

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: Community Affairs Committee

BILL: SPB 7040

SPONSOR: Community Affairs Committee

SUBJECT: Waterfront Property

DATE: February 3, 2005

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vickers	Yeatman		Pre-meeting
2.				
3.				
4.				
5.				
6.				

I. Summary:

This Senate provisional bill addresses a range of issues relating to recreational and commercial waterfront property and the preservation of public access to waterways. In addition to providing legislative findings and a definition for the term “recreational and commercial working waterfronts,” the bill provides for the following:

- Requires counties to include strategies for preserving recreational boating and commercial fishing waterfronts within their comprehensive plans;
- Provides that the Board of Trustees of the Internal Improvement Trust Fund must encourage the use of sovereign submerged lands for water-dependent uses and public access;
- Provides technical assistance and support to waterfront communities through the creation of the Waterfronts Florida Program within the Department of Community Affairs;
- Directs the Department of Environmental Protection to evaluate the current use of state parks for recreational boating and identify appropriate locations for the future expansion of public boating access;
- Increases the current schedule of vessel registration fees and provides that the additional revenue generated must be deposited into the competitive boating grants program for the construction of publicly owned boating infrastructure; and
- Creates a property tax deferral program for qualifying recreational and commercial working waterfront properties.

This bill substantially amends the following sections of the Florida Statutes: 163.3177, 163.3178, 253.03, 327.47, 328.72, and 328.76. This bill creates sections 197.304-197.3047 and 324.07 of the Florida Statutes. This bill creates unnumbered sections of the Florida Statutes.

II. Present Situation:

A diversified waterfront industry, both commercial and recreational, is an important component of the state economy. The recreational marine industry represents a total economic output of over \$14.1 billion and is responsible for over 180,000 jobs in the state. Commercial fishing remains a \$1.1 billion industry employing more than 13,000 Floridians. However, changes in Florida’s economy and land use are affecting the economic viability of many recreational and commercial working waterfronts.¹ Public access to marinas and boat ramps may be diminishing due to the fact that the capacity to launch and moor boats has not kept pace with increases in annual vessel registrations. In addition, there is evidence that, for both commercial-fishing and recreational working waterfronts, conversion of waterfront property from public to private use is contributing to this loss of public access to waterways.

Waterfront Facilities - Definitively documenting the loss of working waterfronts and boating-related facilities is problematic. A comprehensive inventory of commercial and recreational working waterfronts in Florida (marinas, boatyards, and boat ramps) does not exist.² However, various estimates of facilities are available. The Division of Recreation and Parks within the Department of Environmental Protection (DEP) maintains an inventory of outdoor recreational facilities and resources in the state provided by federal, state, regional, county and municipal governments, commercial enterprises (which may include retail sales facilities), non-profit organizations, and private clubs.³ The following table summarizes various categories of waterfront facilities since 1987.

TABLE 1 – Waterfront Facilities				
Facility Type	2004 (est.)	1998	1992	1987
Marinas	1,546	1,643	1,415	1,545
Boat Slips	62,954	58,076	56,853	60,682
Dry Storage	35,908	38,771	34,852	37,774
Boat Ramps	2,714	2,613		
Ramp Lanes	3,404	3,345	3,073	2,993

SOURCE: *Florida’s Statewide Comprehensive Outdoor Recreation*

Recognizing limitations in the data presented in TABLE 1, it may be concluded that, since 1987, there has been no change in the number of marinas, a decline in the number of dry storage units, and a marginal increase in the number of marina slips and boat ramps (and ramp lanes).

Vessel Registration – While the number of waterfront facilities has remained relatively stagnant in recent years, the number of vessels registered in Florida has increased significantly. In 2003,

¹ The term “commercial and recreational working waterfronts” is generally defined as public or private-owned water-dependent facilities that are available to the public. It includes marinas, mooring fields, boat yards, boat ramps, and commercial-fishing support facilities. It does not include “Ports” (federally chartered or port authorities) and military waterfronts.

² In part to address this problem, the Florida Fish and Wildlife Conservation Commission (FWC) has commissioned a comprehensive statewide recreational boating facilities inventory for Florida. The inventory will include facilities (marinas, dry storage, mooring fields, boat ramps, and docks) in saltwater, freshwater, and brackish environments. It is projected that the inventory will be completed in 2 – 3 years.

³ *Outdoor Recreation in Florida – 2000, Florida’s Statewide Comprehensive Outdoor Recreation Plan*, (SCORP) Florida DEP, February 2002. p. 2-62. The estimate does not include private facilities, such as condominium slips or “dockomniums.”

Florida had 978,225 registered vessels, a 30 percent increase from 1997, and a 52 percent increase from 1987. This increase is approximately twice the rate of the population increase for the state over the same period. Visiting vessels registered in other states also require waterfront facilities. Florida is the top ranked destination for transient marine recreation in the United States. Given the lack of new waterfront facilities previously discussed, it appears that Florida's present inventory of waterfront facilities may be insufficient to meet current and future boating demand.

