

GENERAL ACTS
RESOLUTIONS AND MEMORIALS
ADOPTED BY THE
FOURTH LEGISLATURE OF FLORIDA
UNDER THE CONSTITUTION
AS REVISED IN 1968

During the Special Session of
November 19, 1974 and
Regular Session
April 8, 1975
Through June 5, 1975



Volume I

Published by Authority of Law
Under Direction of the
JOINT LEGISLATIVE MANAGEMENT
COMMITTEE
TALLAHASSEE

1975

This public document was promulgated at an annual cost of \$51,420.00 for printing and binding 3000 copies, or \$17.14 per copy, for the purpose of informing the public of Acts passed by the Legislature.

SESSIONS OF THE FLORIDA LEGISLATURE

(Held during the period November 19, 1974
through June 5, 1975).

Organization Session, November 19, 1974.

Special Session, November 19, 1974 held pursuant to Proclamation of the Governor (Chapter 74-627 through Chapter 74-629).

Regular Session, April 8, 1975 through June 5, 1975 (Chapter 75-1 through Chapter 75-306; Resolutions and Memorials.)

Section 11.07, **Florida Statutes**, provides that coded indicators of words to be added or deleted from existing sections of the **Florida Statutes** or the state constitution, as authorized by the rules of the senate and house, shall not be deleted upon the enrolling of an act. In this volume, language added to an existing section is printed in *italics*, and language deleted is printed in ~~struck through~~ type.

Section 11.07, **Florida Statutes**, further provides that such indicators are solely for the convenience of those using the pamphlet and session laws and shall not be considered to constitute a part of the act as passed.

The committee is compelled to note that errors occur in such coding and to warn the users of this volume not to depend upon the coded indicators as denoting the changes made to existing laws with complete accuracy.

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CERTIFICATE

The Joint Legislative Management Committee hereby certifies that the acts, resolutions, and memorials contained in this volume have been compared with the original enrolled acts filed with the Department of State and that the same are correct and true copies. The apparent omissions of words and inaccuracies of language appear in the enrolled acts.

FLORIDA JOINT LEGISLATIVE MANAGEMENT COMMITTEE

Representative John L. Ryals
Chairman

Thomas L. Wade III
Executive Director

CHAPTER 75-172

Committee Substitute for Senate Bill No. 321

AN ACT relating to aquatic preserves; creating ss. 258.35-258.44, Florida Statutes; providing a short title and legislative intent; definitions; creating 31 aquatic preserves; excluding privately held upland from the preserves; providing for creation of additional preserves and for legislative confirmation; requiring the Board of Trustees of the Internal Improvement Trust Fund to maintain the preserves; prohibiting the sale or transfer of sovereignty submerged lands except in the public interest; prohibiting dredging or filling except in certain cases; prohibiting the drilling of gas or oil wells; providing certain exceptions; prohibiting the excavation of minerals and erection of structures unless authorized; providing for rules and regulations and for the regulation of activities within the preserves; providing for the protection of the rights of riparian owners; providing for the applicability of the act when in conflict with other provisions regulating certain aquatic preserves; prohibiting the discharge of waste or effluents under certain circumstances; providing for enforcement of the act; providing severability; providing an effective date.

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

Section 1. Sections 258.35, 258.36, 258.37, 258.38, 258.39, 258.40, 258.41, 258.42, 258.43, and 258.44, Florida Statutes, are created to read:

258.35 Short title.—Sections 258.35-258.44 shall be known and may be cited as the "Florida Aquatic Preserve Act of 1975".

258.36 Legislative intent.—It is the intent of the legislature that the state-owned submerged lands in areas which have exceptional biological, aesthetic and scientific value, as hereinafter described, be set aside forever as aquatic preserves or sanctuaries for the benefit of future generations.

258.37 Definitions.—As used in ss. 258.35 through 258.44, Florida Statutes.

(1) "Aquatic preserve" means an exceptional area of submerged lands and its associated waters set aside for maintaining essentially in its natural or existing condition.

(2) "Biological type" means an area set aside to promote certain forms of animal or plant life or their supporting habitat.

