

Tab 1	SB 168 by Steube ; (Similar to CS/H 00145) Nonnative Animals
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Tab 2	SB 670 by Baxley (CO-INTRODUCERS) Bradley ; Ratification of Rules of the St. Johns River Water Management District
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The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA
ENVIRONMENTAL PRESERVATION AND CONSERVATION
Senator Bradley, Chair
Senator Stewart, Vice Chair

MEETING DATE: Tuesday, January 9, 2018
TIME: 2:00—3:30 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Bradley, Chair; Senator Stewart, Vice Chair; Senators Bean, Book, Farmer, Flores, Hukill, Hutson, Simmons, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 168 Steube (Similar CS/H 145)	Nonnative Animals; Requiring the Fish and Wildlife Conservation Commission to establish a pilot program for the eradication of priority invasive species; specifying procedures for the capture and disposal of animals that belong to priority invasive species; requiring animals that belong to certain nonnative species to be implanted with a passive integrated transponder tag before sale, resale, or being offered for sale by a pet dealer, etc. EP 01/09/2018 Favorable AEN AP	Favorable Yeas 10 Nays 0
2	SB 670 Baxley	Ratification of Rules of the St. Johns River Water Management District; Ratifying a specified rule relating to supplemental regulatory measures for the minimum flows and levels of Silver Springs, designated as an Outstanding Florida Spring under s. 373.802(4), F.S., for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to specified provisions which requires ratification of any rule meeting any specified thresholds of likely adverse impact or increase in regulatory costs, etc. EP 01/09/2018 Favorable RC	Favorable Yeas 10 Nays 0

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 168

INTRODUCER: Senator Steube

SUBJECT: Nonnative Animals

DATE: January 9, 2018

REVISED: _____

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

I. Summary:

SB 168 requires the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to mitigate the impact of priority invasive species on lands or waters of the state. The FWC is required to submit a report of its recommendations and findings regarding the pilot program by January 1, 2021 to the Governor and the Legislature.

Additionally, the FWC is required to identify nonnative animals that threaten the state's wildlife habitats. A pet dealer must implant any such animal identified by the FWC with a passive integrated transponder tag before that animal is sold, resold, or offered for sale.

The fiscal impact of the pilot program is indeterminate at this time; however, the bill provides for an appropriation from the State Game Trust Fund of \$300,000 during both the 2018-2019 Fiscal Year and the 2019-2020 Fiscal Year, for a total appropriation of \$600,000.

II. Present Situation:

Nonnative Species

Pursuant to s. 9, Art. IV of the State Constitution, the FWC exercises the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.¹ These powers include authority with respect to the control and management of nonnative species.² Nonnative species are animals living outside captivity and which are not historically present in the state.³ More than 500 fish and wildlife nonnative species have been documented in

¹ Fla. Const. Art. IV, s. 9.

² Fish and Wildlife Conservation Commission (FWC), *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³ FWC, *What is a nonnative species?*, <http://myfwc.com/wildlifehabitats/nonnatives/what-are-nonnatives/> (last visited Dec. 22, 2017).

Florida.⁴ Not all nonnative species pose a threat to Florida's ecology, but some nonnative species become invasive species by causing harm to native species, posing a threat to human health and safety, or causing economic damage.⁵ To manage and minimize the impacts of nonnative species, it is unlawful to import for sale or use, or to release within the state, any species not native to Florida unless authorized by the FWC.⁶

Prohibited or conditional nonnative snakes and lizards

Prohibited species are nonnative species that pose a very high risk to native fish and wildlife, to the ecology of native wildlife communities, or to human safety. Possession of these species requires a permit from the FWC and is generally limited to public exhibition and research.⁷

Conditional species are nonnative species that pose a risk to native fish and wildlife or to the ecology of native wildlife communities. Conditional nonnative snakes and lizards are not authorized to be acquired for personal possession.⁸ Specifically, the following nonnative snakes and lizards are prohibited from being kept, possessed, imported into the state, sold, bartered, traded, or bred for personal use or for sale for personal use:

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the FWC.⁹

A reptile dealer, public exhibitor, researcher, or nuisance trapper may apply for a permit to import or possess conditional nonnative snakes and lizards.¹⁰ Conditional nonnative snakes and lizards must be kept indoors or in outdoor enclosures with a fixed roof and must be permanently identified with a passive integrated transponder (PIT) tag, also known as a microchip.¹¹ Owners of such species must submit a Captive Wildlife Disaster and Critical Incident Plan to the FWC and must maintain records of their inventory.¹²

Tegus

The Argentine Black and White Tegu (*Tupinambis merianae*), commonly referred to as a tegu, is a large species of lizard that can grow up to four feet in length and is native to South America.¹³

⁴ FWC, *Florida's Exotic Fish and Wildlife*, <http://myfwc.com/wildlifehabitats/nonnatives/> (last visited on Dec. 22, 2017).

⁵ *Id.*

⁶ Section 379.231, F.S.

⁷ Section 379.372, F.S.; see Fla. Admin. Code R. 68-5.003 for a complete list of prohibited species.

⁸ FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Dec. 22, 2017).

⁹ Section 379.372(2)(a), F.S.

¹⁰ Fla. Admin. Code R. 68-5.001(3)(e); see FWC, *Conditional Snakes and Lizards*, <http://myfwc.com/wildlifehabitats/nonnatives/regulations/snakes-and-lizards/> (last visited Dec. 22, 2017).

¹¹ *Id.*

¹² *Id.*

¹³ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Dec. 22, 2017).

Tegus are not innately aggressive but have sharp teeth, strong jaws, and sharp claws which they will use to defend themselves if threatened.¹⁴ Tegus are an invasive species and have known breeding populations in Miami-Dade and Hillsborough counties.¹⁵ The tegu causes harm to native species by disturbing alligator nests and consuming their eggs, and utilizing gopher tortoise burrows and consuming juvenile gopher tortoises.¹⁶ The tegu is not designated as a conditional or prohibited species.¹⁷ However, a person must possess a license from the FWC to sell a tegu.¹⁸ In south Florida, tegus are mainly found on private lands and lands managed by other agencies; tegus are not commonly found on lands managed by the FWC.¹⁹ In Hillsborough County, tegus are found mostly on public conservation land that is managed by the county or in state parks.²⁰

The FWC developed a trapping removal program and works with other agencies and organizations to assess the tegu's threat and develop management strategies.²¹ The goal of the program is to minimize the impact of tegus on native wildlife and natural areas.²² Over 5,000 tegus have been removed from the wild in the last five years, primarily in Miami-Dade County.²³ A limited number of commercial wildlife operators trap and remove tegus for homeowners or on other private lands.²⁴

Lionfish

The lionfish (*Pterois volitans* and *Pterois miles*) is the only marine nonnative species with an established population in Florida.²⁵ The lionfish population has rapidly grown since its introduction into the coastal waters of southern Florida around 30 years ago.²⁶ Lionfish do not have any significant predators off Florida's coasts and can tolerate a wide range of temperatures, salinities, and depths.²⁷ They are able to consume prey that is more than half of their own length and have venomous spines they use for defense.²⁸ Lionfish consume a wide variety of fish and

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ FWC, *Nonnative Fish and Wildlife Update*, 10 (Dec. 5, 2017), available at <http://myfwc.com/media/4339787/4A-NonnativePresentation.pdf> (last visited Dec. 22, 2017).

