

Tab 1	SB 690 by Rodriguez; (Identical to H 00691) Resilience-related Advisory Committees						
Tab 2	SB 1238 by Polsky; (Identical to H 01019) Saltwater Intrusion Vulnerability Assessments						
265632	D	S	RCS	EN, Polsky	Delete everything after	01/31	04:46 PM
Tab 3	SB 1426 by Burgess; (Compare to H 00965) Water Quality Enhancement Areas						
739428	D	S	RCS	EN, Burgess	Delete everything after	01/31	04:46 PM
Tab 4	SB 290 by Ausley; (Identical to H 01367) Surplus State-owned Nonconservation Lands						
352126	A	S	RCS	EN, Ausley	Delete L.35 - 49:	01/31	04:46 PM
Tab 5	SB 1156 by Stewart; (Identical to H 00935) Study to Establish a Statewide Long-term Recycling Goal						
791982	D	S	RCS	EN, Stewart	Delete everything after	01/31	04:46 PM
Tab 6	SB 1418 by Albritton; (Similar to H 01475) Soil and Groundwater Contamination						
Tab 7	SB 1562 by Ausley; (Identical to H 00745) Solar Photovoltaic Facility Development						
Tab 8	SB 1658 by Bean (CO-INTRODUCERS) Rodrigues; (Compare to CS/H 01295) Executive Appointments						
731196	D	S	RCS	EN, Bean	Delete everything after	01/31	04:46 PM
Tab 9	SB 1940 by Brodeur; Statewide Flooding and Sea Level Rise Resilience						
313534	D	S	RCS	EN, Brodeur	Delete everything after	01/31	04:46 PM
565136	AA	S	RCS	EN, Albritton	btw L.362 - 363:	01/31	04:46 PM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENT AND NATURAL RESOURCES

Senator Brodeur, Chair
Senator Stewart, Vice Chair

MEETING DATE: Monday, January 31, 2022

TIME: 3:00—5:00 p.m.

PLACE: Mallory Horne Committee Room, 37 Senate Building

MEMBERS: Senator Brodeur, Chair; Senator Stewart, Vice Chair; Senators Albritton, Ausley, Bean, and Perry

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 690 Rodriguez (Identical H 691)	Resilience-related Advisory Committees; Authorizing specified resilience-related advisory committees to conduct public meetings and workshops by means of communications media technology; providing that use of such technology by a committee member constitutes that member's presence at such meeting or workshop; requiring that such technology allow the public to audibly communicate, etc. CA 01/18/2022 Favorable EN 01/31/2022 Favorable RC	Favorable Yeas 6 Nays 0
2	SB 1238 Polsky (Identical H 1019)	Saltwater Intrusion Vulnerability Assessments; Requiring coastal counties to conduct vulnerability assessments analyzing the effects of saltwater intrusion on their water supplies and their preparedness to respond to threats, by a specified date; requiring each coastal county to provide copies of its assessment to the Department of Environmental Protection and the respective water management districts; requiring the water management districts, in collaboration with the coastal counties, to submit certain projects to the department based on the assessments by a specified date; requiring the department to provide cost-share funding up to a specified amount for certain coastal counties, etc. EN 01/31/2022 Fav/CS GO AP	Fav/CS Yeas 6 Nays 0
3	SB 1426 Burgess (Compare H 965)	Water Quality Enhancement Areas; Providing for water quality enhancement areas, enhancement service areas, and enhancement credits; providing requirements for water quality enhancement area permits, enhancement service areas, and enhancement credits; directing the Department of Environmental Protection and water management districts to authorize the sale and use of enhancement credits to offset certain adverse water quality impacts and to meet certain water quality requirements, etc. EN 01/31/2022 Fav/CS AEG AP	Fav/CS Yeas 4 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Monday, January 31, 2022, 3:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 290 Ausley (Identical H 1367)	Surplus State-owned Nonconservation Lands; Authorizing the Board of Trustees of the Internal Improvement Trust Fund to dispose of surplus nonconservation lands at specified values under certain circumstances; authorizing the board to donate such lands to fiscally constrained counties under certain circumstances; authorizing the board of trustees to sell or lease surplus nonconservation lands located in fiscally constrained counties to private entities under certain circumstances, etc. EN 01/31/2022 Fav/CS CA RC	Fav/CS Yeas 6 Nays 0
5	SB 1156 Stewart (Identical H 935)	Study to Establish a Statewide Long-term Recycling Goal; Requiring the Department of Environmental Protection to conduct a study on the establishment of a new long-term, statewide recycling goal; providing requirements for the study; requiring the department to submit a report of the results of the study and any policy recommendations to the Governor and the Legislature upon completion of the study, etc. EN 01/31/2022 Fav/CS AEG AP	Fav/CS Yeas 6 Nays 0
6	SB 1418 Albritton (Similar H 1475)	Soil and Groundwater Contamination; Requiring the Department of Environmental Protection to adopt rules for statewide cleanup target levels for perfluoroalkyl and polyfluoroalkyl substances in soil and groundwater; prohibiting such rules from taking effect until ratified by the Legislature; requiring the Office of Program Policy Analysis and Government Accountability to conduct a specified analysis of certain assessment and cleanup programs and submit a report to the Governor and the Legislature by a specified date, etc. EN 01/24/2022 Temporarily Postponed EN 01/31/2022 Temporarily Postponed AEG AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Environment and Natural Resources

