

Tab 1	SB 332 by Stewart (CO-INTRODUCERS) Berman, Rodriguez, Rouson, Cruz; (Compare to H 00849) Land Acquisition Trust Fund
Tab 2	SB 638 by Montford; (Compare to CS/H 01347) Apalachicola Environmental Stewardship Act 507444 D S RCS AEG, Montford Delete everything after 02/25 05:20 PM
Tab 3	CS/SB 702 by EN, Albritton; (Compare to CS/H 00609) Petroleum Cleanup
Tab 4	CS/SB 800 by GO, Harrell (CO-INTRODUCERS) Farmer; (Similar to H 01171) Division of State Technology
Tab 5	SB 1130 by Albritton (CO-INTRODUCERS) Perry; (Identical to H 00191) Young Farmers and Ranchers

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE,
ENVIRONMENT AND GENERAL GOVERNMENT**

Senator Mayfield, Chair
Senator Powell, Vice Chair

MEETING DATE: Tuesday, February 25, 2020
TIME: 9:00 a.m.—12:00 noon
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Mayfield, Chair; Senator Powell, Vice Chair; Senators Albritton, Bean, Berman, Broxson, Hooper, Hutson, Rodriguez, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 332 Stewart (Compare H 849, H 5003)	Land Acquisition Trust Fund; Requiring a specified annual appropriation to the Florida Forever Trust Fund; prohibiting moneys from the Land Acquisition Trust Fund from being used for specified costs, etc. EN 11/04/2019 Favorable AEG 02/25/2020 Favorable AP	Favorable Yeas 9 Nays 0
2	SB 638 Montford (Compare CS/H 1347)	Apalachicola Environmental Stewardship Act; Providing that this act may be referred to as "The Apalachicola Environmental Stewardship Act"; appropriating a sum annually for a specified timeframe from the Florida Forever Fund to the Apalachicola Area of Critical State Concern for specified purposes; renaming the Apalachicola Bay Area of Critical State Concern as the Apalachicola Area of Critical State Concern; providing additional principles for guiding development within the Apalachicola Area of Critical State Concern to include projects that protect and improve water quality, etc. EN 12/09/2019 Favorable AEG 02/25/2020 Fav/CS AP	Fav/CS Yeas 9 Nays 0
3	CS/SB 702 Environment and Natural Resources / Albritton (Compare CS/H 609)	Petroleum Cleanup; Revising requirements for a limited contamination assessment report required to be provided by a property owner, operator, or person otherwise responsible for site rehabilitation to the Department of Environmental Protection under the Petroleum Cleanup Participation Program; revising the contents of an advanced cleanup application to include a specified property owner or responsible party agreement, etc. EN 01/27/2020 Fav/CS AEG 02/25/2020 Favorable AP	Favorable Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment and General Government
Tuesday, February 25, 2020, 9:00 a.m.—12:00 noon

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	CS/SB 800 Governmental Oversight and Accountability / Harrell (Similar H 1171)	Division of State Technology; Requiring the Department of Management Services to administer the Data Innovation Program through the division; establishing the Data Innovation Program within the division; specifying requirements for the division for data governance across state agencies; requiring the division to develop and conduct data interoperability pilot programs with the Agency for Health Care Administration, the Department of Health, and the Department of Children and Families by a specified date, etc. GO 02/17/2020 Fav/CS AEG 02/25/2020 Favorable AP	Favorable Yeas 9 Nays 0
5	SB 1130 Albritton (Identical H 191)	Young Farmers and Ranchers; Creating the Florida Young Farmer and Rancher Matching Grant Program within the Department of Agriculture and Consumer Services; requiring the department to select grant recipients based on specified criteria; requiring the department to give preference to veterans, etc. AG 01/14/2020 Favorable AEG 02/25/2020 Favorable AP	Favorable Yeas 9 Nays 0
<hr/> <p>Other Related Meeting Documents</p> <hr/>			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 332

INTRODUCER: Senator Stewart

SUBJECT: Land Acquisition Trust Fund

DATE: February 24, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dyson</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Favorable
3.	_____	_____	<u>AP</u>	_____

I. Summary:

SB 332 creates a statutory distribution from the Land Acquisition Trust Fund requiring \$100 million to be appropriated annually to the Florida Forever Trust Fund. Funds appropriated into the Florida Forever Trust Fund are required to be distributed in accordance with the Florida Forever Act. The bill also specifies that the Land Acquisition Trust Fund may not be used to fund any costs within the budget entities that provide administrative support for the four state entities receiving these funds.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the Blueprint for conserving Florida's natural resources.¹ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.² Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased

¹ Chapter 99-247, Laws of Fla.

² Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Oct. 31, 2019).

protection of land through the purchase of conservation easements.³ The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.⁴ Under Florida Forever, the issuance of up to \$5.3 billion in Florida Forever bonds is authorized to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements⁵ to lands and water areas which accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.⁶

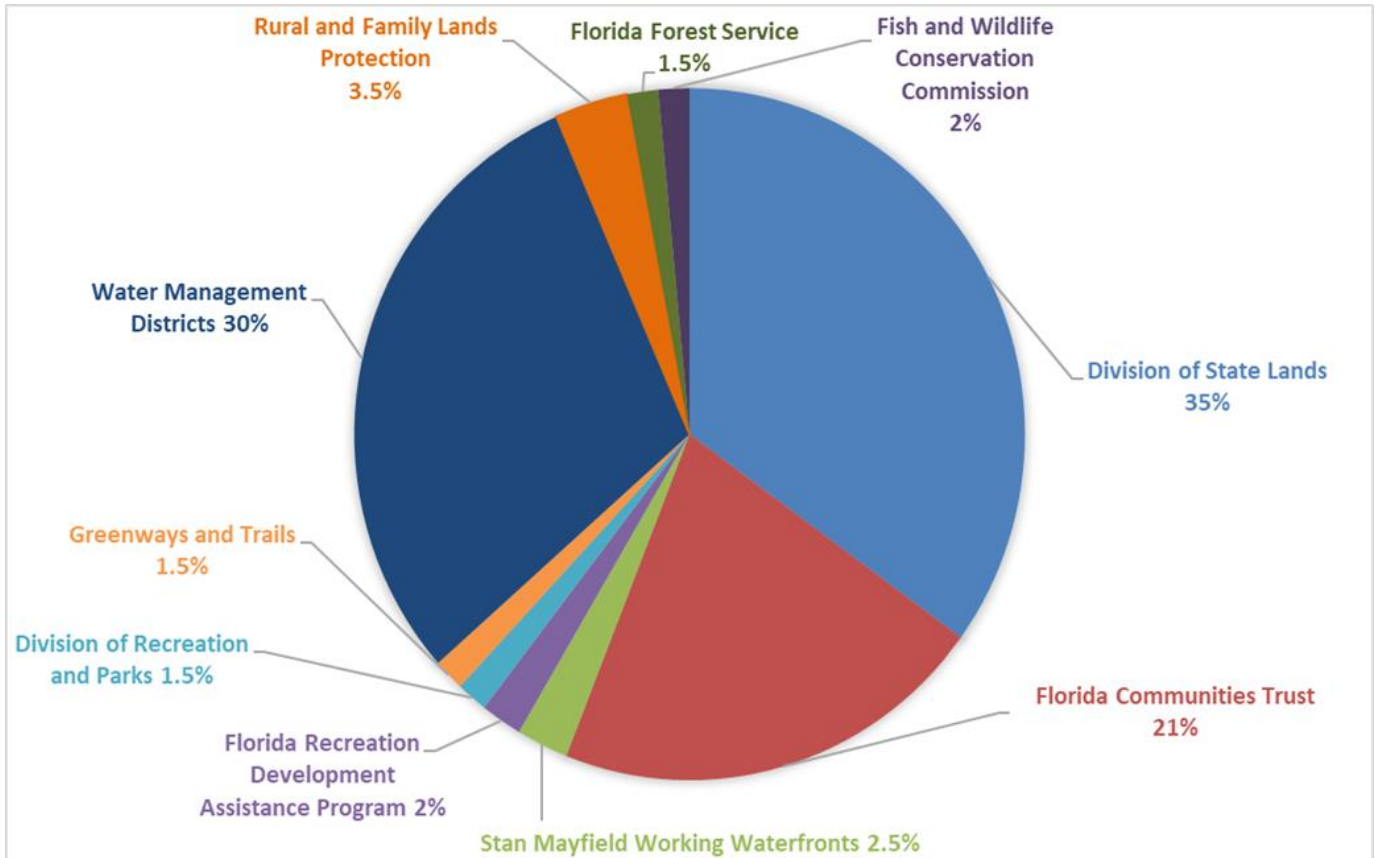
The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever Program. The Florida Forever Trust Fund is administered by the Department of Environmental Protection (DEP). The DEP is required to distribute revenues from the Florida Forever Trust Fund in accordance with s. 259.105(3), F.S., which sets forth the allocation of the proceeds of cash payments or bonds deposited into the Florida Forever Trust Fund and is depicted in the graph below.

³ Section 259.105, F.S.

⁴ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Oct. 29, 2019). See Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at https://www.fnai.org/PDF/Maacres_201902_FCL_plus_LTF.pdf (last visited Oct. 18, 2019) for a complete summary of the total amount of conservation lands in Florida.

⁵ As defined in s. 259.03, F.S., the terms “capital improvement” or “capital project expenditure” when used in ch. 259, F.S., mean “those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities’ signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.”

⁶ Section 215.618, F.S.



Division of State Lands – 35 Percent

The Division of State Lands (DSL) within the DEP oversees the Florida Forever program, under which the state has protected over 770,279 acres of land purchased with about \$3 billion in Florida Forever funds.⁷ Florida Forever projects and acquisitions are required to contribute to the achievement of one or more of the following program goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida’s biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetlands systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources;
- Increase the amount of open space available in urban areas; and
- Mitigate the effects of natural disasters and floods in developed areas.⁸

⁷ DEP, *Florida Forever Five Year Plan*, 51 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Oct. 31, 2019).

⁸ Section 259.105(4), F.S.

The Acquisition and Restoration Council (ARC) is a 10-member body⁹ that makes recommendations on the acquisition, management, and disposal of state-owned lands.¹⁰ The ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for Florida Forever funding. In evaluating each application, the ARC is required to consider whether the project:

- Meets multiple program goals;
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- Enhances or facilitates management of properties already under public ownership;
- Has significant archaeological or historic value;
- Has funding sources that are identified and assured through at least the first two years of the project;
- Contributes to the solution of water resource problems on a regional basis;
- Has a significant portion of its land area in imminent danger of development, losing its significant natural attributes or recreational open space, or subdivision that would result in multiple ownership and make acquisition of the project more costly or less likely to be accomplished;
- Implements an element from a plan developed by an ecosystem management team;
- Is one of the components of Everglades restoration efforts;
- May be purchased at 80 percent of appraised value;
- May be acquired, in whole or in part, using alternatives to fee simple; and
- Is a joint acquisition.¹¹

The ARC is required to give increased priority to:

- Projects for which matching funds are available;
- Project elements previously identified on an acquisition list which can be acquired at 80 percent or less of appraised value;
- Projects that can be acquired in less than fee ownership (acquiring land at less than fee ownership means acquisition of an interest in the property which allows the conservation and protection of resources on the property at less cost while keeping the land in private ownership);
- Projects that contribute to improving the quality or quantity of surface water or groundwater; and

⁹ Section 259.035(1), F.S. Four of ARC's 10 members are appointed by the Governor, three from scientific disciplines related to land, water, or environmental sciences and one with least five years of experience in managing lands for both active and passive types of recreation. Four of the members are the Secretary of Environmental Protection, the director of the Florida Forest Service of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, and the director of the Division of Historical Resources of the Department of State, or their respective designees. One member is appointed by the Commissioner of Agriculture from a discipline related to agriculture, including silviculture, and one member is appointed by the Fish and Wildlife Conservation Commission from a discipline related to wildlife management or wildlife ecology.

¹⁰ DEP, *Florida Forever Five Year Plan*, 49 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Oct 31, 2019).

¹¹ Section 259.105(9), F.S.

- Projects that contribute to improving the water quality and flow of springs; and projects for which the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions.¹²

Using its established criteria, the ARC develops a priority list of applications submitted. An affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list. The ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.¹³ Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change, critical natural lands, less-than-fee, partnerships or regional incentives, and substantially complete (greater than 85 percent complete).¹⁴ Projects are ranked within each category from highest to lowest priority.

The proposed project list is presented to the Governor and the Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (BOT).¹⁵ The BOT is responsible for acting on the ARC's recommendations by approving the acquisition of each parcel.¹⁶ While the BOT is authorized to remove projects from the proposed list, the BOT may not add or rearrange projects on the list.¹⁷

The DSL prepares an annual work plan based on the priority list developed by the ARC, which outlines the specific projects and acquisitions within projects that will be negotiated for purchase with Florida Forever funds available for that fiscal year for land acquisition.¹⁸

At least \$5 million of the funds allocated to the DSL under Florida Forever, beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, are required to be spent on land acquisition within the Florida Keys Area of Critical State Concern.¹⁹

Water Management Districts – 30 Percent

The state is divided into five water management districts (WMDs), which are responsible for the administration of water resources at a regional level. Each WMD is required to develop a Florida Forever five-year work plan that identifies projects necessary to promote reclamation, storage, or recovery of water and other properties or activities that would assist in meeting the goals of the Florida Forever program.²⁰ Each project identified must contribute to the achievement of the Florida Forever goals and be evaluated in accordance with the specific criteria and numeric performance measures developed by the ARC.²¹ By March 1 of each year, each WMD is

¹² Section 259.105(10), F.S.

¹³ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Oct. 29, 2019).

¹⁴ Section 259.105(17), F.S.

¹⁵ Section 259.105(14), F.S.

¹⁶ DEP, *Florida Forever Five Year Plan*, 50 (2019), available at

http://publicfiles.dep.state.fl.us/DSL/OESWeb/FF2017/FLDEP_DSL_SOLI_2018FloridaForever5YrPlan_20180706.pdf (last visited Oct. 31, 2019).

¹⁷ Section 259.105(14), F.S.

¹⁸ Section 259.105(17), F.S.

¹⁹ Section 259.105(3)(b), F.S.

²⁰ Section 373.199, F.S.

²¹ Section 259.105(4), F.S.

required to report to the DEP on acquisitions completed during the year together with modifications or additions to its five-year work plan, including:

- A description of land management activity for each property or project area owned by the WMD;
- A list of any lands surplus and the amount of compensation received; and
- The progress of funding, staffing, and resource management of every project funded pursuant to Florida Forever for which the WMD is responsible.²²

The DEP is required to submit each WMD's five-year work plan to the BOT together with the ARC's project list.²³ Pursuant to s. 259.105(11), F.S., Florida Forever funds provided to the WMDs are allocated as follows:

- Thirty-five percent to the South Florida WMD;
- Twenty-five percent to the Southwest Florida WMD;
- Twenty-five percent to the St. Johns River WMD;
- Seven and one-half percent to the Suwannee River WMD; and
- Seven and one-half percent to the Northwest Florida WMD.

Florida Communities Trust – 21 Percent

The Florida Communities Trust (FCT) is a multi-faceted program that assists communities in protecting important natural resources, providing recreational opportunities, and preserving the state's traditional working waterfronts through grant programs.²⁴ The FCT is governed by a five-member board that includes the Secretary of the DEP or his or her designee and four members of the public appointed by the Governor. From the funds available to the FCT and used for land acquisition, 75 percent is required to be matched by local governments on a dollar-for-dollar basis.²⁵

The Parks and Open Space grant program provides funding to local governments and eligible nonprofit organizations for acquisition of community-based parks, open space, and greenways that further outdoor recreation and natural resource protection needs identified in a local government's comprehensive plan. As of June 2017, more than 92,400 acres have been preserved statewide, leveraging \$839 million state dollars of the total \$1.56 billion used to acquire such lands.²⁶

Stan Mayfield Working Waterfronts – 2.5 Percent

The FCT administers the Stan Mayfield Working Waterfront program, which provides funding to acquire parcels of land used directly for commercially harvesting marine organisms or saltwater products.²⁷ Such projects include piers, wharves, docks, and other facilities operated to

²² Section 373.199(7), F.S.

²³ *Id.*

²⁴ DEP, *Florida Communities Trust Annual Report Fiscal Year 2018-2019*, 3 (Sept. 30, 2019) available at https://floridadep.gov/sites/default/files/FCT_18-19_Annual_Report_FINAL_0.pdf (last visited Oct. 31, 2019).

²⁵ Section 259.105(3)(c), F.S.

²⁶ DEP, *FCT Parks and Open Space Program Overview*, <https://floridadep.gov/ooo/land-and-recreation-grants/content/fct-parks-and-open-space-program-overview> (last visited Oct. 28, 2019).

²⁷ DEP, *FCT Stan Mayfield Working Waterfronts Grant Program Overview*, <https://floridadep.gov/lands/land-and-recreation-grants/content/fct-stan-mayfield-working-waterfronts-grant-program> (last visited Oct. 28, 2019).

provide waterfront access to licensed commercial fishermen, aquaculturists, or business entities.²⁸ The funds may also be used for the acquisition of land for exhibitions, demonstrations, educational venues, civic events, and other purposes to promote and educate the public about the economic, cultural, and historic heritage of the state's traditional working waterfronts, including marketing events for the seafood and aquaculture industries.²⁹

Rural and Family Lands Protection Program – 3.5 Percent

The Rural and Family Lands Protection Program within the Department of Agriculture and Consumer Services (DACS) is an agricultural land preservation program designed to protect important agricultural lands through the acquisition of permanent agricultural land conservation easements.³⁰ The purpose of the program is to promote and improve wildlife habitat; protect and enhance water bodies, aquifer recharge areas, wetlands, and watersheds; perpetuate open space on lands with significant natural areas; or protect agricultural lands threatened by conversion to other uses.³¹ Under the program, lands must be acquired pursuant to a priority ranking process developed by the DACS, the DEP, the WMDs, the Department of Economic Opportunity, and the Fish and Wildlife Conservation Commission (FWC).³² Preference must be given to ranch and timber lands that are managed using sustainable practices.³³

Florida Recreation Development Assistance Program – 2 Percent

The Florida Recreation Development Assistance Program within the DEP provides grants to qualified local governmental entities to acquire or develop land for public outdoor recreation purposes.³⁴ The maximum grant that may be awarded for each project application is \$200,000 in state funds and a local government may not have more than three active projects expending grant funds during a state fiscal year.³⁵ The DEP has developed a competitive project selection process designed to maximize outdoor recreation for the public.³⁶ The selection criteria ranks projects, in part, based on the extent to which the project would implement outdoor recreation goals, objectives, and priorities specified in the state comprehensive outdoor recreation plan and the extent to which the project would provide priority resource or facility needs in the region, as specified in the state comprehensive outdoor recreation plan.³⁷

Florida Greenways and Trails Program – 1.5 Percent

The Office of Greenways and Trails (OGT) within the DEP provides a comprehensive approach to identify, prioritize, connect, promote, and coordinate the implementation of a statewide system

²⁸ *Id.*

²⁹ *Id.*

³⁰ Department of Agriculture and Consumer Services (DACS), *Rural and Family Lands Protection Program*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Land-Planning-and-Administration-Section/Rural-and-Family-Lands-Protection-Program2> (last visited Oct. 28, 2019); see DEP, *Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/florida-forever> (last visited Oct. 28, 2019).

³¹ Section 570.71, F.S.

³² *Id.*; see Fla. Admin. Code Ch. 5I-7.

³³ Section 570.71, F.S.

³⁴ DEP, *Florida Recreation Development Assistance Program*, <https://floridadep.gov/lands/land-and-recreation-grants/content/florida-recreation-development-assistance-program> (last visited Oct. 28, 2019).

³⁵ Section 375.075, F.S.

³⁶ See Fla. Admin. Code Ch. 62D-5.057.

³⁷ Section 375.075, F.S.

of connected greenways and trails.³⁸ The program serves to integrate natural and human environments using greenways and trails to tie communities together by linking features such as parks, open spaces, historic sites, and residential areas. The Florida Greenways and Trails Council recommends lands for acquisition based on ranking criteria developed by the DEP and is not subject to the ranking criteria developed by the ARC.³⁹

Division of Recreation and Parks – 1.5 Percent

The Division of Recreation and Parks (DRP) within the DEP administers Florida's Park Service, which consists of 175 state parks, trails, and historic sites spanning nearly 800,000 acres and 100 miles of beaches.⁴⁰ The DRP is authorized to use Florida Forever funds to purchase inholdings and additions to state parks and for capital expenditure project expenditures.⁴¹ At a minimum, one percent, and no more than 10 percent, must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.⁴² The DRP must develop and utilize a priority acquisition list based on the specific criteria and numeric performance measures developed by the ARC for acquisitions under the Florida Forever program.⁴³

Florida Forest Service – 1.5 Percent

The Florida Forest Service (FFS) within the DACS manages 37 state forests, totaling over one million acres.⁴⁴ The FFS is authorized to acquire lands, suitable for state forest purposes, by gift, donation, contribution, purchase, or otherwise and is authorized to enter into an agreement with the federal government, or other agency, for acquiring by gift, purchase, or otherwise, such lands as are, in the judgment of the FFS, suitable and desirable for state forests.⁴⁵ The FFS may use Florida Forever funds for the acquisition of state forest inholdings and additions, the implementation of reforestation plans, or sustainable forestry management practices, and for capital project expenditures.⁴⁶ At a minimum, one percent, and no more than 10 percent, must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.⁴⁷

Fish and Wildlife Conservation Commission – 1.5 Percent

The FWC exercises the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life.⁴⁸ The FWC is authorized to acquire lands and waters suitable for the protection, improvement, and restoration of the state's wild animal life, freshwater aquatic

³⁸ DEP, *Florida Greenways and Trails System Plan 2019-2023*, 6, available at <https://floridadep.gov/sites/default/files/FL-Greenway%2BTrails-System-Plan-2019%2C%202023.pdf> (last visited Oct. 28, 2019).

³⁹ Section 260.015(1), F.S.

⁴⁰ DEP, *Division of Recreation and Parks*, <https://floridadep.gov/Parks> (last visited Oct. 28, 2019).

⁴¹ Section 259.105(3)(e), F.S.

⁴² *Id.*

⁴³ Section 259.105(3)(i)1., F.S.

⁴⁴ DACS, *State Forests*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/State-Forests> (last visited Oct. 29, 2019).

⁴⁵ Section 589.07, F.S.

⁴⁶ Section 259.105(3)(f), F.S.

⁴⁷ *Id.*

⁴⁸ FLA. CONST. art. IV, s. 9.

life, and marine life resources.⁴⁹ Lands acquired must be managed for recreational and other multiple-use activities that do not impede the FWC's ability to perform its constitutional and statutory duties and responsibilities.⁵⁰ The lands managed by the FWC include lands that are leased to the FWC and owned by the state, and lands owned by the FWC. The FWC is authorized to use Florida Forever funds for the acquisition of inholdings and additions to lands they manage which are important to the conservation of fish and wildlife and for capital project expenditures.⁵¹ At a minimum, one percent, and no more than 10 percent, must be spent on capital project expenditures identified during the time of acquisition that meet land management planning activities necessary for public access.⁵²

Land Acquisition Trust Fund

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of 70 cents per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at 35 cents per \$100.⁵³

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for land and water conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). Article X, s. 28 of the State Constitution requires that funds in the LATF be expended only for the following purposes:

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.⁵⁴

⁴⁹ Section 20.331(11), F.S.

⁵⁰ *Id.*

⁵¹ Section 259.105(3)(g), F.S.

⁵² *Id.*

⁵³ *See* ss. 201.02 and 201.08, F.S.

⁵⁴ FLA. CONST. art. X, s. 28(b)(1).

To implement Art. X, s. 28 of the State Constitution, the Legislature passed ch. 2015-229, Laws of Florida. This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes; and
- Section 375.041, F.S., to designate the LATF within the DEP as the trust fund to serve as the constitutionally mandated depository for the percentage of documentary stamp tax revenues.⁵⁵

Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
 - Payments relating to debt service on Florida Forever Bonds and Everglades restoration bonds.
- Then, before funds are authorized to be appropriated for other uses:
 - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan, or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades restoration projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. From these funds, the following specified distributions are required:
 - \$32 million annually through the 2023-2024 fiscal year for the Long-Term Plan;
 - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million annually through the 2025-2026 fiscal year for the CERP; and
 - Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
 - A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for spring restoration, protection, and management projects;
 - \$5 million annually through the 2025-2026 fiscal year to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka; and
 - \$64 million to the Everglades Trust Fund in the 2018-2019 fiscal year and each fiscal year thereafter, for the Everglades Agricultural Area reservoir project, and any funds remaining in any fiscal year shall be made available only for Phase II of the C-51 Reservoir Project or projects that implement the CERP, the Long Term Plan, or the NEEPP.
- Then, any remaining moneys are authorized to be appropriated for the purposes set forth in Art. X, s. 28 of the State Constitution.⁵⁶

⁵⁵ Ch. 2015-229, ss. 9 and 50, Laws of Fla.

⁵⁶ Section 375.041(3)-(4), F.S.

The General Revenue Estimating Conference in January 2020 estimated that for the 2019-2020 fiscal year a total of \$2.87 billion would be collected in documentary stamp taxes.⁵⁷ Thirty-three percent of the net revenues collected, or approximately \$945.12 million, must be deposited into the LATF in accordance with Art. X, s. 28 of the State Constitution. Of that amount, \$157.69 million is committed to debt service, leaving \$787.43 million to be distributed for the uses specified by s. 375.041, F.S., and other purposes in accordance with the General Appropriations Act.⁵⁸

In 2015, two lawsuits were filed challenging the constitutionality of appropriations from the LATF and expenditures by state agencies.⁵⁹ The cases were consolidated and a hearing was held in June of 2018.⁶⁰ The plaintiffs argued that funds from the LATF were appropriated and expended for general state expenses in ways that were inconsistent with the constitutional language. The court held for the plaintiffs, stating the amendment requires the funds be used for acquiring conservation lands, and for improving, managing, restoring, and enhancing public access to conservation lands acquired after the effective date of the amendment.⁶¹ The decision described how the LATF funds may be used, and ruled numerous appropriations from 2015 and 2016 unconstitutional.⁶²

The circuit court decision was appealed and the First District Court of Appeal overturned the circuit court ruling, holding that the LATF funds are not restricted to use on land purchased by the state after the constitutional amendment took effect in 2015.⁶³ The court also held that the plain language in the Constitution authorizing the use of funds for management, restoration, and enhancement activities would specifically authorize use of the funds on activities beyond land acquisition.⁶⁴ The case is currently on remand to the circuit court to rule on the legality of appropriations made since the enactment of the constitutional amendment.⁶⁵

III. Effect of Proposed Changes:

The bill creates a statutory distribution from the Land Acquisition Trust Fund requiring \$100 million to be appropriated annually to the Florida Forever Trust Fund. In accordance with the current provisions of s. 259.105(3), F.S., the distribution must be allocated as follows:

- Division of State Lands - \$35 million, of which \$5 million is dedicated for land acquisition within the Florida Keys Area of Critical State Concern.

⁵⁷ Office of Economic & Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Conference Results (Jan. 2020)*, available at, <http://edr.state.fl.us/Content/conferences/docstamp/docstampresults.pdf> (last visited Feb. 20, 2020).

⁵⁸ *Id.*

⁵⁹ *Florida Wildlife Federation, Inc. v. Negron*, No. 2015-CA-001423 (Fla. 2nd Cir. Ct.); *Florida Defenders of the Environment, Inc., v. Detzner*, No. 2015-CA-002682 (Fla. 2nd Cir. Ct.).

⁶⁰ *Florida Wildlife Federation, Inc. v. Negron*, Nos. 2015-CA-001423, 2015-CA-002682 (Fla. 2nd Cir. Ct. June 28, 2018).

⁶¹ *Id.* at 3.

⁶² *Id.* at 7–8.

⁶³ *Oliva v. Florida Wildlife Federation, Inc.*, 1D18-3141 (Fla. 1st Dist. Ct. App.), available at https://www.1dca.org/content/download/536427/5956785/file/183141_1286_09092019_09211709_i.pdf (last visited Sept. 23, 2019).

⁶⁴ *Id.* at 9-10.

⁶⁵ *Id.* at 11.

- Water Management Districts - \$30 million.
- Florida Communities Trust - \$21 million.
- Rural and Family Lands Protection Program - \$3.5 million.
- Stan Mayfield Working Waterfronts - \$2.5 million.
- Florida Recreation Development Assistance Program - \$2 million.
- Division of Recreation and Parks - \$1.5 million.
- Office of Greenways and Trails - \$1.5 million.
- Florida Forest Service - \$1.5 million.
- Fish and Wildlife Conservation Commission - \$1.5 million.

The bill deletes an obsolete provision relating to an appropriation for the 2019-2020 fiscal year.

The bill provides that moneys distributed from the Land Acquisition Trust Fund may not be used by the following budget entities:

- Executive Direction and Support Services and the Technology and Information Services within the Department of Environmental Protection;
- Executive Direction and Support Services and the Office of Agriculture Technology Services within the Department of Agriculture and Consumer Services;
- Office of Executive Direction and Administrative Support Services within the Fish and Wildlife Conservation Commission; and
- Executive Direction and Support Services within the Department of State.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The bill creates a new distribution from the Land Acquisition Trust Fund (LATF) to the Florida Forever Trust Fund for distribution for various purposes. The LATF has constitutionally restricted uses, which are discussed in Section II of this bill analysis.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a \$100 million annual distribution from the Land Acquisition Trust Fund (LATF) to the Florida Forever Trust Fund. Absent subsequent direction by the legislature to the contrary, these funds are to be distributed as follows:

- Division of State Lands - \$35 million, of which \$5 million is dedicated for land acquisition within the Florida Keys Area of Critical State Concern.
- Water Management Districts - \$30 million.
- Florida Communities Trust - \$21 million.
- Rural and Family Lands Protection Program - \$3.5 million.
- Stan Mayfield Working Waterfronts - \$2.5 million.
- Florida Recreation Development Assistance Program - \$2 million.
- Division of Recreation and Parks - \$1.5 million.
- Office of Greenways and Trails - \$1.5 million.
- Florida Forest Service - \$1.5 million.
- Fish and Wildlife Conservation Commission - \$1.5 million.

Agencies that receive funds from the LATF are the departments of Environmental Protection, State, and Agriculture and Consumer Services, and the Fish and Wildlife Conservation Commission. These agencies receive legislative appropriations for various items, such as springs restoration, Everglades and Northern Everglades restoration, Lake Apopka restoration, beach restoration, and land management activities. The additional \$100 million in distributions may affect the amount of additional funding available beyond the minimum required appropriation for the other purposes funded from the trust fund. Projections of Fiscal Year 2020-2021 documentary tax revenues deposited into the LATF totals \$945.12 million, which is an increase of \$37.28 million.⁶⁶ This increase in collections may offset some of the negative fiscal impact to the available funds.

VI. Technical Deficiencies:

None.

⁶⁶ Office of Economic & Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Conference Results (Jan. 2020)*, available at <http://edr.state.fl.us/Content/conferences/docstamp/docstampresults.pdf> (last visited Feb. 19, 2020).

VII. Related Issues:

Other allocations from the Land acquisition Trust Fund (LATF) require the allocations to be reduced to the extent of any debt service on bonds issued for the same purpose after a date certain. This bill does not contain language to reduce the distribution based on any debt service paid on bonds issued for the Florida Forever program. As a result, the new \$100 million distribution for the Florida Forever program will be in addition to any payment of debt service for bonds issued for the purposes of the Florida Forever program. If the legislature wants to treat the allocation authorized in this bill similar to other allocations of the LATF moneys, the following language could be inserted: “This distribution shall be reduced by an amount equal to the debt service paid pursuant to paragraph (a) on bonds issued after July 1, 2020, for the purposes set forth in this subparagraph.”

VIII. Statutes Affected:

This bill substantially amends section 375.041 of the Florida Statutes:

IX. Additional Information:

- A. **Committee Substitute – Statement of Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

By Senator Stewart

13-00037-20

2020332__

1 A bill to be entitled
 2 An act relating to the Land Acquisition Trust Fund;
 3 amending s. 375.041, F.S.; requiring a specified
 4 annual appropriation to the Florida Forever Trust
 5 Fund; deleting an obsolete provision; prohibiting
 6 moneys from the Land Acquisition Trust Fund from being
 7 used for specified costs; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Subsections (3) and (4) of section 375.041,
 12 Florida Statutes, are amended to read:
 13 375.041 Land Acquisition Trust Fund.—
 14 (3) Funds distributed into the Land Acquisition Trust Fund
 15 pursuant to s. 201.15 shall be applied:
 16 (a) First, to pay debt service or to fund debt service
 17 reserve funds, rebate obligations, or other amounts payable with
 18 respect to Florida Forever bonds issued under s. 215.618; and
 19 pay debt service, provide reserves, and pay rebate obligations
 20 and other amounts due with respect to Everglades restoration
 21 bonds issued under s. 215.619; and
 22 (b) Of the funds remaining after the payments required
 23 under paragraph (a), but before funds may be appropriated,
 24 pledged, or dedicated for other uses:
 25 1. A minimum of the lesser of 25 percent or \$200 million
 26 shall be appropriated annually for Everglades projects that
 27 implement the Comprehensive Everglades Restoration Plan as set
 28 forth in s. 373.470, including the Central Everglades Planning
 29 Project subject to Congressional authorization; the Long-Term

Page 1 of 4

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

13-00037-20

2020332__

30 Plan as defined in s. 373.4592(2); and the Northern Everglades
 31 and Estuaries Protection Program as set forth in s. 373.4595.
 32 From these funds, \$32 million shall be distributed each fiscal
 33 year through the 2023-2024 fiscal year to the South Florida
 34 Water Management District for the Long-Term Plan as defined in
 35 s. 373.4592(2). After deducting the \$32 million distributed
 36 under this subparagraph, from the funds remaining, a minimum of
 37 the lesser of 76.5 percent or \$100 million shall be appropriated
 38 each fiscal year through the 2025-2026 fiscal year for the
 39 planning, design, engineering, and construction of the
 40 Comprehensive Everglades Restoration Plan as set forth in s.
 41 373.470, including the Central Everglades Planning Project, the
 42 Everglades Agricultural Area Storage Reservoir Project, the Lake
 43 Okeechobee Watershed Project, the C-43 West Basin Storage
 44 Reservoir Project, the Indian River Lagoon-South Project, the
 45 Western Everglades Restoration Project, and the Picayune Strand
 46 Restoration Project. The Department of Environmental Protection
 47 and the South Florida Water Management District shall give
 48 preference to those Everglades restoration projects that reduce
 49 harmful discharges of water from Lake Okeechobee to the St.
 50 Lucie or Caloosahatchee estuaries in a timely manner. For the
 51 purpose of performing the calculation provided in this
 52 subparagraph, the amount of debt service paid pursuant to
 53 paragraph (a) for bonds issued after July 1, 2016, for the
 54 purposes set forth under paragraph (b) shall be added to the
 55 amount remaining after the payments required under paragraph
 56 (a). The amount of the distribution calculated shall then be
 57 reduced by an amount equal to the debt service paid pursuant to
 58 paragraph (a) on bonds issued after July 1, 2016, for the

Page 2 of 4

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13-00037-20

2020332__

59 purposes set forth under this subparagraph.

60 2. A minimum of the lesser of 7.6 percent or \$50 million
61 shall be appropriated annually for spring restoration,
62 protection, and management projects. For the purpose of
63 performing the calculation provided in this subparagraph, the
64 amount of debt service paid pursuant to paragraph (a) for bonds
65 issued after July 1, 2016, for the purposes set forth under
66 paragraph (b) shall be added to the amount remaining after the
67 payments required under paragraph (a). The amount of the
68 distribution calculated shall then be reduced by an amount equal
69 to the debt service paid pursuant to paragraph (a) on bonds
70 issued after July 1, 2016, for the purposes set forth under this
71 subparagraph.

72 3. The sum of \$5 million shall be appropriated annually
73 each fiscal year through the 2025-2026 fiscal year to the St.
74 Johns River Water Management District for projects dedicated to
75 the restoration of Lake Apopka. This distribution shall be
76 reduced by an amount equal to the debt service paid pursuant to
77 paragraph (a) on bonds issued after July 1, 2016, for the
78 purposes set forth in this subparagraph.

79 4. The sum of \$64 million is appropriated and shall be
80 transferred to the Everglades Trust Fund for the 2018-2019
81 fiscal year, and each fiscal year thereafter, for the EAA
82 reservoir project pursuant to s. 373.4598. Any funds remaining
83 in any fiscal year shall be made available only for Phase II of
84 the C-51 reservoir project or projects identified in
85 subparagraph 1. and must be used in accordance with laws
86 relating to such projects. Any funds made available for such
87 purposes in a fiscal year are in addition to the amount

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88 appropriated under subparagraph 1. This distribution shall be
89 reduced by an amount equal to the debt service paid pursuant to
90 paragraph (a) on bonds issued after July 1, 2017, for the
91 purposes set forth in this subparagraph.

92 5. The sum of \$100 million is appropriated annually to the
93 Florida Forever Trust Fund ~~Notwithstanding subparagraph 3., for~~
94 ~~the 2019-2020 fiscal year, funds shall be appropriated as~~
95 ~~provided in the General Appropriations Act. This subparagraph~~
96 ~~expires July 1, 2020.~~

97 (4) Any remaining moneys in the Land Acquisition Trust Fund
98 which are not distributed as provided in subsection (3) may be
99 appropriated from time to time for the purposes set forth in s.
100 28, Art. X of the State Constitution, except that moneys
101 distributed from the Land Acquisition Trust Fund may not be used
102 for costs associated with any of the following budget entities:

103 (a) The Executive Direction and Support Services and the
104 Technology and Information Services within the Department of
105 Environmental Protection.

