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 1684
INTRODUCER:	Senators Altman and Abruzzo
SUBJECT:	Environmental Regulation
DATE:	April 1, 2013 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino	EP	**Pre-meeting**
2.			AG	
3.			AGG	
4.			AP	
5.				
6.				

I. Summary:

SB 1684 makes changes to statutes related to environmental regulation and permitting. The bill:

- Provides that when reviewing an application for a development permit, local governments cannot request additional information from an applicant more than three times, unless the applicant waives the limitation in writing.
- Provides that the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) is authorized to issue leases or consents of use to special event promoters and boat show owners to allow for the installation of temporary structures. The lease or consent of use must include an exemption from lease fees and must be for a period not to exceed 30 days and for a duration not to exceed 10 consecutive years.
- Defines "first-come, first-served basis" as it relates to marinas; providing requirements for the calculation of lease fees for certain marinas; and providing conditions for the discount and waiver of lease fees for certain marinas, boatyards and marine retailers.
- Provides general permits for local governments to construct certain marinas and mooring fields.
- Provides that when there are competing consumptive use permit applications, a water management district (WMD) or the Department of Environmental Protection (DEP) must have also issued an affirmative proposed agency action for each application before the DEP or WMD has the right to approve or modify the application that best serves the public interest.
- Provides that the issuance of well permits is the sole responsibility of the WMDs and prohibits government entities from imposing requirements and fees associated with the installation and abandonment of a groundwater well.

- Provides that licensure of water well contractors by a WMD must be the only water well construction license required for the construction, repair or abandonment of water wells in the state or any political subdivision.
- Defines the term "mean annual flood line" for the purpose of delineating wetlands and surface waters.
- Exempts certain ponds, ditches and wetlands from regulatory requirements, and exempts certain water control districts from local wetlands or water quality regulations.
- Requires the WMDs to coordinate and cooperate with the Department of Agriculture and Consumer Services (DACS) in its regional water supply planning process.
- Provides that a person can bring a cause of action for damages resulting from a discharge of certain types of pollution if not regulated or authorized pursuant to ch. 403, F.S.
- Provides requirements and conditions for water quality testing, sampling, collection and analysis by the DEP.
- Extends the payment deadline of permit fees for major sources of air pollution.
- Provides that a permit is not required for the restoration of seawalls at their previous locations or upland of their previous locations, or within 18 inches, instead of 12 inches, waterward of their previous locations.
- Authorizes the DEP to establish general permits for special events relating to boat shows.

SB 1684 amends the following sections of the Florida Statutes: 125.022, 166.033, 253.0345, 373.118, 373.233, 373.308, 373.323, 373.403, 373.406, 373.709, 376.313, 403.021, 403.0872, 403.813, 403.814, 570.076 and 570.085. It also creates s. 253.0346 of the Florida Statutes.

II. Present Situation:

The statutes affected by this bill are diverse. The present situation of each area affected by the bill will be addressed in the "effect of proposed changes," followed immediately by the way that section or sections of the bill affect that present situation.

III. Effect of Proposed Changes:

Section 1 and 2 amend ss. 125.022 and 163.033, F.S., respectively, relating to development permits.

Present Situation

A development permit is any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance or any other official action of local government having the effect of permitting the development of land.[1] Pursuant to ss. 125.022 and 166.033, F.S., when a county or municipality denies an application for a development permit, the county or municipality must give written notice to the applicant. The notice must include a citation to the applicable portions of ordinance, rule, statute or other legal authority for the denial of the permit.

For any development permit application filed with a county or municipality after July 1, 2012, that county or municipality is prohibited from requiring, as a condition of processing or issuing a

[1] Section 163.3164(16), F.S.

development permit, that an applicant obtain a permit or approval from any state or federal agency unless the agency has issued a final agency action that denies the federal or state permit before the county or municipality action on the local development permit. The issuance of a development permit by a county or municipality does not create any rights on the part of the county or municipality for issuance of the permit if the applicant fails to obtain the requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. A county or municipality can attach such a disclaimer to the issuance of a development permit and can include a permit condition that all other applicable state or federal permits be obtained prior to commencement of the development. This does not prohibit a county or municipality from providing information to an applicant regarding what other state or federal permits may apply.

Effect of Proposed Changes

The bill amends ss. 125.022 and 163.033, F.S., providing that when reviewing an application for a development permit, counties and municipalities cannot request additional information from an applicant more than three times, unless the applicant waives the limitation in writing. The first request must be reviewed and approved in writing by the permit processor's supervisor, department director, or manager. The second request must be approved by a department or division director or manager. Subsequent requests must be approved in writing by the local government administrator or equivalent chief administrative officer. If the applicant believes the request for additional information is not authorized by ordinance, rule, statute or other legal authority, the county or municipality, at the applicant's request, must proceed with processing the application.

Sections 3 and 16 amend ss. 253.0345 and 403.814, F.S., respectively, relating to special events on sovereignty submerged lands.

Present Situation

The Board of Trustees may authorize the use of sovereignty submerged lands for special events. The Board of Trustees is authorized to issue "consents of use" or leases to riparian landowners and event promoters to allow the installation of temporary structures, including docks, moorings, pilings and access walkways on sovereignty submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government owned upland property. Riparian owners of adjacent uplands who are not seeking a lease or consent of use must be notified by certified mail of any request for such a lease or consent of use prior to approval by the Board of Trustees. The Board of Trustees must balance the interests of any objecting riparian owners with the economic interests of the public and the state as a factor in determining whether a lease or consent of use should be executed over the objection of adjacent riparian owners. This does not apply to structures for viewing motorboat racing, high-speed motorboat contests or high-speed displays in waters that manatees are known to frequent.[2]

The Board of Trustee's rules contain three classifications for special events:

[2] *See* s. 253.0345, F.S. *See also* Rule 18-21.0082, F.A.C., for information required on applications for leases or consents of use and for provisions concerning limitations on consents of use and leases, depending on the type of event.

