consumer Services to issue or deny any license or permit authorized or delegated to the Department by the Legislature or through memorandum of understanding with other state or federal agencies that furthers the regulation of aquaculture.
- Section 24. Amends s. 597.004, F.S., to require the Department of Agriculture and Consumer Services to issue any aquatic plant producer permitted by the Game and Fresh Water Fish Commission an aquaculture certificate of registration.
- Section 25. Provides that the amendments to ss. 370.027, 370.06, 372.0225, 372.65, 372.6672, 403.0885, 597.002, 597.003, and 597.004, F.S., implement Specific Appropriations 1116 and 1118 of the 1998-1999 General Appropriations Act. Further provides that on July 1, 1999 these amendments revert to the language in existence before this bill.

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Section 26. Provides for a type two transfer of the Marine Fisheries Commission to the Game and Fresh Water Fish Commission, expiring July 1, 1999. Allows the Marine Fisheries to retain all of its current statutory powers, duties, and functions unless specifically changed by law. This transfer implements Specific Appropriations 1507D through 1507J of the 1998-1999 General Appropriations Act. Further provides for the reversal of this transfer on July 1, 1999.

Section 27. Provides that a section in this bill is void if all the items in the budget to which it is tied to are vetoed.

Section 28. Provides Legislative intent that if any other bill passes which contains the same language as a provision of the bill, without the future repeal applied by this bill, the provision should take precedence.

Section 29. Provides for severability.

Section 30. Provides an effective date.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Total Revenues and Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring Effects:

None.

2. Recurring Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

1. Direct Private Sector Costs:

None.

2. Direct Private Sector Benefits:

None.

3. Effects on Competition, Private Enterprise and Employment Markets:

None.

D. FISCAL COMMENTS:

Although the provisions of this bill affect the authority of the General Appropriations Act to transfer or to appropriate dollars, decisions related to fiscal consequences are actually made in the General Appropriations Act.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill does not require counties or municipalities to spend funds or to take any actions requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority of counties or municipalities to raise revenues in the aggregate, as such authority existed on February 1, 1989.

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

This bill does not reduce the percentage of a state tax shared with counties and municipalities as an aggregate on February 1, 1989.

V. COMMENTS:

The Florida Supreme Court's decision in Moreau v Lewis, No. 84,019, January 5, 1995, states that "[a]n implementing bill that changes or amends existing law on subjects other than appropriations runs afoul of article III, section 6 of the Florida Constitution." (P. 6)

The court further noted that "[b]ecause an appropriations bill must not change or amend existing law on subjects other than appropriations, it follows that a bill designed to implement the appropriations bill must also not change or amend existing law on subjects other than appropriations." (P. 7)

Article IV, Section 9 of the Florida Constitution delineates the powers of the Game and Fresh Water Fish Commission:

Game and Fresh Water Fish Commission.--There shall be a game and fresh water fish commission, composed of five members appointed by the governor subject to confirmation by the senate for staggered terms of five years. The commission shall exercise the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life, except that all license fees for taking wild animal life and fresh water aquatic life and penalties for violating regulations of the commission shall be prescribed by specific statute. The legislature may enact laws in aid of the commission, not inconsistent with this section. The commission's exercise of executive powers in the area of planning, budgeting, personnel management, and purchasing shall be as provided by law. Revenue derived from such license fees shall be appropriated to the commission by the legislature for the purpose of management, protection and conservation of wild animal life and fresh water aquatic life.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

One amendment was adopted by the House General Government Appropriations Committee to include in the bill additional statutory changes needed to transfer aquaculture responsibilities from the Department of Environmental Protection to the Department of Agriculture and Consumer Services.

VII. SIGNATURES:

COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

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