

Tab 1	CS/SB 1346 by CA, Avila ; (Similar to CS/H 01317) Local Regulation of Nonconforming or Unsafe Structures					
170426	D	S	RCS	EN, Avila	Delete everything after	04/04 11:59 AM

Tab 2	SB 1336 by Polsky ; (Identical to H 00739) Disposal of Food Waste Materials Study					
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Tab 3	SB 1538 by Stewart ; (Similar to H 00423) Implementation of the Recommendations of the Blue-Green Algae Task Force					
611188	D	S	RCS	EN, Stewart	Delete everything after	04/04 11:59 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Rodriguez, Chair
Senator Harrell, Vice Chair

MEETING DATE: Tuesday, April 4, 2023
TIME: 11:00 a.m.—1:00 p.m.
PLACE: 301 Senate Building

MEMBERS: Senator Rodriguez, Chair; Senator Harrell, Vice Chair; Senators Albritton, Martin, Mayfield, Polsky, Powell, Stewart, and Wright

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 1346 Community Affairs / Avila (Similar CS/H 1317)	Local Regulation of Nonconforming or Unsafe Structures; Creating the "Resiliency and Safe Structures Act"; prohibiting local governments from prohibiting, restricting, or preventing the demolition of certain structures unless necessary for public safety; requiring that replacement structures be permitted to be developed in accordance with applicable zoning codes and ordinances; authorizing owners and developers of replacement structures to develop in accordance with all land use, zoning, and other land development rights, etc. CA 03/22/2023 Fav/CS EN 04/04/2023 Fav/CS RC	Fav/CS Yeas 9 Nays 0
2	SB 1336 Polsky (Identical H 739)	Disposal of Food Waste Materials Study; Directing the Department of Environmental Protection to conduct a study on the disposal of food waste materials and submit a report to the Legislature by a specified date; providing study requirements, etc. EN 04/04/2023 Favorable AEG FP	Favorable Yeas 9 Nays 0
3	SB 1538 Stewart (Similar H 423)	Implementation of the Recommendations of the Blue-Green Algae Task Force; Requiring owners of certain onsite sewage treatment and disposal systems to have the systems periodically inspected, beginning on a specified date; requiring the Department of Environmental Protection to administer the inspection program; requiring new or revised basin management action plans to include a list that identifies and prioritizes certain spatially focused projects, etc. EN 04/04/2023 Fav/CS AEG FP	Fav/CS Yeas 9 Nays 0

Other Related Meeting Documents

4/1/2023

Meeting Date
Environment and Natural Resources

Committee
Name **Daniel Ciraldo**

Address **1001 Ocean Drive**

Street

Miami Beach

City

FL

State

33139

Zip

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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SB 1346

Bill Number or Topic

170426

Amendment Barcode (if applicable)

305-672-2014

Phone

daniel@mdpl.org

Email

Reset Form

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Miami Design Preservation League

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

THE FLORIDA SENATE
APPEARANCE RECORD

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4-4-23

Meeting Date

1346

Bill Number (if applicable)

170426

Amendment Barcode (if applicable)

Topic Safe / unsafe structures

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing City of Miami Beach

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
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4/4/23

Meeting Date

1346

Bill Number (if applicable)

170426

Amendment Barcode (if applicable)

Topic UNSAFE STRUCTURES

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State

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

Representing CITY OF ST AUGUSTINE

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/4/23

Meeting Date

SB 1346

Bill Number (if applicable)

Topic

SB 1346

Amendment Barcode (if applicable)

Name

Haley Busch

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Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☒

Against

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

Representing

1000 Friends of Florida

Appearing at request of Chair:

☐

Yes

☒

No

Lobbyist registered with Legislature:

☒

Yes

☐

No

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S-001 (10/14/14)

The Florida Senate
APPEARANCE RECORD

1346

Meeting Date

Deliver both copies of this form to
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Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Jess M. McCarty, Executive Assistant County Attorney Phone 305-979-7110

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PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
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☒ I am a registered lobbyist,
representing:

Miami-Dade County

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something of value for my appearance
(travel, meals, lodging, etc.),
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S-001 (08/10/2021)

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 Environment and Natural Resources

BILL: CS/CS/SB 1346

INTRODUCER: Environment and Natural Resources Committee; Community Affairs Committee; and Senator Avila

SUBJECT: Local Regulation of Nonconforming or Unsafe Structures

DATE: April 4, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Barriero</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1346 creates the Resiliency and Safe Structures Act (Act), providing that a local government may not prohibit, restrict, or prevent the demolition of the following structures for any reason other than public safety:

- Nonconforming structures located within one-half mile of the coastline and within zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency;
- Any structure determined to be unsafe by a local building official; and
- Any structure ordered to be demolished by a local government that has proper jurisdiction.

The bill provides that a local government must authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations. The bill prohibits a local government from imposing certain restrictions and limitations on a replacement structure to be built on the property where a structure was demolished. The bill provides that a local government may review an application for a demolition permit only administratively for compliance with applicable building and safety codes.

The provisions of the bill do not apply to single-family homes or structures individually listed in the National Register of Historic Places.

II. Present Situation:

The Florida Building Code

In 1974, Florida passed legislation requiring all local governments to adopt and enforce a minimum building code that would ensure that Florida's minimum standards were met.¹ Local governments could choose from four separate model codes. The state's role was limited to adopting all or relevant parts of new editions of the four model codes. Local governments could amend and enforce their local codes as they saw fit.²

In 1992, Hurricane Andrew destroyed many structures that were built according to code, demonstrating that Florida's system of local codes was flawed.³ The Governor appointed a study commission to review the system of local codes and make recommendations for its modernization. The 1998 Legislature adopted the study commission's recommendations for a single state building code and enhanced the oversight role of the state over local code enforcement. The 2000 Legislature authorized implementation of the Building Code, and that first edition replaced all local codes on March 1, 2002.⁴

The Building Code is updated every three years.⁵ The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code. The next edition of the Building Code will take effect on December 31, 2023.⁶ Among other things, the Building Code sets limitations on building height and size.⁷ Height restrictions are determined based on the type of construction, occupancy classification, and whether there is an automatic sprinkler system installed throughout the building.⁸

The Florida Building Commission (commission) was statutorily created to implement the Building Code.⁹ The commission, which is housed within the Department of Business and Professional Regulation, is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code.¹⁰ The commission reviews International Codes published by the International Code Council,¹¹ the

¹ Dep't of Community Affairs, *The Florida Building Commission Report to the 2006 Legislature*, 4 (2006), available at http://www.floridabuilding.org/fbc/publications/2006_Legislature_Rpt_rev2.pdf (last visited Mar. 29, 2023).

² *Id.*

³ *Id.*

⁴ *Id.*; Dep't of Business and Professional Regulation, *Building Code Information System*, <https://floridabuilding.org/c/default.aspx> (last visited Mar. 29, 2023).

⁵ See Fla. Bldg. Commission, *Florida Building Codes and Effective Dates*, available at https://www.floridabuilding.org/fbc/Publications/2023_Effective_Dates.pdf.

⁶ *Id.*

⁷ Int'l Code Council, *2020 Florida Building Code, Building: 7th Edition*, s. 503, available at https://codes.iccsafe.org/content/FLBC2020P1/chapter-5-general-building-heights-and-areas#FLBC2020P1_Ch05_Sec502.

⁸ *Id.* at s. 504.1.

⁹ See section 553.74(1), F.S.

¹⁰ *Id.*

¹¹ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to construct safe, sustainable, affordable and resilient structures. ICC, *About the ICC*, <https://www.iccsafe.org/about/who-we-are/> (last visited Mar. 29, 2023).

National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.¹²

Local governments may adopt amendments to the technical provisions of the Building Code that apply solely within the jurisdiction of such government and that provide for more stringent requirements than those specified in the Building Code.¹³ A local government must determine there is a need to strengthen the requirements of the Building Code based on a review of local conditions.¹⁴ Such amendments may not introduce a new subject not addressed in the Building Code.¹⁵ Most technical amendments sunset upon adoption of the newest edition of the Building Code, unless adopted into the Building Code.¹⁶

Local Enforcement of the Florida Building Code

Local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.¹⁷ Every local government must enforce the Building Code and issue building permits.¹⁸ It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit.¹⁹ Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code, including certain building, electrical, plumbing, mechanical, and gas inspections.²⁰ Construction work may not be done beyond a certain point until it passes an inspection.²¹

Demolition Permits

Under state law, a permit is required to demolish a building.²² The enforcing agency may revoke any such permit if the demolition is in violation of, or not in conformity with, the provisions of the Florida Building Code.²³ However, an application for a demolition permit may only be reviewed administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code (or local amendments thereto), and any regulations applicable to a similarly situated parcel.²⁴ A local government may not subject applications to any additional local land development regulations or public hearings or penalize a private property owner for a demolition that is in compliance with the demolition permit.²⁵

¹² Section 553.73(3), F.S.

¹³ Section 553.73(4)(b), F.S.

¹⁴ Section 553.73(4)(b)1., F.S.

¹⁵ Section 553.73(4)(b)3., F.S.

¹⁶ Section 553.73(4)(e), F.S.

¹⁷ Section 553.72(2), F.S.

¹⁸ Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹⁹ Sections 125.56(4)(a) and 553.79(1), F.S.

²⁰ Int'l Code Council, *2020 Florida Building Code: 7th Edition*, section 110, available at https://codes.iccsafe.org/content/FLBC2020P1/chapter-1-scope-and-administration#FLBC2020P1_Ch01_SubCh02.