Conversion of Recreational and Commercial Working Waterfronts – A number of factors have exerted pressure on the operators of traditional working waterfronts to convert their property to other uses. In many instances, development interests are acquiring traditional working waterfronts that currently serve “water-dependent” uses and converting them to private boating and residential uses. This has the effect of both decreasing the availability of waterfront property necessary to sustain commercial-fishing and recreational boating activities, and increasing the value of nearby working waterfront property. This increase in property value results in higher property taxes, which may cause the working waterfronts to be decreasingly profitable, further compounding the pressure to convert the property to its “highest and best” use.

Although the data is limited, there is evidence that the frequency of conversion has increased significantly in recent years. Local governments and marine industry groups indicate that the strong demand for condominiums with water access has largely fueled this trend. The problem is particularly acute in urban areas of the state where the number of large public marinas appears to be declining. Recreational boating industry representatives report that statewide 57 marinas or boatyards have recently converted to condominiums or other private uses, and a number of sales of such facilities are pending or have been proposed.⁴ Marine industry representatives have also reported that the 2004 hurricane season has adversely affected the inventory of public-accessible waterfront facilities.

III. Effect of Proposed Changes:

This bill addresses a wide range of issues relating to the preservation of traditional working waterfronts and public boating access in Florida. Specifically, the bill strengthens existing waterfront-related programs, revises local planning requirements to recognize the importance of traditional working waterfronts and public boating access, and provides additional funding for boating-related infrastructure projects.

The bill establishes legislative findings and a definition for the term “recreational and commercial working waterfronts” which is used throughout the bill. The bill defines this term to *mean a parcel or parcels of real property that provide access for water-dependent commercial activities or provide access for the public to the navigable waters of the state which require direct access to or a location on or adjacent to a navigable waterway, and therefore cannot be located inland.* The term “recreational and fishing working waterfront” includes water-dependent facilities that are open to the public and offer public access by vessels to the waters of the state or are support facilities for either pleasure, commercial, research and governmental (e.g., docks,

⁴ This information was provided by members of the Florida Water Access Coalition, an organization of various boating interest groups in the state.

marinas open to the public (both wet and dry), public boat ramps, boat hauling and repair facilities, commercial fishing facilities, and boat construction facilities).

Section 1 amends s. 163.3177, F.S., to require that coastal counties include within the future lands use element of their comprehensive plan criteria that encourage the preservation of recreational and commercial working waterfronts as defined in s. 342.07, F.S. In addition, this section provides that counties must address public access to waterways within the recreation and open space element of their comprehensive plan.

Section 2 amends s. 163.3178, F.S., to provide that counties required to develop a coastal management element must identify in the associated shoreline use component the strategies that will be used to preserve recreational and commercial working waterfronts as defined in s. 342.07, F.S.

Section 3 amends s. 253.03, F.S., to provide that the Board of Trustees of the Internal Improvement Trust Fund shall, in establishing the terms and conditions for the use of state sovereign submerged lands, encourage the use of such lands for water-dependent uses and public access.

Section 4 creates a new section of law codifying the Waterfronts Florida Program. This program, which is managed through the Department of Community Affairs and funded through grants provided by the Department of Environmental Protection, helps participating communities develop a plan to revitalize, renew and promote interest in their waterfront district. Waterfront revitalization targets environmental resource protection, public access, retention of viable traditional waterfront economies,⁵ and hazard mitigation.

Through this program communities are selected every two years and receive technical assistance over a two-year period and a grant to reimburse the recipient for a portion of costs associated with preparing the plan.⁶ Once the plans are complete, communities can begin the process of financing implementation of the plan from sources such as state and federal grants, bonds issuances, private borrowing, and tax increment financing districts. Since 1997, the department has designated 13 communities as Waterfronts Florida Partnership Communities. To date, these communities have been the beneficiaries of 7,000 hours of volunteer services, \$143,362 in private donations, and \$7.4 million of other public investment.

Section 5 directs the Department of Environmental Protection, in coordination with the Florida Fish and Wildlife Conservation Commission, to undertake a study evaluating the current use of state parks for purposes of recreational boating and identify opportunities for increasing recreational boating access within the state park system. The study must include recommendations regarding the most appropriate locations for expansion of existing recreational boating facilities, as well as identifying state parks where new recreational boating facilities may be located. The report must also contain estimates of the costs necessary to expand and construct additional recreational boating facilities at specific state parks. The department is required to

⁵ Eight of the 13 grants were for commercial-fishing working waterfronts.

⁶ Up to \$10,000 in the first year, and up to \$25,000 in the second year.

submit a report summarizing its findings and recommendations to the Governor, President of the Senate, and Speaker of the House of Representatives no later than January 1, 2006.

