

THE FLORIDA SENATE
2022 SUMMARY OF LEGISLATION PASSED
Committee on Environment and Natural Resources

SB 442 — Powers of Land Authorities

by Senator Rodriguez

The bill amends s. 380.0666, F.S., regarding the powers of land authorities, to authorize land authorities to assist the counties within which they are located in the administration of state and federal grants awarded to those counties for residential flood and sea-level rise mitigation projects. These projects include grants for the elevation of structures above minimum flood elevations, the demolition and reconstruction of structures above minimum flood elevations, and the acquisition of land with structures at risk of flooding.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 39-0; House 113-0

Committee on Environment and Natural Resources

CS/CS/SB 494 — Fish and Wildlife Conservation Commission

by Appropriations Committee, Environment and Natural Resources Committee; and Senator Hutson

The bill revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities.

The bill amends the Florida Forever Act to require each lead land managing agency, in consultation with FWC, to consider the feasibility of using a portion of state lands as a gopher tortoise recipient site for all state lands under the management of the agency that are greater than 40 contiguous acres.

The bill directs FWC to improve the public and private gopher tortoise recipient site application review process by December 31, 2022. It directs FWC to encourage the establishment of new recipient sites and update its permitting systems by October 31, 2023. The bill requires FWC to submit a report to the President of the Senate and the Speaker of the House of Representatives regarding gopher tortoise recipient sites by February 1, 2023.

The bill specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure. The bill specifies the circumstances in which law enforcement may destroy or dispose of a vessel and places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.

The bill specifies that a certificate of title may not be issued for a public nuisance vessel. It adds public nuisance vessels to the definition of abandoned property.

The bill authorizes operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons. It specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.

The bill authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

If approved by the Governor, these provisions take effect July 1, 2022 unless otherwise provided.
Vote: Senate 37-0; House 116-0

Committee on Environment and Natural Resources

CS/HB 513 — Comprehensive Review Study of the Central and Southern Florida Project

by State Affairs Committee and Reps. Bartleman, Busatta Cabrera, and others (CS/SB 1326 by Community Affairs Committee and Senators Rodriguez, Farmer, Jones, and Berman)

The bill requires the South Florida Water Management District (District) to prepare and submit a consolidated annual report regarding the status of the U.S. Army Corps of Engineers (USACE) Section 216 Central and Southern Florida Project Infrastructure Resiliency Study to the Office of Economic and Demographic Research, the Department of Environmental Protection (DEP), the Governor, the President of the Senate, and the Speaker of the House of Representatives. The report is due by October 1, 2023, and each October 1 thereafter.

The bill requires the report to include:

- A summary of the findings in the District's annual sea level rise and flood resiliency plan.
- A list of structures that are expected to fall below the expected service level in the next 5 years.
- Initial recommendations for the refurbishment or replacement of the structures identified in the preceding bullet, including:
 - o Future cost estimates and timelines for the refurbishment or replacement of the most vulnerable structures.
 - o An estimate of project costs and current funds available to implement the recommendations for each vulnerable structure based on a 10-year horizon.
- A summary of the state and federal funds expended toward the implementation of the USACE Section 216 Central and Southern Florida Project Infrastructure Resiliency Study and other directly related flood control infrastructure resiliency projects of the District through June 30 of each year.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 113-0

Committee on Environment and Natural Resources

CS/SB 606 — Boating Safety

by Appropriations Committee and Senator Garcia

The bill defines a livery as a person who advertises and offers a livery vessel for use by another in exchange for consideration, when such person does not also provide a captain, crew, or any type of personnel to operate, oversee, maintain, or manage the vessel.

The bill requires that liveries obtain a no-cost, annual livery permit and implement certain safety requirements. The bill adds penalties for violations of livery requirements. It also requires that a livery obtain and carry in full force and effect an insurance policy that insures the livery and the renter. The bill exempts human-powered vessels from the insurance requirement. Amendments to the livery regulations contained in the bill will take effect January 1, 2023.

The bill adds required components to Fish and Wildlife Conservation Commission (FWC)-approved boating safety education courses and temporary certificate examinations and requires the operator of a vessel used in water sport or activity instruction to use an engine cutoff switch when a participant is in the water. These requirements will take effect October 1, 2022.

The bill increases or adds penalties for noncriminal infractions of vessel safety laws. It increases the additional civil penalty for noncriminal infractions of vessel laws from \$50 to \$100. It directs certain penalties to the Marine Resource Conservation Trust Fund to supplement law enforcement activities.

The bill requires the Fish and Wildlife Conservation Commission to maintain a program to ensure compliance with mandatory boating safety education requirements.

The bill requires a physical residential or business address for vessel registration applicants, with a limited exception for live-aboard vessel owners.

If approved by the Governor, these provisions take effect July 1, 2022 unless otherwise provided.

Vote: Senate 36-1; House 112-1

Committee on Environment and Natural Resources

CS/CS/SB 856 — Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems

by Appropriations Committee; Environment and Natural Resources Committee; and Senators Brodeur and Rodrigues

The bill amends s. 381.0065, F.S., which regulates onsite sewage treatment and disposal systems (OSTDSs), to authorize the owner of an OSTDS, or a contractor upon the owner's written authorization, to hire a private provider to perform an inspection of the owner's OSTDS.

The bill provides that an inspection of an OSTDS may not be conducted by the private provider or authorized representative of the private provider that installed the OSTDS. Inspections may only be performed by a private provider, or an authorized representative of a private provider, meeting certain specified qualifications.

The bill requires an owner or an authorized contractor using a private provider for an OSTDS inspection to provide notice to the Department of Environmental Protection (DEP) at the time of the permit application or by 2 p.m. local time, 2 business days before the first scheduled inspection by DEP. The notice must include information regarding each private provider or authorized representative performing the inspection and an acknowledgment form from the owner in a specified form. If an owner or authorized contractor makes any changes to the listed private provider or the service to be performed, the owner or the authorized contractor must update the notice to reflect the change within 1 business day after the change.

The bill authorizes DEP to audit up to 25 percent of private providers each year to ensure the accurate performance of OSTDS inspections. Work on an OSTDS may proceed after inspection and approval by a private provider if the owner or authorized contractor has given notice of the inspection as described in the bill and, subsequent to such inspection and approval, such work may not be delayed for completion of an inspection audit by DEP unless deficiencies are found in the audit.

The bill provides that the OSTDS private provider inspection regulations described in the bill do not prevent DEP from investigating complaints.

The bill provides that by October 1, 2023, DEP must submit a report to the President of the Senate and the Speaker of the House of Representatives reviewing the use of private providers to perform OSTDS inspections. The report must include, at a minimum, the number of inspections performed by private providers.

The bill requires DEP to adopt rules to implement the bill and to initiate the rulemaking process by August 31, 2022.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 37-0; House 116-0

Committee on Environment and Natural Resources

CS/CS/SB 882 — Inventories of Critical Wetlands

by CS/CS/SB 882 — Inventories of Critical Wetlands

by Rules Committee; Community Affairs Committee; and Senator Brodeur

The bill requires water management districts, in cooperation with local governments, to develop a list of critical wetlands to be acquired through the Land Acquisition Trust Fund. The bill provides criteria to determine if a wetland is critical, including the ecological value of the wetland, the effect of the wetland on water quality and flood mitigation, the ecosystem restoration value of the wetland, and the inherent susceptibility of the wetland to development.

The bill directs each water management district's governing board to notify the owner of any property that the district contemplates including on the critical wetlands list before it adopts or amends the list. If at any time a property owner wishes to have their property removed from the list, they must submit by certified mail a letter stating they wish their property to be removed and sufficiently identifying such property to the governing board. The governing board shall approve removal if the requirements are met.

The bill requires water management districts opting to utilize an annual strategic plan to include a list of critical wetlands in the plan.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 111-2

Committee on Environment and Natural Resources

CS/HB 909 — Pollution Control Standards and Liability

by Environment, Agriculture and Flooding Subcommittee and Rep. Payne and others
(CS/SB 1210 by Environment and Natural Resources Committee and Senator Albritton)

The bill provides that notwithstanding s. 403.182, F.S., regarding local pollution control programs, or any existing local pollution control programs, the Secretary of the Department of Environmental Protection (DEP) has exclusive jurisdiction in setting standards or procedures for evaluating environmental conditions and assessing potential liability for the presence of contaminants on land that is classified as agricultural land pursuant to existing law and being converted to a nonagricultural use. The exclusive jurisdiction includes defining what constitutes all appropriate inquiry consistent with federal law relating to the innocent landowners defense under the Comprehensive Environmental Response, Compensation, and Liability Act and associated guidance.

