Pursuant to s. 370.153, F.S., persons may harvest shrimp in the St. Johns River for their own personal use if they obtain a noncommercial trawling permit from the Commission at a cost of $50. Trawling is restricted to the St. Johns River north of the Acosta Bridge and 100 yards from the nearest shore. Shrimp caught under this permit may not be sold. Currently, noncommercial shrimp trawling is not allowed under Commission rule.

Major Violations

Blanket penalties for violations of Commission rules are provided in s. 370.21(1), F.S. In addition to these penalties, major violations and their penalties are provided for in s. 370.021(2), F.S. Permits or licenses issued by the Commission to take saltwater products may be suspended up to 60 days for a second conviction of a major violation. Major violation suspensions for third and fourth convictions are up to 180 days and three years, respectively. Major violations for saltwater fisheries include:

- violations involving more than 100 pounds of stone crabs, crawfish, or blue crabs (penalty is $10 per unit);
- violations involving the taking of shrimp from a nursery or a prohibited area (penalty is $10 per pound);
- violations involving the taking of oysters from nonapproved areas or the taking/possession of unculled oysters (penalty is $10 per bushel);
- violations involving the taking of clams from nonapproved areas (penalty is $100 per 500 count bag);
- violations involving the taking/possession of specified endangered, threatened, or special concern species (penalty is $100 per unit);
- subsequent convictions within 24 months involving the taking of more than 100 pounds of any finfish are subject to an additional penalty of $5 per pound;
- violations involving the taking of more than 1,000 pounds of any illegal finfish (penalty equals the market value of the fish);
- violations involving stone crabs, including possession of more than 25 stone crabs during the closed season, more than 25 whole bodied or egg-bearing stone crabs, trap molestation or robbing, pulling traps at night, or any combination of violations in three consecutive years where more than 75 illegal stone crabs are involved;
- violations involving crawfish, including possession of more than 25 crawfish during the closed season, more than 25 wrung crawfish tails, more than 25 egg-bearing or stripped crawfish, trap molestation or robbing, pulling traps at night, or any combination of violations in three consecutive years where more than 75 illegal crawfish are involved;
- violations involving blue crabs, including any single violation involving more than 50 blue crabs, trap molestation or robbing, pulling traps at night, or any combination of violations in three consecutive years where more than 100 illegal blue crabs are involved; and
- violations involving illegal finfish, including any single violation involving the possession of more than 100 pounds of illegal finfish or any combination of violations in three consecutive years where more than 200 pounds of illegal finfish are involved.

Marine Life Harvesting

Marine life is defined in Commission rule (Ch. 68B-42.001, F.A.C.) as specific species of fish (e.g. moray eels, butterflyfish, angelfish, wrasses, tangs, and damselfish), invertebrates (e.g. sponges, jellyfish, anemones, corals, shrimp, crabs, and starfish), and plants (e.g. halimeda and coralline red algae). The harvesting of marine life requires a $75 marine life endorsement and a saltwater products license. The Commission is currently in the process of developing a limited-entry program for this fishery with a report due to the Legislature by July, 2000, regarding options for such a program. Due to large numbers of entrants into the fishery, the impending limited-entry program, and an overall concern regarding over-

collecting of specimens, a moratorium on the issuance of any new marine life endorsements is in effect until July 2002.

Blue Crab

The commercial harvest (i.e. more than five traps) of blue crab requires a saltwater products license, a restricted species endorsement, and a trap number, one issued per boat, attached to the trap buoy. No trap numbers may be renewed or replaced, except those that were active during the 1997-1998 season, until July 1, 2002. Trap number transfers are allowed only in very limited circumstances. Persons willfully molesting traps, lines, or buoys commit a felony of the third degree.

Spiny Lobster

The spiny lobster trap certificate program is authorized by s. 370.142, F.S. The program was initiated in response to concerns similar to those raised for stone crabs; there were large numbers of traps (more than 750,000) and the fishery was and is limited primarily to the waters off south Florida. Without imposition of additional regulation, both of these factors could contribute to a decline in spiny lobster populations.

The spiny lobster trap certificate program consists of transferable trap certificates, trap tags, reductions in the number of traps, and a technical advisory and appeal board.

