

Tab 1 SB 1228 by Gainer (CO-INTRODUCERS) Hutson; (Similar to H 01031) Marine Turtle Protection Act

Tab 2 SB 1304 by Stewart (CO-INTRODUCERS) Torres; (Similar to H 00491) Florida Black Bears

900786	D	S	RCS	EP, Stewart	Delete everything after	04/19 03:00 PM
182914	AA	S	RCS	EP, Hutson	Delete L.18:	04/19 03:00 PM
723350	AA	S	RCS	EP, Hutson	Delete L.24 - 85:	04/19 03:00 PM

Tab 3 SB 1278 by Grimsley; (Similar to CS/H 01353) Fuel Storage

600148	D	S	RCS	EP, Grimsley	Delete everything after	04/19 03:00 PM
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Tab 4 SB 1748 by Stewart; (Compare to CS/CS/CS/1ST ENG/H 00285) Onsite Sewage Treatment and Disposal System Inspections

164284	D	S	RCS	EP, Stewart	Delete everything after	04/19 03:00 PM
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Book, Chair
Senator Bradley, Vice Chair

MEETING DATE: Wednesday, April 19, 2017

TIME: 1:30—3:30 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Book, Chair; Senator Bradley, Vice Chair; Senators Farmer, Hutson, Latvala, Simmons, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 1228 Gainer (Similar H 1031)	Marine Turtle Protection Act; Adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense, etc. CJ 04/03/2017 Favorable EP 04/19/2017 Favorable AP	Favorable Yeas 4 Nays 0
2	SB 1304 Stewart (Similar H 491)	Florida Black Bears; Creating the "Florida Black Bear Habitat Restoration Act"; requiring the Fish and Wildlife Conservation Commission, the Department of Agriculture and Consumer Services, and the Department of Environmental Protection to coordinate certain duties and responsibilities to protect Florida black bears and to preserve their habitat; requiring burn schedules for state forests and parks containing Florida black bear habitat to be adjusted to meet certain conditions, etc. EP 04/19/2017 Fav/CS AEN AP	Fav/CS Yeas 4 Nays 1
3	SB 1278 Grimsley (Similar CS/H 1353)	Fuel Storage; Specifying that funds in the Inland Protection Trust Fund may be used for certain purposes relating to damage or potential damage to petroleum storage systems caused by ethanol or biodiesel; specifying the process for petroleum storage system owners or operators to request approval for work and payment from the Department of Environmental Protection; requiring the department to ensure that petroleum storage systems approved after a certain date meet certain standards for ethanol blend, biodiesel blend, and other alternative fuel compatibility, etc. EP 04/19/2017 Fav/CS AEN AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation
Wednesday, April 19, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 1748 Stewart (Compare CS/CS/CS/H 285)	Onsite Sewage Treatment and Disposal System Inspections; Requiring that onsite sewage treatment and disposal systems be inspected by specified professionals at the point of sale in real estate transactions; specifying penalties for certain violations of such requirements, etc. EP 04/19/2017 Fav/CS AHS AP	Fav/CS Yeas 4 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Executive Director of Southwest Florida Water Management District			
5	Armstrong, Brian J. (San Antonio)	Pleasure of the Board	Recommend Confirm Yeas 4 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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: SB 1228

INTRODUCER: Senators Gainer and Hutson

SUBJECT: Marine Turtle Protection Act

DATE: April 18, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	Favorable
2.	Istler	Rogers	EP	Favorable
3.			AP	

I. Summary:

SB 1228 amends the offense severity ranking chart provided in s. 921.0022(3), F.S., to:

- Update the cross-reference to s. 379.2431(1)(e)7., F.S., relating to soliciting or conspiring to commit a violation of the Marine Turtle Protection Act; and
- Add s. 379.2431(1)(e)6., F.S., relating to the possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species.

Under the bill both offenses are Level 3 offenses.

The bill takes effect July 1, 2017.

II. Present Situation:

Marine Turtle Protection Act

The “Marine Turtle Protection Act” (MTPA) was created to ensure that the Fish and Wildlife Conservation Commission (FWC) has the appropriate authority and resources to implement its responsibilities under the recovery plans of the U.S. Fish and Wildlife Services for the following five species of marine turtles:

- Atlantic loggerhead turtle (*Caretta caretta*);
- Atlantic green turtle (*Chelonia mydas*);
- Leatherback turtle (*Dermochelys coriacea*);
- Atlantic hawksbill turtle (*Eretmochelys imbricata*); and
- Atlantic ridley turtle (*Lepidochelys kempi*).¹

¹ Section 379.2431(1), F.S.

The MTPA prohibits a person, firm, or corporation from knowingly possessing, taking, disturbing, mutilating, destroying or causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species.²

The FWC is authorized to:

- Issue a special permit or loan agreement to a person, firm, or corporation to possess a marine turtle species or hatchling, or parts thereof, including nests or eggs, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles or hatchlings away from construction sites.
- Issue a special permit or loan agreement to a properly accredited person³ for marine turtle conservation purposes.
- Adopt rules pursuant to ch. 120, F.S., to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtle species, hatchlings, or parts thereof, including nests or eggs.⁴

Penalties for violations of the MTPA are provided in the table below.

² This provision applies unless authorized in this paragraph or otherwise provided by the Federal Endangered Species Act or its implementing regulations. Section 379.2431(1)(d), F.S.

³ The term “properly accredited person” is defined in s. 379.2431(1)(c), F.S.

⁴ Section 379.2431(d), F.S.

Marine Turtle Violations ⁵	Type of Infraction	Civil Penalty or Imprisonment
1st offense for possession of 11 or fewer marine turtle eggs	1st Degree Misdemeanor ⁶	Max. \$1,000 ⁷ and Max. 1 year ⁸
2nd and subsequent offense for possession of 11 or fewer marine turtle eggs	3rd Degree Felony ⁹	Max. \$5,000 ¹⁰ or Max. 5 years ¹¹
1st offense for possession of more than 11 marine turtle eggs	3rd Degree Felony ¹²	Max. \$5,000 or Max. 5 years
Illegally taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species	3rd Degree Felony ¹³	Max. \$5,000 or Max. 5 years
Possession of any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species	3rd Degree Felony ¹⁴	Max. \$5,000 or Max. 5 years
Soliciting or conspiring to commit a violation of the MTPA	3rd Degree Felony ¹⁵	Max. \$5,000 or Max. 5 years
Additional penalty for each egg associated with the above violations		\$100 per egg ¹⁶

The Criminal Punishment Code (Code), ss. 921.002-921.0027, F.S., provides the sentencing scores for all felony convictions. There are 10 offense levels, ranked from least severe (Level 1 offenses) to most severe (Level 10 offenses). Until the Legislature assigns a specific severity level to an offense, under the Code the severity level defaults, as follows:

- A third degree felony is within a Level 1 offense.
- A second degree felony is within a Level 4 offense.
- A first degree felony is within a Level 7 offense.
- A life felony is within a Level 10 offense.¹⁷

If the Legislature determines that the severity level for a specific felony offense should be more or less severe than the default, the Legislature may assign such felony offense to any specific severity level by placing the felony offense on the offense severity ranking chart provided in s. 921.0022(3), F.S.

⁵ Section 379.2431(1)(e), F.S.

⁶ Section 379.2431(1)(e)2., F.S.

⁷ Section 775.083(1)(d), F.S.

⁸ Section 775.082(4)(a), F.S.

⁹ Section 379.2431(1)(e)3., F.S.

¹⁰ Section 775.083(1)(c), F.S.

¹¹ Section 775.082(3)(e), F.S.

¹² Section 379.2431(1)(e)4., F.S.

¹³ Section 379.2431(1)(e)5., F.S.

¹⁴ Section 379.2431(1)(e)6., F.S.

¹⁵ Section 379.2431(1)(e)7., F.S.

¹⁶ Section 379.2431(1)(e)1., F.S.

¹⁷ Section 921.0023, F.S.

According to the FWC, the possession of marine turtle species, hatchlings, or their parts was implied to be illegal along with other prohibitions in s. 379.2431(1)(d), F.S.¹⁸ However, in 2013, a person was charged with a felony of the third degree for knowingly taking a marine turtle in violation of the MTPA. The person placed a live turtle in a cooler and the turtle subsequently died from hypothermia. The statute defines the term “take” to specifically mean “an act that actually kills or injures marine turtles.”¹⁹ Because the person’s actions did not constitute a taking under state law and the possession of sea turtles was not specifically prohibited, the verdict was not guilty.²⁰

To clarify that possession of a marine turtle species was a violation of the MTPA, the Legislature enacted HB 7013 (ch. 2016-107, L.O.F.), which amended s. 379.2431, F.S., to prohibit a person, firm, or corporation from knowingly possessing a marine turtle species or hatchling, or parts thereof, unless otherwise authorized by the Federal Endangered Species Act or its implementing regulations. Chapter 2016-107, L.O.F., added a new subparagraph 6. to provide that a person, firm, or corporation that illegally possesses any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species commits a felony of the third degree, punishable by a maximum fine of \$5,000 or a maximum of 5 years of imprisonment. Adding the new subparagraph 6. made solicitation or conspiracy to commit a violation of the MTPA subparagraph 7.²¹

In ch. 2016-107, L.O.F., the cross-reference to s. 373.2431(1)(e)6., F.S., relating to soliciting to commit or conspiring to commit a violation of the MTPA, on the offense severity ranking chart was not updated to reflect the change in numbering from subparagraph 6. to subparagraph 7. Consequently, the offense severity ranking chart provides a description of the offense of s. 379.2431(1)(e)6., F.S., as soliciting to commit or conspiring to commit a violation of the MTPA and makes no reference to the new language in subparagraph 6. regarding possession.

In ch 2017-3, L.O.F., the cross-reference was amended to conform to the redesignation of subparagraph 6. to subparagraph 7. Therefore, under current law the felony offense for possessing any marine turtle species or hatchling, or parts thereof, is not on the offense severity ranking chart and defaults to a Level 1 offense.

III. Effect of Proposed Changes:

SB 1228 amends the offense severity ranking chart provided in s. 921.0022(3), F.S., to:

- Update the cross-reference to s. 379.2431(1)(e)7., F.S., relating to soliciting or conspiring to commit a violation of the Marine Turtle Protection Act; and
- Add s. 379.2431(1)(e)6., F.S., relating to the possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species.

¹⁸ FWC, *2017 Legislative Proposal Agenda Item 17*, 1 (Nov. 17, 2016), available at <http://myfwc.com/media/4089156/17-proposal.pdf> (last visited April 14, 2017).

¹⁹ Section 379.2431(1)(c), F.S.

²⁰ See FWC, *2017 Legislative Proposal Agenda Item 17*, 1 (Nov. 17, 2016). In a 2015 circuit court case, a judge found a defendant not guilty of violating s. 379.2431(1)(d), F.S. *State v. Alvarez*, Case No. 2013-CF-101AM (Fla. 16th Jud. Cir. 2015).

²¹ Florida Fish and Wildlife Conservation Commission (FWC), *2017 Legislative Proposal* (November 17, 2016) (on file with the Senate Committee on Criminal Justice).

Under the bill both offenses are Level 3 offenses.

The bill takes effect July 1, 2017.

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:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a positive insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0022 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 Gainer

2-01499-17

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1 A bill to be entitled
 2 An act relating to the Marine Turtle Protection Act;
 3 amending s. 921.0022, F.S.; adding the existing
 4 offense of possession of any marine turtle species or
 5 hatchling, or parts thereof, or nests to level 3 of
 6 the offense severity ranking chart for the purpose of
 7 increasing sentencing points for conviction of the
 8 offense; updating a cross-reference; providing an
 9 effective date.

10

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

12

13 Section 1. Paragraph (c) of subsection (3) of section
 14 921.0022, Florida Statutes, is amended to read:

15 921.0022 Criminal Punishment Code; offense severity ranking
 16 chart.—

17 (3) OFFENSE SEVERITY RANKING CHART

18 (c) LEVEL 3

19

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.

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316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
327.35(2)(b)	3rd	Felony BUI.

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	328.05 (2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
30	328.07 (4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
31	376.302 (5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
32	379.2431 (1) (e) 5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
33			

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34	<u>379.2431</u> <u>(1) (e) 6.</u>	3rd	<u>Possessing any marine</u> <u>turtle species or</u> <u>hatchling, or parts</u> <u>thereof, or nest.</u>
35	<u>379.2431</u> <u>(1) (e) 7.</u> 379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
36	400.9935 (4) (a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
37	400.9935 (4) (e)	3rd	Filing a false license application or other required information or failing to report information.
38	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
38	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially

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39

false/misleading
information.

624.401 (4) (a)

3rd

Transacting insurance
without a certificate of
authority.

40

624.401 (4) (b) 1.

3rd

Transacting insurance
without a certificate of
authority; premium
collected less than
\$20,000.

41

626.902 (1) (a) &
(b)

3rd

Representing an
unauthorized insurer.

42

697.08

3rd

Equity skimming.

43

790.15 (3)

3rd

Person directs another to
discharge firearm from a
vehicle.

44

806.10 (1)

3rd

Maliciously injure,
destroy, or interfere with
vehicles or equipment used
in firefighting.

45

806.10 (2)

3rd

Interferes with or assaults
firefighter in performance

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of duty.

46

810.09(2)(c)

3rd

Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.

47

812.014(2)(c)2.

3rd

Grand theft; \$5,000 or more but less than \$10,000.

48

812.0145(2)(c)

3rd

Theft from person 65 years of age or older; \$300 or more but less than \$10,000.

49

815.04(5)(b)

2nd

Computer offense devised to defraud or obtain property.

50

817.034(4)(a)3.

3rd

Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.

51

817.233

3rd

Burning to defraud insurer.

52

817.234

3rd

Unlawful solicitation of persons involved in motor vehicle accidents.

(8)(b) & (c)

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817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
817.236	3rd	Filing a false motor vehicle insurance application.
817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
817.413 (2)	3rd	Sale of used goods as new.
817.505 (4)	3rd	Patient brokering.
828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
831.29	2nd	Possession of instruments

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61	838.021 (3) (b)	3rd	for counterfeiting driver licenses or identification cards.
62	843.19	3rd	Threatens unlawful harm to public servant.
63	860.15 (3)	3rd	Injure, disable, or kill police dog or horse.
64	870.01 (2)	3rd	Overcharging for repairs and parts.
65	893.13 (1) (a) 2.	3rd	Riot; inciting or encouraging.
66	893.13 (1) (d) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).
			Sell, manufacture, or deliver s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,

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(2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or
 (4) drugs within 1,000 feet
 of university.

67

893.13 (1) (f) 2.

2nd

Sell, manufacture, or
 deliver s. 893.03 (1) (c),
 (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3), or
 (4) drugs within 1,000 feet
 of public housing facility.

68

893.13 (4) (c)

3rd

Use or hire of minor;
 deliver to minor other
 controlled substances.

69

893.13 (6) (a)

3rd

Possession of any
 controlled substance other
 than felony possession of
 cannabis.

70

893.13 (7) (a) 8.

3rd

Withhold information from
 practitioner regarding
 previous receipt of or
 prescription for a
 controlled substance.

71

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72	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
73	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
74	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
75	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a

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76

controlled substance.

893.13 (8) (a) 3.

3rd

Knowingly write a prescription for a controlled substance for a fictitious person.

77

893.13 (8) (a) 4.

3rd

Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.

78

918.13 (1) (a)

3rd

Alter, destroy, or conceal investigation evidence.

79

944.47
(1) (a) 1. & 2.

3rd

Introduce contraband to correctional facility.

80

944.47 (1) (c)

2nd

Possess contraband while upon the grounds of a correctional institution.

81

985.721

3rd

Escapes from a juvenile facility (secure detention or residential commitment

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facility).

82

83

Section 2. This act shall take effect July 1, 2017.

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 1304

INTRODUCER: Environmental Preservation and Conservation Committee and Senators Stewart and Torres

SUBJECT: Florida Black Bears

DATE: April 20, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Istler	Rogers	EP	Fav/CS
2.			AEN	
3.			AP	

I. Summary:

CS/SB 1304 creates the Florida Black Bear Habitat Restoration Act which:

- Authorizes the Florida Fish and Wildlife Commission (FWC) to designate on state lands and update as necessary using a science-based approach:
 - Florida black bear habitats in which female bears are likely to be denning during the month of February; and
 - Sensitive habitats containing critical food sources for Florida black bears;
- Prohibits the FWC from allowing a person issued a recreational hunting permit that authorizes the hunting of a Florida black bear to kill a Florida black bear mothering cubs under 100 pounds pursuant to such permit;
- Provides that a personal unlawfully harvesting saw palmetto berries on state lands, regardless of the value of berries stolen, commits petit theft of the second degree, punishable by up to 60 days imprisonment or up to a \$500 fine; and
- Prohibits prescribed burns during the month of February in a habitat designated by the FWC as habitat in which female Florida black bears are likely to be denning.

II. Present Situation:

Florida Black Bear

The Florida black bear (*Ursus americanus floridanus*) is one of 16 recognized subspecies of the American black bear and is one of the three subspecies of black bear in the southeastern United States.¹ The Florida black bear historically roamed throughout the state, but now lives in several

¹ Florida Fish and Wildlife Conservation Commission (FWC), *Florida Black Bear Management Plan, Ursus americanus floridanus*, 5 (June 27, 2012), available at <http://myfwc.com/media/3059469/bear-management-plan.pdf> (last visited April 14, 2017).

fragmented areas across the state.² Due to loss of habitat and unregulated hunting the population was reduced to an estimated 300-500 bears in the 1970s.³ As a result of the population decline, the Florida Fish and Wildlife Conservation Commission (FWC) classified the Florida black bear as a threatened species in 1974.⁴

After more than 35 years of strict statewide protection and management, the FWC conducted an evaluation of the Florida black bear and determined that the Florida black bear was no longer found to be at high risk of extinction. As a result, the FWC removed the Florida black bear from the state list in 2012.⁵

Population

Today, the Florida black bear population is comprised of 7 distinct sub-populations within the state, including Apalachicola, Eglin, Osceola, Ocala/St. Johns, Chassahowitzka, Highland/Glades, and Big Cypress.⁶ During 2014-2015, the FWC conducted a statewide population assessment for Florida black bears using DNA collected at barbed-wire hair sampling sites.⁷ The study found that bear populations increased substantially in certain sub-populations and increased by approximately 53 percent statewide.⁸ The Florida black bear population is growing across the state and its occupied range is expanding, but the populations still only occur in 7 relatively disconnected sub-groups across the state.⁹

For management purposes, each sub-population is separated into a bear management unit (BMU). A BMU is a geographic location bounded by county or state borders with one of the seven Florida black bear sub-populations within it.¹⁰ The goals of establishing BMUs is to provide a defined area within which the FWC can have a community-focused effort to effectively manage and conserve Florida black bears.¹¹ The FWC manages each BMU to meet specific goals related to bear sub-population size, potential habitat, human-bear conflicts, and potential threats, such as vehicle related mortality.¹²

² FWC, *Black Bears Appearance*, <http://myfwc.com/wildlifehabitats/managed/bear/facts/appearance/> (last visited April 14, 2017).

³ FWC, *Black Bear Research*, <http://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited April 14, 2017).

⁴ *Id.*

⁵ Jacob Humm, J. Walter McCown, Brian K. Scheick, Joseph D. Clark, *Black Bear Population Size and Density in Apalachicola, Big Cypress, Eglin, Ocala/St. Johns, and Osceola Study Area, Florida*, 4 (Aug. 18, 2016), available at <http://myfwc.com/media/4062317/florida-black-bear-finalreport.pdf> (last visited April 14, 2017).

⁶ *Id.* at 2.

⁷ *Id.* at 1.

⁸ FWC, *Florida Black Bear Populations*, <http://myfwc.com/media/4067213/bear-pop-infographic.jpg> (last visited April 14, 2017).

