

WORKING WATERFRONTS IMPLEMENTING LEGISLATION

The past week has been challenging for the marine industry in Tallahassee. We are fighting to keep the Working Waterfronts Implementing Bill within the Florida Constitution. Only one bill moving at this stage of the game does just that, Senate Bill 346 by Senator Charlie Dean.

Unfortunately, Senate Bill 1408 and HB 7127 include additional classifications for working waterfront not included in the constitutional amendment. Both Senate Bill 1408 and House Bill 7127 also include changes to the Stan Mayfield Working Waterfront Program that have historically been very controversial. Finally, HB 7127 includes definitions for marina and drystack that have drawn considerable concern by the industry.

All this said, the simplest answer is the Marine Industry supports Senate Bill 346 and opposes HB 7127 and SB 1408.

History

Marine Industries Association of Florida has worked tirelessly over the last five years to fight to preserve working waterfronts in Florida and protect public access to our waterways.

We have been on the front lines advocating, educating and campaigning across the State of Florida for uniformity of the taxation of working waterfronts. Simply, we just want to be taxed as the business we are, not a high rise condominium.

Florida voters passed Amendment 6 with 70.6 percent of the vote back in November 2008. Amendment 6 included language requiring the Florida Legislature to pass legislation to implement the constitutional amendment subject to conditions and limitation and reasonable definitions. Amendment 6 also included language stating the assessment of working waterfront property based on current use shall first apply to assessments for tax years beginning January 1, 2010.

As many of you are aware, this has not been an easy road over the last five years. Unfortunately, this year is not any different. However, MIAF is fortunate to be working with the Working Waterfronts Coalition on this issue and appreciate their continued support on the implementing legislation. They have worked beside us and their assistance has been and continues to be invaluable.

In an effort to keep our members from being confused on where we stand on the progression of the Working Waterfront Implementing Bill, I will continue to try to summarize the status of all four of the filed Working Waterfront Implementing Bills.

As of the March 11, 2010, there are four bills filed relating to Amendment 6 Implementing Legislation. Currently, there are two Senate Bills and two House Bills. As reported previously, MIAF and the Working Waterfronts Coalition requested Senator Charlie Dean and Representative Julio Robaina file our language again for the 2010 Session. Both Senator Dean and Representative Robaina were supporters of Amendment 6 and assisted us in getting the word out about Amendment 6 during the campaign. In fact, both legislators have supported this issue for the last five years and have fought beside us every step of the way.

Below are brief summaries of the status of all four working waterfronts implementing bills for your review.



STATUS OF WORKING WATERFRONTS LEGISLATION

House Bill 73

House Bill 73 by Representative Julio Robaina and Representative Debbie Mayfield was filed August 17, 2009.

The bill is co-sponsored by the following Representatives: Abruzzo, Adams, Ambler, Bernard, Bovo, Drake, Evers, Fetterman, Ford, Frishe, Garcia, Gibbons, Gonzalez, Heller, Holder, Hooper, Jenne, Kelly, Kiar, McKeel, Murzin, Nehr, Pafford, Patronis, Porth, Precourt, Reagan, Rogers, Sachs, Sands, Skidmore, Steinberg, Troutman, Waldman, and Zapata.

House Bill 73 has been referred to the following committees:

House Finance and Tax; Military and Local Affairs; and Economic Development and Community Affairs Policy Council

Committee Substitute for Committee Substitute for Senate Bill 346

Senate Bill 346 by Senator Charlie Dean was filed October 7, 2009. The bill is co-sponsored by the following Senators: Gaetz, Lynn, Smith, Aronberg, Rich, Storms, and Sobel.

Senate Bill 346 has been referred to the following committees:

Senate Community Affairs, Senate Finance and Tax; Policy and Steering Committee on Ways and Means

Senate Bill 346 passed the Senate Community Affairs Committee unanimously with 3 amendments on February 16, 2010.

Senate Bill 346 passed the Senate Finance and Tax Committee on April 13th, 2010 with a hard fought vote of 5-0. The bill was amended in committee and is currently in the form MIAF would like to see it pass.

Senate Bill 346 has one more committee reference. MIAF is hopeful the bill will be withdrawn and placed on the Senate Special Order Calendar.

Committee Substitute for Senate Bill 1408

Senate Bill 1408, by Senate Finance and Tax Committee was filed January 26, 2010. The Senate Finance and Tax Committee is chaired by Senator Thad Altman.