²¹ *Id.*

²² Section 553.79(1)(a), F.S.

²³ *Id.*

²⁴ Section 553.79(25)(b), F.S.

²⁵ *Id.*

However, a local law, ordinance, or regulation may restrict demolition permits for certain designated historic structures:²⁶

- Structure designated on the National Register of Historic Places;²⁷
- Privately owned single-family residential structure designated historic by a local, state, or federal governmental agency on or before January 1, 2022; or
- Privately owned single-family residential structure designated historic after January 1, 2022, by a local, state, or federal governmental agency with the consent of its owner.

National Flood Insurance Program

The National Flood Insurance Program (NFIP) was created by the passage of the National Flood Insurance Act of 1968.²⁸ The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides homeowners, business owners, and renters in flood-prone areas the ability to purchase flood insurance protection from the federal government.²⁹ The general purpose of the NFIP is both to offer primary flood insurance to properties with significant flood risk and to reduce flood risk through the adoption of floodplain management standards. Participation in the NFIP is voluntary.³⁰ Within participating communities, the federal government makes flood insurance available throughout the community.³¹ To join, a community must:

- Complete an application;
- Adopt a resolution of intent to participate and cooperate with FEMA; and
- Adopt and submit a floodplain management ordinance that meets or exceeds the minimum NFIP criteria.³²

In coordination with participating communities, FEMA develops flood maps called Flood Insurance Rate Maps (FIRMs) that depict the community's flood risk and floodplain.³³ While FEMA is largely responsible for the creation of the FIRM, the community itself must pass the map into its local regulations in order for the map to be effective.³⁴ An area of specific focus on the FIRM is the Special Flood Hazard Area (SFHA).³⁵ The SFHA is intended to distinguish the flood risk zones that have a chance of flooding during a 1-in-100 year flood or greater frequency.

²⁶ Section 553.79(25)(d), F.S.

²⁷ The National Register of Historic Places is the federal government's official list of historic places in the United States. The National Historic Preservation Act of 1966 authorized the register, which is administered by the National Park Service. In order to be listed on the register the owner of the property must not object. National Park Service, What is the National Register of Historic Places, <https://www.nps.gov/subjects/nationalregister/what-is-the-national-register.htm> (last visited Mar. 29, 2023).

²⁸ FEMA, *50 Years of the NFIP*, available at https://www.fema.gov/sites/default/files/2020-05/NFIP_50th_Final_8.5x11_Regional_Printable.pdf.

²⁹ Benefits.gov, National Flood Insurance Program (NFIP), available at <https://www.benefits.gov/benefit/435> (last visited Mar. 29, 2023).

³⁰ FEMA, *Participation in the NFIP*, <https://www.fema.gov/glossary/participation-nfip#:~:text=Participation%20in%20the%20National%20Flood%20Insurance%20Program%20%28NFIP%29,of%20intent%20to%20participate%20and%20cooperate%20with%20FEMA%3B> (last visited Mar. 29, 2023).

³¹ *Id.*

³² *Id.*

³³ See Congressional Research Service, *Introduction to the National Flood Insurance Program*, 3 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>.

³⁴ *Id.*

³⁵ *Id.*

This means that properties in the SFHA have a risk of 1 percent or greater risk of flooding every year³⁶ (and at least a 26 percent chance of flooding over the course of a 30-year mortgage).³⁷ Flood maps along the coasts show areas at high risk of flooding within the coastal SFHA.³⁸ The coastal SFHA includes several flood hazard zones:

- Zone V are those areas closest to the shoreline and subject to wave action, high-velocity flow, and erosion during the 100-year flood;³⁹
- Zone VE, also known as the coastal high hazard area, is where wave action and fast-moving water can cause extensive damage during a base flood event;⁴⁰
- Zone AE indicates areas that have at least a 1 percent-annual-chance of being flooded, but where wave heights are less than 3 feet;⁴¹
- Zone AO is used to map areas at risk of shallow flooding during a base (1 percent-annual-chance) flood, where water with average depths of one to three feet flows over sloping ground. On flood maps in coastal communities, Zone AO usually marks areas at risk of flooding from wave overtopping, where waves are expected to wash over the crest of a dune or bluff and flow into the area beyond.⁴²

In a community that participates in the NFIP, owners of properties in the mapped SFHA are required to purchase flood insurance as a condition of receiving a federally backed mortgage.⁴³

Key conditions of the NFIP minimum floodplain management standards include, among things, that communities:

- Require permits for development in the SFHA;
- Require elevation of the lowest floor of all new residential buildings in the SFHA to or above the base flood elevation;
- Restrict development in floodways to prevent increasing the risk of flooding; and
- Require certain construction materials and methods that minimize future flood damage.⁴⁴

New Construction Requirements in Coastal Flood Hazard Zones

For communities participating in the NFIP, FEMA places requirements on any new construction built in flood hazard areas.⁴⁵ Generally, new construction in flood-prone areas must be:⁴⁶

³⁶ *Id.*

³⁷ FEMA, *Coastal Hazards & Flood Mapping: A Visual Guide*, 6, available at https://www.fema.gov/sites/default/files/documents/fema_coastal-glossary.pdf.

³⁸ FEMA, *Features of Flood Insurance Rate Maps in Coastal Areas*, <https://www.fema.gov/flood-maps/coastal/insurance-rate-maps> (last visited Apr. 4, 2023).

³⁹ FEMA, *Using a Flood Insurance Rate Map (FIRM)*, 1, available at https://www.flash.org/resources/files/HGCC_Fact03.pdf.

⁴⁰ FEMA, *Features of Flood Insurance Rate Maps in Coastal Areas*.

⁴¹ *Id.*

⁴² *Id.*

⁴³ Congressional Research Service, *Introduction to the National Flood Insurance Program* at 10. Such lenders include federal agency lenders, such as the Department of Veterans Affairs, government-sponsored enterprises Fannie Mae, Freddie Mac, and federally regulated lending institutions, such as banks covered by the Federal Deposit Insurance Corporation (FDIC) or the Office of the Comptroller of the Currency. *Id.*

⁴⁴ Congressional Research Service, *Introduction to the National Flood Insurance Program*, 6 (2023), available at <https://crsreports.congress.gov/product/pdf/R/R44593>.

⁴⁵ See 44 C.F.R. § 60.3.

⁴⁶ 44 C.F.R. § 60.3(a)(3).

- Designed and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
- Constructed with materials resistant to flood damage;
- Constructed by methods and practices that minimize flood damages; and
- Constructed with electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities that are designed and/or located to prevent water from entering or accumulating within the components during conditions of flooding.⁴⁷

Specific conditions for new construction in coastal flood hazard zones include requiring all new construction to:⁴⁸

- Be located landward of the reach of mean high tide;
- Be elevated on pilings and columns so that the bottom of the lowest horizontal structural member of the lowest floor (excluding the pilings or columns) is elevated to or above the base flood level;
- Be elevated on pilings and columns so that the pile or column foundation and structure attached thereto is anchored to resist flotation, collapse and lateral movement due to the effects of wind and water loads acting simultaneously on all building components; and Have the space below the lowest floor either free of obstruction or constructed with non-supporting breakaway walls, open wood lattice-work, or insect screening intended to collapse under wind and water loads without causing collapse, displacement, or other structural damage to the elevated portion of the building or supporting foundation system. Such space may be used only for parking of vehicles, building access, or storage.⁴⁹

III. Effect of Proposed Changes:

The bill contains several whereas clauses providing the following:

- It is of paramount importance to replace older, unsafe, or nonconforming structures that are a threat to life and safety with new, resilient buildings built to contemporary building codes and standards;
- Nonconforming structures within coastal high-hazard areas and structures ordered to be demolished or deemed unsafe by local building officials pose an increased risk of collapse, may affect the integrity or stability of neighboring buildings or structures, and may cause injury to persons or property;
- Local governmental laws, procedures, and policies that prohibit or limit the demolition of nonconforming or unsafe structures or limit the construction of new resilient structures pose a threat to life and public safety;
- On properties where there is a nonconforming structure within a coastal high-hazard area, whether the structure is deemed unsafe by a local building official or is subject to a demolition order, such structure must be demolished and any replacement structure authorized, which will allow owners or developers to enjoy all land use and development rights that would apply to the property without regard to any local restrictions that may

⁴⁷ *Id.*

⁴⁸ 44 C.F.R. § 60.3(e)(3)-(5).

⁴⁹ *Id.*

restrict future development at the subject property as a result of the local building official's order or demolition; and

- To make the application and enforcement of this act uniform throughout this state, the Legislature intends to preempt the regulation of the demolition of certain structures and buildings to the state.

Section 1 creates s. 553.8991, F.S., which establishes the Resiliency and Safe Structures Act. The bill applies to all of the following structures, unless the structure is individually listed in the National Register of Historic Places or is a single-family home:

- “Nonconforming structures” located within one-half mile of the coastline and within zones V, VE, AO, or AE, as identified in the Flood Insurance Rate Map issued by the Federal Emergency Management Agency.
- Any structure determined to be unsafe by a local building official.
- Any structure ordered to be demolished by a local government that has proper jurisdiction.

The bill defines “nonconforming structure” as a structure that does not conform to the requirements for new construction issued by the National Flood Insurance Program.

The bill provides that a “local government”—defined to include any municipality, county, special district, or any other political subdivision of the state—may not prohibit, restrict, or prevent the demolition of any structure identified in this section for any reason other than public safety. A local government may review an application for a demolition permit only administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not subject an application to additional local land development regulations or public hearings.