¹⁷ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁸ *Id.*; see s. 379.3761, F.S.

¹⁹ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁰ *Id.*

²¹ FWC, *Tegus in Florida*, <http://myfwc.com/media/2380549/Tegu-brochure.pdf> (Aug. 2015) (last visited Dec. 22, 2017).

²² *Id.*

²³ FWC, *Nonnative Fish and Wildlife Update*, 10 (Dec. 5, 2017), available at <http://myfwc.com/media/4339787/4A-NonnativePresentation.pdf> (last visited Dec. 22, 2017).

²⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 2 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

²⁵ FWC, *Nonnative Marine Species*, <http://myfwc.com/wildlifehabitats/nonnatives/marine-species/> (last visited Dec. 22, 2017).

²⁶ FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Dec. 22, 2017).

²⁷ *Id.*

²⁸ *Id.*

invertebrates, which greatly alters the populations of native marine species and impacts recreational and commercial fishing in Florida.²⁹

The importation of live lionfish or hybrids or their eggs is prohibited.³⁰ Live lionfish imported from outside the state after August 1, 2014, may not be sold, offered for sale, bartered, or otherwise exchanged.³¹ A recreational fishing license is not required for harvesting lionfish by divers if the following gear is used:

- Hand-held net;
- Pole spear;
- Hawaiian sling; or
- Any other spearing device specifically designed and exclusively marketed for lionfish.³²

Additionally, there is no minimum size limit, closed season, or bag limit for the recreational or commercial harvesting of lionfish.³³

Nonnative Species Management

Removal Permit Program

Pursuant to Florida Administrative Code Rule 68A-9.002, the FWC authorizes individuals to remove Burmese pythons and other conditional reptiles on the Holey Land, Rotenberger, and Everglades and Francis S. Taylor wildlife management areas.³⁴ Under the year-round program, qualified applicants may obtain a removal permit at no cost to eradicate nonnative reptiles from these wildlife management areas.³⁵ To qualify an applicant must successfully complete an online training course.³⁶ As of February 2017, 129 individuals have obtained this permit.³⁷ The program is not considered a hunting program, rather it is a management tool that aims to collect data on the locations of such reptiles.³⁸

All conditional reptiles and tegus are authorized to be collected under the permit.³⁹ Snakes may be captured by hand or with hand-held equipment, such as tongs or snake hooks. When a permit holder captures a reptile under the program he or she must report the location and take a digital

²⁹ *Id.*

³⁰ Fla. Admin. Code R. 68-5.005.

³¹ *Id.*

³² Fla. Admin. Code R. 68B-5.006.

³³ *Id.*; FWC, *Lionfish: Be the Predator!*, available at <http://myfwc.com/media/4039504/LionfishBrochure.pdf> (last visited Dec. 22, 2017).

³⁴ Fla. Admin. Code R. 68A-15.064; FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Dec. 22, 2017); and FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Dec. 22, 2017).

³⁵ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁶ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Dec. 22, 2017).

³⁷ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁸ FWC, *Burmese Python Removal Program*, <http://myfwc.com/license/wildlife/nonnative-species/python-permit-program/> (last visited Dec. 22, 2017).

³⁹ FWC, *Python Permit Program, Frequently Asked Questions*, <http://myfwc.com/wildlifehabitats/nonnatives/python/faqs/permit-faqs/> (last visited Dec. 22, 2017).

picture of the animal. Captured reptiles may be euthanized onsite by a legal and humane means or deposited alive at a drop-off site designated by the FWC. Any captured reptile is taken to the University of Florida Research and Education Center, where the stomach contents are analyzed.⁴⁰

Hunting in Wildlife Management Areas

The FWC authorizes licensed hunters to harvest conditional nonnative snakes and lizards in the Holey Land, Rotenberger, Everglades and Francis S. Taylor, and the Big Cypress wildlife management areas during hunting seasons established for the taking of game animals or alligators on those areas or during seasons specific for conditional reptiles.⁴¹ The hunters must have a valid hunting license and a wildlife management area permit, and adhere to the regulations specific to each wildlife management area.⁴² To be considered a resident of the state for purposes of hunting a conditional reptile, a person must be a United States citizen who has continuously resided in the state for six months prior to applying for a hunting license.⁴³ Live pythons may not be removed from the wildlife management areas, but hunters may keep or sell the skins and meat of the reptiles. The Big Cypress Wildlife Management Area is the only federally owned land where hunting for conditional reptiles is authorized.⁴⁴ Hunting within the Everglades National Park is prohibited by federal law.⁴⁵

The Python Challenge and Python Removal Training

The FWC, in coordination with the Fish and Wildlife Foundation of Florida, conducted a Python Challenge in 2013 and again in 2016. The Python Challenge is designed to raise awareness concerning the potential impacts of nonnative animals, while engaging the public in conservation through invasive species removal. Each participant is required to complete an online training module designed to teach him or her how to identify, locate, and safely and humanely capture Burmese pythons. In the 2016 Python Challenge more than 1,000 people from 29 states registered to take part in the month-long challenge and 106 snakes were turned in as a result.⁴⁶

The FWC provides a training program to teach individuals about the control and management of Burmese pythons in the state.⁴⁷ The program provides information related to rules and regulations, permits, python detection, species identification, data reporting, and safe capture techniques. The participants receive a hands-on experience catching wild Burmese pythons. These training programs are held in south and southwest Florida and are free of charge.

⁴⁰ *Id.*

⁴¹ Fla. Admin. Code R. 68A-15.064.

⁴² *Id.*

⁴³ Section 379.101(30)(a), F.S.

⁴⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁴⁵ *Id.* at 2.

⁴⁶ Press release, FWC, *With 106 snakes removed, 2016 Python Challenge a success*, Feb. 27, 2016, available at <http://myfwc.com/news/news-releases/2016/february/27/python-awards/> (last visited Dec. 22, 2017).

⁴⁷ FWC, *Python Patrol*, <http://myfwc.com/wildlifehabitats/nonnatives/python/patrol/> (last visited Dec. 22, 2017).

