

Tab 1	SB 846 by Abruzzo; (Similar to CS/H 0681) Divers-down Warning Devices						
390448	A	S	RCS	EP, Hays	Delete L.112 - 114:	01/20	02:44 PM

Tab 2	SB 922 by Montford; (Similar to H 0987) Solid Waste Management						
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Tab 3	SB 1052 by Hays; (Similar to H 0589) Environmental Control						
473354	A	S	RCS	EP, Hays	Delete L.155 - 158:	01/20	02:44 PM
797072	A	S	RCS	EP, Hays	btw L.212 - 213:	01/20	02:44 PM

Tab 4	SB 1282 by Dean; (Similar to H 7013) Fish and Wildlife Conservation Commission						
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Tab 5	SB 306 by Bullard (CO-INTRODUCERS) Soto, Clemens, Sobel, Margolis; (Identical to H 0143) Disposable Plastic Bags						
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Dean, Chair
Senator Simpson, Vice Chair

MEETING DATE: Wednesday, January 20, 2016
TIME: 1:30—3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Dean, Chair; Senator Simpson, Vice Chair; Senators Altman, Evers, Hays, Hutson, Simmons, Smith, and Soto

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 846 Abruzzo (Similar CS/H 681)	Divers-down Warning Devices; Revising the definitions of the terms “divers-down buoy,” “divers-down flag,” and “divers-down symbol”; expanding the types of indicators or devices allowed to be used to signal the presence of submerged divers; specifying requirements for divers-down warning devices, etc. EP 01/20/2016 Fav/CS CM RC	Fav/CS Yeas 9 Nays 0
2	SB 922 Montford (Similar H 987)	Solid Waste Management; Providing for the funding of a waste tire abatement program from the Solid Waste Management Trust Fund up to a specified percentage of total funds; authorizing the Department of Environmental Protection to use account funds to contract with a third party for the closing and long-term care of solid waste management facilities under specified circumstances; authorizing waste tire abatement programs under the small county consolidated grant program, etc. EP 01/20/2016 Favorable AGG AP	Favorable Yeas 9 Nays 0
3	SB 1052 Hays (Similar H 589, Compare CS/H 7005, CS/CS/S 552)	Environmental Control; Prohibiting water management districts from modifying or reducing consumptive use permit allocations if actual water use is less than permitted water use due to water conservation measures or specified circumstances; requiring the Department of Environmental Protection to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply, etc. EP 01/20/2016 Fav/CS AGG AP	Fav/CS Yeas 9 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Wednesday, January 20, 2016, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1282 Dean (Similar H 7013)	Fish and Wildlife Conservation Commission; Revising penalties for violations of commission rules relating to control and management of state game lands; authorizing exceptions to the prohibition on spearfishing; revising penalties for violations related to subagent sales of hunting, fishing, and trapping licenses and permits, etc. EP 01/20/2016 Favorable AGG AP	Favorable Yeas 9 Nays 0
5	SB 306 Bullard (Identical H 143)	Disposable Plastic Bags; Authorizing certain municipalities to establish pilot programs to regulate or ban disposable plastic bags; providing program criteria; providing for expiration of the program; directing participating municipalities to collect data and submit reports to the municipal governing body and the Department of Environmental Protection; defining the term "coastal community", etc. EP 01/20/2016 Favorable CA FP	Favorable Yeas 8 Nays 1

Other Related Meeting Documents

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 Committee on Environmental Preservation and Conservation

BILL: CS/SB 846

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Abruzzo

SUBJECT: Divers-down Warning Devices

DATE: January 20, 2016 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 846 revises the requirements relating to divers-down flags and buoys. The bill defines the term “divers-down warning device” and revises the specification requirements for “divers-down flags” to expand the types of devices that divers must use to alert vessels that submerged divers are in the area.

II. Present Situation:

Diving in Florida

Florida’s coastlines, coral reefs, and springs provide a variety of dive sites and attract numerous visitors to the state each year. The waters of the state provide year-round diving opportunities including shore-entry diving, wreck diving, cave diving, spear fishing, and treasure hunting. Section 327.331(1)(a), F.S., defines a “diver” as “any person who is wholly or partially submerged in the waters of the state and is equipped with a facemask and snorkel or underwater breathing apparatus.” To protect divers from collisions with boaters, all divers are required to prominently display a divers-down flag or buoy in the area in which diving occurs, other than when diving in an area customarily used for swimming only.¹

¹ Section 327.331(2), F.S.

According to the Fish and Wildlife Conservation Commission (FWC), from 2010 to 2014 there were 18 boating accidents reported to the FWC resulting in personal injuries or death involving divers or snorkelers in areas where a dive flag or buoy would be required. Of those there were:

- 6 accidents involving the diver being struck by another vessel and the dive flag was properly displayed. These accidents resulted in 7 injuries.
- 3 accidents involving the diver being struck by another vessel but a dive flag was not displayed, or not properly displayed. These accidents resulted in 1 fatality and 3 injuries.
- 9 accidents involved the diver being injured by their own vessel, either during boarding or the operator controlling the engine around them. These accidents resulted in 9 injuries.²

Florida's Diver Law

To protect divers from vessels when they are diving, s. 327.331, F.S., regulates the types of warning devices that may be used and how and when they must be displayed. A divers-down flag must meet all of the following specifications:

- The flag must be square or rectangular. If rectangular, the length must not be less than the height, or more than 25 percent longer than the height.³
- The flag must have a wire or other stiffener to hold it fully unfurled and extended in the absence of a wind or breeze.⁴
- The flag must consist of a divers-down symbol⁵ on each side with a white diagonal stripe that begins at the top staff-side of the flag and extends diagonally to the lower opposite corner.⁶
- The minimum size for a divers-down flag that is displayed from a vessel or structure is 20 inches by 24 inches.⁷
- The minimum size for a divers-down flag that is displayed on a buoy or float towed by the diver is 12 inches by 12 inches.⁸



Figure 1

In 2014, section 327.331, F.S., was amended to authorize divers to use divers-down buoys.⁹ The term “divers-down buoy” is defined as “a buoyant device, other than a vessel, which displays a divers-down symbol of at least 12 inches by 12 inches on three or four flat sides.”¹⁰

A diver may display a divers-down flag from a vessel or from a buoy.¹¹ If the divers-down flag is displayed from a vessel it must be displayed from the highest point of the vessel or such other location that provides that the visibility of the divers-down flag is not obstructed in any

² FWC, *Senate Bill 846 Agency Legislative Bill Analysis*, pg. 3 (Jan. 4, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).

³ Section 327.331(1)(c)1., F.S.

⁴ *Id.*

⁵ *See e.g.*, Figure 1.

⁶ Section 327.331(1)(c)2., F.S.

⁷ Section 327.331(1)(c)3., F.S.

⁸ *Id.*

⁹ Ch. 2014-138, s. 1, Laws of Fla.

¹⁰ Section 327.331(1)(b), F.S.

¹¹ Section 327.331, F.S.; *see also*, *Lanza v. Schriefer*, 2010 WL 2754327 (S.D. Fla. 2010) (finding that the statute does not require display of a divers-down flag on the vessel and on a buoy).

direction.¹² A divers-down buoy may not be used or displayed onboard a vessel and must be prominently visible on the water's surface when in use.¹³

On rivers, inlets, and navigation channels, divers are required to make a reasonable effort to stay within 100 feet of a divers-down flag or buoy and a person operating a vessel must make a reasonable effort to maintain a distance of at least 100 feet from a divers-down flag or buoy.¹⁴ On all waters other than rivers, inlets, and navigation channels, divers must make a reasonable effort to stay within 300 feet of a divers-down flag or buoy and a person operating a vessel must make a reasonable effort to maintain a distance of at least 300 feet from any divers-down flag or buoy.¹⁵ If a vessel, other than a law enforcement vessel or rescue vessel, does approach within 100 feet of divers-down flag or buoy on a river, inlet, or navigation channel, or within 300 feet of a divers-down flag or buoy on waters other than a river, inlet, or navigation channel, the person operating the vessel must proceed no faster than is necessary to maintain headway and steerageway.¹⁶

Commission-approved boater education or safety courses are required to include a component regarding diving vessels, awareness of divers in the water, divers-down flags and buoys, and the requirements of s. 327.331, F.S.¹⁷ A violation relating to divers-down flags and buoys, except for a violation rising to the level of reckless or careless operation of a vessel, is a noncriminal infraction.¹⁸ The civil penalty for a noncriminal infraction is \$50.¹⁹

III. Effect of Proposed Changes:

CS/SB 846 amends s. 327.331, F.S., to define the term “divers-down warning device” to include divers-down flags, buoys, or other similar warning devices. This new term will provide divers with additional choices for signaling to boaters that there are divers in the water while remaining compliant with Florida law. The bill replaces the term “flag or buoy” with “warning device.” A “divers-down warning device” must:

- Contain a divers-down symbol that is at least 12 inches by 12 inches in dimension when displayed from the water or is at least 20 by 24 inches when displayed from a vessel;
- Be designed for, and used by, divers and dive vessels as a means to notify nearby boaters of the presence of a diver in the waters of the immediate area; and
- Be prominently visible when in use.

Additionally, the bill revises the specification requirements for “divers-down flags.” The bill clarifies that the “divers-down symbol” may be displayed on each face of the flag, rather than on each side. The bill authorizes “divers-down flags” to have more than one white diagonal stripe. However, if there are multiple stripes, the bill requires that all stripes be oriented in the same direction. Instead of requiring the flag to have a wire or other stiffener, the bill authorizes the

¹² Section 327.331(1)(c), F.S.

¹³ Section 327.331(2), F.S.

¹⁴ Section 327.331(4), F.S.

¹⁵ Section 327.331(5), F.S.

¹⁶ Section 327.331(6), F.S.

¹⁷ Section 327.395(3), F.S.

¹⁸ Section 327.73, F.S.

¹⁹ *Id.*

flag to be otherwise constructed to ensure that the flag remains fully unfurled and extended in absence of a wind or breeze.

While the bill retains the size requirements for divers-down symbols that are displayed on the water (12 inches by 12 inches), the bill removes the requirement that buoys or floats used to display a divers-down flag be towed by the diver.

The bill requires a divers-down warning device that is displayed from a vessel to be displayed from the highest point of the vessel or another location that ensures that the visibility of the divers-down warning device is not obstructed from any direction.

The bill amends ss. 327.395 and 327.73, F.S., to replace the term “divers-down flags and buoys” with “divers-down warning devices.”

The bill reenacts s. 327.33(1), F.S., relating to the reckless or careless operation of a vessel, to incorporate the amendments made to s. 327.331, F.S.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As the bill expands the types of devices that may be used to satisfy Florida’s diver laws, businesses manufacturing or selling devices that were not previously authorized may experience an indeterminate increase in revenue from the sales of such devices. The bill does not impose any additional requirements on divers, it only expands the types of devices that may be used and, therefore, the bill does not have an impact on consumers.

C. **Government Sector Impact:**

The Fish and Wildlife Conservation Commission (FWC) will have to update and print boating safety and educational materials to incorporate divers-down warning devices, but FWC anticipates that these costs are expected to be minimal and can be absorbed with existing resources.²⁰

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 327.331, 327.395, 327.73.

This bill reenacts section 327.33 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 Environmental Preservation and Conservation on January 20, 2016:

The CS clarifies that a divers-down warning device displayed from a vessel must be displayed from the highest point of the vessel or another location that ensures that the visibility of the divers-down warning device is not obstructed from any direction.

B. **Amendments:**

None.

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

²⁰ FWC, *Senate Bill 846 Agency Legislative Bill Analysis*, pg. 5 (Jan. 4, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).



390448

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2016	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Hays) recommended the following:

Senate Amendment

Delete lines 112 - 114

and insert:

(8) A divers-down warning device displayed from a vessel
must be displayed from the highest point of the vessel or
another location that ensures that the visibility of the divers-
down warning device is

By Senator Abruzzo

25-00899-16

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1 A bill to be entitled
2 An act relating to divers-down warning devices;
3 amending s. 327.331, F.S.; revising the definitions of
4 the terms "divers-down buoy," "divers-down flag," and
5 "divers-down symbol"; defining the term "divers-down
6 warning device"; expanding the types of indicators or
7 devices allowed to be used to signal the presence of
8 submerged divers; specifying requirements for divers-
9 down warning devices; amending ss. 327.395 and 327.73,
10 F.S.; conforming provisions to changes made by the
11 act; reenacting s. 327.33(1), F.S., relating to
12 reckless or careless operation of a vessel, to
13 incorporate the amendment made to s. 327.331, F.S., in
14 a reference thereto; providing an effective date.

15
16 Be It Enacted by the Legislature of the State of Florida:

17
18 Section 1. Section 327.331, Florida Statutes, is amended to
19 read:

20 327.331 Divers; definitions; divers-down warning device
21 ~~flag or buoy~~ required; obstruction to navigation of certain
22 waters; penalty.-

23 (1) As used in this section:

24 (a) "Diver" means a person who is wholly or partially
25 submerged in the waters of the state and is equipped with a face
26 mask and snorkel or underwater breathing apparatus.

27 (b) "Divers-down buoy" means a buoyant device, other than a
28 vessel, which displays a divers-down symbol ~~of at least 12~~
29 ~~inches by 12 inches~~ on three or four flat sides, ~~which is~~

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30 ~~prominently visible on the water's surface when in use.~~

31 (c) "Divers-down flag" means a flag that displays a divers-
32 down symbol and that meets the following specifications:

33 1. ~~Is~~ The flag must be square or rectangular. ~~If~~
34 ~~rectangular, the length must not be less than the height, or~~
35 ~~more than 25 percent longer than the height. The flag must have~~
36 ~~a wire or other stiffener to hold it fully unfurled and extended~~
37 ~~in the absence of a wind or breeze.~~

38 2. ~~The flag must consist of~~ and has a divers-down symbol on
39 each face. ~~side~~

40 2. Has with a white diagonal stripes on each face which
41 begin stripe that begins at the top, staff-side of the flag and
42 extend extends diagonally to the lower opposite corner.

43 3. If rectangular, is of a length that is not less than the
44 height or more than 25 percent longer than the height.

45 4. Has a wire, or other stiffener, or is otherwise
46 constructed to ensure that it remains fully unfurled and
47 extended in the absence of a wind or breeze.

48 3. ~~The minimum size for any divers-down flag displayed on a~~
49 ~~buoy or float towed by the diver is 12 inches by 12 inches. The~~
50 ~~minimum size for any divers-down flag displayed from a vessel or~~
51 ~~structure is 20 inches by 24 inches.~~

52 4. ~~Any divers-down flag displayed from a vessel must be~~
53 ~~displayed from the highest point of the vessel or such other~~
54 ~~location which provides that the visibility of the divers-down~~
55 ~~flag is not obstructed in any direction.~~

56 (d) "Divers-down symbol" means a rectangular or square red
57 symbol with a white diagonal stripe. If rectangular, the length
58 may ~~must~~ not be less than the height or more than 25 percent

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59 longer than the height. The width of the stripe must be 25
60 percent of the height of the symbol and the stripes must be
61 oriented in the same direction if multiple stripes are
62 displayed.

63 (e) "Divers-down warning device" means a divers-down flag,
64 buoy, or other similar warning device that:

65 1. Contains a divers-down symbol that is at least 12 inches
66 by 12 inches in dimension when displayed from the water or at
67 least 20 by 24 inches in dimension when displayed from a vessel;

68 2. Is designed for, and used by, divers and dive vessels as
69 a means to notify nearby boaters of the presence of a diver in
70 the waters of the immediate area; and

71 3. Is prominently visible when in use.

72 (f)~~(e)~~ "Underwater breathing apparatus" means any
73 apparatus, whether self-contained or connected to a distant
74 source of air or other gas, whereby a person wholly or partially
75 submerged in water is enabled to obtain or reuse air or any
76 other gas or gases for breathing without returning to the
77 surface of the water.

78 (2) All divers must prominently display a divers-down
79 warning device ~~flag or buoy~~ in the area in which the diving
80 occurs, other than when diving in an area customarily used for
81 swimming only. A divers-down buoy may not be used or displayed
82 onboard a vessel.

83 (3) A diver or group of divers may not display one or more
84 divers-down warning devices ~~flags or buoys~~ on a river, inlet, or
85 navigation channel, except in case of emergency, in a manner
86 that ~~which shall~~ unreasonably constitutes ~~constitute~~ a
87 navigational hazard.

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88 (4) Divers shall make reasonable efforts to stay within 100
89 feet of a divers-down warning device ~~flag or buoy~~ on rivers,
90 inlets, and navigation channels. A person operating a vessel on
91 a river, inlet, or navigation channel must make a reasonable
92 effort to maintain a distance of at least 100 feet from any
93 divers-down warning device ~~flag or buoy~~.

94 (5) Divers must make reasonable efforts to stay within 300
95 feet of a divers-down warning device ~~flag or buoy~~ on all waters
96 other than rivers, inlets, and navigation channels. A person
97 operating a vessel on waters other than a river, inlet, or
98 navigation channel must make a reasonable effort to maintain a
99 distance of at least 300 feet from any divers-down warning
100 device ~~flag or buoy~~.

101 (6) A vessel other than a law-enforcement ~~law-enforcement~~
102 or rescue vessel that approaches within 100 feet of a divers-
103 down warning device ~~flag or buoy~~ on a river, inlet, or
104 navigation channel, or within 300 feet of a divers-down warning
105 device ~~flag or buoy~~ on waters other than a river, inlet, or
106 navigation channel, must proceed no faster than is necessary to
107 maintain headway and steerageway.

108 (7) A divers-down warning device ~~flag or buoy~~ may not be
109 displayed once all divers are aboard or ashore. A person may not
110 operate any vessel displaying a divers-down warning device ~~flag~~
111 unless the vessel has one or more divers in the water.

112 (8) A divers-down flag displayed from a vessel must be
113 displayed from the highest point of the vessel or another
114 location that ensures the visibility of the divers-down flag is
115 not obstructed from any direction.

116 (9) ~~(8)~~ Except as provided in s. 327.33, a violation of this

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117 section is a noncriminal infraction punishable as provided in s.
118 327.73.

119 Section 2. Subsection (3) of section 327.395, Florida
120 Statutes, is amended to read:

121 327.395 Boating safety identification cards.—

122 (3) Any commission-approved boater education or boater
123 safety course, course-equivalency examination developed or
124 approved by the commission, or temporary certificate examination
125 developed or approved by the commission must include a component
126 regarding diving vessels, awareness of divers in the water,
127 divers-down warning devices ~~flags and buoys~~, and the
128 requirements of s. 327.331.

129 Section 3. Paragraph (u) of subsection (1) of section
130 327.73, Florida Statutes, is amended to read:

131 327.73 Noncriminal infractions.—

132 (1) Violations of the following provisions of the vessel
133 laws of this state are noncriminal infractions:

134 (u) Section 327.331, relating to divers-down warning
135 devices ~~flags and buoys~~, except for violations meeting the
136 requirements of s. 327.33.

137
138 Any person cited for a violation of any provision of this
139 subsection shall be deemed to be charged with a noncriminal
140 infraction, shall be cited for such an infraction, and shall be
141 cited to appear before the county court. The civil penalty for
142 any such infraction is \$50, except as otherwise provided in this
143 section. Any person who fails to appear or otherwise properly
144 respond to a uniform boating citation shall, in addition to the
145 charge relating to the violation of the boating laws of this

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146 state, be charged with the offense of failing to respond to such
147 citation and, upon conviction, be guilty of a misdemeanor of the
148 second degree, punishable as provided in s. 775.082 or s.
149 775.083. A written warning to this effect shall be provided at
150 the time such uniform boating citation is issued.

151 Section 4. For the purpose of incorporating the amendment
152 made by this act to section 327.331, Florida Statutes, in a
153 reference thereto, subsection (1) of section 327.33, Florida
154 Statutes, is reenacted to read:

155 327.33 Reckless or careless operation of vessel.—

156 (1) It is unlawful to operate a vessel in a reckless
157 manner. A person is guilty of reckless operation of a vessel who
158 operates any vessel, or manipulates any water skis, aquaplane,
159 or similar device, in willful or wanton disregard for the safety
160 of persons or property at a speed or in a manner as to endanger,
161 or likely to endanger, life or limb, or damage the property of,
162 or injure any person. Reckless operation of a vessel includes,
163 but is not limited to, a violation of s. 327.331(6). Any person
164 who violates a provision of this subsection commits a
165 misdemeanor of the first degree, punishable as provided in s.
166 775.082 or s. 775.083.

167 Section 5. This act shall take effect July 1, 2016.

168

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 Committee on Environmental Preservation and Conservation

BILL: SB 922

INTRODUCER: Senator Montford

SUBJECT: Solid Waste Management

DATE: January 19, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 922:

- Establishes a waste tire abatement program and provides for funding of the program;
- Deletes the waste tire grant program and authorizes the small county consolidated grant program to provide grants for waste tire abatement;
- Recreates and modifies provisions related to the solid waste landfill closure account;
- Provides authority to the Department of Environmental Protection (DEP) to use funds from the solid waste landfill closure account to pay for or reimburse additional expenses needed for completing landfill closure and long-term care when the amount available under an insurance policy or other financial assurance mechanism is not sufficient;
- Expands the authority of DEP to provide funding for the closure and long-term care of solid waste management facilities;
- Expands the types of financial assurances permittees may provide for closure and long-term care of solid waste management facilities; and
- Authorizes funds to be used for closure and long-term care of waste management facilities that are not required to have an operating permit.

II. Present Situation:

Solid Waste Management Trust Fund

Section 403.709, F.S., creates the Solid Waste Management Trust Fund (SWMTF) to fund solid waste management activities. Funds deposited in the SWMTF include penalties for littering;¹

¹ Section 403.413(6)(a), F.S.

waste tire fees;² and oil related fees, fines and penalties.³ DEP must allocate funds deposited in the SWMTF in the following manner:

- Up to 40 percent for funding solid waste activities of DEP and other state agencies, such as providing technical assistance to local governments and the private sector, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs.
- Up to 4.5 percent for funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management.
- Up to 14 percent to use for funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control.
- Up to 4.5 percent for funding to the Department of Transportation for litter prevention and control programs through a certified Keep America Beautiful Affiliate at the local level.
- A minimum of 37 percent for funding a solid waste management grant program pursuant to s. 403.7095, F.S., for activities relating to recycling and waste reduction, including waste tires requiring final disposal.⁴

Landfill Closure

Pursuant to section 403.704, F.S., DEP is responsible for implementing and enforcing the state solid waste management program, which provides the guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste throughout the state. Florida Administrative Code Chapters 62-701 to 62-722, establish standards for the construction, operation, and closure of solid waste management facilities and provisions governing other aspects of Florida's solid waste management program. Landfills or solid waste disposal sites that close require a closure permit issued by DEP or a closure plan approved by DEP. Closure plans include:

- A design plan;
- A closure operation plan;
- A long-term care plan; and
- Proof of financial assurance, which may include closure insurance, for long-term care and a cost estimate for closure pursuant to Florida Administrative Code Rule 62-701.630.

Section 403.7125, F.S., provides that the owner or operator of a landfill is responsible for the closure of the landfill and is liable for its improper closure. The owner or operator of a federal, state, or local government owned landfill is required to establish a fee to ensure the financial resources are available for the closure of the landfill.

Prior to receiving a permit to operate a landfill or construction and demolition debris disposal facility, the owner or operator of the facility must provide financial assurance to assure the availability of financial resources to properly close and provide long-term care of the landfill.⁵ To establish the amount of financial assurance, the owner must estimate the cost of closure and

² Section 403.718(2), F.S.

³ Section 403.759, F.S.

⁴ Section 403.709(1), F.S.

⁵ Fla. Admin. Code R. 62-701.630(2).

long-term maintenance as part of a landfill permit application.⁶ The owner must update the cost estimate annually.⁷ Allowable financial mechanisms include irrevocable letters of credit, financial guarantee bonds, performance bonds, financial tests, corporate guarantee, trust fund agreements, and insurance certificates.⁸ Government entities that operate a landfill may also use a landfill management escrow account as a financial assurance instrument.⁹

Operators of solid waste disposal units must receive a closure permit to close a landfill.¹⁰ Solid waste disposal units must close within 180 days after they cease receiving waste, or within the time frame set forth in the facility's approved closure plan.¹¹

These facilities must also perform long-term care for 30 years.¹² This includes monitoring and maintaining the integrity and effectiveness of the final cover, controlling erosion, filling subsidences, complying with a water quality monitoring plan, maintaining a leachate collection system, measuring the volumes of leachate removed, and maintaining a stormwater system.¹³

Section 403.709(5), F.S., creates a solid waste landfill closure account within the SWMTF to provide funds for the closing and long-term care of solid waste management facilities. The closure account receives funds from insurance certificates provided as proof of financial assurance. DEP may use those funds to contract with a third party for the closing and long-term care of a solid waste management facility if:

- The facility has or had a DEP permit to operate the facility;
- The permittee provided proof of financial assurance for closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by DEP;
- Closure is accomplished in substantial accordance with a closure plan approved by DEP; and
- DEP has written documentation that the insurance company issuing a closure insurance policy will provide or reimburse the funds required to complete closing and long-term care of the facility.

The closure account was created within the 2015 implementing bill and is set to expire July 1, 2016.¹⁴

DEP provides that it is using this budgetary authority and funds from the SWMTF landfill closure account to enter into contracts with a third party for closure construction and related environmental services to close facilities where an insurance policy was used to provide financial assurance.¹⁵ Funds are being used to enter into contracts for closure activities and then receive

⁶ Fla. Admin. Code R. 62-701.630(3).

⁷ Fla. Admin. Code R. 62-701.630(4).

⁸ Fla. Admin. Code R. 62-701.630(2)(b)2.

⁹ Fla. Admin. Code R. 62-701.630(2)(b)1.

¹⁰ Fla. Admin. Code R. 62-701.600(2).

¹¹ Fla. Admin. Code R. 62-701.600(3)(f)2..

¹² Fla. Admin. Code R. 62-701.620(1)

¹³ *Id.*

¹⁴ Ch. 2015-222, s. 53, Laws of Fla.

¹⁵ DEP, *Senate Bill 922 Agency Analysis* (Dec. 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

reimbursement funds from insurers, up to the limits of coverage under the insurance. Landfills being addressed in this manner are:

- Williams Road (Hillsborough County);
- Coyote Navarre (Santa Rosa County);
- Coyote East (Walton County);
- Coyote West (Walton County); and
- Cerny Road (Escambia County).¹⁶

Waste Tire Abatement

The solid waste management grant program receives up to 37 percent of the funds deposited into the SWMTF. Up to 50 percent of the funds are for a consolidated grant program for small counties with populations fewer than 100,000, and grants are distributed to eligible counties equally. Programs supported by the consolidated grant program include:

- General solid waste management;
- Litter prevention and control; and
- Recycling and education programs.¹⁷

Section 403.7095(2), F.S., also directs DEP to develop a waste tire grant program within the solid waste management grant program funded by up to 50 percent of the funds distributed from the SWMTF to make grants available to all counties. At least 25 percent of the funds are distributed equally to each county with a population fewer than 100,000. The remaining funds are distributed to counties with populations greater than 100,000 and are distributed on the basis of population.¹⁸ Grants may be used for activities such as:

- Construction of waste tire processing facilities;
- Operation of waste tire processing facilities;
- Contracting for waste tire facility service;
- Equipment for waste tire processing facilities;
- Removal of waste tires;
- Purchasing materials made from waste tires;
- Research to facilitate waste tire recycling;
- Establishing waste tire collection centers;
- Incentives for establishing private waste tire collection centers; and
- Performing or contracting for enforcement activities.¹⁹

DEP provides that funding for waste tire grants was last appropriated during the 2003 legislative session.²⁰ Funding for DEP's waste tire abatement program, which provides for identification,

¹⁶ *Id.*

¹⁷ Section 403.7095(1), F.S.

¹⁸ Section 403.7095(2), F.S.

¹⁹ DEP, *Solid Waste Tire Grant Application*, (Dec. 17, 2013) available at http://www.dep.state.fl.us/waste/quick_topics/forms/documents/62-716/716_3.pdf, Incorporated by reference in Fla. Admin. Code R. 62-716.600.

²⁰ DEP, *Senate Bill 922 Agency Analysis* (Dec. 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

evaluation, and cleanup of waste tire sites,²¹ has been discontinued since the 2009 legislative session.²² DEP has identified more than 440,000 tires located at 26 sites in Florida.²³ The number of tires at these sites range from 1,500 to over 250,000. Preliminary abatement cost estimates per site range from \$2,704 to \$570,900. DEP's preliminary abatement cost estimate for all 26 sites is \$961,390.²⁴

III. Effect of Proposed Changes:

Section 1 amends s. 403.709, F.S., to allow up to five percent of the 37 percent of funds from the SWMTF designated for the solid waste management grant program to be used for a waste tire abatement program.

The bill revises the solid waste landfill closure account to authorize DEP to provide funding for the closing and long-term care of a solid waste management facility. If DEP contracts with a third party, the bill expands DEP's authority by:

- Authorizing DEP to use funds from the account to contract with a third party for the closing and long-term care of a solid waste management facility if the facility was not required to obtain a permit to operate from DEP. This serves to increase the number of facilities that DEP may provide funding for cleanup; and
- Allowing DEP to use funds from the solid waste landfill closure account when the permittee provided an acceptable alternative form of sufficiently documented financial assurance, for closing and long-term care of a solid waste management facility. This would also increase the number of facilities that DEP may provide funding for cleanup.

The bill provides that funds received from other parties, rather than just an insurer, for reimbursing the costs of closing or long-term care of a facility are to be deposited in the solid waste landfill closure account.

The bill provides that if the funds available under an insurance policy or an alternative form of financial assurance are insufficient or otherwise inaccessible to perform or complete the closing or long-term care of a facility, DEP may use funds from the solid waste landfill closure account to pay for or reimburse additional expenses needed for performing or completing the approved facility closure or long-term care activities. This will expand the circumstances under which DEP may expend funds for closure and long-term care.

Section 2 amends s. 403.7095, F.S., to remove provisions establishing the waste tire grant program.

The bill expands the allowable uses of funds from the small county consolidated grant program by adding waste tire abatement to the list of programs that may be supported by the grant program.

²¹ DEP, *Tires General Information* (Jul. 8, 2015) available at <http://www.dep.state.fl.us/waste/categories/tires/pages/info.htm> (last visited Jan. 16, 2016).

²² DEP, *Senate Bill 922 Agency Analysis* (Dec. 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

²³ *Id.*

²⁴ *Id.*

It also removes an obsolete provision that expired July 1, 2015, directing DEP to award \$3,000,000 in grants equally to counties with populations of fewer than 100,000 for waste tire and litter prevention, recycling education, and general solid waste programs.

Sections 3 and 4 reenact ss. 403.413 and 403.7032, F.S., due to changes made by the bill.

Section 5 provides an effective date of July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Small counties may see a positive fiscal impact by the provision of funds for waste tire abatement.

There could be a negative, indeterminate fiscal impact if funds from the solid waste landfill closure account are used to make up for inadequate funds for closure and long-term care of landfills.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.709 and 403.7095.

The bill reenacts the following sections of the Florida Statutes: 403.413 and 403.7032.

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 Montford

3-00576A-16

2016922__

1 A bill to be entitled
2 An act relating to solid waste management; amending s.
3 403.709, F.S.; providing for the funding of a waste
4 tire abatement program from the Solid Waste Management
5 Trust Fund up to a specified percentage of total
6 funds; establishing a solid waste landfill closure
7 account within the Solid Waste Management Trust Fund;
8 specifying the purpose of the account; authorizing the
9 Department of Environmental Protection to use account
10 funds to contract with a third party for the closing
11 and long-term care of solid waste management
12 facilities under specified circumstances; requiring
13 the department to deposit certain funds into the solid
14 waste landfill closure account; authorizing the
15 department to use funds from the account to pay for or
16 reimburse specified expenses under certain
17 circumstances; deleting a solid waste landfill closure
18 account within the Solid Waste Management Trust Fund;
19 amending s. 403.7095, F.S.; authorizing waste tire
20 abatement programs under the small county consolidated
21 grant program; removing the waste tire abatement
22 program supported by the solid waste management grant
23 program; removing distribution requirements; deleting
24 an obsolete provision; reenacting ss. 403.413(6) (a)
25 and 403.7032(5) (h), F.S., relating to the Florida
26 Litter Law and recycling, respectively, to incorporate
27 the amendments made to s. 403.7095, F.S., in
28 references thereto; providing an effective date.
29

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

31
32 Section 1. Paragraph (e) of subsection (1) and subsection
33 (5) of section 403.709, Florida Statutes, are amended, present
34 subsections (2) through (4) of that section are redesignated as
35 subsections (3) through (5), respectively, and a new subsection
36 (2) is added to that section, to read:

37 403.709 Solid Waste Management Trust Fund; use of waste
38 tire fees.—There is created the Solid Waste Management Trust
39 Fund, to be administered by the department.

40 (1) From the annual revenues deposited in the trust fund,
41 unless otherwise specified in the General Appropriations Act:

42 (e) Up to 37 percent shall be used for funding a waste tire
43 abatement program and a solid waste management grant program
44 pursuant to s. 403.7095 for activities relating to recycling and
45 waste reduction, including waste tires requiring final disposal.
46 Of the funding specified in this paragraph, no more than 5
47 percent of the total may be used for funding the waste tire
48 abatement program.

49 (2) Notwithstanding subsection (1), a solid waste landfill
50 closure account is established within the Solid Waste Management
51 Trust Fund to provide funding for the closing and long-term care
52 of solid waste management facilities.

53 (a) The department may use funds from the account to
54 contract with a third party for the closing and long-term care
55 of a solid waste management facility if:

56 1. The facility has, had, or was not required to obtain a
57 department permit to operate the facility;

58 2. The permittee, where required by permit or rule,

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59 provided proof of financial assurance for closure in the form of
60 an insurance certificate or an alternative form of financial
61 assurance mechanism established pursuant to s. 403.7125;

62 3. The department has ordered the facility closed or has
63 deemed the facility abandoned;

64 4. The closure of the facility is accomplished in
65 substantial accordance with a closure plan approved by the
66 department; and

67 5. The department has sufficient documentation to confirm
68 that the issuer of the insurance policy or alternative form of
69 financial assurance will provide or reimburse the funds required
70 to complete the closing and long-term care of the facility.

71 (b) The department shall deposit all funds received from
72 the insurer or other parties for reimbursing the costs of
73 closing or long-term care of the facility under this subsection
74 into the solid waste landfill closure account.

75 (c) If the amount available under the insurance policy or
76 alternative form of financial assurance is insufficient, or is
77 otherwise inaccessible, to perform or complete the facility
78 closing or long-term care under this subsection, and the
79 department has used all such funds from the insurance policy or
80 alternative form of financial assurance, the department may use
81 funds from the solid waste landfill closure account to pay for
82 or reimburse additional expenses needed for performing or
83 completing the approved facility closure or long-term care
84 activities.

85 ~~(5) (a) Notwithstanding subsection (1), a solid waste~~
86 ~~landfill closure account is established within the Solid Waste~~
87 ~~Management Trust Fund to provide funding for the closing and~~

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88 ~~long term care of solid waste management facilities. The~~
89 ~~department may use funds from the account to contract with a~~
90 ~~third party for the closing and long-term care of a solid waste~~
91 ~~management facility if:~~

92 ~~1. The facility has or had a department permit to operate~~
93 ~~the facility;~~

94 ~~2. The permittee provided proof of financial assurance for~~
95 ~~closure in the form of an insurance certificate;~~

96 ~~3. The facility is deemed to be abandoned or was ordered to~~
97 ~~close by the department;~~

98 ~~4. Closure is accomplished in substantial accordance with a~~
99 ~~closure plan approved by the department; and~~

100 ~~5. The department has written documentation that the~~
101 ~~insurance company issuing the closure insurance policy will~~
102 ~~provide or reimburse the funds required to complete closing and~~
103 ~~long-term care of the facility.~~

104 ~~(b) The department shall deposit the funds received from~~
105 ~~the insurance company as reimbursement for the costs of closing~~
106 ~~or long-term care of the facility into the solid waste landfill~~
107 ~~closure account.~~

108 ~~(c) This subsection expires July 1, 2016.~~

109 Section 2. Section 403.7095, Florida Statutes, is amended
110 to read:

111 403.7095 Solid waste management grant program.—

112 (1) The department shall develop a consolidated grant
113 program for small counties having populations fewer than
114 100,000, with grants to be distributed equally among eligible
115 counties. Programs to be supported with the small-county
116 consolidated grants include those for the purpose of general

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117 solid waste management, litter prevention and control, waste
118 tire abatement, and recycling and education programs.

119 ~~(2) The department shall develop a waste tire grant program~~
120 ~~making grants available to all counties. The department shall~~
121 ~~ensure that at least 25 percent of the funding available for~~
122 ~~waste tire grants is distributed equally to each county having a~~
123 ~~population fewer than 100,000. Of the remaining funds~~
124 ~~distributed to counties having a population of 100,000 or~~
125 ~~greater, the department shall distribute those funds on the~~
126 ~~basis of population.~~

127 ~~(3) From the funds made available pursuant to s.~~
128 ~~403.709(1)(c) for the grant program created by this section, the~~
129 ~~following distributions shall be made:~~

130 ~~(a) Up to 50 percent for the program described in~~
131 ~~subsection (1); and~~

132 ~~(b) Up to 50 percent for the program described in~~
133 ~~subsection (2).~~

134 (2)(4) The department may adopt rules necessary to
135 administer this section, including, but not limited to, rules
136 governing timeframes for submitting grant applications, criteria
137 for prioritizing, matching criteria, maximum grant amounts, and
138 allocation of appropriated funds based upon project and
139 applicant size.

140 ~~(5) Notwithstanding any other provision of this section,~~
141 ~~and for the 2014-2015 fiscal year only, the Department of~~
142 ~~Environmental Protection shall award the sum of \$3 million in~~
143 ~~grants equally to counties having populations of fewer than~~
144 ~~100,000 for waste tire and litter prevention, recycling~~
145 ~~education, and general solid waste programs. This subsection~~

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146 ~~expires July 1, 2015.~~

147 Section 3. For the purpose of incorporating the amendments
148 made by this act to section 403.7095, Florida Statutes, in a
149 reference thereto, paragraph (a) of subsection (6) of section
150 403.413, Florida Statutes, is reenacted to read:

151 403.413 Florida Litter Law.—

152 (6) PENALTIES; ENFORCEMENT.—

153 (a) Any person who dumps litter in violation of subsection
154 (4) in an amount not exceeding 15 pounds in weight or 27 cubic
155 feet in volume and not for commercial purposes is guilty of a
156 noncriminal infraction, punishable by a civil penalty of \$100,
157 from which \$50 shall be deposited into the Solid Waste
158 Management Trust Fund to be used for the solid waste management
159 grant program pursuant to s. 403.7095. In addition, the court
160 may require the violator to pick up litter or perform other
161 labor commensurate with the offense committed.

162 Section 4. For the purpose of incorporating the amendments
163 made by this act to section 403.7095, Florida Statutes, in a
164 reference thereto, paragraph (h) of subsection (5) of section
165 403.7032, Florida Statutes, is reenacted to read:

166 403.7032 Recycling.—

167 (5) The Department of Environmental Protection shall create
168 the Recycling Business Assistance Center by December 1, 2010. In
169 carrying out its duties under this subsection, the department
170 shall consult with state agency personnel appointed to serve as
171 economic development liaisons under s. 288.021 and seek
172 technical assistance from Enterprise Florida, Inc., to ensure
173 the Recycling Business Assistance Center is positioned to
174 succeed. The purpose of the center shall be to serve as the

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175 mechanism for coordination among state agencies and the private
176 sector in order to coordinate policy and overall strategic
177 planning for developing new markets and expanding and enhancing
178 existing markets for recyclable materials in this state, other
179 states, and foreign countries. The duties of the center must
180 include, at a minimum:

181 (h) Providing evaluation of solid waste management grants,
182 pursuant to s. 403.7095, to reduce the flow of solid waste to
183 disposal facilities and encourage the sustainable recovery of
184 materials from Florida's waste stream.

185 Section 5. This act shall take effect July 1, 2016.

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 Committee on Environmental Preservation and Conservation

BILL: CS/SB 1052

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hays

SUBJECT: Environmental Control

DATE: January 21, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Rogers	EP	Fav/CS
2.			AGG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1052:

- Provides incentives for water conservation by limiting the conditions under which a water management district (WMD) may lower allocations in consumptive use permits (CUPs), and directs the WMDs to adopt rules providing water conservation incentives, including limited permit extensions;
- Revises the number of letters required to provide proof of the length of time an applicant wishing to take the water well contractor licensure examination has been engaged in the business of the construction, repair, or abandonment of water wells from two letters to one letter;
- Revises certain membership qualifications for the Harris Chain of Lakes Restoration Council and authorizes the Lake County legislative delegation to waive membership qualifications based on good cause;
- Requires the WMDs to promote expanded cost-share criteria for additional conservation practices;
- Exempts constructed clay settling areas at phosphate mines from rate of reclamation and financial assurance requirements where its beneficial use has been extended until the beneficial use of the area is completed;
- Requires the DEP adopt by rule a surface water classification to protect surface waters used for treated potable water supply and to add treated potable waters supply as a designated use of surface water segments in certain circumstances;

- Allows land set-asides and land use modifications not otherwise required by state law or permit to be used to generate credits for water quality credit trading;
- Modifies the prohibition against granting variances that would result in the provision or requirement being less stringent than federal law. It authorizes moderating provisions or requirements under state law, subject to any necessary approval by the U.S. Environmental Protection Agency;
- Deletes the July 1, 2016 expiration date for the solid waste landfill closure account within the Solid Waste Management Trust Fund;
- Revises prerequisites for the institution of flow control ordinances by local governments;
- Provides that local governments may not implement flow control ordinances that would direct solid waste to a landfill gas-to-energy system of facility; and
- Provides for an appropriation for fiscal year 2016-2017 of \$2,339,764 from the Solid Waste Management Trust Fund for the closure and long-term care of solid waste management facilities.

II. Present Situation:

Water Conservation and Consumptive Use Permitting

A CUP establishes the duration and type of water use as well as the maximum amount of water that may be withdrawn daily. Pursuant to s. 373.219, F.S., each CUP must be consistent with the objectives of the issuing WMD or the DEP and may not be harmful to the water resources of the area. To obtain a CUP, an applicant must establish that the proposed use of water satisfies the statutory test, commonly referred to as “the three-prong test.” Specifically, the proposed water use must:

- Be a “reasonable-beneficial use”;¹
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.²

Applicants may receive a CUP with duration of 20 years if there is sufficient data to provide reasonable assurance that the conditions for permit issuance will be met for the duration of the permit. Otherwise, the WMD or DEP may issue a CUP for a shorter duration which reflects the period for which such reasonable assurances can be provided.³

When a CUP is issued for a 20 year duration, a WMD or DEP may require the permittee to provide a compliance report every ten years during the term of the permit to maintain reasonable assurance that the conditions of the CUP are being met.⁴ Following review of a compliance report, the WMD or the DEP may modify the CUP to ensure that the use meets the conditions for issuance. Permit modifications resulting from review of the compliance report are not subject to

¹ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” *See also* Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

² Section 373.223, F.S.

³ Section 373.236, F.S.

⁴ Section 373.236(4), F.S.

competing applications, provided there is no increase in the permitted allocation or permit duration, and no change in source, except for changes in source requested by the WMD.⁵

In several WMDs, when economic conditions or population growth rates result in the actual water use being less than permitted water use, a modification to reduce the permitted allocation may be made by the WMD only when there is no reasonable likelihood that the allocation will be needed during the permit term.⁶ However, in order to incentivize conservation of water, if actual water use is less than permitted water use due to documented implementation of water conservation measures, the WMD may not modify the permitted allocation due to these circumstances during the term of the permit.⁷

In addition, s. 373.227, F.S., requires the DEP, in cooperation with the WMDs, to develop a statewide water conservation program for public water supply that:

- Encourages utilities to implement water conservation programs that are economically efficient, effective, affordable, and appropriate;
- Allows no reduction in, and increase where possible, utility-specific water conservation effectiveness over current programs;
- Is goal-based, accountable, measurable, and implemented collaboratively with water suppliers, water users, and water management agencies;
- Includes cost and benefit data on individual water conservation practices to assist in tailoring practices to be effective for the unique characteristics of particular utility service areas, focusing upon cost-effective measures;
- Uses standardized public water supply conservation definitions and standardized quantitative and qualitative performance measures for an overall system of assessing and benchmarking the effectiveness of water conservation programs and practices;
- Creates a clearinghouse or inventory for water conservation programs and practices available to public water supply utilities;
- Develops a standardized water conservation planning process for utilities; and
- Develops and maintains a Florida-specific water conservation guidance document containing a menu of affordable and effective water conservation practices.⁸

As part of an application for a CUP, a public water supply utility may propose a goal-based water conservation plan that is tailored to its individual circumstances. If the utility provides reasonable assurance that the plan will achieve effective water conservation at least as well as the water conservation requirements adopted by the appropriate WMD, the WMD must approve the plan. The approved plan will satisfy water conservation requirements imposed as a condition of obtaining a CUP.⁹

⁵ *Id.*

⁶ Fla. Admin. Code R. 62-40.410.

⁷ Fla. Admin. Code R. 62-40.412.

⁸ Section 373.227(2), F.S.

⁹ Section 373.227(4), F.S.

Water Quality Standards (WQSs)

Under s. 303 of the Federal Clean Water Act (CWA), states are incentivized to adopt WQSs for their navigable waters and must review and update those standards at least once every three years.¹⁰ These standards include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, and navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative standards, that a waterbody can contain without impairment of the designated beneficial uses; and
- Anti-degradation requirements.¹¹

The CWA requires that the surface waters of each state be classified according to their designated uses.¹² Florida has six classes that are arranged in order of the degree of protection required:

- Class I - Potable water supply;
- Class II - Shellfish propagation or harvesting;
- Class III - Fish consumption, recreation, propagation and maintenance of a healthy, well-balanced population of fish and wildlife;
- Class III Limited - Fish consumption, recreation or limited recreation, and/or propagation and maintenance of a limited population of fish and wildlife;
- Class IV - Agricultural water supplies; and
- Class V - Navigation, utility, and industrial use.¹³

Each class has specific water quality criteria that must be met to maintain that classification.¹⁴ Criteria applicable to a classification are designed to maintain the minimum conditions necessary to assure the suitability of water for the designated use of the classification. Activities allowed under a lower classification are allowable when withdrawing water from higher class waters. So, for example, a Class II surface water may also be used for any other use except for Class I purposes.¹⁵

Reclassification

Reclassification of a waterbody's designated beneficial use can be initiated by the DEP or by petition from another entity. A designation may be upgraded, but there must be credible information showing the existence or attainability of the beneficial use. For example, a waterbody designated as Class III may be upgraded to Class II if there is credible information showing that shellfish harvesting and consumption are routinely conducted in the waterbody and that the water quality criteria for Class II is attainable.¹⁶

¹⁰ 33 U.S.C. s. 1313(b)(1) and (c)(4). If states do not submit water quality standards within a certain time, or if the standards are not consistent with certain requirements, the EPA may step in and establish water quality standards.

¹¹ 33 U.S.C. s. 1313(c)(2)(A); 40 C.F.R. ss. 131.6 and 131.10-131.12.