- Class II Special Events are events of 30 days or less involving the construction of structures that are not revenue-generating and either preempt 1,000 square feet or less of sovereignty submerged lands or preempt no more than 10 square feet of sovereignty submerged land for each linear foot of the applicant's contiguous shoreline along the affected sovereignty submerged land. These activities require a letter of consent from the DEP but no lease.[3]
- Class III Special Events are single events involving the construction of 50 or fewer new slips or a preempted area of 50,000 square feet or less. A lease is required and the term of the lease is limited to 30 days or less.[4]
- Class IV Special Events are events that do not qualify as Class III events or are events authorized to be conducted more than once during the lease term. A lease is required and the term of the lease may be up to five years.[5]

The DEP is authorized to adopt rules establishing and providing for a program of general permits for projects that have, either individually or cumulatively, a minimal adverse environmental impact. The rules specify design or performance criteria that, if applied, would result in compliance with appropriate standards. Any person complying with the requirements of a general permit may use the permit 30 days after giving notice to the DEP without any agency action.[6] Projects include, but are not limited to:

- Construction and modification of boat ramps of certain sizes;
- Installation and repair of riprap at the base of existing seawalls;
- Installation of culverts associated with stormwater discharge facilities; and
- Construction and modification of certain utility and public roadway construction activities.

Any special event must be for 30 days or less. The lease or consent of use may also contain appropriate requirements for removal of the temporary structures, including the posting of sufficient surety to guarantee appropriate funds for removal of the structures should both the promoter or riparian owner fail to do so within the time specified in the agreement.[7]

Effect of Proposed Changes

Section 3 of the bill amends s. 253.0345, F.S., to provide that the Board of Trustees is authorized to issue leases or consents of use to special event promoters and boat show owners to allow the installation of temporary structures, including docks, moorings, pilings and access walkways, on sovereignty submerged lands solely for the purpose of facilitating boat shows and displays in, or adjacent to, established marinas or government-owned upland property. A lease or consent of use for a special event under this section must include an exemption from lease fees and must be for 30 days or less and for a duration of 10 consecutive years or less.

Section 16 of the bill amends s. 403.814, F.S., authorizing the DEP to issue general permits for special events relating to boat shows. The permits must be for a period that runs concurrently with the consent of use or lease issued pursuant to s. 253.0345, F.S., No more than two seagrass

[3] Rule 18-21.005(1)(c)17., F.A.C.
[4] Rule 18-21.005(1)(d)10., F.A.C.
[5] Rule 18-21.005(1)(d)11., F.A.C.
[6] Section 403.814(1), F.S.
[7] Rule 18-21.0082(2)(c), F.A.C.

studies may be required by a general permit, one conducted before issuance of the permit and the other conducted at the time the permit expires. General permits must allow for the movement of temporary structures within the footprint of the lease area. A survey of the lease or consent area is required at the time of application for a 10-year standard lease or a consent of use and general permit. An area of up to 25 percent of a previous lease or consent of use area must be issued as part of the general permit, lease or consent of use to allow for economic expansion of the special event during the 10-year term. An annual survey of the distances of all structures from the boundaries of the lease or consent of use area must be conducted to ensure that the lease boundaries have not been violated.

Section 4 creates s. 253.0346, F.S., relating to the administration of sovereignty submerged lands.

Present Situation

The Board of Trustees is responsible for the administration and disposition of the state's sovereignty submerged lands. [8] It has the authority to adopt rules and regulations pertaining to anchoring, mooring or otherwise attaching to the bottom. Waterfront landowners must receive the Board of Trustee's authorization to build docks and related structures on sovereignty submerged lands. The DEP administers all staff functions on the Board of Trustee's behalf.

Florida recognizes riparian rights for landowners with waterfront property bordering navigable waters, which include the rights of ingress, egress, boating, bathing, fishing and others as defined by law.[9] Riparian landowners must obtain the Board of Trustee's authorization for installation and maintenance of docks, piers and boat ramps on sovereignty submerged land.[10] Under the Board of Trustee's rules, "dock" generally means a fixed or floating structure, including moorings and access walkways, used for the purpose of mooring and accessing vessels.[11] Authorization may be by rule, letter of consent or lease.[12] All leases authorizing activities on sovereignty submerged lands must include provisions for lease fee adjustments and annual payments.[13]

The Board of Trustees has promulgated detailed rules regulating the design of docks and related structures, including determining whether a lease is required and setting the amount of lease fees.[14] The DEP determines whether a lease is required for a person to build a dock or related structure on sovereignty submerged lands based on a number of factors including:

- Location within or outside of an aquatic preserve;
- Area of sovereignty submerged land preempted;
- Number of wet slips or the number of boats the structure is designed to moor;
- Whether the dock is for a single-family residence or a multi-unit dwelling;

[8] Section 253.03(8)(b), F.S., defines submerged lands as publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state.
[9] *See* s. 253.141(1), F.S.
[10] Rule 18-21.005(1)(d), F.A.C.
[11] *See* Rules 18-20.003(2) and (19), F.A.C.
[12] Rule 18-21.005(1), F.A.C.
[13] Rule 18-21.008(1)(b)(2), F.A.C.
[14] *See* Rules 18-20 and 18-21, F.A.C.

- Whether the dock generates revenue; and
- Whether the dock is for "private residential" or other uses.

