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DATE: April 3, 2000

**HOUSE OF REPRESENTATIVES
AS FURTHER REVISED BY THE COMMITTEE ON
GENERAL GOVERNMENT APPROPRIATIONS
ANALYSIS**

BILL #: CS/HB 601

RELATING TO: Aquaculture

SPONSOR(S): Committee on Agriculture & Representative Bronson & others

TIED BILL(S): None

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

- (1) AGRICULTURE YEAS 10 NAYS 0
 - (2) FINANCE & TAXATION YEAS 13 NAYS 0
 - (3) GENERAL GOVERNMENT APPROPRIATIONS
 - (4)
 - (5)
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I. SUMMARY:

In 1999, the Florida Legislature created the Division of Aquaculture within the Department of Agriculture and Consumer Services (DACS). CS/HB 601 attempts to address oversights that occurred in the transferring of duties to the Division.

Many of the changes in CS/HB 601 are of a "housekeeping" nature. Language dealing with the regulation and licensing of aquaculture from various chapters throughout the statutes are transferred to new sections in Chapter 597 (ss. 597.010 and 597.020, F.S.) to centralize the functions and duties of the newly created Division of Aquaculture. Many of the references throughout the statutes are updated as well to reflect the transfer to the new sections in Chapter 597.

In addition, effective July 1, 2000, DACS will perform the duties and functions relating to aquaculture lease applications for board of trustees-owned submerged lands. The board may also delegate authority to DACS to take final agency action on the board's behalf on aquaculture lease applications for board-owned submerged lands. The bill requires DACS to provide notice to DEP when an aquaculture license is issued. The bill also stipulates that revenues collected from fees for aquaculture leases be deposited into the General Inspection Trust Fund of DACS. CS/HB 601 increases the per acre surcharge from \$5 to \$10 per annum and requires forty percent of the registration fees from commercial vessels to be transferred on a monthly basis by the Department of Highway Safety to the General Inspection Trust Fund of DACS to be used for shellfish and aquaculture law enforcement and quality control programs. The bill stipulates that twenty-five percent of additional proceeds from licensing revenue go to the Florida Saltwater Products Promotion Trust Fund within DACS on a monthly basis to provide marketing and extension services.

CS/HB 601 requires first-time applicants of an Apalachicola Bay oyster harvesting license to attend an educational seminar, which covers topics such as oyster biology, sanitary care of oysters, conservation of the Apalachicola Bay, small business management, and water safety.

The bill gives the Fish and Wildlife Conservation Commission (Commission) rule-making authority for setting harvesting seasons in Apalachicola Bay and requires the Commission and DACS to work together in monitoring the impacts of the new harvest schedule on the bay and on local shellfish harvesters. The bill also gives the Commission authority to apply the necessary statutes, rules or conditions to protect the environment and natural resources from improper dredging or scraping. CS/HB 601 clarifies jurisdiction over the regulation of aquaculture. The bill also requires the Aquaculture Review Council to review specific funding projects and provide recommendations to the Commissioner.

Finally, CS/HB 601 reallocates the distribution of fees for alligator egg collection permits and alligator hide validation tags to ensure that a portion of those fees is deposited into the General Inspection Trust Fund of DACS for the purpose of providing marketing and education services for alligator products produced in the state.

The bill increases revenues to the General Inspection Trust Fund due to the increase in the surcharge on leased lands. The Department estimates the increase will be \$9,000 annually.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

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|-----------------------------------|---|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

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

B. PRESENT SITUATION:

Presently, most of the activities relating to aquaculture in the state are handled by the Department of Agriculture and Consumer Services' (DACS) Division of Aquaculture. However, some functions are still handled by other agencies. For example, the Department of Environmental Protection (DEP) and the water management districts perform all the staff duties and functions related to the acquisition, administration, and disposition of state lands as they relate to aquaculture leases.

The statutes currently require rental fees for aquaculture leases to be deposited into the Marine Resources Conservation Trust Fund (MRCTF) of DEP. The registration fees from commercial vessels collected by the Department of Highway Safety and Motor Vehicles are also transferred into the MRCTF to be used for law enforcement and quality control programs. Under existing statutes, no more than 25 percent of the funds collected and deposited into the MRCTF can go towards the Florida Saltwater Products Promotion Trust Fund within DACS. Because these funds are generated by aquaculture activity, it is believed they should be deposited into DACS's General Inspection Trust Fund to sustain the aquaculture industry in the state.

