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Title XXVIII

NATURAL RESOURCES; CONSERVATION,
RECLAMATION, AND USE

Chapter 369

CONSERVATION

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NATURAL RESOURCES; CONSERVATION, RECLAMATION, AND USE

CHAPTER 369
CONSERVATION

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PART I

AQUATIC PLANT CONTROL

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369.20 Florida Aquatic Weed Control Act.—

- (1) This act shall be known as the “Florida Aquatic Weed Control Act.”
- (2) The Fish and Wildlife Conservation Commission shall direct the control, eradication, and regulation of noxious aquatic weeds and direct the research and planning related to these activities, as provided in this section, so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant and animal life and property.
- (3) It shall be the duty of the commission to guide and coordinate the activities of all public bodies, authorities, agencies, and special districts charged with the control or eradication of aquatic weeds and plants. It may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body.
- (4) The commission shall also promote, develop, and support research activities directed toward the more effective and efficient control of aquatic plants. In the furtherance of this purpose, the commission may:
 - (a) Accept donations and grants of funds and services from both public and private sources;
 - (b) Contract or enter into agreements with public or private agencies or corporations for research and development of aquatic plant control methods or for the performance of aquatic plant control activities. The

commission may enter into an agreement with the Department of Environmental Protection to ensure that pesticides applied to the waters of the state are regulated uniformly, including provisions for the coordination of agency staff and resources, through the implementation of permitting, compliance, and enforcement activities under ss. 403.088 and 403.0885;

(c) Construct, acquire, operate, and maintain facilities and equipment; and

(d) Enter upon, or authorize the entry upon, private property for purposes of making surveys and examinations and to engage in aquatic plant control activities; and such entry shall not be deemed a trespass.

(5) The commission may disburse funds to any special district or other local authority charged with the responsibility of controlling or eradicating aquatic plants, upon:

(a) Approval by the commission of the control techniques to be used by the district or authority; and

(b) Review and approval of the program of the district or authority by the commission.

(6) The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including creating general permits and exemptions and adopting rules and forms governing reports.

(7) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic weeds or plants in waters of the state unless a permit for such activity has been issued by the commission unless the activity or waters are expressly exempted by commission rule. The commission shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant control activities, including applications to engage in control activities on sovereign submerged lands, shall be made to the commission. In reviewing such applications, the commission shall consider the criteria set forth in subsection (2) and, in accordance with applicable rules, take final agency action on permit applications for the use of aquatic plant control activities on sovereign submerged lands.

(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 semiwoody 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) The application of herbicides to waters of 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 except as provided in ss. 403.088 and 403.0885.

(10) Notwithstanding s. 369.25, the commission may collect aquatic plants to be used for habitat enhancement, research, education, and for other purposes as necessary to implement the provisions of this section.

(11) The commission may quarantine or confiscate noxious aquatic plant material incidentally adhering to a boat or boat trailer.

(12) The commission may conduct a public information program, including, but not limited to, erection of road signs, in order to inform the public and interested parties of this section and its associated rules and of the dangers of noxious aquatic plant introductions.

(13) The commission has the power to enforce this section in the same manner and to the same extent as provided in ss. 379.501-379.504.

(14) Activities that are exempt from permitting pursuant to s. 403.813(1)(r) are granted a mixing zone for turbidity for a distance not to exceed 150 meters downstream in flowing streams or 150 meters in radius in other water bodies as measured from the cutterhead, return flow discharge, or other points of generation of turbidity.

History.—ss. 1, 2, ch. 70-203; s. 3, ch. 80-129; s. 32, ch. 85-81; s. 1, ch. 89-151; s. 187, ch. 94-356; s. 2, ch. 96-238; s. 2, ch. 97-22; s. 75, ch. 98-200; s. 91, ch. 99-245; s. 6, ch. 2008-150; s. 30, ch. 2009-86; ss. 3, 11, ch. 2010-277; HJR 5-A, 2010 Special Session A.

Note.—Former s. 372.925.