Senate Bill 1408 passed the Senate Community Affairs Committee with a strike everything amendment. The vote was 10-0. MIAF testified in committee regarding their concerns with the additional classifications not included in Amendment 6. AIF and TBRC Commissioner Ken Wilkinson also addressed the committee and expressed their concerns about the additional classifications added in the implementing bill. Please note, an amendment changing the Stan Mayfield Working Waterfront Program was also added to this bill. This amendment became an issue last session and contributed to the failure of the bill in 2009.

Senate Bill 1408 passed the Senate Finance and Tax Committee on April 13th with a vote of 5-0. The bill passed as a committee substitute.

Senate Bill 1408 has one final committee reference, Senate Ways and Means.

Senate Bill 1408 has been referred to the following committees:

Senate Community Affairs, Senate Finance and Tax; Senate Policy and Steering Committee on Ways and Means.

SB 1408 adds the following classifications eligible for working waterfront assessments that were not included in Amendment 6.:

- Water-dependent facilities used for the commercial transportation of goods and people
- Water-dependent facilities used for activities that support the commercial transportation of goods and people. These activities include, but are not limited to, towing, storage, and salvage.



STATUS OF WORKING WATERFRONTS LEGISLATION

Committee Substitute for House Bill 7127 (Formerly PCB FTC 10-03)

House Bill 7127, by House Finance and Tax Council and Representative Ellyn Bogdanoff was filed March 9, 2010. Representative Ellyn Bogdanoff is the Chair of the House Finance and Tax Council. The PCB was assigned House Bill 7127 this week and referred to one Council for hearing. House Bill 7127 was referred to House Full Appropriations Council on Education and Economic Development.

House Bill 7127 passed the House Full Appropriations Council on Education and Economic Development with amendments. The vote was 14-1. The next stop for the bill is the House floor.

MIAF stood up and again expressed their concerns regarding the additional classifications added to House Bill 7127 and was very specific as to the concerns. Representative Poppell, Representative Sandy Adams and Representative Kelly Skidmore all asked questions and raised concerns about the additional classifications. All three members questioned why these classifications were included in the bill. Representative Skidmore voted against the bill citing the expansion and how the marine industry needs this bill desperately and their futures should not be jeopardized. She placed her vote with the hard working marine industry.

Once again, an amendment changing the Stan Mayfield Working Waterfront Program was also added to this bill. This amendment became an issue last session and contributed to the failure of the bill in 2009. Representative Debbie Mayfield was in attendance at the meeting and watched the amendatory process. Representative Mayfield opposed the amendment last year and has expressed concerns again this year.

House Bill 7127 adds a new classification eligible for working waterfronts assessment that was not included in Amendment 6.

House Bill 7127 adds the following classification:

Water-dependent facilities located in a county defined in s. 125.011(1):

- a. used for the commercial transportation of goods and people to and from foreign ports, or
- b. used to provide towing, storage and salvage in support of the facilities described in sub-paragraph a.

MIAF has concerns with the additional classifications that are not in the Constitution. We believe the additions of these classifications could potentially leave the Implementing Bill open for a constitutional challenge. Both SB 1408 and PCB FTC 10-03 have a severability clause in the bills. The severability clause is important as it will ensure that if the bill is challenged the only parts of the bill to be thrown out will be the unconstitutional provisions. However, MIAF continues to be concerned that the courts could hold up the entire bill until a final ruling is released. MIAF has testified on the record of their opposition to expanding the bill outside the constitutional amendment and their concern over the courts holding up implementation if the classification is expanded beyond Amendment 6.

MIAF has continued to work with staff to finalize any and all issues with regard to definitions included in all the Working Waterfront Implementing Bills. However, issues continued to be raised with regard to the assessment language so this continues to be a work in progress and we will keep you posted.

What Working Waterfronts Implementing Bill Does MIAF Support?

MIAF supports **House Bill 73** by Robaina and **CS/CS/SB 346** by Dean. Both of these bills only include the working waterfront classification included in Amendment 6. This is important to MIAF as we have worked with many organizations over the last five years and we gave our word to stay within the scope of Amendment 6. There were several businesses that wanted to be included but were not as they did not provide public access and the potential fiscal cost. Many of those businesses stepped aside and graciously continued to support Amendment 6 even though they would not be included in the Constitutional Amendment.

MIAF supports a Working Waterfront Implementing Bill that provides for an income approach to valuation if appropriate and if not appropriate specifies how the property appraisers shall value the property at current use.

MIAF believes we are making progress but the devil is in the final details and we do not want to jeopardize this bill with a potential judicial challenge. Unfortunately, history over the last five years with the struggles of this issue have taught us to anticipate opposition.

