



Florida Fish and Wildlife Conservation Commission

Legislative Affairs Office

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2014 Session Legislative Proposal

Agenda Item 9B (2)

September 6, 2013

Attachment 3

Title: Statutory Change to Allow Additional Uses of County-Retained Vessel Registration Revenues

Submitted by: Division of Law Enforcement

I. Summary of the Proposal

This proposal would create additional permissible uses of portions of vessel registration revenues retained by Florida counties.

II. Present Situation

Chapter 328, Part II, F.S., requires the registration of vessels that operate on the waters of the State.

Section 327.02(39), F.S., defines a “vessel” to be synonymous with “boat” as referenced in section 1(b), Article VII of the State Constitution and includes every watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

With the following exceptions, listed in section 328.48(2), F.S., all vessels are required to be registered with the Florida Department of Highway Safety and Motor Vehicles as either commercial or recreational vessels:

- (1) A vessel operated, used, and stored exclusively on private lakes and ponds;
- (2) A vessel owned by the United States Government;
- (3) A vessel used exclusively as a ship’s lifeboat; or
- (4) A non-motor-powered vessel less than 16 feet in length or a non-motor-powered canoe, kayak, racing shell, or rowing scull, regardless of length.

Vessel registration fees are based on the length of the vessel, and are established in section 328.72(1), F.S. The fees are as follows:

Class A-1—Less than 12 feet in length, and all canoes to which propulsion motors have been attached, regardless of length: \$5.50 for each 12-month period registered.

Class A-2—12 feet or more and less than 16 feet in length: \$16.25 for each 12-month period registered.
(To county): \$2.85 for each 12-month period registered.

Class 1—16 feet or more and less than 26 feet in length: \$28.75 for each 12-month period registered.
(To county): \$8.85 for each 12-month period registered.

Class 2—26 feet or more and less than 40 feet in length: \$78.25 for each 12-month period registered.
(To county): \$32.85 for each 12-month period registered.

Class 3—40 feet or more and less than 65 feet in length: \$127.75 for each 12-month period registered.
(To county): \$56.85 for each 12-month period registered.

Class 4—65 feet or more and less than 110 feet in length: \$152.75 for each 12-month period registered.
(To county): \$68.85 for each 12-month period registered.

Class 5—110 feet or more in length: \$189.75 for each 12-month period registered.
(To county): \$86.85 for each 12-month period registered.

The county portion of the vessel registration fee is part of the total fee (not in addition to) and is derived from recreational vessels only.

Section 328.72(15), F.S. provides direction on how vessel registration fees are distributed. The portion of vessel registration fees retained by the counties can only be used to provide “recreational channel marking and other uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, and other public launching facilities, derelict vessel removal, and removal of vessels and floating structures deemed a hazard to public safety and health.”

In 2006, the Legislature passed and the Governor approved HB 7175 (Chapter 2006-309, Laws of Florida), amending section 328.72(15), F.S., and clarifying the permissible uses of county retained vessel registration fee revenues. The law also provided that counties must report annually, by November 1, to the Fish and Wildlife Conservation Commission (Commission) how all county-retained vessel registration revenues are spent, and provided that if the report is not submitted by January 1, the county portion of the vessel registration fee revenues must be deposited into the Marine Resources Conservation Trust Fund. The Commission must return those fees to the county if the county complies with the reporting requirement within the calendar year. Since becoming law, all counties have complied with this reporting requirement, and no county portions of vessel registration fees have been deposited into the Marine Resources Conservation Trust Fund.

The permissible uses of county portions of vessel registration revenues listed in section 328.72(15), F.S., are very specific and limited. The statute includes the provision for boat ramps, lifts, and hoists, marine railways and other public launching facilities, but does not include piers and docks. Piers were not included initially because there was concern that counties may view this as authority to use the revenues to fund fishing piers, which would not necessarily benefit boaters. The statute allows for the removal of derelict vessels, but does not allow for the removal of waterway debris which may inhibit navigation. "Other public launching facilities" is not defined in statute and is interpreted by counties inconsistently. For example, it is unclear whether or not docks are considered launching facilities. The statute allows for the construction of boat ramps, uniform waterway markers, and other boat access facilities, but does not provide that fees may be used for the operation and maintenance of boat ramps, uniform waterway markers, and other boat access facilities.