A property owner who is required to obtain a lease to build a dock or related structure must follow the lease terms and pay applicable fees. Currently, the standard lease term is five years, and sites under lease must be inspected once every five years. Annual lease fees for standard term leases are calculated through a formula based on annual income, square footage or a minimum annual fee. Extended term leases are available, under limited conditions, for up to 25 years. Annual lease fees for extended term leases are calculated like standard lease fees but with a multiplier for the term in years. Site inspections are conducted at least once every five years by the DEP or a WMD to determine compliance with lease conditions.[15]

When determining whether to approve or deny uses for sovereignty submerged land leases, the Board of Trustees must consider whether such uses pass a public interest test. "Public interest" is defined as:

> [T]he demonstrable environmental, social and economic benefits which would accrue to the public at large as a result of a proposed action, and which would clearly exceed all demonstrable environmental, social and economic costs of the proposed action. In determining the public interest in a request for use, sale, lease, or transfer of interest in sovereignty lands, or severance of materials from sovereignty lands, the Board of Trustees must consider the ultimate project and purpose to be served by said use, sale, lease or transfer of lands or materials.[16]

There are currently three categories of leases identified in Rule 18-21.008, F.A.C.:

- Standard leases are for terms of five years with the exception of leases for marinas where at least 90 percent of the slips are maintained for rent to the public on a first-come, first-served basis, which are for ten years.
- Extended Term leases are those with terms in excess of standard leases and are available for up to 25 years. Such leases are for activities that will have an expected life equal to or greater than the requested lease term. Those leases include:
  - Facilities or activities that provide public access;
  - Facilities constructed, operated or maintained by government or funded by government secured bonds; and
  - Facilities that have other unique operational characteristics as determined by the Board of Trustees.
- Oil and Gas leases are those leases issued on a competitive bid basis for terms as determined by the Board of Trustees. However, no such leases have been issued as s. 377.242, F.S., prohibits the drilling for oil, gas or other petroleum products on any sovereignty submerged land.

Florida Clean Marina Program

[15] Rule 18-21.008(1)(b)4., F.A.C.
[16] Rule 18-21.003(51), F.A.C.

The Florida Clean Marina Program is a voluntary designation program. Participants receive assistance in implementing best management practices through on-site and distance technical assistance, mentoring by other Clean Marinas and continuing education. To become designated as a Clean Marina, facilities must implement a set of environmental measures designed to protect Florida's waterways. These measures address critical environmental issues such as sensitive habitat, waste management, stormwater control, spill prevention and emergency preparedness.[17]

The Florida Clean Boatyard Program is a voluntary designation program that encourages boatyards to implement environmentally conscious practices. Measures include using dustless sanders, recycling oil and solvents, and re-circulating pressure wash systems to recycle wastewater.[18]

The Florida Clean Marine Retailer Program is a voluntary designation program that encourages marine retailers to educate boaters by providing information to those who purchase vessels on clean boating practices. A Clean Marine Retailer also employs environmental best management practices in its boat and engine service operations and facilities.[19]

As of June 21, 2012, there were 263 designated Clean Marinas, 38 Clean Boatyards and 17 Clean Marine Retailers in Florida.[20]

Effect of Proposed Changes

The bill creates s. 253.0346, F.S., relating to the lease of sovereignty submerged lands for marinas, boatyards and marine retailers. The bill defines "first-come, first-served basis" to mean the facility operates on state-owned submerged land for which:

- There is no club membership, stock ownership, equity interest or other qualifying requirement; and
- Rental terms do not exceed 12 months and do not include automatic renewal rights or conditions.

For marinas that are open to the public on a first-come, first-served basis and for which at least 90 percent of the slips are open to the public, the following requirements apply:

- The annual lease fee for a standard term lease must be 6 percent of the annual gross dockage income. The DEP may not include pass-through charges in calculating gross dockage income.
- A 30 percent discount on the annual lease fee must apply if dockage rate sheet publications and dockage advertising clearly state the slips are open to the public on a first-come, first-served basis.

For a facility designated by the DEP as a Clean Marina, Clean Boatyard or Clean Marine Retailer under the Clean Marina Program, the following requirements apply:

[17] DEP, *About Florida Clean Marina Programs*, http://www.dep.state.fl.us/cleanmarina/about.htm (last visited Mar. 29, 2013).
[18] *Id.*
[19] *Id.*
[20] DEP, *Florida Clean Marina Programs*, http://www.dep.state.fl.us/cleanmarina/ (last visited Mar. 29, 2013).

- A 10 percent discount on the annual lease fee must apply if the facility:
  - Actively maintains designation under the program;
  - Complies with the terms of the lease; and
  - Does not change use during the term of the lease.
- Extended term lease surcharges must be waived if the facility:
  - Actively maintains designation under the program;
  - Complies with the terms of the lease;
  - Does not change use during the term of the lease; and
  - Is available to the public on a first-come, first-served basis.

If the facility has unpaid lease fees or fails to comply with this section, the facility is not eligible for the discount or waiver under this section until the debts have been paid and compliance with the program has been met.

This section only applies to new leases or amendments to leases effective after July 1, 2013.

Section 5 amends s. 373.118, F.S., relating to general permits for marine facilities built by local governments.

Present Situation

Section 373.118(4), F.S., directs the DEP to adopt one or more general permits for local governments to construct, operate and maintain public marina facilities, public mooring fields, public boat ramps, including associated courtesy docks and parking facilities located in uplands. A facility authorized under these general permits is exempt from review as a development of regional impact if the facility complies with the comprehensive plan of the applicable local government. Such facilities must be consistent with the local government manatee protection plan required pursuant to ch. 379, F.S., must obtain Clean Marina Program Status prior to opening for operation, and must maintain that status for the life of the facility. Marinas and mooring fields authorized under a general permit cannot exceed an area of 50,000 square feet over wetlands and other surface waters.

Effect of Proposed Changes

The bill amends s. 373.118(4), F.S., providing that the expansion of any marina, whether private or government-owned, for which the services of at least 90 percent of the slips are open to the public on a first-come, first-served basis and which is authorized under the general permit described above cannot exceed an additional area of 50,000 square feet over wetlands and other surface waters. The bill also provides that mooring fields authorized under a general permit cannot exceed 100 vessels.

Section 6 amends s. 373.233, F.S., relating to consumptive use permitting.