In addition, the bill provides that local governments must authorize “replacement structures” to be developed to the maximum height and overall building size authorized by local development regulations. The bill defines “replacement structure” as a new structure built on a property where a structure was demolished or will be demolished in accordance with this section. A local government may not:

- Limit, for any reason, the development potential of replacement structures below the maximum allowed by local development regulations.
- Require replication of a demolished structure.
- Limit the size or height of a replacement structure.
- Require maintenance of any element of a demolished structure.
- Impose additional regulatory or building requirements on a replacement structure which would not otherwise be applicable to a similarly situated vacant parcel.

The bill applies prospectively and retroactively to any “law”—defined to include any statute, ordinance, rule, regulation, policy, resolution, code enforcement order, agreement, or other governmental act—that is contrary to the bill or its intent; however, the bill does not apply to not apply to s. 553.79(25), F.S., regarding the demolition of single-family residential structures located in certain high-hazard areas and flood zones. The bill must be liberally construed to effectuate its intent.

The bill also includes a preemption provision that prohibits a local government from adopting or enforcing a law that in any way limits the demolition of a qualifying structure or that limits the development of a replacement structure. A local government may not penalize an owner or developer of a replacement structure or otherwise enact laws that defeat the intent of the bill. Any local government law contrary to this section is void.

Section 2 provides that the act will take effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may allow more structures to be demolished and new structures to be built in their places, which would increase construction and development.

C. Government Sector Impact:

Local governments may have to expend funds to process a possible increase in demolition permits. However, local governments may collect fees to cover the cost of their expenses to enforce the Building Code, which includes reviewing building permit applications.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill, in s. 553.8991(5)(c), F.S., provides that a local government may not limit the size or height of a replacement structure. It is not clear that generally applicable local restrictions would apply. The stated intent may be better effectuated by language such as: A local government may not impose additional size or height requirements on a replacement structure that would not otherwise be applicable to a similarly situated vacant parcel.

VIII. Statutes Affected:

This bill creates section 553.8991 of the Florida Statutes.
This bill substantially amends section 553.79 of the Florida Statutes.

IX. Additional Information:

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

CS by Environment and Natural Resources on April 4, 2023:

The amendment:

- Clarifies that a local government may not limit the development potential of replacement structures;
- Provides that a local government may review an application for a demolition permit only administratively for compliance with applicable building and safety codes;
- Amends the types of qualifying nonconforming structures to include those that are located within one-half mile of the coastline and within zones V, VE, AO, or AE, as identified in Flood Insurance Rate Map; and
- Clarifies that the bill does not apply to s. 553.79(25), F.S., regarding the demolition of single-family residential structures located in certain high-hazard areas and flood zones.

CS by Community Affairs on March 22, 2023:

The CS removes section 1 of the underlying bill, which amends current law pertaining to demolition permits for single-family homes to include nonconforming structures in certain flood areas. The CS also specifically excludes single-family homes and structures individually listed in the National Register of Historic Places from the Resiliency and Safe Structures Act.

B. Amendments:

None.



170426

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Avila)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 553.8991, Florida Statutes, is created
to read:

553.8991 Resiliency and Safe Structures Act.—

(1) SHORT TITLE.—This section may be cited as the
“Resiliency and Safe Structures Act.”

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



170426

11 (a) "Law" means any statute, ordinance, rule, regulation,
12 policy, resolution, code enforcement order, agreement, or other
13 governmental act.

14 (b) "Local government" means a municipality, county,
15 special district, or any other political subdivision of the
16 state.

17 (c) "Nonconforming structure" means a structure that does
18 not conform to the requirements for new construction issued by
19 the National Flood Insurance Program.

20 (d) "Replacement structure" means a new structure built on
21 a property where a structure was demolished or will be
22 demolished in accordance with this section.

23 (3) QUALIFYING STRUCTURES AND BUILDINGS.—This section
24 applies to all of the following structures, unless the structure
25 is individually listed in the National Register of Historic
26 Places or is a single-family home:

27 (a) Nonconforming structures located within one-half mile
28 of the coastline and within zones V, VE, AO, or AE, as
29 identified in the Flood Insurance Rate Map issued by the Federal
30 Emergency Management Agency.

31 (b) Any structure determined to be unsafe by a local
32 building official.

33 (c) Any structure ordered to be demolished by a local
34 government that has proper jurisdiction.

35 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
36 government may not prohibit, restrict, or prevent the demolition
37 of any structure identified in subsection (3) for any reason
38 other than public safety. A local government may review an
39 application for a demolition permit sought pursuant to this



170426

section only administratively for compliance with the Florida Building Code, the Florida Fire Prevention Code, and the Life Safety Code, or local amendments thereto, and any regulation applicable to a similarly situated parcel. The local government may not subject an application to additional local land development regulations or public hearings.

(5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A local government shall authorize replacement structures to be developed to the maximum height and overall building size authorized by local development regulations. A local government may not do any of the following:

(a) Limit, for any reason, the development potential of replacement structures below the maximum allowed by local development regulations.

(b) Require replication of a demolished structure.

(c) Limit the size or height of a replacement structure.

(d) Require maintenance of any element of a demolished structure.

(e) If a structure is demolished pursuant to this section, impose additional regulatory or building requirements on a replacement structure which would not otherwise be applicable to a similarly situated vacant parcel.

(6) APPLICATION AND CONSTRUCTION.—This section applies prospectively and retroactively to any law adopted contrary to this section or its intent, except that this section does not apply to s. 553.79(25). This section must be liberally construed to effectuate its intent.

(7) PREEMPTION.—A local government may not adopt or enforce a law that in any way limits the demolition of a structure



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identified in subsection (3) or that limits the development of a
replacement structure in violation of subsection (5). A local
government may not penalize an owner or a developer of a
replacement structure for a demolition pursuant to this section
or otherwise enact laws that defeat the intent of this section.
Any local government law contrary to this section is void.

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

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to local regulation of nonconforming
or unsafe structures; creating s. 553.8991, F.S.;
providing a short title; defining terms; providing
applicability; prohibiting local governments from
prohibiting, restricting, or preventing the demolition
of certain structures unless necessary for public
safety; authorizing local governments to review
demolition permit applications only for a specified
purpose; requiring that replacement structures be
permitted to be developed in accordance with
applicable development regulations; prohibiting local
governments from taking certain actions regarding
replacement structures; providing for retroactive
application; providing applicability and construction;
preempting regulation of the demolition or replacement
of certain structures to the state under certain



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98 circumstances; providing an effective date.

99
100 WHEREAS, it is of paramount importance to replace older,
101 unsafe, or nonconforming structures that are a threat to life
102 and safety with new, resilient buildings built to contemporary
103 building codes and standards, and

104 WHEREAS, nonconforming structures within coastal high-
105 hazard areas and structures that are ordered to be demolished or
106 that are deemed unsafe by local building officials pose an
107 increased risk of collapse, may affect the integrity or
108 stability of neighboring buildings or structures, and may cause
109 injury to persons or property, and

110 WHEREAS, local governmental laws, procedures, and policies
111 that prohibit or limit the demolition of nonconforming or unsafe
112 structures or limit the construction of new, resilient
113 structures pose a threat to life and public safety, and

114 WHEREAS, on properties where there is a nonconforming
115 structure within a coastal high-hazard area, regardless of
116 whether the structure is deemed unsafe by a local building
117 official or is subject to a demolition order, such structure
118 must be demolished and any replacement structure authorized,
119 which will allow owners or developers to enjoy all land use and
120 development rights that would apply to the property without
121 regard to any local restrictions that may restrict future
122 development at the subject property as a result of the local
123 building official's order of demolition, and

124 WHEREAS, to make the application and enforcement of this
125 act uniform throughout this state, the Legislature intends to
126 preempt the regulation of the demolition of certain structures



170426

127 | and buildings to the state, NOW, THEREFORE,

By the Committee on Community Affairs; and Senator Avila

578-02927-23

20231346c1

A bill to be entitled
An act relating to local regulation of nonconforming
or unsafe structures; creating s. 553.8991, F.S.;
providing a short title; defining terms; providing
applicability; prohibiting local governments from
prohibiting, restricting, or preventing the demolition
of certain structures unless necessary for public
safety; requiring that replacement structures be
permitted to be developed in accordance with
applicable zoning codes and ordinances; providing an
exception; authorizing owners and developers of
replacement structures to develop in accordance with
all land use, zoning, and other land development
rights; providing for retroactive application;
preempting regulation of the demolition or replacement
of certain structures to the state under certain
circumstances; providing an effective date.

WHEREAS, it is of paramount importance to replace older,
unsafe, or nonconforming structures that are a threat to life
and safety with new, resilient buildings built to contemporary
building codes and standards, and

WHEREAS, nonconforming structures within coastal high-
hazard areas and structures ordered to be demolished or deemed
unsafe by local building officials pose an increased risk of
collapse, may affect the integrity or stability of neighboring
buildings or structures, and may cause injury to persons or
property, and

WHEREAS, local governmental laws, procedures, and policies

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20231346c1

that prohibit or limit the demolition of nonconforming or unsafe structures or limit the construction of new resilient structures pose a threat to life and public safety, and

WHEREAS, on properties where there is a nonconforming structure within a coastal high-hazard area, whether the structure is deemed unsafe by a local building official or is subject to a demolition order, such structure must be demolished and any replacement structure authorized, which will allow owners or developers to enjoy all land use and development rights that would apply to the property without regard to any local restrictions that may restrict future development at the subject property as a result of the local building official's order or demolition, and

WHEREAS, to make the application and enforcement of this act uniform throughout this state, the Legislature intends to preempt the regulation of the demolition of certain structures and buildings to the state, NOW, THEREFORE,

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

Section 1. Section 553.8991, Florida Statutes, is created to read:

553.8991 Resiliency and Safe Structures Act.—

(1) SHORT TITLE.—This section may be cited as the “Resiliency and Safe Structures Act.”