⁹ Dana L. Karelus, J. Walter McCown, Brian K. Scheick, Madelon van de Kerk, and Madan K. Oli, *Home Ranges and Habitat Selection by Black Bears in a Newly Colonized Population in Florida*, 347 SOUTHEASTERN NATURALIST Vol. 15, No. 2: 346-364 (2016), available at <http://www.wec.ufl.edu/faculty/olim/Karelus%20et%20al.%202016%20black%20bear%20home%20range%20and%20habitat%20selection%20SENat.pdf> (last visited April 14, 2017).

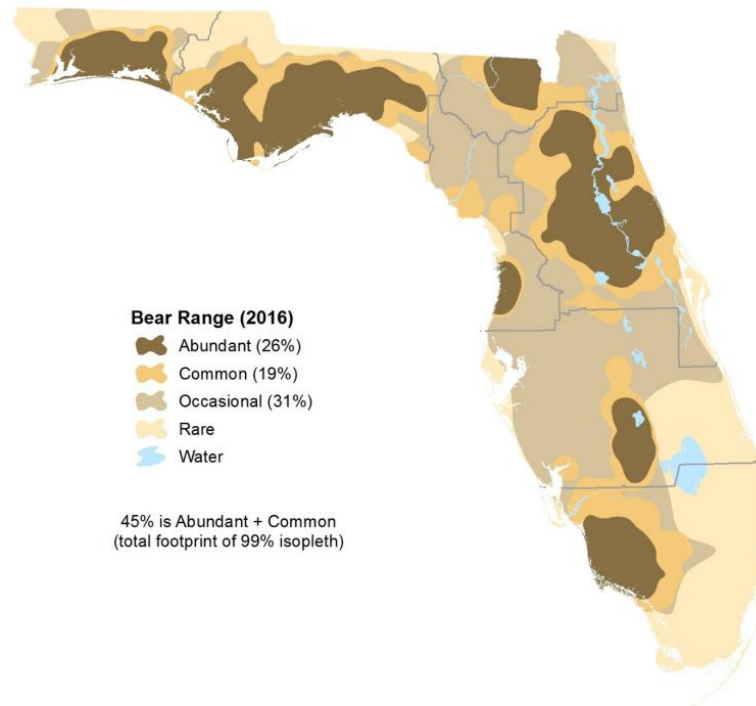
¹⁰ FWC, *What is a BMU?*, <http://myfwc.com/wildlifehabitats/managed/bear/bmu/> (last visited April 14, 2017).

¹¹ *Id.*

¹² *Id.*

Habitat

In Florida, black bears range from the Northeast to the Southwest of Florida. Bears are abundant or common in approximately 45 percent of the state, which is an increase from 17 percent in 1993.¹³ The map below depicts the bear ranges in 2016.¹⁴ Updated ranges are important for managing and predicting human-bear conflicts, estimating potential areas for improving linkages between sub-populations, employing conservation plans, implementing public outreach, and monitoring listing criteria.¹⁵ Some of the sub-populations are small and are impacted by habitat fragmentation, which restricts movements and genetic interchange among sub-populations.¹⁶



The Florida black bear is adaptable and inhabits a variety of forested habitats, but thrives in habitats that provide an annual supply of seasonally available foods, secluded areas for denning, and some degree of protection from humans.¹⁷ The optimal bear habitat in Florida is a mixture of flatwoods, swamps, scrub oak ridges, bayheads, and hammock habitats, thoroughly interspersed.¹⁸ Self-sustaining and secure sub-populations of bears are typically found within large contiguous forested tracts that contain understories of mast¹⁹ or berry-producing shrubs or trees.²⁰

¹³ FWC, *Black Bear Research*, <http://myfwc.com/research/wildlife/terrestrial-mammals/bear/research/> (last visited April 14, 2017).

¹⁴ FWC, *Florida Black Bear Range*, <http://myfwc.com/media/3654721/Blackbear-Range.pdf> (last visited April 14, 2017).

¹⁵ *Id.*

¹⁶ Jacob Humm, J. Walter McCown, Brian K. Scheick, Joseph D. Clark, *Black Bear Population Size and Density in Apalachicola, Big Cypress, Eglin, Ocala/St. Johns, and Osceola Study Area, Florida*, 2 (Aug. 18, 2016).

¹⁷ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 8 (June 27, 2012).

¹⁸ *Id.*

¹⁹ The term “mast” is a general term for edible fruit when eaten by wildlife. Hard mast includes acorn, hickory, pecan, and other nuts while soft mast includes fleshy berries such as palmetto berries, blueberries, and grapes; see FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, xvi (June 27, 2012).

²⁰ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 8 (June 27, 2012).

Florida black bears are omnivores and opportunistic feeders, but plant material makes up approximately 80 percent of their diet.²¹ Food items typically consumed are fruits, berries, acorns, and insects.²² One type of berries that black bears forage on are saw palmetto berries. While sixty-six different plant species have been identified in bear diets, the fruits and fiber of saw palmetto are important throughout the year.²³

Saw palmetto berries

In recent years, demand for saw palmetto berries has increased because they are a source of certain medicinal compounds used in herbal and alternative medical treatments.²⁴ Palmetto berry harvesting for commercial purposes has the potential to remove important food sources for bears.²⁵ The FWC prohibits the possession or removal of saw palmetto berries without written permission from any wildlife and environmental area, where the FWC is the landowner or the lead managing agency.²⁶

The Florida Forest Service within the Florida Department of Agriculture and Consumer Services, is authorized to issue permits for harvesting palmetto berries pursuant to rule.²⁷ The permit cost \$10 per day and was issued between July and November to users who were interested in harvesting palmetto berries on state forest lands.²⁸ The permit authorized the holder to harvest berries in a specific area.²⁹ The Florida Forest Service issues permits provided the proposed use does not interfere with the management objectives of that forest as provided in the forest's management plan; create a nuisance to wildlife, or other forest users, or service staff; pose a threat to public safety; or create a risk of wildfire.³⁰ In June of 2015, the Florida Forest Service discontinued the issuance of permits for harvesting saw palmetto berries on state forest lands until further notice in recognition that saw palmetto berries are a primary source of food for black bears.³¹

Human-bear conflicts

As the population of both humans and bears has expanded, there has been an increase in human-bear conflicts, particularly in residential areas, where bears often search for food.³²

²¹ Mark A. Barrett, David J. Telesco, Sarah E. Barrett, Katelyn M. Widness, and Erin H. Leone, *Testing Bear-Resistant Trash Cans in Residential Areas of Florida*, 27 SOUTHEASTERN NATURALIST Vol. 13, No. 1: 26-39 (2014), available at http://wingfieldreserve.org/wp-content/uploads/2014/06/SEN_bear_urban_trashcans.pdf (last visited April 14, 2017).

²² *Id.*

²³ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 10 (June 27, 2012).

²⁴ Florida Department of Agriculture and Consumer Services (FDACS), *Market Outlook Saw Palmetto Berries*, <http://www.freshfromflorida.com/Divisions-Offices/Florida-Forest-Service/Our-Forests/Working-Forest/Non-Timber-Forest-Products-NTEP> (last visited April 14, 2017).

²⁵ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 32 (June 27, 2012).

²⁶ See Fla. Admin. Code R. 68A-17.004.

²⁷ Fla. Admin. Code R. 5I-4.005.

²⁸ Florida Forest Service, FDACS, *Letter to Senator Bullard*, (July 20, 2015)(on file with the Senate Environmental Preservation and Conservation Commission).

²⁹ Fla. Admin. Code R. 5I-4.005.

³⁰ *Id.*

³¹ Florida Forest Service, FDACS, *Letter to Senator Bullard*, (July 20, 2015).

³² Mark A. Barrett, David J. Telesco, Sarah E. Barrett, Katelyn M. Widness, and Erin H. Leone, *Testing Bear-Resistant Trash Cans in Residential Areas of Florida*, 27 SOUTHEASTERN NATURALIST Vol. 13, No. 1: 26-39 (2014).

Between 2007 and 2011, the FWC euthanized an average of 15 bears annually due to the bear's conflict behavior.³³ Of the bears euthanized during that time, 68 percent were associated with seeking out unsecured garbage or other human-provided food sources.³⁴ In 2016, the FWC received 1,553 calls relating to bears.³⁵ In response to these calls, 14 bears were captured, 5 were released, and 8 were euthanized.³⁶

Communities that commit to learning to coexist with bears, knowing when and how to report bear activity, and securing potential food sources are referred to as BearWise Communities.³⁷ Proactive measures, such as securing trash and providing education, to change or manage human behavior are more efficient than other methods at reducing human-bear conflicts.³⁸ The FWC passed a statewide resolution in 2015 highlighting the importance of securing attractants.³⁹

Additionally, in 2015, the state increased penalties for feeding bears.⁴⁰ Section 379.412, F.S., provides enhanced penalties for:

- Feeding wildlife with food or garbage;
- Attracting or enticing wildlife with food or garbage; or
- Allowing the placement of food or garbage in a manner that attracts or entices wildlife.

The FWC also updated its bear feeding rule to include a provision that allows law enforcement officers to issue notifications to people who have been in contact with the FWC regarding securing their garbage or other attractants and have failed to do so.⁴¹ The notification serves as a formal reminder that the person's actions could be in violation of the law.⁴²

The Legislature for the 2016-2017 fiscal year appropriated \$500,000 to the FWC for cost-sharing with local governments in areas with the highest level of human-bear conflicts.⁴³ Some of the funds (\$376,900) came from proceeds from permit sales from the 2015 bear hunt.⁴⁴ The proviso language for the appropriation required at least 60 percent of the money appropriated to go to local governments that implemented ordinances requiring trash be kept secure from bears.⁴⁵

³³ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 12 (June 27, 2012).

³⁴ *Id.*

³⁵ Dr. Thomas Eason, Director, Division of Habitat and Species Conservation, FWC, *Bear Management Update*, Slide 24 (June 2016), available at <http://myfwc.com/media/3814603/3B-BearManagementPresentation.pdf> (last visited April 14, 2017).

³⁶ *Id.*

³⁷ FWC, *Florida's BearWise*, <http://myfwc.com/wildlifehabitats/managed/bear/wise/> (last visited April 14, 2017).

³⁸ Mark A. Barrett, David J. Telesco, Sarah E. Barrett, Katelyn M. Widness, and Erin H. Leone, *Testing Bear-Resistant Trash Cans in Residential Areas of Florida*, 36 SOUTHEASTERN NATURALIST Vol. 13, No. 1: 26-39 (2014).

³⁹ See <http://myfwc.com/media/3057987/11b-blackbearresolution.pdf>, for the entire FWC black bear resolution.

⁴⁰ Chapter 2015-161, s. 12, Laws of Fla.

⁴¹ See Fla. Admin. Code R. 68A-4.001.

⁴² Dr. Thomas Eason, Director, Division of Habitat and Species Conservation, FWC, *Bear Management Update*, Slide 25 (June 2016).

⁴³ Chapter 2016-66, Laws of Fla.

⁴⁴ FWC, *Frequently Asked Questions, FY 16-17 BearWise Funding*, <http://myfwc.com/media/4048285/BearWiseFundingFAQs.pdf> (last visited April 14, 2017).

⁴⁵ Chapter 2016-66, Laws of Fla.

Seminole, Lake, Santa Rosa, and Orange counties passed such ordinances and received at least \$150,000 each to provide bear-resistant trash cans to residents at a discounted cost.⁴⁶

Hunting as a management tool

As a component of the FWC's overall bear management strategy, the FWC established a regulatory framework for bear hunting and in October of 2015 authorized a bear hunt.⁴⁷ Four of the 7 BMUs were opened to bear hunting. Each BMU had an established harvest objective, which was based on taking 20 percent of the estimated BMU population and subtracting the annual known mortality.⁴⁸ The table below depicts the harvest objectives and the actual harvest numbers.⁴⁹

Bear Management Unit	Population Estimate (Estimate Year)	20% of Population Estimate	Known Mortality (3 Year Average)	Harvest Objective	Actual Harvest
East Panhandle	600 ('02)	120	80	40	114
North	550 ('14)	110	10	100	25
Central	1,300 ('14)	260	160	100	143
South	700 ('02)	140	20	80	22
TOTALS	3,150	630	270	320	304

The hunt was authorized to begin on October 24, 2015, and the FWC had the ability to close the season by means of a daily cut-off mechanism within each BMU and statewide.⁵⁰ The hunt was spread across 26 counties with 78 percent of bears taken on private lands.⁵¹ The East Panhandle and the Central BMUs were closed beginning on October 25, 2015, while the North and South BMUs were closed beginning on October 26, 2015.⁵²

For the 2016 season, the FWC staff presented 4 options relating to the Florida black bear hunt for the commission to consider.⁵³ The FWC staff recommended the option to continue to use hunting to manage the growth of black bear populations, but with a modified, more conservative hunt format.⁵⁴ Under the staff recommendation, more restrictions would be placed on hunters who choose to participate in the hunt. Such restrictions included:

⁴⁶ FWC, *FWC awards \$825,000 to local governments to reduce human-bear conflicts* (Dec. 13 2016), available at <http://myfwc.com/news/news-releases/2016/december/13/funding-announcement/> (last visited April 14, 2017).

⁴⁷ FWC, *2015 Florida Black Bear Hunt Summary Report*, 1 <http://myfwc.com/media/3358561/2015-Florida-Black-Bear-Hunt-Report.pdf> (last visited April 14, 2017).

⁴⁸ *Id.* at 2.

⁴⁹ *Id.* at 3.

⁵⁰ *Id.*

⁵¹ *Id.*

⁵² *Id.*

⁵³ FWC, *FWC to Consider Staff Recommendation for Florida Bear Hunt, Four Options on How to Move Forward*, (June 10, 2016), available at <http://myfwc.com/news/news-releases/2016/june/10/florida-bear-hunt/> (last visited April 14, 2017).

⁵⁴ Diane Eggeman, Director, Division of Hunting and Game Management, FWC, *Black Bear Management*, (June 22, 2016), available at <http://myfwc.com/media/3814609/3B-SM-Bear.pdf> (last visited April 14, 2017).

- Reducing the area open to hunting to correspond with areas of the state where human-bear conflicts are most prevalent;
- The prohibition of hunting a bear with any other bear present, including cubs;
- Further restrictions on hunting near game feeding stations;
- Limiting the number of permits;
- Increased enforcement measures requiring hunters to tag bears immediately; and
- Limiting the number of hunters in each area of the state or BMU.⁵⁵

While the FWC staff recommended the option for continuing the hunt, the commission voted to adopt the option to postpone the bear hunt in the state by creating a zero hunt objective for 2016.⁵⁶

Prescribed Burning

Approximately 6 out of every 10 acres in Florida or nearly 22 million acres are considered fire-dependent.⁵⁷ In these ecosystems, the interaction between fire and the landscape is critical to nutrient cycling, perpetuates a biologically diverse and healthy forest, and renews and restores habitat for many species of wildlife. There are about 2 million acres that are permitted for burning each year.⁵⁸ In addition to its environmental benefits, prescribed burning also reduces the risk of catastrophic wildfires and aids in controlling and preventing wildfires by reducing the dangerous build-up of brush and forest litter which is a fuel source for fires.⁵⁹

Florida black bears typically use ground nests for denning and require dense understory vegetation for protection from disturbance.⁶⁰ Intensively managed forests often have little understory and do not provide adequate cover for denning sites. Prescribed fire at frequent intervals or performed during winter seasons may decrease food production and cover for bears.⁶¹

III. Effect of Proposed Changes:

CS/SB 1304 creates the Florida Black Bear Habitat Restoration Act and defines the following terms:

- “Florida black bear” to mean the subspecies *Ursus americanus floridanus*; and

⁵⁵ *Id.*

⁵⁶ FWC, *Commission Meeting Eastpoint, FL, Minutes*, 11 (June 22-23, 2016), available at <http://myfwc.com/media/4064584/june16-commission-minutes.pdf> (last visited April 14, 2017).

⁵⁷ FDACS, *Prescribed Fire in Florida Strategic Plan 2013-2020*, 1, available at http://www.freshfromflorida.com/content/download/32026/788335/Rx_Fire_Strategic_Plan_2013-small.pdf (last visited April 14, 2017).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ Dana L. Karelus, J. Walter McCown, Brian K. Scheick, Madelon van de Kerk, and Madan K. Oli, *Home Ranges and Habitat Selection by Black Bears in a Newly Colonized Population in Florida*, 347 *SOUTHEASTERN NATURALIST* Vol. 15, No. 2: 346-364 (2016), available at <http://www.wec.ufl.edu/faculty/olim/Karelus%20et%20al.%202016%20black%20bear%20home%20range%20and%20habitat%20selection%20SENat.pdf> (last visited April 14, 2017).

⁶¹ FWC, *Florida Black Bear Management Plan, Ursus americanus floridanus*, 32 (June 27, 2012).

- “State lands” to mean all lands under public ownership or control, including state forests, state parks, and conservation easements authorized by the state.

The bill prohibits the Florida Fish and Wildlife Conservation Commission (FWC) from allowing a person issued a recreational hunting permit that authorizes the hunting of a Florida black bear to kill a Florida black bear mothering cubs under 100 pounds pursuant to such permit.

The bill provides that a person unlawfully harvesting saw palmetto berries on state lands, regardless of the value of berries stolen, commits petit theft of the second degree, which is punishable by a maximum of 60 days imprisonment or a fine of up to \$500.

The bill authorizes the FWC to designate, on state lands, and update as necessary using a science-based approach:

- Florida black bear habitats in which female bears are likely to be denning during the month of February; and
- Sensitive habitats containing critical food sources for Florida black bears.

The bill prohibits prescribed burning from being conducted during the month of February in a habitat designated by the FWC as Florida black bear habitat in which female black bears are likely to be denning.

The bill takes effect July 1, 2017.

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:**

If the FWC designates Florida black bear habitat, the FWC may incur costs. However, such costs would likely be insignificant.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 590.125 of the Florida Statutes.

This bill creates section 379.3018 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 April 19, 2017:

The CS:

- Removes the provisions relating to the sale of timber rights, bear-resistant trash cans, roller chopping, and sales certificates for saw palmetto berries.
- Revises the 10-year moratorium on hunting to only prohibiting the FWC from issuing a permit that authorizes the hunting of a Florida black bear mothering cubs under 100 pounds.
- Providing that a person unlawfully harvesting saw palmetto berries on state lands commits petit theft of the second degree, regardless of the value of berries stolen.
- Authorizes the FWC to designate, on state lands, and update as necessary using a science-based approach Florida black bear habitats in which female bears are likely to be denning during the month of February and sensitive habitats containing critical food sources for Florida black bears.
- Prohibits prescribed burns from being conducted during the month of February in a habitat designated by the FWC as Florida black bear habitat in which female bears are likely to be denning.

B. **Amendments:**

None.



900786

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 379.3018, Florida Statutes, is created
to read:

379.3018 Florida black bear habitat restoration.-

(1) SHORT TITLE.-This section may be cited as the "Florida
Black Bear Protection Act."

(2) DEFINITIONS.-As used in this section, the term:



900786

11 (a) "Florida black bear" means the subspecies *Ursus*
12 *americanus floridanus*.

13 (b) "State lands" means all lands under public ownership or
14 control, including state forests, state parks, and conservation
15 easements authorized by the state.

16 (3) HUNTING PROHIBITION.—The commission may not allow any
17 person issued a recreational hunting permit authorizing the
18 hunting of Florida black bears to kill a lactating Florida black
19 bear mothering cubs under 100 pounds pursuant to such permit.

20 (4) SAW PALMETTO BERRY HARVESTING.—Regardless of the value
21 of berries stolen, a person unlawfully harvesting saw palmetto
22 berries on state lands commits petit theft of the second degree,
23 punishable as provided in s. 812.014.

24 (5) DESIGNATION OF HABITATS—The commission shall designate
25 and update as necessary:

26 (a) Florida black bear habitats in which female bears are
27 likely to be denning during the month of February; and

28 (b) Sensitive habitats containing critical food sources for
29 Florida black bears.