Monday, January 31, 2022, 3:00—5:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 1562 Ausley (Identical H 745)	Solar Photovoltaic Facility Development; Citing this act as the "Brownfields to Brightfields Act"; directing the Department of Environmental Protection, in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites and closed landfill sites to determine viable locations for redevelopment as solar photovoltaic facilities, etc. EN 01/31/2022 Favorable AEG AP	Favorable Yeas 6 Nays 0
8	SB 1658 Bean (Compare CS/H 1295)	Executive Appointments; Removing the requirement that appointment of the Secretary of Environmental Protection be subject to the concurrence of three members of the Cabinet, etc. EN 01/18/2022 Temporarily Postponed EN 01/31/2022 Fav/CS RC 01/20/2022 Not Received	Fav/CS Yeas 4 Nays 1
9	SB 1940 Brodeur	Statewide Flooding and Sea Level Rise Resilience; Establishing the Statewide Office of Resiliency within the Executive Office of the Governor; providing for the appointment of a Chief Resilience Officer, etc. EN 01/31/2022 Fav/CS AEG AP	Fav/CS Yeas 5 Nays 0
TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Executive Director of St. Johns River Water Management District			
10	Register, Michael (Seville)	Pleasure of the Board	Recommend Confirm Yeas 5 Nays 0
TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Other Related Meeting Documents			

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 690

INTRODUCER: Senator Rodriguez

SUBJECT: Resilience-related Advisory Committees

DATE: January 28, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hunter	Ryon	CA	Favorable
2.	Collazo	Rogers	EN	Favorable
3.			RC	

I. Summary:

SB 690 permits certain resilience-related advisory committees to conduct public meetings and workshops by means of communications media technology pursuant to the rules of the Administrative Procedures Act. The bill provides that an advisory committee member who participates in a meeting or workshop by means of communications media technology is deemed to be present at such meeting or workshop.

The bill also provides notice requirements and audible communication requirements for such meetings. Additionally, it clarifies that other public meetings laws must be liberally construed for such meetings.

II. Present Situation:

Open Meetings Law

The Florida Constitution provides that the public has a right to access governmental meetings.¹ Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.² This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts, or special districts.³

¹ FLA CONST., art. I, s. 24(b).

² *Id.*

³ FLA CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: “The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public.”

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the “Government in the Sunshine Law,”⁴ or the “Sunshine Law,”⁵ requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.⁶ The board or commission must provide the public reasonable notice of such meetings.⁷ Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public’s access to the facility.⁸ Minutes of a public meeting must be promptly recorded and open to public inspection.⁹ Failure to abide by public meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.¹⁰ A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.¹¹

Administrative Procedure Act

The Administrative Procedure Act (APA)¹² outlines a comprehensive administrative process by which agencies exercise the authority granted by the Legislature while offering citizen involvement. The process subjects state agencies to a uniform procedure in enacting rules and issuing orders and allows citizens to challenge an agency’s decision.¹³

The term “agency” is defined in s. 120.52(1), F.S., as:

- The Governor, each state officer and state department, and each departmental unit described in s. 20.04, F.S.;¹⁴
- The Board of Governors of the State University System;
- The Commission on Ethics;
- The Fish and Wildlife Conservation Commission;
- A regional water supply authority;
- A regional planning agency;
- A multicounty special district, but only if a majority of its governing board is comprised of non-elected persons;
- Educational units;
- Each entity described in chs. 163 (Intergovernmental Programs), 373 (Water Resources), 380 (Land and Water Management), and 582 (Soil and Water Conservation), F.S., and s. 186.504 (regional planning councils), F.S.;
- Each officer and governmental entity in the state having statewide jurisdiction or jurisdiction in more than one county; and

⁴ *Times Pub. Co. v. Williams*, 222 So. 2d 470, 472 (Fla. 2d DCA 1969).

⁵ *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 695 (Fla. 1969).

⁶ Section 286.011(1)-(2), F.S.

