

By the Committee on Community Affairs; and Senators Altman and Fasano

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1 A bill to be entitled
2 An act relating to docks; amending s. 258.42, F.S.;
3 authorizing the placement of roofs on certain
4 residential single-family docks; amending s. 403.061,
5 F.S.; authorizing the Department of Environmental
6 Protection to adopt rules that include special
7 criteria for approving certain docking facilities in
8 shellfish harvesting waters; deleting an obsolete
9 provision; authorizing the department to maintain a
10 list of projects or activities for applicants to
11 consider when developing proposals in order to meet
12 mitigation or public interest requirements; directing
13 the department to expand online self-certification for
14 certain exemptions and general permits and to report
15 on such activities to the Legislature; prohibiting
16 local governments from specifying the method or form
17 for documenting that a project meets specified
18 requirements; amending s. 403.813, F.S.; clarifying
19 provisions relating to permits issued at district
20 centers to authorize the use of different construction
21 materials or minor deviations when replacing or
22 repairing docks and piers; providing an effective
23 date.

24
25 Be It Enacted by the Legislature of the State of Florida:

26
27 Section 1. Paragraph (e) of subsection (3) of section
28 258.42, Florida Statutes, is amended to read:
29 258.42 Maintenance of preserves.—The Board of Trustees of

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30 the Internal Improvement Trust Fund shall maintain such aquatic
31 preserves subject to the following provisions:

32 (3)

33 (e) ~~There shall be no erection of Structures~~ may not be
34 erected within the preserve, except:

35 1. Private residential docks may be approved for reasonable
36 ingress or egress of riparian owners. Slips at private
37 residential single-family docks which contain boat lifts or
38 davits that do not float in the water when loaded may not, in
39 whole or in part, be enclosed by walls, but may be roofed if the
40 roof does not overhang more than 1 foot beyond the footprint of
41 the boat stored at the lift. Such roofs are not included in the
42 square-footage calculation of a terminal platform.

43 2. Private residential multislip docks may be approved if
44 located within a reasonable distance of a publicly maintained
45 navigation channel, or a natural channel of adequate depth and
46 width to allow operation of the watercraft for which the docking
47 facility is designed without the craft having an adverse impact
48 on marine resources. The distance shall be determined in
49 accordance with criteria established by the trustees by rule,
50 based on ~~a consideration of~~ the depth of the water, nature and
51 condition of bottom, and presence of manatees.

52 3. Commercial docking facilities shown to be consistent
53 with the use or management criteria of the preserve may be
54 approved if the facilities are located within a reasonable
55 distance of a publicly maintained navigation channel, or a
56 natural channel of adequate depth and width to allow operation
57 of the watercraft for which the docking facility is designed
58 without the craft having an adverse impact on marine resources.

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59 The distance shall be determined in accordance with criteria
60 established by the trustees by rule, based on ~~a consideration of~~
61 the depth of the water, nature and condition of bottom, and
62 presence of manatees.

63 4. Structures for shore protection, including restoration
64 of seawalls at their previous location or upland of or within 18
65 inches waterward of their previous location, approved
66 navigational aids, or public utility crossings authorized under
67 paragraph (a) may be approved.

68
69 A ~~No~~ structure under this paragraph or chapter 253 may not ~~shall~~
70 be prohibited solely because the local government fails to adopt
71 a marina plan or other policies dealing with the siting of such
72 structures in its local comprehensive plan.

73 Section 2. Subsection (29) of section 403.061, Florida
74 Statutes, is amended, present subsection (40) is renumbered as
75 section (42), and new subsections (40) and (41) are added to
76 that section, to read:

77 403.061 Department; powers and duties.—The department shall
78 have the power and the duty to control and prohibit pollution of
79 air and water in accordance with the law and rules adopted and
80 promulgated by it and, for this purpose, to:

81 (29) Adopt by rule special criteria to protect Class II and
82 Class III shellfish harvesting waters. Such rules may include
83 special criteria for approving docking facilities that have 10
84 or fewer slips if the construction and operation of such
85 facilities will not result in the closure of shellfish waters.
86 ~~Rules previously adopted by the department in rule 17-~~
87 ~~4.28(8)(a), Florida Administrative Code, are hereby ratified and~~

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88 ~~determined to be a valid exercise of delegated legislative~~
89 ~~authority and shall remain in effect unless amended by the~~
90 ~~Environmental Regulation Commission.~~

91 (40) Maintain a list of projects or activities, including
92 mitigation banks, which applicants may consider when developing
93 proposals in order to meet the mitigation or public interest
94 requirements of this chapter, chapter 253, or chapter 373. The
95 contents of such list are not a rule as defined in chapter 120,
96 and listing a specific project or activity does not imply
97 department approval for such project or activity. Each county
98 government is encouraged to develop an inventory of projects or
99 activities for inclusion on the list by obtaining input from
100 local stakeholders in the public, private, and nonprofit
101 sectors, including local governments, port authorities, marine
102 contractors, other representatives of the marine construction
103 industry, environmental or conservation organizations, and other
104 interested parties. A county may establish dedicated trust funds
105 for depositing public interest donations to be used for future
106 public interest projects, including improving on-water law
107 enforcement capabilities.

108 (41) Expand the use of online self-certification and other
109 forms of online authorization for appropriate exemptions,
110 general permits, and individual permits by the department and
111 the water management districts if such expansion is economically
112 feasible. The department shall report on the progress of these
113 activities to the President of the Senate, the Speaker of the
114 House of Representatives, and the Legislative Committee on
115 Intergovernmental Relations by February 15, 2011.
116 Notwithstanding any other provision of law, a local government

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117 may not specify the method or form for documenting that a
118 project meets the requirements for authorization under chapter
119 161, chapter 253, chapter 373, or this chapter. This includes
120 Internet-based department programs that provide for self-
121 certification.

122

123 The department shall implement such programs in conjunction with
124 its other powers and duties and shall place special emphasis on
125 reducing and eliminating contamination that presents a threat to
126 humans, animals or plants, or to the environment.

127 Section 3. Paragraph (d) of subsection (1) of section
128 403.813, Florida Statutes, is amended to read:

129 403.813 Permits issued at district centers; exceptions.—

130 (1) A permit is not required under this chapter, chapter
131 373, chapter 61-691, Laws of Florida, or chapter 25214 or
132 chapter 25270, 1949, Laws of Florida, for activities associated
133 with the following types of projects; however, except as
134 otherwise provided in this subsection, nothing in this
135 subsection relieves an applicant from any requirement to obtain
136 permission to use or occupy lands owned by the Board of Trustees
137 of the Internal Improvement Trust Fund or any water management
138 district in its governmental or proprietary capacity or from
139 complying with applicable local pollution control programs
140 authorized under this chapter or other requirements of county
141 and municipal governments:

142 (d) The replacement or repair of existing docks and piers,
143 except that ~~no~~ fill material may not ~~is to~~ be used and ~~provided~~
144 ~~that~~ the replacement or repaired dock or pier must be ~~is~~ in the
145 same location and of the same configuration and dimensions as

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146 the dock or pier being replaced or repaired. This does not
147 preclude the use of different construction materials or minor
148 deviations to allow upgrades to current structural and design
149 standards.

150 Section 4. This act shall take effect July 1, 2010.