Present Situation

A consumptive use permit (CUP) establishes the duration and type of water an entity may use as well as the maximum amount that may be withdrawn. Pursuant to s. 373.219, F.S., each CUP

must be consistent with the objectives of the WMD and not 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," as defined in s. 373.019, F.S.;
- Must not interfere with any presently existing legal use of water; and
- Must be consistent with the public interest.[21]

Section 373.233, F.S., provides that if two or more applications that otherwise comply with the provisions of Part II of ch. 373, F.S., are pending for a quantity of water that is inadequate for both or all applications, or that for any other reason are in conflict, the governing board of the DEP or the WMD has the right to approve or modify the application which best serves the public interest.

The Three Prong Test

"Reasonable-beneficial use," the first prong of the test, is defined 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."[22] The Legislature has declared water a public resource. Therefore, wasteful uses of water are not allowed even if there are sufficient resources to meet all other demands.

To that end, the DEP has promulgated the Water Resource Implementation Rule that incorporates interpretive criteria for implementing the reasonable-beneficial use standard based on common law and water management needs.[23] These criteria include consideration of the quantity of water requested; the need, purpose and value of the use; and the suitability of the source. The criteria also consider the extent and amount of harm caused, whether that harm extends to other lands, and the practicality of mitigating that harm by adjusting the quantity or method of use. Particular consideration is given to the use or reuse of lower quality water, and the long-term ability of the source to supply water without sustaining harm to the surrounding environment and natural resources.[24]

The second element of the three-prong test protects the rights of existing legal uses of water for the duration of their permits.[25] New CUPs cannot be issued if they would conflict with an existing legal use. This criterion is only protective of water users that actually withdraw water, not passive users of water resources.[26]

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[21] Section 373.223(1)(a-c), F.S.

[22] Section 373.019(16), F.S. *See also* Rule 62-410(2), F.A.C., for a list of 18 factors to help determine whether a water use is a reasonable-beneficial use.

[23] *See* Rule 62-40, F.A.C.

[24] *Southwest Florida Water Management District v. Charlotte County*, 774 So. 2d 903, 911 (Fla. 2d DCA 2001) (upholding the WMD's use of criteria for implementing the reasonable-beneficial use standard).

[25] Section 373.223(1)(b), F.S.

[26] *See Harloff v. City of Sarasota*, 575 So. 2d 1324 (Fla. 2d DCA 1991) (holding a municipal wellfield was an existing legal user and should be afforded protection). In contrast, *see West Coast Regional Water Supply Authority v. Southwest Florida Water Management District*, 89 ER F.A.L.R. 166 (Final Order, Aug. 30, 1989) (holding a farmer who passively relied on a higher water table to grow nonirrigated crops and standing surface water bodies to water cattle was not an existing legal user).

The final element of the three-prong test requires water use to be consistent with the "public interest." While the DEP's Water Resource Implementation Rule provides criteria for determining the "public interest," determination of a public interest is made on a case-by-case basis during the permitting process.[27] However, the WMDs and the DEP have broad authority to determine which uses best serve the public interest if there are not sufficient resources to fulfill all applicants' CUPs. In the event that two or more competing applications are deemed to be equally in the public interest, the particular WMD or the DEP gives preference to renewal applications.[28]

Effect of Proposed Changes

The bill amends s. 373.233, F.S., to provide that where there are competing CUP applications, the governing board of a WMD or the DEP must have also issued an affirmative proposed agency action for each application before the governing board of a WMD or the DEP has the right to approve or modify the application which best serves the public interest.

Section 7 amends s. 373.308, F.S., relating to well permits issued by water management districts.

Present Situation

Section 373.308, F.S., directs the DEP to authorize the governing board of a WMD to implement a program for the issuance of permits for the location, construction, repair and abandonment of water wells. The DEP may prescribe minimum standards for the location, construction, repair and abandonment of water wells throughout all or part of the state. Some local governments also have certain ordinances pertaining to water wells, which have resulted in duplicative regulation at the state and local level.

Effect of Proposed Changes

The bill amends s. 373.308, F.S., to provide that upon authorization from the DEP, issuance of well permits is the sole responsibility of the WMDs, and other government entities may not impose additional or duplicate requirements or fees, or establish a separate program for permitting the location, abandonment, boring or other activities reasonably associated with the installation and abandonment of a groundwater well.

Section 8 amends s. 373.323, F.S., relating to licenses for water well contractors.

Present Situation

Any person that wishes to engage in business as a water well contractor must obtain a license from a WMD. Each person must apply to take the licensure examination and the application must be made to the WMD in which the applicant resides or in which his or her principal place of business is located. An applicant must:

[27] *Supra* note 23.
[28] *See* s. 373.233, F.S.

- Be at least 18 years of age;
- Have two years of experience in constructing, repairing or abandoning water wells; and
- Show certain proof of experience.[29]

Section 373.323(11), F.S., provides that licensed water well contractors may install pumps, tanks, and water conditioning equipment for all water well systems.

Effect of Proposed Changes

The bill amends s. 373.323, F.S., to provide that licensure under this section by a WMD must be the only water well construction license required for the construction, repair or abandonment of water wells in the state or any political subdivision.

The bill also expands the types of systems that licensed water well contractors may install pumps, tanks and water conditioning equipment on from "water well systems" to "water systems".

Section 9 amends s. 373.403, F.S., relating to the mean annual flood line.

Present Situation

Part IV of ch. 373, F.S., includes various statutes pertaining to the management and storage of surface waters. Specifically, s. 373.413, F.S., provides certain permitting requirements for the construction or alteration of any stormwater management system, dam, impoundment, reservoir and appurtenant work or works. A person proposing to construct or alter a stormwater management system, dam, impoundment, reservoir or appurtenant work or works subject to such permit must apply to the governing board or the DEP for a permit authorizing such construction or alteration. Section 373.421, F.S., provides for a unified statewide methodology for the delineation of the extent of wetlands and surface waters. Section 373.403, F.S., provides definitions to be used in Part IV of ch. 373, F.S.