30 Section 2. Paragraph (b) of subsection (3) of section
31 590.125, Florida Statutes, is amended to read:

32 590.125 Open burning authorized by the Florida Forest
33 Service.—

34 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
35 PURPOSE.—

36 (b) Certified prescribed burning pertains only to broadcast
37 burning for purposes of silviculture, wildland fire hazard
38 reduction, wildlife management, ecological maintenance and
39 restoration, and agriculture. It must be conducted in accordance



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40 with this subsection and:

41 1. May be accomplished only when a certified prescribed
42 burn manager is present on site with a copy of the prescription
43 and directly supervises the certified prescribed burn until the
44 burn is completed, after which the certified prescribed burn
45 manager is not required to be present.

46 2. Requires that a written prescription be prepared before
47 receiving authorization to burn from the Florida Forest Service.

48 a. A new prescription or authorization is not required for
49 smoldering that occurs within the authorized burn area unless
50 new ignitions are conducted by the certified prescribed burn
51 manager.

52 b. Monitoring the smoldering activity of a certified
53 prescribed burn does not require a prescription or an additional
54 authorization even if flames begin to spread within the
55 authorized burn area due to ongoing smoldering.

56 3. Requires that the specific consent of the landowner or
57 his or her designee be obtained before requesting an
58 authorization.

59 4. Requires that an authorization to burn be obtained from
60 the Florida Forest Service before igniting the burn.

61 5. Requires that there be adequate firebreaks at the burn
62 site and sufficient personnel and firefighting equipment to
63 contain the fire within the authorized burn area.

64 a. Fire spreading outside the authorized burn area on the
65 day of the certified prescribed burn ignition does not
66 constitute conclusive proof of inadequate firebreaks,
67 insufficient personnel, or a lack of firefighting equipment.

68 b. If the certified prescribed burn is contained within the



900786

69 authorized burn area during the authorized period, a strong
70 rebuttable presumption shall exist that adequate firebreaks,
71 sufficient personnel, and sufficient firefighting equipment were
72 present.

73 c. Continued smoldering of a certified prescribed burn
74 resulting in a subsequent wildfire does not by itself constitute
75 evidence of gross negligence under this section.

76 6. Is considered to be in the public interest and does not
77 constitute a public or private nuisance when conducted under
78 applicable state air pollution statutes and rules.

79 7. Is considered to be a property right of the property
80 owner if vegetative fuels are burned as required in this
81 subsection.

82 8. May not be conducted during the month of February in a
83 habitat designated by the Fish and Wildlife Conservation
84 Commission under s. 379.3018(5) (a) or at any time in habitats
85 designed by the commission under s. 379.3018(5) (b).

86 Section 3. This act shall take effect July 1, 2017.

87
88 ===== T I T L E A M E N D M E N T =====

89 And the title is amended as follows:

90 Delete everything before the enacting clause
91 and insert:

92 A bill to be entitled
93 An act relating to Florida black bears; creating s.
94 379.3018, F.S.; providing a short title; defining
95 terms; prohibiting the issuance of a permit to
96 authorizing the recreational hunting of lactating
97 Florida black bears; specifying a penalty for the



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98 unlawful harvesting of saw palmetto berries on state
99 lands; requiring the Fish and Wildlife Conservation
100 Commission to designate certain habitats; requiring
101 updating of such designations; amending s. 590.125,
102 F.S.; prohibiting prescribed burns in certain
103 designated habitats during specified times; providing
104 an effective date.



182914

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
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	.	

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

- 1 **Senate Amendment to Amendment (900786)**
- 2
- 3 Delete line 18
- 4 and insert:
- 5 hunting of Florida black bears to kill a Florida black



723350

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
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The Committee on Environmental Preservation and Conservation
(Hutson) recommended the following:

Senate Amendment to Amendment (900786)

Delete lines 24 - 85
and insert:

(5) DESIGNATION OF HABITATS.-The commission may, on state
lands, designate and update as necessary using a science-based
approach:

(a) Florida black bear habitats in which female bears are
likely to be denning during the month of February; and

(b) Sensitive habitats containing critical food sources for



723350

11 Florida black bears.

12 Section 2. Paragraph (b) of subsection (3) of section
13 590.125, Florida Statutes, is amended to read:

14 590.125 Open burning authorized by the Florida Forest
15 Service.—

16 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
17 PURPOSE.—

18 (b) Certified prescribed burning pertains only to broadcast
19 burning for purposes of silviculture, wildland fire hazard
20 reduction, wildlife management, ecological maintenance and
21 restoration, and agriculture. It must be conducted in accordance
22 with this subsection and:

23 1. May be accomplished only when a certified prescribed
24 burn manager is present on site with a copy of the prescription
25 and directly supervises the certified prescribed burn until the
26 burn is completed, after which the certified prescribed burn
27 manager is not required to be present.

28 2. Requires that a written prescription be prepared before
29 receiving authorization to burn from the Florida Forest Service.

30 a. A new prescription or authorization is not required for
31 smoldering that occurs within the authorized burn area unless
32 new ignitions are conducted by the certified prescribed burn
33 manager.

34 b. Monitoring the smoldering activity of a certified
35 prescribed burn does not require a prescription or an additional
36 authorization even if flames begin to spread within the
37 authorized burn area due to ongoing smoldering.

38 3. Requires that the specific consent of the landowner or
39 his or her designee be obtained before requesting an



723350

40 authorization.

41 4. Requires that an authorization to burn be obtained from
42 the Florida Forest Service before igniting the burn.

43 5. Requires that there be adequate firebreaks at the burn
44 site and sufficient personnel and firefighting equipment to
45 contain the fire within the authorized burn area.

46 a. Fire spreading outside the authorized burn area on the
47 day of the certified prescribed burn ignition does not
48 constitute conclusive proof of inadequate firebreaks,
49 insufficient personnel, or a lack of firefighting equipment.

50 b. If the certified prescribed burn is contained within the
51 authorized burn area during the authorized period, a strong
52 rebuttable presumption shall exist that adequate firebreaks,
53 sufficient personnel, and sufficient firefighting equipment were
54 present.

55 c. Continued smoldering of a certified prescribed burn
56 resulting in a subsequent wildfire does not by itself constitute
57 evidence of gross negligence under this section.

58 6. Is considered to be in the public interest and does not
59 constitute a public or private nuisance when conducted under
60 applicable state air pollution statutes and rules.

61 7. Is considered to be a property right of the property
62 owner if vegetative fuels are burned as required in this
63 subsection.

64 8. May not be conducted during the month of February in a
65 habitat designated by the Fish and Wildlife Conservation
66 Commission under s. 379.3018(5)(a).

By Senator Stewart

13-00669B-17

20171304__

1 A bill to be entitled
2 An act relating to Florida black bears; creating s.
3 379.3018, F.S.; providing a short title; defining
4 terms; providing legislative findings and intent;
5 requiring the Fish and Wildlife Conservation
6 Commission, the Department of Agriculture and Consumer
7 Services, and the Department of Environmental
8 Protection to coordinate certain duties and
9 responsibilities to protect Florida black bears and to
10 preserve their habitat; establishing a Bear-Resistant
11 Garbage Container Account within the Nongame Wildlife
12 Trust Fund; requiring the commission to establish a
13 process by rule through which certain county and
14 municipal governments may apply for and obtain funds
15 to purchase bear-resistant garbage containers;
16 requiring burn schedules for state forests and parks
17 containing Florida black bear habitat to be adjusted
18 to meet certain conditions; prohibiting state agencies
19 from conducting or causing to be conducted roller-
20 chopping of saw palmettos in Florida black bear
21 habitat; prohibiting the sale of timbering rights to
22 certain trees in state forests and parks that contain
23 Florida black bear habitat; requiring the commission
24 to adopt rules establishing standards for the
25 designation of Florida black bear habitat and areas of
26 human-bear conflict; requiring the commission, in
27 coordination with the Department of Agriculture and
28 Consumer Services and the Department of Environmental
29 Protection, to designate areas of the state as Florida

13-00669B-17

20171304__

30 black bear habitat and identify state lands containing
31 such habitat and areas of human-bear conflict by a
32 specific date; requiring periodic review of the
33 designations by the commission and agencies; requiring
34 that specified information be posted and maintained on
35 the commission website; prohibiting the recreational
36 hunting of Florida black bears for a specified period;
37 requiring the commission to conduct a Florida black
38 bear population trend study; prohibiting the
39 harvesting of saw palmetto berries on state lands
40 identified as Florida black bear habitat; providing
41 penalties; requiring purchasers to obtain sales
42 certificates for purchases of specified amounts of saw
43 palmetto berries; requiring harvesters to provide such
44 certificates to initial purchasers; specifying the
45 requirements of such certificates; requiring the
46 certificate to accompany the berries from harvesting
47 until delivery to the final processor or wholesaler;
48 requiring the Commissioner of Agriculture to prescribe
49 the form of the certificates; providing penalties;
50 amending s. 590.125, F.S.; requiring that before
51 conducting prescribed burns in Florida black bear
52 habitats during certain periods, a certification must
53 be obtained that certain female Florida black bears
54 with juvenile offspring are unlikely to be denning in
55 the burn site; providing an effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:
58

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59 Section 1. Section 379.3018, Florida Statutes, is created
60 to read:

61 379.3018 Florida black bear habitat restoration.-

62 (1) SHORT TITLE.-This section may be cited as the "Florida
63 Black Bear Habitat Restoration Act."

64 (2) DEFINITIONS.-As used in this section, the term:

65 (a) "Bear-resistant garbage containers" means receptacles
66 used for storage of garbage on residential properties which have
67 the design and structure to significantly impede access to the
68 contents by bears.

69 (b) "Coordinating agencies" means the Fish and Wildlife
70 Conservation Commission, the Department of Agriculture and
71 Consumer Services, and the Department of Environmental
72 Protection.

73 (c) "Florida black bear" means the subspecies *Ursus*
74 *americanus floridanus*.

75 (d) "Florida black bear habitat" means the portions of this
76 state, as identified by the coordinating agencies, meeting the
77 standards set forth in subsection (8).

78 (e) "Human-bear conflicts" means interactions between
79 humans and bears which lead to negative consequences.

80 (f) "State lands" means all lands under public ownership or
81 control, including state forests, state parks, and conservation
82 easements authorized by the state.

83 (3) FINDINGS AND INTENT.-The Legislature finds that the
84 commission has jurisdiction over the state's wildlife and
85 certain areas of wildlife habitat, that the Department of
86 Agriculture and Consumer Services has jurisdiction over 1
87 million acres of state forests, that the Department of

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88 Environmental Protection has jurisdiction over the state's 174
89 state parks, and that both state forests and state parks
90 constitute prime habitat for the Florida black bear. The
91 Legislature also finds that there is a need for interagency
92 coordination to preserve the habitat of the Florida black bear
93 as a lack of coordination has resulted in an increase in human-
94 bear conflicts. In order to provide for public safety, it is the
95 intent of the Legislature to enact measures to ensure the
96 restoration of the Florida black bear's habitat and thereby
97 reduce the number of human-bear conflicts.

98 (4) POWERS AND DUTIES.—Except as otherwise provided, the
99 coordinating agencies shall administer and enforce this section
100 and all rules and orders adopted or issued under this section.

101 (5) BEAR-RESISTANT GARBAGE CONTAINER ACCOUNT.—The Bear-
102 Resistant Garbage Container Account is established within the
103 Nongame Wildlife Trust Fund, subject to appropriation by the
104 Legislature of at least \$1 million. The commission shall
105 establish a process by rule through which county and municipal
106 governments located in counties that include areas designated
107 pursuant to subsection (8) as being prone to human-bear
108 conflicts may apply for funds to be used in the purchase of
109 bear-resistant garbage containers.

110 (6) BURN SCHEDULE AND ROLLER-CHOPPING.—

111 (a) Burn schedules for state forests and state parks
112 identified as including Florida black bear habitat must be
113 adjusted to allow for the regrowth of oak trees, saw palmettos,
114 and other berry-producing plants that supply the Florida black
115 bear with sufficient natural food to the extent that, after such
116 regrowth, the species is not compelled to enter residential

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117 areas in search of food.

118 (b) A state agency may not conduct or cause to be conducted
119 roller-chopping of saw palmettos in Florida black bear habitat.

120 (7) SALE OF TIMBERING RIGHTS ON STATE LANDS.—The sale of
121 timbering rights to acorn-producing oak trees in all state
122 forests and state parks that are identified as including Florida
123 black bear habitat is prohibited.

124 (8) IDENTIFICATION OF FLORIDA BLACK BEAR HABITAT.—

125 (a) By July 1, 2018, the commission shall establish by rule
126 standards for the designation of specific areas of the state as
127 Florida black bear habitat and shall identify areas prone to
128 human-bear conflicts.

129 (b) By February 1, 2019, the commission, in coordination
130 with the Department of Agriculture and Consumer Services and the
131 Department of Environmental Protection, shall designate areas of
132 the state as Florida black bear habitat and identify all state
133 lands that contain such habitat. The commission shall also
134 identify areas affected by human-bear conflicts. The commission
135 shall apply the standards developed pursuant to paragraph (a) in
136 making these determinations, which must be reviewed and, if
137 necessary, revised by the coordinating agencies at least once
138 every 3 years.

139 (c) The commission shall post and maintain on its website
140 the current list of the areas of the state which are designated
141 as Florida black bear habitat and the state lands that contain
142 such habitat.

143 (9) MORATORIUM ON RECREATIONAL BEAR HUNTING; STUDY.—

144 (a) The recreational hunting of Florida black bears is
145 prohibited in this state until July 1, 2027.

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146 (b) The Florida Fish and Wildlife Conservation Commission
147 shall conduct a 5-year population trend study of the Florida
148 black bear which includes an analysis of the potential impact of
149 Florida black bear hunting using biological stock assessment of
150 the species.

151 (10) SAW PALMETTO BERRY HARVESTING.—

152 (a) Permits to harvest saw palmetto berries may not be
153 issued for any state lands identified as including Florida black
154 bear habitat.

155 (b) A person unlawfully harvesting saw palmetto berries on
156 state lands commits theft, punishable as provided in s. 812.014.

157 (11) PURCHASE OF SAW PALMETTO BERRIES.—

158 (a) Every initial purchaser of more than one bushel or
159 crate of saw palmetto berries shall obtain a sales certificate
160 from the harvester, who must prepare and furnish such
161 certificates. The sales certificate must accompany the berries
162 from the point of harvesting to the final processor or the
163 wholesaler who will offer the berries for retail sale. Such
164 processor or wholesaler shall keep the sales certificate for 1
165 year after date of purchase and shall produce the certificate
166 for inspection upon request by a peace officer.

167 (b) The sales certificate must include:

- 168 1. The quantity of berries purchased;
- 169 2. The name, address, and telephone number of the harvester
170 from whom the berries were purchased;
- 171 3. The name and address of the property where the berries
172 were harvested, and contact information for the owner or manager
173 of the property; and
- 174 4. For the initial purchaser and each subsequent purchaser,

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175 his or her name, address, and telephone number, and the date
176 that he or she purchased the berries.

177 (c) The harvester and initial purchaser shall each keep a
178 copy of the sales certificate for 1 year after the date of the
179 initial purchase. The Commissioner of Agriculture shall
180 prescribe the form of sales certificates required by this
181 subsection.

182 (d) A person who violates this subsection commits a
183 misdemeanor of the third degree, punishable as provided in s.
184 775.082 or s. 775.083.

185 Section 2. Paragraph (b) of subsection (3) of section
186 590.125, Florida Statutes, is amended to read:

187 590.125 Open burning authorized by the Florida Forest
188 Service.—

189 (3) CERTIFIED PRESCRIBED BURNING; LEGISLATIVE FINDINGS AND
190 PURPOSE.—

191 (b) Certified prescribed burning pertains only to broadcast
192 burning for purposes of silviculture, wildland fire hazard
193 reduction, wildlife management, ecological maintenance and
194 restoration, and agriculture. It must be conducted in accordance
195 with this subsection and:

196 1. May be accomplished only when a certified prescribed
197 burn manager is present on site with a copy of the prescription
198 and directly supervises the certified prescribed burn until the
199 burn is completed, after which the certified prescribed burn
200 manager is not required to be present.

201 2. Requires that a written prescription be prepared before
202 receiving authorization to burn from the Florida Forest Service.

203 a. A new prescription or authorization is not required for

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204 smoldering that occurs within the authorized burn area unless
205 new ignitions are conducted by the certified prescribed burn
206 manager.

207 b. Monitoring the smoldering activity of a certified
208 prescribed burn does not require a prescription or an additional
209 authorization even if flames begin to spread within the
210 authorized burn area due to ongoing smoldering.

211 3. Requires that the specific consent of the landowner or
212 his or her designee be obtained before requesting an
213 authorization.

214 4. Requires that an authorization to burn be obtained from
215 the Florida Forest Service before igniting the burn.

216 5. Requires that there be adequate firebreaks at the burn
217 site and sufficient personnel and firefighting equipment to
218 contain the fire within the authorized burn area.

219 a. Fire spreading outside the authorized burn area on the
220 day of the certified prescribed burn ignition does not
221 constitute conclusive proof of inadequate firebreaks,
222 insufficient personnel, or a lack of firefighting equipment.

223 b. If the certified prescribed burn is contained within the
224 authorized burn area during the authorized period, a strong
225 rebuttable presumption shall exist that adequate firebreaks,
226 sufficient personnel, and sufficient firefighting equipment were
227 present.

228 c. Continued smoldering of a certified prescribed burn
229 resulting in a subsequent wildfire does not by itself constitute
230 evidence of gross negligence under this section.

231 6. Is considered to be in the public interest and does not
232 constitute a public or private nuisance when conducted under

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233 applicable state air pollution statutes and rules.

234 7. Is considered to be a property right of the property
235 owner if vegetative fuels are burned as required in this
236 subsection.

237 8. Requires that, for any prescribed burn to be conducted
238 in Florida black bear habitat, as designated by the Fish and
239 Wildlife Conservation Commission pursuant to s. 379.3018, during
240 months when female bears with juvenile offspring are likely
241 denning in such habitat, a certification must be obtained from
242 the Florida Fish and Wildlife Conservation Commission that it is
243 unlikely, based on the commission's best knowledge, that adult
244 female bears with juvenile offspring are denning in the burn
245 site. Such certification must be obtained before igniting the
246 burn.

247 Section 3. This act shall take effect July 1, 2017.

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 1278

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Grimsley

SUBJECT: Fuel Storage

DATE: April 19, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Rogers	EP	Fav/CS
2.			AEN	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1278 expands the use of the Inland Protection Trust Fund (IPTF) to authorize the Department of Environmental Protection (DEP) to pay \$10 million annually for the repair and replacement of storage tanks, piping, or system components that may have been damaged by the storage of fuels blended with ethanol or biodiesel or to take preventive measures to reduce the potential for such damage. The bill establishes application procedures, DEP review requirements, limitations on use of the funds, authorization for DEP to seek third party assistance to implement the program, and requirements for DEP to ensure that future petroleum storage systems meet new compatibility requirements.

The bill has a \$10 million recurring impact to the IPTF.

II. Present Situation:

Inland Protection Trust Fund

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

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases.¹ The Department of Environmental Protection (DEP) regulates these storage tank systems.² Further, DEP may establish criteria for the prioritization, assessment and cleanup, and reimbursement for the cleanup of areas contaminated by leaking underground petroleum storage tanks.³ The Petroleum Restoration Program (PRP) establishes the requirements and procedures for cleaning up contaminated land, as well as the circumstances under which the state will pay for the cleanup.⁴

An owner of contaminated land or the person who caused the discharge is responsible for rehabilitating the land, unless the site owner can show that the contamination resulted from the activities of a previous owner or other third party (responsible party), who is then responsible.⁵ Over the years, DEP has implemented different programs to provide state financial assistance to certain eligible site owners and responsible parties for site rehabilitation. To receive rehabilitation funding assistance, a site must qualify for one of the following Petroleum Cleanup Eligibility Programs:

- Early Detection Incentive Program (EDI), s. 376.3071(10), F.S.;
- Petroleum Liability and Restoration Insurance Program (PLRIP), s. 376.3072, F.S.;
- Abandoned Tank Restoration Program (ATRP), s. 376.305(6), F.S.;
- Innocent Victim Petroleum Storage System Restoration Program (Innocent Victim Program), s. 376.30715, F.S.;
- Petroleum Cleanup Participation Program (PCPP), s. 376.3071(13), F.S.; and
- Consent Order (aka "Hardship" or "Indigent"), s. 376.3071(8)(e), F.S.

