

1989

Session Law 89-151

Florida Senate & House of Representatives

Follow this and additional works at: <https://ir.law.fsu.edu/staff-analysis>



Part of the Legislation Commons

Recommended Citation

House of Representatives, Florida Senate &, "Session Law 89-151" (1989). *Staff Analysis*. 967.
<https://ir.law.fsu.edu/staff-analysis/967>

This Article is brought to you for free and open access by the Florida Legislative Documents at Scholarship Repository. It has been accepted for inclusion in Staff Analysis by an authorized administrator of Scholarship Repository. For more information, please contact efarrell@law.fsu.edu.

B
I
L
L

H
I
S
T
O
R
Y

S 500 GENERAL BILL/CS/1ST ENG by Natural Resources and Conservation; Kiser (Identical CS/H 564)

Aquatic Plant Control; clarifies certain authority of D.N.R. under Fla. Aquatic Weed Control Act & Fla. Nonindigenous Aquatic Plant Control Act; provides rulemaking authority; requires permit for control or eradication of aquatic weeds or plants; provides for exemptions; provides criteria & standards for review of permit applications. Amends 369.20,.22. Effective Date: 06/27/89.

03/13/89 SENATE Prefiled
03/24/89 SENATE Referred to Natural Resources and Conservation
04/04/89 SENATE Introduced, referred to Natural Resources and Conservation -SJ 49
04/07/89 SENATE On Committee agenda—Natural Resources and Conservation, 04/11/89, 2:00 pm, Room-2C-(301)
04/11/89 SENATE Comm. Report: CS by Natural Resources and Conservation, placed on Calendar -SJ 125
04/14/89 SENATE CS read first time -SJ 171
04/27/89 SENATE Placed on Special Order Calendar -SJ 210
05/02/89 SENATE Placed on Special Order Calendar -SJ 242; CS passed as amended; YEAS 36 NAYS 0 -SJ 254
05/09/89 HOUSE In Messages
05/16/89 HOUSE Received, placed on Calendar -HJ 490
05/17/89 HOUSE Placed on Special Order Calendar
05/22/89 HOUSE Substituted for CS/HB 564 -HJ 560; Read second time -HJ 561
05/23/89 HOUSE Read third time; CS passed; YEAS 116 NAYS 0 -HJ 573
05/23/89 Ordered enrolled -SJ 418
06/12/89 Signed by Officers and presented to Governor
06/27/89 Approved by Governor; Chapter No. 89-151

NOTES: Above bill history from Division of Legislative Information's *FINAL LEGISLATIVE BILL INFORMATION, 1989 SESSIONS*. Staff Analyses for bills amended beyond final committee action may not be in accordance with the enacted law. Journal page numbers (HJ & SJ) refer to daily Journals and may not be the same as final bound Journals.

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Ross CR</u>	<u>Voigt WW</u>	1. <u>NRC</u>	<u>CS</u>
2. _____	_____	2. _____	_____
3. _____	_____	3. _____	_____
4. _____	_____	4. _____	_____

SUBJECT:

Aquatic Weed Control & Nonindigenous Aquatic Plant Control

BILL NO. AND SPONSOR:

CS/SB 500 by Senator Kiser

I. SUMMARY:

A. Present Situation:

Pursuant to the "Florida Aquatic Weed Control Act," section 369.20, F.S., the Department of Natural Resources has the authority to direct the control, eradication, and regulation of noxious aquatic weeds and to direct related research, as provided by law. The Department is required to guide and coordinate all activities relating to such weed control by responsible public bodies, authorities, agencies and special districts. Section 369.22, Florida Statutes, is named the "Florida Nonindigenous Aquatic Plant Control Act." Pursuant to the act the Department has the authority to manage and oversee all maintenance programs for the control of nonindigenous aquatic plants in Florida waters, as provided by law.

In 1985, the Department promulgated Rule 16C-20, F.A.C., providing for the administration of a permitting program regulating both private and public entities engaged in aquatic plant control activities. In January, 1989, the Joint Administrative Procedures Committee filed an Objections Report questioning whether the Department has the general authority to implement Rule 16C-20, F.A.C., regulating non-governmental or private activities. Specifically, the Committee alleged that the phrase "as provided by law" in subsection 369.22(2), is only a "reference to powers granted elsewhere by law, and not a separate grant in and of itself." It contends that specific rulemaking authority to regulate private entities was not granted in the general policy provision in subsection (2), and therefore, the Department has no statutory authority to implement rule 16C-20, F.A.C.

B. Effect of Proposed Changes:

Section 1.

The bill amends subsection 369.20(2), F.S., clarifying that the Department is mandated to carry out the aquatic weed control activities delineated in s. 369.20, F.S. Subsection 369.20(6), F.S., is created by the bill which directly authorizes the Department to adopt, amend or repeal rules necessary for the implementation of the provisions in s. 369.20, F.S. The Department is also directed to perform any other acts including rulemaking, for the proper administration, enforcement or interpretation of s. 369.20, F.S.

Subsection (7) of s. 369.20, F.S., is created to provide the Department with the specific authority to require persons and public agencies to obtain permits before conducting any activity for the purpose of controlling, eradicating, removing, or otherwise altering any weeds or plants in statewaters. The Department may promulgate rules exempting related activities in certain state waters.

Criteria in subsection (2) of s. 369.20, F.S., must be used by the Department in reviewing such permit applications. The bill mandates that the Department devise rules delineating chemical, biological and mechanical standards as permitting criteria. The Department must also evaluate the benefit to the public of proposed weed and plant control activities. Criteria which recognizes the differences between natural and manmade waters of the State must also be utilized.