Effect of Proposed Changes

The bill amends s. 373.403, F.S., providing that "mean annual flood line" has the same meaning as provided in s. 381.0065, F.S., (regarding regulation of onsite sewage treatment and disposal systems) for purposes of delineating the ordinary high water line for nontidal water bodies and other surface waters.

Section 381.0065, F.S., defines "mean annual flood line" as the elevation determined by calculating the arithmetic mean of the elevations of the highest yearly flood stage or discharge for the period of record, to include at least the most recent 10-year period. If at least 10 years of data are not available, the mean annual flood line must be determined based upon the data available and field verification conducted by a certified professional surveyor and mapper with experience in determination of flood water elevation lines, or at the option of the applicant, by DEP personnel. Field verification of the mean annual flood line must be performed using a

[29] Section 373.323, F.S.

combination of certain indicators that are present on the site, and that reflect flooding that recurs on an annual basis. In those situations where any one or more of these indicators reflect a rare or aberrant event, such indicator or indicators must not be utilized in determining the mean annual flood line.

Section 10 amends s. 373.406, F.S., relating to surface water management and storage.

Present Situation

Part IV of ch. 373, F.S., provides for the management and storage of surface water. Part IV also establishes the Environmental Resource Permit (ERP) program, which is the primary tool used by the DEP and the WMDs for preserving natural resources, fish and wildlife, minimizing degradation of water resources caused by stormwater discharges, and providing for the management of water and related land resources.

The activities regulated under the ERP program include the construction, alteration, operation, maintenance, abandonment and removal of stormwater management systems, dams, impoundments, reservoirs, appurtenant work and works. Individually and collectively these terms are referred to as "surface water management systems."

Certain activities are exempt by statute from the need to obtain an ERP under state law or by agency rule. Section 373.406, F.S., provides for several exemptions from the regulatory requirements in ch. 373, F.S. The DEP's rules also provide for certain exemptions and general permits for certain activities that cause only minimal individual and cumulative adverse impacts to wetlands and other surface waters. Some examples of exempt activities are:

- Construction, repair and replacement of private docking facilities below certain size thresholds;
- Maintenance dredging of existing navigational channels and canals;
- Construction and alteration of boat ramps within certain size limits;
- Construction, repair and replacement of seawalls and riprap in artificial waterways;
- Repair and replacement of structures; and
- Construction of certain agricultural activities.

In addition, the state has issued a number of noticed general permits for activities that are slightly larger than those that qualify for the above exemptions and that otherwise have been determined to have the potential for no more than minimal individual direct and secondary impacts. These include, but are not limited to:

- Construction and modification of boat ramps of certain sizes;
- Installation and repair of riprap at the base of existing seawalls;
- Installation of culverts associated with stormwater discharge facilities; and
- Construction and modification of certain utility and public roadway construction activities.

Anything that does not specifically qualify for an exemption or noticed general permit typically requires an ERP permit.

Effect of Proposed Changes

The bill amends s. 373.406, F.S., to include the following exemptions from regulation under Part IV of ch. 373, F.S.:

- Construction, operation or maintenance of any wholly owned, manmade ponds or drainage ditches constructed entirely in uplands;
- Activities affecting wetlands created solely by the unreasonable and negligent flooding or interference with the natural flow or surface water caused by an adjoining landowner; and
- Any water control district created and operating pursuant to ch. 298, F.S., for which a valid ERP or management and storage of surface waters permit has been issued pursuant to Part IV of ch. 373, F.S., is exempt from further wetlands or water quality regulations imposed pursuant to local government regulation under chs. 125, 163 and 166, F.S.

Sections 11 and 18 amend ss. 373.406 and 570.085, F.S., respectively, relating to regional water supply planning**.**

Present Situation

The WMDs are required to conduct water supply needs assessments. If a WMD 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.[30] Regional water supply plans must be based on at least a 20-year planning period.[31] The plan must contain:

- A water supply development component;
- A water resource development component;
- A recovery and prevention strategy;
- A funding strategy;
- The impacts on the public interest, costs, natural resources, etc.;
- Technical data and information;
- Any minimum flows and levels (MFLs) established for the planning area;
- 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.[32]

Regional water supply plans include projected water supply needs for all users, including agriculture. The WMDs employ different methods in making such projections for agricultural users and use a combination of common and unique data sources. The DACS participates in the regional water supply planning process and can provide input regarding agricultural water supply demand projection, but has no formal role in determining future water supply needs for agriculture.[33]

[30] Section 373.709(1), F.S.
[31] Section 373.709(2), F.S.
[32] *Id.*
[33] DACS, *Senate Bill 1684 Analysis* (Mar. 13, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

The regional water supply plans typically list water resource development and water supply development options that can meet the projected reasonable-beneficial needs of the water supply region. The plans normally include a mix of traditional and alternative water supply options.[34] Traditional water supplies come from surface water sources, such as lakes and rivers, and from groundwater withdrawals. Alternative water supplies include activities such as treating wastewater for agricultural use, desalination of saltwater or brackish water to produce drinking water, and surface and rain water storage. Water consumers either purchase or self-supply water. Self-supplied water often comes from on-site wells or through surface water retention, among other methods.

Pursuant to s. 570.085, F.S., the DACS must establish an agricultural water conservation program that includes:

- A cost-share program between the U.S. Department of Agriculture and other federal, state, regional and local agencies for irrigation system retrofit and the application of mobile irrigation laboratory evaluations for water conservation;
- The development and implementation of voluntary interim measures of best management practices that provide for increased efficiencies in the use and management of water for agricultural production. In the process of developing and adopting rules for interim measures or best management practices, the DACS must consult with the DEP and the WMDs; and
- Provide assistance to the WMDs in the development and implementation of a consistent methodology for the efficient allocation of water for agricultural irrigation.