To fund the cleanup of contaminated petroleum sites, the Legislature created the Inland Protection Trust Fund (IPTF).⁶ The state levies an excise tax on each barrel of petroleum and petroleum products in or imported into the state to fund the IPTF.⁷ The state determines the amount of the excise tax for each barrel based on a formula that is dependent upon the unobligated balance of the IPTF.⁸ Each year, the Legislature deposits approximately \$200 million from the excise tax into the IPTF.⁹

When DEP determines that incidents of inland contamination related to the storage of petroleum or petroleum products may pose a threat to the public health, safety, or welfare; water resources; or the environment, it must obligate the funds in the IPTF for:

- Prompt investigation and assessment of contamination sites;

¹ Chapter 83-310, Laws of Fla.

² Sections 376.30(3) and 376.303, F.S.

³ Section 376.3071(5), F.S.

⁴ DEP, *Petroleum Restoration Program*, <http://www.dep.state.fl.us/waste/categories/pcp/default.htm> (last visited April 14, 2017).

⁵ Section 376.308, F.S.

⁶ Section 376.3071(3) and (4), F.S.

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

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

⁹ DEP, *Agency Analysis of 2017 HB 753*, 2 (March 3, 2017).

- Expedient restoration or replacement of potable water supplies;
- Rehabilitation of contamination sites based on DEP's cleanup criteria. DEP may not obligate funds for payment of costs which may be associated with, but are not integral to, site rehabilitation, such as the cost for retrofitting or replacing petroleum storage systems;
- Maintenance and monitoring of contamination sites;
- Inspection and supervision of activities conducted with IPTF funds;
- Payment of expenses incurred by DEP in its efforts to obtain from responsible parties the payment or recovery of reasonable costs resulting from cleanup activities;
- Payment of any other reasonable costs of administration, including those administrative costs incurred by the Department of Health in providing field and laboratory services, toxicological risk assessment, and other assistance to DEP in the investigation of drinking water contamination complaints and costs associated with public information and education activities;
- Establishment and implementation of a compliance verification program including contracting with local governments or state agencies to provide for the administration of such program through locally administered programs, to minimize the potential for further contamination sites;
- Funding ATRP and PLRIP;
- Activities related to removal and replacement of petroleum storage systems, exclusive of costs of any tank, piping, dispensing unit, or related hardware, if soil removal is approved as a component of site rehabilitation and requires removal of the tank where remediation is conducted or if such activities were justified in an approved remedial action plan;
- Reasonable costs of restoring property as nearly as practicable to the conditions that existed before activities associated with contamination assessment or remedial action;
- Repayment of loans to the IPTF;
- Expenditure of sums to cover ineligible sites or costs for PRPP;
- Payment of amounts payable under any service contract entered into by DEP with the Inland Protection Financing Corporation;
- Petroleum remediation throughout a state fiscal year;
- Enforcement of the storage tank regulations by the Fish and Wildlife Conservation Commission; and
- Payments for program deductibles, copayments, and limited contamination assessment reports that otherwise would be paid by another state agency for state-funded petroleum contamination site rehabilitation.¹⁰

As of January 2017, there were approximately 19,927 petroleum contaminated sites eligible for clean up under the IPTF existed throughout the state. DEP completed cleanup of 9,240 sites. DEP is currently working on eligible sites in the following categories: assessment 4,531; active remediation 1,044; and passive remediation 1,368.¹¹

Secondary Containment Upgrades

In 1990, DEP adopted rules to require facilities that store petroleum to install secondary containment devices to prevent the release of petroleum from their storage systems. "Secondary

¹⁰ Section 376.3071(4), F.S.

¹¹ DEP, *Agency Analysis of 2017 HB 753*, 2 (March 3, 2017).

containment” is a release detection and discharge prevention system that meets DEP’s performance requirements adopted in rule and includes dispenser sumps, piping sumps, spill containment systems, the outer wall of double-walled tanks and integral piping, or the liner or an impervious containment area surrounding single-walled tanks, or integral piping.¹² The secondary containment rules require that petroleum storage systems must be constructed of materials impervious to the regulated substance being stored; use non-corrosive or corrosion protected materials; be designed and installed to direct any release to a monitoring point; meet certain requirements if they are single walled; be double walled if they do not meet single walled requirements; provide monitoring; use protective coating for certain materials; use spill containment systems; and use overfill devices and automatic shut offs.¹³ Owners of petroleum storage systems spent significant sums of money to upgrade their storage systems to meet the new requirements. These upgrades and requirements lowered the number of reported spills in Florida from 400 releases per month to 120 releases per year.¹⁴

New Fuel Standards

The United States Congress created the Renewable Fuel Standard program to reduce greenhouse gas emissions and expand the nation’s renewable fuel sector while reducing reliance on imported oil. This program was authorized under the Energy Policy Act of 2005 and expanded under the Energy Independence and Security Act of 2007.¹⁵ These acts amended the Clean Air Act to require a certain volume of renewable fuel to replace or reduce the quantity of petroleum-based transportation fuel, heating oil, or jet fuel.¹⁶ This led to an increased use of ethanol and biodiesel as an additive to gasoline and diesel, respectively.

After the expanded use of these alternative fuels, the retail fuel industry observed unusual corrosion within their petroleum storage tank systems.¹⁷ The chemical characteristic of the alternative fuels may affect how they interact with petroleum storage tank systems. Some materials in some petroleum storage tank systems may not perform as intended if storing certain fuels or blends and may be incompatible with those fuels. If petroleum storage tank system materials are not compatible with substances stored in petroleum storage tanks, releases to the environment may occur as a result of corrosion caused by alternative fuels. In 2015, the United States Environmental Protection Agency (EPA) updated the regulations for underground storage tank systems to require owners and operators to use a storage tank system made of or lined with materials that are compatible with the substance stored in the storage tank system.¹⁸ These

¹² Fla. Admin. Code R. 62-761.200(53) and Fla. Admin. Code R. 62-762.201(67).

¹³ Fla. Admin. Code R. 62-761.500, Fla. Admin. Code R. 62-762.501, and Fla. Admin. Code R. 62-762.502.

¹⁴ Marshall Mott-Smith and Edward W. English, *Alternative Fuels – How Ethanol Fuels and Biodiesel Are Damaging Our Petroleum Storage System Infrastructure*, 6 (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁵ EPA, *Renewable Fuel Standard Program*, <https://www.epa.gov/renewable-fuel-standard-program> (last visited April 15, 2017).

¹⁶ EPA, *Program Overview for Renewable Fuel Standards Program*, <https://www.epa.gov/renewable-fuel-standard-program/program-overview-renewable-fuel-standard-program> (last visited April 14, 2017).

¹⁷ Marshall Mott-Smith and Edward W. English, *Alternative Fuels – How Ethanol Fuels and Biodiesel Are Damaging Our Petroleum Storage System Infrastructure*, 6, (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁸ EPA, *Alternative Fuels and Underground Storage Tanks (USTs)*, <https://www.epa.gov/ust/alternative-fuels-and-underground-storage-tanks-usts> (last visited April 16, 2017).

changes occurred after owners and operators in Florida upgraded their petroleum storage tank system systems to meet the secondary containment requirements.

III. Effect of Proposed Changes:

CS/SB 1278 adds the following findings regarding the Inland Protection Trust Fund (IPTF):

- Congress enacted the Energy Policy Act of 2005, amending the Clean Air Act, to establish a Renewable Fuel Standard requiring the use of ethanol as an oxygenate additive for gasoline and biodiesel as an additive for ultra-low sulfur diesel fuel;
- An unintended consequence of the inclusion of ethanol in gasoline and biodiesel in diesel fuel has been to cause, and potentially cause, significant corrosion and other damage to petroleum storage system components regulated under ch. 403, F.S.;
- Florida enacted secondary containment requirements before the mandated introduction of ethanol into gasoline and biodiesel into ultra-low sulfur diesel fuel;
- Petroleum storage system components have been found to meet compatibility standards by the Department of Environmental Protection (DEP) in its equipment approval process;
- These compatibility standards, however, may have changed subsequent to DEP approvals as a result of the introduction of ethanol and biodiesel; and
- Therefore, owners and operators of petroleum storage facilities in Florida who complied with the state's secondary containment requirements and installed approved equipment are at particular risk of being forced to repair or replace equipment or take other preventive measures in advance of the end of the expected useful life of the equipment in order to prevent releases or discharges of pollutants because the equipment may not have been evaluated for:
 - Compatibility with ethanol and biodiesel;
 - Cross-contamination due to the storage of gasoline and diesel fuel; and
 - The effects of condensation and minimal amounts of water in storage tanks;

The bill adds as an additional purpose of the IPTF that it's funds are available for DEP to use in responding immediately to damage or potential damage to storage tank systems caused by ethanol or biodiesel which could result in incidents of inland contamination. The bill also adds as an additional use of the IPTF that moneys available in the fund may be obligated to provide for the payment of equipment, excavation, electrical work, and site restoration costs related to petroleum storage systems damaged by ethanol or biodiesel.

The bill requires DEP to pay up to \$10 million each fiscal year from the IPTF for labor and equipment costs to repair or replace petroleum storage systems that have likely been damaged from the storage of fuels blended with ethanol or biodiesel, or for preventive measures to reduce the potential for such damage.

The bill provides that a petroleum storage system owner or operator may request payment from DEP for:

- The repair or replacement of petroleum storage systems, including tanks, integral piping, or related hardware that have likely been damaged, or are subject to damage, by the storage of fuels blended with ethanol or biodiesel; or
- Other preventive measures to ensure compatibility with ethanol or biodiesel.

An application for payment submitted to DEP by the owner or operator of a petroleum storage system must include the following:

- An affidavit from a petroleum storage system specialty contractor that:
 - Attests to an opinion that the petroleum storage system has likely been damaged as a result of the storage of fuel blended with ethanol or biodiesel or is not compatible with fuels containing ethanol or biodiesel, or a combination of both;
 - Includes a proposal from the specialty contractor for repair or replacement of the equipment, or for the implementation of other preventive measures to reduce the probability of damage; and
 - States the reasons that repair or other preventive measures are not technically or economically feasible or practical for any equipment that the specialty contractor proposes to replace;
- Copies of any inspection reports, including photographs, prepared by the specialty contractor or DEP or local program inspectors documenting the damage or potential for damage to the petroleum storage system;
- A full proposal from the specialty contractor showing the proposed scope of the repair, replacement, or other preventive measures, including a detailed list of labor and equipment, and other associated costs. Funding for preventative measures is only available for petroleum storage systems that have not already received funding from the IPTF to pay the costs of ethanol or biodiesel damage pursuant to the provisions of the bill. An owner or operator may only receive funding for eligible preventative measures for up to 5 years or until the petroleum storage system is replaced, whichever comes first. The petroleum storage system specialty contractor who prepares the affidavit and proposed scope of work is prohibited from also performing the repair, replacement, or preventive measures; and
- For proposals to replace storage tanks or piping, the application must also include:
 - A statement from a certified public accountant indicating the depreciated value of the tanks or piping proposed for replacement which must be the maximum allowable replacement cost for the storage tank and piping, including prorated labor costs, except that tanks that are 20 years old or older are deemed to be fully depreciated and have no replacement value and are not eligible for funding; and
 - Documentation of the age of the storage tank or piping, which may be determined by using historical tank registration records.

The bill requires DEP, upon receipt of an application, to:

- Review it for completeness, accuracy, and the reasonableness of costs and scope of work; and
- Within 30 days after receipt, approve it, deny it, propose modifications to it, or request additional information.

Upon approval of an application, DEP must issue a purchase order to the petroleum storage system owner or operator which:

- Reflects a payment due to the owner or operator for the cost of the scope of work approved by DEP, less a deductible of 25 percent;
- States that moneys are not due to the owner or operator pursuant to the purchase order until the scope of work authorized by DEP has been completed in substantial conformity with the purchase order;

- Except for preventive measure purchase orders under an approved application, the purchase order must specify that the work authorized in the purchase order must be substantially completed and paid for by the petroleum storage system owner or operator within 180 days after the date of the purchase order, after which time the purchase order is void; and
- With regard to preventive measure purchase orders under an approved application, the purchase order must include a maintenance completion and payment deadline schedule developed by DEP under which, if the owner or operator fails to meet the scheduled deadlines, the purchase order is invalidated for all future payments due pursuant to the order. An approved maintenance plan for preventive measures may not exceed 5 years in duration.

The bill requires DEP, for preventive measures purchase orders, to make periodic payments in accordance with the schedule specified in the purchase order upon a satisfactory showing that maintenance work has been completed and costs have been paid by the owner or operator as specified in the purchase order.

For repair or replacement costs, the applicant may request that DEP make payment following completion of the work authorized by DEP, in accordance with the terms of the purchase order. The request must include a sufficient demonstration that the work has been completed in substantial conformance with the purchase order and that the costs have been fully paid, in which event DEP must issue payment in accordance with the terms of the purchase order.

The bill provides that DEP may develop forms to be used for application and payment procedures, but that, until such forms are developed, an applicant may submit the required information in any format, as long as documentation is complete. DEP may also request the assistance of the Department of Management Services or a third-party administrator to assist in the administration of the application and payment process, the costs of which must be paid from the IPTF, however, not more than 3 percent of appropriated funds may be used for administration.

The bill provides that use of the IPTF to pay costs of petroleum storage systems damaged by ethanol or biodiesel pursuant to the provisions of the bill does not affect the obligations of facility owners or operators or petroleum storage system owners or operators to timely comply with DEP rules regarding the maintenance, replacement, and repair of petroleum storage systems in order to prevent a release or discharge of pollutants.

The bill provides that payments from the IPTF for petroleum storage systems damaged by ethanol or biodiesel may not be made for the following:

- Proposal costs or costs related to preparation of the application and required documentation;
- Costs of certified public accountants;
- Any costs in excess of the amount approved by DEP in the purchase order or which are not in substantial compliance with the purchase order, except for the payment of approved costs for repair, replacement or other preventive measures incurred from July 1, 2015 through June 30, 2015;
- Costs associated with storage tanks, piping, or related hardware previously repaired or replaced with funding from the IPTF;

- Facilities not in compliance with DEP storage tank rules, until such time that noncompliance issues have been resolved; and
- Costs associated with damage to petroleum storage systems caused in whole or in part by causes other than the storage of fuels blended with ethanol or biodiesel.

DEP must review and approve applications on a first-come, first-served basis; however, DEP is prohibited from issuing purchase orders for the payment of costs for petroleum storage systems damaged by ethanol or biodiesel unless funds remain for the current fiscal year. A petroleum storage system owner or operator is prohibited from receiving more than \$200,000 per year for equipment replacement, repair, or preventive measures at any single facility, or \$500,000 per year in aggregate for all facilities it owns or operates.

The bill authorizes owners or operators who have incurred costs for repair, replacement, or other preventive measures for petroleum storage systems damaged by ethanol or biodiesel during the period from July 1, 2015 through June 30, 2017 to apply with DEP to request payment for such costs from the IPTF. DEP is prohibited from disbursing payment for costs pursuant to any such applications that are approved until such time as all purchase orders for previously approved applications have been paid and unless funds remain available in the fiscal year for the payment of such costs. Any such payments are subject to a deductible of 25 percent of the cost of the scope of work approved by DEP in its review and approval of each application.

The bill requires DEP to ensure that petroleum storage systems approved after July 1, 2017 meet applicable standards for compatibility with ethanol blends, biodiesel blends, and other alternative fuels that are likely to be stored in such systems.

The bill takes effect July 1, 2017

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:

The bill will likely have a positive economic impact on owners and operators of petroleum storage tank systems that may have been damaged, or that could be damaged, by the storage of fuels blended with ethanol or biodiesel.

C. Government Sector Impact:

The bill has a \$10 million recurring impact to the IPTF.

The bill authorizes DEP to develop forms for application and payment procedures. Forms that impose any requirement or solicit any information not specifically required by statute or existing rule are “rules” for the purposes of the administrative procedures act.¹⁹ If DEP develops forms that meet the definition of “rules,” it must follow rulemaking procedures. DEP possesses sufficient rulemaking authority to amend its IPTF rules to conform to statutory changes made by the bill, if necessary.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends section 376.3071 of the Florida Statutes.

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 April 19, 2017:

- Removes expiration and reversion language from the directory clause of bill section 1.
- Corrects a reference to the Clean Air Act.
- Alters wording to refer to petroleum storage system components (technical).
- Provides exception from prohibition against using Inland Protection Trust Fund moneys to retrofit or replace petroleum storage systems where systems are impacted by ethanol or biodiesel.
- Alters wording to refer to related hardware (technical).
- Changes the criterion for payment of Inland Protection Trust Fund moneys for ethanol and biodiesel damage to petroleum storage systems from those systems that may have been damaged to those systems that have likely been damaged.

¹⁹ Section 120.52(16), F.S.

- Changes the criterion in contractor affidavit from an opinion that the petroleum storage system may not be compatible with fuels containing ethanol or biodiesel to an opinion that the petroleum storage system is not compatible with such fuels.
- Removes a requirement that proposals for funding the replacement or repair of petroleum storage systems must include provisions for any preventive measures needed to prevent a recurrence of the damage.
- Prohibits funding of preventive measures for petroleum storage systems that have already received funding under the subsection.
- Limits funding for preventive measures to 5 years or the replacement of the petroleum storage system, whichever comes first.
- Prohibits the specialty contractor who prepared the affidavit and proposed scope of work from performing the repair, replacement, or preventive measures.
- Includes, rather than excludes, labor costs in the depreciated value of tanks or piping proposed for replacement.
- Provides that tanks that are 20 years old or older are not eligible for funding under the subsection.
- Includes petroleum storage system operator together with references to the petroleum system owner in the purchase order issued by DEP for work and payment.
- Limits the length of an approved maintenance plan for preventive measures to 5 years.
- Limits the funding of the costs of the administration of the application and payment process for remediation of petroleum storage tanks under the subsection to 3 percent of appropriated funds.
- Provides exception from prohibition against payment of any costs in excess of amounts in approved purchase order where application is made for payment of costs for repair, replacement or other preventive measures incurred from July 1, 2015 through June 30, 2015.
- Requires DEP to review and approve applications on a first-come, first-served basis.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (h) is added to subsection (1) of
section 376.3071, Florida Statutes, paragraph (a) of subsection
(2) and subsection (4) of that section are amended, and
subsections (15) and (16) are added to that section, to read:

376.3071 Inland Protection Trust Fund; creation; purposes;
funding.-



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11 (1) FINDINGS.—In addition to the legislative findings set
12 forth in s. 376.30, the Legislature finds and declares:

13 (h) That Congress enacted the Energy Policy Act of 2005,
14 amending the Clean Air Act, to establish a Renewable Fuel
15 Standard requiring the use of ethanol as an oxygenate additive
16 for gasoline and biodiesel as an additive for ultra-low sulfur
17 diesel fuel. An unintended consequence of the inclusion of
18 ethanol in gasoline and biodiesel in diesel fuel has been to
19 cause, and potentially cause, significant corrosion and other
20 damage to petroleum storage system components regulated under
21 this chapter. The Legislature further finds that petroleum
22 storage system components have been found by the department in
23 its equipment approval process to meet compatibility standards;
24 however, these standards may have subsequently changed due to
25 the introduction of ethanol and biodiesel. This state enacted
26 secondary containment requirements before Congress' mandated
27 introduction of ethanol into gasoline and biodiesel into ultra-
28 low sulfur diesel fuel. Therefore, owners and operators of
29 petroleum storage facilities in Florida who complied with this
30 state's secondary containment requirements and installed
31 approved equipment that may not have been evaluated for
32 compatibility with ethanol and biodiesel, cross-contamination
33 due to the storage of gasoline and diesel fuel, and the effects
34 of condensation and minimal amounts of water in storage tanks
35 are at a particular risk for having to repair or replace
36 equipment or take other preventive measures in advance of the
37 end of the equipment's expected useful life in order to prevent
38 releases or discharges of pollutants.