Section 2.

The bill clarifies that the Department has the authority to carry out the duties delineated in Section 369.22, F.S., the "Florida Nonindigenous Aquatic Plant Control Act." The Department is also authorized to adopt, amend, or repeal rules and perform any other act necessary to implement s. 369.22, F.S. The implementation of the administration, enforcement, and interpretation of that section is specifically authorized.

The bill also dictates that no person or public agency will act to control, eradicate, alter, or remove any nonindigenous aquatic plant of the waters of the State unless the appropriate permit has been issued by the Department. The bill provides that the Department may exempt activities in certain State waters.

The Department must consider criteria set forth in subsection (4) of s. 369.22, F.S., and other biological, mechanical, chemical standards to evaluate permit applications. The benefit to the public of such proposed activities must also be considered. Specific criteria recognizing the differences between manmade and natural waters of the State must also be utilized in the evaluating of proposed activities.

Section 3

The act takes effect upon becoming law.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

No new direct charges will be made to the public by the bill as the Department has already implemented the subject permitting program pursuant to Rule 16C-20, F.A.C.

B. Government:

No direct economic impacts will be made on the government.

III. COMMENTS:

IV. AMENDMENTS:

None.

STORAGE NAME: h0564s-f.nr
DATE: June 19, 1989

**HOUSE OF REPRESENTATIVES
NATURAL RESOURCES COMMITTEE
FINAL STAFF ANALYSIS & ECONOMIC IMPACT STATEMENT**

BILL #: CS/HB 564 (Senate companion CS/SB 500 passed)
RELATING TO: Aquatic Plant Control
SPONSOR(S): Representative Cosgrove
EFFECTIVE DATE: Upon becoming law
DATE BECAME LAW: June 27, 1989
CHAPTER #: 89-151, Laws of Florida
COMPANION BILL(S): SB 500
OTHER COMMITTEES OF REFERENCE: (1) Appropriations
(2)

I. SUMMARY:

A. PRESENT SITUATION:

In 1970, the Legislature enacted the Aquatic Weed Control Act. The Department of Natural Resources was given the authority to direct the control, eradication, and regulation of noxious and nonindigenous aquatic weeds, and to direct the research and planning related to these activities.

The department insures that the control, eradication, and regulation of noxious and nonindigenous aquatic weeds is done in a manner which provides safety to human populations and the environment. If these control activities are not done by department personnel, then the department enters into contracts and issues permits to persons qualified to carry out control activities.

B. EFFECT OF PROPOSED CHANGES:

This bill clarifies the authority of the Department of Natural Resources to direct the control, eradication, and regulation of noxious and nonindigenous aquatic weeds and plants, and gives the department rulemaking authority with regards to their aquatic weed control responsibilities.

This bill prohibits persons and public agencies from controlling, eradicating, removing, or otherwise altering noxious aquatic weeds or nonindigenous aquatic plants without a permit from the department. The bill also provides for exemptions by department rule and criteria and standards for department review of permit applications.

C. SECTION-BY-SECTION ANALYSIS:

Section 1. Clarifies the authority of the Department of Natural Resources to direct the control, eradication, and regulation of aquatic weeds.

Section 2. Clarifies the authority of the Department of Natural Resources to direct the control, eradication, and regulation of nonindigenous aquatic weeds.

Section 3. Provides an effective date.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE AGENCIES/STATE FUNDS:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation Effects:

None.

3. Long Run Effects Other Than Normal Growth:

None.

4. Appropriations Consequences:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS AS A WHOLE:

1. Non-recurring or First Year Start-Up Effects:

None.

2. Recurring or Annualized Continuation 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:

None.

III. LONG RANGE CONSEQUENCES:

This bill is consistent with the following goal and policies of the State Comprehensive Plan:

(8) WATER RESOURCES.--

(a) Goal.--Florida shall assure the availability of an adequate supply of water for all competing uses deemed reasonable and beneficial and shall maintain the functions of natural systems and the overall present level of surface and ground water quality. Florida shall improve and restore the quality of waters not presently meeting water quality standards.

(b) Policies.--

1. Ensure the safety and quality of drinking water supplies and promote the development of reverse osmosis and desalinization technologies for the developing water supplies.

(8) Water Resources.--

10. Protect surface and groundwater quality and quantity in the state.

IV. COMMENTS:

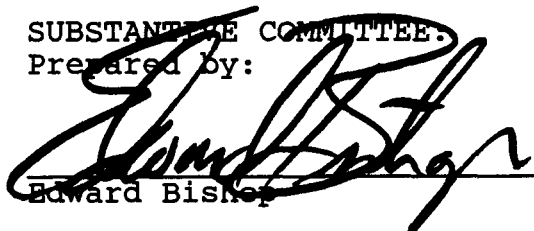
This bill is sponsored by the Department of Natural Resources. It was filed in response to an Administrative Procedures Committee objection which questioned the department's authority to issue permits for aquatic weed control to private interests.

This bill is not inconsistent with the committee's mission statement. However, there is not a specific provision that addresses this issue.

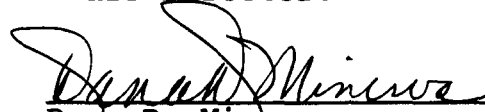
V. SIGNATURES:

SUBSTANTIVE COMMITTEE

Prepared by:


Edward Bishop

Staff Director:


Dana D. Minerva

STORAGE NAME: h0564s-f.nr

DATE: June 19, 1989

PAGE: 4

SECOND COMMITTEE OF REFERENCE:

Prepared by:

Staff Director:

APPROPRIATIONS:

Prepared by:

Staff Director:
