

June 13, 2005

Ms. Glenda E. Hood
Secretary of State
Florida Department of State
R.A. Gray Building
500 South Bronough Street
Tallahassee, FL 32399

Dear Secretary Hood:

I transmit with my approval, House Bill 331, enacted during the 107th Session of the Legislature of Florida, since statehood in 1845, during the Regular Session of 2005 and entitled:

An act relating to inland lakes and canals . . .

The bill creates an exemption for counties, municipalities, or other governmental entities from the permitting requirements of the Florida Fish and Wildlife Conservation Commission with regard to placement of informational markers on inland lakes and canals.

The bill is well intended and on face value provides flexibility to local governments. In that sense, it is consistent with my goals. However, I do have concerns that I hope next year's Legislature will address. House Bill 331 reaches well beyond its purported intent and its implementation would present technical challenges.

First, the bill does not clearly define "inland lakes" or "governmental entities." A lack of clear definitions could cause confusion with the implementation of the bill. Lakes that are not truly landlocked or are navigable waters of the state may be mistakenly included in the exemption. The term governmental entity should be clarified to limit the exemption to governmental entities that have actual jurisdiction over the affected waterway.

Second, the inclusion of regulatory signs in the examples of informational markers could exempt regulatory signs from state permitting requirements. Regulatory markers are defined as those used to alert the mariner to various warnings, obstacles or regulatory matters such as horsepower, speed, or wake restrictions. These signs must meet specific requirements and conditions relating to size, color and placement. Informational markers, alternatively, provide the mariner with non-crucial information of interest. This bill errs in its inclusion of regulatory markers. The statewide standard for these important markers needs to be upheld.

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Third, because the bill does not distinguish between navigable and non-navigable waters, it potentially exempts informational markers from state permitting requirements on federal and state navigable waters. The bill creates uncertainty as to when and where a permit is required. Navigable waterways depend on a uniform marker system for their safe operation. The bill's unintended consequences could create an unsafe information and regulatory waterway marker system by eliminating the state permitting process that ensures the uniformity and proper placement of markers.

Fourth, in discussions with the bill sponsors, the purpose of this bill was to address a local issue. While I have been a long time proponent of encouraging local solutions to local problems, this bill enacts statewide policy to address a local issue.

I hereby transmit with my approval House Bill 331.

Sincerely,

Jeb Bush