¹² 33 U.S.C. s. 1313(c).

¹³ Fla. Admin. Code R. 62-302.400.

¹⁴ See Fla. Admin. Code R. 62-302.500 and 62-302.530.

¹⁵ Fla. Admin. Code R. 62-302.400(6).

¹⁶ DEP, *Process for Reclassifying the Designated Uses of Florida Surface Waters 7*, (June, 2010), available at http://www.dep.state.fl.us/water/wqssp/docs/reclass/process_document_080510.pdf (last visited Jan. 15, 2016).

For a waterbody to be considered for reclassification as a drinking water source, a petitioner must demonstrate that the water quality meets Class I water quality criteria or can meet those criteria after conventional treatment. Potential influences of reclassification on other users of the waterbody must be evaluated and permitting requirements must also be considered.¹⁷

Petitions to add a waterbody's designated use as drinking water source should determine if it is an existing use (now or since 1975) or an attainable use. Factors to consider when determining whether the use is an existing use can include the presence of drinking water withdrawals and permits authorizing withdrawal for consumptive use. Factors to consider when determining whether the designation is an attainable use can include proximity to wastewater sources and effects on water quality.¹⁸

Water Well Contractor Licenses

Section 373.336, F.S., provides that it is unlawful for any person to construct, repair, or abandon a water well, or operate drilling equipment for those purposes unless that person is employed by or under the supervision of a licensed water well contractor, subject to certain exemptions detailed in s. 373.326, F.S. Each person who engages in the business of a water well contractor must obtain a license from a WMD.¹⁹ Persons must submit an application to the WMD in which they reside or in which his or her principal place of business is located.²⁰ In order to take the licensure exam, an applicant must be 18 years old; have at least two years of experience in constructing, repairing, or abandoning water wells; complete the an application form; and pay a nonrefundable fee.²¹

To provide evidence that an applicant has at least two years of experience in constructing, repairing, or abandoning water wells, an applicant must submit a letter from a water well contractor and a letter from a water well inspector employed by a governmental agency. An applicant must also submit a list of at least ten water wells that the applicant has constructed, repaired, or abandoned within the preceding five years.²²

The Harris Chain of Lakes Restoration Council

The Harris Chain of Lakes is located north and west of the Orlando metropolitan area and is in Lake and Orange counties.²³ It contains tens of thousands of acres of lakes and wetlands and is at the headwaters of the Ocklawaha River.²⁴ The Harris Chain of Lakes Council was created to:

- Review audits and all data related to lake restoration techniques and sport fish population recovery strategies;
- Evaluate whether additional studies are needed;

¹⁷ *Id.* at 7-8.

¹⁸ *Id.* at 6-7.

¹⁹ Section 373.323(1), F.S.

²⁰ Section 373.323(2), F.S.

²¹ Section 373.323(3), F.S.

²² *Id.*

²³ Harris Chain of Lakes Restoration Council, *Where is the Harris Chain of Lakes and What Does the Restoration Council Do?*, <http://harrischainoflakescouncil.com/> (last visited Jan. 15, 2016).

²⁴ *Id.*

- Explore all possible sources of funding to conduct the restoration activities; and
- Report to the President of the Senate and the Speaker of the House of Representatives yearly before November 25 on the progress of the Harris Chain of Lakes restoration program and provide any recommendations for the next fiscal year.²⁵

The council consists of nine voting members who are:

- A representative of waterfront property owners;
- A representative of the sport fishing industry;
- An environmental engineer;
- A person with training in biology or another scientific discipline;
- A person with training as an attorney;
- A physician;
- A person with training as an engineer; and
- Two residents of Lake County appointed by the Lake County legislative delegation who do not meet any of the other qualifications for membership on the council.²⁶

The council works with an advisory group composed of regional, state, and federal entities.²⁷

Clay Settling Areas

In Florida, phosphate mining occurs primarily in central Florida. There are 27 phosphate mines in the state covering more than 491,900 acres.²⁸ The Florida Legislature requires the reclamation of lands mined for phosphate after July 1, 1975. Reclamation standards for phosphate lands include contouring to safe slopes, providing for acceptable water quality and quantity, vegetation, and the return of wetlands to pre-mining type, nature, function, and acreage.²⁹ A byproduct of phosphate mining is clay, which is deposited in impoundment areas to allow additional settling of the clays.³⁰ Mining areas must be reclaimed after the completion of mining operations.³¹ Reclamation of mining areas must be completed according to a schedule detailed in s. 379.209, F.S. If a mining operator cannot comply with the schedule, the operator must post one or more of several forms of security.³²

The DEP has encouraged prolonged use of clay settling areas in order to minimize the total acreage used for settling, reduce reclamation delays in areas of the mine that are not used for clay settling, and reduce the number of dams that need to be built. Changes in mining practices to utilize clay-settling areas for longer periods of time have resulted in delays in reclamation of those areas, which has triggered the requirement for operators to post the required financial assurance.³³

²⁵ *Id.*

²⁶ Section 373.467, F.S.

²⁷ *Id.*

²⁸ DEP, *Phosphate Mines*, <http://www.dep.state.fl.us/water/mines/manpho.htm> (last visited Jan. 15, 2016).

²⁹ *Id.*

³⁰ *Id.*

³¹ Section 378.209(1), F.S.

³² Section 378.208(2)(a)-(f), F.S.

³³ DEP, *House Bill 589 Agency Analysis* (Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

Water Quality Credit Trading

Water quality credit trading provides a potentially less costly option for meeting the pollution limits for an impaired waterbody. It is a voluntary, market-based approach for reducing pollution to Florida's impaired rivers, lakes, streams, and estuaries.³⁴

The underlying theory is that achieving pollution abatement at the lowest incremental cost at each additional increment reduced is the most cost effective means to achieve pollution abatement. Trading is based on the premise that different dischargers of a pollutant in a watershed can face substantially different costs to control that pollutant. Trading allows pollutant reduction activities to be valued in the form of credits that can then be traded on a local market to promote cost-effective water quality improvements.³⁵ Water quality credits are generated when a discharger reduces its loading of a given pollutant below the load allowable for the discharger.³⁶ Financial savings accrue to parties that buy credits (pollutant reductions) from others for less than the cost of implementing the reductions themselves. Those that sell credits will do so only if the value of the trade is equal to or higher than their investment in the facilities or activities necessary to achieve the pollutant reductions.³⁷

Water quality credit trading can accelerate cleanup because potentially unaffordable costs for individual dischargers can be reduced and cooperative relationships built through trading agreements that foster shared responsibility and commitment. Trading can also accommodate new growth, including new pollutant loadings from urban stormwater, and domestic and industrial wastewater discharges. It offers the possibility for the owners of potential new or increased discharges to purchase credits from existing dischargers so that overall pollutant loads to a watershed are not increased and water quality is preserved.³⁸

Pursuant to Florida Administrative Code Rule 60-306.400(1), activities that are potentially eligible to generate credits include, but are not limited to:

- Installation or modification of water pollution control equipment or activities that are not required to meet pollution control obligations that reduce nutrient loads below those required;
- Operational changes or the modification of a process or process equipment that reduce the quantity of water discharged through reuse, recycling, water conservation, or other measures and thereby reduce the load of nutrient discharged;
- Implementation of structural nonpoint source management controls;

³⁴ DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature*, 1 (Oct. 2010), available at <http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf> (last visited Jan. 15, 2016).

³⁵ *Id.* at 1-2.

³⁶ Lower St. Johns River TMDL Executive Committee, *Basin Management Action Plan: For the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the Florida Department of Environmental Protection for the Lower St. Johns River Basin Main Stem*, 53 (October 2008), available at <http://www.dep.state.fl.us/water/watersheds/docs/bmap/adopted-lsjr-bmap.pdf> (last visited Jan. 14, 2016).

³⁷ DEP, *The Pilot Water Quality Credit Trading Program for the Lower St. Johns River: A Report to the Governor and Legislature*, 2 (Oct. 2010), available at <http://www.dep.state.fl.us/water/wqssp/docs/WaterQualityCreditReport-101410.pdf> (last visited Jan. 14, 2016). See also Fla. Admin. Code R. 62-306, for rules pertaining to water quality credit trading in Florida.

³⁸ *Id.*

- Installation, operation and maintenance of new drainage projects designed to treat stormwater;
- Implementation by agricultural operations of soil or water treatment technologies or water-quality enhancing production practices or systems that are confirmed in writing by the Department of Agriculture and Consumer Services;
- Other pollution controls, technologies or management practices with a demonstrated ability to reduce nutrient loads below those required;
- A documented change in land use that goes beyond normal crop rotations or other standard agronomic practices that results in a reduction of nutrient loads below those required.

Variations

The Florida Air and Water Pollution Control Act was enacted in 1967.³⁹ The legislative declaration states in part that, “[t]he pollution of the air and waters of this state constitute a menace to the public health and welfare; create public nuisances; is harmful to wildlife and fish and other aquatic life; and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of the air and water.”⁴⁰

Section 403.201, F.S., allows the DEP to grant a variance from provisions of the act or adopted rules and regulations. A variance may be granted for one of the following reasons:

- There is no practicable means known or available for the adequate control of the pollution;
- Compliance with the requirements of the variance will require extensive cost and time, therefore, a variance may be issued with a timetable for the actions required; or
- To relieve or prevent hardship. The variances granted under this provision are limited to 24 months. A variance granted for electrical power plant and transmission line siting, as described in Part II of ch. 403, F.S., may be granted for the life of the permit.⁴¹

The State of Florida is granted authority from the federal government to administer programs such as the CWA, governing water pollution, and the Resource Conservation and Recovery Act (RCRA), governing hazardous waste management. “The most important feature of authorization is the State’s agreement to issue permits that conform to the regulatory requirements of the law, to inspect and monitor activities subject to regulation, to take appropriate enforcement action against violators and to do so in a manner no less stringent than the Federal program.”⁴²

Therefore, Florida Statutes prohibit any variance for the discharge of waste into state waters or for hazardous waste management that would result in the requirement being less stringent than an applicable federal requirement. However, research, development, and demonstration permits under s. 403.70715, F.S., are exempt from this provision.⁴³

Relief mechanisms may be included in a permit when the natural conditions for the impacted area results in limits that exceed what is authorized in the permit. The relief mechanisms include:

- A site specific alternative criteria for each water quality criteria;

³⁹ Chapter 67-436, Laws of Fla.

⁴⁰ Section 403.021(1), F.S.

⁴¹ Section 403.201(1)(a)-(c), F.S.

⁴² DEP, *Hazardous Waste Regulation Section*, available at <http://www.dep.state.fl.us/waste/categories/hwRegulation/> (last visited on January 18, 2016).

⁴³ Section 403.201(2), F.S.

- A variance or exemption for each water quality criteria;
- A variance or exemption for a public water system from the maximum contaminant level or treatments techniques;
- A variance from other permitting standards or conditions; or
- A major or minor exemption for an aquifer.⁴⁴

Flow Control Ordinances

Flow control ordinances are ordinances implemented by a local government to require haulers to dispose of solid waste at government-approved waste facilities or within a specific geographic jurisdiction.⁴⁵ Flow control ordinances are used to assure that the designated facility or facilities are assured of receiving a guaranteed amount of waste so that they are assured a source of revenue to meet their capital costs.⁴⁶

Use of flow controls took hold in the late 1970s. State and local governments began using flow controls to support the development of new waste management facilities, particularly those requiring relatively large capital investments such as waste to-energy (WTE) facilities and high-technology materials recovery facilities (MRFs). Flow controls were one mechanism State and local governments could use to help finance these costly facilities. To construct these facilities, local governments often issued revenue bonds, which were to be repaid out of the revenues (tipping fees) the facilities generated. Flow controls ensured receipt of enough waste or recyclable materials to generate sufficient revenue to pay facility debt service and other fixed costs.

Section 403.713, F.S., authorizes local governments to control the collection and disposal of solid waste and institute a flow control ordinances for the purpose of ensuring that a resource recovery⁴⁷ facility receives and adequate quantity of solid waste.

Landfill Gas-to-Energy Systems

Landfill gas (LFG) is created when organic waste in a solid waste landfill decomposes.⁴⁸ This gas consists of about 50% methane (the primary component of natural gas), about 50% carbon dioxide (CO₂), and a small amount of non-methane organic compounds (NMOCs).⁴⁹ Instead of being allowed to escape into the air, LFG can be captured, converted, and used as an energy source.⁵⁰ Using LFG helps to reduce odors and other hazards associated with LFG emissions,

⁴⁴ Fla. Admin. Code R. 62-4.050.

⁴⁵ Note that flow control ordinances that benefit of publically owned facilities do not violate the U.S. Commerce Clause even though they provide a particular benefit to in-state interests because they treat all private businesses the same way. *United Haulers Ass'n, Inc. v. Oneida-Herkimer Solid Waste Management Authority*, 550 U.S. 330 (2007).

⁴⁶ U.S. Env. Protection Agency, *Report to Congress on Flow Control and Municipal Solid Waste*, I-3 (1992), available at <http://www3.epa.gov/epawaste/nonhaz/municipal/landfill/flowctrl.htm>.

⁴⁷ Resource recovery is defined as “the process of recovering materials or energy from solid waste, excluding those materials or solid waste under control of the Nuclear Regulatory Commission.” Fla. Admin. Code R. 62-701.200.

⁴⁸ U.S. Env. Protection Agency, LFG Energy Projects, <http://www.epa.gov/outreach/lmop/faq/lfg.html> (last visited Jan 14, 2016).

⁴⁹ Id.

⁵⁰ Id.

and helps prevent methane from migrating into the atmosphere and contributing to local smog and global climate change.⁵¹

In 2010, Orange County, Florida and the Orlando Utilities Commission won an award from the U.S. Environmental Protection Agency (EPA) as part of its Landfill Methane Outreach Program. The landfill is one of the largest in the country and in 2010 the EPA found that:

- The carbon sequestered annually was the equivalent of 12,100 acres of pine or fir forests, annual greenhouse gas emissions from 10,900 passenger vehicles, or carbon dioxide emissions from 132,500 barrels of oil consumed.
- The annual energy savings equate to powering 7,300 homes.
- The revenue generated to Orange County each year for landfill gas rights was \$400,000.⁵²

In 2015, Sarasota County in partnership with Aria Energy opened a landfill gas to energy facility in Sarasota County. The facility is estimated to produce enough energy to power 2,800 homes and reduce carbon dioxide emissions by 236,000 metric tons.⁵³

Solid Waste Management Trust Fund

Section 403.709, F.S., creates the Solid Waste Management Trust Fund (SWMTF) to fund solid waste management activities. Funds deposited in the SWMTF include penalties for littering;⁵⁴ waste tire fees;⁵⁵ and oil related fees, fines and penalties.⁵⁶ DEP must allocate funds deposited in the SWMTF in the following manner:

- Up to 40 percent for funding solid waste activities of DEP and other state agencies, such as providing technical assistance to local governments and the private sector, performing solid waste regulatory and enforcement functions, preparing solid waste documents, and implementing solid waste education programs.
- Up to 4.5 percent for funding research and training programs relating to solid waste management through the Center for Solid and Hazardous Waste Management.
- Up to 14 percent to use for funding to supplement any other funds provided to the Department of Agriculture and Consumer Services for mosquito control.
- Up to 4.5 percent for funding to the Department of Transportation for litter prevention and control programs through a certified Keep America Beautiful Affiliate at the local level.
- A minimum of 37 percent for funding a solid waste management grant program pursuant to s. 403.7095, F.S., for activities relating to recycling and waste reduction, including waste tires requiring final disposal.⁵⁷

⁵¹ *Id.*

⁵² U.S. Env. Protection Agency, *Project Profile* (2010), <http://www3.epa.gov/lmop/projects-candidates/profiles/orangecountyfloridaandorl.html> (last visited January 18, 2016).

⁵³ Sarasota County, *Landfill Gas to Energy Facility: Fact Sheet* (May 2015), https://www.scgov.net/Solid_Waste/Documents/Landfill%20Gas-to-Energy%20Fact%20Sheet.pdf (last visited January 18, 2016).

⁵⁴ Section 403.413(6)(a), F.S.

⁵⁵ Section 403.718(2), F.S.

⁵⁶ Section 403.759, F.S.

⁵⁷ Section 403.709(1), F.S.

Landfill Closure

The DEP is responsible for implementing and enforcing the state solid waste management program, which provides guidelines for the storage, separation, processing, recovery, recycling, and disposal of solid waste.⁵⁸ Counties are responsible for operating solid waste disposal facilities, which are permitted by the DEP, in order to meet the needs of incorporated and unincorporated areas of the county.⁵⁹

Florida Administrative Code Chapters 62-701 through 62-722 establish standards for the construction, operations, and closure of solid waste management facilities.⁶⁰ Landfills or solid waste disposal sites that close require a closure permit issued by the DEP or a closure plan approved by the DEP. The closure plan includes:

- A closure design plan;
- A closure operation plan;
- A long-term care plan; and
- A demonstration that proof of financial assurance for long-term care will be provided.⁶¹

Every owner or operator of a landfill is liable for the improper operation and closure of a landfill.⁶² The owner or operator of a landfill owned or operated by a local or state government or the Federal Government is required to establish a fee, a surcharge on existing fees, or other appropriate revenue-producing mechanism, to ensure the availability of financial resources for the proper closure of the landfill.⁶³

Operators of solid waste disposal units must receive a closure permit to close a landfill.⁶⁴ Solid waste disposal units must close within 180 days after they cease receiving waste, or within the time frame set forth in the facility's approved closure plan.⁶⁵

These facilities must also perform long-term care for 30 years.⁶⁶ This includes monitoring and maintaining the integrity and effectiveness of the final cover, controlling erosion, filling subsidences, complying with a water quality monitoring plan, maintaining a leachate collection system, measuring the volumes of leachate removed, and maintaining a stormwater system.⁶⁷

Section 403.709(5), F.S., creates a solid waste landfill closure account within the SWMTF to provide funds for the closing and long-term care of solid waste management facilities. The closure account receives funds from insurance certificates provided as proof of financial assurance. DEP may use those funds to contract with a third party for the closing and long-term care of a solid waste management facility if:

⁵⁸ Section 403.705, F.S.

⁵⁹ Section 403.706, F.S.

⁶⁰ Fla. Admin. Code R. 62-701.100.

⁶¹ Fla. Admin. Code R. 62-701.600(2).

⁶² Section 403.7125(1), F.S.

⁶³ Section 403.7125(2), F.S.

⁶⁴ Fla. Admin. Code R. 62-701.600(2).

⁶⁵ Fla. Admin. Code R. 62-701.600(3)(f)2..

⁶⁶ Fla. Admin. Code R. 62-701.620(1)

⁶⁷ *Id.*

- The facility has or had a DEP permit to operate the facility;
- The permittee provided proof of financial assurance for closure in the form of an insurance certificate;
- The facility is deemed to be abandoned or was ordered to close by DEP;
- Closure is accomplished in substantial accordance with a closure plan approved by DEP; and
- DEP has written documentation that the insurance company issuing a closure insurance policy will provide or reimburse the funds required to complete closing and long-term care of the facility.

The closure account was created within the 2015 implementing bill and is set to expire July 1, 2016.⁶⁸

The DEP provides that in cases where there is a viable insurance policy provided for the purposes of financial assurance, the contractor or the DEP can be reimbursed by the insurance company for the allowable closure costs covered by the financial assurance related insurance policy. Currently, there are five solid waste management facilities that are covered by insurance policies and require closure work by contractors to minimize adverse environmental impacts.⁶⁹

III. Effect of Proposed Changes:

Section 1 amends s. 373.227, F.S., to:

- Prohibit modification of a CUP allocation during the permit term if documented conservation measures beyond those required in the CUP, including best management practices, result in decreased water use, and require WMDs to adopt rules providing water conservation incentives, which may include limited permit extensions; and
- Prohibit the reduction of permitted water use authorized by a CUP for agricultural irrigation during the term of the CUP if actual water use is less than permitted use due to weather, crop disease, nursery stock availability, market conditions, or changes in crop type.

Section 2 amends s. 373.323, F.S., to change the number of letters attesting to the length of time an applicant wishing to take the water well contractor licensure examination has been engaged in the business of the construction, repair, or abandonment of water wells. The bill requires a letter from a water well contractor or a letter from a water well inspector employed by a governmental agency, rather than letters from both.

Section 3 amends s. 373.467, F.S., to revise the membership requirements for the Harris Chain of Lakes Restoration Council. One member must be a person with experience in environmental science or regulation, rather than an environmental engineer. It requires an attorney and an engineer, rather than individuals that have training in either discipline. It also clarifies that the two members, who are residents of the county, are not required to meet any of the other requirements of membership to be appointed to the council. As the statute is currently written, it appears those two members are prohibited from meeting any of the other requirements for membership. The bill provides that the Lake County legislative delegation may waive the

⁶⁸ Ch. 2015-222, s. 53, Laws of Fla.

⁶⁹ DEP, *House Bill 589 Agency Analysis* (Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

qualifications for membership on a case-by-case basis for good cause. The bill provides that resignation by a council member, or removal of a council member for failure to attend three consecutive meetings without an excuse approved by the chair of the committee results in a vacancy on the council.

Section 4 amends s. 373.705, F.S., to require the WMDs to promote expanded cost-share criteria for additional conservation practices, such as soil and moisture sensors and other irrigation improvements, water-saving equipment, and water-saving household fixtures, and software technologies that can achieve verifiable water conservation by providing water use information to utility customers.

Section 5 amends s. 378.209, F.S., to provide that if the beneficial use of a clay settling area has been extended, the rate of reclamation requirements and financial assurance requirements for phosphate mines do not become applicable until the beneficial use of the area is completed.

Section 6 amends s. 403.061, F.S., to require the DEP to adopt by rule a specific surface water classification to protect surface waters used for treated potable water supply. Waters classified under this section must have the same water quality criteria as that for Class III waters. This new classification will allow utilities to withdraw water for potable use from a waterbody classified as Class II or III, so long as it does not require significant alteration of permitted treatment processes or prevent compliance with applicable state drinking water standards. Regardless, this classification or the inclusion of treated water supply as a designated use of a surface water does not prevent a surface water used for treated potable water supply from being reclassified as water designated for potable water supply (Class I).

Section 7 amends s. 403.067, F.S., to allow the DEP to authorize the generation of credits for water quality credit trading for land set-asides and land-use modifications, including constructed wetlands and other water quality improvement projects, which reduce nutrient loads into nutrient-impaired surface waters. The DEP provides that it already has this authority and has adopted rules that allow such trades.⁷⁰

Section 8 amends s. 403.201, F.S., to modify the prohibition against granting a variance that would result in the provision or requirement being less stringent than federal law. The bill authorizes moderating provisions or requirements, subject to any necessary approval by the United States Environmental Protection Agency.

Section 9 amends s. 403.709, F.S., to delete the July 1, 2016 expiration date for the solid waste landfill closure account within the Solid Waste Management Trust Fund.

Section 10 amends s. 403.713, F.S., to provide that a local government may only institute a flow control ordinance after it owns, and actively uses, a resource recovery facility and the local government proves the necessity of instituting flow control to ensure sufficient materials for that facility. The bill also provides that a flow control ordinance does not limit the ability of other entities and districts to contract for waste management services.

⁷⁰ See Fla. Admin. Code R. 62-306.400.

The bill also specifies that landfill gas-to-energy systems or facilities are not a resource recovery facility for purposes of exercising flow control authority, meaning that flow control ordinances may not be enacted that require waste to be sent to a landfill gas-to-energy system or facility.

Section 11 amends s. 403.861, F.S., to require the DEP to establish rules concerning the use of surface waters for treated potable public water supply.

The bill provides that when a construction permit is issued to construct a new public water system drinking water treatment facility to provide potable water using a surface water of the state that, at the time of the permit application, is not being used as a potable water supply, and the classification of which does not include potable water supply as a designated use, the DEP must add treated potable water supply as a designated use of the surface water segment.