Provisions exist for the transfer of traps between individuals on a market basis with a $2 transfer fee per certificate due for administrative costs and a 25 percent surcharge of the fair market value or a $5 fee, whichever is greater, due the first time a certificate is transferred outside the original holder's immediate family. No person, firm, corporation, or other business entity is allowed to control more than 1.5 percent of the total available certificates in any given year.

In addition to a crawfish trap number, each trap used to take spiny lobster in Florida waters or adjacent federal waters has a trap tag issued by the Commission attached to the trap. Trap tags and certificates are issued simultaneously. Fees were increased for trap tags over a five year period to the current $1 annual fee per certificate. Certificates for which the annual fee is not paid for a period of three years are considered abandoned and revert back to the Commission. In addition to these fees, the commercial trap number fee is $100.

A Trap Certificate Technical Advisory and Appeals Board was created to "consider and advise on disputes and other problems arising from the implementation of the spiny lobster trap certificate program" (s. 370.142(4), F.S.).

The overall objective of the trap certificate program is to reduce the number of traps used in the spiny lobster fishery to the lowest number that will maintain or increase overall catch levels, promote economic efficiency in the fishery, and conserve natural resources. To meet this objective, a trap reduction goal was established by the Marine Fisheries Commission (which has since been abolished and its functions incorporated into the Commission). The reduction goals were: 10-percent reduction in the number of traps from 1993-1995; an additional 10-percent reduction during the 1998-1999 season; and another 10-percent reduction during the 2000-2001 season.

C. EFFECT OF PROPOSED CHANGES:

Many of the aquaculture changes in CS/CS/CS/SB 806 are of a "housekeeping" nature. Language dealing with the regulation and licensing of aquaculture is transferred from various chapters throughout the statutes 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/CS/CS/SB 806 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 and Motor Vehicles 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 and Motor Vehicles 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/CS/CS/SB 806 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. It also requires the Aquaculture Review Council to review specific funding projects and provide recommendations to the Commissioner.

CS/CS/CS/SB 806 requires the Commission to transfer funds from the alligator management program to DACS for the purpose of providing marketing and education services for alligator products produced in the state, irrespective of whether a fee is assessed on eggs or hides.

The bill expands the term "landowner" to include the owner of a ground lease from a governmental entity, extends the consent requirement of landowners for the establishment of a community development district including ground leases owned by a government entity, and provides that certain governmental properties subject to a ground lease shall not be subject to a lien or encumbrance for described taxes.

Stone Crabs

CS/CS/CS/SB 806 provides fees and penalties necessary to implement the stone crab trap-limitation program established by Commission rules. Stone crabs can be commercially harvested under either an SCE or an incidental take endorsement. The bill also provides for establishment of an equitable rent by the Commission to be paid by harvesters for enhanced access to a natural resource. New penalties are provided for violations of the

stone crab trap limitation program, including revocation of licenses and endorsements in certain situations.

Unlicensed Sellers
The bill clarifies that purchases of saltwater products from an unlicensed entity by a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption are major violations. In addition, the sale of saltwater products to a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption by an unlicensed entity is also deemed a major violation.

Trap Retrieval
The bill provides an exemption from the $10 trap retrieval fee for the first five stone crab traps retrieved. The reasoning for this exemption is that by requiring a portion of the SCE fee ($25) to go towards retrieval, it is not necessary to collect the retrieval fee for a certain number of traps.

Noncommercial Shrimp Trawling in Northeast Florida
The ability to trawl for shrimp on a noncommercial basis in the St. Johns River is made conditional upon authorization by the Commission. This authorization is within the constitutional authority of the Commission and is clarifying in nature as the use of trawls for noncommercial shrimp harvest is not currently authorized by Commission rule.

Major Violations
CS/CS/CS/SB 806 specifies penalties for the first conviction of a major violation involving saltwater products and increases the maximum license suspension penalty for a second such violation within one year of the first violation to 90 days.

The bill also specifies that two violations within a one-year period involving shrimping gear, shrimp count, or season constitutes a major violation subject to an additional penalty of $10 per pound of illegal shrimp.

Marine Life Harvesting
The taking or harvesting of marine life species are classified as major violations according to the bill, subject to suspension or revocation of the marine life endorsement. The harvesting of prohibited species, harvesting out of season or by illegal means, possession of 25 or more individual specimens, or any combination of violations in a three year period involving more than 70 specimens constitutes a major violation.