The bill provides that, for land that is classified as agricultural land pursuant to existing law and being converted to a nonagricultural use, the Secretary of DEP may not delegate the authority to set standards or procedures for evaluating environmental conditions and assessing potential liability described in the bill to a county, a municipality, or another unit of local government through a local pollution control program. However, the bill does not preempt the enforcement authority of a county, a municipality, or another unit of local government through a local pollution control program.

The bill does not apply to former agricultural land for which a permit has been approved by a local government to initiate development or for which development was completed on or before July 1, 2022.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 98-16

Committee on Environment and Natural Resources

CS/CS/CS/HB 965 — Environmental Management

by State Affairs Committee; Agriculture and Natural Resources Appropriations Subcommittee; Environment, Agriculture and Flooding Subcommittee; and Rep. Truenow and others (CS/CS/SB 1426 by Appropriations Committee; Environment and Natural Resources Committee; and Senator Burgess)

The bill creates the concept of water quality enhancement areas (WQEAs). A WQEA is a natural system that is constructed, operated, managed, and maintained pursuant to a permit to provide offsite, compensatory, regional treatment within an identified enhancement service area and enhancement credits.

The bill provides that construction, operation, management, and maintenance of a WQEA must be approved through the environmental resource permitting (ERP) process. The bill sets out requirements for a water quality credit program based on the development of WQEAs and authorizes the Department of Environmental Protection (DEP) to develop rules to implement the program. Water quality enhancement credits may be sold only to government entities.

The bill requires that a WQEA be used to address contributions of one or more pollutants or other constituents in the watershed, basin, sub-basin, targeted restoration area, waterbody, or section of waterbody in which the WQEA is located that do not meet applicable state water quality criteria.

The bill provides requirements for the WQEA permitting process and requires monitoring and verification to demonstrate that the WQEA is meeting defined performance or success criteria for reduction of pollutants or contaminants.

The bill makes clarifications regarding incentives for the use of graywater technologies.

The bill directs DEP to adopt and modify rules adopted pursuant to ss. 373.4136 (establishment and operation of mitigation banks) and 373.414 (additional criteria for activities in surface waters and wetlands), F.S., to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under those sections. DEP, in consultation with water management districts, shall include this rulemaking in existing active rulemaking, or shall complete rule development by June 30, 2023.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 39-0; House 107-0

Committee on Environment and Natural Resources

CS/CS/CS/HB 967 — Golf Course Best Management Practices Certification

by State Affairs Committee; Agriculture and Natural Resources Appropriations Subcommittee; Environment, Agriculture and Flooding Subcommittee; and Rep. Truenow and others (CS/CS/SB 1556 by Appropriations Committee; Environment and Natural Resources Committee; and Senator Gruters)

The bill directs the turfgrass science program at the University of Florida's Institute of Food and Agricultural Science (UF/IFAS), in coordination with the Department of Environmental Protection (DEP), to administer a golf course best management practices certification to ensure compliance with fertilizer best management practices.

The bill requires UF/IFAS, in coordination with DEP, to provide training and testing certification programs. An applicant for certification must submit a copy of the training certificate. When the certificate expires, the bill allows for recertification after eight hours of continuing education.

The bill exempts a person certified in golf course best management practices from additional local testing and local ordinances relating to water and fertilizer use restrictions, unless a state of emergency is declared. The bill requires the certified person to ensure that they adhere to comprehensive best management practices for a specific community by coordinating with local government.

The bill specifies that a person certified in golf course best management practices is not exempt from complying with the rules and requirements for basin management action plans if the golf course is located in an area with a basin management action plan.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 112-1

Committee on Environment and Natural Resources

CS/CS/SB 1000 — Nutrient Application Rates

by Rules Committee; Environment and Natural Resources Committee; and Senator Albritton

The bill amends s. 576.045, F.S., which regulates nitrogen and phosphorus, to authorize citrus producers to use written recommendations from certified professionals to tailor their recommended nutrient application rates. The certified professional's determination that published nutrient application rates are not appropriate, and any recommendations for site-specific nutrient management, must be documented and kept for 5 years.

The bill provides that funds collected pursuant to the statute may be used for site-specific nutrient management and completing the University of Florida Institute of Food and Agricultural Sciences (UF-IFAS) analysis, research plan and recommendations, and report required by the bill.

The bill requires citrus producers using site-specific nutrient management to enroll in and implement all other applicable best management practices (BMPs) adopted by the Department of Agriculture and Consumer Services.

The bill provides that citrus producers implementing site-specific nutrient management in compliance with the bill are:

- Provided a presumption of compliance with state water quality standards.
- May rely upon the waiver of liability provision in existing law.
- Are deemed in compliance with the BMPs for pollution reduction, waiver of liability, and presumption of compliance provisions in existing law.