Effect of Proposed Changes

Section 11 of the bill amends s. 303.709, F.S., providing that a WMD must include the DACS in its regional water supply planning process. The WMD must also include in the water supply development component of its regional water supply plan, the agricultural demand projections used for determining the needs of agricultural self-suppliers based on the best available data. In determining the best available data for agricultural self-supplied water needs, the WMD must use the data indicative of future water supply demands provided by the DACS pursuant to s. 570.085, F.S., which is amended by this bill, directing the DACS to establish a water supply planning program.

Section 18 of the bill amends s. 570.085, F.S., directing the DACS to establish an agricultural water supply planning program that includes the following:

- The development of data indicative of future agricultural water supply demands which must be:
  - Based on at least a 20-year planning period;
  - Provided to each WMD; and
  - Considered by each WMD when developing WMD water management plans.
- The data on future agricultural water supply demands, which are provided to each WMD, must include, but are not limited to:
  - Applicable agricultural crop types or categories;

[34] DEP, *Regional Water Supply Planning*, www.dep.state.fl.us/water/waterpolicy/rwsp.htm (last visited Mar. 30, 2013).

  - Historic, current and future estimates of irrigated acreage for each applicable crop type or category, spatially for each county, including the historic and current methods and assumption used to generate the spatial acreage estimates and projections; and
  - Crop type or category water use coefficients for a 1-in-10 year drought average used in calculating historic, current and future water demands, including data, methods and assumptions used to generate the coefficients. Estimates of historic and current water demands must take into account actual metered data when available. Projected future water demands must incorporate appropriate potential water conservation factors based upon data collected as part of the DACS's agricultural water conservation program pursuant to s. 570.085(1), F.S.
- In developing the data of future agricultural water supply needs, the DACS must consult with the agricultural industry, the University of Florida's institute of Food and Agricultural Sciences, the DEP, the WMDs, the National Agricultural Statistics Service and the U.S. Geological Survey.
- The DACS must coordinate with each WMD to establish a schedule for provision of data on agricultural water supply needs.

Section 12 amends s.376.313, F.S., relating to the nonexclusiveness of remedies and individual causes of action for damages under ss. 376.30 to 376.317, F.S.

Present Situation

Section 376.313(3), F.S., provides that nothing contained in ss. 376.30-376.317, F.S., (relating to petroleum storage discharges, dry cleaning facilities and wholesale supply facilities) prohibits any person from bringing a cause of action in court for all damages resulting from a discharge or other condition of pollution covered by the referred to sections.

Effect of Proposed Changes

The bill amends s. 376.313(3), F.S., to provide that a person can bring a cause of action in court for all damages resulting from a discharge or other condition of pollution covered by ss. 376.30-376.317, F.S., that is not regulated or authorized pursuant to ch. 403, F.S. (relating to environmental control policies that conserve state water, protect and improve water quality for consumption and maintain air quality to protect human health). This serves to limit the causes of action currently available under s. 376.313, F.S.

Section 13 amends s. 403.021, F.S., relating to requirements and conditions for water quality testing.

Present Situation

Pursuant to s. 403.021, F.S., it is the intent of the Legislature that water quality standards be reasonably established and applied to take into account the variability occurring in nature.[35] The DEP is required to recognize the statistical variability inherent in sampling and testing procedures that are used to express water quality standards. The DEP must also recognize that

[35] Section 403.021, F.S.

some deviations from water quality standards occur as the result of natural background conditions and must not consider deviations from water quality standards to be violations when the discharger can demonstrate that the deviations would occur in the absence of any human-induced discharges or alterations to the water body.

Effect of Proposed Changes

The bill amends s. 403.021(11), F.S., to provide that water quality testing, sampling, collection or analysis must be reviewed and protocols must be adopted by rule. The validation must be sufficient to ensure that variability inherent in such testing, sampling, collection or analysis has been specified and reduced to the minimum for comparable testing, sampling, collection or analysis.

Section 14 amends s. 403.0872, F.S., relating to operation permits for majority sources of air pollution and fee calculations.

Present Situation

The Clean Air Act (CAA) was enacted in 1970 as the comprehensive federal law to regulate air emissions from stationary and mobile sources. The law authorizes the U.S. Environmental Protection Agency (EPA) to establish National Ambient Air Quality Standards to protect public health and public welfare and to regulate emissions of hazardous air pollutants.[36]

In 1990, Congress amended Title V of the CAA to create the operating permit program. The program streamlines the way federal, state, tribal and local authorities regulate air pollution by consolidating all air pollution control requirements into a single, comprehensive operating permit that covers all aspects of a source's year-to-year pollution activities.[37] Under Title V, the EPA must establish minimum elements to be included in all state and local operating permit programs, and then assist the state and local governments in developing their programs.[38] All major stationary sources (power plants, pulp mills and other facilities) emitting certain air pollutants are required to obtain operating permits.

Pursuant to s. 403.0872, F.S., and as promulgated in ch. 62-4, F.A.C., the DEP is responsible for air permits regulating major and minor facilities. Section 403.0872(11), F.S., provides that each source of air pollution permitted to operate in Florida must pay between January 15 and March 1 of each year, upon written notice from the DEP, an annual operation license fee in an amount determined by DEP rule. The annual fee is assessed based upon the source's previous year's emissions and is calculated by multiplying the applicable annual operation license fee factor by the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent construction or operation permit, and multiplying that by the annual hours of operation allowed by permit conditions provided, however, that:

[36] EPA, *Summary of the Clean Air Act*, http://epa.gov/regulations/laws/caa.html (last visited Mar. 29, 2013).
[37] *See* EPA, *Air Pollution Operating Permit Program Update: Key Features and Benefits*, http://www.epa.gov/oaqps001/permits/permitupdate/index.html (last visited Mar. 29, 2013).
[38] *Id.*

1. The license fee factor is $25 or another amount determined by DEP rule, which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the DEP affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may not exceed $35.
2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is dependent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.
3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.
4. For any new source that does not receive its first operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not operational.
5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a DEP-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the EPA under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the DEP.
6. The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.
7. If the DEP has not received the fee by February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by March 1. If the fee is not postmarked by March 1 of the calendar year, the DEP shall impose, in addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807, F.S. The DEP may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The DEP may waive the collection of underpayment and is not required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The DEP may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty or interest.