106 (b) The Executive Direction and Support Services and the
107 Office of Agriculture Technology Services within the Department
108 of Agriculture and Consumer Services.

109 (c) The Office of Executive Direction and Administrative
110 Support Services within the Fish and Wildlife Conservation
111 Commission.

112 (d) The Executive Direction and Support Services within the
113 Department of State.

114 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

SR332

Bill Number (if applicable)

Meeting Date

Topic Land Acquisition Trust Fund

Amendment Barcode (if applicable)

Name Trish Neely

Job Title Consultant

Address 2024 Shangri La Lane

Phone 850 322 3317

Street

Tallahassee ~~FL~~ FL 32303

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing League Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/25/20

Meeting Date

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

332

Bill Number (if applicable)

Topic Land Acquisition Trust Fund

Amendment Barcode (if applicable)

Name Paul Owens

Job Title President, 1000 Friends of Florida

Address 308 N. Monroe St.

Phone 850-222-6277

Tallahassee, FL

32301

Email powens@1000fof.org

Street

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing 1000 Friends of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/25/20

Meeting Date

332

Bill Number (if applicable)

Topic Land Acquisition Trust Fund

Amendment Barcode (if applicable)

Name Lindsay Cross

Job Title Government Relations Director

Address 1700 N Monroe 11-286

Phone _____

Street

Tally

City

FL

State

32303

Zip

Email lindsay@fcvoters.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida conservation voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/25/2020
Meeting Date

SB 332
Bill Number (if applicable)

Topic Florida Forever Funding

Amendment Barcode (if applicable)

Name LARA Reynolds

Job Title Policy Analyst

Address P.O. Box 236

Phone 786-543-1926

Homestead FL 33090
City State Zip

Email lreynolds@conservationconceptsllc.org

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing ISSAC Walker League of America

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb. 25, 2020

Meeting Date

SB 332

Bill Number (if applicable)

Topic Florida Forever, Land Acquisition Trust Fund

Amendment Barcode (if applicable)

Name Will Abberger

Job Title Vice President, Director, Conservation Finance

Address 306 N. Monroe Street

Phone 850-294-2006

Street

Tallahassee

FL

32301

Email will.abberger@tpl.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing The Trust for Public Land

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: November 6, 2019

I respectfully request that **Senate Bill #: 332** relating to Land Acquisition Trust Fund, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13

c.c. Giovanni Betta, Staff Director
Michelle Milligan, Committee Administrative Assistant

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/SB 638 (595990)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government and Senator Montford

SUBJECT: Apalachicola Environmental Stewardship Act

DATE: February 26, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dyson</u>	<u>Rogers</u>	<u>EN</u>	Favorable
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	Recommend: Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/SB 638 creates the Apalachicola Environmental Stewardship Act, which creates an annual appropriation of at least \$5 million from the funds allocated to Division of State Lands from the Florida Forever Trust Fund beginning in the 2020-2021 through the 2024-2025 fiscal years, to be spent on projects that improve surface water and groundwater quality within the Apalachicola Bay Area of Critical State Concern.

The bill takes effect July 1, 2020.

II. Present Situation:

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the Blueprint for conserving Florida's natural resources.¹ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.² Florida Forever encompasses a wide range of

¹ Chapter 99-247, Laws of Fla.

² Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2019), 49, available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Nov. 25, 2019).

goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.³ The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.⁴ Under Florida Forever, the issuance of up to \$5.3 billion in Florida Forever bonds is authorized to finance or refinance the cost of acquisition and improvement of land, water areas, and related property interests and resources, in urban and rural settings, for the purposes of restoration, conservation, recreation, water resource development, or historical preservation, and for capital improvements⁵ to lands and water areas which accomplish environmental restoration, enhance public access and recreational enjoyment, promote long-term management goals, and facilitate water resource development.⁶

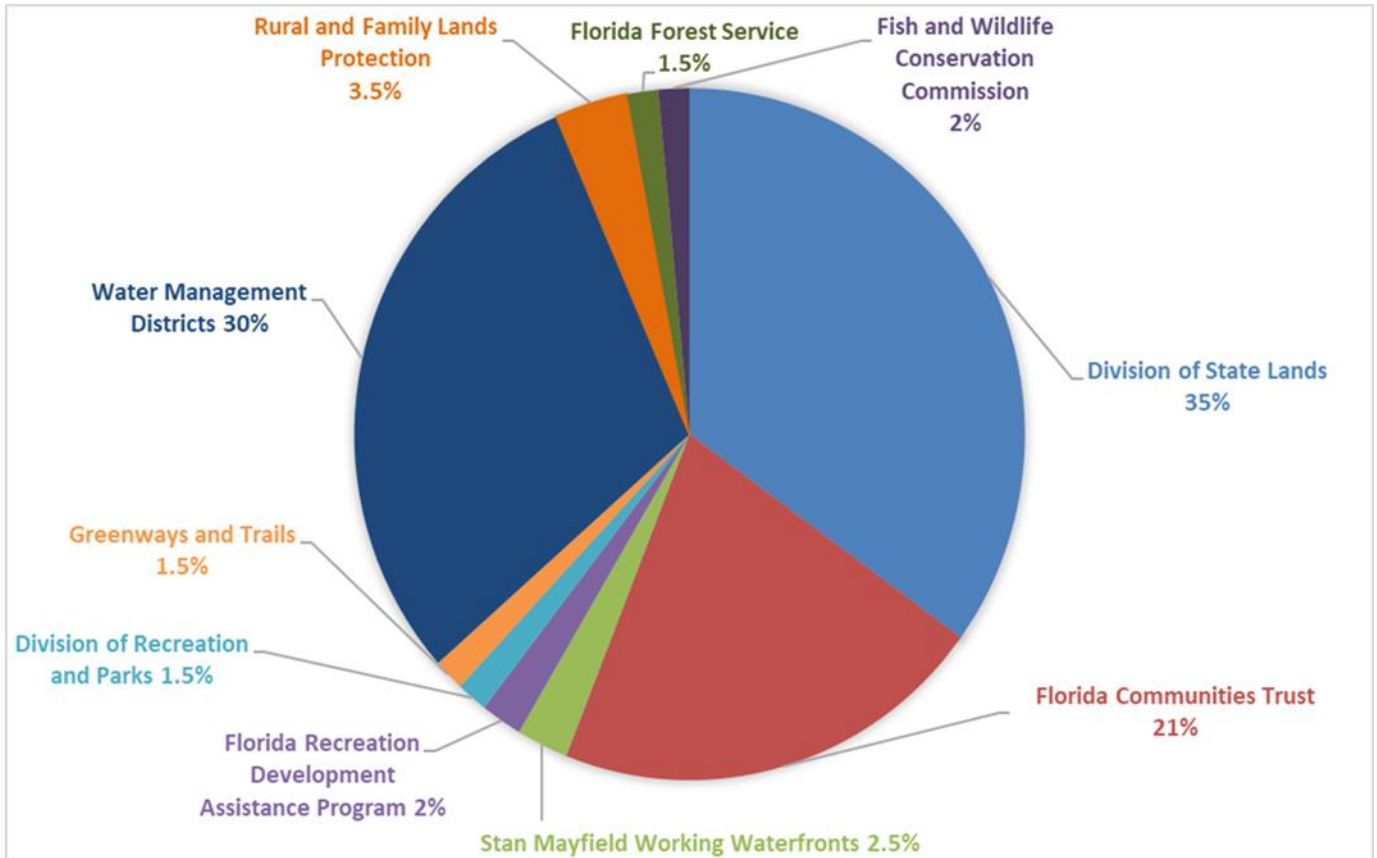
The Florida Forever Trust Fund was created to serve as the repository for Florida Forever bond proceeds to fund the Florida Forever Program. The Florida Forever Trust Fund is administered by the Department of Environmental Protection (DEP). The DEP is required to distribute revenues from the Florida Forever Trust Fund in accordance with s. 259.105(3), F.S., which sets forth the allocation of the proceeds of cash payments or bonds deposited into the Florida Forever Trust Fund and is depicted in the graph below.

³ Section 259.105, F.S.

⁴ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Nov. 25 2019). See Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at https://www.fnai.org/PDF/Maacres_201902_FCL_plus_LTF.pdf (last visited Nov. 25, 2019) for a complete summary of the total amount of conservation lands in Florida.

⁵ As defined in s. 259.03, F.S., the terms “capital improvement” or “capital project expenditure” when used in ch. 259, F.S., mean “those activities relating to the acquisition, restoration, public access, and recreational uses of such lands, water areas, and related resources deemed necessary to accomplish the purposes of this chapter. Eligible activities include, but are not limited to: the initial removal of invasive plants; the construction, improvement, enlargement or extension of facilities’ signs, firelanes, access roads, and trails; or any other activities that serve to restore, conserve, protect, or provide public access, recreational opportunities, or necessary services for land or water areas. Such activities shall be identified prior to the acquisition of a parcel or the approval of a project. The continued expenditures necessary for a capital improvement approved under this subsection shall not be eligible for funding provided in this chapter.”

⁶ Section 215.618, F.S.



Division of State Lands – 35 Percent

The Division of State Lands (DSL) within the DEP oversees the Florida Forever program, under which the state has protected over 770,279 acres of land purchased with about \$3 billion in Florida Forever funds.⁷ Florida Forever projects and acquisitions are required to contribute to the achievement of one or more of the following program goals:

- Enhance the coordination and completion of land acquisition projects;
- Increase the protection of Florida’s biodiversity at the species, natural community, and landscape levels;
- Protect, restore, and maintain the quality and natural functions of land, water, and wetlands systems of the state;
- Ensure that sufficient quantities of water are available to meet the current and future needs of natural systems and the citizens of the state;
- Increase natural resource-based public recreational and educational opportunities;
- Preserve significant archaeological or historic sites;
- Increase the amount of forestland available for sustainable management of natural resources;
- Increase the amount of open space available in urban areas; and
- Mitigate the effects of natural disasters and floods in developed areas.⁸

⁷ DEP, *Florida Forever Five Year Plan*, (2019), 51, available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Nov. 26, 2019).

⁸ Section 259.105(4), F.S.

The Acquisition and Restoration Council (ARC) is a 10-member body⁹ that makes recommendations on the acquisition, management, and disposal of state-owned lands.¹⁰ The ARC accepts applications from state agencies, local governments, nonprofit and for-profit organizations, private land trusts, and individuals for project proposals eligible for Florida Forever funding. In evaluating each application, the ARC is required to consider whether the project:

- Meets multiple program goals;
- Is part of an ongoing governmental effort to restore, protect, or develop land areas or water resources;
- Enhances or facilitates management of properties already under public ownership;
- Has significant archaeological or historic value;
- Has funding sources that are identified and assured through at least the first two years of the project;
- Contributes to the solution of water resource problems on a regional basis;
- Has a significant portion of its land area in imminent danger of development, losing its significant natural attributes or recreational open space, or subdivision that would result in multiple ownership and make acquisition of the project more costly or less likely to be accomplished;
- Implements an element from a plan developed by an ecosystem management team;
- Is one of the components of Everglades restoration efforts;
- May be purchased at 80 percent of appraised value;
- May be acquired, in whole or in part, using alternatives to fee simple; and
- Is a joint acquisition.¹¹

The ARC is required to give increased priority to:

- Projects for which matching funds are available;
- Project elements previously identified on an acquisition list which can be acquired at 80 percent or less of appraised value;
- Projects that can be acquired in less than fee ownership (acquiring land at less than fee ownership means acquisition of an interest in the property which allows the conservation and protection of resources on the property at less cost while keeping the land in private ownership);
- Projects that contribute to improving the quality or quantity of surface water or groundwater;
- Projects that contribute to improving the water quality and flow of springs; and

⁹ Section 259.035(1), F.S. Four of ARC's 10 members are appointed by the Governor, three from scientific disciplines related to land, water, or environmental sciences and one with least five years of experience in managing lands for both active and passive types of recreation. Four of the members are the Secretary of Environmental Protection, the director of the Florida Forest Service of the Department of Agriculture and Consumer Services, the executive director of the Fish and Wildlife Conservation Commission, and the director of the Division of Historical Resources of the Department of State, or their respective designees. One member is appointed by the Commissioner of Agriculture from a discipline related to agriculture, including silviculture, and one member is appointed by the Fish and Wildlife Conservation Commission from a discipline related to wildlife management or wildlife ecology.

¹⁰ DEP, *Florida Forever Five Year Plan*, 49 (2019), available at <http://publicfiles.dep.state.fl.us/DSL/FFWeb/Current%20Florida%20Forever%20Five-Year%20Plan.pdf> (last visited Nov. 25, 2019).

¹¹ Section 259.105(9), F.S.

- Projects for which the state's land conservation plans overlap with the military's need to protect lands, water, and habitat to ensure the sustainability of military missions.¹²

Using its established criteria, the ARC develops a priority list of applications submitted. An affirmative vote of at least five members of the ARC is required to place a proposed project on the priority list. The ARC evaluates and selects projects twice per year, in June and December, and ranks the projects annually.¹³ Each project on the priority list is placed in one of the following categories of expenditure for land conservation projects: climate change, critical natural lands, less-than-fee, partnerships or regional incentives, and substantially complete (greater than 85 percent complete).¹⁴ Projects are ranked within each category from highest to lowest priority.

The proposed project list is presented to the Governor and the Cabinet sitting as the Board of Trustees of the Internal Improvement Trust Fund (BOT).¹⁵ The BOT is responsible for acting on the ARC's recommendations by approving the acquisition of each parcel.¹⁶ While the BOT is authorized to remove projects from the proposed list, the BOT may not add or rearrange projects on the list.¹⁷

The DSL prepares an annual work plan based on the priority list developed by the ARC, which outlines the specific projects and acquisitions within projects that will be negotiated for purchase with Florida Forever funds available for that fiscal year for land acquisition.¹⁸

At least \$5 million of the funds allocated to the DSL under Florida Forever, beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, are required to be spent on land acquisition within the Florida Keys Area of Critical State Concern.¹⁹

Area of Critical State Concern

The Areas of Critical State Concern Program was created in the "Florida Environmental Land and Water Management Act of 1972."²⁰ The purpose of the program is to ensure that the state, in accordance with s. 7, Art. II of the State Constitution, ensures a water management system that will reverse the deterioration of water quality and provide optimum utilization of the state's limited water resources, facilitate orderly and well-planned development, and protect the health, welfare, safety, and quality of life of residents of this state.²¹

¹² Section 259.105(10), F.S.

¹³ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Nov. 25, 2019).

¹⁴ Section 259.105(17), F.S.

¹⁵ Section 259.105(14), F.S.

¹⁶ DEP, *Florida Forever Five Year Plan*, 50 (2019), available at http://publicfiles.dep.state.fl.us/DSL/OESWeb/FF2017/FLDEP_DSL_SOLI_2018FloridaForever5YrPlan_20180706.pdf (last visited Nov. 25, 2019).

¹⁷ Section 259.105(14), F.S.

¹⁸ Section 259.105(17), F.S.

¹⁹ Section 259.105(3)(b), F.S.

²⁰ Chapter 72-317, s. 1, Laws of Fla.

²¹ Section 380.021, F.S.

The current designated Areas of Critical State Concern are the Apalachicola Bay Area, the Green Swamp Area, the Big Cypress Area, and the Florida Keys Area and the City of Key West Area.²²

Apalachicola Bay Area of Critical State Concern

The Legislature designated the Apalachicola Bay Area as an Area of Critical State Concern in 1985.²³ The initial designation of the Apalachicola Bay Area included the City of Apalachicola, the City of Carrabelle, and unincorporated Franklin County (excluding Alligator Point).²⁴ All of the designation was repealed in 1993 except for the City of Apalachicola.²⁵

The Apalachicola River is the largest river in Florida and provides 35 percent of the freshwater entering the northeastern Gulf of Mexico.²⁶ The Apalachicola River and the adjoining Chattahoochee and Flint Rivers comprise a drainage system encompassing more than 19,000 square miles of southern Georgia, eastern Alabama, and northern Florida.²⁷ The area harbors one of the highest concentrations of threatened and endangered species in the United States.²⁸ Apalachicola Bay is a productive estuary, supplying approximately 90 percent of the oysters in Florida and 10 percent nationally, and is an important nursery ground for numerous commercially and recreationally important fish and invertebrate species.²⁹

The designated area is shown below:³⁰

²² Department of Economic Opportunity, *Areas of Critical State Concern Program*, available at <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern> (last visited Nov. 26, 2019).

²³ Chapter 85-360, ss. 1-10, Laws of Fla.

²⁴ *Id.*

²⁵ Chapter 93-135, s. 1, Laws of Fla.

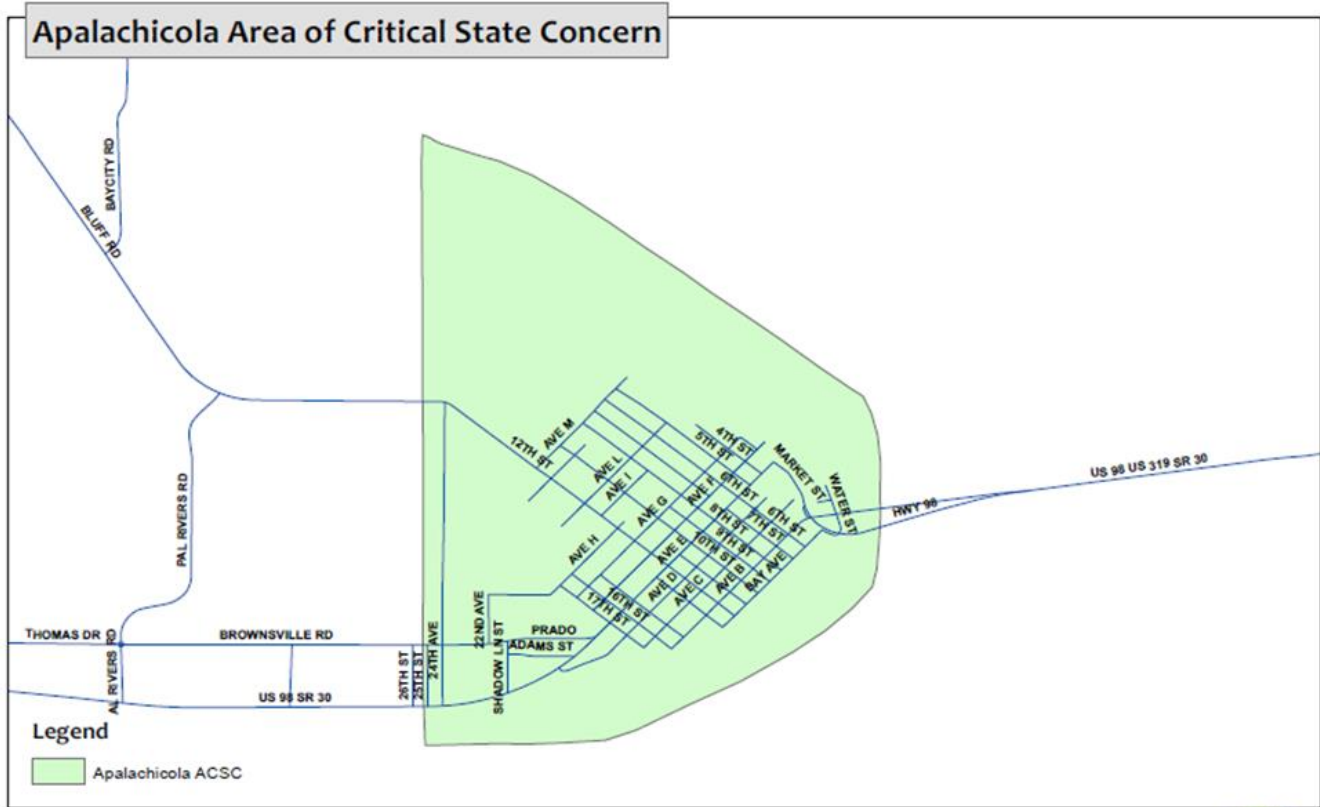
²⁶ Department of Economic Opportunity, *Apalachicola Bay Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/city-of-apalachicola> (last visited Nov. 25, 2019); *see also*, U.S. Fish and Wildlife Service, *Next Steps for a Healthy Gulf of Mexico Watershed*, <https://www.fws.gov/southeast/gulf-restoration/next-steps/focal-area/greater-apalachicola-basin/> (last visited Nov. 25, 2019).