The bill requires UF-IFAS to analyze the use of site-specific nutrient management for crops other than citrus and crop rotations, develop a research plan and interim recommendations for implementation of site-specific nutrient management, and submit an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 30 of each year, beginning in 2023.

The bill provides that the "site-specific nutrient management" provisions of the bill expire on June 30, 2026. The bill also extends the expiration dates of the "findings and intent," "fees," "use of funds," "waiver of liability," and "rulemaking" provisions of the statute from December 31, 2022 to December 31, 2032, and the "compliance" and "other provisions" of the statute from December 31, 2027 to December 31, 2037.

The bill provides definitions for the terms "certified professional" and "site-specific nutrient management." It also includes several legislative findings and intent provisions.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 110-6

Committee on Environment and Natural Resources

CS/CS/CS/SB 1078 — Soil and Water Conservation Districts

by Appropriations Committee; Ethics and Elections Committee; Environment and Natural Resources Committee; and Senator Hutson

The bill contains procedures for subdivision of new soil and water conservation districts (SWCDs).

The bill allows one SWCD supervisor to be elected from each subdivision, and provides for staggered terms. The bill requires SWCD supervisors to be eligible voters who reside within the district and who are actively engaged, or retired after ten years of being engaged in, agriculture; are employed by an agricultural producer; or own, lease, or are actively employed on agricultural land. Candidates will be required to file a statement affirming they meet the qualifications to serve as a supervisor.

The bill requires all five supervisors of the governing body of each district meet at least once a year in a public meeting. The bill provides for automatic dissolution of districts if they should fail to meet as required. The bill dissolves the Baker and Martin SWCDs.

The bill provides that each supervisor shall be elected at the 2022 general election. It provides that by January 1, 2023, an SWCD in existence on July 1, 2022 must be subdivided in the manner provided by the bill. The bill contains election procedures for existing SWCDs.

If approved by the Governor, these provisions take effect upon becoming law.
Vote: Senate 21-16; House 77-39

Committee on Environment and Natural Resources

CS/SB 1110 — Grease Waste Removal and Disposal

by Appropriations Committee and Senator Rouson

The bill creates regulations for grease waste removal and disposal and defines related terms. The bill requires a service manifest to provide certain information, including which entity must sign it and when.

The bill requires haulers to dispose of grease waste at a disposal facility and prevents them from returning grease waste or graywater to a grease interceptor or trap. The bill provides for compliance inspections. The bill also contains penalties for failure to provide or retain a service manifest, failure to clean a grease interceptor or grease trap, and unlawful disposal of grease.

The bill authorizes a local government to receive reports of violations and to collect fines and impose license actions. The bill does not prohibit a local government from adopting or enforcing an ordinance or rule to regulate the removal and disposal of grease waste which is more strict or extensive than what the bill provides. The bill permits fiscally constrained counties and small counties to opt out of the bill's requirements.

The bill directs the Department of Environmental Protection to adopt rules to implement the new regulations in the bill.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 117-0

Committee on Environment and Natural Resources

CS/CS/SB 1432 — Vessel Anchoring

by Community Affairs Committee; Environment and Natural Resources Committee; and Senator Rodriguez

The bill amends statutes relating to vessel anchoring and mooring. It provides that approved and permitted moorings or mooring fields in Monroe County have a 10 year limit on general tenancies and that a sovereign submerged land or other proprietary lease may not prohibit a vessel from an approved and permitted mooring or mooring field, or limit the tenancy of a vessel, because it is an established domicile or a primary residence.

The bill clarifies that Monroe County is designated as an anchoring limitation area in which vessels anchored on waters of the state within the county and within 10 linear nautical miles of a public mooring field or designated anchoring area must pull anchor, move under their own power, and re-anchor a certain distance away or in a different designated anchoring area.

This must occur at least once every 90 days. The requirement does not apply to vessels moored to approved and permitted moorings, or to domiciled vessels on the waters of the state within the county until at least 100 new moorings are available for public use within 1 mile of Key West Bight City Dock.

The bill requires the Fish and Wildlife Conservation Commission to consult with Monroe County and the Florida Keys National Marine Sanctuary to establish designated anchoring areas throughout the county that meet certain criteria.