(3) "Aesthetic type" means an area set aside to maintain certain scenic qualities or amenities.

(4) "Scientific type" means an area set aside to maintain certain qualities or features which have scientific value or significance.

(5) "Board" means the board of trustees of the internal trust fund.

258.38 Types of Aquatic preserves.—Each aquatic preserve shall be characterized as being one or more of the following principal types:

(1) Biological

(2) Aesthetic

(3) Scientific

259.39 Boundaries of preserves.—The submerged lands included within the boundaries of Nassau, Duval, St. Johns, Flagler, Volusia, Brevard, Indian River, St. Lucie, Charlotte, Pinellas, Martin, Palm Beach, Broward, Dade, Monroe, Collier, Lee, Citrus, Franklin, Gulf, Bay, Okaloosa, Santa Rosa and Escambia Counties, as hereinafter described, with the exception of privately held submerged lands lying landward of established bulkheads and of privately held submerged lands within Monroe County where the establishment of bulkhead lines are not required are hereby declared to be aquatic preserves. Such aquatic preserve areas include:

(1) The Fort Clinch State Park Aquatic Preserve as described in the Official Records of Nassau County in Book 108, pages 343-346, and in Book 111, page 409.

(2) Nassau River-St. Johns River Marshes Aquatic Preserve as described in the Official Records of Duval County in Volume 3183, pages 547-552, and in the Official Records of Nassau County in Book 108, pages 232-237.

(3) Pellicer Creek Aquatic Preserve as described in the Official Records of St. Johns County in Book 181, pages 363-366, and in the Official Records of Flagler County in Book 33, pages 131-134.

(4) Tomoka Marsh Aquatic Preserve as described in the Official Records of Flagler County in Book 33, pages 135-138, and in the Official Records of Volusia County in Book 1244, pages 615-618.

(5) Mosquito Lagoon Aquatic Preserve as described in the Official Records of Volusia County in Book 1244, pages 619-623, and in the Official Records of Brevard County in Book 1143, pages 190-194.

(6) Banana River Aquatic Preserve as described in the Official Records of Brevard County in Book 1143, pages 195-198.

(7) Indian River-Malabar to Sebastian Aquatic Preserve as described in the Official Records of Brevard County in Book 1143, pages 199-202, and in the Official Records of Indian River County in Book 368, pages 5-8.

(8) Indian River-Vero Beach to Fort Pierce Aquatic Preserve as described in the Official Records of Indian River County in Book 368,

pages 9-12, and in the Official Records of St. Lucie County in Book 187, pages 1083-1086.

(9) Jensen Beach to Jupiter Inlet Aquatic Preserve as described in the Official Records of St. Lucie County in Book 218, pages 2865-2869.

(10) Loxahatchee River-Lake Worth Creek Aquatic Preserve as described in the Official Records of Martin County in Book 320, pages 193-196, and in the Official Records of Palm Beach County in Volume 1860, pages 806-809.

(11) Biscayne Bay-Cape Florida to Monroe County Line Aquatic Preserve as described in the Official Records of Dade County in Book 7055, pages 852-856, less however those lands and waters as described in s. 258.165, Florida Statutes.

(12) North Fork, St. Lucie Aquatic Preserve as described in the Official Records of Martin County in Book 337, pages 2159-2162, and in the Official Records of St. Lucie County in Book 201, pages 1676-1679.

(13) Yellow River Marsh Aquatic Preserve as described in the Official Records of Santa Rosa County in Book 206, pages 568-571.

(14) Fort Pickens State Park Aquatic Preserve as described in the Official Records of Santa Rosa County in Book 220, pages 60-63, and in the Official Records of Escambia County in Book 518, pages 659-662.

(15) Rocky Bayou State Park Aquatic Preserve as described in the Official Records of Okaloosa County in Book 593, pages 742-745.

(16) St. Andrews State Park Aquatic Preserve as described in the Official Records of Bay County in Book 379, pages 547-550.