²⁷ *Id.*

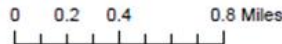
²⁸ *Id.*

²⁹ *Id.*

³⁰ Department of Economic Opportunity, *Apalachicola Area of Critical State Concern Program*, <http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/2015-cmty-plan-acsc/apalachicolamap.pdf?sfvrsn=2> (last visited Nov. 26, 2019).



Note: This product has been compiled from the most accurate data available to the Department of Economic Opportunity. This product is for reference purposes only and is not to be construed as a legal document or survey instrument. Please refer to Rule 25-22.401, Florida Administrative Code for the precise boundary.



The legislative intent of the designation is to:

- Protect the water quality of the Apalachicola Bay Area to ensure a healthy environment and thriving economy for area and state residents;
- Financially assist Franklin County and its municipalities in upgrading and expanding their sewerage systems;
- Protect the Apalachicola Bay Area’s natural and economic resources by implementing and enforcing comprehensive plans and land development regulations;
- Assist Franklin County and its municipalities with technical and advisory assistance in formulating land development regulations and modifications to comprehensive plans;
- Monitor activities within the Apalachicola Bay Area to ensure the long-term protection of all the area’s resources;
- Promote a broad base of economic growth which is compatible with the protection and conservation of the natural resources of the Apalachicola Bay Area;
- Educate the residents of the Apalachicola Bay Area in order to protect and preserve its natural resources;
- Provide affordable housing in close proximity to places of employment in the Apalachicola Bay Area; and

- Protect and improve the water quality of the Apalachicola Bay Area through federal, state, and local funding of water quality improvement projects, including the construction and operation of wastewater management facilities that meet state requirements.³¹

State, regional, and local agencies and units of government in the Apalachicola Bay Area are required to coordinate their plans and conduct their programs and regulatory activities consistently using principles for guiding development of the area.³² These principles require that:

- Land development be guided so that the basic functions and productivity of the Apalachicola Bay Area's natural land and water systems be conserved to reduce or avoid health, safety, and economic problems for present and future residents of the Apalachicola Bay Area;
- Land development be consistent with a safe environment, adequate community facilities, a superior quality of life, and a desire to minimize environmental hazards;
- Growth and diversification of the local economy be fostered only if it is consistent with protecting the natural resources of the Apalachicola Bay Area through appropriate management of the land and water systems;
- Aquatic habitats and wildlife resources of the Apalachicola Bay Area be conserved and protected;
- Water quantity be managed to conserve and protect the natural resources and the scenic beauty of the Apalachicola Bay Area;
- Water quality be protected, maintained, and improved for public water supply, propagation of aquatic life, and recreational and other uses;
- No wastes be discharged into any waters of the Apalachicola Bay Area without first being given the degree of treatment necessary to protect water uses;
- Stormwater discharges be managed in order to minimize impacts on the bay system and protect its uses;
- Coastal dune systems, specifically the area extending landward from the extreme high-tide line to the beginning of the pinelands of the Apalachicola Bay Area, be protected; and
- Public lands be managed, enhanced, and protected so that the public may continue to enjoy the traditional use of such lands.³³

III. Effect of Proposed Changes:

The bill creates the Apalachicola Environmental Stewardship Act which creates an annual appropriation of at least \$5 million from funds allocated to the Division of State Lands from the Florida Forever Trust Fund, beginning in the 2020-2021 fiscal year and continuing through the 2024-2025 fiscal year to be spent on projects that improve surface water and groundwater quality within the Apalachicola Bay Area of Critical State Concern. Projects could include:

- The construction and replacement of stormwater management facilities and central sewage collection facilities;
- Installation of onsite sewage treatment and disposal systems;
- Direct and indirect potable reuse; and
- Other water quality and water supply projects.

³¹ Section 380.0555(2), F.S.

³² Section 380.0555(7), F.S.

³³ *Id.*

The bill provides an effective date of July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill creates a specific annual distribution of at least \$5 million from the funds allocated to the Division of State Lands from the Florida Forever Trust Fund through the 2024-2025 fiscal year, which may affect other programs that are funded through the trust fund.

Local governments in the Apalachicola Bay Area of Critical State Concern may have a positive fiscal impact by receiving funds to use for projects that improve surface and groundwater quality.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 259.105 and 380.0555.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on February 25, 2020:

The committee substitute:

- Reduces the appropriation from the Florida Forever Trust Fund from \$12 million to \$5 million;
- Removes land acquisition from projects that improve surface and groundwater quality ;
- Removes the name change of the Apalachicola Bay Area of Critical State Concern;
- Removes the additional principle for guiding development in the Apalachicola Area regarding water quality.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/25/2020	.	
	.	
	.	
	.	

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Montford) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be referred to as "The Apalachicola
Environmental Stewardship Act."

Section 2. Paragraph (b) of subsection (3) of section
259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(3) Less the costs of issuing and the costs of funding



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11 reserve accounts and other costs associated with bonds, the
12 proceeds of cash payments or bonds issued pursuant to this
13 section shall be deposited into the Florida Forever Trust Fund
14 created by s. 259.1051. The proceeds shall be distributed by the
15 Department of Environmental Protection in the following manner:

16 (b) Thirty-five percent to the Department of Environmental
17 Protection for the acquisition of lands and capital project
18 expenditures described in this section. Of the proceeds
19 distributed pursuant to this paragraph, it is the intent of the
20 Legislature that an increased priority be given to those
21 acquisitions which achieve a combination of conservation goals,
22 including protecting Florida's water resources and natural
23 groundwater recharge. At a minimum, 3 percent, and no more than
24 10 percent, of the funds allocated pursuant to this paragraph
25 shall be spent on capital project expenditures identified during
26 the time of acquisition which meet land management planning
27 activities necessary for public access. Beginning in the 2017-
28 2018 fiscal year and continuing through the 2026-2027 fiscal
29 year, at least \$5 million of the funds allocated pursuant to
30 this paragraph shall be spent on land acquisition within the
31 Florida Keys Area of Critical State Concern as authorized
32 pursuant to s. 259.045. Beginning in the 2020-2021 fiscal year
33 and continuing through the 2024-2025 fiscal year, at least \$5
34 million of the funds allocated pursuant to this paragraph shall
35 be spent on projects that improve surface water and groundwater
36 quality within the Apalachicola Bay Area of Critical State
37 Concern as designated under s. 380.0555, including the
38 construction and replacement of stormwater management facilities
39 and central sewage collection facilities, installation of onsite



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40 sewage treatment and disposal systems, direct and indirect
41 potable reuse, and other water quality and water supply
42 projects.

43 Section 3. This act shall take effect July 1, 2020.

44

45 ===== T I T L E A M E N D M E N T =====

46 And the title is amended as follows:

47 Delete everything before the enacting clause
48 and insert:

49

A bill to be entitled

50

An act relating to the Apalachicola Environmental
51 Stewardship Act; providing a short title; amending s.
52 259.105, F.S.; requiring specified funds from the
53 Florida Forever Fund to be spent on projects within
54 the Apalachicola Bay Area of Critical State Concern
55 for specified purposes; providing an effective date.

By Senator Montford

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A bill to be entitled

An act relating to the Apalachicola Environmental Stewardship Act; providing a short title; amending s. 259.105, F.S.; appropriating a sum annually for a specified timeframe from the Florida Forever Fund to the Apalachicola Area of Critical State Concern for specified purposes; amending s. 380.0555, F.S.; renaming the Apalachicola Bay Area of Critical State Concern as the Apalachicola Area of Critical State Concern; deleting obsolete language; making technical changes; providing additional principles for guiding development within the Apalachicola Area of Critical State Concern to include projects that protect and improve water quality; providing an effective date.

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

Section 1. This act may be referred to as "The Apalachicola Environmental Stewardship Act."

Section 2. Paragraph (b) of subsection (3) of section 259.105, Florida Statutes, is amended to read:

259.105 The Florida Forever Act.—

(3) Less the costs of issuing and the costs of funding reserve accounts and other costs associated with bonds, the proceeds of cash payments or bonds issued pursuant to this section shall be deposited into the Florida Forever Trust Fund created by s. 259.1051. The proceeds shall be distributed by the Department of Environmental Protection in the following manner:

(b) Thirty-five percent to the Department of Environmental

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Protection for the acquisition of lands and capital project expenditures described in this section. Of the proceeds distributed pursuant to this paragraph, it is the intent of the Legislature that an increased priority be given to those acquisitions which achieve a combination of conservation goals, including protecting Florida's water resources and natural groundwater recharge.

1. At a minimum, 3 percent, and no more than 10 percent, of the funds allocated pursuant to this paragraph shall be spent on capital project expenditures identified during the time of acquisition which meet land management planning activities necessary for public access.

2. Beginning in the 2017-2018 fiscal year and continuing through the 2026-2027 fiscal year, at least \$5 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition within the Florida Keys Area of Critical State Concern as authorized pursuant to s. 259.045.

3. Beginning in the 2020-2021 fiscal year and continuing through the 2024-2025 fiscal year, at least \$12 million of the funds allocated pursuant to this paragraph shall be spent on land acquisition and projects that improve surface water and groundwater quality in the Apalachicola River and in Apalachicola Bay within the Apalachicola Area of Critical State Concern as authorized pursuant to s. 380.0555, including the construction and replacement of stormwater management facilities and central sewage collection facilities, installation of onsite sewage treatment and disposal systems, direct and indirect potable reuse, other water quality and water supply projects, and land acquisition projects that protect water quality.

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59 a. Priority must be given to land acquisitions that achieve
 60 a combination of conservation goals, including protecting and
 61 preserving fisheries and wildlife habitats, recreational spaces,
 62 nearshore water quality, surface water resources, and
 63 groundwater recharge.

64 b. At least 3 percent but not more than 10 percent of the
 65 funds allocated for land acquisition shall be spent on projects
 66 and activities identified during the time of acquisition,
 67 including land management, increased public access and
 68 recreational opportunities, and greenways.

69 Section 3. Section 380.0555, Florida Statutes, is amended
 70 to read:

71 380.0555 Apalachicola ~~Bay~~ Area; protection and designation
 72 as area of critical state concern.—

73 (1) SHORT TITLE.—This act shall be known and cited as the
 74 “Apalachicola ~~Bay~~ Area Protection Act.”

75 (2) LEGISLATIVE INTENT.—It is hereby declared that the
 76 intent of the Legislature is:

77 (a) To protect the water quality of the Apalachicola ~~Bay~~
 78 Area to ensure a healthy environment and a thriving economy for
 79 the residents of the area and the state.

80 (b) To financially assist Franklin County and its
 81 municipalities in upgrading and expanding their sewerage
 82 systems.

83 (c) To protect the Apalachicola ~~Bay~~ Area’s natural and
 84 economic resources by implementing and enforcing comprehensive
 85 plans and land development regulations.

86 (d) To assist Franklin County and its municipalities with
 87 technical and advisory assistance in formulating additional land

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88 development regulations and modifications to comprehensive
 89 plans.

90 (e) To monitor activities within the Apalachicola ~~Bay~~ Area
 91 to ensure the long-term protection of all the area’s resources.

92 (f) To promote a broad base of economic growth which is
 93 compatible with the protection and conservation of the natural
 94 resources of the Apalachicola ~~Bay~~ Area.

95 (g) To educate the residents of the Apalachicola ~~Bay~~ Area
 96 in order to protect and preserve its natural resources.

97 (h) To provide affordable housing in close proximity to
 98 places of employment in the Apalachicola ~~Bay~~ Area.

99 (i) To protect and improve the water quality of the
 100 Apalachicola ~~Bay~~ Area through federal, state, and local funding
 101 of water quality improvement projects, including the
 102 construction and operation of wastewater management facilities
 103 that meet state requirements.

104 (3) DESIGNATION.—Franklin County, as described in s. 7.19,
 105 less all federally owned lands, less all lands lying east of the
 106 line formed by the eastern boundary of State Road 319 running
 107 from the Ochlockonee River to the intersection of State Road 319
 108 and State Road 98 and thence due south to the Gulf of Mexico,
 109 and less any lands removed under subsection (4), is hereby
 110 designated an area of critical state concern on June 18, 1985.
 111 State road, for the purpose of this section, shall be defined as
 112 in s. 334.03. For the purposes of this act, this area shall be
 113 known as the Apalachicola ~~Bay~~ Area.

114 (4) REMOVAL OF DESIGNATION.—The state land planning agency
 115 may recommend to the Administration Commission the removal of
 116 the designation from all or part of the area specified in

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117 subsection (3), if it determines that all local land development
 118 regulations and local comprehensive plans and the administration
 119 of such regulations and plans are adequate to protect the
 120 Apalachicola Bay Area, continue to carry out the legislative
 121 intent set forth in subsection (2), and are in compliance with
 122 the principles for guiding development set forth in subsection
 123 (7). If the Administration Commission concurs with the
 124 recommendations of the state land planning agency to remove any
 125 area from the designation, it shall, within 45 days after
 126 receipt of the recommendation, initiate rulemaking to remove the
 127 designation. The state land planning agency shall make
 128 recommendations to the Administration Commission annually.

129 (5) APPLICATION OF CHAPTER 380 PROVISIONS.—Section
 130 380.05(1)-(5), (8), (9), (12), (15), (17), and (21), does shall
 131 not apply to the area designated by this act for so long as the
 132 designation remains in effect. Except as otherwise provided in
 133 this act, s. 380.045 does shall not apply to the area designated
 134 by this act. All other provisions of this chapter shall apply,
 135 including ss. 380.07 and 380.11, except that the “local
 136 development regulations” in s. 380.05(13) shall include the
 137 regulations set forth in subsection (8) for purposes of s.
 138 380.05(13), ~~and the plan or plans submitted pursuant to s.~~
 139 ~~380.05(14) shall be submitted no later than February 1, 1986.~~
 140 All or part of the area designated by this act may be
 141 redesignated pursuant to s. 380.05 as if it had been initially
 142 designated pursuant to that section.

143 (6) VESTED RIGHTS OF DEVELOPER.—If a developer has by his
 144 or her actions in reliance on prior regulations obtained vested
 145 or other legal rights including rights obtained by approval of a

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146 development of regional impact or a substantial deviation
 147 thereof pursuant to s. 380.06 that would have prevented a local
 148 government from changing those regulations in a way adverse to
 149 the developer’s interests, ~~nothing in~~ this act does not
 150 authorize authorizes any governmental agency to abridge those
 151 rights.

152 (7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional,
 153 and local agencies and units of government in the Apalachicola
 154 Bay Area of Critical State Concern shall coordinate their plans
 155 and conduct their programs and regulatory activities consistent
 156 ~~consistently~~ with the following principles for guiding the
 157 development of the Apalachicola Area of Critical State Concern:

158 (a) Land development shall be guided so that the basic
 159 functions and productivity of the Apalachicola Bay Area’s
 160 natural land and water systems will be conserved to reduce or
 161 avoid health, safety, and economic problems for present and
 162 future residents of the Apalachicola Bay Area.

163 (b) Land development shall be consistent with a safe
 164 environment, adequate community facilities, a superior quality
 165 of life, and a desire to minimize environmental hazards.

166 (c) Growth and diversification of the local economy shall
 167 be fostered only if it is consistent with protecting the natural
 168 resources of the Apalachicola Bay Area through appropriate
 169 management of the land and water systems.

170 (d) Aquatic habitats and wildlife resources of the
 171 Apalachicola Bay Area shall be conserved and protected.

172 (e) Water quantity shall be managed to conserve and protect
 173 the natural resources and the scenic beauty of the Apalachicola
 174 Bay Area.

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175 (f) The quality of water shall be protected, maintained,
176 and improved for public water supplies, the propagation of
177 aquatic life, and recreational and other uses which are
178 consistent with these uses.

179 (g) No wastes shall be discharged into any waters of the
180 Apalachicola Bay Area without first being given the degree of
181 treatment necessary to protect the water uses as set forth in
182 paragraph (f).

183 (h) Stormwater discharges shall be managed in order to
184 minimize their impacts on the bay system and protect the uses as
185 set forth in paragraph (f).

186 (i) Coastal dune systems, specifically the area extending
187 landward from the extreme high-tide line to the beginning of the
188 pinelands of the Apalachicola Bay Area, shall be protected.

189 (j) Public lands shall be managed, enhanced, and protected
190 so that the public may continue to enjoy the traditional use of
191 such lands.

192 (k) Water quality shall be protected and improved by the
193 construction, operation, maintenance, and replacement of
194 stormwater management facilities; central sewage collection
195 facilities; treatment and disposal facilities; the installation
196 and proper operation and maintenance of onsite sewage treatment
197 and disposal systems; indirect and direct potable reuse; and
198 other water quality and water supply projects.

199 (8) COMPREHENSIVE PLAN ELEMENTS AND LAND DEVELOPMENT
200 REGULATIONS.—

201 (a) *Local governments to administer plan elements and*
202 *regulations.*—The following comprehensive plan elements and land
203 development regulations shall be administered by local

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204 governments within their jurisdiction in the Apalachicola Bay
205 Area, as part of their local comprehensive plan and land
206 development regulations. If a local government within the
207 Apalachicola Bay Area has a provision in its local comprehensive
208 plan or its land development regulations which conflicts with a
209 provision of this paragraph or has no comparable provision, the
210 provision of this paragraph shall control.