C. EFFECT OF PROPOSED CHANGES:

Many of the changes in CS/HB 601 are of a "housekeeping" nature. Language dealing with the regulation and licensing of aquaculture from various chapters throughout the statutes are transferred to new sections in Chapter 597 (ss. 597.010 and 597.020, F.S.) to centralize the functions and duties of the newly created Division of Aquaculture. Many of the references throughout the statutes are updated as well to reflect the transfer to the new sections in Chapter 597.

Effective July 1, 2000, DACS will perform the duties and functions relating to aquaculture lease applications for board of trustees-owned submerged lands. The board may also delegate authority to DACS to take final agency action on the board's behalf on aquaculture lease applications for board-owned submerged lands. The bill stipulates that revenues collected from fees for aquaculture leases be deposited into the General Inspection Trust Fund of DACS. CS/HB 601 increases the per acre surcharge from \$5 to \$10 per annum and requires 40 percent of the registration fees from commercial vessels to be transferred on a monthly basis by the Department of Highway Safety to the General Inspection Trust Fund of DACS to be used for shellfish and aquaculture law enforcement

and quality control programs. Previously, these funds had been transferred by the Department of Highway Safety to the MRCTF within DEP and then transferred to DACS. The bill stipulates that 25 percent of proceeds from licensing revenue go to the Florida Saltwater Products Promotion Trust Fund within DACS on a monthly basis to provide marketing and extension services.

CS/HB 601 clarifies that only first-time applicants of an Apalachicola Bay oyster harvesting license are required to attend an educational seminar.

The bill gives the Fish and Wildlife Conservation Commission (Commission) rule-making authority for setting harvesting seasons in Apalachicola Bay and requires the Commission and DACS to work together in monitoring the impacts of the new harvest schedule on the bay and on the local shellfish harvesters. The bill also gives the Commission authority to apply the necessary statutes, rules or conditions to protect the environment and natural resources from improper dredging or scraping. CS/HB 601 clarifies jurisdiction over the regulation of aquaculture. It also requires the Aquaculture Review Council to review specific funding projects and provide recommendations to the Commissioner.

Finally, CS/HB 601 reallocates the distribution of the fees for alligator egg collection permits and alligator hide validation tags to ensure that a portion of those fees are deposited into the General Inspection Trust Fund of DACS for the purpose of providing marketing and education services for alligator products produced in the state.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 253.002, F.S., requiring the Department of Agriculture and Consumer Services (DACCS) to perform the staff duties and functions related to leasing of board of trustees-owned submerged lands and authorizing the board to delegate final agency action on behalf of the board on leases pursuant to ss. 253.67-253.75 and s. 597.010, F.S., and requiring DACCS to provide notice to the Department of Environmental Protection (DEP) when an aquaculture lease is issued.

Section 2: Amends s. 253.01, F.S., requiring revenues collected by DACS for aquaculture lease fees to be deposited into the General Inspection Trust Fund for DACS.

Section 3: Amends s. 253.67, F.S., revising the definition of "department" to the Department of Agriculture and Consumer Services. Previously, "department" had referred to DEP.

Section 4: Amends s. 253.71, F.S., increasing the lease contract surcharge from \$5 to \$10 per acre, or any fraction of an acre, per annum starting January 1, 2001; revising the terms of effective cultivation to reflect the business plan provided for in the lease contract.

Section 5: Amends s. 253.72, F.S., requiring lessees to stake and mark areas under lease accordingly to the conditions of the lease agreement and rules of the board.

Section 6: Amends s. 270.22, F.S., requiring revenues for aquaculture leases to be deposited into the General Inspection Trust Fund for DACS.

Section 7: Amends s. 328.76, F.S., requiring 40 percent of the registration fees from commercial vessels to be transferred by the Department of Highway Safety and Motor Vehicles, on a monthly basis, to the General Inspection Trust Fund for DACS. These funds will be used for shellfish and aquaculture law enforcement and quality control programs.

Also, clarifying that, on a monthly basis, twenty-five percent of the funds collected will go to the Florida Saltwater Products Promotion Trust Fund within DACS.

Section 8: Amends s. 370.06, F.S., removing language allowing DACS to issue special activity licenses for the harvest or cultivation of oysters, clams, mussels, and crabs when related to quality control, sanitation, and public health regulations; requiring first-time applicants for an Apalachicola Bay oyster harvesting license to attend an educational seminar regarding oyster biology and sanitation, small business management, and water safety.

Section 9: Amends s. 370.07, F.S., changing the recipient of the Apalachicola Bay oyster surcharge to the General Inspection Trust Fund of DACS; transferring responsibility from DEP to DACS for supplying DOR with a current list of wholesale dealers in the state.