Blue Crab
CS/CS/CS/SB 806 provides removal of the contents of another harvester's trap(s) constitutes theft. The penalty for such a violation, in addition to those already provided in s. 370.021, F.S., is revocation of a person's saltwater products license and blue crab endorsement.

Spiny Lobster
The establishment of an equitable rent for the spiny lobster program must be approved by the Governor and Cabinet according to CS/CS/CCS/SB 806. The bill also exempts transfer fees when trap transfers occur within the family as a result of death or disability and prohibits surcharges for transfers within the immediate family. Finally, the bill provides that removal of the contents of another harvester's trap(s) constitutes theft. The penalty for such a violation, in addition to those already provided in s. 370.021, F.S., is revocation of a person's saltwater products license and crawfish endorsement.

D. SECTION-BY-SECTION ANALYSIS:

Section 1: Amends s. 253.002, F.S., requiring the Department of Agriculture and Consumer Services (DACS) to perform the staff duties and functions related to leasing of board of trustees-owned submerged lands and to take 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 DACS 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 mean DACS. 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. 253.75, F.S., requiring the board to request comments from the Fish and Wildlife Conservation Commission (Commission) prior to granting leases.

Section 7: Amends s. 270.22, F.S., requiring revenues for aquaculture leases to be deposited into the General Inspection Trust Fund for DACS.

Section 8: 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 are 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 9: 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 10: Amends s. 370.07, F.S., authorizing the Commission to retain 4% of the total wholesale and retail saltwater products dealers license fees collected; 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 the Department of Revenue with a current list of wholesale dealers in the state.

Section 11: Amends s. 370.13, F.S., allowing the Commission to issue a depredation endorsement entitling the license holder to possess and use stone crab traps and blue crab traps for the incidental take of destructive or nuisance stone crabs or blue crabs within one mile of aquaculture shellfish beds. Marine aquaculture producers must provide an

aquaculture registration certificate to obtain a depredation endorsement. Stone crabs and blue crabs taken under this provision may not be sold or offered for sale.

Section 12: 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 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 bay and local shellfish harvesters; removing language relating to special activity licenses for 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 13: Amends s. 370.161, F.S., transferring statutory reference regarding oyster and shellfish regulation.

Section 14: Amends s. 372.071, F.S., expanding the arrest powers of law enforcement officers for DEP and the Commission.

Section 15: Amends s. 372.6673, F.S., requiring, irrespective of whether a fee is assessed, the Commission to transfer from the alligator management program to the General Inspection Trust Fund in DACS $1 per alligator egg collected and retained, excluding those collected on private wetland management areas.

Section 16: Amends s. 372.6674, F.S., requiring, irrespective of whether a fee is assessed, the Commission to transfer from the alligator management program to the General Inspection Trust Fund in DACS $5 per validated alligator hide, excluding those validated from public hunt programs.

Section 17: Amends s. 373.046, F.S., clarifying regulatory responsibility of DACS for water resources.

Section 18: Amends s. 403.814, F.S., clarifying regulatory responsibility for water resources as it relates to the permitting process.

Section 19: Amends s. 409.2598, F.S., allowing for 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 20: Amends s. 500.03, F.S., deleting a statutory reference.

Section 21: Amends s. 570.18, F.S., revising the number of divisions within DACS from eleven to twelve.

Section 22: Amends s. 570.29, F.S., revising the divisions within DACS to include the Division of Aquaculture.

Section 23: Creates s. 570.61, F.S., setting out the powers and duties of the Division of Aquaculture.

Section 24: Creates s. 570.62, F.S., setting out the duties of the Director of the Division of Aquaculture.

Section 25: Amends s. 597.003, F.S., expanding the powers and duties of DACS in regards to aquaculture activities.

Section 26: Amends s. 370.26, F.S., repealing subsections (3), (4), and (5).

Section 27: Amends s. 597.004, F.S., providing regulatory language regarding nonshellfish aquaculture in the state.

Section 28: Amends s. 597.0041, F.S., providing penalties for violations of shellfish leases or by shellfish processors.

Section 29: Amends s. 597.005, F.S., requiring the Aquaculture Review Council (ARC) to review specific funding projects and provide recommendations to the Commissioner.