(17) St. Joseph Bay Aquatic Preserve as described in the Official Records of Gulf County in Book 46, pages 73-76.

(18) Apalachicola Bay Aquatic Preserve as described in the Official Records of Gulf County in Book 46, pages 77-81, and in the Official Records of Franklin County in Volume 98, pages 102-106.

(19) Alligator Harbor Aquatic Preserve as described in the Official Records of Franklin County in Volume 98, pages 82-85.

(20) St. Martins Marsh Aquatic Preserve as described in the Official Records of Citrus County in Book 276, pages 238-241.

(21) Matlacha Pass Aquatic Preserve as described in the Official Records of Lee County in Book 800, pages 725-728.

(22) Pine Island Sound Aquatic Preserve as described in the Official Records of Lee County in Book 648, pages 732-736.

(23) Cape Romano-Ten Thousand Islands Aquatic Preserve as described in the Official Records of Collier County in Book 381, pages 298-301.

(24) Lignumvitae Key Aquatic Preserve as described in the Official Records of Monroe County in Book 502, pages 139-142.

(25) Coupon Bight Aquatic Preserve as described in the Official Records of Monroe County in Book 502, pages 143-146.

(26) Lake Jackson Aquatic Preserve as established by chapter 73-534, Laws of Florida, and defined as authorized by section 253.151 or as otherwise authorized by law.

(27) Pinellas County Aquatic Preserve as established by chapter 72-663, and Boca Ciega Aquatic Preserve as established by chapter 69-342, Laws of Florida and the Biscayne Bay Aquatic Preserve as established by s. 258.165, Florida Statutes.

If any provision of this act is in conflict with the aquatic preserves established by Chapters 69-342 and 72-663, Laws of Florida, the stronger provision for the maintenance of the aquatic preserve shall prevail.

(28) Estero Bay Aquatic Preserve, the boundaries of which are generally: All of those sovereignty submerged lands located bayward of the mean high water line being in Sections 13, 14, 15, 16, 17, 18, 21, 22, 23, 24, 25, 26, 27, 35 and 36, Township 46 South, Range 24 East; and in Sections 19, 20, 28, 29 and 34, Township 46 South, Range 24 East, lying north and east of Matanzas Pass Channel; and in Sections 19, 30 and 31, Township 46 South, Range 25 East; and in Section 6, Township 47 South, Range 25 East; and in Sections 1, 2 and 3, Township 47 South, Range 24 East, in Lee County, Florida. Any and all submerged lands heretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this preserve.

(29) Cape Haze Aquatic Preserve, the boundaries of which are generally: That part of Gasparilla Sound, Catfish Creek, Whiddon Creek, "The Cutoff", Turtle Bay and Charlotte Harbor lying within the following described limits: Northerly Limits: Commence at the Northwest corner of Section 18, Township 42 South, Range 21 East, thence South along the West line of said Section 18 to its intersection with the Government Meander Line of 1843-1844, and the point of beginning, thence Southeasterly along said Meander Line to the Northwesterly shore line of Catfish Creek, thence Northeasterly along said shore line to the North line of said Section 18, thence East along said North line to the Easterly shore line of Catfish Creek, thence Southeasterly along said shore line to the East line of said Section 18, thence South along said East line, crossing an arm of said Catfish Creek to the Southerly shore line of said Creek, thence Westerly along said Southerly shore line and Southerly along the Easterly shore line of Catfish Creek to said Government Meander Line, thence Easterly and Southeasterly along said Meander Line to the Northerly shore line of Gasparilla Sound in Section 21, Township 42 South, Range 21 East, thence Easterly along said Northerly shore line and Northeasterly along the Westerly shore line of Whiddon Creek to the East West quarter line in Section 16, Township 42 South, Range 21 East, thence East along said quarter line and the quarter Section line of Section 15, Township 42 South, Range 21 East to the Easterly shore line of Whiddon Creek, thence Southerly along said shore line to the Northerly shore line of "The Cutoff", thence Easterly along said shore line to the Westerly shore line of Turtle Bay, thence Northeasterly along said shore