39 (2) INTENT AND PURPOSE.—



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40 (a) It is the intent of the Legislature to establish the
41 Inland Protection Trust Fund to serve as a repository for funds
42 which will enable the department to respond without delay to
43 incidents of inland contamination, and damage or potential
44 damage to storage tank systems caused by ethanol or biodiesel as
45 described in subsection (15) which may result in such incidents,
46 related to the storage of petroleum and petroleum products in
47 order to protect the public health, safety, and welfare and to
48 minimize environmental damage.

49 (4) USES.—Whenever, in its determination, incidents of
50 inland contamination, or potential incidents as provided in
51 subsection (15), related to the storage of petroleum or
52 petroleum products may pose a threat to the public health,
53 safety, or welfare, water resources, or the environment, the
54 department shall obligate moneys available in the fund to
55 provide for:

56 (a) Prompt investigation and assessment of contamination
57 sites.

58 (b) Expeditious restoration or replacement of potable water
59 supplies as provided in s. 376.30(3)(c)1.

60 (c) Rehabilitation of contamination sites, which shall
61 consist of cleanup of affected soil, groundwater, and inland
62 surface waters, using the most cost-effective alternative that
63 is technologically feasible and reliable and that provides
64 adequate protection of the public health, safety, and welfare,
65 and water resources, and that minimizes environmental damage,
66 pursuant to the site selection and cleanup criteria established
67 by the department under subsection (5). ~~except that~~ This
68 paragraph does not authorize the department to obligate funds



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69 for payment of costs which may be associated with, but are not
70 integral to, site rehabilitation, such as the cost for
71 retrofitting or replacing petroleum storage systems, unless
72 repair, replacement, or other preventive measures are authorized
73 pursuant to subsection (15).

74 (d) Maintenance and monitoring of contamination sites.

75 (e) Inspection and supervision of activities described in
76 this subsection.

77 (f) Payment of expenses incurred by the department in its
78 efforts to obtain from responsible parties the payment or
79 recovery of reasonable costs resulting from the activities
80 described in this subsection.

81 (g) Payment of any other reasonable costs of
82 administration, including those administrative costs incurred by
83 the Department of Health in providing field and laboratory
84 services, toxicological risk assessment, and other assistance to
85 the department in the investigation of drinking water
86 contamination complaints and costs associated with public
87 information and education activities.

88 (h) Establishment and implementation of the compliance
89 verification program as authorized in s. 376.303(1)(a),
90 including contracting with local governments or state agencies
91 to provide for the administration of such program through
92 locally administered programs, to minimize the potential for
93 further contamination sites.

94 (i) Funding of the provisions of ss. 376.305(6) and
95 376.3072.

96 (j) Activities related to removal and replacement of
97 petroleum storage systems, if repair, replacement, or other



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98 preventive measures are authorized pursuant to subsection (15),
99 or exclusive of costs of any tank, piping, dispensing unit, or
100 related hardware, if soil removal is approved as a component of
101 site rehabilitation and requires removal of the tank where
102 remediation is conducted under this section, or if such
103 activities were justified in an approved remedial action plan.

104 (k) Reasonable costs of restoring property as nearly as
105 practicable to the conditions which existed before activities
106 associated with contamination assessment or remedial action
107 taken under s. 376.303(4).

108 (l) Repayment of loans to the fund.

109 (m) Expenditure of sums from the fund to cover ineligible
110 sites or costs as set forth in subsection (13), if the
111 department in its discretion deems it necessary to do so. In
112 such cases, the department may seek recovery and reimbursement
113 of costs in the same manner and pursuant to the same procedures
114 established for recovery and reimbursement of sums otherwise
115 owed to or expended from the fund.

116 (n) Payment of amounts payable under any service contract
117 entered into by the department pursuant to s. 376.3075, subject
118 to annual appropriation by the Legislature.

119 (o) Petroleum remediation pursuant to this section
120 throughout a state fiscal year. The department shall establish a
121 process to uniformly encumber appropriated funds throughout a
122 state fiscal year and shall allow for emergencies and imminent
123 threats to public health, safety, and welfare, water resources,
124 and the environment as provided in paragraph (5)(a). This
125 paragraph does not apply to appropriations associated with the
126 free product recovery initiative provided in paragraph (5)(c) or



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127 the advanced cleanup program provided in s. 376.30713.

128 (p) Enforcement of this section and ss. 376.30-376.317 by
129 the Fish and Wildlife Conservation Commission. The department
130 shall disburse moneys to the commission for such purpose.

131 (q) Payments for program deductibles, copayments, and
132 limited contamination assessment reports that otherwise would be
133 paid by another state agency for state-funded petroleum
134 contamination site rehabilitation.

135 (r) Repair of, replacement of, or other preventive measures
136 for storage tanks, piping, or related hardware as provided in
137 subsection (15). Such costs may include equipment, excavation,
138 electrical work, and site restoration.

139
140 The issuance of a site rehabilitation completion order pursuant
141 to subsection (5) or paragraph (12)(b) for contamination
142 eligible for programs funded by this section does not alter the
143 project's eligibility for state-funded remediation if the
144 department determines that site conditions are not protective of
145 human health under actual or proposed circumstances of exposure
146 under subsection (5). The Inland Protection Trust Fund may be
147 used only to fund the activities in ss. 376.30-376.317 except
148 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
149 each fiscal year must first be applied or allocated for the
150 payment of amounts payable by the department pursuant to
151 paragraph (n) under a service contract entered into by the
152 department pursuant to s. 376.3075 and appropriated in each year
153 by the Legislature before making or providing for other
154 disbursements from the fund. This subsection does not authorize
155 the use of the fund for cleanup of contamination caused



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156 primarily by a discharge of solvents as defined in s.
157 206.9925(6), or polychlorinated biphenyls when their presence
158 causes them to be hazardous wastes, except solvent contamination
159 which is the result of chemical or physical breakdown of
160 petroleum products and is otherwise eligible. Facilities used
161 primarily for the storage of motor or diesel fuels as defined in
162 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
163 to this section.

164 (15) PETROLEUM STORAGE SYSTEM REPAIR OR REPLACEMENT DUE TO
165 DAMAGE CAUSED BY ETHANOL OR BIODIESEL; OTHER PREVENTIVE
166 MEASURES.—The department shall pay, in accordance with this
167 subsection, up to \$10 million each fiscal year from the fund for
168 the costs of labor and equipment to repair or replace petroleum
169 storage systems that have likely been damaged due to the storage
170 of fuels blended with ethanol or biodiesel, or for preventive
171 measures to reduce the potential for such damage.

172 (a) A petroleum storage system owner or operator may
173 request payment from the department for the repair or
174 replacement of petroleum storage systems, including tanks,
175 integral piping, or related hardware, that have likely been
176 damaged, or are subject to damage, by the storage of fuels
177 blended with ethanol or biodiesel or for other preventive
178 measures to ensure compatibility with ethanol or biodiesel in
179 accordance with the following procedures:

180 1. The petroleum storage system owner or operator may
181 submit a request for payment to the department along with the
182 following information:

183 a. An affidavit from a petroleum storage system specialty
184 contractor attesting to an opinion that the petroleum storage



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185 system has likely been damaged as a result of the storage of
186 fuel blended with ethanol or biodiesel or is not compatible with
187 fuels containing ethanol or biodiesel, or a combination of both.
188 The affidavit must also include a proposal from the specialty
189 contractor for repair or replacement of the equipment, or for
190 the implementation of other preventive measures to reduce the
191 probability of damage. If the specialty contractor proposes
192 replacement of any equipment, the specialty contractor must
193 state the reasons that repair or other preventive measures are
194 not technically or economically feasible or practical.

195 b. Copies of any inspection reports, including photographs,
196 prepared by the specialty contractor or department or local
197 program inspectors documenting the damage or potential for
198 damage to the petroleum storage system.

199 c. A proposal from the specialty contractor showing the
200 proposed scope of the repair, replacement, or other preventive
201 measures, including a detailed list of labor, equipment, and
202 other associated costs. Funding for preventative measures is
203 only available for petroleum storage systems that have not
204 received funding under this subsection. For eligible
205 preventative measures, an owner or operator may only receive
206 funding for up to 5 years or when the petroleum storage system
207 is replaced, whichever comes first. The petroleum storage system
208 specialty contractor who prepared the affidavit and proposed
209 scope of work may not also perform the repair, replacement, or
210 preventive measures.

211 d. For proposals to replace storage tanks or piping, a
212 statement from a certified public accountant indicating the
213 depreciated value of the tanks or piping proposed for



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214 replacement. Applications for such proposals must also include
215 documentation of the age of the storage tank or piping.
216 Historical tank registration records may be used to determine
217 the age of the storage tank and piping. The depreciated value
218 shall be the maximum allowable replacement cost for the storage
219 tank and piping, including prorated labor costs. For the
220 purposes of this paragraph, tanks that are 20 years old or older
221 are deemed to be fully depreciated and have no replacement value
222 and are not eligible for funding under this subsection.

223 2. The department shall review applications for
224 completeness, accuracy, and the reasonableness of costs and
225 scope of work. The department must, within 30 days after receipt
226 of an application, approve it, deny it, propose modification to
227 it, or request additional information.

228 (b) If an application is approved, the department shall
229 issue a purchase order to the petroleum storage system owner or
230 operator. The purchase order shall:

231 1. Reflect a payment due to the owner or operator for the
232 cost of the scope of work approved by the department, less a
233 deductible of 25 percent.

234 2. State that moneys are not due to the owner or operator
235 pursuant to the purchase order until the scope of work
236 authorized by the department has been completed in substantial
237 conformity with the purchase order.

238 3. Specify that the work authorized in the purchase order
239 must be substantially completed and paid for by the petroleum
240 storage system owner or operator within 180 days after the date
241 of the purchase order. After such time, the purchase order is
242 void. This requirement does not apply to preventive measure



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243 purchase orders.

244 4. Develop a maintenance completion and payment deadline
245 schedule for approved applicants for preventive measure purchase
246 orders. The failure of an owner or operator to meet these
247 scheduled deadlines shall invalidate the purchase order for all
248 future payments due pursuant to the order. An approved
249 maintenance plan for preventive measures may not exceed 5 years.
250 An owner or operator may not receive funding for preventive
251 measures for a petroleum storage system after receiving funds
252 under this subsection for the replacement of that petroleum
253 storage system.

254 (c)1. Except for preventive measure purchase orders, the
255 applicant may request that the department make payment following
256 completion of the work authorized by the department, in
257 accordance with the terms of the purchase order. The request
258 must include a sufficient demonstration that the work has been
259 completed in substantial conformance with the purchase order and
260 that the costs have been fully paid. Upon such a showing, the
261 department must issue the payment in accordance with the terms
262 of the purchase order.

263 2. For preventive measures purchase orders, the department
264 must make periodic payments in accordance with the schedule
265 specified in the purchase order upon satisfactory showing that
266 maintenance work has been completed and costs have been paid by
267 the owner or operator as specified in the purchase order.

268 (d) The department may develop forms to be used for
269 application and payment procedures. Until such forms are
270 developed, an applicant may submit the required information in
271 any format, as long as the documentation is complete.



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272 (e) The department may request the assistance of the
273 Department of Management Services or a third-party administrator
274 to assist in the administration of the application and payment
275 process. Any costs associated with this administration shall be
276 paid from the funds identified in this section. Not more than 3
277 percent of the appropriated funds may be used for
278 administration.

279 (f) This subsection may not affect the obligations of a
280 facility owner or operator or petroleum storage system owner or
281 operator to timely comply with department rules regarding the
282 maintenance, replacement, and repair of petroleum storage
283 systems in order to prevent a release or discharge of
284 pollutants.

285 (g) Payments may not be made for the following:

286 1. Proposal costs or costs related to preparation of the
287 application and required documentation;

288 2. Certified public accountant costs;

289 3. Except as provided in paragraph (j), any costs in excess
290 of the amount approved by the department pursuant to paragraph
291 (b) or which are not in substantial conformance with the
292 purchase order;

293 4. Costs associated with storage tanks, piping, or related
294 hardware that has previously been repaired or replaced for which
295 costs have been paid under this section;

296 5. Facilities that are not in compliance with department
297 storage tank rules, until the noncompliance issues have been
298 resolved; or

299 6. Costs associated with damage to petroleum storage
300 systems caused in whole or in part by causes other than the



301 storage of fuels blended with ethanol or biodiesel.

302 (h) The department must review and approve applications on
303 a first-come, first-served basis. However, the department may
304 not issue purchase orders unless funds remain for the current
305 fiscal year.

306 (i) A petroleum storage system owner or operator may not
307 receive more than \$200,000 annually for equipment replacement,
308 repair, or preventive measures at any single facility, or
309 \$500,000 annually in aggregate for all facilities it owns or
310 operates. An approved maintenance plan for preventive measures
311 may not exceed 5 years. An owner or operator may not receive
312 funding for preventive measures for a petroleum storage system
313 after receiving funds under this subsection for the replacement
314 of that petroleum storage system.

315 (j) An owner or operator who has incurred costs for repair,
316 replacement, or other preventive measures as described in this
317 subsection during the period of July 1, 2015, through June 30,
318 2017, may apply to request payment for such costs from the
319 department using the procedure in paragraphs (b), (c), and (d).
320 The department may not disburse payment for approved
321 applications for such work until all purchase orders for
322 previously approved applications have been paid and unless funds
323 remain available for the fiscal year. Such payment is subject to
324 a deductible of 25 percent of the cost of the scope of work
325 approved by the department pursuant to the application specified
326 under this paragraph.

327 (16) COMPLIANCE WITH COMPATIBILITY STANDARDS.—The
328 department shall ensure that petroleum storage systems approved
329 after July 1, 2017, meet applicable standards for compatibility



330 for ethanol blends, biodiesel blends, and other alternative
331 fuels that are likely to be stored in such systems.

332 Section 2. This act shall take effect July 1, 2017.

333

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

335 And the title is amended as follows:

336 Delete everything before the enacting clause
337 and insert:

338 A bill to be entitled
339 An act relating to fuel storage; amending s. 376.3071,
340 F.S.; providing legislative findings; revising
341 legislative intent; specifying that funds in the
342 Inland Protection Trust Fund may be used for certain
343 purposes relating to damage or potential damage to
344 petroleum storage systems caused by ethanol or
345 biodiesel; specifying the maximum funds that may be
346 used for such purposes; specifying the process for
347 petroleum storage system owners or operators to
348 request approval for work and payment from the
349 Department of Environmental Protection; authorizing
350 the department to develop forms for certain procedures
351 and request administrative assistance from the
352 Department of Management Services or a third party
353 administrator; specifying that certain costs are not
354 eligible for payment; requiring the department to
355 review and approve applications on a first-come,
356 first-served basis, with purchase orders subject to
357 certain remaining funds; limiting the amount a storage
358 tank owner or operator may receive annually for such



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359 measures; providing applicability of certain purchase
360 order requirements; specifying that the department may
361 also pay the cost for certain previously completed
362 repairs, replacement, or other preventive measures
363 relating to damage or potential damage to storage tank
364 systems caused by ethanol or biodiesel; requiring the
365 department to ensure that petroleum storage systems
366 approved after a certain date meet certain standards
367 for ethanol blend, biodiesel blend, and other
368 alternative fuel compatibility; providing an effective
369 date.

By Senator Grimsley

26-00812-17

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1 A bill to be entitled
2 An act relating to fuel storage; amending s. 376.3071,
3 F.S.; providing legislative findings; revising
4 legislative intent; specifying that funds in the
5 Inland Protection Trust Fund may be used for certain
6 purposes relating to damage or potential damage to
7 petroleum storage systems caused by ethanol or
8 biodiesel; specifying the maximum funds that may be
9 used for such purposes; specifying the process for
10 petroleum storage system owners or operators to
11 request approval for work and payment from the
12 Department of Environmental Protection; authorizing
13 the department to develop forms for certain procedures
14 and request administrative assistance from the
15 Department of Management Services; specifying that
16 certain costs are not eligible for payment; providing
17 that applications for payment may be submitted on a
18 first-come, first-served basis, with purchase orders
19 subject to certain remaining funds; limiting the
20 amount a storage tank owner or operator may receive
21 annually for such measures; specifying that the
22 department may also pay the cost for certain
23 previously completed repairs, replacement, or other
24 preventive measures relating to damage or potential
25 damage to storage tank systems caused by ethanol or
26 biodiesel; requiring the department to ensure that
27 petroleum storage systems approved after a certain
28 date meet certain standards for ethanol blend,
29 biodiesel blend, and other alternative fuel

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30 compatibility; providing effective dates.

31
32 Be It Enacted by the Legislature of the State of Florida:

33
34 Section 1. Upon the expiration and reversion of the
35 amendments to section 376.3071, Florida Statutes, made pursuant
36 to sections 95 and 126 of chapter 2016-62, Laws of Florida,
37 paragraph (h) is added to subsection (1) of section 376.3071,
38 Florida Statutes, paragraph (a) of subsection (2) of that
39 section and subsection (4) of that section are amended, and
40 subsections (15) and (16) are added to that section, to read:

41 376.3071 Inland Protection Trust Fund; creation; purposes;
42 funding.—

43 (1) FINDINGS.—In addition to the legislative findings set
44 forth in s. 376.30, the Legislature finds and declares:

45 (h) That Congress enacted the Energy Policy Act of 2005,
46 amending the Clean Water Act, to establish a Renewable Fuel
47 Standard requiring the use of ethanol as an oxygenate additive
48 for gasoline and biodiesel as an additive for ultra-low sulfur
49 diesel fuel. An unintended consequence of the inclusion of
50 ethanol in gasoline and biodiesel in diesel fuel has been to
51 cause, and potentially cause, significant corrosion and other
52 damage to storage tanks, piping, and storage tank system
53 components regulated under this chapter. The Legislature further
54 finds that storage tanks, piping, and storage tank system
55 components have been found by the department in its equipment
56 approval process to meet compatibility standards; however, these
57 standards may have subsequently changed due to the introduction
58 of ethanol and biodiesel. This state enacted secondary

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59 containment requirements before Congress' mandated introduction
60 of ethanol into gasoline and biodiesel into ultra-low sulfur
61 diesel fuel. Therefore, owners and operators of petroleum
62 storage facilities in Florida who complied with this state's
63 secondary containment requirements and installed approved
64 equipment that may not have been evaluated for compatibility
65 with ethanol and biodiesel, cross-contamination due to the
66 storage of gasoline and diesel fuel, and the effects of
67 condensation and minimal amounts of water in storage tanks are
68 at a particular risk for having to repair or replace equipment
69 or take other preventive measures in advance of the end of the
70 equipment's expected useful life in order to prevent releases or
71 discharges of pollutants.

72 (2) INTENT AND PURPOSE.—

73 (a) It is the intent of the Legislature to establish the
74 Inland Protection Trust Fund to serve as a repository for funds
75 which will enable the department to respond without delay to
76 incidents of inland contamination, and damage or potential
77 damage to storage tank systems caused by ethanol or biodiesel as
78 described in subsection (15) which may result in such incidents,
79 related to the storage of petroleum and petroleum products in
80 order to protect the public health, safety, and welfare and to
81 minimize environmental damage.

82 (4) USES.—Whenever, in its determination, incidents of
83 inland contamination, or potential incidents as provided in
84 subsection (15), related to the storage of petroleum or
85 petroleum products may pose a threat to the public health,
86 safety, or welfare, water resources, or the environment, the
87 department shall obligate moneys available in the fund to

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88 provide for:

89 (a) Prompt investigation and assessment of contamination
90 sites.

91 (b) Expeditious restoration or replacement of potable water
92 supplies as provided in s. 376.30(3)(c)1.

93 (c) Rehabilitation of contamination sites, which shall
94 consist of cleanup of affected soil, groundwater, and inland
95 surface waters, using the most cost-effective alternative that
96 is technologically feasible and reliable and that provides
97 adequate protection of the public health, safety, and welfare,
98 and water resources, and that minimizes environmental damage,
99 pursuant to the site selection and cleanup criteria established
100 by the department under subsection (5), except that this
101 paragraph does not authorize the department to obligate funds
102 for payment of costs which may be associated with, but are not
103 integral to, site rehabilitation, such as the cost for
104 retrofitting or replacing petroleum storage systems.