369.22 Aquatic plant management.—

- (1) This section shall be known as the “Florida Aquatic Plant Management Act.”
- (2) For the purpose of this section, the following words and phrases shall have the following meanings:
 - (a) “Commission” means the Fish and Wildlife Conservation Commission.
 - (b) “Aquatic plant” is any plant growing in, or closely associated with, the aquatic environment and includes “floating,” “emersed,” “submersed,” and “ditch bank” species.
 - (c) A “maintenance program” is a method for the management of aquatic plants in which control techniques are utilized in a coordinated manner as determined by the commission.
 - (d) An “eradication program” is a method for the management of aquatic plants in which control techniques are utilized in a coordinated manner in an attempt to kill all the aquatic plants on a permanent basis in a given geographical area.
 - (e) A “complaint spray program” is a method for the management of aquatic plants in which weeds are allowed to grow unhindered to a given level of undesirability, at which point eradication techniques are applied in an effort to restore the area in question to a relatively low level of infestation.
 - (f) “Waters” means rivers, streams, lakes, navigable waters and associated tributaries, canals, meandered lakes, enclosed water systems, and any other bodies of water.
 - (g) “Districts” means the six water management districts created by law and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, the Central and Southern Florida Flood Control District, and the Ridge and Lower Gulf Coast Water Management District; and on July 1, 1975, shall mean the five water management districts created by chapter 73-190, Laws of Florida, and named, respectively, the Northwest Florida Water Management District, the Suwannee River Water Management District, the St. Johns River Water Management District, the Southwest Florida Water Management District, and the South Florida Water Management District.
- (3) The Legislature recognizes that the uncontrolled growth of aquatic plants in the waters of Florida poses a variety of environmental, health, safety, and economic problems. The Legislature acknowledges the responsibility of the state to cope with the uncontrolled and seemingly never-ending growth of aquatic plants in the waters throughout Florida. It is, therefore, the intent of the Legislature that the state policy for the management of aquatic plants in waters of state responsibility be carried out under the general supervision and control of the commission. It is the intent of the Legislature that the management of aquatic plants be carried out primarily by means of maintenance programs, rather than eradication or complaint spray programs, for the purpose of achieving more effective management at a lower long-range cost. It is also the intent of the Legislature that the commission guide, review, approve, and coordinate all aquatic plant management programs within each of the water management districts as defined in paragraph (2)(g). It is the intent of the Legislature to account for the costs of aquatic plant management programs by watershed for comparison purposes.
- (4) The commission shall supervise and direct all management programs for aquatic plants, as provided in this section, so as to protect human health, safety, and recreation and, to the greatest degree practicable, prevent injury to plant, fish, and animal life and to property.
- (5) When state funds are involved, or when waters of state responsibility are involved, it is the duty of the commission to guide, review, approve, and coordinate the activities of all public bodies, authorities, state agencies, units of local or county government, commissions, districts, and special districts engaged in operations to manage or eradicate aquatic plants. The commission may delegate all or part of such functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body. However, special attention shall be given to the keeping of accounting and cost data in order to prepare the annual fiscal report required in subsection (7).

(6) The commission may disburse funds to any district, special district, or other local authority for the purpose of operating a program for managing aquatic plants in the waters of state responsibility upon:

- (a) Approval by the commission of the management techniques to be used by the district or authority; and
- (b) Review and approval of the program of the district or authority by the commission.

(7) The commission shall prepare an annual report on the status of the aquatic plant management program which shall be posted on the commission's Internet website.

(8) The commission shall have the authority to cooperate with the United States and to enter into such cooperative agreements or commitments as the commission may determine necessary to carry out the control or eradication of water hyacinths, alligator weed, and other noxious aquatic plant growths from the waters of the state and to enter into contracts with the United States obligating the state to indemnify and save harmless the United States from any and all claims and liability arising out of the initiation and prosecution of any project undertaken under this section.

However, any claim or claims required to be paid under this section shall be paid from money appropriated to the aquatic plant management program.

(9) The commission may delegate various aquatic plant management functions to any appropriate state agency, special district, unit of local or county government, commission, authority, or other public body. The recipient of such delegation shall, in accepting commitments to engage in aquatic plant management activities, be subject to the rules of the commission. In addition, the recipient shall render technical and other assistance to the commission in order to carry out most effectively the purposes of s. 369.20.

(10) The commission is directed to use biological agents for the management of aquatic plants when determined to be appropriate by the commission.

(11) The commission shall adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section conferring powers or duties upon it and perform any other acts necessary for the proper administration, enforcement, or interpretation of this section, including adopting rules and forms governing reports.