line to its intersection with said Government Meander Line in Section 23, Township 42 South, Range 21 East, thence Northeasterly along said Meander Line to the East line of Section 12, Township 42 South, Range 21 East, thence North along the East line of said Section 12, and the East line of Section 1, Township 42 South, Range 21 East to the Northwest corner of Section 6, Township 42 South, Range 22 East, thence East along the North line and extension thereof of said Section 6 to a point 2640 feet East of the Westerly shore line of Charlotte Harbor and the end of the Northerly limits. Easterly Limits: Commence at the Northwest corner of Section 6, Township 42 South, Range 22 East, thence East along the North line of said Section 6 and extension thereof to a point 2640 feet East of the Westerly shore line of Charlotte Harbor and the point of beginning, thence Southerly along a line 2640 feet Easterly of and parallel with the Westerly shore line of Charlotte Harbor and along a Southerly extension of said line to the line dividing Charlotte and Lee Counties and the end of the Easterly limits. Southerly Limits: Begin at the point of Ending of the Easterly Limits, above described, said point being in the line dividing Charlotte and Lee Counties, thence Southwesterly along a straight line to the most Southerly point of Devil Fish Key, thence continue along said line to the Easterly right of way of the Intracoastal Waterway and the end of the Southerly Limits. Westerly Limits: Begin at the point of Ending of the Southerly limits as described above, thence Northerly along the Easterly right of way line of the Intracoastal Waterway to its intersection with a Southerly extension of the West line of Section 18, Township 42 South, Range 21 East, thence North along said line to point of beginning.

(30) Wekiva River Aquatic Preserve, the boundaries of which are generally: All the state-owned sovereignty lands lying waterward of the ordinary high water mark of the Wekiva River, the Little Wekiva River and their tributaries lying and being in Lake, Seminole, and Orange counties and more particularly described as follows: (a) In Sections 15, 16, 17, 20, 21, 22, 27, 28, 29, and 30, Township 20 South, Range 29 East. These sections are also depicted on the Forest City Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1959 (70PR); and

(b) In Sections 3, 4, 8, 9 & 10, Township 20 South, Range 29 East and in Sections 21, 28 and 33, Township 19 South, Range 29 East lying north of the right-of-way for Atlantic Coast Line Railroad and that part of Section 33, Township 19 South, Range 29 East lying between the Lake and Orange County lines and the right-of-way of the Atlantic Coast Line Railroad. These sections are also depicted on the Sanford SW Quadrangle (U.S.G.S. 7.5 minute series-topographic) 1965 (70-1); and

(c) All state-owned sovereignty lands, public lands and lands whether public or private below the ordinary high water mark of the Wekiva River, the Little Wekiva and their tributaries within the Peter Miranda Grant in Lake County lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva River and all state-owned sovereignty lands, public lands and lands whether public or private below the ordinary high water mark of the Wekiva River, the Little Wekiva and their tributaries within the Moses E. Levy Grant in Lake County below the 10 foot m.s.l. contour line nearest the meander lines of the Wekiva River

and Black Water Creek as depicted on the PINE LAKES 1962 (70-1), ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1) and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic); and

(d) All state-owned sovereignty lands, public lands and lands whether public or private below the ordinary high water mark of the Wekiva River, the Little Wekiva River and their tributaries lying below the 10 foot m.s.l. contour line nearest the meander line of the Wekiva and St. John's Rivers as shown on the ORANGE CITY 1964 (70PR), SANFORD 1965 (70-1), and SANFORD S.W. 1965 (70-1) QUADRANGLES (U.S.G.S. 7.5 minute topographic) within the following described property: Beginning at a point on the South boundary of the Moses E. Levy Grant, Township 19 South, Range 29 East, at its intersection with the meander line of the Wekiva River; thence south 60 1/2 degrees East along said boundary line 4915.68 feet; thence North 29 1/2 degrees East 15,516.5 feet to the meander line of the St. John's River; thence Northerly along the meander line of the St. John's River to the mouth of the Wekiva River; thence Southerly along the meander line of the Wekiva River to the beginning; and