105 (d) Maintenance and monitoring of contamination sites.

106 (e) Inspection and supervision of activities described in
107 this subsection.

108 (f) Payment of expenses incurred by the department in its
109 efforts to obtain from responsible parties the payment or
110 recovery of reasonable costs resulting from the activities
111 described in this subsection.

112 (g) Payment of any other reasonable costs of
113 administration, including those administrative costs incurred by
114 the Department of Health in providing field and laboratory
115 services, toxicological risk assessment, and other assistance to
116 the department in the investigation of drinking water

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117 contamination complaints and costs associated with public
118 information and education activities.

119 (h) Establishment and implementation of the compliance
120 verification program as authorized in s. 376.303(1)(a),
121 including contracting with local governments or state agencies
122 to provide for the administration of such program through
123 locally administered programs, to minimize the potential for
124 further contamination sites.

125 (i) Funding of the provisions of ss. 376.305(6) and
126 376.3072.

127 (j) Activities related to removal and replacement of
128 petroleum storage systems, if repair, replacement, or other
129 preventive measures are authorized pursuant to subsection (15),
130 or exclusive of costs of any tank, piping, dispensing unit, or
131 related hardware, if soil removal is approved as a component of
132 site rehabilitation and requires removal of the tank where
133 remediation is conducted under this section, or if such
134 activities were justified in an approved remedial action plan.

135 (k) Reasonable costs of restoring property as nearly as
136 practicable to the conditions which existed before activities
137 associated with contamination assessment or remedial action
138 taken under s. 376.303(4).

139 (l) Repayment of loans to the fund.

140 (m) Expenditure of sums from the fund to cover ineligible
141 sites or costs as set forth in subsection (13), if the
142 department in its discretion deems it necessary to do so. In
143 such cases, the department may seek recovery and reimbursement
144 of costs in the same manner and pursuant to the same procedures
145 established for recovery and reimbursement of sums otherwise

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146 owed to or expended from the fund.

147 (n) Payment of amounts payable under any service contract
148 entered into by the department pursuant to s. 376.3075, subject
149 to annual appropriation by the Legislature.

150 (o) Petroleum remediation pursuant to this section
151 throughout a state fiscal year. The department shall establish a
152 process to uniformly encumber appropriated funds throughout a
153 state fiscal year and shall allow for emergencies and imminent
154 threats to public health, safety, and welfare, water resources,
155 and the environment as provided in paragraph (5) (a). This
156 paragraph does not apply to appropriations associated with the
157 free product recovery initiative provided in paragraph (5) (c) or
158 the advanced cleanup program provided in s. 376.30713.

159 (p) Enforcement of this section and ss. 376.30-376.317 by
160 the Fish and Wildlife Conservation Commission. The department
161 shall disburse moneys to the commission for such purpose.

162 (q) Payments for program deductibles, copayments, and
163 limited contamination assessment reports that otherwise would be
164 paid by another state agency for state-funded petroleum
165 contamination site rehabilitation.

166 (r) Repair of, replacement of, or other preventive measures
167 for storage tanks, piping, or system components as provided in
168 subsection (15). Such costs may include equipment, excavation,
169 electrical work, and site restoration.

170
171 The issuance of a site rehabilitation completion order pursuant
172 to subsection (5) or paragraph (12) (b) for contamination
173 eligible for programs funded by this section does not alter the
174 project's eligibility for state-funded remediation if the

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175 department determines that site conditions are not protective of
 176 human health under actual or proposed circumstances of exposure
 177 under subsection (5). The Inland Protection Trust Fund may be
 178 used only to fund the activities in ss. 376.30-376.317 except
 179 ss. 376.3078 and 376.3079. Amounts on deposit in the fund in
 180 each fiscal year must first be applied or allocated for the
 181 payment of amounts payable by the department pursuant to
 182 paragraph (n) under a service contract entered into by the
 183 department pursuant to s. 376.3075 and appropriated in each year
 184 by the Legislature before making or providing for other
 185 disbursements from the fund. This subsection does not authorize
 186 the use of the fund for cleanup of contamination caused
 187 primarily by a discharge of solvents as defined in s.
 188 206.9925(6), or polychlorinated biphenyls when their presence
 189 causes them to be hazardous wastes, except solvent contamination
 190 which is the result of chemical or physical breakdown of
 191 petroleum products and is otherwise eligible. Facilities used
 192 primarily for the storage of motor or diesel fuels as defined in
 193 ss. 206.01 and 206.86 are not excluded from eligibility pursuant
 194 to this section.

195 (15) PETROLEUM STORAGE SYSTEM REPAIR OR REPLACEMENT DUE TO
 196 DAMAGE CAUSED BY ETHANOL OR BIODIESEL; OTHER PREVENTIVE
 197 MEASURES.—The department shall pay, in accordance with this
 198 subsection, up to \$10 million each fiscal year from the fund for
 199 the costs of labor and equipment to repair or replace petroleum
 200 storage systems that may have been damaged due to the storage of
 201 fuels blended with ethanol or biodiesel, or for preventive
 202 measures to reduce the potential for such damage.

203 (a) A petroleum storage system owner or operator may

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204 request payment from the department for the repair or
205 replacement of petroleum storage tanks, integral piping, or
206 ancillary equipment that may have been damaged, or is subject to
207 damage, by the storage of fuels blended with ethanol or
208 biodiesel or for other preventive measures to ensure
209 compatibility with ethanol or biodiesel in accordance with the
210 following procedures:

211 1. The petroleum storage system owner or operator may
212 submit a request for payment to the department along with the
213 following information:

214 a. An affidavit from a petroleum storage system specialty
215 contractor attesting to an opinion that the petroleum storage
216 system may have been damaged as a result of the storage of fuel
217 blended with ethanol or biodiesel or may not be compatible with
218 fuels containing ethanol or biodiesel, or a combination of both.
219 The affidavit must also include a proposal from the specialty
220 contractor for repair or replacement of the equipment, or for
221 the implementation of other preventive measures to reduce the
222 probability of damage. If the specialty contractor proposes
223 replacement of any equipment, the specialty contractor must
224 state the reasons that repair or other preventive measures are
225 not technically or economically feasible or practical.

226 b. Copies of any inspection reports, including photographs,
227 prepared by the specialty contractor or department or local
228 program inspectors documenting the damage or potential for
229 damage to the petroleum storage system.

230 c. A proposal from the specialty contractor showing the
231 proposed scope of the repair, replacement, or other preventive
232 measures, including a detailed list of labor, equipment, and

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233 other associated costs. In the case of replacement or repair,
234 the proposal must also include provisions for any preventive
235 measures needed to prevent a recurrence of the damage, such as
236 the use of corrosion inhibitors, the application of coatings
237 compatible with ethanol or biodiesel, as appropriate, and the
238 adoption of a maintenance plan.

239 d. For proposals to replace storage tanks or piping, a
240 statement from a certified public accountant indicating the
241 depreciated value of the tanks or piping proposed for
242 replacement. Applications for such proposals must also include
243 documentation of the age of the storage tank or piping.
244 Historical tank registration records may be used to determine
245 the age of the storage tank and piping. The depreciated value
246 shall be the maximum allowable replacement cost for the storage
247 tank and piping, exclusive of labor costs. For the purposes of
248 this paragraph, tanks that are 20 years old or older are deemed
249 to be fully depreciated and have no replacement value.

250 2. The department shall review applications for
251 completeness, accuracy, and the reasonableness of costs and
252 scope of work. The department must, within 30 days after receipt
253 of an application, approve it, deny it, propose modification to
254 it, or request additional information.

255 (b) If an application is approved, the department shall
256 issue a purchase order to the petroleum storage system owner or
257 operator. The purchase order shall:

258 1. Reflect a payment due to the owner for the cost of the
259 scope of work approved by the department, less a deductible of
260 25 percent.

261 2. State that no moneys are due to the owner pursuant to

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262 the purchase order until the scope of work authorized by the
263 department has been completed in substantial conformity with the
264 purchase order.

265 3. Except for preventive maintenance contracts, specify
266 that the work authorized in the purchase order must be
267 substantially completed and paid for by the petroleum storage
268 system owner or operator within 180 days after the date of the
269 purchase order. After such time, the purchase order is void.

270 4. For preventive maintenance contracts, the department
271 shall develop a maintenance completion and payment deadline
272 schedule for approved applicants. The failure of an owner or
273 operator to meet these scheduled deadlines shall invalidate the
274 purchase order for all future payments due pursuant to the
275 order.

276 (c)1. Except for maintenance contracts, the applicant may
277 request that the department make payment following completion of
278 the work authorized by the department, in accordance with the
279 terms of the purchase order. The request must include a
280 sufficient demonstration that the work has been completed in
281 substantial conformance with the purchase order and that the
282 costs have been fully paid. Upon such a showing, the department
283 must issue the payment in accordance with the terms of the
284 purchase order.

285 2. For maintenance contracts, the department must make
286 periodic payments in accordance with the schedule specified in
287 the purchase order upon satisfactory showing that maintenance
288 work has been completed and costs have been paid by the owner or
289 operator as specified in the purchase order.

290 (d) The department may develop forms to be used for

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291 application and payment procedures. Until such forms are
292 developed, an applicant may submit the required information in
293 any format, as long as the documentation is complete.

294 (e) The department may request the assistance of the
295 Department of Management Services or a third-party administrator
296 to assist in the administration of the application and payment
297 process. Any costs associated with this administration shall be
298 paid from the funds identified in this section.

299 (f) This subsection may not affect the obligations of
300 facility owners or operators or petroleum storage system owners
301 or operators to timely comply with department rules regarding
302 the maintenance, replacement, and repair of petroleum storage
303 systems in order to prevent a release or discharge of
304 pollutants.

305 (g) Payments may not be made for the following:

306 1. Proposal costs or costs related to preparation of the
307 application and required documentation;

308 2. Certified public accountant costs;

309 3. Except as provided in subsection (k), any costs in
310 excess of the amount approved by the department pursuant to
311 paragraph (b) or which are not in substantial conformance with
312 the purchase order;

313 4. Costs associated with storage tanks, piping, or
314 ancillary equipment that has previously been repaired or
315 replaced for which costs have been paid under this section;

316 5. Facilities that are not in compliance with department
317 storage tank rules, until the noncompliance issues have been
318 resolved; or

319 6. Costs associated with damage to petroleum storage

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320 systems caused in whole or in part by causes other than the
321 storage of fuels blended with ethanol or biodiesel.

322 (h) Applications may be submitted on a first-come, first-
323 served basis. However, the department may not issue purchase
324 orders unless funds remain for the current fiscal year.

325 (i) A petroleum storage system owner or operator may not
326 receive more than \$200,000 annually for equipment replacement,
327 repair, or preventive measures at any single facility, or
328 \$500,000 annually in aggregate for all facilities it owns or
329 operates.

330 (j) Owners or operators who have incurred costs for repair,
331 replacement, or other preventive measures as described in this
332 subsection during the period of July 1, 2015, through June 30,
333 2017, may apply to request payment for such costs from the
334 department using the procedure in paragraphs (b), (c), and (d).
335 The department may not disburse payment for approved
336 applications for such work until all purchase orders for
337 previously approved applications have been paid and unless funds
338 remain available for the fiscal year. Such payment is subject to
339 a deductible of 25 percent of the cost of the scope of work
340 approved by the department pursuant to the application specified
341 under this paragraph.

342 (16) COMPLIANCE WITH COMPATIBILITY STANDARDS.—The
343 department shall ensure that petroleum storage systems approved
344 after July 1, 2017, meet applicable standards for compatibility
345 for ethanol blends, biodiesel blends, and other alternative
346 fuels that are likely to be stored in such systems.

347 Section 2. This act shall take effect July 1, 2017.

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 1748

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Stewart

SUBJECT: Onsite Sewage Treatment and Disposal System Inspections

DATE: April 19, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Rogers	EP	Fav/CS
2.			AHS	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1748 requires the Department of Health (DOH), by January 1, 2019, to identify and locate all onsite sewage treatment and disposal systems (OSTDS) in the state; update the current database of OSTDSs with the new information; and generate and submit, to the Governor and the Legislature, a report from the database which includes:

- The total number of OSTDSs in the state;
- The number of OSTDSs in each county; and
- A statewide map of the systems.

The bill also requires a seller of property to provide a prospective purchaser with a disclosure summary before or at the execution of the contract for sale if the property contains or will contain an OSTDS. The summary must be conspicuous, in boldface type, and in a form as stated in the bill. Finally, the bill requires that the prospective purchaser acknowledge in writing the receipt of the summary.

II. Present Situation:

Government-mandated evaluations and inspections program for onsite sewage treatment and disposal systems (OSTDS) at the point of sale in a real estate transaction are prohibited by law, and may not be mandated by any governmental agency, county or municipality in the state.¹ If a

¹ Section 381.0065, F.S.

county or municipality develops and adopts an ordinance to implement an OSTDS inspection and evaluation program, the program may not deviate from the requirements in s. 381.00651, F.S., which includes the prohibition against government-mandated point-of-sale inspections.²

Each person in the state generates approximately 100 gallons of domestic wastewater³ per day.⁴ This wastewater must be managed to protect public health, water quality, recreation, fish, wildlife, and the aesthetic appeal of the state's waterways.⁵ In Florida, one of the systems utilized to treat domestic wastewater is an OSTDS,⁶ commonly referred to as a septic tank.⁷ Oversight of OSTDSs is handled by the Environmental Health Section of the Florida Department of Health (DOH) in each county.⁸

OSTDSs are required to be permitted and inspected by DOH before they are placed into operation.⁹ OSTDSs are required to be located and installed so that with proper maintenance the systems function in a sanitary manner, do not create sanitary nuisances or health hazards and do not endanger the safety of any domestic water supply, groundwater or surface water. Sewage waste and effluent from OSTDSs may not be discharged onto the ground surface or directly or indirectly discharged into ditches, drainage structures, ground waters, surface waters, or aquifers.¹⁰

Number of OSTDSs

There are approximately 2.1 million properties that use an OSTDS in Florida.¹¹ Some of these parcels contain more than one OSTDS. Consequently, DOH regulates approximately 30 percent of the state's domestic wastewater from an estimated 2.6 million OSTDSs.¹² This data was gathered from the Florida Water Management Inventory Project (Inventory Project).¹³

² Florida Department of Health, *Agency Analysis of 2017 HB 285*, 2 (Mar. 2, 2017).

³ "Domestic wastewater" is defined in s. 367.021(5), F.S., as wastewater principally from dwellings, business buildings, institutions, and sanitary wastewater or sewage treatment plants.

⁴ DEP's Domestic Wastewater Program, available at <http://www.dep.state.fl.us/water/wastewater/dom/index.htm> (last visited April 16, 2017).

⁵ Sections 381.0065(1) and 403.021, F.S.

⁶ Section 381.0065(2)(k), F.S., defines an "onsite sewage treatment and disposal system" as a system that contains a standard subsurface, filled, or mound drainfield system; an aerobic treatment unit; a graywater system tank; a laundry wastewater system tank; a septic tank; a grease interceptor; a pump tank; a solids or effluent pump; a waterless, incinerating, or organic waste-composting toilet; or a sanitary pit privy that is installed or proposed to be installed beyond the building sewer on land of the owner or on other land to which the owner has the legal right to install a system. The term includes any item placed within, or intended to be used as a part of or in conjunction with, the system. This term does not include package sewage treatment facilities and other treatment works regulated under ch. 403, F.S.

⁷ Section 381.0065(2)(k) and (3), F.S.; Fla. Admin. Code Chs. 62-600 and 62-701.

⁸ Sections 381.006(7) and 381.0065, F.S.; Fla. Admin. Code R. 62-600.120; DEP's *Wastewater - Septic Systems*, available at <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited Apr. 17, 2017).

⁹ Section 381.0065(4), F.S.; Fla. Admin. Code R. 64E-6.003, Fla. Admin. Code R. 64E-6.004.

¹⁰ Fla. Admin. Code R. 64E-6.005.

¹¹ Florida Department of Health, *Agency Analysis of 2017 HB 285*, 3-4 (Mar. 2, 2017).

¹² DOH's *Onsite Sewage*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited April 16, 2017).

¹³ Florida Department of Health, *Florida Water Management Inventory Project*, available at: <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/flwmi/index.html> (last visited April 16, 2017).

DOH has been working on the Inventory Project since April 2014 with federal funding support from the Environmental Protection Agency (EPA) and the Centers for Disease Control (CDC).¹⁴ These efforts also include state funding support from the Onsite Sewage Program. The Inventory Project primarily uses three main data source categories:

- Compiled county property appraiser data from the Florida Department of Revenue;
- Data in multiple formats submitted voluntarily from hundreds of cooperating Department of Environmental Protection regulated wastewater treatment facilities; and
- Data from the DOH Environmental Health Database system containing permitting and inspection records for regulated entities.¹⁵

According to DOH, after compiling all Inventory Project data sources, a determination is made for every property in the state regarding the drinking water source (private or public water supply) and wastewater treatment method (OSTDS or sewer). Project information and maps are available on the DOH website.¹⁶

Real Estate Disclosures

There are several disclosures required in real estate transactions (e.g., community development district disclosure,¹⁷ ad valorem tax disclosure,¹⁸ homeowners' association disclosure,¹⁹ subsurface rights disclosure,²⁰ radon gas disclosure²¹), but there is no requirement that a seller of real property inform a prospective purchaser of the existence of an OSTDS on the property.

A permit issued and approved by DOH for the installation, modification, or repair of an OSTDS must transfer with the title to the property in a real estate transaction. A title may not be encumbered at the time of transfer by new permit requirements by a governmental entity for an OSTDS which differ from the permitting requirements in effect at the time the system was permitted, modified, or repaired. An inspection of a system may not be mandated at the point of sale in a real estate transaction.²² However, nothing prohibits a voluntary inspection of an OSTDS.

Voluntary OSTDS Inspections

Designed to assess the condition of a system at a particular moment in time and identify substandard systems (e.g., systems without drainfields), the DOH *Procedure for Voluntary Inspection and Assessment of Existing Systems* must be applied in a voluntary OSTDS inspection, with limited exceptions (e.g., an increase in sewage flow or change in sewage characteristics, or failure of the system, for aerobic treatment units and performance-based

¹⁴ Florida Department of Health, *Agency Analysis of 2017 CS/CS/HB 285*, 2 (Apr. 4, 2017).

¹⁵ *Id.*

¹⁶ Information on the *Florida Water Management Inventory Project* is available at: <http://floridahealth.gov/flwmi> (last visited Apr. 16, 2017). Information on *Florida Water Management Inventory Project* maps is available at: <https://gis.flhealth.gov/flwmi> (last visited April 17, 2017).

¹⁷ Section 190.048, F.S.

¹⁸ Section 689.261, F.S.

¹⁹ Section 720.401, F.S.

²⁰ Section 689.29, F.S.

²¹ Section 404.056(5), F.S.

²² Section 381.0065(4)(w), F.S.

treatment systems).²³ The inspection is not designed to determine precise code compliance or provide information to demonstrate that the system will adequately serve the use to be placed upon it by the existing or subsequent owner.

DOH employees are prohibited from performing these inspections. The inspection must be conducted by a master septic tank contractor, registered septic tank contractor, state-licensed plumber, or a certified environmental health professional.²⁴ The inspector must provide the person requesting the inspection with a copy of DOH's *Procedure for Voluntary Inspection and Assessment of Existing Systems* and written notice of their right to request an inspection based on part or all of the standards.²⁵ Unless the person requesting the inspection specifies in writing that parts of a system be omitted, the inspection will include a tank inspection, a drainfield inspection, an inspection of pumps, siphons, and alarms if part of the system, and a written assessment of the condition of the system.²⁶

III. Effect of Proposed Changes:

CS/SB 1748 amends statutory provisions regulating onsite sewage treatment and disposal systems (OSTDS) by requiring the Department of Health (DOH), by January 1, 2019, to:

- Identify all OSTDSs in the state, the identification to include, at a minimum, the location of the systems and any other available information DOH deems appropriate;
- Incorporate and update the information regarding the OSTDSs in the current database of OSTDSs; and
- Generate and submit, to the Governor, the President of the Senate, and the Speaker of the House of Representatives, a report from the database which include, at a minimum:
 - The total number of OSTDSs in the state;
 - The number of OSTDSs in each county; and
 - A statewide map of the systems.