Section 30: 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 31: 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 beds; 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 lessees to comply with lease provisions; requiring the lessee to mark his/her lease according to the lease contract; providing a fine for failure to comply with 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 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 written approval of DACS; providing for a transfer fee; requiring DACS to keep indexes to accurately track original leases and subsequent changes; providing for cancellation of a lease to natural reef or bed; identifying when natural reefs or beds may be included in a lease; providing stipulations for leases in Franklin County; prohibiting trespassing on leased beds; and limiting harvest around lease boundaries.

Charging DACS, as well as the Commission, with the improvement and protection of natural oyster and clam reefs and beds of the state, as well as providing the Legislature with recommendations for development and protection of the state with respect to the oyster and clam business; authorizing DACS to issue special activity licenses to permit harvest of certain shellfish; creating a violation for staking off water bottoms or bedding oysters without first obtaining a lease; authorizing the Commission to set by rule the noncultured shellfish harvesting seasons in Apalachicola Bay; authorizing the Commission and DACS to monitor the impact of the new rule on bay and local shellfish harvesters; prohibiting use of a dredge or any implement other than tongs in removing oysters from natural or artificial state reefs or beds; providing for issuance by the Commission of a special activity license for harvesters wishing to use a dredge or machinery for harvesting clams or mussels; providing conditions to be met in order to use a dredge or machinery for the harvest of shellfish; providing for revocation of the license and/or lease if violations occur; providing methods for harvesting oysters from natural or public or private leased grounds; authorizing DACS to designate areas, as well as conditions, for the taking of oysters and clams to be transplanted; authorizing DACS to issue special activity licenses for relaying shellfish from closed public shellfish harvesting areas to open areas; requiring all transplanting operations to take place under the direction of DACS; allowing the boards of county commissions to appropriate and expend funds for the purpose of planting and transplanting shellfish to enhance the oyster and clam industries of the state; and prohibiting dredging of dead shell deposits in the state.

Requiring DACS to cooperate with the United State Fish and Wildlife Service; authorizing DACS to accept donations, grants, and matching funds from the Federal government to carry out its oyster resource and development responsibilities; authorizing DACS to claim 50 percent of all shells from oysters and clams shucked commercially in the state, with some exceptions; providing conditions for the sale of surplus shells; providing for notification of intention to collect oyster and clam shells; requiring DACS, DEP, and the Commission to protect all clam beds, oyster beds, shellfish grounds, and oyster reefs from damage or destruction resulting from improper farming procedures or unsanitary water conditions; instructing the Department of Health to lend its cooperation to DACS by making available its laboratory testing facilities and apparatus; requiring all vessels used for harvesting, gathering, or transporting of oysters or clams for commercial purpose to be constructed and maintained to prevent contamination or deterioration of shellfish; prohibiting dogs or other animals on vessels that are used to harvest or transport shellfish; providing a definition.

Section 32: Creates s. 597.020, F.S., authorizing DACS to license shellfish processors; authorizing DACS to establish a fee, to be determined by rule, for licensing processing facilities; and authorizing DACS to levy an administrative fine for violations by shellfish processors.

Section 33: Amends s. 109.003, F.S., extending the definition of “landowner” to include the owner of a ground lease from a governmental entity, which leasehold interest has a remaining term, excluding all renewal options, in excess of 50 years.

Section 34: Amends s. 190.005, F.S., providing that establishment of a community development district must include consent of all landowners; and requires, in the case where real property to be included in the district is owned by a governmental entity and subject to a ground lease as described in s. 190.003(13), F.S., the written consent by such governmental entity.

Section 35: Amends s. 190.021, F.S., providing that certain ground leases shall not be subject to lien or encumbrance for described taxes.

Section 36: Amends s. 370.021, F.S., providing for an additional penalty for two violations within a 12-month period involving shrimping gear, shrimp minimum size (count), or shrimp season; providing for the suspension or revocation of marine life endorsements for violations involving the taking or harvesting of marine life species; and, providing the purchase of saltwater products by a commercial wholesale dealer, retail dealer, or restaurant facility for public consumption from an unlicensed entity constitutes a major violation, subject to specified penalties.

Section 37: Amends s. 370.06, F.S., authorizing the Commission to deny the renewal or issuance of any saltwater products license, wholesale dealer license, or retail dealer license for persons owing fines or fees to the Commission.