211 1. Comprehensive plan.—Chapter 1 of Volume I, and chapters
212 4, 5, 7, and 9 of Volume II of the Franklin County Comprehensive
213 Land Use Plan adopted by Ordinance No. 81-4 on June 22, 1981, by
214 the Franklin County Board of County Commissioners and filed with
215 the Secretary of State on June 30, 1981, are incorporated by
216 reference and adopted herein.

217 2. Zoning ordinances.—Ordinance No. 81-5 adopted June 22,
218 1981, by the Franklin County Board of County Commissioners and
219 filed with the Secretary of State on June 30, 1981, and the
220 following amendments are incorporated by reference and adopted
221 herein:

222 a. Ordinance 82-4, adopted June 18, 1982, and filed with
223 the Secretary of State on July 28, 1982.

224 b. Ordinance 83-4, adopted July 19, 1983, and filed with
225 the Secretary of State on July 25, 1983.

226 c. Ordinance 83-7, adopted October 4, 1983, and filed with
227 the Secretary of State on October 6, 1983.

228 d. Ordinance 84-2, adopted April 24, 1984, and filed with
229 the Secretary of State on April 27, 1984.

230 3. Subdivision regulations.—Ordinance No. 74-1 adopted
231 November 15, 1974, by the Franklin County Board of County
232 Commissioners and filed with the Secretary of State on December

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233 4, 1974, and December 5, 1974, and the following amendment are
 234 incorporated by reference and adopted herein: Ordinance 79-5,
 235 filed with the Secretary of State on May 30, 1979.

236 4. Flood plain management ordinance.—Ordinance No. 83-5
 237 adopted on July 7, 1983, by the Franklin County Board of County
 238 Commissioners and filed with the Secretary of State on July 15,
 239 1983, is incorporated by reference and adopted herein.

240 5. Septic tank ordinance.—Ordinance 79-8 adopted on June
 241 22, 1979, by the Franklin County Board of County Commissioners
 242 and filed with the Secretary of State on June 27, 1979, is
 243 incorporated by reference and adopted herein.

244 6. Construction; electrical connection.—Ordinance No. 73-5A
 245 adopted July 3, 1973, by the Franklin County Board of County
 246 Commissioners and filed with the Secretary of State on March 6,
 247 1981, is incorporated by reference and adopted herein.

248 7. Alligator Point Water Resource District Act.—Ordinance
 249 No. 76-7 adopted on November 16, 1976, by the Franklin County
 250 Board of County Commissioners and filed with the Secretary of
 251 State on March 6, 1981, is incorporated by reference and adopted
 252 herein.

253 8. Coastal area building codes.—Ordinance No. 84-1
 254 establishing building codes for coastal areas adopted by the
 255 Franklin County Board of County Commissioners on February 8,
 256 1984, and filed with the Secretary of State on February 2, 1984,
 257 is incorporated by reference and adopted herein.

258 9. Standard building code.—Ordinance adopting the 1976
 259 Standard Building Code, Ordinance No. 83-1, adopted January 18,
 260 1983, by the Franklin County Board of County Commissioners and
 261 filed with the Secretary of State January 20, 1983, is

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262 incorporated by reference and adopted herein.

263 10. Local planning agency.—Ordinance No. 77-6 adopted on
 264 June 21, 1977, by the Franklin County Board of County
 265 Commissioners and filed with the Secretary of State on June 22,
 266 1977, is incorporated by reference and adopted herein.

267 11. Coastal high-hazard zones.—Ordinance No. 80-5 adopted
 268 on May 29, 1980, by the Franklin County Board of County
 269 Commissioners and filed with the Secretary of State on May 30,
 270 1980, is incorporated by reference and adopted herein.

271 (b) *Conflicting regulations.*—In the event of any
 272 inconsistency between subparagraph (a)1. and subparagraphs
 273 (a)2.-11., subparagraph (a)1. shall control. Further, in the
 274 event of any inconsistency between subsection (7) and paragraph
 275 (a) of this subsection and a development order issued pursuant
 276 to s. 380.06, which has become final prior to June 18, 1985, or
 277 between subsection (7) and paragraph (a) and an amendment to a
 278 final development order, which amendment has been requested
 279 prior to April 2, 1985, the development order or amendment
 280 thereto shall control. However, any modification to paragraph
 281 (a) enacted by a local government and approved by the state land
 282 planning agency pursuant to subsection (9) may provide whether
 283 it shall control over an inconsistent provision of a development
 284 order or amendment thereto. A development order or any amendment
 285 thereto referred to in this paragraph shall not be subject to
 286 approval by the state land planning agency pursuant to
 287 subsection (9).

288 (c) *Effect of existing plans and regulations.*—Legally
 289 adopted comprehensive plans and land development regulations
 290 other than those listed in this subsection shall remain in full

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291 force and effect unless inconsistent with the principles for
 292 guiding development set forth in subsection (7), the elements of
 293 the comprehensive plan listed in this subsection, or the land
 294 development regulations listed in this subsection.

295 (d) *Developments of regional impact.*—A local government
 296 shall approve a development subject to the provisions of s.
 297 380.06 only if it also complies with the provisions of this
 298 subsection.

299 (9) MODIFICATION TO PLANS AND REGULATIONS.—Any land
 300 development regulation or element of a local comprehensive plan
 301 in the Apalachicola ~~Bay~~ Area may be enacted, amended, or
 302 rescinded by a local government, but the enactment, amendment,
 303 or rescission becomes effective only upon the approval thereof
 304 by the state land planning agency. The state land planning
 305 agency shall review the proposed change to determine if it
 306 complies with the principles for guiding development specified
 307 in subsection (7) and must approve or reject the requested
 308 change as provided in s. 380.05. Further, the state land
 309 planning agency, after consulting with the appropriate local
 310 government, may, from time to time, recommend the enactment,
 311 amendment, or rescission of a land development regulation or
 312 element of a comprehensive plan. Within 45 days following the
 313 receipt of such recommendation by the state land planning agency
 314 or enactment, amendment, or rescission by a local government the
 315 commission shall reject the recommendation, enactment,
 316 amendment, or rescission or accept it with or without
 317 modification and adopt, by rule, any changes. Any such local
 318 land development regulation or comprehensive plan or part of
 319 such regulation or plan may be adopted by the commission if it

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320 finds that it is in compliance with the principles for guiding
 321 development.

322 (10) REQUIREMENTS; LOCAL GOVERNMENTS.—

323 (a) As used in this subsection:

324 1. "Alternative onsite system" means any approved onsite
 325 disposal system used in lieu of a standard subsurface system.

326 2. "Critical shoreline zone" means all land within a
 327 distance of 150 feet landward of the mean high-water line in
 328 tidal areas, the ordinary high-water line in nontidal areas, or
 329 the inland wetland areas existing along the streams, lakes,
 330 rivers, bays, and sounds within the Apalachicola ~~Bay~~ Area.

331 3. "Pollution-sensitive segment of the critical shoreline"
 332 means an area which, due to its proximity to highly sensitive
 333 resources, including, but not limited to, productive shellfish
 334 beds and nursery areas, requires special regulatory attention.

335 4. "Low-income family" means a group of persons residing
 336 together whose combined income does not exceed 200 percent of
 337 the 1985 Poverty Income Guidelines for all states and the
 338 District of Columbia, promulgated by the United States
 339 Department of Health and Human Services, as published in Volume
 340 50, No. 46 of the Federal Register, pages 9517-18. Income shall
 341 be as defined in said guidelines.

342 (b) Franklin County and the municipalities within it shall,
 343 within 60 days after a sewerage system is available for use,
 344 notify all owners and users of onsite sewage disposal systems of
 345 the availability of such a system and that connection is
 346 required within 180 days of the notice. Failure to connect to an
 347 available system within the time prescribed shall be a
 348 misdemeanor of the second degree, punishable as provided in ss.

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349 775.082 and 775.083. Further, Franklin County and the
 350 municipalities within it shall have the right to make the
 351 connection if it is not made within the prescribed time and to
 352 assess the owner of the real property on which the connection is
 353 made for the cost of such connection. Such assessments shall be
 354 levied according to law and shall become a lien against the real
 355 property, enforced according to law. Franklin County and the
 356 municipalities within it shall develop a program and implement
 357 ordinances to make available to low-income families the sewer
 358 services available upon completion of the proposed sewer
 359 projects being funded by this act.

360 (c)1. The Department of Health shall survey all septic tank
 361 soil-absorption systems in the Apalachicola Bay Area to
 362 determine their suitability as onsite sewage treatment systems.
 363 Within 6 months from June 18, 1985, Franklin County and the
 364 municipalities within it, after consultation with the Department
 365 of Health and the Department of Environmental Protection, shall
 366 develop a program designed to correct any onsite sewage
 367 treatment systems that might endanger the water quality of the
 368 bay.

369 2. Franklin County and the municipalities within it shall,
 370 within 9 months from June 18, 1985, enact by ordinance
 371 procedures implementing this program. These procedures shall
 372 include notification to owners of unacceptable septic tanks and
 373 procedures for correcting unacceptable septic tanks. These
 374 ordinances shall not be effective until approved by the
 375 Department of Health and the Department of Environmental
 376 Protection.

377 (d) Franklin County and the municipalities within it shall,

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378 within 12 months from June 18, 1985, establish by ordinance a
 379 map of "pollution-sensitive segments of the critical shoreline"
 380 within the Apalachicola Bay Area, which ordinance shall not be
 381 effective until approved by the Department of Health and the
 382 Department of Environmental Protection. Franklin County and the
 383 municipalities within it, after the effective date of these
 384 ordinances, shall no longer grant permits for onsite wastewater
 385 disposal systems in pollution-sensitive segments of the critical
 386 shoreline, except for those onsite wastewater systems that will
 387 not degrade water quality in the river or bay. These ordinances
 388 shall not become effective until approved by the resource
 389 planning and management committee. Until such ordinances become
 390 effective, the Franklin County Health Department shall not give
 391 a favorable recommendation to the granting of a septic tank
 392 variance pursuant to section (1) of Ordinance 79-8, adopted on
 393 June 22, 1979, by the Franklin County Board of County
 394 Commissioners and filed with the Secretary of State on June 27,
 395 1979, or issue a permit for a septic tank or alternative waste
 396 disposal system pursuant to Ordinance 81-5, adopted on June 22,
 397 1981, by the Franklin County Board of County Commissioners and
 398 filed with the Secretary of State on June 30, 1981, as amended
 399 as set forth in subparagraph (8)(a)2., unless the Franklin
 400 County Health Department certifies, in writing, that the use of
 401 such system will be consistent with paragraph (7)(f) and
 402 subsection (8).

403 (e) Franklin County and the municipalities within it shall,
 404 within 9 months from June 18, 1985, enact land development
 405 regulations to protect the Apalachicola Bay Area from stormwater
 406 pollution, including provisions for development approval, before

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407 the issuance of building permits pursuant to chapter 17-25,
408 Florida Administrative Code, Franklin County and the
409 municipalities within it shall, within 90 days following the
410 above deadline, survey existing stormwater management systems
411 and discharges to determine their effect on the bay and develop
412 a comprehensive stormwater management plan to minimize such
413 effects. The plan will include recommendations and financing
414 options for the retrofitting of existing systems. Franklin
415 County and the municipalities within it shall, as part of an
416 overall stormwater management program, inform its citizens about
417 stormwater, its relationship to land use, and its effect upon
418 the resources of the Apalachicola ~~Bay~~ Area.

419 (f) Franklin County and the municipalities within it shall,
420 beginning 12 months from June 18, 1985, prepare semiannual
421 reports on the implementation of paragraphs (b)-(e) on the
422 environmental status of the Apalachicola ~~Bay~~ Area. The state
423 land planning agency may prescribe additional detailed
424 information required to be reported. Each report shall be
425 delivered to the resource planning and management committee and
426 the state land planning agency for review and recommendations.
427 The state land planning agency shall review each report and
428 consider such reports when making recommendations to the
429 Administration Commission pursuant to subsection (9).

430 Section 4. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____ Bill Number (if applicable) _____

Topic SB 638 Amendment Barcode (if applicable) _____

Name Jim Bachrach

Job Title Board Chairman

Address 187 Ave C Phone _____
Street

Apalachicola Fl. Email _____
City State Zip

Speaking: For Against Information
Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Apalachicola Main Street

Appearing at request of Chair: Yes No
Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

9-12-50B110

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

02-25-2020

Meeting Date

SB 0638

Bill Number (if applicable)

Topic Apalachicola Environmental Stewardship Act Amendment Barcode (if applicable)

Name Amy Datz

Job Title Retired Environmental Scientist-Activist

Address _____

Phone (850) 322-7599

Street

Tallahassee FL

City

State

Zip

Email amatiedatz@mac.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Education, *Vice Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Education
Rules

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR BILL MONTFORD

Minority Leader Pro Tempore
3rd District

December 19, 2019

Senator Debbie Mayfield, Chair
Senate Appropriations Subcommittee on Agriculture, Environment, and General Government
322 Senate Office Building
Tallahassee, Florida 32399-1100

Dear Chair Mayfield,

I respectfully request that the following bills be placed on the next Appropriations Subcommittee on Agriculture, Environment, and General Government Agenda.

SB 638 – A bill relating to Apalachicola Environmental Stewardship Act.

Your consideration is greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William J. Montford III

WJM:rm

REPLY TO:

- 410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 702

INTRODUCER: Environment and Natural Resources Committee and Senator Albritton

SUBJECT: Petroleum Cleanup

DATE: February 24, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Rogers</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
2.	<u>Reagan</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 702 revises provisions relating to the Petroleum Cleanup Participation Program to authorize a demonstration of cost savings to replace or supplement the existing cost-share requirement.

The bill deletes the authorization that the limited contamination assessment report and the copayment costs may be reduced or eliminated, if the owner and all operators responsible for restoration, demonstrate that they cannot financially comply with the copayment and limited contamination assessment report requirements.

The bill deletes the 120-day time limitation for negotiations for the cost-share aspect of the Petroleum Cleanup Participation Program (PCPP).

The bill deletes a prohibition in the Advance Cleanup Program for the state to pay for limited contamination assessments and replaces it with a requirement that the state issue purchase orders for such assessments.

The bill makes the following revisions to the individual application for the Advance Cleanup Program:

- It deletes the requirement that the limited contamination assessment report be included in the application.

- It adds the requirement that the property owner or responsible party must commit to continue to participate in the advanced cleanup program upon completion of the limited contamination assessment and finalization of the proposed course of action.
- It revises the requirement that the application include a proposed course of action to make it a “conceptual” proposed course of action.

The bill will increase costs for the PCPP paid by the Department of Environmental Protection (DEP) because the bill requires DEP to pay for limited contamination assessments (DEP is currently prohibited from paying for such assessments.) The bill will also increase the costs for the DEP due to the repeal of the requirement that the PCPP require a 25 percent copayment from the owner, operator, or person responsible for the conducting the site rehabilitation. See Section V.

The bill has an effective date of July 1, 2020.

II. Present Situation:

Petroleum Restoration Program

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices. These discharges pose a significant threat to groundwater quality,¹ the source of 90 percent of Florida’s drinking water.² The identification and cleanup of petroleum contamination is particularly challenging due to Florida’s diverse geology, diverse water systems, and the complex dynamics between contaminants and the environment.³

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida’s groundwater from past and future petroleum releases.⁴ The Department of Environmental Protection (DEP) regulates these storage tank systems.⁵

To fund the cleanup of contaminated petroleum sites, the Legislature created the Inland Protection Trust Fund (IPTF).⁶ The state levies an excise tax on each barrel of petroleum and petroleum products produced in or imported into the state to fund the IPTF.⁷ The state determines the amount of the excise tax for each barrel based on a formula that is dependent

¹ U.S. Environmental Protection Agency, *Underground Storage Tanks (USTs)*, <https://www.epa.gov/ust> (last visited Jan. 20, 2020).

² South Florida Water Management District, *Groundwater Modeling*, <https://www.sfwmd.gov/science-data/gw-modeling> (last visited Jan. 20, 2020).

³ Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012) (on file with Senate Environment and Natural Resources Committee).

⁴ Chapter 83-310, Laws of Fla.

⁵ Sections 376.30(3) and 376.303, F.S.

⁶ Section 376.3071(3)-(4), F.S.

⁷ Sections 206.9935(3) and 376.3071(7), F.S.

upon the unobligated balance of the IPTF.⁸ Each year, approximately \$200 million is deposited from the excise tax into the IPTF.^{9,10}

The DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of areas contaminated by leaking underground petroleum storage tanks.¹¹ The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup.¹² To receive rehabilitation funding assistance, a site must qualify under one of several programs, which are outlined in the table on the following page.

Program Name	Program Dates	Program Description
Early Detection Incentive Program (EDI) (s. 376.3071(10), F.S.)	Discharges must have been reported between July 1, 1986, and December 31, 1988, to be eligible	<ul style="list-style-type: none"> • First state-assisted cleanup program • 100 percent state funding for cleanup if site owners reported releases • Originally gave site owners the option of conducting cleanup themselves and receiving reimbursement from the state or having the state conduct the cleanup in priority order • Reimbursement option was phased out, so all cleanups are now conducted by the state
Petroleum Liability and Restoration Insurance Program (PLRIP) (s. 376.3072, F.S.)	Discharges must have been reported between January 1, 1989, and December 31, 1998, to be eligible	<ul style="list-style-type: none"> • Required facilities to purchase third party liability insurance to be eligible • Provides varying amounts of state-funded site restoration coverage

⁸ The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is above \$50 million, but below \$100 million; and 80 cents if the unobligated balance is \$50 million or less. Section 206.9935(3), F.S.

⁹ DEP, *SOP – 1. Introduction*, <https://floridadep.gov/waste/petroleum-restoration/content/sop-1-introduction> (last visited Jan. 20, 2020).

¹⁰ Sections 206.9935 and 206.9945, F.S.

¹¹ Section 376.3071(5), F.S.

¹² DEP, *Petroleum Restoration Program*, <https://floridadep.gov/Waste/Petroleum-Restoration> (last visited Jan. 20, 2020).