Section 6 amends s. 327.47, F.S., to provide that additional revenues generated through increased vessel registration fees (section 7 of the bill) are to be used for the competitive boating grants program administered by the Florida Fish and Wildlife Conservation Commission. This program provides grants to local governments for the construction and maintenance of publicly owned boat ramps, piers, and docks. In addition, grants may be used for boater education, deployment of manatee technical avoidance technology, and economic development initiatives that promote boating.

Section 7 amends s. 328.72, F.S., to increase the current schedule of vessel registration fees and provide that the revenue generated through this fee increase must be deposited into the competitive boating grant program authorized under s. 327.47, F.S. The bill provides for an increase of approximately 25 percent across the various vessel classes. This increase is estimated to generate an additional \$4.5 million annually for the competitive boating grants program.

TABLE 2 – Revised Vessel Registration Fees		
Class (Vessel Length)	Current Fee	Fee Under SPB 7040
Class A-1 (Less 12 ft.)	\$3.50	\$4.50
Class A-2 (12 ft. to 15 ft.)	\$10.50	\$13.50
Class 1 (16 ft. to 25 ft.)	\$18.50	\$23.50
Class 2 (26 ft. to 39 ft.)	\$50.50	\$63.50
Class 3 (40 ft. to 64 ft.)	\$82.50	\$103.50
Class 4 (65 ft. to 109 ft.)	\$98.50	\$123.50
Class 5 (110 ft. or greater)	\$122.50	\$153.50
Dealer Registration Certificate	\$16.50	\$20.50

The bill stipulates that revenue generated through the increase in vessel registration fees is to be deposited into the Marine Resources Conservation Trust Fund within the Fish and Wildlife Conservation Commission and must be used exclusively for the competitive boating grant program established in s. 327.47, F.S.

The bill would increase vessel registration fees for boat owners in the state. The amount of the increase would vary by vessel length. For the more than 90 percent of the vessel owners in the state who own vessels less than 26 feet, the increase would be \$5 or less annually.

Section 8 amends s. 328.76, F.S., to conform the distribution of vessel registration fees deposited into the Marine Resources Conservation Trust Fund to provisions previously discussed in sections 6 and 7 of the bill.

Section 9 creates s. 342.07, F.S., to provide legislative findings and a definition for the term “recreational and commercial working waterfronts.” This new statutory language provides legislative recognition that there is a significant interest in boating access to the state’s navigable waters and this access is vital to recreational users and the marine industry and recognizes the

availability and economic impact of public marinas, public boat yards and public boat ramps along navigable waterways. The Legislature further recognizes that an important use of the waterways of this state is for engaging in commerce and transportation of goods and people upon such waterways; however, this commerce and transportation is not feasible unless there is access from the water to the land by and through working public waterfronts.

Section 10 creates ss. 197.304 – 197.3047, F.S., providing for the establishment of a tax deferral program for qualifying recreational and commercial working waterfronts. This program, which is modeled after a similar property tax deferral program for certain low-income individuals, would provide owners of traditional working waterfront properties some relief in the face of escalating waterfront property values, and enable them to continue to operate their property as a publicly accessible working waterfront. Under this program the county would maintain a lien on the property until such time as there is change in the use of the property and the owner is no longer eligible to claim the property as a bona fide recreational and commercial working waterfront. The county would then collect any taxes and interest due following this change in use of the property.

This section establishes requirements relating to the application for tax deferral, the calculation of interest on deferred taxes, prepayment of deferred taxes, distribution of payments, and penalties.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

The bill increases the current schedule of vessel registration fees and provides that the revenue generated through this fee increase must be deposited into the competitive boating grant program authorized under s. 327.47, F.S. The bill provides for an increase of approximately 25 percent across the various vessel registration classes.

B. Private Sector Impact:

The bill creates a property tax deferral program for eligible owners of recreational and commercial working waterfront property. Under this program the county would maintain

a lien on the property until such time as there is a change in the use of the property and the owner is no longer eligible to claim the property as a bona fide recreational and commercial working waterfront. The county would then collect any taxes and interest due following this change in the use of the property.

The bill would increase vessel registration fees for boat owners in the state. The amount of the increase would vary by vessel length. For the more than 90 percent of the vessel owners in the state who own vessels less than 26 feet, the increase would be \$5 or less annually.

C. Government Sector Impact:

The bill would generate an additional \$4.5 million annually for the competitive boating grants program administered by the Florida Fish and Wildlife Conservation Commission. This program provides grants to local governments for the construction and maintenance of publicly owned boat ramps, piers, and docks. In addition, grants may be used for boater education, deployment of manatee technical avoidance technology, and economic development initiatives that promote boating.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill is the result of *Senate Interim Project 2005-122: Working Waterfronts*.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

VIII. Summary of Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