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

(a) “Nonconforming structure” means a structure located in a coastal high-hazard area according to a Flood Insurance Rate Map issued by the Federal Emergency Management Agency (FEMA)

578-02927-23

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59 which does not conform to the requirements for new construction
60 issued by the National Flood Insurance Program.

61 (b) "Replacement structure" means a new structure built on
62 a property where a structure was demolished or will be
63 demolished in accordance with this section.

64 (3) QUALIFYING STRUCTURES AND BUILDINGS.—This section
65 applies to all of the following structures, unless the structure
66 is individually listed in the National Register of Historic
67 Places or is a single-family home:

68 (a) Nonconforming structures in coastal high-hazard areas
69 which fail to meet FEMA standards for new construction.

70 (b) Any structure determined to be unsafe by a local
71 building official.

72 (c) Any structure ordered to be demolished by a local
73 government that has proper jurisdiction.

74 (4) RESTRICTIONS ON DEMOLITION PROHIBITED.—A local
75 government may not prohibit, restrict, or prevent the demolition
76 of any structure identified in subsection (3) for any reason,
77 other than public safety.

78 (5) RESTRICTIONS ON REDEVELOPMENT PROHIBITED.—A replacement
79 structure must be permitted to be developed in accordance with
80 all applicable zoning codes and ordinances, provided that the
81 zoning codes and ordinances do not in any way penalize or
82 restrict development rights due to, or related to, the
83 demolition of any structure in accordance with this section,
84 including a requirement for replication of the demolished
85 structure, a limitation on the size or height of the replacement
86 structure, or the maintenance of any of the elements of the
87 demolished structure. Owners or developers of replacement

578-02927-23

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88 structures may develop in accordance with all land use, zoning,
89 and other land development rights, whether established by law,
90 ordinance, rule, regulation, policy, development order, or any
91 other act, without regard to any local government restrictions
92 or penalties resulting from the demolition of any structure
93 identified in subsection (3) which may restrict development of a
94 replacement structure as a result of a local government order, a
95 designation, a code enforcement proceeding, or an ordinance.

96 (6) APPLICATION.—This section applies prospectively and
97 retroactively to any law adopted contrary to this section and
98 its intent.

99 (7) PREEMPTION.—A municipality, county, special district,
100 or political subdivision may not adopt or apply a law, an
101 ordinance, a rule, a regulation, a policy, a resolution, or any
102 other act that in any way limits the demolition of any
103 structures and buildings identified in subsection (3) or that
104 limits the development of any replacement structure in a way
105 that would divest property owners or developers of land use,
106 zoning, or other land development rights for the demolition of
107 any structure in accordance with this section. All laws,
108 ordinances, rules, regulations, policies, resolutions, and other
109 acts of a municipality, county, special district, or political
110 subdivision to the contrary are void.

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Environment and Natural Resources

BILL: SB 1336

INTRODUCER: Senator Polsky

SUBJECT: Disposal of Food Waste Materials Study

DATE: April 3, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Barriero	Rogers	EN	Favorable
2.			AEG	
3.			FP	

I. Summary:

SB 1336 directs the Department of Environmental Protection (DEP) to conduct a study on the disposal of food waste materials and submit a report to the Legislature by July 1, 2024. The study must:

- Determine the current impact and cost of the disposal of food waste materials in landfills and at solid waste facilities;
- Determine what composting facilities, anaerobic digestion facilities, and other recycling facilities currently exist in the state with the capacity to accept food waste;
- Provide legislative recommendations on the feasibility of a pilot program to require certain establishments, facilities, and businesses to recycle food waste;
- Provide legislative recommendations for educational materials on the benefits of alternative food disposal methods; and
- Determine the type and size of establishments, facilities, and businesses that should participate in the pilot program.

The bill appropriates, for the 2023-2024 fiscal year, the nonrecurring sum of \$100,000 from the General Revenue Fund to DEP for the purpose of conducting the study.

II. Present Situation:

Food Waste

Approximately forty percent of food in the U.S. goes uneaten.¹ This uneaten food is enough to feed more than 150 million people each year—far more than the 35 million estimated food insecure Americans.² According to one study, the U.S. generated 54.2 million tons of food waste in 2019, with 3.93 million tons generated by Florida.³ The U.S. wastes more food per person per day (measured in calories) than any other country.⁴

Food waste occurs at every stage of the food supply chain.⁵ The major stages of the supply chain include:

- Primary production (farming and harvesting of plants and animals, resulting in raw food materials);
- Distribution and processing (packaging, processing, manufacturing, transporting, distributing, and wholesale vending of food and food products);
- Retail (selling food and food products to the public at supermarkets or other stores); and
- Consumption (receiving food at home or away from home, such as at restaurants, cafeterias, institutions, or other locations, regardless of whether the food is ultimately eaten or wasted).⁶

The largest portion of U.S. food waste—about 37 percent of total food waste—is generated in peoples' homes.⁷ Restaurants and retail are the second largest source of wasted food at 29 percent of the total. Farms make up 21 percent, and manufacturing represents 13 percent.⁸

There are specific drivers of food waste at each stage of the food supply chain.⁹ For the farming sector, food waste is driven by market conditions, buyer standards, the impact of weather and disease on crops, and unpredictable demand.¹⁰ Processing inefficiencies and equipment, packaging, and forecasting errors result in food waste in manufacturing.¹¹ Drivers of residential food waste include impulse and bulk purchasing, overproduction, poor storage, and confusion

¹ Harvard Law School and Center for EcoTechnology, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, 1 (2019), available at https://chlp.org/wp-content/uploads/2013/12/Organic-Waste-Bans_FINAL-compressed.pdf.

² U.S. Environmental Protection Agency (EPA), *From Farm to Kitchen: The Environmental Impacts of U.S. Food Waste*, ii (2021), available at https://www.epa.gov/system/files/documents/2021-11/from-farm-to-kitchen-the-environmental-impacts-of-u.s.-food-waste_508-tagged.pdf.

³ ReFED, *Food Waste Monitor*, <https://insights-engine.refed.org/food-waste-monitor?view=overview&year=2019> (last visited Mar. 28, 2023).

⁴ EPA, *From Farm to Kitchen: The Environmental Impacts of U.S. Food Waste* at ii.

⁵ Natural Resources Defense Council (NRDC), *Preventing Wasted Food Across the Food Supply Chain*, https://www.nrdc.org/bio/nina-sevilla/preventing-wasted-food-across-food-supply-chain?mc_cid=085b1e6947&mc_eid=6f5088cbb4 (last visited Mar. 27, 2023).

⁶ EPA, *From Farm to Kitchen: The Environmental Impacts of U.S. Food Waste* at 5.

⁷ NRDC, *Preventing Wasted Food Across the Food Supply Chain*.

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

over date labels.¹² In the retail and food service sector, food waste is driven by, among other things, large inventories, date labels,¹³ bulk packaging and portion size, expansive menu options, and sales fluctuations.¹⁴

Wasted food significantly impacts the environment, the economy, and food insecurity.¹⁵ Approximately twenty-one percent of the U.S. fresh water supply and 300 million barrels of oil are used to produce food that goes to waste. Most of this wasted food ends up in landfills, where food is the largest individual component of municipal solid waste.¹⁶

Reliance on landfills as a central part of food waste management systems presents challenges.¹⁷ Not only are cities and states are running out of space for landfills, organic materials in landfills decompose and release methane, a powerful greenhouse gas that contributes to climate change. Food waste is responsible for at least 11 percent of methane emissions generated from landfills—an amount equivalent to the emissions of about 3.4 million vehicles.¹⁸ More than 85 percent of greenhouse gas emissions from landfilled food waste result from activities prior to disposal, including production, transport, processing, and distribution.¹⁹

Food Waste Management

The U.S. Environmental Protection Agency (EPA) encourages the recycling of food.²⁰ Recycling food waste can reduce methane emissions from landfills and recover valuable nutrients and energy. Anaerobic digestion and composting are two common ways to recycle food waste.²¹

Anaerobic Digestion

Anaerobic digestion is a process through which bacteria break down organic matter—such as food wastes, animal manure, and wastewater biosolids—in the absence of oxygen.²² Anaerobic digestion for biogas production takes place in a sealed vessel called a reactor, which is designed and constructed in various shapes and sizes specific to the site and feedstock conditions. These reactors contain complex microbial communities that break down (or digest) the waste and produce biogas and digestate.²³

¹² *Id.* See generally Harvard Law School and NRDC, *The Dating Game: How Confusing Food Date Labels Lead to Food Waste in America* (2013), available at <https://chlpi.org/wp-content/uploads/2013/12/dating-game-report.pdf>.

¹³ Though still consumable, products within two to three days of the date on their package are removed from shelves. *Id.*

¹⁴ NRDC, *Preventing Wasted Food Across the Food Supply Chain*, https://www.nrdc.org/bio/nina-sevilla/preventing-wasted-food-across-food-supply-chain?mc_cid=085b1e6947&mc_eid=6f5088cbb4 (last visited Mar. 27, 2023).

¹⁵ Harvard Law School and Center for EcoTechnology, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, 1 (2019), available at https://chlpi.org/wp-content/uploads/2013/12/Organic-Waste-Bans_FINAL-compressed.pdf.

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

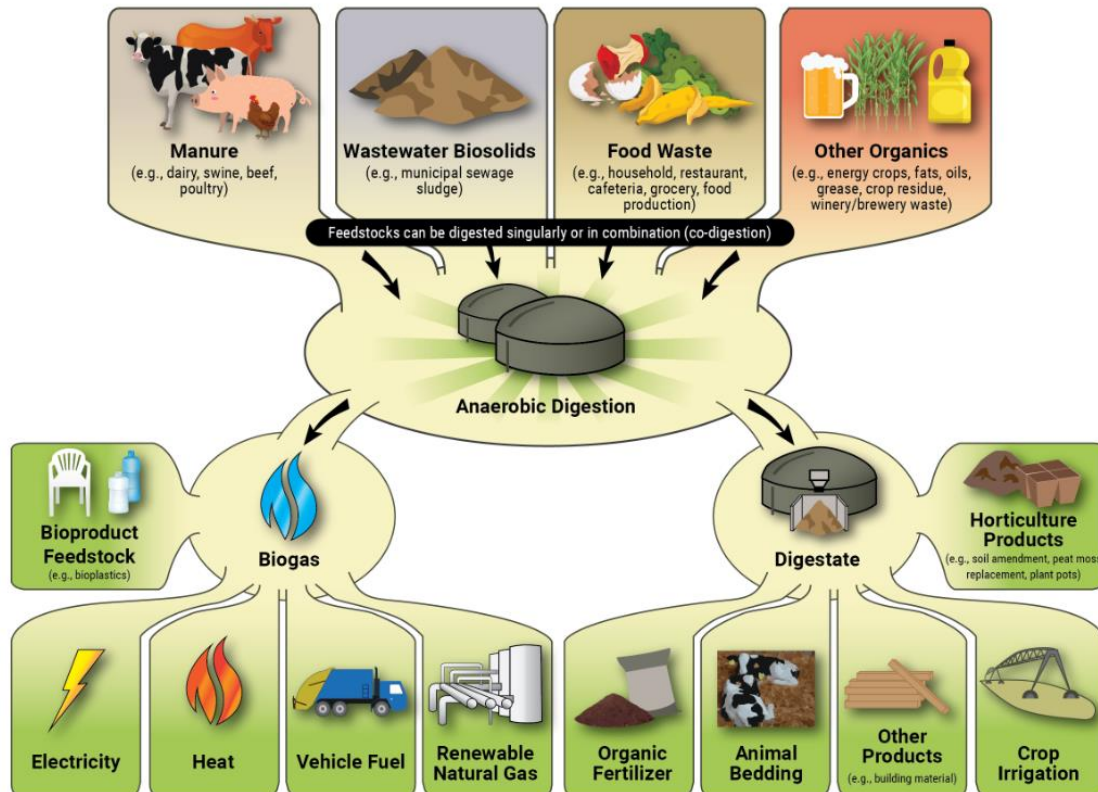
¹⁹ EPA, *Sustainable Management of Food*, <https://www.epa.gov/sustainable-management-food/united-states-2030-food-loss-and-waste-reduction-goal#footnote1> (last visited Mar. 28, 2023).

²⁰ EPA, *Food Waste Research*, <https://www.epa.gov/land-research/food-waste-research> (last visited Mar. 28, 2023).

²¹ *Id.*

²² EPA, *How Does Anaerobic Digestion Work?*, <https://www.epa.gov/agstar/how-does-anaerobic-digestion-work> (last visited Mar. 28, 2023).

²³ *Id.*



Biogas is composed of methane, carbon dioxide, hydrogen sulfide, water vapor, and trace amounts of other gases.²⁴ The energy in biogas can be used like natural gas to provide heat, generate electricity, and power cooling systems, among other uses. Biogas can also be purified to generate renewable natural gas, which can be sold and injected into the natural gas distribution system, compressed and used as vehicle fuel, or processed further to generate alternative transportation fuel, energy products, or other advanced biochemicals and bioproducts.²⁵

Digestate is the residual material left after the anaerobic digestion process that, with appropriate treatment, can be used in many beneficial applications, such as animal bedding, nutrient-rich fertilizer, organic-rich compost, and bio-based products.²⁶

Composting

Compost is created by combining organic wastes, such as food waste, yard trimmings, and manures, in the right ratios into piles, rows, or vessels.²⁷ Bulking agents are added, such as wood chips, as necessary to accelerate the breakdown of organic materials. The materials must then undergo a curing process to fully stabilize and mature.²⁸

²⁴ *Id.* (showing graphic of anaerobic digestion)

²⁵ *Id.*

²⁶ *Id.*

²⁷ EPA, *How Does Anaerobic Digestion Work?*, <https://www.epa.gov/agstar/how-does-anaerobic-digestion-work> (last visited Mar. 28, 2023).

²⁸ *Id.*

The benefits of composting include:

- Reducing or eliminating the need for chemical fertilizers;
- Promoting higher yields of agricultural crops;
- Remediating soils contaminated by hazardous waste in a cost effective manner;
- Enhancing water retention in soils; and
- Providing carbon sequestration.²⁹

EPA estimates that in 2018, 2.6 million tons of food (4.1 percent of wasted food) was composted.³⁰

Food Waste Regulations and Policies

Organic waste bans and food waste disposal policies are becoming increasingly more common among states and municipalities. For example, Connecticut requires food waste generators—including supermarkets, resorts, conference centers, commercial food wholesalers or distributors, and industrial food manufacturers or processors—to source-separate and divert their food waste to an authorized organics processing facility with available capacity to treat the food waste on-site.³¹ Massachusetts prohibits commercial organic material from entering solid waste disposal streams.³² In New York, all designated food scraps generators must donate surplus food for human consumption to the extent possible and requires certain generators to divert remaining food scraps for organics processing.³³ California, Maryland, Rhode Island, and Vermont, as well as multiple municipalities across the U.S., have also implemented restrictions on landfilling food waste.³⁴

III. Effect of Proposed Changes:

Section 1 directs the Department of Environmental Protection (DEP) to conduct a study on the disposal of food waste materials and submit a report to the Legislature on or before July 1, 2024. The study must:

- Determine the current impact of the disposal of food waste materials in landfills and at solid waste facilities.
- Determine what composting facilities, anaerobic digestion facilities, and other recycling facilities currently exist in the state with the capacity to accept food waste materials.
- Examine the current cost of the disposal of food waste materials in landfills and at solid waste facilities versus the cost of the disposal of food waste materials at composting facilities, anaerobic digestion facilities, and other recycling facilities.

²⁹ *Id.*

³⁰ EPA, *Reducing the Impact of Wasted Food by Feeding the Soil and Composting*, <https://www.epa.gov/sustainable-management-food/reducing-impact-wasted-food-feeding-soil-and-composting> (last visited Mar. 28, 2023).

³¹ Harvard Law School and Center for EcoTechnology, *Bans and Beyond: Designing and Implementing Organic Waste Bans and Mandatory Organics Recycling Laws*, 5 (2019), available at https://chlp.org/wp-content/uploads/2013/12/Organic-Waste-Bans_FINAL-compressed.pdf.

³² *Id.* “Commercial organic material” means food and vegetative materials from an entity that is not a residence and that generates for disposal at least one ton of those materials in waste per week. *Id.*

³³ *Id.* at 6. New York defines designated food scraps generators as those that produce over two tons per week of food scraps, including entities such as supermarkets, food service establishments, universities, hotels, food processors, correctional facilities, and entertainment venues. *Id.*

³⁴ *Id.* at 8, 9-12.

- Provide legislative recommendations on the feasibility of a pilot program to require food outlets, food service establishments, schools or other educational facilities, and businesses to recycle food waste materials and the most efficient method to accomplish the goal of redirecting the disposal of food waste materials in landfills and at solid waste facilities to composting facilities, anaerobic digestion facilities, and other recycling facilities. DEP may provide legislative recommendations for additional goals of the pilot program.
- Provide legislative recommendations for educational materials on the benefits of alternative food disposal methods.
- Determine the type and size of food outlets, food service establishments, schools or other educational facilities, and businesses that should participate in the pilot program.

The bill also appropriates, for the 2023-2024 fiscal year, the nonrecurring sum of \$100,000 from the General Revenue Fund to DEP for the purpose of conducting the study.

Section 2 provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection (DEP) may incur costs associated with conducting the food waste study and preparing a report to the Legislature. However, the

bill appropriates the nonrecurring sum of \$100,000 from the General Revenue Fund to DEP for the purpose of conducting the study.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill creates an undesignated section of Florida law.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Polsky

30-01354-23

20231336__

A bill to be entitled

An act relating to disposal of food waste materials study; directing the Department of Environmental Protection to conduct a study on the disposal of food waste materials and submit a report to the Legislature by a specified date; providing study requirements; providing an appropriation; providing an effective date.

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

Section 1. (1) The Department of Environmental Protection shall conduct a study on the disposal of food waste materials and submit a report to the President of the Senate and the Speaker of the House of Representatives on or before July 1, 2024.

(2) The study must:

(a) Determine the current impact of the disposal of food waste materials in landfills and at solid waste facilities.