<p>Abandoned Tank Restoration Program (ATRP) (s. 376.305(6), F.S.)</p>	<p>For petroleum storage systems that have not stored petroleum since March 1, 1990¹³</p>	<p>Provides 100 percent state funding for cleanup, less deductible, at facilities that had out-of-service or abandoned tanks as of March 1990</p>
<p>Innocent Victim Petroleum Storage System Restoration Program (IVPSSRP) (s. 376.30715, F.S.)</p>	<p>The application period began on July 1, 2005, and remains open</p>	<p>Provides 100 percent state funding for a site acquired before July 1, 1990, that ceased operating as a petroleum storage or retail business before January 1, 1985</p>
<p>Petroleum Cleanup Participation Program (PCPP) (s. 376.3071(13), F.S.)</p>	<p>Remains open</p>	<ul style="list-style-type: none"> • Created to provide financial assistance for sites that had missed all previous opportunities • Only discharges that occurred before 1995 were eligible • Site owner or responsible party must pay 25 percent of cleanup costs¹⁴ • Originally had a \$300,000 cap on the amount of coverage, which was raised to \$400,000 beginning July 1, 2008
<p>Consent Order (aka “Hardship” or “Indigent”) (s. 376.305(6)(b), F.S.)</p>	<p>The program began in 1986 and remains open</p>	<ul style="list-style-type: none"> • Created to provide financial assistance under certain circumstances for sites that the Department initiates an enforcement action to clean up • An agreement is formed whereby the Department conducts the cleanup and the site owner or responsible party pays for a portion of the costs

Petroleum Cleanup Participation Program

In 1996, the Legislature created the Petroleum Cleanup Participation Program (PCPP) to implement a cost-sharing cleanup program to provide rehabilitation funding assistance for all property contaminated by discharges of petroleum or petroleum products from a petroleum storage system that occurred before January 1, 1995. Petroleum discharges from sources other than a petroleum storage system cannot receive funding under the PCPP.¹⁵ Further, the following sites are not eligible for the PCPP:

- Sites where the DEP has been denied access;
- Sites owned or operated by the federal government;

¹³ The ATRP originally had a one-year application period, but the deadline was extended. The deadline is now waived indefinitely for site owners who are financially unable to pay for the closure of abandoned tanks. Section 376.305(6)(b), F.S.

¹⁴ The 25 percent copay requirement can be reduced or eliminated if the site owner and all responsible parties demonstrate that they are financially unable to comply. Section 376.3071(13)(c), F.S.

¹⁵ Section 376.3071(13), F.S.

- Sites identified by the United States Environmental Protection Agency to be on, or which qualify for listing on, the National Priorities List under Superfund; and
- Sites that are eligible under ATRP, EDI, or PLRIP.¹⁶

The DEP ranks the PCPP program sites based on human health and safety risks.¹⁷ When funds become available, the DEP will notify the owner, operator, or person otherwise responsible for site rehabilitation (owner or responsible party) in writing, based on that priority ranking.¹⁸

Limited Contamination Assessment

After approval from the DEP, the owner or responsible party must enter into a PCPP agreement with the DEP and submit a limited contamination assessment report sufficient to determine the extent of the contamination and cleanup.¹⁹ A limited contamination assessment must be conducted by an engineer or geologist and must address:

- The site history which describes all current and past petroleum storage systems and the type of products stored in them, as well as the type and volume of products that were discharged at the source property.
- Results of a well survey conducted to locate all private water supply wells within a certain distance of the contamination.
- Results of a soil assessment conducted in and around each potential source area (fuel storage tanks, fuel dispensers, and fuel piping) to determine if there is any contaminated soil present in the unsaturated zone.
- Results of groundwater sampling and analyses from at least one properly constructed monitoring well installed in each source area. If groundwater contamination is detected, the direction of groundwater flow must be determined and additional monitoring wells are required to determine the extent of the groundwater contamination.
- Water level measurements.
- Soil and groundwater samples collected must be analyzed by a DEP approved laboratory and quality assurance samples must be collected/prepared and analyzed.²⁰
- A reasonable, economical, and attainable course of action that is proposed to achieve site rehabilitation.²¹

Costs

The owner or responsible party may recommend a department certified contractor to clean up the PCPP eligible discharge but is not required to do so. Sites qualifying for the program are eligible for up to \$400,000 of site rehabilitation funding.²² The DEP may approve supplemental funding of up to \$100,000 for additional remediation and monitoring at PCPP sites if such remediation

¹⁶ Section 376.3071(13)(h), F.S.

¹⁷ Fla. Admin Code R. 62-771.100(1).

¹⁸ DEP, *Petroleum Cleanup Participation Program (PCPP)*, <https://floridadep.gov/waste/petroleum-restoration/content/petroleum-cleanup-participation-program-pcpp> (last visited Jan. 20, 2020).

¹⁹ Section 376.3071(13)(d), F.S.

²⁰ Fla. Admin. Code R. 62-780.300 and Ch. 62-160.

²¹ DEP, *Petroleum Restoration Program, Limited Contamination Assessment Report (LCAR) Preparation Guidance* (Oct. 1, 2019), available at https://floridadep.gov/sites/default/files/LCAR%20Guidance%20Final%2001Oct2019_0.pdf.

²² Section 376.3071(13)(b), F.S.

and monitoring is necessary to achieve a “No Further Action” (NFA) order.²³ The owner or responsible party must agree to pay a 25 percent copayment.²⁴ The limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner or responsible party demonstrates an inability to pay.²⁵ If the negotiation of the cost-sharing agreement cannot be completed within 120-days after beginning negotiations, the DEP must terminate negotiations and the site becomes ineligible for state funding and for any liability protections under the PCPP.²⁶

No Further Action

The ultimate goal for any contaminated site is for the DEP to issue it a NFA closure.²⁷ NFA closures usually result in reduced remediation costs and allow for contaminated site closures when remediation efforts have reached a diminishing return. An NFA order may require institutional or engineering controls be put in place to prevent or reduce exposure to contamination.²⁸ An institutional control is a restriction on the use of or access to a site to eliminate or minimize exposure to contaminants. Such restrictions may include, but are not limited to, deed restrictions, restrictive covenants, or conservation easements.²⁹ Engineering controls are modifications to a site to reduce or eliminate the potential for exposure to contaminants. Such modifications may include, but are not limited to, physical or hydraulic control measures, capping, point of use treatments, or slurry walls.³⁰

Risk Management Level Options (RMOs)

Once a responsible party completes a site assessment, it has three Risk Management Level Options (RMOs) available to perform site rehabilitation to achieve an NFA order.³¹ Under the RMO options, the responsible party must either rehabilitate the site to the default cleanup target levels (CTLs)³² or to alternative CTLs established through a risk assessment. Under RMO I, the DEP will issue a NFA closure without institutional and engineering controls.³³ This option is used when concentrations of contaminants in both soil, groundwater, and surface water are equal to or less than the residential CTLs.³⁴ Additionally, concentrations of contaminants in soil must indicate that contaminants will not leach into the groundwater in violation of the groundwater CTL.³⁵ Under RMO II and RMO III, the DEP will grant an NFA order, subject to institutional controls and/or engineering controls and other conditions determined by the DEP.³⁶

²³ Section 376.3071(13)(c), F.S.

²⁴ Section 376.3071(13)(d), F.S.

²⁵ *Id.*

²⁶ *Id.*

²⁷ Fla. Admin. Code R. 62-780.680.

²⁸ *Id.*

²⁹ Section 376.301(22), F.S.

³⁰ Section 376.301(17), F.S.

³¹ Fla. Admin Code R. 62-780.680(1)-(3).

³² Fla. Admin Code R. 62-777.

³³ Fla. Admin. Code R. 62-780.680(1).

³⁴ The rule also requires that no free product be present. Fla. Admin. Code R. 62-780.680(1). “Free product” means the presence of a non-aqueous phase liquid in the environment in excess of 0.01 foot in thickness, measured at its thickest point. Fla. Admin Code R. 62-780.200.

³⁵ Fla. Admin. Code R. 62-780.680(1).

³⁶ Fla. Admin Code R. 62-780.680(2).

Advanced Cleanup

The Legislature created the Advanced Cleanup Program in 1996 to allow eligible sites to receive state rehabilitation funding in advance of the site's priority ranking to encourage redevelopment and facilitate property transactions or public works projects.³⁷ To participate in Advanced Cleanup Program, a site must be eligible for restoration funding under EDI, PLRIP, ATRP, IVPSSRP, or PCPP.³⁸

Applications for the Advanced Cleanup Program must include a cost-sharing commitment in addition to the 25-percent-copayment requirement.³⁹ An applicant may demonstrate his or her cost-sharing commitment by proposing either a commitment to pay, a demonstrated cost savings to the DEP, or both. The application must be accompanied by a \$250 nonrefundable review fee, a limited contamination assessment report, a proposed course of action, and a site access agreement. The limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.⁴⁰ Costs incurred related to conducting the limited contamination assessment report are not refundable from the IPTF.⁴¹

The DEP ranks the applications for the Advanced Cleanup Program based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing.⁴²

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 376.3071(13), F.S., relating to the Petroleum Cleanup Participation Program (PCPP). The bill specifies that the limited contamination assessment report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.

The bill revises the 25-percent cost-share requirement to require the agreement with the Department of Environmental Protection (DEP) to include:

- A 25-percent cost savings to the department;
- A copayment by the owner, operator, or person otherwise responsible for conducting site rehabilitation; or
- A combination of both.

Demonstrated savings includes reduced rates by the proposed agency certified contractor or the difference in cost associated with Risk Management Options Level-I closure versus an Risk Management Options Level-II closure, or both the copayment and demonstrated cost savings.

³⁷ Section 376.30713(1)(a), F.S.

³⁸ Section 376.30713(1)(d), F.S.

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 376.30713(2)(a), F.S.

⁴² Section 376.30713(2)(b), F.S.

Risk Management Options Level-I is defined as a No Further Action closure without institutional controls or without institutional and engineering controls. This closure applies subject to conditions in department rules and agreements.

Risk Management Options Level-II is defined as a No Further Action closure where institutional controls, and, if appropriate, engineering controls shall apply if the controls are protective of human health, public safety, and the environment. This closure applies subject to conditions in department rules and agreements.

The bill **deletes** the following:

- The requirement that the owner, operator, or person otherwise responsible for conducting site rehabilitation demonstrate the ability to meet the copayment obligation.
- The authorization that the limited contamination assessment report and the copayment costs may be reduced or eliminated if the owner and all operators responsible for restoration demonstrate that they cannot financially comply with the requirements.
- Direction to the DEP to take into consideration the owner's and operator's net worth in making the determination of financial ability.
- The 120-day time limit on negotiations after which the DEP is required to terminate negotiations and the site shall be ineligible for state funding under the PCPP and all liability protections provided for under the PCPP shall be revoked.

Section 2 of the bill amends s. 376.30713, F.S., relating to the Advanced Cleanup Program. The bill revises the requirements of an individual application for the program as follows:

- It deletes the requirement that the limited contamination assessment report be included in the application.
- It adds the requirement that the property owner or responsible party must commit to continue to participate in the advanced cleanup program upon completion of the limited contamination assessment and finalization of the proposed course of action.
- It revises the requirement that the application include a proposed course of action to make it a "conceptual" proposed course of action.

The bill **deletes** the following from the requirements for an individual application:

- The requirement that the limited contamination assessment report be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action. Although this provision is deleted from the application requirements, the bill adds it as a requirement for limited contamination assessments that receive state funding (see below).
- The prohibition on refunding costs incurred related to conducting the limited contamination assessment report from the Inland Protection Trust Fund.
- The statement that site eligibility is not an entitlement to advanced cleanup or continued restoration funding; note, however, paragraph (2)(e) of this section retains this same language, so the deletion likely has no legal effect.

Upon acceptance of an advanced cleanup application, the bill requires the applicant's contractor to submit to the DEP a scope of work for a limited contamination assessment. When the scope of work is negotiated and agreed upon, the DEP must issue one or more purchase orders of up to \$35,000 each for the limited contamination assessment. The limited contamination assessment

report must be sufficient to support the proposed course of action and to estimate the cost of the proposed course of action.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may provide cost savings under the Petroleum Cleanup Participation Program (PCPP) for owners, operators, or persons otherwise responsible for conducting site rehabilitation by allowing them to demonstrate cost savings in lieu of or in addition to the copayment requirement. The bill, however, removes the provision that allowed such applicants to reduce or eliminate costs associated with the limited contamination assessment report and the copayment costs if the applicant demonstrated that he or she could not financially comply.

The bill will have a positive fiscal impact on participants in the Advanced Cleanup Program as the bill requires the Department of Environmental Protection (DEP) to pay for the limited contamination assessment.

C. Government Sector Impact:

The bill will increase the costs to the DEP for the PCPP because of the bill's requirement that the DEP pay for limited contamination assessments (the state is currently prohibited

from paying for such assessments.) Multiple variables are associated with each contaminated site and each site requires extensive assessment to determine the depth of contamination.⁴³ Accordingly, project costs and the cost of limited contamination assessments could vary widely. However, a report by the DEP indicates that site assessments (funded by the DEP through other petroleum restoration programs) cost \$37,303,020 for 1,056 sites in fiscal year 2018-2019,⁴⁴ an average cost of approximately \$35,000 per assessment, which is the amount of the purchase order authorization contained in the bill. Note, however, that limited contamination assessment reports do not need to have the same scope as a site assessment report.⁴⁵

The bill also will increase costs to the DEP for individual clean-up projects due to the repeal of the current statutory requirement that the PCPP require a 25 percent copayment from the owner, operator, or person responsible for the conducting the site rehabilitation.

SB 2500, the General Appropriations Act, appropriates \$125 million for the petroleum tank clean-up program. The addition of paying for assessments and the repeal of the 25 percent copayment for projects will ultimately provide for an increased state cost per project and, since there is a finite amount appropriated for the program, reduce the number of sites rehabilitated.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 376.3071 and 376.30713.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources Committee on January 27, 2020:

- Replaces RMO-I and RMO-II with Risk Management Options Level-I and Risk Management Options Level-II.

⁴³ Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012) (on file with Senate Environment and Natural Resources Committee).

⁴⁴ DEP, *Petroleum Restoration Program Dashboard* (June 2019), available at https://floridadep.gov/sites/default/files/PRP_Dashboard_Jun2019_v2.pdf.

⁴⁵ DEP, *Petroleum Restoration Program, Limited Contamination Assessment Report (LCAR) Preparation Guidance* (Jan 19, 2020), available at https://floridadep.gov/sites/default/files/LCAR%20Guidance%20Final%2001Oct2019_0.pdf.

- Provides definitions with Risk Management Options Level-I and Risk Management Options Level-II.
- Makes minor language clarifications.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Environment and Natural Resources; and
Senator Albritton

592-02657-20

2020702c1

1 A bill to be entitled
2 An act relating to petroleum cleanup; amending s.
3 376.3071, F.S.; revising requirements for a limited
4 contamination assessment report required to be
5 provided by a property owner, operator, or person
6 otherwise responsible for site rehabilitation to the
7 Department of Environmental Protection under the
8 Petroleum Cleanup Participation Program; amending s.
9 376.30713, F.S.; revising the contents of an advanced
10 cleanup application to include a specified property
11 owner or responsible party agreement; requiring an
12 applicant to submit a scope of work after the
13 department has accepted the applicant's advanced
14 cleanup application; requiring the department to issue
15 a purchase order for a certain contamination
16 assessment; providing an effective date.
17
18 Be It Enacted by the Legislature of the State of Florida:
19
20 Section 1. Subsection (13) of section 376.3071, Florida
21 Statutes, is amended to read:
22 376.3071 Inland Protection Trust Fund; creation; purposes;
23 funding.—
24 (13) PETROLEUM CLEANUP PARTICIPATION PROGRAM.—To encourage
25 detection, reporting, and cleanup of contamination caused by
26 discharges of petroleum or petroleum products, the department
27 shall, within the guidelines established in this subsection,
28 implement a ~~cost-sharing~~ cleanup program to provide
29 rehabilitation funding assistance for all property contaminated

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 by discharges of petroleum or petroleum products from a
31 petroleum storage system occurring before January 1, 1995,
32 ~~subject to a copayment provided for in a Petroleum Cleanup~~
33 ~~Participation Program site rehabilitation agreement.~~ Eligibility
34 is subject to an annual appropriation from the fund.
35 Additionally, funding for eligible sites is contingent upon
36 annual appropriation in subsequent years. Such continued state
37 funding is not an entitlement or a vested right under this
38 subsection. Eligibility shall be determined in the program,
39 notwithstanding any other provision of law, consent order,
40 order, judgment, or ordinance to the contrary.
41 (a)1. The department shall accept any discharge reporting
42 form received before January 1, 1995, as an application for this
43 program, and the facility owner or operator need not reapply.
44 2. Regardless of whether ownership has changed, owners or
45 operators of property that is contaminated by petroleum or
46 petroleum products from a petroleum storage system may apply for
47 such program by filing a written report of the contamination
48 incident, including evidence that such incident occurred before
49 January 1, 1995, with the department. Incidents of petroleum
50 contamination discovered after December 31, 1994, at sites which
51 have not stored petroleum or petroleum products for consumption,
52 use, or sale after such date shall be presumed to have occurred
53 before January 1, 1995. An operator's filed report shall be an
54 application of the owner for all purposes.
55 (b) Subject to annual appropriation from the fund, sites
56 meeting the criteria of this subsection are eligible for up to
57 \$400,000 of site rehabilitation funding assistance in priority
58 order pursuant to subsections (5) and (6). Sites meeting the

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59 criteria of this subsection for which a site rehabilitation
 60 completion order was issued before June 1, 2008, do not qualify
 61 for the 2008 increase in site rehabilitation funding assistance
 62 and are bound by the pre-June 1, 2008, limits. Sites meeting the
 63 criteria of this subsection for which a site rehabilitation
 64 completion order was not issued before June 1, 2008, regardless
 65 of whether they have previously transitioned to nonstate-funded
 66 cleanup status, may continue state-funded cleanup pursuant to
 67 this section until a site rehabilitation completion order is
 68 issued or the increased site rehabilitation funding assistance
 69 limit is reached, whichever occurs first. The department may not
 70 pay expenses incurred beyond the scope of an approved contract.

71 (c) The department may also approve supplemental funding of
 72 up to \$100,000 for additional remediation and monitoring if such
 73 remediation and monitoring is necessary to achieve a
 74 determination of "No Further Action."

75 (d) Upon notification by the department that rehabilitation
 76 funding assistance is available for the site pursuant to
 77 subsections (5) and (6), the property owner, operator, or person
 78 otherwise responsible for site rehabilitation shall provide the
 79 department with a limited contamination assessment report and
 80 shall enter into a Petroleum Cleanup Participation Program site
 81 rehabilitation agreement with the department. The limited
 82 contamination assessment report must be sufficient to support
 83 the proposed course of action and to estimate the cost of the
 84 proposed course of action. The agreement must provide for a 25-
 85 percent cost savings to the department, a copayment by the
 86 owner, operator, or person otherwise responsible for conducting
 87 site rehabilitation, or a combination of cost savings and a

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88 copayment. Cost savings to the department may be demonstrated in
 89 the form of reduced rates by the proposed agency term contractor
 90 or the difference in cost associated with a Risk Management
 91 Options Level I closure versus a Risk Management Options Level
 92 II closure. For the purpose of this paragraph, the term:

93 1. "Risk Management Options Level I" means a "No Further
 94 Action" closure without institutional controls or without
 95 institutional and engineering controls. This closure option
 96 applies subject to conditions in department rules and
 97 agreements.