(e) All state-owned sovereignty lands, public lands and lands whether public or private below the ordinary high water mark of the Wekiva River, the Little Wekiva River and their tributaries within the Peter Miranda Grant lying East of the Wekiva River, LESS the following:

(a) State Road 46 and all land lying South of said State Road No. 46 and all land lying South of said State Road No. 46. (b) Beginning 15.56 chains West of the Southeast corner of the SW 1/4 of the NE 1/4 of Section 21, Township 19 South, Range 29 East, run East 600 feet; thence North 960 feet; thence West 340 feet to the Wekiva River; thence Southwesterly along said Wekiva River to point of beginning. (c) That part of the East 1/4 of the SW 1/4 of Section 22, Township 19 South, Range 29 East, lying within the Peter Miranda Grant East of the Wekiva River.

(31) Rookery Bay Aquatic Preserve, the boundaries of which are generally: All of the state owned sovereignty lands lying waterward of the mean high water line in Rookery Bay and in Henderson Creek and the tributaries thereto in Collier County, Florida. Said lands being more particularly described as lying and being in Sections 1, 2, 11, 12 and 13, Township 51 South, Range 25 East and in Sections 7, 8, 9, 16, 17, 18, 19 and 20, Township 51 South, Range 26 East, Collier County, Florida.

Any and all submerged lands theretofore conveyed by the Trustees of the Internal Improvement Trust Fund and any and all uplands now in private ownership are specifically exempted from this dedication.

258.40 Scope of preserves.—

(1) The aquatic preserves established under this act shall include only lands or water bottoms owned by the State of Florida as set forth in Section 253.03, Florida Statutes, and such lands or water bottoms owned by other governmental agencies that may be specifically authorized for inclusion by appropriate instrument in writing from such agency. Any privately owned lands or water bottoms shall be deemed to be

excluded therefrom; provided the board may negotiate an arrangement with any such private owner by which such land may be included in the preserves.

(2) All publicly owned and maintained navigation channel or other public works project authorized by the U.S. Congress designed to improve or maintain commerce and navigation shall be deemed excluded from the aquatic preserves established under this act.

(3) All lands lost by avulsion or by artificially induced erosion shall be deemed excluded from the provisions of this act.

258.41 Establishment of aquatic preserves.—

(1) The board may establish additional areas to be included in the aquatic preserve system, subject to confirmation by the legislature.

(2) The board may, after public notice and public hearing in the county or counties in which the proposed preserve is to be located, adopt a resolution formally setting aside such areas to be included in the aquatic preserve system.

(3) The resolution setting aside an aquatic preserve area shall include the following:

- (a) A legal description of the area to be included;
- (b) Designation of the type of aquatic preserve being set aside;
- (c) A general statement of what is sought to be preserved; and
- (d) A clear statement of the management responsibilities for the area.

(4) Lands and water bottoms owned by other governmental agencies may be included in an aquatic preserve upon specific authorization for inclusion by appropriate instrument in writing from the governmental agency.

(5) Lands and water bottoms in private ownership may be included in an aquatic preserve upon specific authorization for inclusion by appropriate instrument in writing from the owner. The appropriate instrument shall be either a dedication in perpetuity or a lease. Such lease shall contain the following conditions:

- (a) Term of the lease shall be for a minimum period of ten years.
- (b) The board shall have the power and duty to enforce the provisions of each lease agreement and shall additionally have the power to terminate any lease if the termination is in the best interest of the aquatic preserve system.
- (c) The board shall pay no more than one dollar per year for any such lease.

(6) Except as provided in subsection (5) no aquatic preserve or any part thereof shall be withdrawn from the state aquatic preserve system except by an act of the legislature. Notice of such proposed legislation

shall be published in each county in which the affected area is located, in the manner prescribed by law relating to local legislation.

(7) Within 30 days of the designation and establishment of an aquatic preserve, the Board of Trustees of the Internal Improvement Trust Fund shall record in the public records of the county or counties in which the aquatic preserve is located a legal description of the aquatic preserve.