The bill requires certain vessels on the waters of the state within Monroe County that are equipped with a marine sanitation device to maintain a record of the date and location of each pump-out of the device, which must occur every 30 days, for one year after the date of the pump-out.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 38-0; House 112-0

Committee on Environment and Natural Resources

CS/HB 1475 — Cleanup of Perfluoroalkyl and Polyfluoroalkyl Substances

by State Affairs Committee and Reps. McClure, Overdorf, and others (CS/SB 7012 by Appropriations Committee; Environment and Natural Resources Committee; and Senator Broxson)

The bill provides the following definitions:

- “Department” means the Department of Environmental Protection (DEP).
- “PFAS” means perfluoroalkyl and polyfluoroalkyl substances, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

The bill provides that if the U.S. Environmental Protection Agency (EPA) has not finalized its standards for PFAS in drinking water, groundwater, and soil by January 1, 2025, DEP must adopt by rule statewide cleanup target levels (CTLs) for same using the risk-based corrective action criteria in existing law. The rules for statewide CTLs may not take effect until ratified by the Legislature.

The bill provides that until DEP’s rule for a particular PFAS constituent has been ratified by the Legislature, a governmental entity or private water supplier may not be subject to any administrative or judicial action under ch. 376, F.S., brought by any state or local governmental entity to compel or enjoin site rehabilitation, to require payment for the cost of rehabilitation of environmental contamination, or to require payment of any fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent.

The bill provides that until site rehabilitation is completed or rules for statewide CTLs are ratified by the Legislature, any statute of limitations that would bar a state or local governmental entity from pursuing relief in accordance with its existing authority is tolled from the effective date of the bill.

The bill provides that it does not affect the ability or authority to seek any recourse or relief from any person who may have liability with respect to a contaminated site and who did not receive protection under the bill.

The bill directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in the bill with the date the bill becomes a law.

If approved by the Governor, these provisions take effect upon becoming law.

Vote: Senate 38-0; House 111-0

Committee on Environment and Natural Resources

CS/SB 1658 — Executive Appointments

by Environment and Natural Resources Committee and Senators Bean and Rodrigues

The bill revises the appointment criteria for the executive director of the Department of Law Enforcement, the secretary of the Department of Environmental Protection, and the executive director of the Department of Veterans' Affairs.

These provisions became law upon approval by the Governor on March 10, 2022.

Vote: Senate 26-12; House 77-34

Committee on Environment and Natural Resources

CS/HB 7053 — Statewide Flooding and Sea Level Rise Resilience

by State Affairs Committee; Environment, Agriculture and Flooding Subcommittee; and Rep. Busatta Cabrera and others (CS/SB 1940 by Environment and Natural Resources Committee and Senators Brodeur, Stewart, and Rodriguez)

The bill establishes the Statewide Office of Resilience within the Executive Office of the Governor. It provides that the office must be headed by a Chief Resilience Officer (CRO), who is appointed by and serves at the pleasure of the Governor. It also provides the purposes of the office and the responsibilities of the CRO, and authorizes state and local governmental entities to assist the CRO to the extent consistent with law and budgetary constraints.

The bill requires the Department of Environmental Protection (DEP) to prepare a report, in consultation with the CRO, regarding flood resilience and mitigation efforts in the state. It identifies the required components of the report and directs DEP to submit same to the Governor and Legislature by December 15, 2022.

The bill requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System. It identifies goals of the action plan and requires it to include certain components. It also requires DOT to submit the action plan to the Governor and the Legislature by June 30, 2023, and a status report every third year on June 30 thereafter.

The bill implements several changes to s. 380.093, F.S., which relates to statewide resiliency funding and planning. These changes include:

- Providing definitions for the terms “preconstruction activities” and “regionally significant assets.”
- Authorizing the use of Resilient Florida Grant Program funds to fund preconstruction activities for Statewide Flooding and Sea Level Rise Resilience Plan projects in municipalities and counties meeting certain population thresholds.
- Pushing back by one year (to 2023 and 2024, respectively) the dates by which the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment must be completed.
- Revising the \$100 million cap on funding proposed for each year of the plan to a minimum threshold of \$100 million.

The bill requires the Florida Flood Hub for Applied Research and Innovation to provide certain data to counties and municipalities for vulnerability assessments.

The bill moves back the deadline for surveyors and mappers to submit copies of the elevation certificates they complete to the Division of Emergency Management (DEM). It also specifies that they must be digital copies as outlined on DEM’s website.

If approved by the Governor, these provisions take effect July 1, 2022.

Vote: Senate 37-0; House 114-1