The bill provides that for existing public water system drinking water treatment facilities that use a surface water of the state as a treated potable water supply, and the surface water classification does not include potable water as a designated use, the DEP shall add treated potable water supply as a designated use of the surface water segment.

Section 12 reenacts s. 373.414(17), F.S., due to changes made by the bill.

Section 13 provides an appropriation for the 2016-2017 fiscal year of \$2,339,764 in nonrecurring funds to the DEP from the Solid Waste Management Trust Fund for the closing and long-term care of solid waste management facilities. The DEP provides that it has requested \$1,000,000 for fiscal year 2016-2017 for similar closure activities.⁷¹

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁷¹ DEP, *House Bill 589 Agency Analysis* (Jan. 4, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

B. Private Sector Impact:

The bill may have a negative, indeterminate fiscal impact on rate payers if potable water supply systems must use more expensive treatment options in order to treat water from a Class III water body and if those costs are passed on to rate payers. The DEP reports that this is possible but unlikely.⁷²

The bill may have a positive, indeterminate fiscal impact on phosphate mine operators by exempting them from the financial assurance requirements concerning the reclamation of a clay settling area when its beneficial use has been extended, until its beneficial use has been completed.

C. Government Sector Impact:

The bill could have a negative, indeterminate fiscal impact on local governments if a flow control ordinance may only be adopted after a local government owns, actively uses, and proves the necessity of instituting flow control when securing funding for a resource recovery facility.

The DEP provides that incidental expenditures are estimated to range from \$10,000 to \$20,000, associated with initial rulemaking requirements associated with the treated potable water classification.⁷³

VI. Technical Deficiencies:

None.

VII. Related Issues:

Section 5 of the bill states that reclamation requirements do not apply to a constructed clay settling area “if the beneficial use of such area has been extended.” This wording is somewhat unclear. There is no provision in statute or rule that defines what “beneficial use” is in relation to clay settling areas or who determines whether the beneficial use has been completed.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 373.227, 373.323, 373.467, 373.705, 378.209, 403.061, 403.067, 403.201, 403.709, 403.713, and 403.861.

IX. Additional Information:

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

CS by Environmental Preservation and Conservation on January 20, 2016:

For constructed clay settling areas, the CS provides that if the beneficial use of a clay

⁷² *Id.*

⁷³ *Id.*

settling area has been extended, the rate of reclamation and financial assurance requirements do not become applicable until the beneficial use of the area is completed.

Section 403.709, F.S., establishes the solid waste landfill closure account within the Solid Waste Management Trust Fund. The subsection establishing the account expires July 1, 2016. The CS removes the sunset provision.

B. Amendments:

None.

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



473354

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2016	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Hays) recommended the following:

Senate Amendment (with title amendment)

Delete lines 155 - 158

and insert:

(4) If the beneficial use of a constructed clay settling
area has been extended, the rate of reclamation requirements in
paragraphs (1)(a)-(e) and the requirements of s. 378.208 shall
become applicable for such area when the beneficial use of such
area is completed.



473354

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

12 And the title is amended as follows:

13 Delete line 24

14 and insert:

15 requirements under certain conditions; amending s.

16 403.061, F.S.; requiring the



797072

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/20/2016	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation
(Hays) recommended the following:

Senate Amendment (with title amendment)

Between lines 212 and 213
insert:

Section 9. Subsection (5) of section 403.709, Florida
Statutes, is amended to read:

403.709 Solid Waste Management Trust Fund; use of waste
tire fees.—There is created the Solid Waste Management Trust
Fund, to be administered by the department.

(5) (a) Notwithstanding subsection (1), a solid waste



797072

11 landfill closure account is established within the Solid Waste
12 Management Trust Fund to provide funding for the closing and
13 long-term care of solid waste management facilities. The
14 department may use funds from the account to contract with a
15 third party for the closing and long-term care of a solid waste
16 management facility if:

17 1. The facility has or had a department permit to operate
18 as a solid waste management ~~the~~ facility;

19 2. The permittee provided proof of financial assurance for
20 closure in the form of an insurance certificate;

21 3. The department deemed the facility ~~is deemed~~ to be
22 abandoned or ~~was~~ ordered the facility to close ~~by the~~
23 ~~department~~;

24 4. Closure is accomplished in substantial accordance with a
25 closure plan approved by the department; and

26 5. The department has written documentation that the
27 insurance company issuing the closure insurance policy will
28 provide or reimburse the funds required to complete closing and
29 long-term care of the facility.

30 (b) The department shall deposit the funds received from
31 the insurance company as reimbursement for the costs of the
32 closure ~~closing~~ or long-term care of the facility into the solid
33 waste landfill closure account.

34 ~~(c) This subsection expires July 1, 2016.~~

35
36 ===== T I T L E A M E N D M E N T =====

37 And the title is amended as follows:

38 Delete line 38

39 and insert:



797072

40 management; amending s. 403.709, F.S.; making
41 technical changes; deleting a scheduled repeal date;
42 amending s. 403.713, F.S.; authorizing

By Senator Hays

11-00472A-16

20161052__

1 A bill to be entitled
2 An act relating to environmental control; amending s.
3 373.227, F.S.; prohibiting water management districts
4 from modifying or reducing consumptive use permit
5 allocations if actual water use is less than permitted
6 water use due to water conservation measures or
7 specified circumstances; requiring water management
8 districts to adopt rules providing water conservation
9 incentives, including permit extensions; amending s.
10 373.323, F.S.; revising eligibility requirements for
11 taking the water well contractor licensure
12 examination; amending s. 373.467, F.S.; revising
13 membership qualifications for the Harris Chain of
14 Lakes Restoration Council; authorizing the Lake County
15 legislative delegation to waive such membership
16 qualifications for good cause; providing that
17 resignation or removal of a council member results in
18 a council vacancy; amending s. 373.705, F.S.;
19 requiring water management districts to promote
20 expanded cost-share criteria for additional
21 conservation practices; amending s. 378.209, F.S.;
22 exempting certain constructed clay settling areas from
23 reclamation rate and financial responsibility
24 requirements; amending s. 403.061, F.S.; requiring the
25 Department of Environmental Protection to adopt by
26 rule a specific surface water classification to
27 protect surface waters used for treated potable water
28 supply; providing criteria for such rule; authorizing
29 the reclassification of surface waters used for

11-00472A-16

20161052__

30 treated potable water supply notwithstanding such
31 rule; amending s. 403.067, F.S.; authorizing the use
32 of land set-asides and land use modifications,
33 including constructed wetlands or other water quality
34 improvement projects, in water quality credit trading;
35 amending s. 403.201, F.S.; providing applicability of
36 prohibited variances concerning discharges of waste
37 into waters of the state and hazardous waste
38 management; amending s. 403.713, F.S.; authorizing
39 local governments to implement a flow control
40 ordinance only upon ownership and utilization of a
41 resource recovery facility and a proven need of flow
42 control for the facility; excluding landfill gas-to-
43 energy systems and facilities from being classified as
44 resource recovery facilities under certain
45 circumstances; amending s. 403.861, F.S.; requiring
46 the department to add treated potable water supply as
47 a designated use of a surface water segment under
48 certain circumstances; reenacting s. 373.414(17),
49 F.S., relating to variances for activities in surface
50 waters and wetlands, to incorporate the amendment made
51 by the act to s. 403.201, F.S., in a reference
52 thereto; providing an appropriation; providing an
53 effective date.

54
55 Be It Enacted by the Legislature of the State of Florida:

56
57 Section 1. Present subsection (5) of section 373.227,
58 Florida Statutes, is renumbered as subsection (7), and new

11-00472A-16

20161052__

59 subsections (5) and (6) are added to that section, to read:

60 373.227 Water conservation; legislative findings and
61 intent; objectives; comprehensive statewide water conservation
62 program requirements.-

63 (5) To incentivize water conservation, if actual water use
64 is less than permitted water use due to documented
65 implementation of water conservation measures beyond those
66 required in a consumptive use permit, including, but not limited
67 to, those measures identified in best management practices
68 pursuant to s. 570.93, the permitted allocation may not be
69 modified solely due to such water conservation during the term
70 of the permit. To promote water conservation and the
71 implementation of measures that produce significant water
72 savings beyond those required in a consumptive use permit, each
73 water management district shall adopt rules providing water
74 conservation incentives, which may include limited permit
75 extensions.

76 (6) For consumptive use permits for agricultural
77 irrigation, if actual water use is less than permitted water use
78 due to weather events, crop diseases, nursery stock
79 availability, market conditions, or changes in crop type, a
80 district may not, as a result, reduce permitted allocation
81 amounts during the term of the permit.

82 Section 2. Paragraph (b) of subsection (3) of section
83 373.323, Florida Statutes, is amended to read:

84 373.323 Licensure of water well contractors; application,
85 qualifications, and examinations; equipment identification.-

86 (3) An applicant who meets the following requirements shall
87 be entitled to take the water well contractor licensure

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88 examination:

89 (b) Has at least 2 years of experience in constructing,
90 repairing, or abandoning water wells. Satisfactory proof of such
91 experience shall be demonstrated by providing:

92 1. Evidence of the length of time the applicant has been
93 engaged in the business of the construction, repair, or
94 abandonment of water wells as a major activity, as attested to
95 by a letter from a water well contractor or ~~and~~ a letter from a
96 water well inspector employed by a governmental agency.

97 2. A list of at least 10 water wells that the applicant has
98 constructed, repaired, or abandoned within the preceding 5
99 years. Of these wells, at least seven must have been
100 constructed, as defined in s. 373.303(2), by the applicant. The
101 list shall also include:

102 a. The name and address of the owner or owners of each
103 well.

104 b. The location, primary use, and approximate depth and
105 diameter of each well that the applicant has constructed,
106 repaired, or abandoned.

107 c. The approximate date the construction, repair, or
108 abandonment of each well was completed.

109 Section 3. Paragraph (a) of subsection (1) and subsection
110 (3) of section 373.467, Florida Statutes, are amended to read:

111 373.467 The Harris Chain of Lakes Restoration Council.—
112 There is created within the St. Johns River Water Management
113 District, with assistance from the Fish and Wildlife
114 Conservation Commission and the Lake County Water Authority, the
115 Harris Chain of Lakes Restoration Council.

116 (1) (a) The council shall consist of nine voting members,

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117 which shall include~~+~~ a representative of waterfront property
118 owners, a representative of the sport fishing industry, a person
119 with experience in an environmental science or regulation
120 ~~engineer~~, a person with training in biology or another
121 scientific discipline, ~~a person with training as an attorney, a~~
122 ~~physician, a person with training as an engineer~~, and two
123 residents of the county who are ~~de~~ not required to meet any
124 additional ~~of the other~~ qualifications for membership enumerated
125 in this paragraph, each to be appointed by the Lake County
126 legislative delegation. The Lake County legislative delegation
127 may waive the qualifications for membership on a case-by-case
128 basis if good cause is shown. ~~A~~ ~~No~~ person serving on the council
129 may not be appointed to a council, board, or commission of any
130 council advisory group agency. The council members shall serve
131 as advisors to the governing board of the St. Johns River Water
132 Management District. The council is subject to the provisions of
133 chapters 119 and 120.

134 (3) The council shall meet at the call of its chair, at the
135 request of six of its members, or at the request of the chair of
136 the governing board of the St. Johns River Water Management
137 District. Resignation by a council member, or removal of a
138 council member for failure to attend three consecutive meetings
139 without an excuse approved by the chair, shall result in a
140 vacancy on the council.

141 Section 4. Subsection (5) is added to section 373.705,
142 Florida Statutes, to read:

143 373.705 Water resource development; water supply
144 development.—

145 (5) The water management districts shall promote expanded

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146 cost-share criteria for additional conservation practices, such
147 as soil and moisture sensors and other irrigation improvements,
148 water-saving equipment, water-saving household fixtures, and
149 software technologies that can achieve verifiable water
150 conservation by providing water use information to utility
151 customers.

152 Section 5. Subsection (4) is added to section 378.209,
153 Florida Statutes, to read:

154 378.209 Timing of reclamation.—

155 (4) The rate of reclamation requirements in paragraphs
156 (1) (a)-(e) and the requirements of s. 378.208 do not apply to a
157 constructed clay settling area if the beneficial use of such
158 area has been extended.

159 Section 6. Subsection (29) of section 403.061, Florida
160 Statutes, is amended to read:

161 403.061 Department; powers and duties.—The department shall
162 have the power and the duty to control and prohibit pollution of
163 air and water in accordance with the law and rules adopted and
164 promulgated by it and, for this purpose, to:

165 (29) (a) Adopt by rule special criteria to protect Class II
166 and Class III shellfish harvesting waters. Such rules may
167 include special criteria for approving docking facilities that
168 have 10 or fewer slips if the construction and operation of such
169 facilities will not result in the closure of shellfish waters.

170 (b) Adopt by rule a specific surface water classification
171 to protect surface waters used for treated potable water supply.
172 These designated surface waters shall have the same water
173 quality criteria protections as waters designated for fish
174 consumption, recreation, and the propagation and maintenance of

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175 a healthy, well-balanced population of fish and wildlife, and
176 shall be free from discharged substances at a concentration
177 that, alone or in combination with other discharged substances,
178 would require significant alteration of permitted treatment
179 processes at the permitted treatment facility or that would
180 otherwise prevent compliance with applicable state drinking
181 water standards in the treated water. Notwithstanding this
182 classification or the inclusion of treated water supply as a
183 designated use of a surface water, a surface water used for
184 treated potable water supply may be reclassified to the potable
185 water supply classification.

186
187 The department shall implement such programs in conjunction with
188 its other powers and duties and shall place special emphasis on
189 reducing and eliminating contamination that presents a threat to
190 humans, animals or plants, or to the environment.

191 Section 7. Paragraph (i) is added to subsection (8) of
192 section 403.067, Florida Statutes, to read:

193 403.067 Establishment and implementation of total maximum
194 daily loads.—

195 (8) WATER QUALITY CREDIT TRADING.—

196 (i) Land set-asides and land use modifications not
197 otherwise required by state law or a permit, including
198 constructed wetlands or other water quality improvement
199 projects, that reduce nutrient loads into nutrient impaired
200 surface waters may be used under this subsection.

201 Section 8. Subsection (2) of section 403.201, Florida
202 Statutes, is amended to read:

203 403.201 Variances.—

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204 (2) ~~A No~~ variance may not ~~shall~~ be granted from any
205 provision or requirement concerning discharges of waste into
206 waters of the state or hazardous waste management which would
207 result in the provision or requirement being less stringent than
208 a comparable federal provision or requirement, except as
209 provided in s. 403.70715. However, this subsection does not
210 prohibit the issuance of moderating provisions or requirements
211 under state law, subject to any necessary approval by the United
212 States Environmental Protection Agency.

213 Section 9. Subsection (2) of section 403.713, Florida
214 Statutes, is amended, and subsection (3) is added to that
215 section, to read:

216 403.713 Ownership and control of solid waste and recovered
217 materials.—

218 (2) Any local government that ~~which~~ undertakes resource
219 recovery from solid waste pursuant to general law or special act
220 may institute a flow control ordinance for the purpose of
221 ensuring that the resource recovery facility receives an
222 adequate quantity of solid waste from solid waste generated
223 within its jurisdiction. Such authority does ~~shall~~ not extend to
224 recovered materials, whether separated at the point of
225 generation or after collection, which ~~that~~ are intended to be
226 held for purposes of recycling pursuant to the requirements of
227 this part; however, the handling of such materials is ~~shall be~~
228 subject to applicable state and local public health and safety
229 laws. A flow control ordinance may be instituted under this
230 section by a local government only after it owns, and actively
231 uses, a resource recovery facility and the local government
232 proves the necessity of instituting flow control to ensure

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233 sufficient materials for that resource recovery facility. A flow
234 control ordinance also does not limit the ability of other
235 entities and districts to contract for waste management
236 services.

237 (3) For the purposes of exercising flow control authority
238 under this section, a resource recovery facility does not
239 include a landfill gas-to-energy system or facility.

240 Section 10. Subsection (21) is added to section 403.861,
241 Florida Statutes, to read:

242 403.861 Department; powers and duties.—The department shall
243 have the power and the duty to carry out the provisions and
244 purposes of this act and, for this purpose, to:

245 (21) (a) Upon issuance of a construction permit to construct
246 a new public water system drinking water treatment facility to
247 provide potable water supply using a surface water that, at the
248 time of the permit application, is not being used as a potable
249 water supply, and the classification of which does not include
250 potable water supply as a designated use, the department shall
251 add treated potable water supply as a designated use of the
252 surface water segment in accordance with s. 403.061(29) (b).

253 (b) For existing public water system drinking water
254 treatment facilities that use a surface water as a treated
255 potable water supply, which surface water classification does
256 not include potable water supply as a designated use, the
257 department shall add treated potable water supply as a
258 designated use of the surface water segment in accordance with
259 s. 403.061(29) (b).

260 Section 11. For the purpose of incorporating the amendment
261 made by this act to section 403.201, Florida Statutes, in a

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262 reference thereto, subsection (17) of section 373.414, Florida
263 Statutes, is reenacted to read:

264 373.414 Additional criteria for activities in surface
265 waters and wetlands.—

266 (17) The variance provisions of s. 403.201 are applicable
267 to the provisions of this section or any rule adopted pursuant
268 to this section. The governing boards and the department are
269 authorized to review and take final agency action on petitions
270 requesting such variances for those activities they regulate
271 under this part and s. 373.4145.

272 Section 12. For the 2016-2017 fiscal year, the sum of
273 \$2,339,764 in nonrecurring funds is appropriated to the
274 Department of Environmental Protection from the Solid Waste
275 Management Trust Fund in the Fixed Capital Outlay-Agency
276 Managed-Closing and Long-Term Care of Solid Waste Management
277 Facilities appropriation category for the closing and long-term
278 care of solid waste management facilities.

279 Section 13. This act shall take effect upon becoming a law.

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 Committee on Environmental Preservation and Conservation

BILL: SB 1282

INTRODUCER: Senator Dean

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 19, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Favorable
2.			AGG	
3.			AP	

I. Summary:

SB 1282 revises statutes within chapter 379, F.S., to consolidate the penalties for violations relating to recreational hunting, freshwater fishing, and saltwater fishing violations within with the four-level penalty structure. The bill clarifies existing penalties and revises other penalties. Additionally, the bill:

- Offers violators of recreational hunting, freshwater fishing, and saltwater fishing the option of purchasing the respective license or permit rather than paying the cost of such license or permit without actually receiving it in addition to a civil penalty.
- Defines the term “fish and wildlife” to mean “any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.”
- Expands the scope of the civil penalty for illegally killing, taking, possessing or selling game or fur-bearing animals, while committing burglary or trespassing to include all fish and wildlife.
- Clarifies that spearfishing is authorized by commission rule.
- Authorizes, rather than requires, the commission to retain an administrative fee on donations provided by application to the Southeastern Guide Dogs, Inc.

II. Present Situation:

The Florida Constitution was amended in 1998 to create the Florida Fish and Wildlife Conservation Commission (FWC).¹ The constitution grants the FWC both the regulatory and executive powers of the state with respect to wild animal life and fresh water aquatic life.² The FWC additionally has regulatory and executive powers with respect to marine life, except that all

¹ FWC, Senate Bill 1282, *Agency Legislative Bill Analysis*, pg. 2 (Oct. 23, 2015)(on file with the Senate Committee on Environmental Preservation and Conservation).

² Section 9, Art. IV, Fla. Const.

license fees for taking wild animal life, fresh water aquatic life, and marine life and penalties for violating regulations of the commission are required to be prescribed by general law.³

Certain regulatory functions from three separate agencies the Game and Freshwater Fish Commission, the Marine Fisheries Commission, and the Department of Environmental Protection were combined to create the FWC.⁴ Beginning in 2005, FWC staff began reviewing all recreational wildlife, freshwater fishing, and saltwater fishing penalties, with the goal of proposing a four-level penalty structure to the Legislature which would provide consistency.⁵ In 2006 the Legislature adopted the recommended structure, which provided four levels of classifying violations based upon the seriousness of the violation along with commensurate penalties for each violation.⁶

In 2008 chapter 370, F.S., relating to the state's marine fisheries, and chapter 372, F.S., relating to the state's wildlife and freshwater fisheries statutes, were consolidated into chapter 379, F.S.⁷ The four-level penalty structure was retained, but revised to bring in the majority of FWC's recreational hunting, freshwater fishing, and saltwater fishing violations into one section. Section 379.401, F.S., provides a listing of penalties and violations by level.⁸

Level One Violations

A person commits a Level One violation if he or she violates any of the following provisions:

- Rules or orders of the commission relating to the filing of reports or other documents required to be filed by persons who hold recreational licenses and permits issued by the commission.
- Rules or orders of the commission relating to quota hunt permits, daily use permits, hunting zone assignments, camping, alcoholic beverages, vehicles, and check stations within wildlife management areas or other areas managed by the commission.
- Rules or orders of the commission relating to daily use permits, alcoholic beverages, swimming, possession of firearms, operation of vehicles, and watercraft speed within fish management areas managed by the commission.
- Rules or orders of the commission relating to vessel size or specifying motor restrictions on specified water bodies.
- Section 379.354(1)-(15), F.S., providing for recreational licenses to hunt, fish, and trap.
- Section 379.3581, F.S., providing hunter safety course requirements.
- Section 379.3003, F.S., prohibiting deer hunting unless required clothing is worn.⁹

³ *Id.*

⁴ FWC at 3.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ Section 379.401, F.S.

⁹ Section 379.401(1)(a), F.S.

The penalties for Level One violations are as follows:

Level One violation	Type of Infraction	Civil Penalty
1 st offense for failure to possess the required license or permit under s. 379.354, F.S.	Noncriminal ¹⁰	\$50 plus the cost of the license or permit ¹¹
2 nd offense for failure to possess the required license or permit under s. 379.354, F.S., within 36 months of 1 st offense.	Noncriminal ¹²	\$100 plus the cost of the license or permit ¹³
1 st offense not involving s. 379.354, F.S., license or permit requirements.	Noncriminal ¹⁴	\$50 ¹⁵
2 nd offense not involving s. 379.354, F.S., license or permit ¹⁶ requirements within 36 months of 1 st offense.	Noncriminal ¹⁷	\$100 ¹⁸

Level Two Violations

A person commits a Level Two violation if he or she violates any of the following provisions:

- Rules or orders of the commission relating to seasons or time periods for the taking of wildlife, freshwater fish, or saltwater fish.
- Rules or orders of the commission establishing bag, possession, or size limits or restricting methods of taking wildlife, freshwater fish, or saltwater fish.
- Rules or orders of the commission prohibiting access or otherwise relating to access to wildlife management areas or other areas managed by the commission.
- Rules or orders of the commission relating to the feeding of saltwater fish.
- Rules or orders of the commission relating to landing requirements for freshwater fish or saltwater fish.
- Rules or orders of the commission relating to restricted hunting areas, critical wildlife areas, or bird sanctuaries.
- Rules or orders of the commission relating to tagging requirements for wildlife and fur-bearing animals.
- Rules or orders of the commission relating to the use of dogs for the taking of wildlife.
- Rules or orders of the commission which are not otherwise classified.
- Rules or orders of the commission prohibiting the unlawful use of finfish traps.
- All prohibitions in this chapter which are not otherwise classified.
- Section 379.33, F.S., prohibiting the violation of or noncompliance with commission rules.
- Section 379.407(7), F.S., prohibiting the sale, purchase, harvest, or attempted harvest of any saltwater product with intent to sell.
- Section 379.2421, F.S., prohibiting the obstruction of waterways with net gear.
- Section 379.413, F.S., prohibiting the unlawful taking of bonefish.

¹⁰ Section 379.401(1)(b), F.S.