(b) Determine what composting facilities, anaerobic digestion facilities, and other recycling facilities currently exist in the state with the capacity to accept food waste materials.

(c) Examine the current cost of the disposal of food waste materials in landfills and at solid waste facilities versus the cost of the disposal of food waste materials at composting facilities, anaerobic digestion facilities, and other recycling facilities.

(d) Provide legislative recommendations on the feasibility

30-01354-23

20231336__

30 of a pilot program to require food outlets, food service
31 establishments, schools or other educational facilities, and
32 businesses to recycle food waste materials and the most
33 efficient method to accomplish the goal of redirecting the
34 disposal of food waste materials in landfills and at solid waste
35 facilities to composting facilities, anaerobic digestion
36 facilities, and other recycling facilities. The department may
37 provide legislative recommendations for additional goals of the
38 pilot program.

39 (e) Provide legislative recommendations for educational
40 materials on the benefits of alternative food disposal methods.

41 (f) Determine the type and size of food outlets, food
42 service establishments, schools or other educational facilities,
43 and businesses that should participate in the pilot program
44 under paragraph (d).

45 (3) For the 2023-2024 fiscal year, the nonrecurring sum of
46 \$100,000 from the General Revenue Fund is appropriated to the
47 department for the purpose of conducting a study on the disposal
48 of food waste materials pursuant to this section.

49 Section 2. This act shall take effect July 1, 2023.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

4/4/2023
Meeting Date
Environment and
Natural Resources
Committee

SB 1538

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mary Winn Phone (850) 766-2612

Address 1004 Brookwood Dr. Email Kathywinn980@gmail.com
Street

Tallahassee FL 32308
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Representing the League of Women
Voters of Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

4/4/23

Meeting Date

ENR

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1538

Bill Number or Topic

Amendment Barcode (if applicable)

Name **David Cullen**

Phone **941-323-2404**

Address **2838 Little Deal Rd**

Email **cullenasea@gmail.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Sierra Club Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

THE FLORIDA SENATE

APPEARANCE RECORD

4 April 2023

Meeting Date

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

1538

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

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Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ONSITE WASTEWATER ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

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 Environment and Natural Resources

BILL: CS/SB 1538

INTRODUCER: Environment and Natural Resources Committee and Senator Stewart

SUBJECT: Implementation of the Recommendations of the Blue-Green Algae Task Force

DATE: April 4, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Carroll	Rogers	EN	Fav/CS
2. _____	_____	AEG	_____
3. _____	_____	FP	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1538 requires that each project listed in a new or revised basin management action plan (BMAP) with a total cost exceeding \$1 million must be monitored to determine if it is working to reduce nutrient pollution or water use, or both, as intended. The monitoring assessments must be completed expeditiously and included in each BMAP update.

II. Present Situation:

Blue-Green Algae Task Force

In 2019, Governor DeSantis directed the Department of Environmental Protection (DEP) to establish a Blue-Green Algae Task Force to expedite reduction of nutrient pollution and cyanobacteria blooms in the state.¹ The task force provides guidance and specific, science-based recommendations to expedite the restoration of water bodies that have been adversely affected by cyanobacteria blooms.² The task force has focused on source identification, nutrient reduction

¹ State of Florida, Office of the Governor, *Executive Order Number 19-12 (2019)*, available at https://www.flgov.com/wp-content/uploads/orders/2019/EO_19-12.pdf; DEP, *Blue-Green Algae Task Force*, <https://protectingfloridatogether.gov/state-action/blue-green-algae-task-force> (last visited Mar. 13, 2023).

² DEP, *Blue-Green Algae Task Force Consensus Document #1* (Dec. 2, 2019), available at https://floridadep.gov/sites/default/files/Final%20Consensus%20%231_0.pdf.

and remediation efforts, algal toxins and human health effects, and innovative technologies for the prevention, cleanup, and mitigation of harmful algal blooms.³

Water Quality and Nutrients

Phosphorus and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.⁴ The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive nitrogen and phosphorus can cause significant water quality problems.⁵

Phosphorus and nitrogen are derived from natural and human-made sources.⁶ Human-made sources include sewage disposal systems (wastewater treatment facilities and septic systems), overflows of storm and sanitary sewers (untreated sewage), agricultural production and irrigation practices, and stormwater runoff.⁷

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals.⁸ Dense, harmful algal blooms can also cause human health problems, fish kills, problems for water treatment plants, and impairment of the aesthetics and taste of waters. Growth of nuisance aquatic weeds tends to increase in nutrient-enriched waters, which can impact recreational activities.⁹

Basin Management Action Plans

DEP is the lead agency in coordinating the development and implementation of total maximum daily loads (TMDLs).¹⁰ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs.¹¹ BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,¹² for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;

³ *Id.*

⁴ U.S. Environmental Protection Agency, *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Feb. 10, 2023).

⁵ *Id.*

⁶ *Id.*

⁷ U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Feb 10, 2023).

⁸ EPA, *The Issue*, <https://www.epa.gov/nutrientpollution/issue> (last visited Feb. 10, 2023).

⁹ *Id.*

¹⁰ Section 403.061, F.S. DEP has the power and the duty to control and prohibit pollution of air and water in accordance with the law and rules adopted and promulgated by it. Furthermore, s. 403.061(21), F.S., allows DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

¹¹ A TMDL is a scientific determination of the maximum amount of a given pollutant that can be absorbed by a waterbody and still meet water quality standards. DEP, *Total Maximum Daily Loads Program*, <https://floridadep.gov/TMDL> (last visited Mar. 24, 2023).

¹² Fla. Admin. Code R. 62-620.200(37). “Point source” is defined as “any discernible, confined, and discrete conveyance, including any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged.” Nonpoint sources of pollution are sources of pollution that are not point sources.

- Public works projects, including capital facilities; and
- Land acquisition.¹³

DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.¹⁴ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations.¹⁵ The BMAP development process provides an opportunity for local stakeholders, local government, community leaders, and the public to collectively determine and share water quality cleanup responsibilities collectively.¹⁶ BMAPs are adopted by secretarial order.¹⁷

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of progress toward these milestones must be conducted every five years and revisions to the BMAP must be made as appropriate.¹⁸

DEP delineates priority focus areas, in coordination with the water management districts, for Outstanding Florida Springs in BMAPs.¹⁹ A priority focus area is the area or areas of a basin where the Floridan Aquifer is generally most vulnerable to pollutant inputs and where there is a known connectivity between groundwater pathways and an Outstanding Florida Spring.²⁰ In delineating priority focus areas, DEP must consider groundwater travel time to the spring, hydrogeology, nutrient load, and any other factors that may lead to degradation of an Outstanding Florida Spring.²¹

In 2019, the Blue-Green Algae Task Force made the following recommendations for BMAPs:

- Include regional storage and treatment infrastructure in South Florida watersheds;
- Consider land use changes, legacy nutrients, and the impact of the BMAP on downstream waterbodies;
- Develop a more targeted approach to project selection; and
- Evaluate project effectiveness through monitoring.²²

¹³ Section 403.067(7), F.S.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Mar. 13, 2023).

¹⁷ Section 403.067(7), F.S.

¹⁸ *Id.*

¹⁹ Section 373.803, F.S. Outstanding Florida Springs include all historic first magnitude springs and associated spring runs, as well as De Leon, Peacock, Poe, Rock, Wekiwa, and Gemini springs and their associated spring runs. Section 373.802, F.S.

²⁰ Section 373.802, F.S. Outstanding Florida Springs

²¹ Section 373.803, F.S.

²² DEP, *Blue-Green Algae Task Force Consensus Document #1* at 2-4.

III. Effect of Proposed Changes:

Section 1 amends s. 403.067, F.S., which governs establishment and implementation of total maximum daily loads. The bill requires that for each project listed in a new or revised BMAP with a total cost exceeding \$1 million, DEP must assess through integrated and comprehensive monitoring whether the project is working to reduce nutrient pollution or water use, or both, as intended. The bill provides that the assessments must be completed expeditiously and included in each BMAP update.

The bill makes technical changes.

Section 2 provides an effective date of July 1, 2023.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection may incur indeterminate costs in monitoring and assessing certain projects for reductions in nutrient pollution or water use, or both.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.067 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Environment and Natural Resources on April 4, 2023:

The committee substitute removes provisions requiring periodic inspections of onsite sewage treatment and disposal systems. It also removes language requiring new or revised basin management action plans to include a list that identifies and prioritizes spatially focused suites of projects in areas likely to yield maximum pollutant reductions.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/04/2023	.	
	.	
	.	
	.	

The Committee on Environment and Natural Resources (Stewart)
recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (a) of subsection (7) of section
403.067, Florida Statutes, is amended to read:

403.067 Establishment and implementation of total maximum
daily loads.—

(7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—



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(a) *Basin management action plans.*—

1. In developing and implementing the total maximum daily load for a water body, the department, or the department in conjunction with a water management district, may develop a basin management action plan that addresses some or all of the watersheds and basins tributary to the water body. Such plan must integrate the appropriate management strategies available to the state through existing water quality protection programs to achieve the total maximum daily loads and may provide for phased implementation of these management strategies to promote timely, cost-effective actions as provided for in s. 403.151. The plan must establish a schedule implementing the management strategies, establish a basis for evaluating the plan's effectiveness, and identify feasible funding strategies for implementing the plan's management strategies. The management strategies may include regional treatment systems or other public works, when appropriate, and voluntary trading of water quality credits to achieve the needed pollutant load reductions.