Because the statute requires that counties report to the Commission how they are using their portion of vessel registration revenues, the counties also frequently ask the Commission if they may use them for the uses described above, which are beneficial to the boating community and in keeping with the spirit of the statute, but are not specifically permitted by statute. As an example, the Commission was contacted by Escambia County, seeking permission to use county-retained vessel registration revenues to remove a logjam in the Escambia River. The logjam was impeding navigation on the river; the debris was extensive and also included several derelict vessels. Since there were derelict vessels that could not be removed from the river without also removing the logjam, the County was able to use their revenues to clear navigation on the river. Absent the presence of the derelict vessels, however, section 328.72(15), F.S., would not have allowed for the removal of the debris.

III. Effect of Proposed Changes

This proposal would allow for additional uses of county-retained vessel registration revenues, including the removal of debris that specifically impedes boating access (with the exception of dredging channels). It would also allow for the additional uses of maintenance and/or operation of recreational channel marking and other uniform waterway markers, public boat ramps, lifts, hoists, and marine railways as well as providing for them. Finally it would add boat piers, docks and mooring buoys, and other public launching facilities to the list of permitted uses. These changes reinforce the intent of the statute that the revenues be used to provide direct benefits to boaters.

IV. Impact on All Pertinent Statutes/Rules/Constitution

Section 328.72(15), F.S. would be amended, as follows:

328.72(15) DISTRIBUTION OF FEES.—Except for the first \$2, \$1 of which shall be remitted to the state for deposit into the Save the Manatee Trust Fund created within the Fish and Wildlife Conservation Commission and \$1 of which shall be remitted to the state for deposit into the Marine Resources Conservation Trust Fund to fund a grant

program for public launching facilities, pursuant to s. 206.606, giving priority consideration to counties with more than 35,000 registered vessels, moneys designated for the use of the counties, as specified in subsection (1), shall be distributed by the tax collector to the board of county commissioners for use only as provided in this section. Such moneys to be returned to the counties are for the sole purposes of providing, maintaining, and/or operating, recreational channel marking and other uniform waterway markers, public boat ramps, lifts, and hoists, marine railways, boat piers, docks and mooring buoys, and other public launching facilities, derelict vessel removal, removal of debris that specifically impedes boat access not to include the dredging of channels, and removal of vessels and floating structures deemed a hazard to public safety and health for failure to comply with s. 327.53. Counties shall demonstrate through an annual detailed accounting report of vessel registration revenues that the registration fees were spent as provided in this subsection. This report shall be provided to the Fish and Wildlife Conservation Commission no later than November 1 of each year. If, prior to January 1 of each calendar year, the annual detailed accounting report meeting the prescribed criteria has still not been provided to the commission, the tax collector of that county shall not distribute the moneys designated for the use of counties, as specified in subsection (1), to the board of county commissioners but shall, instead, for the next calendar year, remit such moneys to the state for deposit into the Marine Resources Conservation Trust Fund. The commission shall return those moneys to the county if the county fully complies with this section within that calendar year. If the county does not fully comply with this section within that calendar year, the moneys shall remain within the Marine Resources Trust Fund and may be appropriated for the purposes specified in this subsection.

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No

B. Does the proposed legislation raise significant constitutional concerns under the United States or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

No

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

No

V. Affected Agencies and Groups

Counties; boating groups and individual boaters

VI. Fiscal Impact

A. On the Commission

None

B. On Other State Agencies

None

C. On Private Sector

None

D. On Local Governments

None. This proposal will not change the amount of funding received by the counties. It will simply provide counties with additional permissible uses of funds to which the counties are already entitled under statute.

E. Tax/Fee Issues

None