¹¹ Section 379.401(1)(c)1., F.S.

¹² Section 379.401(1)(b), F.S.

¹³ Section 379.401(1)(c)2., F.S.

¹⁴ Section 379.401(1)(b), F.S.

¹⁵ Section 379.401(1)(d)1., F.S.

¹⁶ Section 379.401(1)(d)2., F.S.

¹⁷ Section 379.401(1)(b), F.S.

¹⁸ Section 379.401(1)(d)2., F.S.

- Section 379.365(2)(a) and (b), F.S, prohibiting the possession or use of stone crab traps without trap tags and theft of trap contents or gear.
- Section 379.366(4)(b), F.S, prohibiting the theft of blue crab trap contents or trap gear.
- Section 379.3671(2)(c), F.S, prohibiting the possession or use of spiny lobster traps without trap tags or certificates and theft of trap contents or trap gear.
- Section 379.357, F.S, prohibiting the possession of tarpon without purchasing a tarpon tag.
- Section 379.105, F.S, prohibiting the intentional harassment of hunters, fishers, or trappers.¹⁹

The penalties for Level Two violations are as follows:

Level 2 Violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense	2 nd Degree Misdemeanor ²⁰	Max. \$500 or Max. 60 days	None
2 nd offense within 3 years of previous Level 2 violation (or higher)	1 st Degree Misdemeanor ²¹	Min. \$250; Max. \$1000 or Max. 1 year	None
3 rd offense within 5 years of two previous Level 2 violations (or higher)	1 st Degree Misdemeanor ²²	Min. \$500; Max. \$1000 or Max. 1 year	Max. suspension of license for 1 year
4 th offense within 10 years of three previous Level 2 violations (or higher)	1 st Degree Misdemeanor ²³	Min. \$750; Max. \$1000 or Max. 1 year	Max. suspension of license for 3 years

Level Three Violations

A person commits a Level Three violation if he or she violates any of the following provisions:

- Rules or orders of the commission prohibiting the sale of saltwater fish.
- Rules or orders of the commission prohibiting the illegal importation or possession of exotic marine plants or animals.
- Section 379.407(2), F.S., establishing major violations.
- Section 379.407(4), F.S, prohibiting the possession of certain finfish in excess of recreational daily bag limits.
- Section 379.28, F.S., prohibiting the importation of freshwater fish.
- Section 379.354(17), F.S., prohibiting the taking of game, freshwater fish, or saltwater fish while a required license is suspended or revoked.
- Section 379.3014, F.S., prohibiting the illegal sale or possession of alligators.
- Section 379.404(1), (3), and (6), F.S., prohibiting the illegal taking and possession of deer and wild turkey.
- Section 379.406, F.S., prohibiting the possession and transportation of commercial quantities of freshwater game fish.²⁴

¹⁹ Section 379.401(2)(a), F.S.

²⁰ Section 379.401(2)(b)1., F.S.

²¹ Section 379.401(2)(b)2., F.S.

²² Section 379.401(2)(b)3., F.S.

²³ Section 379.401(2)(b)4., F.S.

²⁴ Section 379.401(3)(a), F.S.

The penalties for Level Three violations are as follows:

Level Three violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense	1 st Degree Misdemeanor ²⁵	Max. \$1000/ Max. 1 year	None
2 nd offense within 10 years of previous Level 3 violation (or higher)	1 st Degree Misdemeanor ²⁶	Min. \$750; Max. \$1000/ Max. 1 year	Suspension of license or permit for up to 3 years
Fishing, hunting, or trapping on a suspended or revoked license, s. 379.354(17), F.S.	1 st Degree Misdemeanor	Mandatory \$1000 ²⁷ / Max. 1 year	May not acquire license or permit for 5 years

Level Four Violations

A person commits a Level Four violation if he or she violates any of the following provisions:

- Section 379.365(2)(c), F.S., prohibiting criminal activities relating to the taking of stone crabs.
- Section 379.366(4)(c), F.S., prohibiting criminal activities relating to the taking and harvesting of blue crabs.
- Section 379.367(4), F.S., prohibiting the willful molestation of spiny lobster gear.
- Section 379.3671(2)(c)5., F.S., prohibiting the unlawful reproduction, possession, sale, trade, or barter of spiny lobster trap tags or certificates.
- Section 379.354(16), F.S., prohibiting the making, forging, counterfeiting, or reproduction of a recreational license or possession of same without authorization from the commission.
- Section 379.404(5), F.S., prohibiting the sale of illegally-taken deer or wild turkey.
- Section 379.405, F.S., prohibiting the molestation or theft of freshwater fishing gear.
- Section 379.409, F.S., prohibiting the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilia or their eggs.²⁸

The penalties for Level Four violations are as follows:

Level Four violation	Type of Infraction	Civil Penalty or Jail Time	License Restrictions
1 st offense ²⁹	3 rd Degree Felony	Max. \$5000/ Max. 5 years	None

Section 379.401(4)(b), F.S. only references ss. 775.082 and 775.083, F.S., in relation to the punishment available for third degree felonies. Section 775.084, F.S., relating to enhanced penalties for habitual felony offenders or habitual violent felony offenders, is not included.

Section 379.401(5), F.S., provides an additional “catch-all” provision that makes violations of chapter 379, F.S., except as provided elsewhere, for a first offense, a misdemeanor of the second degree, punishable by a definite term of imprisonment not exceeding 60 days or up to a \$500

²⁵ Section 379.401(3)(b)1., F.S.

²⁶ Section 379.401(3)(b)2., F.S.

²⁷ Section 379.401(3)(b)3., F.S.

²⁸ Section 379.401(4)(a), F.S.

²⁹ Section 379.401(4)(b), F.S.

fine. For second or subsequent violations the person commits a misdemeanor of the first degree, punishable by a definite term of imprisonment not exceeding one year or up to a \$1,000 fine.³⁰

Section 379.401(6), F.S., authorizes the court to order the suspension or forfeiture of any license or permit issued under chapter 379, F.S. to a person who is found guilty of committing a violation of the chapter.

In 2014, FWC staff began to review all fish, wildlife, and recreational penalties to ensure that they were “fair, appropriate, meaningful, and consistent.”³¹ The FWC staff discovered, that while the revision in 2008 consolidated a majority of the penalties into the four-level structure, there are statutes relating to recreational activities which have penalties outside of the structure.³² For example, the penalty for violating:

- Section 379.2223, F.S., relating to the control and management of state game lands, is a second degree misdemeanor, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.
- Section 379.2257, F.S., relating to cooperative agreements with the U.S. Forest Service.
- Section 379.29, F.S., relating to contaminating fresh waters, is a second degree misdemeanor, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.
- Section 379.3511, F.S., relating to the appointment of subagents for the sale of hunting, fishing, and trapping licenses and permits, is a second degree misdemeanor, punishable as provided in s. 775.082, F.S. or s. 775.083, F.S.
- Section 379.411, F.S., relating to the killing or wounding of any species designated as endangered, threatened, or of special concern, is a third degree felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.
- Section 379.4115, F.S., relating to the Florida or wild panther, is a third degree felony, punishable as provided in s. 775.082, F.S., s. 775.083, F.S., or s. 775.084, F.S.

In addition to statutes that have penalties outside of the four-level structure, there are statutes within chapter 379, F.S., which do not have specified penalties. Sections 379.401(2)(a)11. and 379.401(5), F.S., both address penalties for prohibitions or violations that are not covered in chapter 379, F.S.

Section 379.401(2)(a)11., F.S., states:

(2)(a) LEVEL TWO VIOLATIONS.—A person commits a Level Two violation if he or she violates any of the following provisions:

11. All prohibitions in this chapter which are not otherwise classified.³³

Section 379.401(5), F.S., states:

(5) VIOLATIONS OF CHAPTER.—Except as provided in this chapter:

(a) A person who commits a violation of any provision of this chapter commits, for the first offense, a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

³⁰ Section 379.401(5), F.S.

³¹ FWC, Senate Bill 1282, *Agency Legislative Bill Analysis*, pg. 7 (Oct. 23, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

³² *Id.*

³³ Section 379.401(2)(a)11., F.S.

(b) A person who is convicted of a second or subsequent violation of any provision of this chapter commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.³⁴

III. Effect of Proposed Changes:

SB 1282 revises various statutes within chapter 379, F.S., to consolidate the penalties for violations relating to recreational hunting, freshwater fishing, and saltwater fishing violations within the four-level penalty structure. The bill clarifies existing penalties and revises other penalties.

Revisions to Clarify Penalties Without Changing the Penalty

Level Two Violations

In chapter 379, F.S., there are multiple sections that do not have a specified penalty. Therefore, the penalty defaults to either a Level Two violation pursuant to s. 379.401(2)(a)11., F.S., or to a second or first degree misdemeanor pursuant to s. 379.401(5), F.S. The bill amends the following sections that do not have specified penalties to clarify that the violations of such sections are Level Two violations:

- Section 379.2425, F.S., relating to spearfishing.
- Section 379.295, F.S., prohibiting the use of explosives and other substances in fresh waters.
- Section 379.3502, F.S., prohibiting the loaning, transferring, or using a borrowed or transferred license or permit.
- Section 379.3503, F.S., prohibiting false statements in an application for a license or permit.
- Section 379.3504, F.S., prohibiting entering false information on licenses or permits.
- Section 379.363, F.S., relating to freshwater fish dealer's licenses.
- Section 379.364, F.S., relating to licenses required for fur and hide dealers.
- Section 379.3751, F.S., relating to required licenses for the taking and possession of alligators.
- Section 379.3752, F.S., relating to required tagging of alligators and hides.

Level Four Violations

In chapter 379, F.S. there are sections that have penalties for violations specified as third degree felonies. The bill amends the following sections to state that the penalties for the violation of the following statutes are Level Four violations, which are punishable as third degree felonies:

- Section 379.409, F.S., prohibiting the unlawful killing, injuring, possessing, or capturing of alligators or other crocodilian or their eggs.
- Section 379.411, F.S., prohibiting the intentional killing or wounding of any species designated as endangered, threatened, or of special concern.
- Section 379.4115, F.S., prohibiting the killing of any Florida or wild panther.

³⁴ Section 379.401(5), F.S.

Section 379.354, F.S., relating to Recreational Licenses and Permits

In s. 379.354, F.S. there are only specified violations for subsections (16) and (17). Therefore, violations of the rest of the section should be Level Two violations by default pursuant to s. 379.401(2)(a)11. or second or first degree misdemeanors pursuant to s. 379.401(5). However, there is a cross-reference in s. 379.401, F.S., that lists violations of subsections (1) through (15) of s. 379.354, F.S. as Level One violations. The bill amends s. 379.354, F.S., to clarify that a person who violates such section, unless otherwise provided, commits a Level One violation under s. 379.401, F.S.

Section 379.365, F.S., relating to Stone Crab Regulations

Any person, other than a commercial harvester, who violates commission rules regulating stone crab trap certificates and trap tags under current law commits a Level Two violation. Because violations relating to the conservation of marine resources are provided in s. 379.407, F.S., the bill removes the Level Two violation. Therefore, any person, other than a commercial harvester, who violates commission rules regulating stone crab trap certificates and trap tags is subject to the following penalties:

- Upon a first conviction, by imprisonment for a period of not more than 60 days or by a fine of not less than \$100 nor more than \$500, or by both such fine and imprisonment.
- On a second or subsequent conviction within 12 months, by imprisonment for not more than 6 months or by a fine of not less than \$250 nor more than \$1,000, or by both such fine and imprisonment.³⁵

Increases or Decreases to Penalties

In chapter 379, F.S., there are sections that have penalties for violations specified as second degree misdemeanors. The penalties for second degree misdemeanors are equivalent to Level Two violations, except that the penalties for repeat offenders are increased for Level Two violations. The bill amends the following sections to change the penalties from second degree misdemeanors to Level Two violations:

- Section 379.29, F.S., prohibiting the contamination of fresh waters.
- Section 379.3511, F.S., relating to the sale of hunting, fishing, and trapping licenses and permits by subagents.

Section 379.2223, F.S., provides that the penalty for violating rules necessary for the protection, control, operation, management, or development of lands or waters owned by, or leased by, or otherwise assigned to the FWC for fish and wildlife management purposes is a second degree misdemeanor. The bill amends this section and provides that a person who violates or fails to comply with such rules is subject to penalties as provided in s. 379.401, F.S.

Section 379.2257, F.S. provides that the penalty for violations of rules on areas under a cooperative agreement with the United States Forest Service is a second degree misdemeanor. The bill amends this section to be consistent with the penalties on all other wildlife management areas and provides that a person who violates such rules is subject to penalties as provided in s. 379.401, F.S.

³⁵ Section 379.407(1), F.S.

The bill amends s. 379.357, F.S., to increase the penalty for the illegal sale of tarpon from a Level Two violation to a Level Three violation to bring consistency with the penalties for violation of rules or orders prohibiting the sale of saltwater species. Additionally, the bill clarifies that the illegal taking, killing, or possessing of tarpon is a Level Two violation.

Section 379.401, F.S., relating to Penalties and Violations

The bill substantially amends s. 379.401, F.S. to consolidate the penalties for violations relating to recreational hunting, freshwater fishing, and saltwater fishing violations within with the four-level penalty structure.

Level One Violations

The bill adds the penalties for violating rules or orders of the commission relating to the filing of reports and other documents required by persons holding alligator licenses and permits and for violating rules or orders of the commission requiring the return of unused Convention on International Trade in Endangered Species (CITES) tags issued under the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program to the list of Level One violations.

Under current law the civil penalty for committing a Level One violation involving the license and permit requirements of s. 379.354, F.S., is \$50 plus the cost of the license or permit. If the person has previously committed the same Level One violation within the preceding 36 months, the civil penalty is \$100 plus the cost of the license or permit. The bill provides an alternative for people who violate the license and permit requirements of s. 379.354, F.S., except violations of subsection (6), relating to pier licenses, subsection (7), relating to vessel licenses, paragraph (8)(f), relating to special use permits for limited entry hunting and fishing activities, or paragraph (8)(h), relating to recreational user permits. Rather than paying the cost of the license or permit as part of the civil penalty, under the alternative option a person would be able to purchase the license or permit. Proof of purchase of the license or permit would be required to be submitted with the civil penalty. Additionally, the bill increases the civil penalty for any person who has previously committed the same Level One violation within the preceding 36 months from \$100 to \$250.

Level Two Violations

The bill adds the following references to the list of Level Two violations (these were Level Two violations by default or were revised to Level Two violations):

- Rules or orders of the commission requiring the maintenance of records relating to alligators.
- Return of unused CITES tags issued under alligator programs other than the Statewide Alligator Harvest Program or the Statewide Nuisance Alligator Program.
- Section 379.2425, F.S., relating to spearfishing.
- Section 379.29, F.S., prohibiting the contamination of fresh waters.
- Section 379.295, F.S., prohibiting the use of explosives and other substances in fresh waters.
- Section 379.3502, F.S., prohibiting loaning, transferring, or using a borrowed or transferred license or permit.
- Section 379.3503, F.S., prohibiting false statements in an application for a license or permit.

- Section 379.3504, F.S., prohibiting entering false information on licenses or permits.
- Section 379.3511, F.S., relating to the sale of hunting, fishing, and trapping licenses and permits by subagents.
- Section 379.363, F.S., relating to freshwater fish dealer's licenses.
- Section 379.364, F.S., relating to licenses required for fur and hide dealers.
- Section 379.3751, F.S., relating to required licenses for the taking and possession of alligators.
- Section 379.3752, F.S., relating to required tagging of alligators and hides.

The bill removes ss. 379.33 and 379.407(7), F.S. from the list of Level Two violations. Section 379.33, F.S., was amended to remove the penalty provided in the section because it was an inaccurate statement. This section no longer contains a Level Two violation and, consequently, its cross-reference is removed from the list of penalties. Section 379.407(7), F.S., provides penalties for the unlicensed sale, purchase, or harvest relating to commercial saltwater fishing activities. As s. 379.401, F.S., provides penalties related to recreational activities, the bill removes the cross-reference to s. 379.407(7), F.S., from the section.

The bill amends the following references already on the Level Two list:

- Rules or orders of the commission prohibiting the unlawful use of finfish traps, to reference any traps, unless otherwise provided.
- Section 379.2421, F.S., for consistency.
- Section 379.357, F.S., to clarify that only a violation of subsection (3) of that section, prohibiting the take, kill, or possession of tarpon without purchasing a tarpon tag, is a Level Two violation.
- Section 379.365(2)(a) and (b), F.S., to remove the reference to paragraph (2)(a) which prohibits the possession or use of stone crab traps without trap tags.
- Section 379.3671(2)(c), F.S., to remove the reference prohibiting the possession or use of spiny lobster traps without trap tags or certificates.
- All prohibitions in this chapter which are not otherwise classified, to include all requirements in this chapter which are not otherwise classified.

Level Three Violations

The bill clarifies that not all violations within subsection (2) of s. 379.407, F.S., are Level Three violations and adds the penalty for violating subsection (4) of s. 379.357, F.S., which prohibits the sale, transfer, or purchase of tarpon.

Level Four Violations

The bill amends the following references already on the Level Four list to clarify that there are other penalties within those provisions that are not Level Four violations:

- Section 379.365(2)(c), F.S., prohibiting criminal activities relating to the taking of stone crabs.
- Section 379.366(4)(c), F.S., prohibiting criminal activities relating to the taking and harvesting of blue crabs.
- Section 379.367(4), F.S., prohibiting the willful molestation of spiny lobster gear.

- Section 379.3671(2)(c)5., F.S., prohibiting the unlawful reproduction, possession, sale, trade, or barter of spiny lobster trap tags or certificates.

The bill adds the following sections to the list of Level Four violations (these were third degree felonies):

- Section 379.411, F.S, prohibiting the intentional killing or wounding of any species designated as endangered, threatened, or of special concern.
- Section 379.4115, F.S, prohibiting the killing of any Florida or wild panther.

The bill amends the penalty for a Level Four violation to include s. 775.084, F.S., relating to penalties for habitual felony offenders.

Illegal Activities While Committing Burglary or Trespass

The bill repeals s. 379.403, F.S., relating to the taking of game or fur-bearing animals while committing burglary or trespass, but moves the language to s. 379.401, F.S., with the following changes, the bill:

- Adds violations pertaining to orders of the commission which prohibit the killing, taking, possessing or selling of fish and wildlife.
- Increases the penalty from a \$250 fine to a \$500 fine.
- Expands the scope from game³⁶ or fur-bearing animals³⁷ to all fish and wildlife.

As the term “fish and wildlife” is not defined in chapter 379, F.S., the bill amends s. 379.101, F.S., to define the term “fish and wildlife” to mean “any member of the animal kingdom, including, but not limited to, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod, or other invertebrate.” This definition has the same meaning as in Florida’s Endangered and Threatened Species Act.³⁸

Violations of the Chapter

The bill removes subsection (5) of s. 379.401, F.S., which provides an additional catch-all provision. However, s. 379.401(2)(a)13., F.S., retains the catchall that provides that all requirements or prohibitions in chapter 379, F.S. which are not otherwise classified are Level Two violations.

Additional Changes

The bill amends s. 379.2425, F.S., to clarify that spearfishing is authorized under certain circumstances by commission rule or order.³⁹

³⁶ The term “game” is defined by s. 379.101, F.S., to mean “deer, bear, squirrel, rabbits, and, where designated by commission rules, wild hogs, ducks, geese, rails, coots, gallinules, snipe, woodcock, wild turkeys, grouse, pheasants, quail, and doves.”

³⁷ The term “fur-bearing animals” is defined by s. 379.101, F.S., to mean “muskrat, mink, raccoon, otter, civet cat, skunk, red and gray fox, and opossum.”

³⁸ Section 379.2291, F.S.

³⁹ Rule 68B-20.003, F.A.C., authorizes spearfishing if provided in other marine fisheries rules.

The bill amends s. 379.33, F.S. to strike language relating to an inaccurate statement that states “except as provided under s. 379.401, F.S., any person who violates or otherwise fails to comply with any rule adopted by the commission shall be punished pursuant to s. 379.407(1).” This statement is inaccurate because violators of commission rules may also be punished under s. 379.4015, F.S., or chapter 327, F.S., for example.⁴⁰

The bill amends s. 379.3502, F.S., to remove language prohibiting a person from altering or changing in any manner any license or permit issued pursuant to chapter 379, F.S. The section covers illegally loaning or transferring a permit and not altering or changing a permit. Section 379.354(16), F.S., makes forging or counterfeiting permits a Level Four violation.

The bill amends s. 379.357, F.S., to clarify that the purchase of a tarpon tag does not give the purchaser any right to harvest or possess tarpon in contravention of commission rule.

Individuals purchasing a license or permit from the FWC may voluntarily authorize an additional payment of \$2 with their application fee to be provided to the Southeastern Guide Dogs, Inc.⁴¹ The bill amends s. 379.359, F.S., to authorize, rather than require, the FWC to retain \$0.90 of the fee. This enables the FWC to send the full amount to Southeastern Guide Dogs Inc., minus administrative costs.

The bill amends sections 379.3004, 379.337, 589.19, and 810.09, F.S., to conform cross-references.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁴⁰ FWC, Senate Bill 1282, *Agency Legislative Bill Analysis*, pg. 18 (Oct. 23, 2015)(on file with the Senate Committee on Environmental Preservation and Conservation).

⁴¹ Section 379.359, F.S.

B. Private Sector Impact:

As the penalties for some violations are increased or decreased under the bill, the bill may have an indeterminate fiscal impact on individuals who violate chapter 379, F.S.

Southeastern Guide Dogs, Inc. may receive an indeterminate positive fiscal impact if applicants for recreational hunting or fishing licenses choose to donate \$2 to the charity. Under the bill, the provision requiring FWC to retain \$0.90 is removed, and, therefore, FWC may provide the charity with the full \$2, minus administrative costs.

C. Government Sector Impact:

If violators choose the alternative option provided under the bill and purchase a license or permit rather than paying the cost of such license or permit when cited for a violation, there may be a negative fiscal impact on the Clerks of the Circuit Court. Based on FWC's estimation, the collective impact is \$85,456 annually.⁴²

In turn, there may be a positive fiscal impact on FWC if violators purchase the recreational licenses or permits. The proceeds from license or permit sales would go into different trust funds depending on the type of license or permit being acquired.⁴³ FWC has estimated the bill would increase funds collected by \$50,806 annually.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

Sections 379.2223 and 379.2257, F.S., are both amended to specify that violators are subject to penalties as provided in s. 379.401, F.S. However, as there is no reference to these sections within s. 379.401, F.S., the penalty for either section is not clear. Additionally, s. 379.3503, F.S., was revised to clarify and remove this type of reference.

The bill removes the reference to s. 379.3671(2)(c), F.S., from the list of Level Two violations in s. 379.401, F.S. However, the bill does not remove the cross-reference to s. 379.401, F.S., within s. 379.3671(2)(c), F.S., that provides "except as otherwise provided, any person who violates this paragraph commits a Level Two violation under s. 379.401."⁴⁵

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 379.101, 379.2223, 379.2257, 379.2425, 379.29, 379.295, 379.33, 379.3502, 379.3503, 379.3504, 379.3511, 379.354, 379.357, 379.359, 379.363, 379.364, 379.365, 379.3751, 379.3752, 379.401, 379.409, 379.411, 379.4115, 379.3004, 379.337, 589.19, and 810.09.

⁴² FWC at 20.

⁴³ *Id.* at 21.

⁴⁴ *Id.*

⁴⁵ Section 379.3671(2)(c)10., F.S.