Additionally, the South Florida Water Management District (SFWMD) in 2017 initiated the Python Elimination Program to eliminate pythons from SFWMD lands.⁴⁸ The program is designed to encourage members of the public to locate and remove Burmese and Northern African pythons in Miami-Dade, Broward, and Collier counties. As of December 2017, participants in the program removed nearly 800 pythons.⁴⁹

Lionfish Derby Days and Tournaments

The FWC coordinated a statewide Lionfish Challenge from May 20, 2017, through September 4, 2017.⁵⁰ The challenge is an annual removal incentive program in which participants receive prizes, such as t-shirts and tumblers, for harvesting lionfish.⁵¹ During the 2017 challenge, a total of 26,454 lionfish were removed.⁵² Additionally, the FWC coordinates an annual Lionfish Removal and Awareness Day to raise awareness about lionfish.⁵³ Divers removed over 12,000 lionfish from Florida waters during a two-day period.⁵⁴ The FWC was awarded donations to be used for cash prizes for a new lionfish removal incentive program designed to remove lionfish previously tagged by the FWC staff. This program will coincide with the annual Lionfish Challenge.

Public Reporting and Exotic Pet Amnesty

To raise awareness of invasive species the FWC provides the public with a reporting hotline, website, and smartphone application. To report nonnative fish or wildlife to the FWC, call the invasive species hotline at 888-IVE-GOT1, go to IVEGOT1.org, or download the IVEGOT1 smartphone application.

Additionally, the FWC sponsors the Exotic Pet Amnesty Program, which is an effort to reduce the number of nonnative species being released into the wild by pet owners who can no longer care for their pets or no longer wish to keep them.⁵⁵ Exotic Pet Amnesty Days are held periodically around the state to provide the opportunity for individuals to surrender their exotic pets free of charge and with no penalty.⁵⁶

⁴⁸ South Florida Water Management District (SFWMD), *Python Elimination Program*, <https://www.sfwmd.gov/our-work/python-program> (last visited Jan. 4, 2018).

⁴⁹ *Id.*

⁵⁰ FWC, *2017 Lionfish Challenge*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/> (last visited Dec. 22, 2017).

⁵¹ *Id.*

⁵² FWC, *Lionfish Challenge Hall of Fame*, <http://myfwc.com/fishing/saltwater/recreational/lionfish/challenge/hall-of-fame/> (last visited Dec. 22, 2017).

⁵³ See Reef Rangers, *Lionfish Removal and Awareness Day*, <http://reefrangers.com/event-info/> (last visited Dec. 22, 2017).

⁵⁴ *Id.*

⁵⁵ Fla. Admin. Code R. 68-5.004; see FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Dec. 22, 2017).

⁵⁶ *Id.*

Since its creation in 2006, the Exotic Pet Amnesty Program has successfully found adoptive homes for hundreds of surrendered exotic pets.⁵⁷ Finding homes for these animals with pre-approved adopters helps to ensure that they are not released into Florida’s natural areas.⁵⁸ The following chart provides the total number of animals surrendered by year.⁵⁹

Year	Number of Events	Number of Animals surrendered			Running totals
		Events	Hotline	Total	
2006	1	6		6	6
2007	1	50		50	56
2008	2	203		203	259
2009	3	252		252	511
2010	3	132		132	643
2011	2	126	90	216	859
2012	6	279	227	506	1365
2013	7	188	152	340	1705
2014	5	234	235	469	2174
2015	3	223	133	356	2530

Public Procurement Process

Chapter 287, F.S., governs the public procurement of personal property and services. The Florida Department of Management Services is responsible for overseeing state purchasing activity, including professional and commodity and contractual services needed to support agency activities.⁶⁰ The Division of State Purchasing within the Department of Management Services establishes statewide purchasing rules and negotiates contracts and purchasing agreements that are intended to leverage the state’s buying power.⁶¹

Contracts for commodities or contractual services in excess of \$35,000 must be procured through a competitive solicitation process.⁶² Section 287.058, F.S., outlines the provisions and conditions that must be present in contractual agreements for competitively procured services. The section also provides that a contract may be renewed for a period of time upon satisfactory performance evaluations by the agency and subject to the availability of funds.⁶³

III. Effect of Proposed Changes:

SB 168 requires the Fish and Wildlife Conservation Commission (FWC) to establish a pilot program to mitigate the impacts of priority invasive species on lands or waters of the state. The bill defines the term “priority invasive species” to include:

- Lizards of the genus *Tupinambis*, also known as tegus;
- Species identified in s. 379.372(2), F.S., which includes the:

⁵⁷ FWC, *Exotic Amnesty Program*, <http://myfwc.com/wildlifehabitats/nonnatives/amnesty-program/> (last visited Dec. 22, 2017).

⁵⁸ *Id.*

⁵⁹ *Id.*

⁶⁰ See ss. 287.032 and 287.042, F.S.

⁶¹ Division of Purchasing rules are published under Chapter 60A of the Florida Administrative Code.

⁶² Section 287.057(1), F.S., requires a competitive solicitation process for contracts that exceed the Category Two threshold. Category thresholds are listed in s. 287.017, F.S. Contracts exceeding \$35,000 are designated as Category Two.

⁶³ Section 287.058(1)(g), F.S.

- Burmese or Indian python;
- Reticulated python;
- Northern African python;
- Southern African python;
- Amethystine or scrub python;
- Green Anaconda;
- Nile Monitor; and
- Any other reptile designated as a conditional or prohibited species by the FWC;
- *Pterois volitans*, also known as red lionfish; and
- *Pterois miles*, also known as the common lionfish or devil firefish.

The goal of the pilot program is to examine the benefits of using strategically deployed and trained private contractors to slow the advance of the specified nonnative animals, contain their populations, and eradicate them from the state.

The bill authorizes the FWC to enter into contracts, in accordance with the public procurement requirements of the state, with entities or individuals to capture or destroy certain nonnative species found on lands or waters of the state. Any private contracted work performed on lands or waters of the state that is not owned or managed by the FWC must be performed with the consent of the landowner.

Each capture and disposal of a nonnative animal is required to be documented and photographed and the geographic location of the take must be recorded for research purposes. All animals captured, but not destroyed, in the removal efforts are required to be disposed of at the direction of the FWC. The FWC is required to submit a report of findings and recommendations regarding the implementation of the pilot program to the Governor and the Legislature by January 1, 2021.

Additionally, the FWC is required to identify by rule nonnative animals that threaten the state's wildlife habitats. Any nonnative animal identified by the FWC must be implanted with a passive integrated transponder (PIT) tag before such animal is sold, resold, or offered for sale by a pet dealer. The bill defines the term "pet dealer" to include any person who, in the ordinary course of business, engages in the sale of more than twenty animals per year to the public, including breeders who sell animals directly to the public. The FWC is required to establish by rule standards for the types of PIT tags that must be used by pet dealers and the manner in which the tags must be implanted.

The bill provides for an appropriation from the State Game Trust Fund of \$300,000 during both the 2018-2019 Fiscal Year and the 2019-2020 Fiscal Year, for a total appropriation of \$600,000.

The bill takes effect July 1, 2018.

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 authorizes the FWC to contract with private entities or individuals to capture or destroy nonnative animals found on lands or waters of the state. This will have a positive indeterminate fiscal impact on the entities or individuals who are awarded such contracts.