(12) No person or public agency shall control, eradicate, remove, or otherwise alter any aquatic plants in waters of the state unless a permit for such activity has been issued by the commission, or unless the activity or waters are expressly exempted by commission rule. The commission shall develop standards by rule which shall address, at a minimum, chemical, biological, and mechanical control activities; an evaluation of the benefits of such activities to the public; specific criteria recognizing the differences between natural and artificially created waters; and the different amount and quality of littoral vegetation on various waters. Applications for a permit to engage in aquatic plant management activities, including applications to engage in management activities on sovereign submerged lands, shall be made to the commission. In reviewing such applications, the commission shall consider the criteria set forth in subsection (4) and, in accordance with applicable rules, shall take final agency action on permit applications for the use of aquatic plant activities on sovereign submerged lands.

(13) The commission has the power to enforce this section in the same manner and to the same extent as provided in ss. 379.501-379.504.

(14) Activities that are exempt from permitting pursuant to s. 403.813(1)(r) are granted a mixing zone for turbidity for a distance not to exceed 150 meters downstream in flowing streams or 150 meters in radius in other water bodies as measured from the cutterhead, return flow discharge, or other points of generation of turbidity.

History.—ss. 1, 2, ch. 74-65; s. 4, ch. 80-129; s. 33, ch. 83-218; s. 16, ch. 84-254; s. 2, ch. 89-151; s. 188, ch. 94-356; s. 76, ch. 98-200; s. 92, ch. 99-245; s. 7, ch. 2008-150; s. 31, ch. 2009-86.

Note.—Former s. 372.932.

369.25 Aquatic plants; definitions; permits; powers of department; penalties.—

(1) As used in this section, the term:

- (a) "Aquatic plant" means any plant, including a floating, emersed, submersed, or ditch bank species, growing in, or closely associated with, an aquatic environment and includes any part or seed of such plant.
- (b) "Department" means the Department of Agriculture and Consumer Services.
- (c) "Nonnursery cultivation" means the tending of aquatic plant species for harvest in the natural environment.

(d) “Noxious aquatic plant” means any part, including, but not limited to, seeds or reproductive parts, of an aquatic plant which has the potential to hinder the growth of beneficial plants, interfere with irrigation or navigation, or adversely affect the public welfare or the natural resources of this state.

(e) “Person” includes a natural person, a public or private corporation, a governmental entity, or any other kind of entity.

(2) No person shall engage in any business involving the importation, transportation, cultivation, collection, sale, or possession of any aquatic plant species without a permit issued by the department. No person shall import, transport, cultivate, collect, sell, or possess any noxious aquatic plant listed on the prohibited aquatic plant list established by the department without a permit issued by the department. No permit shall be issued until the department determines that the proposed activity poses no threat or danger to the waters, wildlife, natural resources, or environment of the state.

(3) The department has the following powers:

(a) To make such rules governing the importation, transportation, nonnursery cultivation, collection, and possession of aquatic plants as may be necessary for the eradication, control, or prevention of the dissemination of noxious aquatic plants that are not inconsistent with rules of the Fish and Wildlife Conservation Commission.

(b) To establish by rule lists of aquatic plant species regulated under this section, including those exempted from such regulation, provided the Fish and Wildlife Conservation Commission approves such lists prior to the lists becoming effective.

(c) To evaluate an aquatic plant species through research or other means to determine whether such species poses a threat or danger to the waters, wildlife, natural resources, or environment of the state.

(d) To declare a quarantine against aquatic plants, including the vats, pools, or other containers or bodies of water in which such plants are growing, to prevent the dissemination of any noxious aquatic plant.

(e) To make rules governing the application for, issuance of, suspension of, and revocation of permits under this section.

(f) To enter into cooperative agreements with any person as necessary or desirable to carry out and enforce the provisions of this section.

(g) To purchase all necessary supplies, material, facilities, and equipment and accept all grants and donations useful in the implementation and enforcement of the provisions of this section.

(h) To enter upon and inspect any facility or place where aquatic plants are cultivated, held, packaged, shipped, stored, or sold, or any vehicle of conveyance of aquatic plants, to ascertain whether the provisions of this section and department regulations are being complied with, and to seize and destroy, without compensation, any aquatic plants imported, transported, cultivated, collected, or otherwise possessed in violation of this section or department regulations.