This bill repeals section 379.403 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 Dean

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1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; amending s. 379.101, F.S.; defining the
4 term "fish and wildlife"; amending s. 379.2223, F.S.;
5 revising penalties for violations of commission rules
6 relating to control and management of state game
7 lands; amending s. 379.2257, F.S.; revising penalties
8 for violations of commission rules relating to
9 cooperative agreements with the United States Forest
10 Service; amending s. 379.2425, F.S.; authorizing
11 exceptions to the prohibition on spearfishing;
12 specifying penalties for violating the prohibition;
13 amending s. 379.29, F.S.; revising penalties related
14 to the contamination of fresh waters; amending s.
15 379.295, F.S.; specifying penalties associated with
16 the prohibition on the use of explosives and other
17 substances injurious to fish; amending s. 379.33,
18 F.S.; deleting penalty provisions associated with the
19 general enforcement of commission rules; amending s.
20 379.3502, F.S.; deleting a provision regarding the
21 alteration of licenses or permits; specifying
22 penalties for the unlawful transfer of a license or
23 permit; amending s. 379.3503, F.S.; specifying
24 penalties for swearing or affirming a false statement
25 in an application for a license or permit; amending s.
26 379.3504, F.S.; specifying penalties for entering
27 false information on an application for a license or
28 permit; amending s. 379.3511, F.S.; revising penalties
29 for violations related to subagent sales of hunting,
30 fishing, and trapping licenses and permits; amending
31 s. 379.354, F.S.; specifying penalties for violations
32 related to recreational licenses, permits, and

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33 authorization numbers; amending s. 379.357, F.S.;

34 providing that the purchase of a tarpon tag does not

35 accord the purchaser with certain rights; revising

36 penalties related to the tarpon license program;

37 amending s. 379.359, F.S.; authorizing, rather than

38 requiring, the commission to retain a portion of

39 voluntary contributions for Southeastern Guide Dogs,

40 Inc.; amending s. 379.363, F.S.; specifying penalties

41 for violations related to freshwater fish dealer

42 licenses; amending s. 379.364, F.S.; specifying

43 penalties for violations related to the licensure of

44 fur and hide dealers; amending s. 379.365, F.S.;

45 revising penalties for violations related to stone

46 crabs; amending s. 379.3751, F.S.; specifying

47 penalties for violations related to the taking and

48 possession of alligators; amending s. 379.3752, F.S.;

49 specifying penalties for violations of requirements

50 related to tagging of alligators and alligator hides;

51 amending s. 379.401, F.S.; revising the penalties

52 associated with the violation of commission rules

53 related to the filing of documentation; specifying

54 penalties for the violation of commission rules or

55 orders related to the return of unused Convention on

56 the International Trade on Endangered Species (CITES)

57 tags; authorizing imposition of a modified penalty for

58 a specified offense if certain conditions are met;

59 specifying that persons who commit certain Level One

60 violations may be required to provide proof of a

61 license or permit to satisfy a citation; providing

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62 that violations of commission rules or orders
63 regarding all traps are Level Two violations unless
64 otherwise specified; providing that violations of
65 rules or orders of the commission relating certain
66 alligator-related programs are Level Two violations;
67 providing that certain specified unclassified
68 violations are Level Two violations; revising the
69 levels to which specified violations are assigned;
70 revising penalty provisions for Level Four violations;
71 specifying penalties for certain violations while
72 engaged in trespass; specifying that certain fines
73 collected for trespass violations be deposited in the
74 State Game Trust Fund; repealing s. 379.403, F.S.,
75 relating to the illegal killing, taking, possessing,
76 or selling of wildlife or game and related fines;
77 amending s. 379.409, F.S.; revising penalties for the
78 illegal killing, possessing, or capturing of
79 alligators or other crocodilia or crocodilian eggs;
80 amending s. 379.411, F.S.; revising penalties for the
81 unlawful intentional killing or wounding of any
82 species designated as endangered, threatened, or of
83 special concern; amending s. 379.4115, F.S.; revising
84 penalties for the killing of Florida or wild panthers;
85 amending ss. 379.3004, 379.337, 589.19, and 810.09,
86 F.S.; conforming cross-references; providing an
87 effective date.

88
89 Be It Enacted by the Legislature of the State of Florida:
90

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91 Section 1. Present subsections (14) through (39) of section
92 379.101, Florida Statutes, are redesignated as subsections (15)
93 through (40), respectively, and a new subsection (14) is added
94 to that section, to read:

95 379.101 Definitions.—In construing these statutes, where
96 the context does not clearly indicate otherwise, the word,
97 phrase, or term:

98 (14) "Fish and wildlife" means any member of the animal
99 kingdom, including, but not limited to, any mammal, fish, bird,
100 amphibian, reptile, mollusk, crustacean, arthropod, or other
101 invertebrate.

102 Section 2. Subsection (2) of section 379.2223, Florida
103 Statutes, is amended to read:

104 379.2223 Control and management of state game lands.—

105 (2) Any person violating or otherwise failing to comply
106 with any rule or regulation so adopted is subject to penalties
107 as provided in s. 379.401 ~~commits a misdemeanor of the second~~
108 ~~degree, punishable as provided in s. 775.082 or s. 775.083.~~

109 Section 3. Subsection (3) of section 379.2257, Florida
110 Statutes, is amended to read:

111 379.2257 Cooperative agreements with United States U.S.
112 Forest Service; penalty.—The Fish and Wildlife Conservation
113 Commission is authorized and empowered:

114 (3) In addition to the requirements of chapter 120, notice
115 of the making, adoption, and promulgation of the above rules and
116 regulations shall be given by posting said notices, or copies of
117 the rules and regulations, in the offices of the county judges
118 and in the post offices within the area to be affected and
119 within 10 miles thereof. In addition to the posting of said

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120 notices, as aforesaid, copies of said notices or of said rules
121 and regulations shall also be published in newspapers published
122 at the county seats of Baker, Columbia, Marion, Lake, Putnam,
123 and Liberty Counties, or so many thereof as have newspapers,
124 once not more than 35 nor less than 28 days and once not more
125 than 21 nor less than 14 days prior to the opening of the state
126 hunting season in said areas. Any person violating any rules or
127 regulations promulgated by the commission to cover these areas
128 under cooperative agreements between the Fish and Wildlife
129 Conservation Commission and the United States Forest Service is
130 subject to penalties as provided in s. 379.401, ~~none of which~~
131 ~~shall be in conflict with the laws of Florida, shall be guilty~~
132 ~~of a misdemeanor of the second degree, punishable as provided in~~
133 ~~s. 775.082 or s. 775.083.~~

134 Section 4. Paragraph (a) of subsection (2) of section
135 379.2425, Florida Statutes, is amended, and subsection (4) is
136 added to that section, to read:

137 379.2425 Spearfishing; definition; limitations; penalty.—

138 (2) (a) Except as otherwise provided by commission rule or
139 order, spearfishing is prohibited within the boundaries of the
140 John Pennekamp Coral Reef State Park, the waters of Collier
141 County, and the area in Monroe County known as Upper Keys, which
142 includes all salt waters under the jurisdiction of the Fish and
143 Wildlife Conservation Commission beginning at the county line
144 between Miami-Dade and Monroe Counties and running south,
145 including all of the keys down to and including Long Key.

146 (4) A person who violates this section commits a Level Two
147 violation under s. 379.401.

148 Section 5. Subsection (2) of section 379.29, Florida

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149 Statutes, is amended to read:

150 379.29 Contaminating fresh waters.—

151 (2) A Any person, firm, or corporation violating ~~any of the~~
152 ~~provisions of this section~~ commits a Level Two violation under
153 s. 379.401 ~~shall be guilty of a misdemeanor of the second~~
154 ~~degree, punishable as provided in s. 775.082 or s. 775.083 for~~
155 ~~the first offense, and for the second or subsequent offense~~
156 ~~shall be guilty of a misdemeanor of the first degree, punishable~~
157 ~~as provided in s. 775.082 or s. 775.083.~~

158 Section 6. Section 379.295, Florida Statutes, is amended to
159 read:

160 379.295 Use of explosives and other substances prohibited.—
161 No person may throw or place, or cause to be thrown or placed,
162 any dynamite, lyddite, gunpowder, cannon cracker, acids,
163 filtration discharge, debris from mines, Indian berries,
164 sawdust, green walnuts, walnut leaves, creosote, oil, or other
165 explosives or deleterious substance or force into the fresh
166 waters of this state whereby fish therein are or may be injured.
167 Nothing in this section may be construed as preventing the
168 release of water slightly discolored by mining operations or
169 water escaping from such operations as the result of
170 providential causes. A person who violates this section commits
171 a Level Two violation under s. 379.401.

172 Section 7. Section 379.33, Florida Statutes, is amended to
173 read:

174 379.33 Enforcement of commission rules; ~~penalties for~~
175 ~~violation of rule.~~—Rules of the Fish and Wildlife Conservation
176 Commission shall be enforced by any law enforcement officer
177 certified pursuant to s. 943.13. ~~Except as provided under s.~~

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178 ~~379.401, any person who violates or otherwise fails to comply~~
179 ~~with any rule adopted by the commission shall be punished~~
180 ~~pursuant to s. 379.407(1).~~

181 Section 8. Section 379.3502, Florida Statutes, is amended
182 to read:

183 379.3502 License and permit not transferable.—A person may
184 ~~not alter or change in any manner, or loan or transfer to~~
185 ~~another, unless otherwise provided, any license or permit issued~~
186 ~~pursuant to the provisions of this chapter, and such license or~~
187 ~~permit may be used only by nor may any other person, other than~~
188 ~~the person to whom it is issued. A person who violates this~~
189 ~~section commits a Level Two violation under s. 379.401, use the~~
190 ~~same.~~

191 Section 9. Section 379.3503, Florida Statutes, is amended
192 to read:

193 379.3503 False statement in application for license or
194 permit.—A ~~Any~~ person who swears or affirms to any false
195 statement in any application for license or permit provided by
196 this chapter commits a Level Two violation under s. 379.401, ~~is~~
197 ~~guilty of violating this chapter, and shall be subject to the~~
198 ~~penalty provided in s. 379.401, and any false statement~~
199 ~~contained in any application for such license or permit renders~~
200 ~~the license or permit void.~~

201 Section 10. Section 379.3504, Florida Statutes, is amended
202 to read:

203 379.3504 Entering false information on licenses or
204 permits.—Whoever knowingly and willfully enters false
205 information on, or allows or causes false information to be
206 entered on or shown upon, any license or permit issued under ~~the~~

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207 ~~provisions of this chapter in order to avoid prosecution,~~ or to
208 assist another in avoiding ~~to avoid~~ prosecution, or for any
209 other wrongful purpose commits a Level Two violation under s.
210 379.401 ~~shall be punished as provided in s. 379.401.~~

211 Section 11. Paragraphs (d), (e), and (f) of subsection (1)
212 of section 379.3511, Florida Statutes, are amended, and a new
213 subsection (4) is added to that section, to read:

214 379.3511 Appointment of subagents for the sale of hunting,
215 fishing, and trapping licenses and permits.-

216 (1) Subagents shall serve at the pleasure of the
217 commission. The commission may establish, by rule, procedures
218 for the selection and appointment of subagents. The following
219 are requirements for subagents so appointed:

220 ~~(d) Any person who willfully violates any of the provisions~~
221 ~~of this section commits a misdemeanor of the second degree,~~
222 ~~punishable as provided in s. 775.082 or s. 775.083.~~

223 (d) ~~(e)~~ A subagent may charge and receive as his or her
224 compensation 50 cents for each license or permit sold. This
225 charge is in addition to the sum required by law to be collected
226 for the sale and issuance of each license or permit. This charge
227 does not apply to the shoreline fishing license; however, for
228 each shoreline fishing license issued, the subagent may retain
229 50 cents from other license proceeds otherwise due the
230 commission.

231 (e) ~~(f)~~ A subagent shall submit payment for and report the
232 sale of licenses and permits to the commission as prescribed by
233 the commission.

234 (4) A person who willfully violates this section commits a
235 Level Two violation under s. 379.401.

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236 Section 12. Subsection (18) is added to section 379.354,
237 Florida Statutes, to read:

238 379.354 Recreational licenses, permits, and authorization
239 numbers; fees established.-

240 (18) PENALTY.-Unless otherwise provided, a person who
241 violates this section commits a Level One violation under s.
242 379.401.

243 Section 13. Subsections (3) through (7) of section 379.357,
244 Florida Statutes, are amended to read:

245 379.357 Fish and Wildlife Conservation Commission license
246 program for tarpon; fees; penalties.-

247 (3) An individual may not take, kill, or possess any fish
248 of the species *Megalops atlanticus*, commonly known as tarpon,
249 unless the individual has purchased a tarpon tag and securely
250 attached it through the lower jaw of the fish.

251 ~~(4) Any individual including a taxidermist who possesses a~~
252 ~~tarpon which does not have a tag securely attached as required~~
253 ~~by this section commits a Level Two violation under s. 379.401.~~
254 ~~Provided, however, A taxidermist may remove the tag during the~~
255 ~~process of mounting a tarpon, but the tag must. The removed tag~~
256 ~~shall remain with the fish during any subsequent storage or~~
257 ~~shipment. Purchase of a tarpon tag does not give the purchaser~~
258 ~~any right to harvest or possess tarpon in contravention of~~
259 ~~commission rule. A person who violates this subsection commits a~~
260 ~~Level Two violation under s. 379.401.~~

261 ~~(4)(5) An Purchase of a tarpon tag shall not accord the~~
262 ~~purchaser any right to harvest or possess tarpon in~~
263 ~~contravention of rules adopted by the commission. No individual~~
264 may not sell, offer for sale, barter, exchange for merchandise,

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265 transport for sale, either within or without the state, offer to
266 purchase, or purchase any species of fish known as tarpon. A
267 person who violates this subsection commits a Level Three
268 violation under s. 379.401.

269 (5) ~~(6)~~ The commission shall prescribe and provide suitable
270 forms and tags necessary to administer ~~carry out the provisions~~
271 ~~of~~ this section.

272 (6) ~~(7)~~ ~~The provisions of~~ This section does ~~shall~~ not apply
273 to a person ~~anyone~~ who immediately returns a tarpon, uninjured,
274 to the water at the place where the fish was caught.

275 Section 14. Section 379.359, Florida Statutes, is amended
276 to read:

277 379.359 License application provision for voluntary
278 contribution to Southeastern Guide Dogs, Inc.—The application
279 for any license for recreational activities issued under this
280 part must include a check-off provision that permits the
281 applicant for licensure to make a voluntary contribution of \$2.
282 The Fish and Wildlife Conservation Commission may ~~shall~~ retain
283 up to 90 cents from each contribution to cover administrative
284 costs. The remainder shall be distributed quarterly by the Fish
285 and Wildlife Conservation Commission to Southeastern Guide Dogs,
286 Inc., located in Palmetto. Southeastern Guide Dogs, Inc., shall
287 use the contributions to breed, raise, and train guide dogs for
288 the blind, specifically for the “Paws for Patriots” program,
289 including in-residence training for veterans who are provided
290 guide dogs by Southeastern Guide Dogs, Inc.

291 Section 15. Subsection (4) is added to section 379.363,
292 Florida Statutes, to read:

293 379.363 Freshwater fish dealer’s license.—

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294 (4) A person who violates this section commits a Level Two
 295 violation under s. 379.401.

296 Section 16. Subsection (5) is added to section 379.364,
 297 Florida Statutes, to read:

298 379.364 License required for fur and hide dealers.—

299 (5) A person who violates this section commits a Level Two
 300 violation under s. 379.401.

301 Section 17. Paragraph (a) of subsection (2) of section
 302 379.365, Florida Statutes, is amended to read:

303 379.365 Stone crab; regulation.—

304 (2) PENALTIES.—For purposes of this subsection, conviction
 305 is any disposition other than acquittal or dismissal, regardless
 306 of whether the violation was adjudicated under any state or
 307 federal law.

308 (a) It is unlawful to violate commission rules regulating
 309 stone crab trap certificates and trap tags. A ~~No~~ person may not
 310 use an expired tag or a stone crab trap tag not issued by the
 311 commission or possess or use a stone crab trap in or on state
 312 waters or adjacent federal waters without having a trap tag
 313 required by the commission firmly attached to the trap ~~thereto~~.

314 ~~1.~~ In addition to any other penalties provided in s.
 315 379.407, the following administrative penalties apply to a ~~for~~
 316 ~~any~~ commercial harvester who violates this paragraph; ~~the~~
 317 ~~following administrative penalties apply.~~

318 ~~1.a.~~ For a first violation, the commission shall assess an
 319 administrative penalty of up to \$1,000.

320 ~~2.b.~~ For a second violation that occurs within 24 months of
 321 any previous such violation, the commission shall assess an
 322 administrative penalty of up to \$2,000 and the stone crab

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323 endorsement under which the violation was committed may be
324 suspended for 12 calendar months.

325 ~~3.e.~~ For a third violation that occurs within 36 months of
326 any previous two such violations, the commission shall assess an
327 administrative penalty of up to \$5,000 and the stone crab
328 endorsement under which the violation was committed may be
329 suspended for 24 calendar months.

330 ~~4.d.~~ A fourth violation that occurs within 48 months of any
331 three previous such violations, shall result in permanent
332 revocation of all of the violator's saltwater fishing
333 privileges, including having the commission proceed against the
334 endorsement holder's saltwater products license in accordance
335 with s. 379.407.

336 ~~2. Any other person who violates the provisions of this~~
337 ~~paragraph commits a Level Two violation under s. 379.401.~~

338
339 Any commercial harvester assessed an administrative penalty
340 under this paragraph shall, within 30 calendar days after
341 notification, pay the administrative penalty to the commission,
342 or request an administrative hearing under ss. 120.569 and
343 120.57. The proceeds of all administrative penalties collected
344 under this paragraph shall be deposited in the Marine Resources
345 Conservation Trust Fund.

346 Section 18. Subsection (5) is added to section 379.3751,
347 Florida Statutes, to read:

348 379.3751 Taking and possession of alligators; trapping
349 licenses; fees.—

350 (5) A person who violates this section commits a Level Two
351 violation under s. 379.401.

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352 Section 19. Subsection (3) is added to section 379.3752,
353 Florida Statutes, to read:

354 379.3752 Required tagging of alligators and hides; fees;
355 revenues.—The tags provided in this section shall be required in
356 addition to any license required under s. 379.3751.

357 (3) A person who violates this section commits a Level Two
358 violation under s. 379.401.

359 Section 20. Section 379.401, Florida Statutes, is amended
360 to read:

361 379.401 Penalties and violations; civil penalties for
362 noncriminal infractions; criminal penalties; suspension and
363 forfeiture of licenses and permits.—

364 (1) (a) LEVEL ONE VIOLATIONS.—A person commits a Level One
365 violation if he or she violates any of the following provisions:

366 1. Rules or orders of the commission relating to the filing
367 of reports or other documents required to be filed by persons
368 who hold any recreational licenses and permits or any alligator
369 licenses and permits issued by the commission.

370 2. Rules or orders of the commission relating to quota hunt
371 permits, daily use permits, hunting zone assignments, camping,
372 alcoholic beverages, vehicles, and check stations within
373 wildlife management areas or other areas managed by the
374 commission.

375 3. Rules or orders of the commission relating to daily use
376 permits, alcoholic beverages, swimming, possession of firearms,
377 operation of vehicles, and watercraft speed within fish
378 management areas managed by the commission.

379 4. Rules or orders of the commission relating to vessel
380 size or specifying motor restrictions on specified water bodies.

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381 5. Rules or orders of the commission requiring the return
382 of unused Convention on the International Trade on Endangered
383 Species (CITES) tags issued under the Statewide Alligator
384 Harvest Program or the Statewide Nuisance Alligator Program.

385 ~~7.5.~~ Section 379.354(1)-(15), providing for recreational
386 licenses to hunt, fish, and trap.

387 ~~8.6.~~ Section 379.3581, providing hunter safety course
388 requirements.

389 ~~6.7.~~ Section 379.3003, prohibiting deer hunting unless
390 required clothing is worn.

391 (b) A person who commits a Level One violation commits a
392 noncriminal infraction and shall be cited to appear before the
393 county court.

394 (c)1. The civil penalty for committing a Level One
395 violation involving the license and permit requirements of s.
396 379.354 is \$50 plus the cost of the license or permit, unless
397 subparagraph 2. applies. Alternatively, a person who violates
398 the license and permit requirements of s. 379.354 and who is
399 subject to the penalties imposed by this subparagraph, except a
400 person who violates s. 379.354(6), (7), (8)(f), or (8)(h), may
401 purchase the license or permit and shall provide proof of such
402 license or permit and pay a civil penalty of \$50.

403 2. The civil penalty for committing a Level One violation
404 involving the license and permit requirements of s. 379.354 is
405 \$250 ~~\$100~~ plus the cost of the license or permit if the person
406 cited has previously committed the same Level One violation
407 within the preceding 36 months. Alternatively, a person who
408 violates the license and permit requirements of s. 379.354 and
409 who is subject to the penalties imposed by this subparagraph,

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410 except a person who violates s. 379.354(6), (7), (8)(f), or
411 (8)(h), may purchase the license or permit and shall provide
412 proof of such license or permit and pay a civil penalty of \$250.

413 (d)1. The civil penalty for any other Level One violation
414 is \$50 unless subparagraph 2. applies.

415 2. The civil penalty for any other Level One violation is
416 \$250 ~~\$100~~ if the person cited has previously committed the same
417 Level One violation within the preceding 36 months.

418 (e) A person cited for a Level One violation shall sign and
419 accept a citation to appear before the county court. The issuing
420 officer may indicate on the citation the time and location of
421 the scheduled hearing and shall indicate the applicable civil
422 penalty.

423 (f) A person cited for a Level One violation may pay the
424 civil penalty, and, if applicable, provide proof of the license
425 or permit required under s. 379.354, by mail or in person,
426 within 30 days after receipt of the citation. If the civil
427 penalty is paid, the person is ~~shall be~~ deemed to have admitted
428 committing the Level One violation and to have waived his or her
429 right to a hearing before the county court. Such admission may
430 not be used as evidence in any other proceedings except to
431 determine the appropriate fine for any subsequent violation
432 ~~violations.~~

433 (g) A person who refuses to accept a citation, ~~who fails~~ to
434 pay the civil penalty for a Level One violation, or ~~who fails~~ to
435 appear before a county court as required commits a misdemeanor
436 of the second degree, punishable as provided in s. 775.082 or s.
437 775.083.

438 (h) A person who elects to, or is required to, appear

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439 before the county court is ~~or who is required to appear before~~
 440 ~~the county court shall be~~ deemed to have waived the limitations
 441 on civil penalties provided under paragraphs (c) and (d). After
 442 a hearing, the county court shall determine if a Level One
 443 violation has been committed; and, if so, may impose a civil
 444 penalty of not less than \$50 for a first-time violation, and not
 445 more than \$500 for subsequent violations. A person found guilty
 446 of committing a Level One violation may appeal that finding to
 447 the circuit court. The commission of a violation must be proved
 448 beyond a reasonable doubt.

449 (i) A person cited for violating the requirements of s.
 450 379.354 relating to personal possession of a license or permit
 451 may not be convicted if, prior to or at the time of a county
 452 court hearing, he or she ~~the person~~ produces the required
 453 license or permit for verification by the hearing officer or the
 454 court clerk. The license or permit must have been valid at the
 455 time the person was cited. The clerk or hearing officer may
 456 assess a \$10 fee for costs under this paragraph.

457 (2) (a) LEVEL TWO VIOLATIONS.—A person commits a Level Two
 458 violation if he or she violates any of the following provisions:

459 1. Rules or orders of the commission relating to seasons or
 460 time periods for the taking of wildlife, freshwater fish, or
 461 saltwater fish.

462 2. Rules or orders of the commission establishing bag,
 463 possession, or size limits or restricting methods of taking
 464 wildlife, freshwater fish, or saltwater fish.

465 3. Rules or orders of the commission prohibiting access or
 466 otherwise relating to access to wildlife management areas or
 467 other areas managed by the commission.