2. A basin management action plan must equitably allocate, pursuant to paragraph (6) (b), pollutant reductions to individual basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the



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development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the watershed or basin lies at least 5 days, but not more than 15 days, before the public meeting. A basin management action plan does not supplant or otherwise alter any assessment made under subsection (3) or subsection (4) or any calculation or initial allocation.

4.a. Each new or revised basin management action plan must ~~shall~~ include:

(I)a. The appropriate management strategies available through existing water quality protection programs to achieve



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total maximum daily loads, which may provide for phased implementation to promote timely, cost-effective actions as provided for in s. 403.151;

(II)~~b.~~ A description of best management practices adopted by rule;

(III)~~c.~~ A list of projects in priority ranking with a planning-level cost estimate and estimated date of completion for each listed project;

(IV)~~d.~~ The source and amount of financial assistance to be made available by the department, a water management district, or other entity for each listed project, if applicable; and

(V)~~e.~~ A planning-level estimate of each listed project's expected load reduction, if applicable.

b. For each project listed pursuant to this subparagraph which has a total cost that exceeds \$1 million, the department must assess through integrated and comprehensive monitoring whether the project is working to reduce nutrient pollution or water use, or both, as intended. These assessments must be completed expeditiously and included in each basin management action plan update.

5. The department shall adopt all or any part of a basin management action plan and any amendment to such plan by secretarial order pursuant to chapter 120 to implement this section.

6. The basin management action plan must include milestones for implementation and water quality improvement, and an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of



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progress toward these milestones shall be conducted every 5 years, and revisions to the plan shall be made as appropriate. Revisions to the basin management action plan shall be made by the department in cooperation with basin stakeholders. Revisions to the management strategies required for nonpoint sources must follow the procedures in subparagraph (c)4. Revised basin management action plans must be adopted pursuant to subparagraph 5.

7. In accordance with procedures adopted by rule under paragraph (9)(c), basin management action plans, and other pollution control programs under local, state, or federal authority as provided in subsection (4), may allow point or nonpoint sources that will achieve greater pollutant reductions than required by an adopted total maximum daily load or wasteload allocation to generate, register, and trade water quality credits for the excess reductions to enable other sources to achieve their allocation; however, the generation of water quality credits does not remove the obligation of a source or activity to meet applicable technology requirements or adopted best management practices. Such plans must allow trading between NPDES permittees, and trading that may or may not involve NPDES permittees, where the generation or use of the credits involve an entity or activity not subject to department water discharge permits whose owner voluntarily elects to obtain department authorization for the generation and sale of credits.

8. The department's rule relating to the equitable abatement of pollutants into surface waters do not apply to water bodies or water body segments for which a basin management plan that takes into account future new or expanded activities



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or discharges has been adopted under this section.

9. In order to promote resilient wastewater utilities, if the department identifies domestic wastewater treatment facilities or onsite sewage treatment and disposal systems as contributors of at least 20 percent of point source or nonpoint source nutrient pollution or if the department determines remediation is necessary to achieve the total maximum daily load, a basin management action plan for a nutrient total maximum daily load must include the following:

a. A wastewater treatment plan developed by each local government, in cooperation with the department, the water management district, and the public and private domestic wastewater treatment facilities within the jurisdiction of the local government, that addresses domestic wastewater. The wastewater treatment plan must:

(I) Provide for construction, expansion, or upgrades necessary to achieve the total maximum daily load requirements applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the



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basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local



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government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant reduction requirements of an adopted total maximum daily load and meets or exceeds the pollution reduction requirement of the original project.

Section 2. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to implementation of the
recommendations of the Blue-Green Algae Task Force;



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214 amending s. 403.067, F.S.; requiring the department to
215 assess certain projects; providing requirements for
216 the assessments; providing an effective date.

By Senator Stewart

17-00260-23

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1 A bill to be entitled
2 An act relating to implementation of the
3 recommendations of the Blue-Green Algae Task Force;
4 amending s. 381.0065, F.S.; requiring owners of
5 certain onsite sewage treatment and disposal systems
6 to have the systems periodically inspected, beginning
7 on a specified date; requiring the Department of
8 Environmental Protection to administer the inspection
9 program; requiring the department to implement program
10 standards, procedures, and requirements; providing for
11 rulemaking; amending s. 403.067, F.S.; requiring new
12 or revised basin management action plans to include a
13 list that identifies and prioritizes certain spatially
14 focused projects; requiring the department to assess
15 certain projects; providing requirements for the
16 assessments; providing an effective date.

17
18 WHEREAS, Governor Ron DeSantis created the Blue-Green Algae
19 Task Force in 2019 to "improve water quality for the benefit of
20 all Floridians," and the task force's consensus report was
21 issued in October 2019, with multiple recommendations for basin
22 management action plans, agriculture, human waste, stormwater,
23 technology, public health, and science, and

24 WHEREAS, the Legislature recognizes that in June 2020,
25 Governor DeSantis signed Senate Bill 712, the Clean Waterways
26 Act, which implemented many of the recommendations of the task
27 force, and

28 WHEREAS, full implementation of the task force's
29 recommendations requires enactment of additional substantive

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legislation, NOW, THEREFORE,

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

Section 1. Present subsections (5) through (8) of section 381.0065, Florida Statutes, are redesignated as subsections (6) through (9), respectively, and a new subsection (5) is added to that section, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(5) PERIODIC INSPECTIONS.—Effective July 1, 2025, the owner of an onsite sewage treatment and disposal system, excluding a system required to have an operating permit, must have the system inspected at least once every 5 years to assess the fundamental operational condition of the system, prolong the life of the system, and identify any failure within the system. The department shall administer an onsite sewage treatment and disposal system inspection program for such periodic inspections. The department shall implement the program standards, procedures, and requirements and adopt rules that must include, at a minimum, all of the following:

(a) A schedule for a 5-year inspection cycle.

(b) A county-by-county implementation plan phased in over a 10-year period, with first priority given to those areas within a priority focus area for springs identified by the department.

(c) Minimum standards for a functioning system.

(d) Requirements for the pumpout or repair of a failing system.

(e) Enforcement procedures for failure of a system owner to

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59 obtain an inspection of the system and failure of a contractor
60 to timely report inspection results to the department and the
61 system owner.

62 Section 2. Paragraph (a) of subsection (7) of section
63 403.067, Florida Statutes, is amended to read:

64 403.067 Establishment and implementation of total maximum
65 daily loads.—

66 (7) DEVELOPMENT OF BASIN MANAGEMENT PLANS AND
67 IMPLEMENTATION OF TOTAL MAXIMUM DAILY LOADS.—

68 (a) *Basin management action plans.*—

69 1. In developing and implementing the total maximum daily
70 load for a water body, the department, or the department in
71 conjunction with a water management district, may develop a
72 basin management action plan that addresses some or all of the
73 watersheds and basins tributary to the water body. Such plan
74 must integrate the appropriate management strategies available
75 to the state through existing water quality protection programs
76 to achieve the total maximum daily loads and may provide for
77 phased implementation of these management strategies to promote
78 timely, cost-effective actions as provided for in s. 403.151.
79 The plan must establish a schedule implementing the management
80 strategies, establish a basis for evaluating the plan's
81 effectiveness, and identify feasible funding strategies for
82 implementing the plan's management strategies. The management
83 strategies may include regional treatment systems or other
84 public works, when appropriate, and voluntary trading of water
85 quality credits to achieve the needed pollutant load reductions.

86 2. A basin management action plan must equitably allocate,
87 pursuant to paragraph (6) (b), pollutant reductions to individual

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basins, as a whole to all basins, or to each identified point source or category of nonpoint sources, as appropriate. For nonpoint sources for which best management practices have been adopted, the initial requirement specified by the plan must be those practices developed pursuant to paragraph (c). When appropriate, the plan may take into account the benefits of pollutant load reduction achieved by point or nonpoint sources that have implemented management strategies to reduce pollutant loads, including best management practices, before the development of the basin management action plan. The plan must also identify the mechanisms that will address potential future increases in pollutant loading.

3. The basin management action planning process is intended to involve the broadest possible range of interested parties, with the objective of encouraging the greatest amount of cooperation and consensus possible. In developing a basin management action plan, the department shall assure that key stakeholders, including, but not limited to, applicable local governments, water management districts, the Department of Agriculture and Consumer Services, other appropriate state agencies, local soil and water conservation districts, environmental groups, regulated interests, and affected pollution sources, are invited to participate in the process. The department shall hold at least one public meeting in the vicinity of the watershed or basin to discuss and receive comments during the planning process and shall otherwise encourage public participation to the greatest practicable extent. Notice of the public meeting must be published in a newspaper of general circulation in each county in which the

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117 watershed or basin lies at least 5 days, but not more than 15
118 days, before the public meeting. A basin management action plan
119 does not supplant or otherwise alter any assessment made under
120 subsection (3) or subsection (4) or any calculation or initial
121 allocation.

122 4.a. Each new or revised basin management action plan must
123 ~~shall~~ include:

124 (I)~~a.~~ The appropriate management strategies available
125 through existing water quality protection programs to achieve
126 total maximum daily loads, which may provide for phased
127 implementation to promote timely, cost-effective actions as
128 provided for in s. 403.151;

129 (II)~~b.~~ A description of best management practices adopted
130 by rule;

131 (III)~~c.~~ A list of projects in priority ranking with a
132 planning-level cost estimate and estimated date of completion
133 for each listed project;

134 (IV) A list that identifies and prioritizes spatially
135 focused suites of projects in areas likely to yield maximum
136 pollutant reductions;

137 (V)~~d.~~ The source and amount of financial assistance to be
138 made available by the department, a water management district,
139 or other entity for each listed project, if applicable; and

140 (VI)~~e.~~ A planning-level estimate of each listed project's
141 expected load reduction, if applicable.

