

CHAPTER 97-22

Committee Substitute for House Bill No. 57

An act relating to environmental protection; amending s. 253.03, F.S.; prohibiting the control, regulation, permitting, or imposition of charges on certain severed materials; amending s. 369.20, F.S.; authorizing certain riparian owners to remove aquatic plants without certain permits under certain circumstances; exempting certain permits from certain water pollution operation permit requirements; amending s. 403.813, F.S.; exempting installation and repair of certain piers and docking facilities from certain permitting requirements; providing that certain environmental permits are not required for maintenance dredging of certain portions of natural water bodies within approved rights-of-way or drainage easements; providing limitations; specifying activities for which certain permits are not required under certain circumstances; prohibiting the Department of Environmental Protection from adopting certain rules; providing an effective date.

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

Section 1. Subsection (16) is added to section 253.03, Florida Statutes, 1996 Supplement, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(16) The Board of Trustees of the Internal Improvement Trust Fund, and the state through its agencies, may not control, regulate, permit, or charge for any severed materials which are removed from the area adjacent to an intake or discharge structure pursuant to an exemption authorized in s. 403.813(2)(f) and (r).

Section 2. Subsections (8) and (9) are added to section 369.20, Florida Statutes, 1996 Supplement, to read:

369.20 Florida Aquatic Weed Control Act.—

(8) As an exemption to all permitting requirements in this section and ss. 369.22 and 369.25, in all freshwater bodies, except aquatic preserves designated under chapter 258 and Outstanding Florida Waters designated under chapter 403, a riparian owner may physically or mechanically remove herbaceous aquatic plants and semi-woody herbaceous plants, such as shrub species and willow, within an area delimited by up to 50 percent of the property owner's frontage or 50 feet, whichever is less, and by a sufficient length waterward from, and perpendicular to, the riparian owner's shoreline to create a corridor to allow access for a boat or swimmer to reach open water. All unvegetated areas shall be cumulatively considered when determining the width of the exempt corridor. Physical or mechanical removal does not include the use of any chemicals or any activity that requires a permit pursuant to part IV of chapter 373.

(9) A permit issued pursuant to this section for the application of herbicides to waters in the state for the control of aquatic plants, algae, or invasive exotic plants is exempt from the requirement to obtain a water pollution operation permit pursuant to s. 403.088.

Section 3. Paragraphs (b), (d), (f), and (r) of subsection (2) of section 403.813, Florida Statutes, 1996 Supplement, are amended to read:

403.813 Permits issued at district centers; exceptions.—

(2) No permit under this chapter, chapter 373, chapter 61-691, Laws of Florida, or chapter 25214 or chapter 25270, Laws of Florida, 1949, shall be required for activities associated with the following types of projects; however, nothing in this subsection relieves an applicant from any requirement to obtain permission to use or occupy lands owned by the Board of Trustees of the Internal Improvement Trust Fund or any water management district in its governmental or proprietary capacity or from complying with applicable local pollution control programs authorized under this chapter or other requirements of county and municipal governments:

(b) The installation and repair of mooring pilings and dolphins associated with private docking facilities or piers and the installation of private docks, piers and recreational docking facilities, or piers and recreational docking facilities of local governmental entities when the local governmental entity's activities will not take place in any manatee habitat, any of which docks:

1. Has 500 square feet or less of over-water surface area for a dock which is located in an area designated as Outstanding Florida Waters or 1,000 square feet or less of over-water surface area for a dock which is located in an area which is not designated as Outstanding Florida Waters;

2. Is constructed on or held in place by pilings or is a floating dock which is constructed so as not to involve filling or dredging other than that necessary to install the pilings;

3. Shall not substantially impede the flow of water or create a navigational hazard;

4. Is used for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia; and

5. Is the sole dock constructed pursuant to this exemption as measured along the shoreline for a distance of 65 feet, unless the parcel of land or individual lot as platted is less than 65 feet in length along the shoreline, in which case there may be one exempt dock allowed per parcel or lot.