Section 38: Amends s. 370.13, F.S., providing fees and penalties for newly adopted Commission rules regarding the stone crab trap limitation program; allowing the Commission to establish an amount of equitable rent per certificate for partial compensation to the state for enhanced access to natural resources; providing for fees, surcharges, civil penalties and fines to be deposited into the Marine Resources Conservation Trust Fund; providing for penalties for removal of contents of another harvester's trap without the trap owner's written consent; and, providing for fees and administrative penalties to be paid prior to endorsement renewal.

Section 39: Amends s. 370.135, F.S., providing penalties and revocation of saltwater products license and blue crab endorsement for persons removing contents of another blue crab harvester's trap without the trap owner's written consent.

Section 40: Amends s. 370.14, F.S., allowing the Commission to adopt rules, as necessary, relating to the trapping of crawfish.

Section 41: Amends s. 370.142, F.S., providing for final approval of any rent assessed for the spiny lobster program to be approved by the Governor and Cabinet; providing for penalties and revocation of saltwater products license and crawfish endorsement for persons removing contents of another spiny lobster harvester's trap without the trap owner's written consent; and, nullifying the transfer fee and/or surcharge when certificates are transferred within the immediate family due to death or disability.

Section 42: Amends s. 370.143, F.S., providing for the waiver of the retrieval fee for stone crab endorsement holders for the first five traps; requiring payment of all retrieval fees prior to renewal of saltwater products license and stone crab or crawfish endorsements; and, providing waiver of retrieval fees in the event of a major natural disaster as declared by the Governor.

Section 43: Amends s. 370.15, F.S., requiring persons trawling for shrimp to have a saltwater products license.

Section 44: Amends s. 370.153, F.S., providing persons may trawl for shrimp in areas of the St. Johns River if noncommercial trawling is authorized by the Commission.

Section 45: Amends s. 370.25, F.S., creating an artificial reef program within the Commission to enhance saltwater opportunities and promote proper management of fisheries resources associated with artificial reefs; allowing the Commission to adopt

procedures, by rule, for submitting application for financial assistance and criteria for allocating available funds; and, requiring the Commission to track all artificial reef development activities statewide and maintain a database of these activities for the public interest and to facilitate long-range planning and coordination within the Commission and with local governments.

This section prohibits persons placing artificial reef construction materials in state water outside zones permitted under terms and conditions defined in permits issued by the United States Army Corps of Engineers or by the Commission. It also prohibits persons from storing, possessing, or transporting on or across state waters any materials reasonably suited for artificial reef construction and stored in a manner providing ready access for use and placement as an artificial reef, unless a valid cargo manifest issued by the Commission is onboard the transporting vessel. Penalties are provided for violations of this section.

Section 46: Providing an appropriation of $97,049 from the commercial revenues in the Marine Resources Conservation Trust Fund to the Commission for FY 2000-2001, for (4) career service positions to implement the stone crab trap limitation program.

An appropriation of $254,408 is provided from the commercial revenues in the Marine Resource Conservation Trust Fund to the Commission for program operation, plus the sum of $130,000 to cover the cost of stone crab trap tags in FY 2000-2001.

Section 47: Amends s. 190.012, F.S., allowing community development districts to fund certain environmental clean-up costs.

Section 48: Providing intent language.

Section 49: Providing an effective date of July 1, 2000.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

	Amount Year 1 (FY 00-01)	Amount Year 2 (FY 01-02)	Amount Year 3 (FY 02-03)
Anticipated Recurring Revenues			
Department of Agriculture and Consumer Services			
Increase in surcharge for leased lands General Inspection Trust Fund	$ 9,000	$ 9,000	$ 9,000
Wholesale & Retail Saltwater Products Dealers License Fees Saltwater Products Promotions Trust Fund	(26,600)	(26,600)	(26,600)
Fish and Wildlife Conservation Commission			
Wholesale & Retail Saltwater Products Dealers License Fees			

Marine Resources Conservation Trust Fund	26,600	26,600	26,600
Fish and Wildlife Conservation Commission			
Stone Crab Endorsement (1650 @ $125)	206,250	-	-
Incidental Take Endorsement (1500 @ $25)	50,000	-	-
1.2 million traps @ 50¢ per certificate	600,000	-	-
Total Revenues	$865,000	$865,000	$865,000

2. Expenditures:

Fish and Wildlife Conservation Commission			
Stone Crab Trap Limitation Program*:			
Office expenses for administration of program	$ 90,208	$ -	$ -
Salaries - (4) FTEs	80,008	-	-
Trap tags (1.5 million)	184,800	-	-
Database development and (1) OPS position	110,917	-	-
Appeals Board expenses	15,000	-	-
Total Expenditures	$480,933	$ -	$ -

*The Fish and Wildlife Conservation Commission estimates the annual recurring costs of the program to be approximately $425,000.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

The $5 increase in the aquaculture lease surcharge will fund the Cultured Shellfish Theft Reward program. Consequently, individuals who report theft will be receiving a minimum of $500. This discourages theft and increases productivity for farmers.