(i) To adopt rules requiring the revegetation of a site on sovereignty lands where excessive collection has occurred.

(j) To enforce this section and s. 369.251 in the same manner and to the same extent as provided in s. 581.211.

(4) The department shall adopt rules that limit the sanctions available for violations under this act to quarantine and confiscation:

(a) If the prohibited activity apparently results from natural dispersion; or

(b) If a small amount of noxious aquatic plant material incidentally adheres to a boat or boat trailer operated by a person who is not involved in any phase of the aquatic plant business and if that person is not knowingly violating this act.

(5)(a) Any person who violates the provisions of this section commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) All law enforcement officers of the state and its agencies with power to make arrests for violations of state law shall enforce the provisions of this section.

History.—s. 1, ch. 69-158; ss. 14, 26, 35, ch. 69-106; s. 4, ch. 70-203; s. 1, ch. 70-439; s. 350, ch. 71-136; s. 2, ch. 71-137; s. 140, ch. 77-104; s. 1, ch. 77-174; s. 23, ch. 78-95; s. 1, ch. 84-120; s. 1, ch. 92-147; s. 189, ch. 94-356; s. 93, ch. 99-245; s. 1, ch. 2000-146; s. 1, ch. 2001-258; s. 8, ch. 2008-150; s. 32, ch. 2009-86.

Note.—Former s. 403.271.

369.251 Invasive nonnative plants; prohibitions; study; removal; rules.—

(1) A person may not sell, transport, collect, cultivate, or possess any plant, including any part or seed, of the species *Melaleuca quinquenervia*, *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*, or *Mimosa pigra* without a permit from the Department of Agriculture and Consumer Services. Any person who violates this section commits a misdemeanor of the second degree, punishable by fine only, as provided in s. 775.083.

(2) The department, in coordination with the Fish and Wildlife Conservation Commission, shall study methods of control of plants of the species *Melaleuca quinquenervia*, *Schinus terebinthifolius*, *Casuarina equisetifolia*, *Casuarina glauca*, and *Mimosa pigra*. The South Florida Water Management District shall undertake programs to remove such plants from conservation area I, conservation area II, and conservation area III of the district.

(3) The department has authority to adopt rules pursuant to ss. 120.536(1) and 120.54 to implement the provisions of this section. Possession or transportation resulting from natural dispersion, mulching operations, control and disposal, or use in herbaria or other educational or research institutions, or for other reasons determined by the department to be consistent with this section and where there is neither the danger of, nor intent to, further disperse any plant species prohibited by this section, is not subject to the permit or penalty provisions of this section.

History.—s. 1, ch. 90-313; s. 190, ch. 94-356; s. 77, ch. 98-200; s. 9, ch. 2008-150.

369.252 Invasive plant control on public lands.—The Fish and Wildlife Conservation Commission shall establish a program to:

(1) Achieve eradication or maintenance control of invasive exotic plants on public lands when the scientific data indicate that they are detrimental to the state's natural environment or when the Commissioner of Agriculture finds that such plants or specific populations thereof are a threat to the agricultural productivity of the state;

(2) Assist state and local government agencies in the development and implementation of coordinated management plans for the eradication or maintenance control of invasive exotic plant species on public lands;

(3) Contract, or enter into agreements, with entities in the State University System or other governmental or private sector entities for research concerning control agents; production and growth of biological control agents; and development of workable methods for the eradication or maintenance control of invasive exotic plants on public lands; and

(4) Use funds in the Invasive Plant Control Trust Fund as authorized by the Legislature for carrying out activities under this section on public lands. A minimum of 20 percent of the amount appropriated by the Legislature for invasive plant control from the Land Acquisition Trust Fund shall be used for the purpose of controlling nonnative, upland, invasive plant species on public lands.

History.—s. 3, ch. 96-238; s. 1, ch. 97-38; s. 21, ch. 99-205; s. 30, ch. 99-247; s. 4, ch. 99-312; s. 62, ch. 2000-152; s. 10, ch. 2008-150; s. 33, ch. 2015-229.