C. Government Sector Impact:

The FWC will incur additional costs associated with the pilot program. The FWC stated that one or two additional staff positions are necessary to cover the workload required to develop and oversee private contractors and to develop and oversee agreements with other public land managing agencies.⁶⁴ Also, additional staff may be needed for budgeting oversight.⁶⁵ The total fiscal impact of the pilot program is indeterminate at this time; however, the bill provides for an appropriation from the State Game Trust Fund of \$300,000 during both the 2018-2019 Fiscal Year and the 2019-2020 Fiscal Year, for a total appropriation of \$600,000.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 379.2311 of the Florida Statutes.

⁶⁴ FWC, *Senate Bill 230 Agency Bill Analysis*, 3 (Feb. 17, 2017) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁶⁵ *Id.*

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 Steube

23-00005-18

2018168__

1 A bill to be entitled
2 An act relating to nonnative animals; creating s.
3 379.2311, F.S.; defining the terms "pet dealer" and
4 "priority invasive species"; providing legislative
5 findings; requiring the Fish and Wildlife Conservation
6 Commission to establish a pilot program for the
7 eradication of priority invasive species; providing
8 the goal of the pilot program; authorizing the
9 commission to enter into specified contracts;
10 specifying parameters for the implementation of the
11 pilot program; specifying procedures for the capture
12 and disposal of animals that belong to priority
13 invasive species; requiring the commission to submit a
14 report to the Governor and the Legislature by a
15 specified date; requiring animals that belong to
16 certain nonnative species to be implanted with a
17 passive integrated transponder tag before sale,
18 resale, or being offered for sale by a pet dealer;
19 requiring the commission to adopt rules; providing
20 appropriations; providing an effective date.

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

23
24 Section 1. Section 379.2311, Florida Statutes, is created
25 to read:

26 379.2311 Nonnative animal management.-

27 (1) As used in this section, the term:

28 (a) "Pet dealer" means any person who, in the ordinary
29 course of business, engages in the sale of more than 20 animals

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30 per year to the public. This term includes breeders who sell
31 animals directly to consumers.

32 (b) "Priority invasive species" means the following
33 species:

34 1. Lizards of the genus *Tupinambis*, also known as tegu
35 lizards;

36 2. Species identified in s. 379.372(2)(a);

37 3. *Pterois volitans*, also known as red lionfish; and

38 4. *Pterois miles*, also known as the common lionfish or
39 devil firefish.

40 (2) The Legislature finds that priority invasive species
41 continue to expand their range and to decimate the fauna and
42 flora of the Everglades and other natural areas and ecosystems
43 in the southern and central parts of the state at an
44 accelerating rate. Therefore, the commission shall establish a
45 pilot program to mitigate the impact of priority invasive
46 species on the public lands or waters of this state.

47 (a) The goal of the pilot program is to examine the
48 benefits of using strategically deployed, trained private
49 contractors to slow the advance of priority invasive species,
50 contain their populations, and eradicate them from this state.

51 (b) In implementing the pilot program, the commission may
52 enter into contracts in accordance with chapter 287 with
53 entities or individuals to capture or destroy animals belonging
54 to priority invasive species found on public lands or in the
55 waters of this state. Any private contracted work to be
56 performed on public land or in the waters of the state not owned
57 or managed by the commission must have the consent of the owner.

58 (c) The commission shall ensure that all captures and

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59 disposals of animals that belong to these priority invasive
60 species are documented and photographed and that the geographic
61 location of the take is recorded for research purposes. The
62 commission shall direct the disposal of all animals captured and
63 not destroyed in removal efforts.

64 (d) The commission shall submit a report of findings and
65 recommendations regarding its implementation of the pilot
66 program to the Governor, the President of the Senate, and the
67 Speaker of the House of Representatives by January 1, 2021.

68 (3) Before selling, reselling, or offering for sale any
69 nonnative animal identified by the commission pursuant to
70 paragraph (a), pet dealers must implant in the animal, or have
71 the animal implanted with, a passive integrated transponder
72 (PIT) tag, as specified by the commission. The commission shall
73 adopt rules to implement this subsection, including both of the
74 following:

75 (a) The identification of nonnative animals that threaten
76 the state's wildlife habitats and, therefore, must be implanted
77 with a PIT tag.

78 (b) The adoption of a standard for the types of PIT tags
79 which must be used by pet dealers and the manner in which they
80 must be implanted.

81 Section 2. For the 2018-2019 and 2019-2020 fiscal years,
82 the sum of \$300,000 in nonrecurring funds is appropriated each
83 year from the Land Acquisition Trust Fund to the Fish and
84 Wildlife Conservation Commission for the purpose of implementing
85 s. 379.2311.

86 Section 3. This act shall take effect July 1, 2018.

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 670

INTRODUCER: Senators Baxley and Bradley

SUBJECT: Ratification of Rules of the St. Johns River Water Management District

DATE: January 9, 2018

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Mitchell</u>	<u>Rogers</u>	<u>EP</u>	Favorable
2.	_____	_____	<u>RC</u>	_____

I. Summary:

SB 670 ratifies Florida Administrative Code Rule 40C-2.101, which adds regulatory measures for Silver Springs to the Consumptive Use Permit Applicant’s Handbook. These measures are a component of the Silver Springs prevention strategy to ensure that flows and levels within Silver Springs do not fall below the recently adopted minimum flows and levels (MFLs) during the next 20 years.

II. Present Situation:

Florida’s Springs

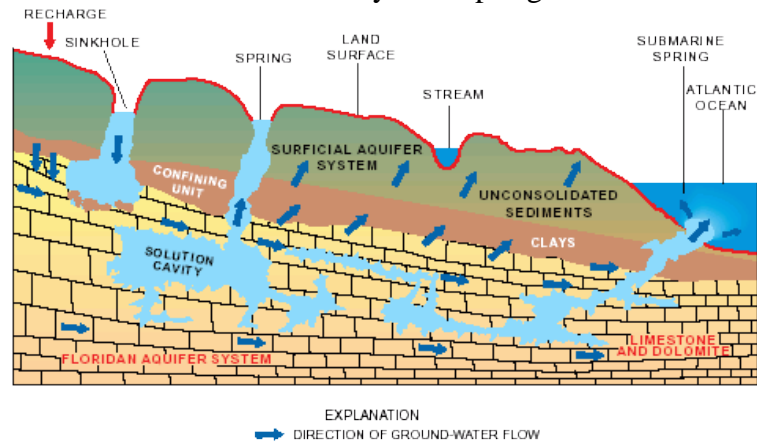
Florida’s springs are unique and beautiful resources. The historically crystal clear waters provide not only a variety of recreational opportunities and habitats, but also great economic value for recreation and tourism. Springs are major sources of stream flow in a number of rivers such as the Rainbow, Chassahowitzka, Homosassa, and Ichetucknee.¹ Additionally, Florida’s springs provide a “window” into the Floridan aquifer system, which provides most of the state’s drinking water.