142 b. For each project listed pursuant to this subparagraph
143 which has a total cost that exceeds \$1 million, the department
144 must assess through integrated and comprehensive monitoring
145 whether the project is working to reduce nutrient pollution or

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146 water use, or both, as intended. These assessments must be
147 completed expeditiously and included in each basin management
148 action plan update.

149 5. The department shall adopt all or any part of a basin
150 management action plan and any amendment to such plan by
151 secretarial order pursuant to chapter 120 to implement this
152 section.

153 6. The basin management action plan must include milestones
154 for implementation and water quality improvement, and an
155 associated water quality monitoring component sufficient to
156 evaluate whether reasonable progress in pollutant load
157 reductions is being achieved over time. An assessment of
158 progress toward these milestones shall be conducted every 5
159 years, and revisions to the plan shall be made as appropriate.
160 Revisions to the basin management action plan shall be made by
161 the department in cooperation with basin stakeholders. Revisions
162 to the management strategies required for nonpoint sources must
163 follow the procedures in subparagraph (c)4. Revised basin
164 management action plans must be adopted pursuant to subparagraph
165 5.

166 7. In accordance with procedures adopted by rule under
167 paragraph (9)(c), basin management action plans, and other
168 pollution control programs under local, state, or federal
169 authority as provided in subsection (4), may allow point or
170 nonpoint sources that will achieve greater pollutant reductions
171 than required by an adopted total maximum daily load or
172 wasteload allocation to generate, register, and trade water
173 quality credits for the excess reductions to enable other
174 sources to achieve their allocation; however, the generation of

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175 water quality credits does not remove the obligation of a source
176 or activity to meet applicable technology requirements or
177 adopted best management practices. Such plans must allow trading
178 between NPDES permittees, and trading that may or may not
179 involve NPDES permittees, where the generation or use of the
180 credits involve an entity or activity not subject to department
181 water discharge permits whose owner voluntarily elects to obtain
182 department authorization for the generation and sale of credits.

183 8. The department's rule relating to the equitable
184 abatement of pollutants into surface waters do not apply to
185 water bodies or water body segments for which a basin management
186 plan that takes into account future new or expanded activities
187 or discharges has been adopted under this section.

188 9. In order to promote resilient wastewater utilities, if
189 the department identifies domestic wastewater treatment
190 facilities or onsite sewage treatment and disposal systems as
191 contributors of at least 20 percent of point source or nonpoint
192 source nutrient pollution or if the department determines
193 remediation is necessary to achieve the total maximum daily
194 load, a basin management action plan for a nutrient total
195 maximum daily load must include the following:

196 a. A wastewater treatment plan developed by each local
197 government, in cooperation with the department, the water
198 management district, and the public and private domestic
199 wastewater treatment facilities within the jurisdiction of the
200 local government, that addresses domestic wastewater. The
201 wastewater treatment plan must:

202 (I) Provide for construction, expansion, or upgrades
203 necessary to achieve the total maximum daily load requirements

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applicable to the domestic wastewater treatment facility.

(II) Include the permitted capacity in average annual gallons per day for the domestic wastewater treatment facility; the average nutrient concentration and the estimated average nutrient load of the domestic wastewater; a projected timeline of the dates by which the construction of any facility improvements will begin and be completed and the date by which operations of the improved facility will begin; the estimated cost of the improvements; and the identity of responsible parties.

The wastewater treatment plan must be adopted as part of the basin management action plan no later than July 1, 2025. A local government that does not have a domestic wastewater treatment facility in its jurisdiction is not required to develop a wastewater treatment plan unless there is a demonstrated need to establish a domestic wastewater treatment facility within its jurisdiction to improve water quality necessary to achieve a total maximum daily load. A local government is not responsible for a private domestic wastewater facility's compliance with a basin management action plan unless such facility is operated through a public-private partnership to which the local government is a party.

b. An onsite sewage treatment and disposal system remediation plan developed by each local government in cooperation with the department, the Department of Health, water management districts, and public and private domestic wastewater treatment facilities.

(I) The onsite sewage treatment and disposal system

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remediation plan must identify cost-effective and financially feasible projects necessary to achieve the nutrient load reductions required for onsite sewage treatment and disposal systems. To identify cost-effective and financially feasible projects for remediation of onsite sewage treatment and disposal systems, the local government shall:

(A) Include an inventory of onsite sewage treatment and disposal systems based on the best information available;

(B) Identify onsite sewage treatment and disposal systems that would be eliminated through connection to existing or future central domestic wastewater infrastructure in the jurisdiction or domestic wastewater service area of the local government, that would be replaced with or upgraded to enhanced nutrient-reducing onsite sewage treatment and disposal systems, or that would remain on conventional onsite sewage treatment and disposal systems;

(C) Estimate the costs of potential onsite sewage treatment and disposal system connections, upgrades, or replacements; and

(D) Identify deadlines and interim milestones for the planning, design, and construction of projects.

(II) The department shall adopt the onsite sewage treatment and disposal system remediation plan as part of the basin management action plan no later than July 1, 2025, or as required for Outstanding Florida Springs under s. 373.807.

10. When identifying wastewater projects in a basin management action plan, the department may not require the higher cost option if it achieves the same nutrient load reduction as a lower cost option. A regulated entity may choose a different cost option if it complies with the pollutant

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262 reduction requirements of an adopted total maximum daily load
263 and meets or exceeds the pollution reduction requirement of the
264 original project.

265 Section 3. This act shall take effect July 1, 2023.

CourtSmart Tag Report

Room: SB 301
Caption: Senate Environment and Natural Resources Committee

Type:
Judge:

Started: 4/4/2023 11:03:50 AM
Ends: 4/4/2023 11:37:52 AM
Length: 00:34:03

11:03:50 AM Chair Rodriguez calls meeting to order
11:03:57 AM Roll call
11:04:09 AM Quorum present
11:04:12 AM Senator Wright excused today
11:04:18 AM Pledge of Allegiance
11:04:38 AM Chair Rodriguez makes opening remarks
11:04:53 AM Tab 1 CS/SB 1346 by Senator Avila
11:05:02 AM Take up amendment 170426
11:05:17 AM Senator Avila explains amendment
11:07:10 AM Questions on amendment:
11:07:15 AM Senator Powell
11:09:15 AM Senator Avila
11:11:18 AM Senator Powell
11:11:45 AM Senator Avila
11:12:23 AM Senator Powell
11:13:46 AM Senator Avila
11:15:18 AM Senator Powell
11:16:43 AM Senator Avila
11:19:38 AM Senator Martin
11:19:49 AM Senator Avila
11:20:34 AM Senator Martin
11:20:53 AM Senator Avila
11:20:57 AM Senator Wright
11:21:24 AM Senator Avila
11:22:25 AM Appearance forms on amendment:
11:22:29 AM Daniel Ciraldo, Miami Design Preservation League speaking against
11:26:01 AM Senator Martin question
11:26:58 AM Mr. Ciraldo responds
11:27:32 AM Senator Martin question
11:27:48 AM Mr. Ciraldo responds
11:28:10 AM Rana Brown, City of Miami Beach waives against
11:28:20 AM Lena Juarez, City of St. Augustine speaking against
11:29:07 AM No debate on amendment
11:29:13 AM Senator Avila closes on amendment
11:30:48 AM Amendment adopted
11:30:55 AM Back on bill as amended
11:30:59 AM Appearance forms:
11:31:04 AM Haley Busch, 1000 Friends of FL waiving in opposition
11:31:10 AM Jess McCarty, Miami-Dade County waiving against
11:31:18 AM No debate
11:31:21 AM Senator Avila closes on bill as amended
11:32:43 AM Roll call CS/CS/SB 1346
11:32:56 AM CS/CS/SB 1346 reported favorably
11:33:05 AM Tab 2 SB 1336 by Senator Polsky
11:33:12 AM Senator Polsky explains the bill
11:34:21 AM No questions
11:34:24 AM No appearance forms
11:34:31 AM No debate
11:34:33 AM Senator waives close
11:34:35 AM Roll call SB 1336
11:34:41 AM SB 1336 reported favorably
11:34:49 AM Tab 3 SB 1538 by Senator Stewart

11:34:59 AM Senator Stewart explains the bill
11:35:15 AM Take up amendment 611188
11:35:23 AM Senator Stewart explains the amendment
11:36:00 AM No questions on amendment
11:36:04 AM No appearance forms
11:36:07 AM No debate
11:36:11 AM Senator waives close
11:36:13 AM Amendment adopted
11:36:17 AM No questions on bill as amended
11:36:20 AM Appearance forms:
11:36:24 AM Mary Winn, League of Women Voters waiving in support
11:36:30 AM David Cullen, Sierra Club of FL waiving in support
11:36:34 AM Roxanne Groover, FL Onsite Wastewater Assoc. waiving in support
11:36:43 AM No debate
11:36:47 AM Senator Stewart waives close
11:36:53 AM Roll call CS/SB 1538
11:37:03 AM CS/SB 1538 reported favorably
11:37:17 AM Chair makes closing remarks
11:37:42 AM Meeting adjourned