369.255 Green utility ordinances for funding greenspace management and exotic plant control.—

(1) **LEGISLATIVE FINDING.**—The Legislature finds that the proper management of greenspace areas, including, without limitation, the urban forest, greenways, private and public forest preserves, wetlands, and aquatic zones, is essential to the state's environment and economy and to the health and safety of its residents and visitors. The Legislature also finds that the limitation and control of nonindigenous plants and tree replacement and maintenance are vital to achieving the natural systems and recreational lands goals and policies of the state pursuant to s. 187.201(9), the State Comprehensive Plan. It is the intent of this section to enable local governments to establish a mechanism to provide dedicated funding for the aforementioned activities, when deemed necessary by a county or municipality.

(2) In addition to any other funding mechanisms legally available to counties and municipalities to control invasive, nonindigenous aquatic or upland plants and manage urban forest resources, a county or municipality may create one or more green utilities or adopt fees sufficient to plan, restore, and manage urban forest resources, greenways, forest preserves, wetlands, and other aquatic zones and create a stewardship grant program for private natural areas. Counties or municipalities may create, alone or in cooperation with other counties or municipalities pursuant to the Florida Interlocal Cooperation Act of 1969, s. 163.01, one or more greenspace management districts to

fund the planning, management, operation, and administration of a greenspace management program. The fees shall be collected on a voluntary basis as set forth by the county or municipality and calculated to generate sufficient funds to plan, manage, operate, and administer a greenspace management program. Private natural areas assessed according to s. 193.501 would qualify for stewardship grants.

(3) This section shall only apply to counties with a population of 500,000 or more and municipalities with a population of 200,000 or more.

(4) Nothing in this section shall authorize counties or municipalities to require any nongovernmental entity to collect the fee described in subsection (2) on their behalf.

History.—s. 12, ch. 97-164; s. 10, ch. 2001-275; s. 33, ch. 2004-5; s. 75, ch. 2008-4.

PART II

WEKIVA RIVER PROTECTION

369.301 Short title.

369.303 Definitions.

369.305 Review of local comprehensive plans, land development regulations, Wekiva River development permits, and amendments.

369.307 Developments of regional impact in the Wekiva River Protection Area; land acquisition.

369.309 Airboats prohibited; exceptions; penalties.

369.301 Short title.— This part may be cited as the “Wekiva River Protection Act.”

History.—s. 1, ch. 88-121; s. 26, ch. 88-393.

369.303 Definitions.— As used in this part:

- (1) “Council” means the East Central Florida Regional Planning Council.
- (2) “Counties” means Orange, Seminole, and Lake Counties.
- (3) “Department” means the Department of Economic Opportunity.
- (4) “Development of regional impact” means a development that is subject to s. 380.06.
- (5) “Land development regulation” means a regulation covered by the definition in s. 163.3164 and any of the types of regulations described in s. 163.3202.
- (6) “Local comprehensive plan” means a comprehensive plan adopted pursuant to ss. 163.3164-163.3215.
- (7) “Revised comprehensive plan” means a comprehensive plan prepared pursuant to ss. 163.3164-163.3215 which has been revised pursuant to chapters 85-55, 86-191, and 87-338, Laws of Florida, and subsequent laws amending said sections.
- (8) “Wekiva River development permit” means any zoning permit, subdivision approval, rezoning, special exception, variance, site plan approval, or other official action of local government having the effect of permitting the development of land in the Wekiva River Protection Area. “Wekiva River development permit” shall not include a building permit, certificate of occupancy, or other permit relating to the compliance of a development with applicable electrical, plumbing, or other building codes.
- (9) “Wekiva River Protection Area” means the lands within: Township 18 south range 28 east; Township 18 south range 29 east; Township 19 south range 28 east, less those lands lying west of a line formed by County Road 437, State Road 46, and County Road 435; Township 19 south range 29 east; Township 20 south range 28 east, less all lands lying west of County Road 435; and Township 20 south range 29 east, less all those lands east of Markham Woods Road.
- (10) “Wekiva River System” means the Wekiva River, the Little Wekiva River, Black Water Creek, Rock Springs Run, Sulphur Run, and Seminole Creek.

History.—s. 1, ch. 88-121; s. 26, ch. 88-393; s. 46, ch. 91-221; s. 4, ch. 93-206; s. 50, ch. 2011-139; s. 242, ch. 2011-142; s. 13, ch. 2018-158.

369.305 Review of local comprehensive plans, land development regulations, Wekiva River development permits, and amendments.—