The Floridan aquifer system is a limestone aquifer that has enormous freshwater storage and transmission capacity. The upper portion of the aquifer consists of thick carbonate rocks that have been heavily eroded and covered with unconsolidated sand and clay. The surficial aquifer is located within the sand deposits and forms the land surface that is present today. In portions of Florida, the surficial aquifer lies on top of deep layers of clay sediments that prevent the downward movement of water. Springs form when groundwater is forced out through natural openings in the ground.²

¹ Department of Community Affairs, *Protecting Florida’s Springs: An Implementation Guidebook*, 3-1 (Feb. 2008), available at <http://www.sarasota.wateratlas.usf.edu/upload/documents/Protecting-Floridas-Springs-Implementation-Guidebook.pdf> (last visited December 19, 2017).

² *Id.* at 3-1 to 3-2.

The Water Cycle – Springs³



Florida has more than 700 recognized springs, categorized by flow in cubic feet per second. First magnitude springs are those that discharge 100 cubic feet of water per second or greater. Florida has 33 first magnitude springs in 18 counties that discharge more than 64 million gallons of water per day. Spring discharges, primarily from the Floridan aquifer, are used to determine groundwater quality and the degree of human impact on a spring's recharge area. Rainfall, surface conditions, soil type, mineralogy, the composition and porous nature of the aquifer system, flow, and length of time in the aquifer all contribute to groundwater chemistry.⁴

The springshed is the area within the groundwater and surface water basins that contributes to the discharge of the spring. The spring recharge basin consists of all areas where water can be shown to contribute to groundwater flow discharging from the spring.

Spring protection zones are sub-areas of the groundwater and surface water basins of each spring or spring system that supply water to the spring and within which human activities, such as waste disposal or water use, are most likely to negatively impact the water discharging from the spring. When adverse conditions occur within a spring protection zone, these conditions can be minimized by:

- Land-use management and zoning regulations adopted by county or municipal government;
- Adoption of best management practices (BMPs);
- Educating the public concerning environmental sensitivity; and
- Regulatory action, if necessary.⁵

³ EPA, *The Water Cycle: Springs*, available at <http://water.usgs.gov/edu/watercyclesprings.html> (last visited November 17, 2017).

⁴ Florida Geological Survey, *Springs of Florida Bulletin No. 66*, available at http://publicfiles.dep.state.fl.us/FGS/FGS_Publications/B/B66_2004.pdf (last visited January 4, 2018).

⁵ Upchurch, S.B. and Champion, K.M., *Delineation of Spring Protection Areas at Five, First-Magnitude Springs in North-Central Florida (Draft)*, 1 (Apr. 28, 2004), available at www.waterinstitute.ufl.edu/suwannee-hydro-observ/pdf/delineation-of-spring-protection-zones.pdf (last visited November 17, 2017). See also chs. 373 and 403, Florida Statutes (F.S.)

Minimum Flows and Levels (MFLs)

MFLs are established for waterbodies in order to prevent significant harm to the water resources or ecology of an area as a result of water withdrawals.⁶ MFLs are typically determined based on evaluations of natural seasonal fluctuations in water flows or levels, nonconsumptive uses, and environmental values associated with coastal, estuarine, riverine, spring, aquatic, wetlands ecology, and other pertinent information associated with the water resource.⁷ MFLs take into account the ability of wetlands and aquatic communities to adjust to changes in hydrologic conditions and allow for an acceptable level of hydrologic change to occur. When uses of water resources shift the hydrologic conditions below levels defined by MFLs, significant ecological harm can occur.⁸ The goal of establishing an MFL is to ensure that there is enough water to satisfy the consumptive use of the water resource without causing significant harm to the resource.⁹ Consumptive uses of water draw down water levels and reduce pressure in the aquifer.¹⁰ By establishing MFLs for non-consumptive uses, the WMDs are able to determine how much water is available for consumptive use. This is useful when evaluating new or renewal consumptive use permit (CUP) applications.¹¹

While the DEP has the authority to adopt MFLs under ch. 373, Florida Statutes (F.S.), the WMDs have the primary responsibility for MFL adoption. The WMDs submit annual MFL priority lists and schedules to the DEP for review and approval. MFLs are calculated using the best information available,¹² are considered rules by the WMDs, and are subject to challenge under the Florida Administrative Procedures Act, ch. 120, F.S.¹³ MFLs are subject to independent scientific peer review at the election of the DEP, a WMD, or, if requested, by a third party.¹⁴

MFLs inform decisions affecting permit applications, declarations of water shortages, and assessments of water supply sources. Computer water budget models for surface waters and groundwater are used to evaluate the effects of existing and proposed consumptive uses and the likelihood they might cause significant harm. The WMD governing boards are required to expeditiously implement recovery or prevention strategies in those cases where a waterbody or watercourse currently does not or is anticipated to not meet an adopted MFL.¹⁵ If the existing flow or water level in a waterbody is below, or is projected to fall within 20 years below, the applicable minimum flow or water level, the DEP or WMD must expeditiously implement a

⁶ Section 373.042, F.S.

⁷ Fla. Admin. Code R. 62-40.473(1).

⁸ St. Johns River Water Management District (SJRWMD), *Water Supply: An Overview of Minimum Flows and Levels*, available at <http://www.sjrwmd.com/minimumflowsandlevels/> (last visited November 17, 2017).

⁹ Department of Environmental Protection (DEP), *Minimum Flows and Minimum Water Levels and Reservations*, available at <https://floridadep.gov/water-policy/water-policy/content/minimum-flows-and-minimum-water-levels-and-reservations> (last visited January 4, 2018).

¹⁰ Department of Community Affairs, *Protecting Florida's Springs: An Implementation Guidebook*, 3-5 (Feb. 2008), available at <http://www.sarasota.wateratlas.usf.edu/upload/documents/Protecting-Floridas-Springs-Implementation-Guidebook.pdf> (last visited December 19, 2017).

¹¹ SJRWMD, *Minimum flows and levels*, available at <https://www.sjrwmd.com/minimumflowsandlevels/#faq> (last visited January 4, 2018).

¹² Section 373.042(1), F.S.

¹³ Section 373.042(6), F.S.

¹⁴ Section 373.042(5)(a), F.S.