258.42 Maintenance of preserves.—The Board of Trustees of the Internal Improvement Trust Fund shall maintain such aquatic preserves subject to the following provisions:

(1) No further sale, or lease or transfer of sovereignty submerged lands shall be approved or consummated by the trustees, except when such sale, lease, or transfer is in the public interest.

(2) The Trustees shall not approve the waterward relocation or setting of bulkhead lines waterward of the line of mean high water within the preserve, except when public road and bridge construction projects have no reasonable alternative and it is shown to be not contrary to the public interest.

(3)(a) No further dredging or filling of submerged lands shall be approved by the trustees except the following activities may be authorized pursuant to a permit:

1. Such minimum dredging and spoiling as may be authorized for public navigation projects; and

2. Such minimum dredging and spoiling as may be authorized for the creation and maintenance of marinas, piers, docks and their attendant navigation channels; and

3. Such other alteration of physical conditions as may, in the opinion of the trustees, be necessary to enhance the quality or utility of the preserve or the public health generally; and

4. Such other maintenance dredging as may be required for existing navigation channels; and

5. Such restoration of land as authorized by section 253.124(8), Florida Statutes; and

6. Such reasonable improvements for public utility installation or expansion; and

7. Installation and maintenance of oil and gas transportation facilities, provided such facilities are properly marked with marine aids to navigation as prescribed by federal law.

(b) There shall, in no case, be any dredging seaward of a bulkhead line for the sole or primary purpose of providing fill for any area landward of a bulkhead line.

(c) There shall be no drilling of gas or oil wells. Provided, however, this will not prohibit the state from leasing the oil and gas rights and permitting drilling from outside the preserve to explore for oil and gas if approved by the board.

(d) There shall be no excavation of minerals, except the dredging of dead oyster shells as approved by the Department of Natural Resources.

(e) There shall be no erection of structures within the preserve, except:

1. Private docks for reasonable ingress or egress of riparian owners;
2. Commercial docking facilities shown to be consistent with the use or management criteria of the preserve; and
3. Structures for shore protection, approved navigational aids, or public utility crossings authorized under subsection (3)(a) of this section.

258.43 Rules and regulations.—

(1) The Board of Trustees of the Internal Improvement Trust Fund shall adopt and enforce reasonable rules and regulations to carry out the provisions of this act and specifically to provide regulation of human activity within the preserve in such a manner as not to unreasonably interfere with lawful and traditional public uses of the preserve, such as sport and commercial fishing, boating and swimming.

(2) Other uses of the preserve or human activity within the preserve, although not originally contemplated, may be permitted by the trustees but only subsequent to a formal finding of compatibility with the purposes of this act.

258.44 Effect of preserves.—Neither the establishment nor the management of the aquatic preserves under the provisions of this act shall operate to infringe upon the traditional riparian rights of upland property owners adjacent to or within the preserves. Reasonable improvement for ingress and egress, mosquito control, shore protection, public utility expansion, surface water drainage, installation and maintenance of oil and gas transportation facilities, and similar purposes may be permitted by the trustees subject to the provisions of any other applicable laws under the jurisdiction of other agencies.

Section 2. No wastes or effluents shall be discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

Section 3. The provisions of this act shall not supersede the provisions of ss. 403.501 through 403.515, Florida Statutes.

Section 4. No non-permitted wastes or effluents shall be directly discharged into the preserve which substantially inhibit the accomplishment of the purposes of this act.

Section 5. The provisions of this act may be enforced by the Board of Trustees of the Internal Improvement Trust Fund or in accordance with the provisions of s. 403.412. However, that any violation by any person, natural or corporate, of the provisions of this act or any rule or regulation issued hereunder shall be further punishable by a civil penalty of not less than \$500 per day nor more than \$5,000 per day of such violation.

Section 6. The provisions of this act shall be subject to the provisions of sections 403.501 through 403.515.

Section 7. If any provision of this act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are declared severable.

Section 8. This act shall take effect upon becoming a law.

Approved by the Governor June 22, 1975.

Filed in Office Secretary of State June 23, 1975.