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- 468 4. Rules or orders of the commission relating to the
469 feeding of saltwater fish.
- 470 5. Rules or orders of the commission relating to landing
471 requirements for freshwater fish or saltwater fish.
- 472 6. Rules or orders of the commission relating to restricted
473 hunting areas, critical wildlife areas, or bird sanctuaries.
- 474 7. Rules or orders of the commission relating to tagging
475 requirements for wildlife and fur-bearing animals.
- 476 8. Rules or orders of the commission relating to the use of
477 dogs for the taking of wildlife.
- 478 9. Rules or orders of the commission which are not
479 otherwise classified.
- 480 10. Rules or orders of the commission prohibiting the
481 unlawful use of ~~finfish~~ traps, unless otherwise provided by law.
- 482 11. Rules or orders of the commission which require the
483 maintenance of records relating to alligators.
- 484 12. Rules or orders of the commission requiring the return
485 of unused CITES tags issued under an alligator management
486 program other than the Statewide Alligator Harvest Program or
487 Statewide Nuisance Alligator Program.
- 488 ~~13.11.~~ All requirements or prohibitions in this chapter
489 which are not otherwise classified.
- 490 ~~12. Section 379.33, prohibiting the violation of or~~
491 ~~noncompliance with commission rules.~~
- 492 ~~13. Section 379.407(7), prohibiting the sale, purchase,~~
493 ~~harvest, or attempted harvest of any saltwater product with~~
494 ~~intent to sell.~~
- 495 15.14. Section 379.2421, relating to fishers and equipment,
496 unless otherwise provided in that section ~~prohibiting the~~

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497 ~~obstruction of waterways with net gear.~~

498 ~~31.15.~~ Section 379.413, prohibiting the unlawful taking of
499 bonefish.

500 16. Section 379.2425, relating to spearfishing.

501 17. Section 379.29, prohibiting the contamination of fresh
502 waters.

503 18. Section 379.295, prohibiting the use of explosives and
504 other substances in fresh waters.

505 19. Section 379.3502, prohibiting loaning, transferring, or
506 using a borrowed or transferred license or permit.

507 20. Section 379.3503, prohibiting false statements in an
508 application for a license or permit.

509 21. Section 379.3504, prohibiting entering false
510 information on licenses or permits.

511 22. Section 379.3511, relating to the sale of hunting,
512 fishing, and trapping licenses and permits by subagents.

513 23. Section 379.357(3), prohibiting the take, kill, or
514 possession of tarpon without purchasing a tarpon tag.

515 24. Section 379.363, relating to freshwater fish dealer's
516 licenses.

517 25. Section 379.364, relating to licenses required for fur
518 and hide dealers.

519 ~~26.16.~~ Section 379.365(2)(b) ~~Section 379.365(2)(a) and (b),~~
520 ~~prohibiting the possession or use of stone crab traps without~~
521 ~~trap tags and theft of~~ stone crab ~~trap contents or gear, unless~~
522 otherwise provided in law.

523 ~~27.17.~~ Section 379.366(4)(b), prohibiting the theft of blue
524 crab trap contents or trap gear, unless otherwise provided in
525 that section.

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526 ~~28.18.~~ Section 379.3671(2)(c), excluding subparagraph 5.,
527 prohibiting the ~~possession or use of spiny lobster traps without~~
528 ~~trap tags or certificates and theft of spiny lobster trap~~
529 contents or trap gear, unless otherwise provided in that
530 section.

531 ~~19. Section 379.357, prohibiting the possession of tarpon~~
532 ~~without purchasing a tarpon tag.~~

533 ~~14.20.~~ Section 379.105, prohibiting the intentional
534 harassment of hunters, fishers, or trappers.

535 29. Section 379.3751, relating to required licenses for the
536 taking and possession of alligators.

537 30. Section 379.3752, relating to required tagging of
538 alligators and hides.

539 (b)1. A person who commits a Level Two violation but who
540 has not been convicted of a Level Two or higher violation within
541 the past 3 years commits a misdemeanor of the second degree,
542 punishable as provided in s. 775.082 or s. 775.083.

543 2. Unless the stricter penalties in subparagraph 3. or
544 subparagraph 4. apply, a person who commits a Level Two
545 violation within 3 years after a previous conviction for a Level
546 Two or higher violation commits a misdemeanor of the first
547 degree, punishable as provided in s. 775.082 or s. 775.083, with
548 a minimum mandatory fine of \$250.

549 3. Unless the stricter penalties in subparagraph 4. apply,
550 a person who commits a Level Two violation within 5 years after
551 two previous convictions for a Level Two or higher violation,
552 commits a misdemeanor of the first degree, punishable as
553 provided in s. 775.082 or s. 775.083, with a minimum mandatory
554 fine of \$500 and a suspension of any recreational license or

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555 permit issued under s. 379.354 for 1 year. Such suspension shall
556 include the suspension of the privilege to obtain such license
557 or permit and the suspension of the ability to exercise any
558 privilege granted under any exemption in s. 379.353.

559 4. A person who commits a Level Two violation within 10
560 years after three previous convictions for a Level Two or higher
561 violation commits a misdemeanor of the first degree, punishable
562 as provided in s. 775.082 or s. 775.083, with a minimum
563 mandatory fine of \$750 and a suspension of any recreational
564 license or permit issued under s. 379.354 for 3 years. Such
565 suspension shall include the suspension of the privilege to
566 obtain such license or permit and the suspension of the ability
567 to exercise any privilege granted under s. 379.353. If the
568 recreational license or permit being suspended was an annual
569 license or permit, any privileges under ss. 379.353 and 379.354
570 may not be acquired for a 3-year period following the date of
571 the violation.

572 (3) (a) LEVEL THREE VIOLATIONS.—A person commits a Level
573 Three violation if he or she violates any of the following
574 provisions:

575 1. Rules or orders of the commission prohibiting the sale
576 of saltwater fish.

577 2. Rules or orders of the commission prohibiting the
578 illegal importation or possession of exotic marine plants or
579 animals.

580 ~~9.3.~~ Section 379.407(2), establishing major violations,
581 unless otherwise provided in that section.

582 ~~10.4.~~ Section 379.407(4), prohibiting the possession of
583 certain finfish in excess of recreational daily bag limits,
584

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584 unless otherwise provided in that section.

585 3.5. Section 379.28, prohibiting the importation of
586 freshwater fish.

587 5.6. Section 379.354(17), prohibiting the taking of game,
588 freshwater fish, or saltwater fish while a required license is
589 suspended or revoked.

590 4.7. Section 379.3014, prohibiting the illegal sale or
591 possession of alligators.

592 6. Section 379.357(4), prohibiting the sale, transfer, or
593 purchase of tarpon.

594 7.8. Section 379.404(1), (3), and (6), prohibiting the
595 illegal taking and possession of deer and wild turkey.

596 8.9. Section 379.406, prohibiting the possession and
597 transportation of commercial quantities of freshwater game fish.

598 (b)1. A person who commits a Level Three violation but who
599 has not been convicted of a Level Three or higher violation
600 within the past 10 years commits a misdemeanor of the first
601 degree, punishable as provided in s. 775.082 or s. 775.083.

602 2. A person who commits a Level Three violation within 10
603 years after a previous conviction for a Level Three or higher
604 violation commits a misdemeanor of the first degree, punishable
605 as provided in s. 775.082 or s. 775.083, with a minimum
606 mandatory fine of \$750 and a suspension of any recreational
607 license or permit issued under s. 379.354 for the remainder of
608 the period for which the license or permit was issued up to 3
609 years. Such suspension shall include the suspension of the
610 privilege to obtain such license or permit and the ability to
611 exercise any privilege granted under s. 379.353. If the
612 recreational license or permit being suspended was an annual

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613 license or permit, any privileges under ss. 379.353 and 379.354
614 may not be acquired for a 3-year period following the date of
615 the violation.

616 3. A person who commits a violation of s. 379.354(17) shall
617 receive a mandatory fine of \$1,000. Any privileges under ss.
618 379.353 and 379.354 may not be acquired for a 5-year period
619 following the date of the violation.

620 (4) (a) LEVEL FOUR VIOLATIONS.—A person commits a Level Four
621 violation if he or she violates any of the following provisions:

622 1. Section 379.354(16), prohibiting the making, forging,
623 counterfeiting, or reproduction of a recreational license, or
624 possession of a recreational license without authorization from
625 the commission.

626 2. Section 379.365(2) (c), prohibiting criminal activities
627 relating to the taking of stone crabs, unless otherwise provided
628 in that section.

629 3.2. Section 379.366(4) (c), prohibiting criminal activities
630 relating to the taking and harvesting of blue crabs, unless
631 otherwise provided in that section.

632 4.3. Section 379.367(4), prohibiting the willful
633 molestation of spiny lobster gear, unless otherwise specified in
634 that section.

635 5.4. Section 379.3671(2) (c)5., prohibiting the unlawful
636 reproduction, possession, sale, trade, or barter of spiny
637 lobster trap tags or certificates, unless otherwise specified in
638 that section.

639 ~~5. Section 379.354(16), prohibiting the making, forging,~~
640 ~~counterfeiting, or reproduction of a recreational license or~~
641 ~~possession of same without authorization from the commission.~~

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642 6. Section 379.404(5), prohibiting the sale of illegally-
643 taken deer or wild turkey.

644 7. Section 379.405, prohibiting the molestation or theft of
645 freshwater fishing gear.

646 8. Section 379.409, prohibiting the unlawful killing,
647 injuring, possessing, or capturing of alligators or other
648 crocodilia or their eggs.

649 9. Section 379.411, prohibiting the intentional killing or
650 wounding of any species designated as endangered, threatened, or
651 of special concern.

652 10. Section 379.4115, prohibiting the killing of any
653 Florida or wild panther.

654 (b) A person who commits a Level Four violation commits a
655 felony of the third degree, punishable as provided in s.
656 775.082, ~~or~~ s. 775.083, or s. 775.084.

657 (5) ILLEGAL ACTIVITIES WHILE COMMITTING BURGLARY OR
658 TRESPASS.—In addition to any other penalty provided by law, a
659 person who violates the criminal provisions of this chapter or
660 the rules or orders of the commission by illegally killing,
661 taking, possessing, or selling fish and wildlife as defined in
662 s. 379.101, in or out of season, while violating chapter 810
663 shall pay a fine of \$500 for each such violation, plus court
664 costs and any restitution ordered by the court. All fines
665 collected under this subsection shall be remitted by the clerk
666 of the court to the Department of Revenue to be deposited into
667 the State Game Trust Fund of the Fish and Wildlife Conservation
668 Commission.

669 ~~(5) VIOLATIONS OF CHAPTER.—Except as provided in this~~
670 ~~chapter:~~

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671 ~~(a) A person who commits a violation of any provision of~~
672 ~~this chapter commits, for the first offense, a misdemeanor of~~
673 ~~the second degree, punishable as provided in s. 775.082 or s.~~
674 ~~775.083.~~

675 ~~(b) A person who is convicted of a second or subsequent~~
676 ~~violation of any provision of this chapter commits a misdemeanor~~
677 ~~of the first degree, punishable as provided in s. 775.082 or s.~~
678 ~~775.083.~~

679 (6) SUSPENSION OR FORFEITURE OF LICENSE.—The court may
680 order the suspension or forfeiture of any license or permit
681 issued under this chapter to a person who is found guilty of
682 committing a violation of this chapter.

683 (7) CONVICTION DEFINED.—As used in this section, the term
684 “conviction” means any judicial disposition other than acquittal
685 or dismissal.

686 Section 21. Section 379.403, Florida Statutes, is repealed.

687 Section 22. Subsection (1) of section 379.409, Florida
688 Statutes, is amended, and subsection (4) is added to that
689 section, to read:

690 379.409 Illegal killing, possessing, or capturing of
691 alligators or other crocodilia or eggs; confiscation of
692 equipment.—

693 (1) It is unlawful to intentionally kill, injure, possess,
694 or capture, or attempt to kill, injure, possess, or capture, an
695 alligator or other crocodilian, or the eggs of an alligator or
696 other crocodilian, unless authorized by the rules of the Fish
697 and Wildlife Conservation Commission. ~~Any person who violates~~
698 ~~this section is guilty of a felony of the third degree,~~
699 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084,~~

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700 ~~in addition to such other punishment as may be provided by law.~~
701 Any equipment, including but not limited to weapons, vehicles,
702 boats, and lines, used by a person in the commission of a
703 violation of any law, rule, regulation, or order relating to
704 alligators or other crocodilia or the eggs of alligators or
705 other crocodilia shall, upon conviction of such person, be
706 confiscated by the Fish and Wildlife Conservation Commission and
707 disposed of according to rules, orders, and regulations of the
708 commission. The arresting officer shall promptly make a return
709 of the seizure, describing in detail the property seized and the
710 facts and circumstances under which it was seized, including the
711 names of all persons known to the officer who have an interest
712 in the property.

713 (4) A person who violates this section commits a Level Four
714 violation under s. 379.401, in addition to such other punishment
715 as may be provided by law.

716 Section 23. Section 379.411, Florida Statutes, is amended
717 to read:

718 379.411 Intentional killing or wounding of any species
719 designated as endangered, threatened, or of special concern;
720 criminal penalties.—It is unlawful for a person to intentionally
721 kill or wound any fish or wildlife of a species designated by
722 the Fish and Wildlife Conservation Commission as endangered,
723 threatened, or of special concern, or to intentionally destroy
724 the eggs or nest of any such fish or wildlife, except as
725 provided for in the rules of the commission. A ~~Any~~ person who
726 violates this section commits a Level Four violation under s.
727 379.401 ~~this provision with regard to an endangered or~~
728 ~~threatened species is guilty of a felony of the third degree,~~

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729 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

730 Section 24. Subsection (3) of section 379.4115, Florida
731 Statutes, is amended to read:

732 379.4115 Florida or wild panther; killing prohibited;
733 penalty.—

734 (3) A person who violates this section commits a Level Four
735 violation under s. 379.401 ~~convicted of unlawfully killing a~~
736 ~~Florida panther, or unlawfully killing any member of the species~~
737 ~~of panther occurring in the wild, is guilty of a felony of the~~
738 ~~third degree, punishable as provided in s. 775.082, s. 775.083,~~
739 ~~or s. 775.084.~~

740 Section 25. Paragraph (a) of subsection (2) of section
741 379.3004, Florida Statutes, is amended to read:

742 379.3004 Voluntary Authorized Hunter Identification
743 Program.—

744 (2) Any person hunting on private land enrolled in the
745 Voluntary Authorized Hunter Identification Program shall have
746 readily available on the land at all times when hunting on the
747 property written authorization from the owner or his or her
748 authorized representative to be on the land for the purpose of
749 hunting. The written authorization shall be presented on demand
750 to any law enforcement officer, the owner, or the authorized
751 agent of the owner.

752 (a) For purposes of this section, the term "hunting" means
753 to be engaged in or reasonably equipped to engage in the pursuit
754 or taking by any means of any animal described in s. 379.101(20)
755 or (21) ~~s. 379.101(19) or (20)~~, and the term "written
756 authorization" means a card, letter, or other written instrument
757 which shall include, but need not be limited to, the name of the

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758 person or entity owning the property, the name and signature of
759 the person granting the authorization, a description by
760 township, range, section, partial section, or other geographical
761 description of the land to which the authorization applies, and
762 a statement of the time period during which the authorization is
763 valid.

764 Section 26. Paragraph (d) of subsection (5) of section
765 379.337, Florida Statutes, is amended to read:

766 379.337 Confiscation, seizure, and forfeiture of property
767 and products.—

768 (5) CONFISCATION AND SALE OF PERISHABLE SALTWATER PRODUCTS;
769 PROCEDURE.—

770 (d) For purposes of confiscation under this subsection, the
771 term "saltwater products" has the meaning specified ~~set out~~ in
772 s. 379.101(37) ~~s. 379.101(36)~~, except that the term does not
773 include saltwater products harvested under the authority of a
774 recreational license unless the amount of such harvested
775 products exceeds three times the applicable recreational bag
776 limit for trout, snook, or redfish.

777 Section 27. Paragraph (b) of subsection (4) of section
778 589.19, Florida Statutes, is amended to read:

779 589.19 Creation of certain state forests; naming of certain
780 state forests; Operation Outdoor Freedom Program.—

781 (4)

782 (b) Participation in the Operation Outdoor Freedom Program
783 is shall be limited to Florida residents, as defined in s.
784 379.101(31)(b) ~~s. 379.101(30)(b)~~, who:

785 1. Are honorably discharged military veterans certified by
786 the United States Department of Veterans Affairs or its

5-00724A-16

20161282__

787 predecessor or by any branch of the United States Armed Forces
788 to be at least 30 percent permanently service-connected
789 disabled;

790 2. Have been awarded the Military Order of the Purple
791 Heart; or

792 3. Are active duty servicemembers with a service-connected
793 injury as determined by his or her branch of the United States
794 Armed Forces.

795

796 Proof of eligibility under this subsection, as prescribed by the
797 Florida Forest Service, may be required.

798 Section 28. Paragraph (h) of subsection (2) of section
799 810.09, Florida Statutes, is amended to read:

800 810.09 Trespass on property other than structure or
801 conveyance.—

802 (2)

803 (h) Any person who in taking or attempting to take any
804 animal described in s. 379.101(20) or (21) ~~s. 379.101(19) or~~
805 ~~(20)~~, or in killing, attempting to kill, or endangering any
806 animal described in s. 585.01(13) knowingly propels or causes to
807 be propelled any potentially lethal projectile over or across
808 private land without authorization commits trespass, a felony of
809 the third degree, punishable as provided in s. 775.082, s.
810 775.083, or s. 775.084. For purposes of this paragraph, the term
811 "potentially lethal projectile" includes any projectile launched
812 from any firearm, bow, crossbow, or similar tensile device. This
813 section does not apply to any governmental agent or employee
814 acting within the scope of his or her official duties.

815 Section 29. This act shall take effect July 1, 2016.

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 Committee on Environmental Preservation and Conservation

BILL: SB 306

INTRODUCER: Senator Bullard and others

SUBJECT: Disposable Plastic Bags

DATE: January 19, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Favorable
2.			CA	
3.			FP	

I. Summary:

SB 306 authorizes a municipality with a population of fewer than 100,000 people and which qualifies as a coastal community to establish a pilot program to regulate or ban disposable plastic bags. A municipality that establishes a pilot program must enact an ordinance for the regulation or ban of disposable bags, which may not take effect earlier than January 1, 2017, and must expire no later than June 30, 2019. Additionally, a municipality that establishes a pilot program is required to collect data pertaining to the impact of its regulation or ban and submit a report on the impact of such regulation or ban to the governing body of the municipality at a public hearing. A copy of the report must also be provided to the Department of Environmental Protection.

II. Present Situation:

Plastic Bag Regulation in the United States

Americans use approximately 100 billion plastic bags every year, each typically discarded after a single use.¹ While plastic bags are more durable and considerably lighter in comparison to other carryout bags, single-use plastic bags harm the environment in several ways.² First, as plastic bags are comprised of high-density polyethylene, their production requires both petroleum and natural gas. It takes an estimated twelve million barrels of oil to produce the 100 billion plastic bags that are estimated to be used annually in the United States.³ Second, these types of plastic bags are non-biodegradable. As litter, a plastic bags life expectancy is more than 1,000 years.⁴ Ultraviolet rays weaken the bags and eventually break them down into smaller and smaller

¹ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 646 (Spring, 2010).

² *Id.* at 648.

³ *Id.*

⁴ *Id.* at 649.

particles until they are invisible to the naked eye.⁵ Third, because of the plastic bag's lightweight nature, the bags are especially susceptible to being inadvertently transported by wind.⁶ Currents of air easily pick up plastic bags from garbage trucks, the tops of landfills, and trash receptacles, resulting in the littering of streets and landscapes.⁷ Additionally, the bags end up in the ocean where marine animals, such as sea birds and turtles, mistake them for food or become entangled in them.⁸

States for the past decade have been considering strategies to reduce the number of plastic bags to mitigate harmful impacts to oceans, rivers, lakes, and wildlife and to relieve pressure on landfills and waste management programs.⁹ There are a variety of types of plastic bag regulations that have been enacted to reduce the negative impacts of plastic bags such as bans, consumer-paid fees, in-store recycling programs, and other voluntary measures.

Bans

In August 2014, California became the first state to enact legislation imposing a statewide ban on single-use plastic bags at large retail stores.¹⁰ The ban took effect on July 1, 2015.¹¹ Additionally, many cities and counties throughout the country have banned the use of plastic bags.¹² The city of Austin, Texas implemented a Single Use Bag Ordinance in March 2013.¹³ The Austin Resource Recovery conducted a study on the impact of the ordinance and found that while the ordinance effectively reduced the amount of single use plastic bags in the city, it had the unintended consequence of increasing the use of reusable plastic bags.¹⁴ Not all reusable bags are environmentally friendly; some reusable bags are made out of plastic and require a great deal of energy to produce and ship.¹⁵ Compostable bags, another alternative to plastic bags, pose additional problems. They are not recyclable and, while they will eventually biodegrade, they still end up making their way into the environment.¹⁶ A plastic bag ban alone without any secondary measures enacted to address all single-use carryout bags may be replacing one environmental problem with another.¹⁷

⁵ *Id.*

⁶ *Id.* at 650.

⁷ *Id.*

⁸ *Id.*

⁹ National Conference of State Legislatures (NCSL), *State Plastic and Paper Bag Legislation* (Jan. 22, 2015), <http://www.ncsl.org/research/environment-and-natural-resources/plastic-bag-legislation.aspx> (last visited Jan. 17, 2016).

¹⁰ *Id.*

¹¹ *Id.*

¹² Bag the Ban provides an interactive map for researching state and local legislation *available at* <http://www.bagtheban.com/in-your-state>. Additionally, Surfrider provides a partial list of checkout bag legislation, *available at* <http://www.surfrider.org/pages/plastic-bag-bans-fees>.

¹³ City of Austin, *Carryout Bags*, Ord. 20120301-078 (March 2, 2012) *available at* <https://www.austintexas.gov/department/single-use-carryout-bag-ordinance-documents>.

¹⁴ Aaron Waters, For Austin Resource Recovery & The Zero Waste Advisory Commission, *Environmental Effects of the Single Use Bag Ordinance in Austin, Texas*, pg. 28 (June 10, 2015) *available at* <http://www.austintexas.gov/edims/document.cfm?id=232679>.

¹⁵ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 669 (Spring, 2010).

¹⁶ *Id.* at 658, 659.

¹⁷ *Id.* at 662.

Consumer-paid Fees

Charging a consumer-paid fee on a per-bag basis is an increasingly popular method to regulate plastic bag consumption.¹⁸ In 2009, the City Council of the District of Columbia passed legislation imposing a 5 cent fee for every carryout paper or plastic disposable bag at all businesses that sell food or alcohol.¹⁹ This type of measure is aimed at changing consumer behavior.²⁰ The business retains 1 cent (or 2 cents if the business offers a rebate when customers bring their own bag), and the remaining 3 or 4 cents goes to the Anacostia River Clean Up and Protection Fund.²¹ The revenue from the bag fee generated 2.1 million dollars in the 2014 fiscal year.²² Not only do consumer-paid fees help reduce plastic bag use, they generate revenue to support pollution cleanups and other types of waste management programs.²³

In-store Recycling Programs

Plastic bags are usually recycled into products such as railroad ties, parking lot curbs, signs, and composite lumber.²⁴ Some states have mandated in-store plastic bag recycling programs. For example, Delaware requires certain retail stores to set up a plastic carry-out bag recycling program for customers.²⁵ The program aims to encourage Delaware citizens to increase their recycling of plastic carryout bags obtained at retail stores.²⁶ Additionally, affected stores are required to maintain records describing the collection and recycling of plastic bags and to offer reusable bags to their customers for purchase.²⁷ While overall regulations that mandate the recycling of plastic carryout bags help reduce the negative environmental effects of the bags, they are unlikely to change consumer behavior.²⁸

Voluntary Measures

A trend has been for large retailers to give consumers incentives to bring their own bags, usually in the form of a small rebate.²⁹ Whole Foods Market has a company-wide plastic bag ban.³⁰ Most Whole Foods stores offer customers a refund of up to 10 cents for bringing their own bags.³¹ Additionally, after witnessing the success of its “Bag the Plastic Bag” program, IKEA, in 2008, banned all single-use carryout bags.³²

¹⁸ *Id.* 662.