98 2. "Risk Management Options Level II" means a "No Further
 99 Action" closure where institutional controls and, if
 100 appropriate, engineering controls apply if the controls are
 101 protective of human health, public safety, and the environment.
 102 This closure option applies subject to conditions in department
 103 rules and agreements. The owner, operator, or person otherwise
 104 responsible for conducting site rehabilitation shall adequately
 105 demonstrate the ability to meet the copayment obligation. The
 106 limited contamination assessment report and the copayment costs
 107 may be reduced or eliminated if the owner and all operators
 108 responsible for restoration under s. 376.308 demonstrate that
 109 they cannot financially comply with the copayment and limited
 110 contamination assessment report requirements. The department
 111 shall take into consideration the owner's and operator's net
 112 worth in making the determination of financial ability. In the
 113 event the department and the owner, operator, or person
 114 otherwise responsible for site rehabilitation cannot complete
 115 negotiation of the cost sharing agreement within 120 days after
 116 beginning negotiations, the department shall terminate

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117 ~~negotiations and the site shall be ineligible for state funding~~
 118 ~~under this subsection and all liability protections provided for~~
 119 ~~in this subsection shall be revoked.~~

120 (e) A report of a discharge made to the department by a
 121 person pursuant to this subsection or any rules adopted pursuant
 122 to this subsection may not be used directly as evidence of
 123 liability for such discharge in any civil or criminal trial
 124 arising out of the discharge.

125 (f) This subsection does not preclude the department from
 126 pursuing penalties under s. 403.141 for violations of any law or
 127 any rule, order, permit, registration, or certification adopted
 128 or issued by the department pursuant to its lawful authority.

129 (g) Upon the filing of a discharge reporting form under
 130 paragraph (a), the department or local government may not pursue
 131 any judicial or enforcement action to compel rehabilitation of
 132 the discharge. This paragraph does not prevent any such action
 133 with respect to discharges determined ineligible under this
 134 subsection or to sites for which rehabilitation funding
 135 assistance is available pursuant to subsections (5) and (6).

136 (h) The following are excluded from participation in the
 137 program:

138 1. Sites at which the department has been denied reasonable
 139 site access to implement this section.

140 2. Sites that were active facilities when owned or operated
 141 by the Federal Government.

142 3. Sites that are identified by the United States
 143 Environmental Protection Agency to be on, or which qualify for
 144 listing on, the National Priorities List under Superfund. This
 145 exception does not apply to those sites for which eligibility

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146 has been requested or granted as of the effective date of this
 147 act under the Early Detection Incentive Program established
 148 pursuant to s. 15, chapter 86-159, Laws of Florida.

149 4. Sites for which contamination is covered under the Early
 150 Detection Incentive Program, the Abandoned Tank Restoration
 151 Program, or the Petroleum Liability and Restoration Insurance
 152 Program, in which case site rehabilitation funding assistance
 153 shall continue under the respective program.

154 Section 2. Subsection (2) of section 376.30713, Florida
 155 Statutes, is amended to read:

156 376.30713 Advanced cleanup.—

157 (2) The department may approve an application for advanced
 158 cleanup at eligible sites, including applications submitted
 159 pursuant to paragraph (c), notwithstanding the site's priority
 160 ranking established pursuant to s. 376.3071(5)(a), pursuant to
 161 this section. Only the facility owner or operator or the person
 162 otherwise responsible for site rehabilitation qualifies as an
 163 applicant under this section.

164 (a) Advanced cleanup applications may be submitted between
 165 May 1 and June 30 and between November 1 and December 31 of each
 166 fiscal year. Applications submitted between May 1 and June 30
 167 shall be for the fiscal year beginning July 1. An application
 168 must consist of:

169 1. A commitment to pay 25 percent or more of the total
 170 cleanup cost deemed recoverable under this section along with
 171 proof of the ability to pay the cost share. The department shall
 172 determine whether the cost savings demonstration is acceptable.
 173 Such determination is not subject to chapter 120.

174 a. Applications for the aggregate cleanup of five or more

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175 sites may be submitted in one of two formats to meet the cost-
176 share requirement:

177 (I) For an aggregate application proposing that the
178 department enter into a performance-based contract, the
179 applicant may use a commitment to pay, a demonstrated cost
180 savings to the department, or both to meet the requirement.

181 (II) For an aggregate application relying on a demonstrated
182 cost savings to the department, the applicant shall, in
183 conjunction with the proposed agency term contractor, establish
184 and provide in the application the percentage of cost savings in
185 the aggregate that is being provided to the department for
186 cleanup of the sites under the application compared to the cost
187 of cleanup of those same sites using the current rates provided
188 to the department by the proposed agency term contractor.

189 b. Applications for the cleanup of individual sites may be
190 submitted in one of two formats to meet the cost-share
191 requirement:

192 (I) For an individual application proposing that the
193 department enter into a performance-based contract, the
194 applicant may use a commitment to pay, a demonstrated cost
195 savings to the department, or both to meet the requirement.

196 (II) For an individual application relying on a
197 demonstrated cost savings to the department, the applicant
198 shall, in conjunction with the proposed agency term contractor,
199 establish and provide in the application a 25-percent cost
200 savings to the department for cleanup of the site under the
201 application compared to the cost of cleanup of the same site
202 using the current rates provided to the department by the
203 proposed agency term contractor.

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204 2. A nonrefundable review fee of \$250 to cover the
205 administrative costs associated with the department's review of
206 the application.

207 3. A property owner or responsible party agreement in which
208 the property owner or responsible party commits to continue to
209 participate in the advanced cleanup program upon completion of
210 the limited contamination assessment and finalization of the
211 proposed course of action ~~limited contamination assessment~~
212 ~~report.~~

213 4. A conceptual proposed course of action.

214 5. A department site access agreement, or similar
215 agreements approved by the department that do not violate state
216 law, entered into with the property owner or owners, as
217 applicable, and evidence of authorization from such owner or
218 owners for petroleum site rehabilitation program tasks
219 consistent with the proposed course of action where the
220 applicant is not the property owner for any of the sites
221 contained in the application.

222
223 ~~The limited contamination assessment report must be sufficient~~
224 ~~to support the proposed course of action and to estimate the~~
225 ~~cost of the proposed course of action. Costs incurred related to~~
226 ~~conducting the limited contamination assessment report are not~~
227 ~~refundable from the Inland Protection Trust Fund. Site~~
228 ~~eligibility under this subsection or any other provision of this~~
229 ~~section is not an entitlement to advanced cleanup or continued~~
230 ~~restoration funding.~~

231 6. A certification ~~The applicant shall certify to the~~
232 ~~department~~ that the applicant has the prerequisite authority to

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233 enter into an advanced cleanup contract with the department. The
234 certification must be submitted with the application.

235 (b) The department shall rank the applications based on the
236 percentage of cost-sharing commitment proposed by the applicant,
237 with the highest ranking given to the applicant who proposes the
238 highest percentage of cost sharing. If the department receives
239 applications that propose identical cost-sharing commitments and
240 that exceed the funds available to commit to all such proposals
241 during the advanced cleanup application period, the department
242 shall proceed to rerank those applicants. Those applicants
243 submitting identical cost-sharing proposals that exceed funding
244 availability must be so notified by the department and offered
245 the opportunity to raise their individual cost-share
246 commitments, in a period specified in the notice. At the close
247 of the period, the department shall proceed to rerank the
248 applications pursuant to this paragraph.

249 (c) Applications for the advanced cleanup of individual
250 sites scheduled for redevelopment are not subject to the
251 application period limitations or the requirement to pay 25
252 percent of the total cleanup cost specified in paragraph (a) or
253 to the cost-sharing commitment specified in paragraph (1)(d).
254 Applications must be accepted on a first-come, first-served
255 basis and are not subject to the ranking provisions of paragraph

256 (b). Applications for the advanced cleanup of individual sites
257 scheduled for redevelopment must include:

258 1. A nonrefundable review fee of \$250 to cover the
259 administrative costs associated with the department's review of
260 the application.

261 2. A limited contamination assessment report. The report

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262 must be sufficient to support the proposed course of action and
263 to estimate the cost of the proposed course of action. Costs
264 incurred related to conducting and preparing the report are not
265 refundable from the Inland Protection Trust Fund.

266 3. A proposed course of action for cleanup of the site.

267 4. If the applicant is not the property owner for any of
268 the sites contained in the application, a department site access
269 agreement, or a similar agreement approved by the department and
270 not in violation of state law, entered into with the property
271 owner or owners, as applicable, and evidence of authorization
272 from such owner or owners for petroleum site rehabilitation
273 program tasks consistent with the proposed course of action.

274 5. A certification to the department stating that the
275 applicant has the prerequisite authority to enter into an
276 advanced cleanup contract with the department. The advanced
277 cleanup contract must include redevelopment and site
278 rehabilitation milestones.

279 6. Documentation, in the form of a letter from the local
280 government having jurisdiction over the area where the site is
281 located, which states that the local government is in agreement
282 with or approves the proposed redevelopment and that the
283 proposed redevelopment complies with applicable law and
284 requirements for such redevelopment.

285 7. A demonstrated reasonable assurance that the applicant
286 has sufficient financial resources to implement and complete the
287 redevelopment project.

288 (d) Upon acceptance of an advanced cleanup application, the
289 applicant's selected agency term contractor shall submit to the
290 department a scope of work for a limited contamination

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291 assessment. When the scope of work is negotiated and agreed
292 upon, the department shall issue one or more purchase orders of
293 up to \$35,000 each for the limited contamination assessment. The
294 limited contamination assessment report must be sufficient to
295 support the proposed course of action and to estimate the cost
296 of the proposed course of action.

297 (e) Site eligibility under this section is not an
298 entitlement to advanced cleanup funding or continued restoration
299 funding.

300 Section 3. This act shall take effect July 1, 2020.

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/25/20

Meeting Date

702

Bill Number (if applicable)

Topic Petroleum Cleanup

Amendment Barcode (if applicable)

Name Robert Fingar

Job Title General Counsel

Address 1983 Centre Pointe Blvd #200

Phone 850-224-7091

Street

Tallahassee

City

FL

State

32308

Zip

Email bob@guildaylaw.com

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing Florida Petroleum Marketers Ass'n

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: February 4, 2020

I respectfully request that **Senate Bill #702**, relating to Petroleum Cleanup, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: CS/SB 800

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Harrell and others

SUBJECT: Division of State Technology

DATE: February 24, 2020 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hackett</u>	<u>McVaney</u>	<u>GO</u>	<u>Fav/CS</u>
2.	<u>Smith</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 800 establishes the Data Innovation Program within the Division of State Technology (DST). The DST is to identify the data coming into and out of the DST, unify data definitions among agencies, and publish a data catalog. The DST is further required to inventory, by June 30, 2021, all existing interagency data-sharing agreements, identify areas of data-sharing needs, and, thereafter, execute a new interagency agreement. The intent of the Data Innovation Program is to promote interoperability across agencies' systems, improve the security, quality and management of data assets, and remove redundancies where possible.

The bill further directs DST to develop three proof-of-concept programs in conjunction with the Agency for Health Care Administration (AHCA), the Department of Health (DOH), and the Department of Children and Families (DCF) by December 31, 2021. The programs are required to demonstrate interoperability across data types in order to promote analysis of such data. Further parameters are provided for the programs to be conducted.

The bill has a potentially significant impact on the Department of Management Services (DMS), the AHCA, the DOH, and the DCF. See Section V.

The bill takes effect upon becoming a law.

II. Present Situation:

Information Technology in the State of Florida

DMS contains several divisions, including the DST. The DST is charged with information technology (IT)¹ governance and security for the executive branch of state government.²

The DST develops IT policy for state resources, information technology architecture standards, and project management and oversight standards. The DST also performs oversight on IT projects, manages the state data center, and makes recommendations for IT services. Among its duties related to IT security, specifically, are designating a state chief information security officer, developing a statewide IT security strategic plan, developing an IT security framework, and providing training for information security managers.³

Data Interoperability

Interoperability is a phrase from the IT industry used to describe how electronic devices communicate with each other. For example, a mouse plugged into a computer is interoperable because the USB connection provides barrier-free information exchange between the two devices.

Data interoperability is the same concept applied to data. If a list of names (the data) can be opened by a program such as Microsoft Word, the data and program are interoperable. If agency A has a list of names in a format that agency B cannot view or use, the system lacks interoperability. Converting the data from one format to another in many cases takes time and money, or makes the data unusable entirely. Promoting data interoperability means investing in systems that would allow the state's various agencies to share data freely and simply, and ensuring that such data is useable.⁴

Data Dictionary

A data dictionary is a tool that provides detailed information about business data. The data dictionary will standardize what data elements are allowable, what they mean, and what values can apply to each type of data. The most common elements of a data dictionary are the data's

¹ The term "information technology" means equipment, hardware, software, firmware, programs, systems, networks, infrastructure, media, and related material used to automatically, electronically, and wirelessly collect, receive, access, transmit, display, store, record, retrieve, analyze, evaluate, process, classify, manipulate, manage, assimilate, control, communicate, exchange, convert, converge, interface, switch, or disseminate information of any kind or form. S. 282.0041(14), F.S.

² Section 282.0051, F.S.

³ Section 282.318(3), F.S.

⁴ NCOIC, What is interoperability? Available at <https://www.ncoic.org/what-is-interoperability/> (last visited February 12 2020); Office of the National Coordinator for Health Information Technology (ONC), U.S. Core Data for Interoperability (USCDI), available at <https://www.healthit.gov/isa/us-core-data-interoperability-uscdi> (last visited February 12, 2020); Cai, Hongming and Athanasios Vasilaskos, Data Interoperability, ScienceDirect, 2017, available at <https://www.sciencedirect.com/topics/computer-science/data-interoperability> (last visited February 12, 2020).

attribute name (or unique identifier), and attribute type (deciding what is allowed, between text, numbers, dates, etc.).⁵

Interagency Data-Sharing Agreements

Two state agencies may enter into an Interagency Data-Sharing Agreement in pursuit of their statutory duties. These agreements will contain the purpose for the data sharing, the legal authority as required, and the scope of work to be accomplished as a result of the data sharing. The agreement will, in detail, specify the location and types of information each agency will provide the other with unfettered access. The agreement will also cover the procedure for access, confidentiality issues, and costs.⁶

III. Effect of Proposed Changes:

Section 1 amends s. 282.0041, F.S., to add a definition for “information technology portfolio rationalization” to mean “the streamlining of an existing application portfolio to improve efficiency, reduce complexity, and lower the total cost of ownership through processes including, but not limited to:

- (a) Software license optimization;
- (b) Application retirement;
- (c) Server optimization;
- (d) Project rationalization;
- (e) Data storage optimization;
- (f) Retirement of aged and low-value applications;
- (g) Elimination of redundancies; and
- (h) Standardization of common technology platforms.”

Section 2 amends section 282.0051, F.S., to provide that the DMS is to administer the Data Innovation Program established under s. 282.319, F.S., through the DST.

Section 3 creates s. 282.319, F.S., to establish the Data Innovation Program within the DST. The section provides legislative intent behind the program, which includes to:

- Ensure that all state agencies collaborate and synthesize data securely through interoperability;
- Create software and information technology portfolio rationalization and procurement to achieve interoperability and reduce the number of stand-alone applications that do not communicate with each other;
- Minimize costs associated with data management areas;
- Ensure accurate procedures for regulation and compliance activities;
- Increase transparency within data-related activities;
- Institute better training and educational practices for the management of data assets;

⁵ Brandenburg, Laura, *What is a Data Dictionary?* Bridging the Gap, <https://www.bridging-the-gap.com/data-dictionary/> (last visited February 12, 2020).

⁶ See, e.g., Interagency Data Sharing Agreement between the Department of Juvenile Justice and the Department of Children and Families, available at <http://www.djj.state.fl.us/docs/agreements/data-sharing-dcr-djj-for-fsfn-with-osca-data-sharing-final.pdf?sfvrsn=2> (last visited February 12, 2020).

- Increase the value of the state's data while providing standardized data systems, data policies, and data procedures;
- Aid in the resolution of past and current data issues;
- Facilitate improved monitoring and tracking mechanisms for data quality and other data-related activities;
- Increase overall state data standards, thereby translating data into actionable information and workable knowledge of the state's information technology system;
- Enable state agencies to transform their use of technology to offer services in an effective, efficient, and secure manner; and
- Improve the health of all persons in the state.

The section further provides that the DST must identify all data elements within state agencies and develop common data definitions across state agencies and inform state agencies of the data types they collect and report publicly or to the Federal government, to identify where interagency data-sharing can create staff and technology efficiencies. The DST must also publish a comprehensive data catalog and a data dictionary. The DST must inventory, by June 30, 2021, all existing interagency data-sharing agreements, identify areas of data-sharing needs, and, thereafter, execute a new interagency agreement.

The section further directs the DST to develop three proof-of-concept programs in conjunction with the AHCA, the DOH, and the DCF by December 31, 2021. The programs are required to demonstrate interoperability across data types, enabling the use of the data in its native form as opposed to being transferred in a document and must respect policy difference across state agencies while allowing both interagency and intraagency analytics. Finally, the programs are to be scalable and vendor-agnostic in nature.

Section 4 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent the DMS contracts out any facet of the programs it is required to produce, those information technology companies involved will benefit.

C. Government Sector Impact:

The bill may have a significant workload impact on the DMS. The bill requires the DMS to develop three separate pilot programs with three separate agencies to be conducted by the end of next calendar year. Such programs will require both manpower and capital, and may have a significant workload impact on the AHCA, the DOH, and the DCF as well. The bill does not provide additional manpower or fiscal resources to these state agencies to complete these projects.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 282.0041 and 282.0051.

The bill creates section 282.319 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Governmental Oversight and Accountability on February 17, 2020:

The CS changes the dates for the DST's inventory of data agreements and interoperability pilot programs from 2020 to 2021.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By the Committee on Governmental Oversight and Accountability;
and Senators Harrell and Farmer

585-03762-20

2020800c1

1 A bill to be entitled
2 An act relating to the Division of State Technology;
3 amending s. 282.0041, F.S.; defining the term
4 "information technology portfolio rationalization";
5 amending s. 282.0051, F.S.; requiring the Department
6 of Management Services to administer the Data
7 Innovation Program through the division; creating s.
8 282.319, F.S.; establishing the Data Innovation
9 Program within the division; providing legislative
10 intent; specifying requirements for the division for
11 data governance across state agencies; requiring the
12 division to develop and conduct data interoperability
13 pilot programs with the Agency for Health Care
14 Administration, the Department of Health, and the
15 Department of Children and Families by a specified
16 date; specifying requirements for the pilot programs;
17 providing an effective date.