The fees and costs associated with the Stone Crab Trap Limitation program will be paid by private sector participants who earn a living in the stone crab fishery. Persons who earn a living in the stone crab fishery expect to see an increase in trap yield due to the reduction in the number of traps in the water. Under the Fish and Wildlife Conservation Commission (Commission) rule implemented by this bill, some commercial harvesters will not be able to meet the landing requirements and as such would be ineligible for trap certificates (unless an appeal to one of the Advisory Boards is successful). Their only method for harvest will be under the incidental take provisions of the rule.

D. FISCAL COMMENTS:

The Cultured Shellfish Reward program was created in Chapter 99-390, Laws of Florida, and went unfunded. It is a program requested by the shellfish farmers, and the surcharge increase will benefit them directly. The present $5 surcharge is used to create a fund for clean-up of abandoned leases by DACS. The fine provision in the bill for processors may generate some revenue, but its amount is unknown. It is not anticipated at this time to charge a fee for shellfish processing plants. However, if the present language passes, the Division of Aquaculture would start workshops on the fee in 2001.

In regards to the Stone Crab Trap Limitation program, the bill appropriates $481,457 from the saltwater license fee revenues in the Marine Resources Conservation Trust Fund for FY 2000-2001. The Commission also has indicated that additional law enforcement will be necessary to implement this program, but has not included those costs in the appropriations request accompanying the bill. Those funds would come from its budget request for law enforcement overtime.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

The bill does not require counties or municipalities to spend funds or to take action requiring the expenditure of funds.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

The bill does not reduce the authority that municipalities or counties have to raise revenue in the aggregate.

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

The bill does not reduce any state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

The Fish and Wildlife Conservation Commission (Commission) is authorized by the Florida Constitution to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life. Exceptions to this authority include license fees, penalties for violations, planning, budgeting, personnel management, and purchasing which “shall be prescribed by general law.” The stone crab trap certificate program rules recently adopted by the Commission already address the mechanics of the program. However, legislative authorization is necessary for the fees and penalties to implement the rules. One provision of the bill that is unclear as to its constitutionality is the establishment of “equitable rent” for the enhanced access to both stone crabs and crawfish. If rent is a fee, the Legislature must set it. While there is no case law regarding the rent and fees relating to the Commission, in the sales tax laws the concepts of license fee and rent together have been combined. (See section 212.02 (10)(g), (l), and (j), F.S.; section 212.02(15), F.S.; and, section 212.031(1), F.S.).

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

Although data from the Florida Marine Research Institute indicates the stone crab fishery is stable, there are concerns that the number of traps in the water is damaging the bottom, raising marine debris concerns due to recent storms, and interfering with other commercial and recreational purposes. The Commission and the commercial stone crab industry have participated in the development of this legislation. Industry representatives state the industry has asked for self regulation, and is a willing participant in the payment of fees and the reduction of traps in the water. However, information received by the House Water & Resource Management Committee indicates this legislation is not supported by all commercial stone crab harvesters. The small commercial harvesters who will not be able to meet the landing requirements, and as such will be ineligible for trap certificates, may be adversely impacted by this legislation as their only method for harvest will be under the incidental take provisions of the bill.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

None.

VII. SIGNATURES:

COMMITTEE ON AGRICULTURE:

Prepared by:	Staff Director:
Debbi Kaiser	Susan D. Reese

AS REVISED BY THE COMMITTEE ON Finance and Taxation:

Prepared by:	Staff Director:
Carol Dickson-Carr	Alan Johansen

AS FURTHER REVISED BY THE COMMITTEE ON GENERAL GOVERNMENT APPROPRIATIONS:

Prepared by:	Staff Director:
Marsha M. Belcher	Cynthia P. Kelly

FINAL ANALYSIS PREPARED BY THE COMMITTEE ON AGRICULTURE:

Prepared by:	Staff Director:
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