¹⁹ D.C. Code Ann. § 8-102.02.

²⁰ District of Columbia, Department of Energy & the Environment, *Bag Law FAQs*, <http://doee.dc.gov/page/bag-law-faqs> (last visited Jan. 15, 2016).

²¹ D.C. Code Ann. § 8-102.02.

²² Washington Post https://www.washingtonpost.com/investigations/nickel-by-nickel-is-the-dc-bag-fee-actually-saving-the-anacostia-river/2015/05/09/d63868d2-8a18-11e4-8ff4-fb93129c9c8b_story.html.

²³ Warner at 663.

²⁴ Warner at 653.

²⁵ State of Delaware, Division of Waste and Hazards, *Delaware’s Plastic Carryout Bag Recycling Act*, http://www.dnrec.delaware.gov/dwhs/recycling/Pages/Plastic_Bag_Recycling.aspx (last visited Jan. 15, 2016).

²⁶ *Id.*

²⁷ *Id.*

²⁸ Bridget M. Warner, *Sacking the Culture of Convenience: Regulating Plastic Shopping Bags to Prevent Further Environmental Harm*, 40 U. MEM L. REV. 645, 653, 656 (Spring, 2010).

²⁹ *Id.* 670.

³⁰ *Id.*

³¹ Whole Foods Market, *Green Mission Report* (2012), available at <http://www.wholefoodsmarket.com/sites/default/files/media/Global/PDFs/2012GreenMissionReport.pdf>.

³² Warner at 671.

Plastic Bag Regulation in Florida

In response to a growing concern regarding the impact of retail bags on the environment, in 2008 the Legislature enacted s. 403.7033, F.S., to require the Department of Environmental Protection (DEP) to analyze “the need for new or different regulation of auxiliary containers, wrappings, or disposable plastic bags used by consumers to carry products from retail establishments.” Section 403.7033, F.S., required the DEP to submit a report with its conclusions and recommendations to the Legislature by February 1, 2010.³³

Additionally, s. 403.7033, F.S. includes a prohibition on local governments, local governmental agencies, and state government agencies from enacting any rule, regulation, or ordinance regarding the use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags until the Legislature adopts the recommendations of the DEP.³⁴ To date, the Legislature has not adopted any recommendations contained in the report and the prohibition on any rule, regulation, or ordinance regarding use, disposition, sale, prohibition, restriction, or tax of such auxiliary containers, wrappings, or disposable plastic bags remains in effect.

In the *Retail Bags Report*, the DEP found that improperly discarded plastic bags, besides being unsightly litter, can harm land and marine life, interfere with landfill operations, clog flood control systems, and breed mosquitos.³⁵ The DEP provided options, ranging from educational campaigns to complete bans, for discouraging and reducing the use of single-use paper and plastic retail bags and the pros and cons associated with each option.³⁶ The report concluded that some strategies were more effective than others, with bans producing the fastest results closely followed by user fees and taxes.³⁷ Voluntary efforts were found to be helpful in changing consumer behavior patterns, but their effectiveness was found to be dependent upon the number of retailers participating.³⁸ Additionally, the report concluded that public education is crucial to any approach to bring awareness to the damages caused by single-use bags and the costs of undoing such damage.³⁹

III. Effect of Proposed Changes:

Notwithstanding the prohibition on local governments and state agencies as provided in s. 403.7033, F.S., SB 306 would authorize municipalities with populations of fewer than 100,000 people and which qualify as coastal communities to establish pilot programs to regulate or ban disposable plastic bags within their boundaries. The bill defines the term “coastal community” as a “municipality that abuts or borders the Gulf of Mexico, the Atlantic Ocean, or a bay”.

³³ Section 403.7033, F.S.

³⁴ *Id.*

³⁵ DEP, *Florida Department of Environmental Protection, Retail Bags Report*, pg. 1 (Feb. 1, 2010), available at https://www.dep.state.fl.us/waste/quick_topics/publications/shw/recycling/retailbags/Retail-Bag-Report_01Feb10.pdf (last visited Jan. 11, 2016).

³⁶ *Id.* at 19.

³⁷ *Id.* at 1.

³⁸ *Id.* at 2.

³⁹ *Id.*

A municipality that establishes a pilot program is required to enact an ordinance for the regulation or ban of disposable plastic bags. Such ordinance may not take effect earlier than January 1, 2017, and must expire no later than June 30, 2019. Under the pilot program, a municipality may enact any type of regulation, except an ordinance that includes a new tax or fee on the use or distribution of plastic bags.

A municipality that establishes a pilot program is required to:

- Collect data pertaining to the impact of its regulation or ban;
- Submit a report on the impact of its regulation or ban to the governing body of the municipality at a public hearing by April 1, 2019; and
- Provide a copy of the report to the DEP.

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any ban or restriction on the use of disposable bags will result in an indeterminate negative fiscal impact on businesses, consumers, or both, depending on the structure of the ordinance enacted under the pilot program.

C. Government Sector Impact:

Local governments incur costs to clean up disposable plastic bags that are discarded and become litter or end up in stormwater drainage systems. Ordinances that have the effect of limiting the number of plastic bags that are improperly discarded may provide an indeterminate positive fiscal impact on a local government that enacts any such ordinance.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 403.70325 of the Florida Statutes.

This bill republishes section 403.7033 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 Bullard

39-00415A-16

2016306__

1 A bill to be entitled
2 An act relating to disposable plastic bags; creating
3 s. 403.70325, F.S.; authorizing certain municipalities
4 to establish pilot programs to regulate or ban
5 disposable plastic bags; providing program criteria;
6 providing for expiration of the program; directing
7 participating municipalities to collect data and
8 submit reports to the municipal governing body and the
9 Department of Environmental Protection; defining the
10 term "coastal community"; republishing s. 403.7033,
11 F.S.; providing an effective date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Section 403.70325, Florida Statutes, is created
16 to read:

17 403.70325 Municipal pilot program for regulation or ban of
18 disposable plastic bags.—

19 (1) Notwithstanding s. 403.7033, a municipality with a
20 population of fewer than 100,000 which is a coastal community
21 may establish a pilot program to regulate or ban disposable
22 plastic bags. A municipality establishing a pilot program shall
23 enact an ordinance for the regulation or ban of disposable
24 plastic bags that takes effect no earlier than January 1, 2017,
25 and expires no later than June 30, 2019. Such ordinance may not
26 include any new taxes or fees on the use or distribution of
27 disposable plastic bags.

28 (2) A municipality that establishes a pilot program shall:

29 (a) Collect data pertaining to the impact of such

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2016306__

30 regulation or ban.

31 (b) By April 1, 2019, submit a report on the impact of such
32 regulation or ban to the governing body of the municipality at a
33 public hearing that is open to comments from the public.

34 (c) Provide a copy of the report to the department.

35 (3) As used in this section, the term "coastal community"
36 means a municipality that abuts or borders the Gulf of Mexico,
37 the Atlantic Ocean, or a bay.

38 Section 2. Section 403.7033, Florida Statutes, is
39 republished to read:

40 403.7033 Departmental analysis of particular recyclable
41 materials.—The Legislature finds that prudent regulation of
42 recyclable materials is crucial to the ongoing welfare of
43 Florida's ecology and economy. As such, the Department of
44 Environmental Protection shall undertake an analysis of the need
45 for new or different regulation of auxiliary containers,
46 wrappings, or disposable plastic bags used by consumers to carry
47 products from retail establishments. The analysis shall include
48 input from state and local government agencies, stakeholders,
49 private businesses, and citizens, and shall evaluate the
50 efficacy and necessity of both statewide and local regulation of
51 these materials. To ensure consistent and effective
52 implementation, the department shall submit a report with
53 conclusions and recommendations to the Legislature no later than
54 February 1, 2010. Until such time that the Legislature adopts
55 the recommendations of the department, no local government,
56 local governmental agency, or state government agency may enact
57 any rule, regulation, or ordinance regarding use, disposition,
58 sale, prohibition, restriction, or tax of such auxiliary

39-00415A-16

2016306__

59 containers, wrappings, or disposable plastic bags.

60 Section 3. This act shall take effect upon becoming a law.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Subcommittee on Education, *Vice Chair*
Appropriations
Banking and Insurance
Education Pre-K - 12
Reapportionment
Rules

SENATOR BILL MONTFORD

3rd District

January 20, 2016

Senator "Charlie" Dean, Chair
Environmental Preservation and
Conservation Committee
311 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Dean:

Due to my having to present a bill and amendments on another bill in the Education K-12 Committee Meeting today, I respectfully request that my Legislative Assistant, Marcia Mathis, be allowed to present SB 922 before your committee.

Your assistance and favorable consideration of my request is greatly appreciated

Sincerely,

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

William "Bill" Montford
State Senator, District 3

cc: Ellen Rogers, Staff Director

BJM/mam

REPLY TO:

- 214 Senate Office 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

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

TAB 1

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

1/20/14
Meeting Date

844
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Courtney Larkin

Job Title 2 LA

Address 2618 Centennial Place
Street
Tallahassee FL 32308
City State Zip

Phone 850-209-0061

Email clarkin@lawfla.com

Speaking: For Against Information

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

Representing Diving Equipment & Marketing Association

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.

TAB 2

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/20/16
Meeting Date

922
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Heather Martin

Job Title Deputy Director of Legislative Affairs

Address 3900 Commonwealth Blvd

Phone 3527450762

Street

Tallahassee

State

FL

Zip

Email heather.martin@dep.state.fl.us

Speaking: For Against Information

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

Representing Department of Environmental Protection

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/20/16

Meeting Date

SB 922

Bill Number (if applicable)

Topic SOLID WASTE MANAGEMENT

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 110 E. COLLEGE AVE

Phone 8506811065

Street

TAWANASSEE FL 32301

City

State

Zip

Email Keynacory@paconsultants.com

Speaking: For Against Information

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

Representing NATIONAL WASTE & RECYCLING ASSN - FL CHAPTER

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16
Meeting Date

1052

~~808~~

Bill Number (if applicable)

423354

Amendment Barcode (if applicable)

Topic ENV. CONTROL (AMENDMENT)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY PARKWAY #296 Phone 941-323-2404

Street

SARASOTA

City

FL

State

34243

Zip

Email culknase@csol.com

Speaking: For Against Information

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

Representing SIERRA CLUB 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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16

Meeting Date

1052
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title _____

Address 310 W. College Ave

Phone _____

Street

TALCAHASSEE

State

FL

Zip

City

32301

Email _____

Speaking: For Against Information

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

Representing Florida Nursery, Growers & Landscape Association

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16
Meeting Date

1052
Bill Number (if applicable)

Topic Amend
RATE OF RECLAMATION 473354

Amendment Barcode (if applicable)

Name FRANK MATTHEWS

Job Title ATTY

Address PO BOX 6526

Phone 850 222 7500

Street

TLH

FLA

32301

Email Frankm@hgs law.com

City

State

Zip

Speaking: For Against Information

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

Representing MOSAIC FERTILIZER LLC

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/20/16
Meeting Date

1052
Bill Number (if applicable)

Topic ENVIRONMENTAL CONTROL

Amendment Barcode (if applicable)

Name LANCE PIERCE

Job Title ASST. DIRECTOR OF STATE LEGISLATIVE AFFAIRS

Address 315 S. CALHOUN ST
Street

Phone (813) 222-2557

TALLAHASSEE
City

FL
State

32301
Zip

Email _____

Speaking: For Against Information

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

Representing FLORIDA FARM BUREAU

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/20/14

Meeting Date

SB 1052

Bill Number (if applicable)

Topic ENVIRONMENTAL CONTROL

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 110 E. COLLEGE AVE

Phone 850 681 1065

Street

TANAHASSEE FL 32301

City

State

Zip

Email keynacory@pacconsultants.com

Speaking: For Against Information

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

Representing NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

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.

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16

Meeting Date

1052

Bill Number (if applicable)

Topic ENVIRONMENTAL CONTROL

Amendment Barcode (if applicable)

Name STEPHEN JAMES

Job Title

Address 100 S. MONROE
TALLAHASSEE, FL 32301

Phone 850-922-4300

Email

Speaking: For Against Information

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

Representing FLA. ASSOC. OF COUNTIES

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.

APPEARANCE RECORD

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

1/20/16
Meeting Date

306
Bill Number (if applicable)

Topic Plastic Bag Pilot Bill

Amendment Barcode (if applicable)

Name Michael DeFilippi

Job Title Realtor

Address 410 Euclid Ave #6

Phone 305-588-9469

Street

Miami Beach FL 33159

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing City of Miami Beach

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)

1-20-2016

Meeting Date

HB 143/5306
Bill Number (if applicable)

Topic Plastic Bags HB 143/5306

Amendment Barcode (if applicable)

Name Capt Donald Voss

Job Title Director - ONE FLORIDA FOUNDATION

Address 323 LEeward LANE 202

Phone 772 528 0675

Street

FT PIERCE

City

FL

State

34949

Zip

Email dvoss@onefloridafoundation.org

Speaking: For Against Information

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

Representing ONE FLORIDA FOUNDATION, INC.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-20-16

Meeting Date

S 306

Bill Number (if applicable)

Topic Plastic bags

Amendment Barcode (if applicable)

Name JAN RUBINO

Job Title —

Address 726 INGLESIDE AVE

Phone (850) 224-9262

Street

TALLAHASSEE FL 32303

Email ~~RUBINO~~ rubinojan@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Women Voters

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

01/20/16
Meeting Date

306
Bill Number (if applicable)

Topic Disposable Bags

Amendment Barcode (if applicable)

Name Holly Parker

Job Title FL Regional Manager

Address 1229 Mitchell Ave.
Street

Phone 850-567-3393

Tallahassee, FL 32303
City State Zip

Email hparker@sunfrider.org

Speaking: For Against Information

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

Representing Sunfrider Foundation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/2014

Meeting Date

306

Bill Number (if applicable)

Topic PLASTIC BAGS

Amendment Barcode (if applicable)

Name CHRISTOPHER ENMANUEL

Job Title POLICY DIRECTOR

Address 136 S BRONOUGH

Phone 850 521 1200

Street

TALLAHASSEE FLORIDA 32301

Email CENMANUEL@FLCHAMBER

City

State

Zip

Speaking: For Against Information

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

Representing FLORIDA CHAMBER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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1/20/16
Meeting Date

SB 306
Bill Number (if applicable)

Topic Plastic Bags

Amendment Barcode (if applicable)

Name Edgar Castro

Job Title Lobbyist

Address 123 S Adams St
Street

Phone 305-421-6304

Tallahassee FL 32301
City State Zip

Email castro@sstrategy.com

Speaking: For Against Information

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

Representing City of Miami Beach

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

11/20/16

Bill Number (if applicable)

306

Topic

PLASTIC BAGS

Amendment Barcode (if applicable)

Name

FAUSTO GOMEZ

Job Title

Address

2350 CORAL WAY

Phone

(305) 860-0780

Street

MIAMI

FL

33145

Email

FGOMEZ@GOMEZBARKER.COM

City

State

Zip

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

(The Chair will read this information into the record.)

Representing

CUTLER BAY, KEY BISCAYNE, CORAL GABLES, NBV

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/14
Meeting Date

306

Bill Number (if applicable)

Topic Plastic Bags

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title

Address PO Box 1757

Phone 339 6211

Street

Talla FL 32301

Email rao@theriaquelaw.com

City

State

Zip

Speaking: For Against Information

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

Representing Fla League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/20/16
Meeting Date

SB 306
Bill Number (if applicable)

Topic Disposable Bags

Amendment Barcode (if applicable)

Name ANDREW C MERWIN

Job Title Biologist

Address 1618 Rankin Ave

Phone (310) 619 5865

Street

Tallahassee

FL

32310

City

State

Zip

Email acmerwin@bio.fsu.edu

Speaking: For Against Information

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

Representing _____

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

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1/20/16
Meeting Date

306
Bill Number (if applicable)

Topic Disposable Plastic Bags

Amendment Barcode (if applicable)

Name Samantha Padgett

Job Title Vice President & General Counsel

Address 227 S. Adams St.
Street

Phone 222-4082

Tallahassee FL 32301
City State Zip

Email samantha@frf.org

Speaking: For Against Information

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

Representing Florida Retail Federation

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/20/16
Meeting Date

306
Bill Number (if applicable)

Topic DISPOSABLE PLASTIC BAGS

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title

Address 1674 UNIVERSITY AVE
Street
SARASOTA FL 34243
City State Zip

Phone 941-323-2404

Email culleवास@cal.com

Speaking: For Against Information

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

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

HB 143-5306
Bill Number (if applicable)

Meeting Date _____

Topic BAN PLASTIC BAGS

Amendment Barcode (if applicable) _____

Name KATHE D. THOMPSON

Job Title _____

Address 15109 BANBURY WAY

Phone 561-236-5909

Street

WELLINGTON, FL 33414

Email Kathet13@aol.com

City

State

Zip

Speaking: For Against Information

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

Representing RECLAIMING FLORIDA'S FUTURE

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE

APPEARANCE RECORD

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

20 Jan 2016
Meeting Date

HB 143/S306
Bill Number (if applicable)

Topic Support "Disposable Plastic Bags"

Amendment Barcode (if applicable)

Name Marcela P22 Cohen

Job Title

Address 500 South Bowl Drive
Miami Beach, Florida 33139
Street City State Zip

Phone 305 793 2625

Email

Speaking: For Against Information

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

Representing Environmental/Sustainability Miami Beach

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1-20-16

Meeting Date

HB 143/5706
Bill Number (if applicable)

Topic Plastic Bags

Amendment Barcode (if applicable)

Name Daniel Civaldo

Job Title _____

Address 1051 Michigan Ave

Phone 305 476 9535

Street

Miami Beach FL 33139

Email dgc223@gmail.com

City

State

Zip

Speaking: For Against Information

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

Representing _____

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

306

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic

Name Terry Hamilton

Job Title HR

Address 12217 53rd Ave
Street

Phone 561-642-4474

W.P.B. Fl. 33411
City State Zip

Email thamilton@sustribe.pbc.org

Speaking: For Against Information

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

Representing

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.

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THE FLORIDA SENATE
APPEARANCE RECORD

TAB4

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

Jan. 20, 2016
Meeting Date

SB 1282
Bill Number (if applicable)

Topic FWC agency bill

Amendment Barcode (if applicable)

Name Jackie Faulstich

Job Title Legislative Affairs Director

Address 620 S. Meridian Street

Phone 850-487-3795

Tallahassee FL 32399
City State Zip

Email jackie.faulstich@myfwc.com

Speaking: For Against Information

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

Representing Fish & Wildlife Conservation Commission

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.

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CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Environmental Preservation and Conservation Committee

Judge:

Started: 1/20/2016 1:34:39 PM

Ends: 1/20/2016 2:09:34 PM

Length: 00:34:56

1:34:37 PM Recording Resumed
1:34:37 PM Meeting called to order
1:34:38 PM Recording Paused
1:35:22 PM Roll call
1:35:34 PM Quorum present
1:35:53 PM Pledge
1:35:57 PM Senator Dean's opening comments
1:36:14 PM Tab 2 SB 922 Solid Waste Management presented by Senator Montford's aide
1:36:59 PM Senator Hutson with question
1:37:58 PM Heather Martin with DEP waives in support
1:38:38 PM Kenya Cory waives in support
1:38:46 PM Roll call on SB 922
1:38:59 PM SB 922 reported favorably
1:39:23 PM Tab 5 SB 306 presented by Senator Bullard
1:40:36 PM Michael DeFilippi of City of Miami Beach recognized
1:40:57 PM Capt Donald Voss with One Florida Foundation recognized to speak
1:41:52 PM Jan Rubino waives in support
1:43:05 PM Holly Parker with Surfrider Foundation recognized to speak
1:43:18 PM Christopher Emmanuel with Florida Chamber recognized to speak
1:44:17 PM Edgar Castro waives in support
1:44:42 PM Fausto Gomez waives in support
1:44:54 PM Rebecca O'Hara waives in support
1:45:06 PM Andrew Murewin recognized to speak
1:45:33 PM Samantha Padgett with FL Retail Federation recognized to speak
1:45:53 PM Senator Soto with question for Samantha Padgett
1:46:36 PM Samantha Padgett with response to Senator Soto
1:46:44 PM Senator Soto with follow-up question for Samantha Padgett
1:47:02 PM Samantha Padgett with response to Senator Soto
1:47:14 PM David Cullen with Sierra Club FL waives in support
1:47:52 PM Kathe Thompson waives in support
1:48:14 PM Marcella Cohen recognized to speak
1:48:47 PM Daniel Cirlado waives in support
1:49:12 PM Terry Hamilton recognized to speak
1:49:27 PM Senator Soto recognized in debate
1:50:26 PM Senator Simmons recognized with a question
1:51:06 PM Senator Bullard with response to Senator Simmons
1:51:26 PM Senator Simmons with follow-up
1:51:56 PM Senator Bullard response
1:51:59 PM Senator Hays with question for Senator Bullard
1:52:23 PM Senator Bullard with response for Senator Hays
1:52:29 PM Senator Hays with follow-up question for Senator Bullard
1:53:04 PM Senator Bullard with response for Senator Hays
1:54:26 PM Senator Simmons recognized with question for Senator Bullard
1:55:27 PM Senator Bullard with response for Senator Simmons
1:56:26 PM Senator Bullard recognized to close on SB 306
1:57:04 PM Roll call on SB 306
1:57:40 PM SB 306 reported favorably
1:57:56 PM Chair turned over to Vice-Chair Simpson
1:58:31 PM Tab 4 SB 1282 presented by Senator Dean
1:58:41 PM Jackie Fauls with Fish and Wildlife Conservation Commission waives in support
1:59:42 PM Senator Dean recognized to close on SB 1282
1:59:59 PM Roll call on SB 1282

2:00:15 PM SB 1282 reported favorably
2:00:32 PM Chair turned back over to Senator Dean
2:00:38 PM Senator Soto recognized to be shown voting in favor of SB 922
2:00:55 PM Senator Smith to be shown voting favorably for SB 922
2:01:03 PM Various motions to be shown voting in the affirmative on various bills
2:01:26 PM Tab 1 SB 846 presented by Senator Abruzzo's aide
2:01:45 PM Amendment 390448 presented
2:02:32 PM Amendment 390448 adopted
2:03:11 PM Courtney Larkin with Diving Equipment and Marketing Association waives in support
2:03:30 PM Roll call on CS/SB 846
2:03:53 PM CS/SB 846 reported favorably
2:04:07 PM Tab 3 SB 1052 presented by Senator Hays
2:04:56 PM Amendment 473354 presented by Senator Hays
2:05:58 PM David Cullen waives in support of the amendment
2:06:42 PM Amendment 473354 adopted
2:07:01 PM Amendment 797072 presented by Senator Hays
2:07:12 PM Amendment 797072 adopted
2:07:49 PM Jim Spratt waives in support
2:08:04 PM Frank Matthews waives in support
2:08:14 PM Lance Pierce waives in support
2:08:19 PM Kenya Cory waives in support
2:08:24 PM Stephen James with FL Association of Counties recognized to speak
2:08:39 PM Roll call on CS/SB 1052
2:09:03 PM CS/SB 1052 reported favorably
2:09:17 PM Meeting adjourned