Section 10: Amends s. 370.16, F.S., addressing the harvesting of noncultured shellfish; removing requirement for DEP to improve, enlarge, and protect natural oyster and clam reefs; requiring the Fish and Wildlife Conservation Commission (commission) to adopt rules relating to noncultured shellfish harvesting seasons in Apalachicola Bay; removing dates previously designated for noncultured shellfish harvesting; including DACS in monitoring the impact of the new rule set by the commission on the bay and on local shellfish harvesters; removing language relating to special activity licenses for the harvest of shellfish by mechanical means; removing language relating to notification of commission when a leaseholder plans to use a dredge or scrape on a lease; removing language limiting the number of dredges or scrapes to be operated on a lease at a time; requiring persons dealing in shellfish harvested from public reefs or beds to keep a record of items taken, purchased, used, or handled, as well as other information; and requiring vessels used for harvesting, gathering or transporting noncultured shellfish to be constructed and maintained to prevent contamination of oysters.

Section 11: Amends s. 370.161, F.S., transferring statutory reference regarding oyster and shellfish regulation.

Section 12: Amends s. 372.071, F.S., expanding the arrest powers of law enforcement officers for DEP and the commission.

Section 13: Amends s. 372.6673, F.S., requiring the commission to collect a marketing assessment of \$1 per alligator egg, excluding those collected on private wetland management areas, to be transferred to the General Inspection Trust Fund.

Section 14: Amends s. 372.6674, F.S., requiring the commission to collect a marketing assessment of \$5 per validated alligator hide, excluding those validated from public hunt programs, to be transferred to the General Inspection Trust Fund.

Section 15: Amends s. 373.046, F.S., clarifying regulatory responsibility of DACS for water resources.

Section 16: Amends s. 403.814, F.S., clarifying regulatory responsibility for water resources as it relates to the permitting process.

Section 17: Amends s. 409.2598, F.S., allowing for the suspension of a shellfish license or permit for any obligor with a delinquent child support obligation or who fails to comply with subpoenas, orders to appear, orders to show cause, or similar orders relating to paternity or child support proceedings.

Section 18: Amends s. 500.03, F.S., deleting a statutory reference.

Section 19: Amends s. 570.18, F.S., revising the number of divisions within DACS from eleven to twelve.

Section 20: Amends s. 570.29, F.S., revising the divisions within DACS to include the Division of Aquaculture.

Section 21: Creates s. 570.61, F.S., setting out the powers and duties of the Division of Aquaculture.

Section 22: Creates s. 570.62, F.S., setting out the duties of the Director of the Division of Aquaculture.

Section 23: Amends s. 597.003, F.S., expanding the powers and duties of DACS in regards to aquaculture activities.

Section 24: Amends s. 597.004, F.S., providing regulatory language regarding nonshellfish aquaculture in the state.

Section 25: Amends s. 597.0041, F.S., providing penalties for violations of shellfish leases or by shellfish processors.

Section 26: Amends s. 597.005, F.S., requiring the Aquaculture Review Council (ARC) to review specific funding projects and provide recommendations to the Commissioner.

Section 27: Amends s. 597.006, F.S., deleting an obsolete reference to the Department of Commerce and replacing it with the Office of Tourism, Trade, and Economic Development.

Section 28: Creates s. 597.010, F.S., establishing shellfish lease requirements; requiring a written application to be submitted; requiring leased lands to be as compact as possible; identifying the official maps, surveys, and reports to be used by DACS as evidence of natural oyster and clam reefs and bed; allowing DACS to make surveys of any natural oyster and clam reefs and beds when necessary, the cost of which may be charged to the applicant as a part of the cost of his/her application; requiring DACS to provide the applicant with a copy of the lease and to retain a registered copy in a lease book; requiring the lessees to comply with the lease provisions; requiring the lessee to mark his/her lease according to the lease contract; providing a fine for failure to comply with the marking requirements; and providing that all leases previously issued shall be enforced under the authority of this chapter and shall continue in perpetuity.

Providing an annual rental fee at a minimum rate of \$15 per acre, to be adjusted every five years based on the Consumer Price Index; providing for fees collected to be deposited into the General Inspection Trust Fund to be used for shellfish aquaculture activities; providing for termination of the lease, after sufficient notice by DACS has been provided, for failure to pay the rent on time; providing for a late fee for untimely payment of rent; providing a surcharge of \$10 per acre per year for the purpose of providing available resources for improvement of lease areas and for cleanup and rehabilitation of abandoned or vacated lease sites; providing for use of the money collected; providing stipulations by DACS per each lease contract for the types, shape, depth, size, and height of cultch materials on lease bottoms; providing lessee with time frame for cultivation of leased area; prohibiting transfer of leases under this section without the written approval of DACS; providing for a transfer fee; requiring DACS to keep indexes to accurately track original leases and