The bill also creates a new statutory section relating to conveyances of land that requires a seller of property to provide a prospective purchaser with a disclosure summary before or at the execution of the contract for sale if the property contains or will contain an OSTDS. The new section provides that the term “onsite sewage treatment and disposal system” has the same meaning as in s. 381.0065, F.S. The prospective purchaser also must acknowledge in writing the receipt of the disclosure summary. The bill requires that the disclosure summary be conspicuous, in boldface type, and in a form substantially similar to the following:

²³ Fla. Admin. Code R. 64E-6.001(5); DOH's *Procedure for Voluntary Inspection and Assessment of Existing Systems* (May 2000), http://lee.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/installers/_documents/ostds-voluntary-inspections.pdf (last visited Apr. 17, 2017).

²⁴ *Id.*; see s. 381.0101, F.S., for environmental health professionals.

²⁵ Fla. Admin. Code R. 64E-6.001(5).

²⁶ DOH's *Procedure for Voluntary Inspection and Assessment of Existing Systems* (May 2000), http://lee.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/installers/_documents/ostds-voluntary-inspections.pdf (last visited Apr. 17, 2017).

ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM
DISCLOSURE SUMMARY

THIS PROPERTY CONTAINS AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM. WHEN NOT PROPERLY DESIGNED, CONSTRUCTED, AND MAINTAINED, SUCH SYSTEMS ARE OFTEN SOURCES OF SIGNIFICANT NUTRIENT AND OTHER TYPES OF POLLUTION IN SURFACE WATER AND GROUNDWATER. SYSTEMS SHOULD BE REGULARLY INSPECTED AND MAINTAINED TO MINIMIZE SYSTEM FAILURE AND THE DISCHARGE OF POLLUTION. ADDITIONAL INFORMATION MAY BE OBTAINED BY CONTACTING THE LOCAL COUNTY HEALTH DEPARTMENT.

... (Purchaser's Initials) ...

The bill takes effect October 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. This bill does not appear to affect county or municipal governments.

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:

The costs to sellers of property of preparing the disclosure summary required by the bill are anticipated to be insignificant.

C. Government Sector Impact:

DOH will incur costs to identify all OSTDSs in the state and to generate the report required by the bill. In order to identify and map all of the state's OSTDSs, DOH anticipates needing to tie the Bureau of Environmental Health's Environmental Health Database (EHD) to the Inventory Project so that permitting data can display on mapped parcels. This will result in additional programming and upgrade costs.

DOH estimates a one-time cost of \$325,000 to:

- Upgrade the EHD to share real-time data with the inventory; and
- Enhance Inventory Project mapping tools to publicly display the EHD permitting and inspection data.

DOH also estimates ongoing annual costs of \$350,000 to keep the Inventory Project and EHD information up-to-date as new properties are developed and existing properties are converted from sewer to septic.²⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 689.30 of the Florida Statutes.

This bill substantially amends section 381.0065 of the Florida Statutes.

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 April 19, 2017:

The amendment removes the substance of the bill and replaces it with the following:

- Requires the Department of Health, by January 1, 2019, to:
 - Identify all OSTDSs in the state, by location and any other appropriate available information;
 - Incorporate the information into, and update, the current database of OSTDSs; and
 - Generate and submit, to the Governor and the Legislature, a report from the database which includes:
 - The total number of OSTDSs in the state;
 - The number of OSTDSs in each county; and
 - A statewide map of the systems.
- Requires a seller of property to provide a prospective purchaser with a disclosure summary before or at the execution of the contract for sale if the property contains or will contain an OSTDS.
- The prospective purchaser must acknowledge in writing the receipt of the summary.
- The summary must be conspicuous, in boldface type, and in a form as stated in the amendment, all in caps and to wit:
 - The property contains an OSTDS.

²⁷ Florida Department of Health, *Agency Analysis of 2017 CS/CS/HB 285*, 7 (Apr. 4, 2017).

- When not properly designed, constructed, and maintained, such systems are often sources of significant nutrient and other pollution in surface water and groundwater.
- Systems should be regularly inspected and maintained.
- More information may be obtained from the local county health department.
- Provides a statutory reference for the definition of onsite sewage treatment and disposal system.
- Changed the effective date of the bill to October 1, 2017.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/19/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (o) is added to subsection (3) of
section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems;
regulation.—

(3) DUTIES AND POWERS OF THE DEPARTMENT OF HEALTH.—The
department shall:



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11 (o) By January 1, 2019:

12 1. Identify all onsite sewage treatment and disposal
13 systems in the state, including, at a minimum, the location of
14 the systems and any other available information the department
15 deems appropriate.

16 2. Incorporate the information identified under
17 subparagraph 1. into and update the current database of onsite
18 sewage treatment and disposal systems.

19 3. Generate a report from the database which includes, at a
20 minimum, the total number of onsite sewage treatment and
21 disposal systems in the state, the number of onsite sewage
22 treatment and disposal systems in each county, and a statewide
23 map of the systems, and submit the report to the Governor, the
24 President of the Senate, and the Speaker of the House of
25 Representatives.

26 Section 2. Section 689.30, Florida Statutes, is created to
27 read:

28 689.30 Sale of property; disclosure of onsite sewage and
29 treatment disposal system.-

30 (1) A seller of property must provide a prospective
31 purchaser with a disclosure summary before or at the execution
32 of the contract for sale if the property contains or will
33 contain an onsite sewage treatment and disposal system. The
34 prospective purchaser must acknowledge in writing the receipt of
35 the disclosure summary required by this section. The disclosure
36 summary must be conspicuous, in boldface type, and in a form
37 substantially similar to the following:

38
39 ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM



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DISCLOSURE SUMMARY

40
41
42 THIS PROPERTY CONTAINS AN ONSITE SEWAGE TREATMENT AND DISPOSAL
43 SYSTEM. WHEN NOT PROPERLY DESIGNED, CONSTRUCTED, AND MAINTAINED,
44 SUCH SYSTEMS ARE OFTEN SOURCES OF SIGNIFICANT NUTRIENT AND OTHER
45 TYPES OF POLLUTION IN SURFACE WATER AND GROUNDWATER. SYSTEMS
46 SHOULD BE REGULARLY INSPECTED AND MAINTAINED TO MINIMIZE SYSTEM
47 FAILURE AND THE DISCHARGE OF POLLUTION. ADDITIONAL INFORMATION
48 MAY BE OBTAINED BY CONTACTING THE LOCAL COUNTY HEALTH
49 DEPARTMENT.

50
51 ...(Purchaser's Initials)...

52
53 (2) As used in this section, the term "onsite sewage
54 treatment and disposal system" has the same meaning as in s.
55 381.0065.

56 Section 3. This act shall take effect October 1, 2017.

57
58 ===== T I T L E A M E N D M E N T =====

59 And the title is amended as follows:

60 Delete everything before the enacting clause
61 and insert:

62 A bill to be entitled
63 An act relating to onsite sewage treatment and
64 disposal systems; amending s. 381.0065, F.S. ;
65 directing the Department of Health, by a specified
66 date, to identify all onsite sewage treatment and
67 disposal systems, update the current database of
68 onsite sewage treatment and disposal systems, and



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69 submit a report to the Governor and the Legislature;
70 creating s. 689.30, F.S.; requiring an onsite sewage
71 treatment and disposal system disclosure summary for
72 certain properties before or at the execution of a
73 contract for sale; requiring that prospective
74 purchasers acknowledge in writing receipt of such
75 summary disclosures; defining the term "onsite sewage
76 treatment and disposal system"; providing an effective
77 date.

By Senator Stewart

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal system inspections; amending s. 381.0065,
4 F.S.; requiring that onsite sewage treatment and
5 disposal systems be inspected by specified
6 professionals at the point of sale in real estate
7 transactions; specifying system inspection
8 requirements for sold properties that are within a
9 specified distance of Florida waters; specifying
10 repair requirements for such properties if the
11 inspection indicates that repairs are needed;
12 specifying penalties for certain violations of such
13 requirements; requiring the Department of Health to
14 adopt rules; amending s. 381.00651, F.S.; deleting
15 provisions prohibiting specified ordinances from
16 mandating onsite sewage treatment and disposal system
17 evaluations and soil examinations at the point of sale
18 in real estate transactions; providing an effective
19 date.

20
21 Be It Enacted by the Legislature of the State of Florida:

22
23 Section 1. Paragraph (w) of subsection (4) of section
24 381.0065, Florida Statutes, is amended to read:

25 381.0065 Onsite sewage treatment and disposal systems;
26 regulation.—

27 (4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
28 construct, repair, modify, abandon, or operate an onsite sewage
29 treatment and disposal system without first obtaining a permit

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30 approved by the department. The department may issue permits to
31 carry out this section, but shall not make the issuance of such
32 permits contingent upon prior approval by the Department of
33 Environmental Protection, except that the issuance of a permit
34 for work seaward of the coastal construction control line
35 established under s. 161.053 shall be contingent upon receipt of
36 any required coastal construction control line permit from the
37 Department of Environmental Protection. A construction permit is
38 valid for 18 months from the issuance date and may be extended
39 by the department for one 90-day period under rules adopted by
40 the department. A repair permit is valid for 90 days from the
41 date of issuance. An operating permit must be obtained prior to
42 the use of any aerobic treatment unit or if the establishment
43 generates commercial waste. Buildings or establishments that use
44 an aerobic treatment unit or generate commercial waste shall be
45 inspected by the department at least annually to assure
46 compliance with the terms of the operating permit. The operating
47 permit for a commercial wastewater system is valid for 1 year
48 from the date of issuance and must be renewed annually. The
49 operating permit for an aerobic treatment unit is valid for 2
50 years from the date of issuance and must be renewed every 2
51 years. If all information pertaining to the siting, location,
52 and installation conditions or repair of an onsite sewage
53 treatment and disposal system remains the same, a construction
54 or repair permit for the onsite sewage treatment and disposal
55 system may be transferred to another person, if the transferee
56 files, within 60 days after the transfer of ownership, an
57 amended application providing all corrected information and
58 proof of ownership of the property. There is no fee associated

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59 with the processing of this supplemental information. A person
60 may not contract to construct, modify, alter, repair, service,
61 abandon, or maintain any portion of an onsite sewage treatment
62 and disposal system without being registered under part III of
63 chapter 489. A property owner who personally performs
64 construction, maintenance, or repairs to a system serving his or
65 her own owner-occupied single-family residence is exempt from
66 registration requirements for performing such construction,
67 maintenance, or repairs on that residence, but is subject to all
68 permitting requirements. A municipality or political subdivision
69 of the state may not issue a building or plumbing permit for any
70 building that requires the use of an onsite sewage treatment and
71 disposal system unless the owner or builder has received a
72 construction permit for such system from the department. A
73 building or structure may not be occupied and a municipality,
74 political subdivision, or any state or federal agency may not
75 authorize occupancy until the department approves the final
76 installation of the onsite sewage treatment and disposal system.
77 A municipality or political subdivision of the state may not
78 approve any change in occupancy or tenancy of a building that
79 uses an onsite sewage treatment and disposal system until the
80 department has reviewed the use of the system with the proposed
81 change, approved the change, and amended the operating permit.

82 (w)1. Any permit issued and approved by the department for
83 the installation, modification, or repair of an onsite sewage
84 treatment and disposal system transfers ~~shall transfer~~ with the
85 title to the property in a real estate transaction. A title may
86 not be encumbered at the time of transfer by new permit
87 requirements by a governmental entity for an onsite sewage

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88 treatment and disposal system which differ from the permitting
89 requirements in effect at the time the system was permitted,
90 modified, or repaired. An inspection of a system must be
91 performed by a septic tank contractor or master septic tank
92 contractor registered under part III of chapter 489, a
93 professional engineer who has wastewater treatment system
94 experience and is licensed under chapter 471, or an
95 environmental health professional certified under this chapter
96 in the area of onsite sewage treatment and disposal system
97 evaluation; however, a governmental entity may not require an
98 inspection under this subparagraph ~~may not be mandated by a~~
99 ~~governmental entity~~ at the point of sale in a real estate
100 transaction, except as specified in subparagraph 2. This
101 paragraph does not affect a septic tank phase-out deferral
102 program implemented by a consolidated government as defined in
103 s. 9, Art. VIII of the State Constitution (1885).

104 2. In addition to the onsite sewage treatment and disposal
105 system inspection requirements relating to real estate
106 transactions specified in subparagraph 1. for properties within
107 1,000 feet of Florida waters, the following additional
108 requirements apply:

109 a. An inspection of any onsite sewage treatment and
110 disposal system must be completed before any real estate
111 transaction involving a sale of a property. Such inspections are
112 valid for 1 year after the date of completion of such
113 inspection.

114 b. All inspections must include fully emptying the onsite
115 sewage treatment and disposal system and cleaning the walls of
116 the system in order to conduct a full inspection of its

13-00689B-17

20171748__

117 surfaces.

118 c. If the inspection indicates that repairs are needed to
119 the onsite sewage treatment and disposal system, the inspector
120 shall notify the department of such need. Upon closing of a real
121 estate transaction involving a property needing such repairs,
122 the seller shall notify the department of the sale. The new
123 property owner has 6 months after the date of sale to make such
124 repairs. The department may, upon request of the new property
125 owner, grant a reasonable extension of time for such repairs for
126 ongoing construction or renovations occurring on the property.

127 d. If the selling property owner obtains more than one
128 inspection within 1 year before the closing of a real estate
129 transaction, the department shall determine, based on a review
130 of all inspections submitted during this period, the repairs to
131 the system required to be made by the new property owner and
132 provide notice of its determination to the new property owner.
133 The new property owner has 6 months from the date of receipt of
134 such notice to make the repairs.

135 e. After the expiration of time prescribed for repairs in
136 sub-subparagraph c., the department shall inspect the system to
137 ensure that the repairs were completed properly.

138 f. If the department finds that the system was not repaired
139 to sufficiently remedy the system deficiencies noted in the
140 initial inspection, the department shall notify the property
141 owner of such deficiency within 15 days. The property owner has
142 45 days after the receipt of the notice to remedy the
143 deficiency. If, upon reinspection, the department finds that a
144 property owner still has failed to remedy such deficiency, the
145 property owner is subject to an administrative penalty of up to

13-00689B-17

20171748__

146 \$500 and an ongoing penalty of \$10 per day until the property
147 owner reasonably demonstrates, to the satisfaction of the
148 department, that repair work to remedy the deficiency has been
149 initiated and will be properly and timely completed.

150 g. The department shall adopt rules to implement this
151 subparagraph, including adopting a standard for when repairs are
152 required pursuant to this subparagraph based on the overall
153 provisions of this section.

154 Section 2. Paragraph (a) of subsection (6) of section
155 381.00651, Florida Statutes, is reenacted to read:

156 381.00651 Periodic evaluation and assessment of onsite
157 sewage treatment and disposal systems.—

158 (6) The requirements for an onsite sewage treatment and
159 disposal system evaluation and assessment program are as
160 follows:

161 (a) *Evaluations.*—An evaluation of each onsite sewage
162 treatment and disposal system within all or part of the county's
163 or municipality's jurisdiction must take place once every 5
164 years to assess the fundamental operational condition of the
165 system and to identify system failures. The ordinance may not
166 mandate an evaluation at the point of sale in a real estate
167 transaction and may not require a soil examination. The location
168 of the system shall be identified. A tank and drainfield
169 evaluation and a written assessment of the overall condition of
170 the system pursuant to the assessment procedure prescribed in
171 subsection (7) are required.

172 Section 3. This act shall take effect July 1, 2017.

2465

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Ken Detzner, Secretary of State,
do hereby certify that

Brian J. Armstrong

is duly appointed

**Executive Director,
Southwest Florida Water Management
District**

for a term beginning on the Twenty-Eighth day of June, A.D.,
2016, to serve at the pleasure of the District's Governing Board
and is subject to be confirmed by the Senate during the next
regular session of the Legislature.



*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Eighteenth day of January, A.D., 2017.*

Ken Detzner

Secretary of State

DSDE 99 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

If photocopied or chemically altered, the word "VOID" will appear.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document



RICK SCOTT
GOVERNOR

RECEIVED
17 JAN 31 AM 11:25
DIVISION OF ELECTIONS
SECRETARY OF STATE

January 23, 2017

Secretary Kenneth W. Detzner
Secretary of State
State of Florida
R. A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have approved the following appointment under the provisions of Section 373.079, Florida Statutes:

Mr. Brian Armstrong
32254 Corbin Ridge Street
San Antonio, Florida 33576

as Executive Director of the Southwest Florida Water Management District, subject to confirmation by the Senate. This appointment is effective for a term beginning June 28, 2016, and ending at the pleasure of the Board of Directors of the Southwest Florida Water Management District.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott
Governor

RS/sk



An Equal Opportunity Employer

Southwest Florida Water Management District

2379 Broad Street, Brooksville, Florida 34604-6899
(352) 796-7211 or 1-800-423-1476 (FL only)
WaterMatters.org

Bartow Office
170 Century Boulevard
Bartow, Florida 33830-7700
(863) 534-1448 or
1-800-492-7862 (FL only)

Sarasota Office
6750 Fruitville Road
Sarasota, Florida 34240-9711
(941) 377-3722 or
1-800-320-3503 (FL only)

Tampa Office
7601 U.S. 301 North (Fort King Highway)
Tampa, Florida 33637-6759
(813) 985-7481 or
1-800-836-0797 (FL only)

- Randall S. Maggard**
Chair, Pasco
- Jeffrey M. Adams**
Vice Chair, Pinellas
- Bryan K. Beswick**
Secretary, DeSoto, Hardee,
Highlands
- Ed Armstrong**
Treasurer, Pinellas
- H. Paul Sonft, Jr.**
Former Chair, Polk
- Michael A. Babb**
Former Chair, Hillsborough
- John Henalick**
Manatee
- George W. Mann**
Polk
- Kelly S. Rice**
Citrus, Lake, Levy, Sumter
- Mark Taylor**
Hernando, Marion
- Michelle Williamson**
Hillsborough
- Vacant**
Hillsborough, Pinellas
- Vacant**
Charlotte, Sarasota

Brian J. Armstrong, P.G.
Executive Director

January 13, 2017

The Honorable Rick Scott
Governor, State of Florida
Plaza Level 05, The Capitol
400 South Monroe Street
Tallahassee, Florida 32399-0001

Dear Governor Scott:

The Southwest Florida Water Management District Governing Board selected Mr. Brian Armstrong, P.G., as its executive director on June 28, 2016. Mr. Armstrong had served as the District's assistant executive director under Mr. Robert Beltran, P.E., who submitted his letter of resignation as executive director on June 7, 2016.

We are forwarding Mr. Brian Armstrong's name to you for approval, pursuant to Chapter 373.079(4)(a), Florida Statutes. The Governing Board is fully supportive of Mr. Armstrong, and looks forward to your favorable consideration and the Senate's confirmation this coming session.

Sincerely,

Randy Maggard
Chair

FILED
17 JAN 13 PM 4:35
DIVISION OF COLLECTIONS
SECRETARY OF STATE

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Brian J. Armstrong
Executive Director of Southwest Florida Water Management District


NOTICE OF HEARING

TO: Mr. Brian J. Armstrong

YOU ARE HEREBY NOTIFIED that the Committee on Environmental Preservation and Conservation of the Florida Senate will conduct a hearing on your executive appointment on Wednesday, April 19, 2017, in the Mallory Horne Committee Room, 37 Senate Office Building, commencing at 1:30 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 15th day of April, 2017

Committee on Environmental Preservation and
Conservation



Senator Lauren Frances Book
As Chair and by authority of the committee

cc: Members, Committee on Environmental Preservation and Conservation
Office of the Sergeant at Arms

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

Please raise your right hand and be sworn in as a witness.