8. Notwithstanding the computational provisions of s. 403.0872(a), F.S., the annual operation license fee for any source subject to this section cannot be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814, F.S., shall not exceed $50 per year.
9. Notwithstanding the provisions of s. 403.087(6)(a)5.a., F.S., authorizing air pollution construction permit fees, the DEP may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the CAA, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits are considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873, F.S. The DEP must, however, require fees pursuant to the provisions of s. 403.087(6)(a)5.a., F.S., for the construction of a new major source of air pollution that will be subject to the permitting requirements of s. 403.0872, F.S., once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the CAA, 42 U.S.C. ss. 7470-7514a.[39]

Effect of Proposed Changes

The bill amends s. 403.0872, F.S., to extend the annual payment deadline for air pollution permits from March 1 to April 1. In addition, the bill provides that the annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor by the tons of each regulated air pollutant actually emitted, as calculated in accordance with DEP's emissions computation and reporting rules. The annual fee only applies to those regulated pollutants, except carbon monoxide and greenhouse gases, for which an allowable numeric emission limiting standard is specified in the source's most recent construction or operation permit. This will result in a decrease in fees charged since it is likely that most permitted entities are not discharging up to their permitted limit.

The bill deletes subparagraphs 2-5 from s. 403.0872(11)

The bill provides that if the DEP has not received the fee by March 1, instead of February 15, the permittee must be sent a written warning of the consequences for failing to pay the fee by April 1. If the fee is not postmarked by April 1, the DEP will impose an additional fee.

Section 15 amends s. 403.813, F.S., relating to conditions under which certain permits are not required for seawall restoration.

Present Situation

Section 403.813(1), F.S., provides that a permit is not required for the restoration of seawalls at their previous locations or upland of, or within 12 inches waterward of, their previous locations.
Effect of Proposed Changes

[39] Section 403.0872(11)(a)1.-9., F.S.

The bill amends s. 403.813, F.S., to provide that a permit is not required for the restoration of a seawall at its previous location or upland of that location, or within 18 inches, instead of 12 inches, waterward of its previous location.

Section 17 Amends s. 570.076, F.S. to conform a cross-reference.

Section 19 provides an effective date of July 1, 2013

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:

Section 3
According to the DEP, there would be an estimated loss to state revenues of approximately $1,120. This is based on a seven year average. The loss in County Discretionary tax would be approximately $93 annually.

Section 4
Based on the minimum loss of annual revenue, there would be an annual loss of approximately $5,623 in state taxes and $469 in County Discretionary Tax.

B. Private Sector Impact:

Sections 3 and 16
The Special Event promoter would benefit from the elimination of the special event fee. The public would not benefit from this reduction because the promoter charges the vendor to participate in the event. Currently, a promoter must apply for a permit each year and conduct a seagrass study each time to satisfy the permit requirements. The bill allows for 10-year permits with a maximum of two seagrass studies within the 10-year period. Substantial savings are expected, but cannot be calculated at this time.

Section 4
There would be a positive impact from the annual reduction or elimination of the annual fee for leases of sovereignty submerged land.

Section 5
There would be a slight but indeterminate positive impact due to reduced permit fees.

Section 6
According to the DEP, if a private sector entity is a CUP applicant, the proposed language may result in increased costs resulting from litigation. The bill envisions a WMD issuing proposed affirmative agency action for two applications, even though there is not adequate water for both. Therefore, it would appear that a private entity seeking a permit would either be forced to challenge a competing permit or be subject to such a challenge

Section 7
The bill would have a positive effect on water well contractors by eliminating the requirement to obtain a separate local government water well construction permit, including any required fees.

Section 8
The bill would have a positive effect on water well contractors by eliminating the requirement to obtain any local government water well contractor licenses. It also expands the license to apply to all water systems, not just water well systems. The impact of this expansion is unknown and may create competition in the water systems business.

Section 9
According to the DEP, limiting the definition to a single methodology restricts, limits or prohibits the use of other acceptable flood calculations now available to applicants. Applicants may have to pay for additional sampling when another methodology would be scientifically valid. The impacts cannot be quantified at this time. The impact could be significant to applicants depending on the permit.

Section 10
The bill will ease some of the regulatory requirements for activities covered by the bill. This will result in a positive but indeterminate affect on the private sector.

Section 12
Currently, if a person or entity is damaged as a result of a discharge or other condition of pollution covered in ss. 376.30 – 376.317, F.S., they have a cause of action to sue for damages. This bill limits those causes of action to situations where the offending party's activities are not regulated or authorized pursuant to ch. 403.

Section 14
According to the DEP, this legislation will save over 400 of Florida's manufacturing and industrial businesses an estimated $2 million per year. Approximately $1.4 million would be saved in Title V permit fees because they would be paying fees based on their "actual emissions" instead of their "adjusted allowable emissions." Syncing the Title V fee and annual operating report requirements will save the sources an additional estimated $600,000 by eliminating the need to compute and submit different emission calculations.

C. Government Sector Impact:

Sections 3 and 16
According to the DEP, there are both recurring and non-recurring impacts related to SB 1684. An enhancement to the billing database would be needed at an estimated cost of $13,000. The recurring impact would be the elimination of Special Event Fees. These fees are calculated on the number of event days times the annual rate, or five percent of any revenue generated from the special event, whichever is greater. The loss of revenue would be approximately $187,000 annually. This is based on the average of the past seven fiscal years. The lease term would exceed the standard term of five years.