¹⁵ Section 373.0421(2), F.S.

recovery or prevention strategy.¹⁶ Recovery or prevention strategies include a phased-in approach or timetable that allows for the development of sufficient water supplies for all existing and projected reasonable-beneficial uses. The strategy also includes development of additional water supplies and implementation of conservation strategies, the use of impact offsets, and other efficiency measures to accommodate withdrawals.¹⁷

Consumptive Use Permits (CUPs)

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

- Be a “reasonable-beneficial use”;¹⁸
- Not interfere with any presently existing legal use of water; and
- Be consistent with the public interest.¹⁹

If two or more competing applications qualify equally, the applicable WMD or the DEP must give preference to a renewal application over an initial application and if neither are renewal applications, preference must be given to the application where the source is nearest to the area of use or application.²⁰

Alternative Water Supply Development

One of the ways water demands can be met is through the development of alternative water supplies (AWS).²¹ Alternative water supplies include:

- Salt water;
- Brackish surface water and groundwater;
- Sources made available through the addition of new storage capacity for surface or groundwater, water that has been reclaimed after one or more public supply, municipal, industrial, commercial, or agricultural uses;
- The downstream augmentation of waterbodies with reclaimed water;
- Stormwater; and
- Any other water supply source that is designated as a nontraditional source for a water supply planning region in a regional water supply plan.²²

¹⁶ Section 373.0421, F.S. See also Fla. Admin. Code R. 62-40.473 (2013).

¹⁷ *Id.*

¹⁸ Section 373.019(16), F.S., defines reasonable-beneficial use as, “the use of water in such quantity as is necessary for economic and efficient utilization for a purpose and in a manner which is both reasonable and consistent with the public interest.” See also Fla. Admin. Code R. 62-40.410(2) for additional factors to help determine if a water use is a reasonable-beneficial use.

¹⁹ Section 373.223(1), F.S.

²⁰ Section 373.233(2), F.S.

²¹ Sections 373.707(1)(a)-(b) and 373.1961(2)(a), F.S.

²² Section 373.019(1), F.S.

Funding for the development of AWSs is a shared responsibility between water suppliers and users, the state, and the WMDs.²³ Water suppliers and users have the primary responsibility for providing funding, while the state and WMDs have the responsibility to provide funding assistance.²⁴

AWS development projects may receive state funding through specific appropriation or through the Water Protection and Sustainability Program (WPSP).²⁵ Applicants for projects that receive funding through the WPSP are required to pay at least 60 percent of the project's construction costs.²⁶ A WMD may waive this requirement for projects developed by financially disadvantaged small local governments. Additionally, a WMD may, at its discretion, use ad valorem or federal revenues to assist a project applicant in meeting the match requirement.²⁷

Regional Water Supply Planning

WMDs are required to conduct water supply needs assessments. If the assessment determines that existing resources will not be sufficient to meet reasonable-beneficial uses for the planning period for a particular water supply planning region, it must prepare a regional water supply plan.²⁸ Regional water supply plans must be based on at least a 20-year planning period and must include:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy;
- A funding strategy;
- Consideration of how water supply development projects serve the public interest or save costs;
- Technical data and information;
- Any MFLs established for the planning region;
- The water resources for which future MFLs must be developed; and
- An analysis of where variances may be used to create water supply development or water resource development projects.²⁹

The Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy)

In 2016, the Legislature passed Senate Bill 552 which defined “Outstanding Florida Springs”(OFS) to include all historic first magnitude springs, and their associated spring runs, as determined by DEP using the most recent version of the Florida Geological Survey's springs bulletin.³⁰ The bill required WMDs, by July 1, 2017, to adopt MFLs for all OFSs for which an

²³ Section 373.707(2)(c), F.S.

²⁴ *Id.*

²⁵ Section 373.707(1)(d), and (6), F.S.

²⁶ Section 373.707(8)(e), F.S.

²⁷ *Id.*

²⁸ Section 373.709(1), F.S.

²⁹ Section 373.709(2), F.S.

³⁰ Section 373.802(4), F.S.

MFL had not yet been adopted.³¹ Senate Bill 552 also directed either a WMD or DEP to adopt a recovery or prevention strategy concurrently with the adoption of an MFL for an OFS, if it is below, or projected within 20 years to fall below, the MFL.³² Additionally, the bill provided minimum requirements for recovery and prevention strategies for OFSs.³³

Silver Springs, located in Marion County and within the boundaries of the St. Johns River Water Management District (SJRWMD), is a first magnitude spring³⁴ and is designated as an OFS. The SJRWMD evaluated the recommended MFLs for Silver Springs based on current and projected water use conditions. It was determined that the MFLs are currently being met, but will not be achieved over the next 20 years, triggering the requirement for a prevention strategy.³⁵ In its Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy), the district concluded that, based on current projections and permitted allocations, the sustainable groundwater yield (SGY)³⁶ of the SJRWMD-portion of Marion County will be exceeded between 2025 and 2026.³⁷

Consistent with the provisions for establishing and implementing MFLs provided for in section 373.0421, F.S., the Strategy identifies a suite of projects and measures that, when implemented, prevents the Silver Springs MFLs from being violated due to consumptive uses of water, while simultaneously providing sufficient water supplies for all existing and projected reasonable beneficial uses.³⁸

The objective of the Strategy is to ensure that flows and levels within Silver Springs do not fall below adopted MFLs during the next 20 years. In order to achieve this objective, the Strategy establishes and maintains groundwater withdrawals at or below the SGY through:

- Water conservation and water supply development projects; or
- By mitigating the impact of groundwater withdrawals on Silver Springs through water resource development projects.³⁹

To meet the statutory requirements⁴⁰ of an OFS prevention strategy, the Strategy contains the following information:

- A listing of all specific projects and measures identified for implementation of the strategy;
- A priority listing of each project;
- The estimated cost and date of completion for each project;

³¹ Section 373.042(2)(a), F.S.

³² Section 373.805(1), F.S.

³³ Section 373.805(4), F.S.

³⁴ Section 373.802(4), F.S.

³⁵ SJRWMD, *Prevention Strategy for the Implementation of Silver Springs Minimum Flows and Levels (Strategy)* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

³⁶ For purposes of this Strategy, the sustainable groundwater yield is defined as the quantity of groundwater from the Upper Floridan aquifer which can be withdrawn without causing significant harm to Silver Springs (i.e., violate its MFLs).

³⁷ SJRWMD, *Strategy* (April 2017) 6, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

³⁸ *Id.* at 1.

³⁹ *Id.* at 2.

⁴⁰ Section 373.805(4), F.S.

- The source and amount of financial assistance offered by the SJRWMD;
- An estimate of each project’s benefit to the OFS; and
- An implementation plan to achieve the adopted MFLs.⁴¹

Groundwater withdrawals within Marion County contribute to the majority of the pumping-related impacts to Silver Springs. The Strategy focuses primarily on projects and measures within the county boundary where their benefits will be the greatest. The proposed projects and regulatory component listed within the Strategy provide assurance that the MFLs for Silver Springs will be achieved while meeting projected 2035 water use demand and permitted withdrawal quantities⁴² (PQ). The projects outlined in the Strategy include the expansion of reclaimed water, aquifer recharge, and conversion from the upper Floridan aquifer (UFA) to the lower Floridan aquifer (LFA) as a primary source of water for a portion of public supply demands.⁴³ The table included below, taken from the Strategy,⁴⁴ depicts the estimated volume and flow benefits to Silver Springs from the four general measures to be employed to ensure that MFLs are maintained:

Table 5. Strategy projects and measures to achieve Silver Springs MFLs in 2035

Project/Measure	Est. Volume (mgd)	Est. Silver Springs Flow Benefit (cfs)	Est. Capital Cost (\$)	Implementation Priority
	Low / High	Low / High	Low / High	
Water Conservation	4.4 / 7.6	1.9 / 4.2	9.6M / 13.1M	1
Aquifer Recharge	2.9	1.4	8.0M	2
Ocala LFA Conversion	7.5	7.0	6.7M - 31.7M	3
Reclaimed water conversion	1.9*	0.5	3.2M	4
TOTAL	16.7 / 19.9	10.8 / 13.1	27.5M / 56.0M	

* Total reclaimed water available in 2035 (less the 2.9 mgd planned for recharge). Actual groundwater offset is less.