Do you swear or affirm that the evidence you are about to give will be the truth, the whole truth, and nothing but the truth?

WITNESS'S NAME: Brian J. Armstrong

ANSWER: I Do

Pursuant to §90.605(1), *Florida Statutes*: "The witness's answer shall be noted in the record."

COMMITTEE NAME: Environmental Preservation and Conservation Committee

DATE: April 19, 2017



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JACK LATVALA
16th District

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on the
Environment and Natural Resources
Commerce and Tourism
Environmental Preservation and Conservation
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

April 19, 2017

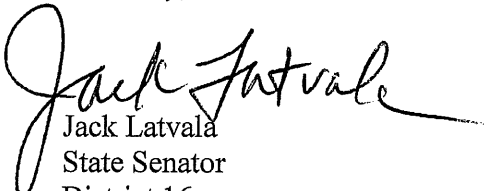
The Honorable Lauren Book
Senate Environmental Preservation and Conservation Committee
325 Knott Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Dear Chair Book:

Please excuse me from attending the Senate Environmental Preservation and Conservation Committee on Wednesday, April 19, 2017. I was in the Senate Judiciary Committee presenting one of my bills.

Thank you for your consideration.

Sincerely,


Jack Latvala
State Senator
District 16

JL:tc

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

TAB 1

4/19/17
Meeting Date

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

1228
Bill Number (if applicable)

Topic Marine Turtles Protection
Environmental Pres. & Conservation

Amendment Barcode (if applicable)

Name Jessica Crawford

Job Title Legislative Affairs Director

Address 620 S. Meridian Street

Phone 850-487-5795

Tallahassee FL 32399
City State Zip

Email Jessica.Crawford@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.

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)

4/19/14

Meeting Date

1278

Bill Number (if applicable)

Topic Edward

Amendment Barcode (if applicable)

Name DON EVERETT Sr

Job Title V.P.

Address 2715 S. BYRON BUTLER PKWY

Phone 850-584-6666

Street

PERRY

City

FL

State

32348

Zip

Email DEVERETT@WAROIL.com

Speaking: For Against Information

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

Representing WAROIL

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)

4/19/17

Meeting Date

SB1304

Bill Number (if applicable)

Topic February Burning

Amendment Barcode (if applicable)

Name Dr Bill PACMER

Job Title President Tall Timbers

Address 13093 Henry Becdel Dr

Phone 850-893-4153

Street

Tallahassee

City

FL

State

32312

Zip

Email bill@ttrs.org

Speaking: For Against Information

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

Representing Tall Timbers

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

TAB 2

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

Meeting Date _____

1304
Bill Number (if applicable)
723350
Amendment Barcode (if applicable)

Topic BEAR Bill

Name Chris Doolin

Job Title SELF -

Address 431 Cortez St.

Phone 508-5492

Street
Tallah. Fla. 32308
City State Zip

Email cdoolin@netally.com

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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 _____ Bill Number (if applicable) _____
Topic FWC - Bear - Permit Amendment Barcode (if applicable) _____
Name Hollis, Dixie
Job Title Pres
Address E. Olive Fls Phone 352 447 5329
Street _____ City _____ State _____ Zip _____ Email _____

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

Representing SELF

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/19/2017
Meeting Date

SB 1304
Bill Number (if applicable)

Topic SB 1304 (BLACK BEAR BILL)

Amendment Barcode (if applicable)

Name CHUCK O'NEAL

Job Title

Address 2329 PARK VILLAGE PLACE

Phone 407 399 3228

Street

ATOPKA FL 32712

City

State

Zip

Email CHUCKONORAL101@GMAIL.COM

Speaking: For Against Information

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

Representing FLORIDIANS UNITED TO SAVE OUR BOARDS

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)

4-19-17

Meeting Date

SB 1304

Bill Number (if applicable)

Topic SB 1304 FL. BLACK BEAR HABITAT RESTORATION ACT

Amendment Barcode (if applicable)

Name SHIRLENE STUCKEY

Job Title

Address 1892 IROQUOIS DR.

Street

Phone 321-439-9946

ADOPKA, FL

City

State

32703

Zip

Email huffdragons2@yahoo.com

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

4/19/2017

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

SB 1304

Meeting Date

Bill Number (if applicable)

Topic SB 1304 Black Bean Bill

Amendment Barcode (if applicable)

Name Adam Sugalski

Job Title Executive Director

Address 12672 Meadowsweet Ln.

Phone 904-236-14

Street Jacksonville FL 32225

Email adams@ourprotest.org

City State Zip

Speaking: [] For [] Against [] Information

Waive Speaking: [x] 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

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

4/19/17

Meeting Date

SB 1304
Bill Number (if applicable)

Topic Black Bear Bill

Amendment Barcode (if applicable)

Name Ruth Nichols

Job Title N/A

Address 76 4th St.

Phone 239-947-8058

Street

Bonita Sping. FL 34134

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Myself

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)

4/19/17
Meeting Date

SB 1304
Bill Number (if applicable)

Topic SB 1304

Amendment Barcode (if applicable)

Name MARIA KAZOURIS

Job Title ATTORNEY

Address PO Box 10834

Phone 727-361-5809

Street

TALLAHASSEE

City

FL

State

32302

Zip

Email MARIA.KAZOURIS@GMAIL.COM

Speaking: For Against Information

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

↑
NOT

Representing THE BEARS.

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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/19/17

Meeting Date

SB 1304

Bill Number (if applicable)

Topic Black Bear Bill

Amendment Barcode (if applicable)

Name Shannon Geis

Job Title

Address 706 HORTON ST.

Street

Phone 386-689-7054

NEW Smyrna Bch, FL 32169

City

State

Zip

Email relix@bellsouth.net

Speaking: For Against Information

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

Representing NOT The Florida Black Bears

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)

4/19/17

Meeting Date

JB 1304

Bill Number (if applicable)

Topic Black Bear Habitat Restoration Act

Amendment Barcode (if applicable)

Name Steven Meyers

Job Title Attorney

Address 1105 E Concord St

Phone 407-448-1257

Street

Orlando FL 32803

City

State

Zip

Email smm@meyersstanley.com

Speaking: For Against Information

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

Representing Speak Up We Kiva!

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)

4.19.17

Meeting Date

SB1304

Bill Number (if applicable)

Topic Black Bear Bill

Amendment Barcode (if applicable)

Name Anette Nixon

Job Title Veterinary Technician

Address 7305 Lawn Tennis Ln

Phone 904.728-1271

Street

Jacksonville

City

FL

State

32227

Zip

Email Anettenixon@gmail.com

Speaking: For Against Information

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

Representing Florida's Black Bear

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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4.19.17

Meeting Date

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

SB1304

Bill Number (if applicable)

Topic Black Bear Bill

Amendment Barcode (if applicable)

Name Katrina Shadix

Job Title President of Bear Warriors United

Address 995 Oklahoma St.

Phone 407 702 3576

City Oviedo FL 32765

Email Bearwarriorsunited@gmail.com

Speaking: For Against Information

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

Representing Bear Warrior United & Bear Advocates of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

04-19-17

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

SB 1304

Meeting Date

Bill Number (if applicable)

Topic SB 1304 Black Bear Habitat Restoration Act

Amendment Barcode (if applicable)

Name Lee Day

Job Title Audio Visual Technician

Address 3441 Hunt Lane

Phone 407-923-6837

Street

Dviedo

FL

32765

Email leehday@yahoo.com

City

State

Zip

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

3-20-17

Meeting Date

1304

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Boo Boo

Job Title CARETAKER OF WOGI

Address Jellystone

Street

Phone BEAR COUNTRY

USA

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

3-20-17

Meeting Date

1304

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name YOGI

Job Title Pie Eater

Address Jellystone

Phone BEAR COUNTRY

Street

USA

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/20-17
Meeting Date

1304
Bill Number (if applicable)

Topic Bear Management ↔

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title CONSULTANT

508-5992

Address 431 Hillcrest St.
Street

Phone cdoolin@netally.com

Tallahassee, Fla.
City State Zip

Email _____

Speaking: For Against Information

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

Representing Self - Grows In Support!

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)

4/19/17

Meeting Date

1304

Bill Number (if applicable)

Topic Black Bear Habitat

Amendment Barcode (if applicable)

Name Kate Macfall

Job Title Stats director

Address 1624 Mokopuhi Circle

Phone 800 508-1001

Street

Tallahassee

City

FL

State

32308

Zip

Email _____

Speaking: For Against Information

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

Representing Humane Society of the United States

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

SB1304
Bill Number (if applicable)

Meeting Date _____

Topic Bear Bill

Amendment Barcode (if applicable) _____

Name Nicole Cordano

Job Title owner

Address 3600 39th St. N

Phone 727-481-9299

St. Petersburg FL
City State Zip

Email nicolecord333@yahoo.com

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

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

4/18/17

Meeting Date

Topic Florida Black Bears Bill Number SB 1304
(if applicable)

Name Teri Cleeland Amendment Barcode _____
(if applicable)

Job Title Volunteer - League of Women Voters Florida

Address 590 Beverly Ct. Phone 850-224-2545
Street

Tallahassee FL 32301 E-mail _____
City State Zip

Speaking: For Against Information

Representing League of Women Voters 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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S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

4/19/17

Meeting Date

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

SB 1304

Bill Number (if applicable)

Topic BEAR BILL

Amendment Barcode (if applicable)

Name FREDERICK DEFROSCIA

Job Title RETIREE

Address 9148 SUGARLAND DR

Phone 904-254-0285

Street

JACKSONVILLE FL 32256

Email

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)

4-19-17
Meeting Date

SB 1304
Bill Number (if applicable)

Topic BEAR BILL

Amendment Barcode (if applicable)

Name JANA WIGGINS

Job Title CEO

Address 14¹⁴ Somerset St # 603
Street

Phone 863 207 537

CLEARWATER FL 33767
City State Zip

Email jana.wiggins@yahoo.com

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

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

4/19/17

SB1304

Meeting Date

Bill Number (if applicable)

Topic Bear Bill

Amendment Barcode (if applicable)

Name Wendy A. Sugalski

Job Title Artist

Address 12672 meadowsweet Ln. So

Phone 904-208-1553

Street

Jacksonville Fla 32225

Email wendysugalski@gmail

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

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)

4-19-2017

Meeting Date

SB1304

Bill Number (if applicable)

Topic Florida Black Bear Bill

Amendment Barcode (if applicable)

Name Kimberlee Norton

Job Title Travel Agent

Address 1678 Topaz Terrace

Phone 386-216-7987

Street

Deltona

City

FL

State

32725

Zip

Email gp1d40@yahoo.com

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

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

4/19/17

Meeting Date

SB-1364

Bill Number (if applicable)

Topic Florida Black Bear

Amendment Barcode (if applicable)

Name Joseph Douglas

Job Title Production Cook

Address 1273 W Wellington Dr
Street

Phone 386-80-4021

Goltonk
City

FL
State

32721
Zip

Email _____

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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/19/2017

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

SB1304

Bill Number (if applicable)

Meeting Date

Amendment Barcode (if applicable)

Topic Fl. Black Bear

Name Valerie Douglas

Job Title Porter / Dishwasher

Address 1293 W. W. Billington Dr.

Street

deltana fl 32725

City

State

Zip

Phone 386-960-3824

Email valerie@douglasagency.com

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

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

4/19

Meeting Date

1304

Bill Number (if applicable)

Topic Black Bears

Amendment Barcode (if applicable)

Name Kelly Quintana

Job Title Legislative Advocate

Address 540 Beverly Ct

Phone 772 204 1792

Street

Tallahassee FL 32301

City

State

Zip

Email lwvadvocacy@gmail.com

Speaking: For Against Information

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

Representing League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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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)

4/19/17
Meeting Date

1304
Bill Number (if applicable)

Topic Bears

Amendment Barcode (if applicable)

Name Lane Stephens

Job Title _____

Address 111 N Callahan St. Site G

Phone _____

TALLY FL 01
City State Zip

Email _____

Speaking: For Against Information

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

Representing Fla. Airboat Assoc., Southeast Dog Hunters Assoc.

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)

4/19/17
Meeting Date

1748
Bill Number (if applicable)
164284
Amendment Barcode (if applicable)

Topic Onsite Sewage System

Name Rebecca O'Hara

Job Title Asst. General Counsel

Address PO Box 1757
Street
Tallahassee FL 32303
City State Zip

Phone 222 9684

Email rohara@flcities.com

Speaking: For Against Information

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

Representing Florida League of Cities

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

4

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

4-19-17
Meeting Date

1748
Bill Number (if applicable)
164284
Amendment Barcode (if applicable)

Topic SEPTIC TANK

Name KURT SPITZER

Job Title EXEC. DIRECTOR

Address 719 E. PARK AVE

Street

City



32301

State

Zip

850-561-0904
Phone

KURTSPIZER@KSA
Email NET.NET

Speaking: For Against Information

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

Representing FLA. STORMWATER ASSOC.

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)

4/19

Meeting Date

1748

Bill Number (if applicable)

Topic Onsite Sewage + Disposal

Amendment Barcode (if applicable)

Name Susan Harbin

Job Title Associate Director, Public Policy

Address 100 S. Monroe
Street

Phone 770-546-8845

Tallahassee FL 32301
City State Zip

Email sharbin@fl-combines.com

Speaking: For Against Information

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

Representing Florida Association 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.

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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)

4/19/17

Meeting Date

1748

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Diana Ferguson

Job Title Attorney

Address 119 S Monroe St Ste 202

Phone 850-681-6788

Talco FL 32301
City State Zip

Email dferguson@ntudg.com

Speaking: For Against Information

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

Representing Audubon 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)

4/19

Meeting Date

1748

Bill Number (if applicable)

Topic Sewage Treatment

Amendment Barcode (if applicable)

Name Kelly Quintero

Job Title Legislative Advocate

Address 540 Beverly Ct
Street

Phone 772 204 1792

Tallahassee FL 32301
City State Zip

Email lvvfaadvocacy@gmail.com

Speaking: For Against Information

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

Representing League of Women Voters of Florida

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

TAB 5

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

4/19/17
Meeting Date

Bill Number (if applicable)

Topic Confirmation

Amendment Barcode (if applicable)

Name Brian Armstrong

Job Title Executive Director

Address 2379 Broad St

Phone 8004231476

Street

Brooksville

FL

34604

Email brian.armstrong@

City

State

Zip

water matters.org

Speaking: For Against Information

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

Representing Southwest FL water mgmt dist

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.

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Committee on Environmental Preservation and Conservation

Judge:

Started: 4/19/2017 1:35:26 PM

Ends: 4/19/2017 2:14:36 PM

Length: 00:39:11

1:35:26 PM Meeting called to order
1:35:33 PM Roll call
1:35:37 PM Quorum present
1:35:48 PM Pledge of Allegiance
1:36:30 PM Tab 3 SB 1278
1:36:36 PM Sen Grimsley recognized
1:37:34 PM Questions?
1:38:37 PM Late filed amendment 600148
1:38:51 PM Sen Grimsley explains amendment
1:39:05 PM Sen Grimsley waives close
1:39:17 PM Amendment adopted
1:39:29 PM Appearance form
1:39:35 PM Don Everett, VP of Ware Oil in support
1:41:03 PM no debate
1:42:08 PM Senn Grimsley waives close
1:42:11 PM roll call vote
1:42:13 PM SB 1278 reported favorably
1:42:29 PM Tab 2
1:42:52 PM Sen Stewart recognized to explain SB 1304
1:43:37 PM Questions?
1:43:57 PM Delete all amendment 900786
1:44:03 PM Questions on amendment?
1:44:24 PM Amendment to the amendment, 723350, by Sen Hutson
1:44:29 PM Sen Hutson explains amendemnt to amendment
1:44:51 PM Questons?
1:44:57 PM Appearance form
1:44:59 PM Chris Doolin in support of amendment to amendment
1:46:14 PM Handwritten amendment to the amendment by Sen Hutson
1:47:05 PM Removes word "lactating"
1:47:26 PM Sen Hutson closes on amendment
1:47:36 PM Voice vote
1:47:39 PM Amendment to amendment is adopted
1:48:03 PM Amendment is adopted
1:48:08 PM Back on the bill as amended
1:48:13 PM Back on the delete all amendment
1:48:49 PM Sen Stewart waives close on amendment
1:48:55 PM Voice vote
1:49:00 PM Amendment is adopted
1:49:05 PM Back on the bill as amended
1:49:10 PM Appearance forms
1:49:25 PM Chuck O'Neal on behalf of Floridians United to Save Our Bears in support
1:50:32 PM Shirlene Stuckey waives in support
1:50:35 PM Adam Sugalski waives in support
1:50:38 PM Ruth Nichols waives in support
1:50:41 PM Maria Kazouris waives in support
1:50:47 PM Shannon Geis waives in support
1:50:51 PM Steven Meyers representing Speak Up Wekiva! waives in support
1:50:57 PM Anette Nixon waives in support
1:50:59 PM Katrina Shadix waives in support
1:51:02 PM Lee Day waives in support
1:51:04 PM Boo Boo waives in support
1:51:13 PM Yogi waives in support

1:51:27 PM Chris Doolin waives in support
1:51:32 PM Katie Macfall waives in support
1:51:36 PM Nicole Cordano waives in support
1:51:43 PM Teri Cleeland waives in support
1:51:51 PM Frederick Defroschia waives in support
1:51:56 PM Jana Wiggins waives in support
1:51:58 PM Wendy Sugalski waives in support
1:52:04 PM Kimberlee Norton waives in support
1:52:06 PM Joseph Douglas waives in support
1:52:08 PM Valerie Douglas waives in support
1:52:11 PM Kelly Quintero waives in support
1:52:14 PM Lane Stephens representing FL Airboat Assoc, Southeast Dog Hunters Assoc, speaks in opposition
1:55:24 PM Dr Bill Palmer, President of Tall Timbers, speaks in opposition
1:57:18 PM Dixie Holland, landowner in Citrus County, speaks in opposition
1:58:11 PM Sen Hutson in debate
1:59:28 PM Sen Farmer in debate
2:00:35 PM Sen Stewart closes
2:00:48 PM Sen Stewart closes
2:01:11 PM Roll Call Vote
2:01:14 PM SB 1304 reported favorably
2:01:30 PM Tab 4
2:01:34 PM Sen Stewart recognized to explain SB 1748
2:02:13 PM Amendment 164284
2:02:28 PM Appearance forms for amendment
2:02:33 PM Kurt Spitzer, rep FLA Stormwater Assoc, waives in support
2:02:43 PM Rebecca O'Hara, rep FL League waives in support
2:03:02 PM Sen Stewart closes on amendment
2:03:06 PM Voice Vote
2:03:07 PM Amendment adopted
2:03:09 PM Back on bill as amended
2:03:20 PM Susan Harbin, for Florida Association of Counties, waives in support
2:03:24 PM Diana Ferguson, rep Audubon Florida, waives in support
2:03:28 PM Kelly Quintero, rep League of Women Voters of FL, waives in support
2:03:42 PM Debate?
2:04:30 PM Close
2:04:33 PM Roll Call vote
2:04:36 PM SB 1748 reported favorably
2:04:50 PM Tab 5
2:04:53 PM Appointment to Executive Director of Southwest Florida Water Management District
2:05:09 PM Brian J Armstrong swears in
2:05:29 PM Mr. Armstrong speaks to committee
2:06:56 PM Motion?
2:07:02 PM Sen Hutson moves to recommend confirmation
2:07:12 PM Roll call vote
2:07:23 PM Confirmation recommended favorably
2:07:46 PM Tab 1
2:07:47 PM Recess
2:11:18 PM Recording Paused
2:11:58 PM Sen Hutson recognized as co-sponsor to explain SB 1228
2:11:59 PM Recording Resumed
2:12:12 PM Questions?
2:12:46 PM Jessica Crawford waives in support
2:13:02 PM Debate?
2:13:32 PM Vote
2:13:32 PM SB 1228 reported favorably
2:13:49 PM Meeting adjourned