There would be costs incurred due to the rulemaking requirement. The DEP's estimate for rulemaking is $50,000. After the general permits are developed there would also be some loss in permit fees going to the Permit Fee Trust Fund but without knowing how often the general permit would be used, the DEP is unable to quantify the loss at this time. The DEP expects to absorb these losses with existing resources.

Section 4
According to the DEP, the non-recurring effects are estimated at $13,000 for enhancements to the billing database. Any change related to the billing of lease fees will require an update to this database. If this bill passes, the annual fee requirement will be six percent of self reported revenue, less the 30 percent discount. There will be a known minimum annual loss of approximately $937,195. This amount is 12 percent of the known revenue received for submerged land leases. Additionally, of the 2,800 leases, 49 percent would potentially qualify to have their fees reduced or eliminated based on the bill language. The proposed changes would lead to a significant but indeterminate negative fiscal impact to the Internal Improvement Trust Fund.

Section 5
According to the DEP, there would be costs incurred due to the rulemaking requirement. The DEP's estimate for rulemaking is $50,000 for marina and mooring field expansion rules. After the general permits are developed, there would be some loss in permit fees from the Permit Fee Trust Fund. The DEP is expected to absorb any minor negative impact with existing resources.

Section 6
According to the DEP, if a local government is a CUP applicant, the proposed language may result in increased costs to local governments resulting from litigation. The bill envisions a WMD issuing proposed affirmative agency action for two applications, even though there is not adequate water for both. Therefore, it would appear that a local government would either be forced to challenge a competing permit or be subject to such a challenge.

Section 7
According to the DEP, the three water management districts that currently delegate the water well permitting program to some or all of their local governments would require additional staff to absorb the new workload, as follows:

South Florida Water Management District
The district estimates that an additional 14.3 FTEs would be needed to absorb the additional permitting workload that would result from elimination of the fourteen delegation agreements currently in place with counties and local health departments. Administrative and technical support for these positions would be absorbed by the District's service center offices.

St. Johns River Water Management District
The district has 14 delegated Water Well Construction Programs that currently issue approximately 13,500 permits each year. For the district to assume the workload currently performed through the delegations, it would require nine additional staff members. This would represent an increased budget of approximately $600,000 towards salary/benefits, vehicle travel and supplies. However, a large portion of this may be recovered through the well construction permit fees.

Southwest Florida Water Management District
The district currently has three delegation agreements with counties. If these agreements were eliminated, the district would require approximately 1.5 additional FTEs to assume the workload.

Additionally, local governments that currently operate permitting programs for water well construction would be fiscally impacted by the resulting loss of permit fees.

Section 8
Local governments would lose any fees currently charged as part of a local government requirement to obtain a local water well contractor license.

Section 10
According to the DEP, this section could negatively impact the Permit Fee Trust Fund substantially.

Sections 11 and 18
The WMDs would have a reduced workload from having the DACS provide demand projections for agricultural water use.

The DACS has included $1.5 million in their budget request to establish the program to develop the agricultural demand projections to provide to the water management districts. It is assumed that at least a portion of this cost will be recurring.

Section 14
Effect on DEP
According to the DEP, the legislation would enable the DEP to sync the federally required emissions computation and reporting obligation with the Title V air operation permit fee calculation requirement. This will save the DEP the equivalent workload of one FTE it estimates that goes into reviewing and processing two separate calculations that serve the same underlying purpose, which is to identify emissions.

Pursuant to s. 403.0873, F.S., all permit fees received under the DEP's federally approved Title V permitting program are deposited in the Air Pollution Control Trust Fund. The deposited fees must be used for the sole purpose of paying the direct and indirect costs of the DEP's Title V permitting program, which are enumerated under federal law found in 40 CFR part 70. The DEP estimates those costs to be $5.3 million in 2013 and they are estimated to decline to $4.9 million by 2018. The trust fund currently has a surplus balance of $4.1 million. Even with the estimated $1.4 million annual reduction in fee receipts that would occur as a result of this bill, the DEP estimates that the surplus will increase to $4.9 million by 2018. Because of several efficiency increases that have already occurred in the DEP's air program, the DEP is positioned to continue to pay the costs of its Title V program and grow its surplus to one year's expenses by 2018 if this bill passes. In the event that unforeseeable circumstances arise that cause the program costs to exceed revenue in the future, the DEP can adjust its fee factor by rule as provided under s. 403.0872, F.S.

Effect on Local Governments

The Title V permit fees in the Air Pollution Control Trust fund must be used for the sole purpose of paying the direct and indirect costs of the DEP's federally approved Title V permitting program. If the DEP finds it is fiscally responsible to do so, it may contract with local governments (or any other public or private entity) to perform Title V program services on the DEP's behalf. The DEP currently contracts with seven local governments to perform certain Title V program services. The above agency impact projections accommodate the maintenance of the 2012 contracts with these entities, so there are no local government impacts.

VI. Technical Deficiencies:

Lines 456-457: a broad reading of the word "regulated" in the phrase "not regulated or authorized pursuant to chapter 403" could lead to the conclusion that an affected entity is prevented from bringing a cause of action for damages even when the activity is unpermitted, if the activity is regulated or under ch. 403. It is unclear whether or not this is the intent of the legislation.

Lines 688-691: The reference to an area of up to 25 percent with respect to reissuing general permits, leases, or consents of use seems to mean that an area of up to 25 percent of the last authorization may be added to the next lease to accommodate for economic expansion. As drafted, it is unclear.

VII. Related Issues:

Section 10

According to the DEP, the exemptions are currently written to apply to all of Part IV of ch. 373, F.S. This may not be the intent but if the exemptions are not revised to include only the intended permits the loss in permit fees from the Permit Fee Trust Fund could be substantial.

VIII. Additional Information:

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

None.

B. Amendments:

None.