Prevention Strategy: Regulatory Component

In addition to rules currently in place, the Strategy includes a regulatory component, which appears in a new Section 3.3.3 of the CUP Applicant’s Handbook (AH), which was adopted as a rule in 40C-2.101, Florida Administrative Code (the rule that would be ratified by this bill). The

⁴¹ SJRWMD, *Strategy* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

⁴² Permitted withdrawal quantities represents a groundwater model simulation where withdrawals are equal to the allocations authorized by existing consumptive use permits. Exceptions within the Northern District Groundwater Flow Model Version 5.0 include permitted agricultural allocations which were adjusted to better reflect average irrigation, and domestic self-supply (a use exempt from permitting) and subthreshold agricultural use (authorized via a general permit by rule), which were both estimated using 2035 projected demand.

⁴³ SJRWMD, *Strategy* (April 2017) 1, available at <https://www.sjrwmd.com/static/mfls/ssmfl/Silver-Springs-Prevention-Strategy.pdf> (last visited December 19, 2017).

⁴⁴ *Id.* at 8.

regulatory component of the Strategy will ensure that the MFL will not be violated by consumptive uses of water permitted by the SJRWMD. Specifically, the new rules will:

- Allow existing permitted uses to retain reasonable-beneficial groundwater allocations up to their demonstrated 2024 demand;
- Require potential impacts to Silver Springs to be offset for groundwater allocation requests greater than the demonstrated 2024 demand and for new uses;
- Define a series of opportunities for permittees to offset potential impacts by implementing alternative water supplies, impact offset projects, water resource development project participation, and the retiring of water use from existing CUPs;
- Authorize the inclusion of irrigation allocations for average climatic conditions in addition to drought conditions, for landscape, recreational, and agricultural irrigation CUPs; and
- Outline a process by which permittees can relocate existing permitted withdrawals to reduce impacts to Silver Springs.⁴⁵

Prevention Strategy: Nonregulatory Component

The non-regulatory part of SJRWMD's Strategy includes a commitment by the SJRWMD to assist with two water supply development projects (Lower Floridan Aquifer Conversion and Wetland Recharge Park), which will reduce potential impacts to Silver Springs and make more groundwater available from the UFA. The SJRWMD is required to pay at least 25 percent of the total project costs for each of the projects identified in the non-regulatory part of the Strategy.⁴⁶ The SJRWMD's share of the cost of the Lower Floridan Conversion Project is estimated to be at least \$1.8 million. The SJRWMD's total costs for 25 percent of all Strategy projects (including non-regulatory projects) will be approximately \$14 million.⁴⁷ That significant commitment by the SJRWMD will result in lower costs for the regulated public to achieve the Silver Springs MFLs than if the SJRWMD did not commit to assisting both projects.⁴⁸

Legislative Ratification of Agency Rules

Pursuant to s. 120.541(3), F.S., the Legislature must ratify a rule that:

- Has an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;
- Has an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation in excess of \$1 million in the aggregate within five years after the implementation of the rule; or
- Increases regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.⁴⁹

⁴⁵ *Id.* at 14.

⁴⁶ Section 373.805(4)(d), F.S.

⁴⁷ SJRWMD, *Statement of Estimated Regulatory Costs (SERC)*, 5 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

⁴⁸ *Id.* at 1.

⁴⁹ Section 120.541(2)(a), F.S.

If a rule requires ratification by the Legislature, the rule must be submitted to the President of the Senate and Speaker of the House of Representatives no later than 30 days prior to the regular legislative session. The rule may not go into effect until it is ratified by the Legislature.⁵⁰ Florida Administrative Code Rule 40C-2.101, amended to include the regulatory component of the Strategy in new Section 3.3.3 of the CUP AH, is a rule that requires ratification by the Legislature pursuant to s. 120.541(3), F.S.

A statement of estimated regulatory costs (SERC) is an analysis prepared by an agency before the adoption, amendment, or repeal of a rule other than an emergency rule. A SERC must include:

- An economic analysis showing whether the rule exceeds the thresholds requiring legislative ratification;
- A good faith estimate of the number and types of individuals and entities likely to be required to comply with the rule;
- A good faith estimate of the cost to the agency, and to other state and local government entities, of implementing and enforcing the proposed rule, including anticipated effects on state or local revenues;
- A good faith estimate of the transactional costs (direct business costs) likely to be incurred by individuals and entities required to comply with the requirements of the rule;
- An analysis of the impact on small businesses, small counties, and small cities; and
- A description of regulatory alternatives submitted to the agency and a statement adopting the alternative or a statement of the reasons for rejecting the alternative in favor of the proposed rule.⁵¹

A SERC must be prepared by an agency for a proposed rule that:

- Will have an adverse impact on small business; or
- Is likely to directly or indirectly increase regulatory costs in excess of \$200,000 in the aggregate in the state within 1 year after the implementation of the rule.⁵²

The SJRWMD determined that a statement of estimated regulatory costs was required for Florida Administrative Code Rule 40C-2.101 and prepared one in advance of rule adoption. The SJRWMD found that the underlying rule that would be ratified by this bill will increase regulatory costs for water users who seek to increase their permitted use of groundwater from the UFA beyond their 2024 water demand. When an applicant seeks to increase its permitted water use from the UFA (which would include brand new users), it will incur higher costs for its additional water use within the Silver Springs area as compared to its existing permitted water use costs. The underlying rule will cause an adverse impact on some businesses who seek to increase their permitted water use beyond their 2024 water demand.⁵³

It is projected that in the next five years the SJRWMD will receive a total of approximately 335 CUP applications affecting the minimum water flows and levels for Silver Springs in

⁵⁰ Section 120.541(3), F.S.

⁵¹ Section 120.541(2), F.S.

⁵² Section 120.54(3)(b)1., F.S.