18
19 Be It Enacted by the Legislature of the State of Florida:

20
21 Section 1. Present subsections (16) through (31) of section
22 282.0041, Florida Statutes, are redesignated as subsections (17)
23 through (32), respectively, and a new subsection (16) is added
24 to that section, to read:

25 282.0041 Definitions.—As used in this chapter, the term:
26 (16) "Information technology portfolio rationalization"
27 means the streamlining of an existing application portfolio to
28 improve efficiency, reduce complexity, and lower the total cost
29 of ownership through processes including, but not limited to:

Page 1 of 5

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

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30 (a) Software license optimization;
31 (b) Application retirement;
32 (c) Server optimization;
33 (d) Project rationalization;
34 (e) Data storage optimization;
35 (f) Retirement of aged and low-value applications;
36 (g) Elimination of redundancies; and
37 (h) Standardization of common technology platforms.
38 Section 2. Present subsections (17), (18), and (19) of
39 section 282.0051, Florida Statutes, are redesignated as
40 subsections (18), (19), and (20), respectively, and a new
41 subsection (17) is added to that section, to read:
42 282.0051 Department of Management Services; powers, duties,
43 and functions.—The department shall have the following powers,
44 duties, and functions:
45 (17) Administer the Data Innovation Program established
46 under s. 282.319 through the Division of State Technology.
47 Section 3. Section 282.319, Florida Statutes, is created to
48 read:
49 282.319 Data Innovation Program.—
50 (1) PROGRAM ESTABLISHMENT AND INTENT.—The Data Innovation
51 Program is established within the Division of State Technology
52 of the department. The Legislature recognizes that the
53 department is responsible for ensuring that this state's data is
54 interoperable. By establishing the program, the Legislature
55 intends to:
56 (a) Ensure that all state agencies collaborate and
57 synthesize data securely through interoperability.
58 (b) Create software and information technology portfolio

Page 2 of 5

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59 rationalization and procurement to achieve interoperability and
 60 reduce the number of stand-alone applications that do not
 61 communicate with each other.

62 (c) Minimize costs associated with data management areas.

63 (d) Ensure accurate procedures for regulation and
 64 compliance activities.

65 (e) Increase transparency within data-related activities.

66 (f) Institute better training and educational practices for
 67 the management of data assets.

68 (g) Increase the value of this state's data while providing
 69 standardized data systems, data policies, and data procedures.

70 (h) Aid in the resolution of past and current data issues.

71 (i) Facilitate improved monitoring and tracking mechanisms
 72 for data quality and other data-related activities.

73 (j) Increase overall state data standards, thereby
 74 translating data into actionable information and workable
 75 knowledge of this state's information technology system.

76 (k) Enable state agencies to transform their use of
 77 technology to offer services in an effective, efficient, and
 78 secure manner.

79 (l) Improve the health of all persons in this state.

80 (2) DATA GOVERNANCE.—The Division of State Technology
 81 shall:

82 (a) Identify all data elements within state agencies and
 83 publish a comprehensive data catalog.

84 (b) Develop common data definitions across state agencies
 85 and publish a data dictionary. Where data definitions are
 86 limited to agency functionality, the data dictionary must define
 87 each data element, depending on each state agency's need.

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88 (c) By June 30, 2021, inventory all existing interagency
 89 data-sharing agreements, identify areas of data-sharing needs
 90 which are not currently addressed, and execute a new interagency
 91 agreement.

92 (d) Inform state agencies of the data types they collect
 93 and report publicly or to the Federal Government, to identify
 94 where interagency data sharing can create staff and technology
 95 efficiencies.

96 (3) DATA INTEROPERABILITY.—The Division of State Technology
 97 shall develop three proof-of-concept pilot programs in
 98 conjunction with the Agency for Health Care Administration, the
 99 Department of Health, and the Department of Children and
 100 Families. The pilot programs must be conducted by December 31,
 101 2021, and:

102 (a) Respect policy differences in data use among the state
 103 agencies and require robust consent and security functionality,
 104 especially related to personal information.

105 (b) Enable the use of information in elemental data form
 106 rather than through document-based methods.

107 (c) Select solutions with integrated database technology
 108 which natively enable analytics at the interagency and
 109 intraagency level.

110 (d) Use technology that supports the spectrum of modern
 111 software development technologies, including, but not limited
 112 to, application programming interfaces, web services, and
 113 representational state transfer.

114 (e) Demonstrate interoperability across diverse data types
 115 and enable information generation across state agencies with
 116 different missions.

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117 (f) Be able to scale to perform at volumes to support all
118 types of state initiatives.

119 (g) Use technology with the latest standards and standards
120 development to facilitate vendor-agnostic interoperability.

121 (h) Use solutions that preserve the existing investments in
122 technology among state agencies while achieving interoperability
123 on a broader scale and enabling future technical paradigms.

124 Section 4. This act shall take effect upon becoming a law.

THE FLORIDA SENATE APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/25/2020

Meeting Date

SB0800

Bill Number (if applicable)

Topic Division of State Technology

Amendment Barcode (if applicable)

Name David Poole

Job Title Director Legislative Affairs

Address 1825 Country Club Dr

Phone 850-766-3323

Street

Tallahassee

FL

32301

Email david.poole@aidshealth.org

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing AIDS Healthcare Foundation (AHF)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 1130

INTRODUCER: Senator Albritton

SUBJECT: Young Farmers and Ranchers

DATE: February 24, 2020 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	<u>Favorable</u>
2.	<u>Blizzard</u>	<u>Betta</u>	<u>AEG</u>	<u>Recommend: Favorable</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

I. Summary:

SB 1130 establishes the Florida Young Farmer and Rancher Matching Grant Program within the Department of Agriculture and Consumer Services (department) to support startup functions for new farming and ranching operations. To receive a grant, an individual must:

- Be an agricultural producer, be an employee of a farm or ranch, or have been actively involved in Future Farmers of America for at least one year;
- Be between the ages of 18 and 35;
- Have operated a farm or ranch for not more than 10 years;
- Demonstrate, at minimum, a dollar-for dollar matching investment for the grant amount requested; and
- Submit a timely grant application.

If funded by the Legislature, each grant award would be between \$5,000 and \$20,000, and a recipient may receive only one award per year.

The department will incur an indeterminate increase in costs relating to workload to implement the provisions of the bill. These costs will be absorbed within the department's existing resources. The bill creates a new grant program that is contingent upon specific appropriation by the Legislature.

The effective date of the bill is July 1, 2020

II. Present Situation:

Opportunities exist within farming and ranching, but beginning farmers and ranchers have unique educational, training, technical assistance, and outreach needs. Capital access, land

access, and access to knowledge and information to assist in ensuring profitability and sustainability are vital to those just entering agriculture and in their first ten years of operation.¹

Currently, there are no grant programs within the department specifically to assist young farmers and ranchers. The department does provide resources through its Grant Opportunity² public webpage.

To address the lack of resources and assistance, the 2018 Legislature created a 12 member Florida Young Farmer and Rancher Advisory Council³ to provide an opportunity for young people to offer advice and to give recommendations to the Commissioner of Agriculture about the challenges facing aspiring farmers and ranchers in the early stages of their careers. The council is authorized to examine issues such as access to land, availability of credit and capital, and access to business skills training. The Legislature also directed the department to create the Florida Young Farmer and Rancher Resource Clearinghouse on its website⁴ in order to provide career information and resources to young farmers who will be entering a wide range of jobs involving food production, natural resources, plant systems, animal management, and much more.

III. Effect of Proposed Changes:

Section 1 creates s. 570.842, F.S., to establish the Florida Young Farmer and Rancher Matching Grant Program. The bill requires the department to administer grants to foster the creation and expansion of agricultural businesses by young farmers and ranchers in Florida. The department is directed to adopt rules regarding the program. To be eligible, grant recipients must:

- Be an agricultural producer, employee of a farm or ranch, or have been actively involved in Future Farmers of America for at least one year;
- Be at least 18 years of age, but younger than 35 years of age;
- Have operated a farm or ranch for not more than 10 years;
- Demonstrate, at a minimum, a dollar-for-dollar matching investment for grant money requested; and
- Submit a grant application during the time period designated by the department.

The bill requires the department to give preference to applicants who are veterans, as defined in s. 1.01(14), F.S. If funded by the Legislature, each grant award must be between \$5,000 and \$20,000, and a recipient may receive only one award per year.

Section 2 provides that this act shall take effect July 1, 2020.

¹ See <https://nifa.usda.gov/program/beginning-farmer-and-rancher-development-program-bfrdp> (Last visited December 19, 2019).

² See <https://www.freshfromflorida.com/Business-Services/Grant-Opportunities> (Last visited December 19, 2019).

³ Section 570.843, F.S.

⁴ See <https://www.freshfromflorida.com/Education/Preparing-for-Careers-in-Agriculture> (Last visited December 19, 2019).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Florida's young farmers and ranchers with new farms and ranch operations may benefit from the grant program. The bill requires the department to give preference to applicants who are veterans, as defined in s. 1.01(14), F.S.

C. Government Sector Impact:

The department will be responsible for the creation, administration, and management of the grant program created by this bill. If the Legislature provides funding for the grant program, the department will incur additional workload, depending on the amount of the annual appropriation and the size of the applicant pool. The costs associated with these responsibilities, while indeterminate, can be absorbed within the department's existing resources.⁵

VI. Technical Deficiencies:

None.

⁵ Department of Agriculture and Consumer Services, *Senate Bill 1130 Analysis* (December 10, 2019) (on file with the Appropriations Subcommittee on Agriculture, Environment, and General Government).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 570.842 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

By Senator Albritton

26-01739-20

20201130__

A bill to be entitled

An act relating to young farmers and ranchers; creating s. 570.842, F.S.; creating the Florida Young Farmer and Rancher Matching Grant Program within the Department of Agriculture and Consumer Services; specifying the purpose of the grants; requiring the department to select grant recipients based on specified criteria; requiring the department to adopt rules; requiring that applicants meet specified eligibility requirements; requiring the department to give preference to veterans; specifying a range for grant amounts awarded; providing that a recipient may not receive more than one award per grant period under the program; specifying that grant funding is contingent upon specific appropriation from the Legislature; providing an effective date.

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

Section 1. Section 570.842, Florida Statutes, is created to read:

570.842 Florida Young Farmer and Rancher Matching Grant Program.—

(1) The Florida Young Farmer and Rancher Matching Grant Program is created within the department to support the startup functions associated with new farming and ranching operations.

(a) Grants administered by the department through this program must be for the purpose of fostering the creation and expansion of agricultural businesses by young farmers and

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ranchers in this state.

(b) The department shall select grant recipients based on selection criteria adopted pursuant to subsection (2).

(2) The department shall adopt rules governing the operation of the program, including an application process and selection criteria for grant recipients.

(a) At a minimum, in order to be eligible to receive a grant, an individual must meet all of the following requirements:

1. Be an agricultural producer, be an employee of a farm or ranch, or have been actively involved in Future Farmers of America for at least 1 year.

2. Be at least 18 years of age, but younger than 35 years of age.

3. Have operated a farm or ranch for not more than 10 years.

4. Demonstrate, at a minimum, a dollar-for-dollar matching investment for the grant amount requested.

5. Submit, on a form prescribed by the department, a grant application during the application period established by the department. The department may designate only one period each year for accepting applications.

(b) In the application review process, the department shall give a preference to an applicant who is a veteran, as defined in s. 1.01(14).

(3) Each grant award under the program must be between \$5,000 and \$20,000, with no more than one award being made to an individual grant recipient per grant period.

(4) Annual grant funding for this program is contingent

Page 2 of 3

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59 upon specific annual appropriation by the Legislature.

60 Section 2. This act shall take effect July 1, 2020.

THE FLORIDA SENATE
APPEARANCE RECORD

110

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 25 20

Meeting Date

1130

Bill Number (if applicable)

Topic YOUNG FARMERS & RANCHERS

Amendment Barcode (if applicable)

Name Dan Hendrickson

Job Title vol pres, TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Address PO Box 1201

Street

Phone 850 570-1967

Tallahassee,

FL

32302

Email danbhendrickson@comcast.net

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against
(The Chair will read this information into the record.)

Representing TALLAHASSEE VETERANS LEGAL COLLABORATIVE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: January 15, 2020

I respectfully request that **Senate Bill #1130**, relating to Young Farmers and Ranchers Grant Program, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26



FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES
COMMISSIONER NICOLE "NIKKI" FRIED

December 10, 2019

Agency Affected: Dept. of Agriculture and Consumer Services

Telephone: 850-617-7000

Agency Contact: Emily Buckley, Legislative Affairs Director

Telephone: 850-617-7700

Senate Bill Number: 1130

Senate Bill Sponsor: Sen. Albritton

Bill Title: Florida Young Farmer and Rancher Matching Grant Program

Effective Date: July 1, 2020

Similar Bill(s): Yes No

Similar Bill(s):

Identical Bill: Yes No

Identical Bill:

1. SUMMARY

The proposed bill creates the Florida Young Farmer and Rancher Matching Grant Program within the Florida Department of Agriculture and Consumer Services (FDACS). The grant program is intended to incentivize youth engagement with agriculture via supporting functions associated with new farming and ranching operations. The grants awarded would be between \$5,000 and \$20,000 and funding is contingent upon specific appropriation by Legislature. During the grant application review process, preference shall be given to applicant who classifies as a veteran. Should this bill pass, the effective date is July 1, 2020. The bill provides the exact criteria for evaluating applicants. Those requirements are:

- Applicant must be an agriculture producer, or farm/ranch employee, or active member of Future Farmer of America for 1 year minimum
- Applicant must be between the ages of 18 and 35 years old
- Applicant must have managed/operated a farm/ranch no more than 10 years
- Applicant must, at a minimum, match the grant dollar for dollar
- Applicant must participate and complete the application process that FDACS creates.

2. PRESENT SITUATION

Currently, there is not a grant program specifically designed to develop and expand young farmers and ranchers in Florida as s. 570.842, F. S.; is a newly created statute.

3. EFFECT OF PROPOSED CHANGES

FDACS would be responsible for the creation, administering, and management of this grant program.

4. FISCAL IMPACT

	(FY 20-21) Amount/ FTE	(FY 21-22) Amount/ FTE	(FY 22-23) Amount/ FTE
A. Revenues			
Recurring	Unknown	Unknown	Unknown
Non-Recurring	Unknown	Unknown	Unknown
TOTAL REVENUES			
B. Expenditures			
Recurring	Unknown	Unknown	Unknown
Non-Recurring	Unknown	Unknown	Unknown
TOTAL EXPENDITURES			
C. NET TOTAL			
COMMENTS: The fiscal impact depends on the amount of funding the legislature would appropriate towards this grant program.			

5. IS THERE AN ESTIMATED FISCAL IMPACT ON LOCAL GOVERNMENT(s)?

No.

6. IS THERE AN ESTIMATED FISCAL IMPACT ON THE PRIVATE SECTOR?

No.

7. ARE THERE ESTIMATED TAXES, FEES, OR FINES ASSOCIATED WITH THE PROPOSED BILL? (If yes, please explain the impact in A and/or B below)

No.

A. Does the proposed bill create new or increase existing taxes, fees, or fines? If so, please explain.

B. Does the proposed bill repeal or decrease existing taxes, fees, or fines? If so, please explain.

C. DOES THE BILL DIRECT OR ALLOW THE DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES?

a. Yes: No:

b. If yes please explain: the proposed bill allows for FDACS to develop an additional grant program, creating an application process, review process, and award process towards operating the Young Farmers and Ranchers Grant Matching Grant Program.

8. DOES THE PROPOSED BILL REQUIRE THE DEPARTMENT TO PARTICIPATE IN OR PRODUCE ANY REPORTS OR STUDIES?

a. Yes: No:

b. If yes please explain:

9. ARE THERE ANY APPOINTMENTS, CREATION OF, OR CHANGES TO ANY BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. THAT WILL IMPACT THE DEPARTMENT?

a. Yes: No:

b. If yes please explain:

LEGAL ISSUES

10. Does the proposed bill conflict with existing federal law or regulations that impact the department? If so, what laws and/or regulations?

11. Does the proposed bill raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, impairment of contracts) that impacts the department?

12. Is the proposed bill likely to generate litigation for the department and, if so, from what interest groups or parties?



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development, *Chair*
Appropriations
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Commerce and Tourism
Infrastructure and Security
Innovation, Industry, and Technology
Judiciary
Rules

SENATOR TRAVIS HUTSON

7th District

February 25, 2020

Chair Mayfield,

I am writing to be excused from today's Appropriations Subcommittee on Agriculture, Environment, and General Government due to a conflicting bill presentation in another committee. Thank you for your attention to this matter.

Sincerely,

A handwritten signature in cursive script that reads "Travis Hutson".

Travis Hutson
Senator
District 7

A large, stylized handwritten signature in cursive script, likely belonging to a recipient or official, with a long horizontal line extending to the right.

REPLY TO:

- 4875 Palm Coast Parkway, NW, Suite 5, Palm Coast, Florida 32137 (386) 446-7610 FAX: (888) 263-3475
- 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5007

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Agriculture, Environment, and General Government **Judge:**

Started: 2/25/2020 9:00:34 AM

Ends: 2/25/2020 9:33:22 AM

Length: 00:32:49

9:00:53 AM Sen. Mayfield (Chair)
9:02:26 AM Sen. Powell (Chair)
9:02:34 AM S 638
9:02:39 AM Sen. Montford
9:04:24 AM Am. 507444
9:04:28 AM Sen. Montford
9:05:13 AM S 638 (cont.)
9:05:25 AM Jim Bachrach, Board Chairman, Apalachicola Main Street (waives in support)
9:05:38 AM Amy Datz, Retired Environmental Scientist
9:07:23 AM Sen. Broxson
9:08:16 AM Sen. Mayfield
9:09:03 AM Sen. Stewart
9:09:55 AM Sen. Montford
9:11:26 AM S 800
9:11:33 AM Sen. Harrell
9:14:10 AM S 332
9:14:19 AM Sen. Stewart
9:15:32 AM Trish Neely, Consultant, League of Women Voters
9:16:36 AM Paul Owens, President, 1000 Friends of Florida
9:19:58 AM Lindsay Cross, Government Relations Director, Florida Conservation Voters
9:22:37 AM Laura Reynolds, Policy Analyst, Issac Walton League of America
9:23:43 AM Will Abberger, VP, Director, Conservation Finance, The Trust for Public Land
9:26:39 AM Sen. Stewart
9:27:31 AM S 702
9:27:40 AM Sen. Albritton
9:28:57 AM Robert Fingar, General Counsel, Florida Petroleum Marketer's Association (waives in support)
9:29:50 AM S 1132
9:29:56 AM Sen. Albritton
9:30:57 AM Dan Hendrickson, Vol Pres., Tallahassee Veterans Legal Collaborative (waives in support)
9:31:51 AM Sen. Powell
9:32:26 AM Sen. Mayfield (Chair)
9:33:07 AM David Poole, Director of Legislative Affairs, AIDS Healthcare Foundation (waives in support of S 800)