Nothing in this paragraph shall prohibit the department from taking appropriate enforcement action pursuant to this chapter to abate or prohibit any activity otherwise exempt from permitting pursuant to this paragraph if the department can demonstrate that the exempted activity has caused water pollution in violation of this chapter.

(d) The replacement or repair of existing docks and piers, except that no fill material is to be used and provided that the replacement or repaired dock or pier is in the same location and of the same configuration and dimensions as the dock or pier being replaced or repaired.

(f) The performance of maintenance dredging of existing manmade canals, channels, ~~and~~ intake and discharge structures, and previously dredged portions of natural water bodies within drainage rights-of-way or drainage easements which have been recorded in the public records of the county, where the spoil material is to be removed and deposited on a self-contained, upland spoil site which will prevent the escape of the spoil material into the waters of the state, provided that no more dredging is to be performed than is necessary to restore the canals, channels, and intake and discharge structures, and previously dredged portions of natural waterbodies, to original design specifications or configurations, provided that the work is conducted in compliance with s. 370.12(2)(d), provided that no significant impacts occur to previously undisturbed natural areas, and provided that control devices and best management practices for erosion and sediment control are utilized to prevent bank erosion and scouring and to prevent turbidity, dredged material, and prevent toxic or deleterious substances from discharging into adjacent waters during maintenance dredging. Further, for maintenance dredging of previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements, an entity that seeks an exemption must notify the department or water management district, as applicable, at least 30 days prior to dredging and provide documentation of original design specifications or configurations where such exist. This exemption applies to all canals and previously dredged portions of natural water bodies within recorded drainage rights-of-way or drainage easements constructed prior to April 3, 1970, and to those canals and previously dredged portions of natural water bodies constructed on or after April 3, 1970, pursuant to all necessary state permits. This exemption does not apply to the removal of a natural or manmade barrier separating a canal or canal system from adjacent waters. When no previous permit has been issued by the Board of Trustees of the Internal Improvement Trust Fund or the United States Army Corps of Engineers for construction or maintenance dredging of the existing manmade canal or intake or discharge structure, such maintenance dredging shall be limited to a depth of no more than 5 feet below mean low water. The Board of Trustees of the Internal Improvement Trust Fund may fix and recover from the permittee an amount equal to the difference between the fair market value and the actual cost of the maintenance dredging for material removed during such maintenance dredging. However, no charge shall be exacted by the state for material removed during such maintenance dredging by a public port authority. The removing party may subsequently sell such material; however, proceeds from such sale that exceed the costs of maintenance dredging shall be remitted to the state and deposited in the Internal Improvement Trust Fund.

(r) The removal of aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of organic material when such planting or removal is performed and authorized by permit or exemption granted under s. 369.20 or s. 369.25, if:

1. Organic material that exists on the surface of natural mineral soil shall be allowed to be removed to a depth of 3 feet or to the natural mineral soils, whichever is less.

2. All organic material removal pursuant to this subsection shall be deposited in an upland site in a manner that will prevent the reintroduction of the material into waters in the state except when spoil material is permitted to be used to create wildlife islands in freshwater bodies of the state when a governmental entity is permitted pursuant to this section to create such islands as a part of a restoration or enhancement project.

3. All activities are performed in a manner consistent with state water quality standards.

~~The department is not authorized to adopt implementing rules for this subsection, notwithstanding any other provision of law. The removal of noxious aquatic plants, the removal of tussocks, the associated replanting of indigenous aquatic plants, or the associated removal from lakes of unconsolidated, flocculent organic detrital material that exists on the surface of natural mineral soil which is necessary to accomplish such plant removal or replanting, or the removal of aquatic plants for aquatic plant management, including associated incidental removal of sediment attached to plant roots, if these activities have a valid permit issued by the department under s. 369.20 or s. 369.25. This paragraph does not apply to any mitigation proposed to offset the impacts of activities permitted under chapter 373.~~

Section 4. This act shall take effect October 1, 1997.

Became a law without the Governor's approval April 23, 1997.

Filed in Office Secretary of State April 22, 1997.