⁵³ SJRWMD, *SERC*, 2 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

Florida Administrative Code Rule 40C-8.031(10). Out of those 335 CUP applications, the SJRWMD estimates that 46 CUP applicants will likely request an increase in permitted water use for which there will be an increased regulatory cost under Florida Administrative Code Rule 40C-2.101 (the rule SB 670 would ratify).⁵⁴ SJRWMD estimates \$5.42 million to \$27.17 million in total new one-time capital costs within five years of the implementation of the rule. SJRWMD estimates \$17.8 million in recurring costs over the same time period for a total cost of \$23.22 million to \$44.97 million.⁵⁵

III. Effect of Proposed Changes:

The bill ratifies Florida Administrative Code Rule 40C-2.101, entitled “Publications Incorporated by Reference” which is amended to add supplemental regulatory measures for Silver Springs to the Consumptive Use Permit Applicant’s Handbook. These measures are a component of the overall Strategy that attempt to ensure that flows and levels within Silver Springs do not fall below adopted MFLs during the next 20 years.

The bill also:

- Ratifies Florida Administrative Code Rule 40C-2.101, for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), F.S.;
- Requires the DEP to note its enactment and effective dates in the Florida Administrative Code, the Florida Administrative Register, or both, as appropriate;
- Does not alter rulemaking authority or constitute a legislative preemption of, or exception to, any other provision of law regarding adoption or enforcement of the rule; and
- Does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any rule cited.

The bill will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

⁵⁴ *Id.* at 2.

⁵⁵ *Id.* at 3, 4.

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

None.

B. Private Sector Impact:

The underlying rule that would be ratified will increase regulatory costs for water users who seek to increase their permitted use of groundwater from the UFA beyond their 2024 water demand. When an applicant seeks to increase its permitted water use from the UFA (which would include brand new users), it will incur higher costs for its additional water use within the Silver Springs area as compared to its existing permitted water use costs. Thus, the underlying rule will cause an adverse impact on some businesses who seek to increase their permitted water use beyond their 2024 water demand.⁵⁶

It is projected that in the next five years the SJRWMD will receive a total of approximately 335 CUP applications affecting the minimum water flows and levels for Silver Springs in Florida Administrative Code Rule 40C-8.031(10). Out of those 335 CUP applications, the SJRWMD estimates that 46 CUP applicants will likely request an increase in permitted water use for which there will be an increased regulatory cost under Florida Administrative Code Rule 40C-2.101 (the rule SB 670 would ratify).⁵⁷ SJRWMD estimates \$5.42 million to \$27.17 million in total new one-time capital costs within five years of the implementation of the rule. SJRWMD estimates \$17.8 million in recurring costs over the same time period for a total cost of \$23.22 million to \$44.97 million.⁵⁸

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

⁵⁶ SJRWMD, *SERC*, 2 (on file with the offices of the Senate Committee on Environmental Preservation and Conservation).

⁵⁷ *Id.*

⁵⁸ *Id.* at 3, 4.

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 Senators Baxley and Bradley

5-00743-18

2018670__

1 A bill to be entitled
2 An act relating to ratification of rules of the St.
3 Johns River Water Management District; ratifying a
4 specified rule relating to supplemental regulatory
5 measures for the minimum flows and levels of Silver
6 Springs, designated as an Outstanding Florida Spring
7 under s. 373.802(4), F.S., for the sole and exclusive
8 purpose of satisfying any condition on effectiveness
9 pursuant to s. 120.541(3), F.S., which requires
10 ratification of any rule meeting any specified
11 thresholds of likely adverse impact or increase in
12 regulatory costs; providing applicability; providing
13 an effective date.

14
15 Be It Enacted by the Legislature of the State of Florida:

16
17 Section 1. (1) The following rule is ratified for the sole
18 and exclusive purpose of satisfying the legislative ratification
19 requirement of s. 120.541(3), Florida Statutes: Rule 40C-2.101,
20 Florida Administrative Code, entitled "Publications Incorporated
21 by Reference" as filed for adoption with the Department of State
22 pursuant to the certification package dated August 1, 2017.

23 (2) This act serves no other purpose and shall not be
24 codified in the Florida Statutes. After this act becomes law,
25 its enactment and effective dates shall be noted in the Florida
26 Administrative Code or the Florida Administrative Register, or
27 both, as appropriate. This act does not alter rulemaking
28 authority delegated by prior law, does not constitute
29 legislative preemption of or exception to any provision of law

5-00743-18

2018670__

30 governing adoption or enforcement of the rules cited, and is
31 intended to preserve the status of any cited rule as a rule
32 under chapter 120, Florida Statutes. This act does not cure any
33 rulemaking defect or preempt any challenge based on a lack of
34 authority or a violation of the legal requirements governing the
35 adoption of any rule cited.

36 Section 2. This act shall take effect upon becoming a law.

THE FLORIDA SENATE
APPEARANCE RECORD

TAB 1

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

1-9-18

Meeting Date

SB 168

Bill Number (if applicable)

Topic Lionfish

Amendment Barcode (if applicable)

Name BOB HARRIS

Job Title _____

Address 2618 Centennial Place

Phone 222-0720

Street

Tallahassee

FL

32308

City

State

Zip

Email bharris@lawfla.com

Speaking: For Against Information

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

Representing DEMA - (Diving Equipment & Marketing Assn.)

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)

10/18
268

Meeting Date

268

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name DAVID CULLEN

Job Title _____

Address 1674 WINDFERRY #286
Street

Phone _____

SARASOTA FL 34243
City State Zip

Email _____

Speaking: For Against Information

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

Representing SIERRA CLUB FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/9/17

Meeting Date

670

Bill Number (if applicable)

Topic Silver Springs

Amendment Barcode (if applicable)

Name Lisa Kelley

Job Title Chief of Staff

Address 601 S. Lake Destiny Rd Ste 200

Phone 407-215-1457

Street

Maitland

FL

32751

City

State

Zip

Email LKelley@sjrwm.com

Speaking: For Against Information

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

Representing St. Johns River Water Management District

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/9/18
Meeting Date

670
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Cullen

Job Title _____

Address 1574 Van Ardy
Street

Phone _____

SARASOTA FL 34240
City State Zip

Email _____

Speaking: For Against Information

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

Representing SEARA CUB FL

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 Environmental Preservation and Conservation

Judge:

Started: 1/9/2018 2:03:00 PM

Ends: 1/9/2018 2:14:58 PM **Length:** 00:11:59

2:03:08 PM Chairman Bradley opens meeting
2:03:55 PM CAA calls rolls
2:04:15 PM SB 168 by Senator Steube
2:05:00 PM Questions?
2:05:11 PM Debate on bill
2:06:14 PM Senator Book for a question
2:06:42 PM Sponsor response
2:07:28 PM Senator Steube waives close
2:07:36 PM Roll call on SB 168 - Bill is reported Favorably
2:07:57 PM Tab 2, SB 670 by Senator Baxley
2:09:16 PM Questions?
2:09:55 PM Debate on bill?
2:10:20 PM David Cullen, Sierra Club
2:11:05 PM Now debate on bill?
2:11:09 PM Senator Farmer
2:12:06 PM Senator Baxley closes on bill
2:13:55 PM Roll call on SB 670 - bill reported Favorably
2:14:44 PM Senator Bean moves to adjourn