⁷ *Id.*

⁸ Section 286.011(6), F.S.

⁹ Section 286.011(2), F.S.

¹⁰ Section 286.011(1), F.S.

¹¹ Section 286.011(3), F.S. Penalties include a fine of up to \$500 or a second degree misdemeanor.

¹² See ch. 120, F.S.

¹³ Joint Administrative Procedures Committee, *A Primer on Florida’s Administrative Procedure Act*, available at <http://www.japc.state.fl.us/Documents/Publications/PocketGuideFloridaAPA.pdf> (last visited Jan. 25, 2022).

¹⁴ Section 20.04, F.S., specifies the structure of the executive branch of state government.

- Each officer and governmental entity in the state having jurisdiction in one county or less than one county, to the extent they are expressly made subject to the act by general or special law or existing judicial decisions.¹⁵

Use of Electronic Media and Public Meetings

Section 120.54(5)(b)2, F.S., requires the Administration Commission¹⁶ to create uniform rules of procedure for state agencies to use when conducting public meetings, hearings or workshops, including procedures for conducting meetings in person and by means of communications media technology.¹⁷ Unless otherwise authorized by the Legislature, these procedures for communications media technology apply only to state agencies and not to local boards or commissions.

The Office of Attorney General has opined that only state agencies can conduct meetings and vote via communications media technology, thus rejecting a school board's request to conduct board meetings via electronic means.¹⁸ The Attorney General reasoned that s. 120.54(5)(b)2, F.S., limits its terms only to uniform rules that apply to state agencies.¹⁹ The Attorney General reasoned that a similar rationale is not applicable to local boards and commissions even though it may be convenient and save money since the representation on these boards and commissions are local thus, "such factors would not by themselves appear to justify or allow the use of electronic media technology in order to assemble the members for a meeting."²⁰

Local entities authorized under current law to conduct meetings and vote by means of communications media technology include regional planning councils (RPCs)²¹ and certain entities created by an interlocal agreement.²²

¹⁵ The definition of agency does not include a municipality or legal entity created solely by a municipality and expressly excludes certain legal entities or organizations found in chs. 343, 348, and 361, F.S., and ss. 339.175 and 163.01(7), F.S.

¹⁶ Section 14.202, F.S. The Administration Commission is composed of the Governor and the Cabinet (The Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture compose the Cabinet. Section 20.03(1), F.S.).

¹⁷ Section 120.54(5)(b)2, F.S. The term "communications media technology" means the electronic transmission of printed matter, audio, full-motion video, freeze-frame video, compressed video, and digital video by any method available.

¹⁸ Op. Att'y Gen. Fla. 98-28 (1998).

¹⁹ *Id.* The Attorney General explained that "allowing state agencies and their boards and commissions to conduct meetings via communications media technology under specific guidelines recognizes the practicality of members from throughout the state participating in meetings of the board or commission."

²⁰ *Id.* However, if a quorum of a local board is physically present at the public meeting, a board may allow a member who is unavailable to physically attend the meeting due to extraordinary circumstances such as illness, to participate and vote at the meeting via communications media technology.

²¹ Section 120.525(4), F.S. Chapter 186, F.S., finds that RPCs are comprehensive planning districts of the state, designated as the primary organization to address problems and plan solutions that are of greater-than-local concern or scope and recognized as Florida's multipurpose regional entities in a position to plan for and coordinate intergovernmental solutions to growth-related problems. By statute, the state is divided into 10 RPC regions. Each county must be a member of their respective RPC and municipalities may be members at their option.

²² Section 163.01(18), F.S. (Allowing public agencies located in at least five counties, of which at least three are not contiguous, to conduct public meetings and workshops by means of communications media technology).

Resilience-related Advisory Committees

In 2021, the Legislature authorized the Department of Environmental Protection (DEP), subject to specific legislative appropriation, to provide funding to regional resilience entities that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea level rise.²³ The DEP is authorized to provide funding to regional resilience entities for the following purposes:

- Providing technical assistance to counties and municipalities.
- Coordinating multijurisdictional vulnerability assessments.
- Developing project proposals to be submitted for inclusion in the statewide resilience plan.²⁴

Local governments who apply for inclusion as a regional resilience entity must have a memorandum of understanding between the members of the entity, or an equivalent, to be eligible to apply.²⁵ According to DEP, seven regional resilience entities have applied for funding from the DEP.

Florida's local governments are at the forefront of preparing for and addressing flooding and sea level rise.²⁶ Generally, every community will need to go through a process of planning and implementing adaptation strategies and projects.²⁷ Florida's coastal local governments must have a coastal management element in their comprehensive plans which advances objectives to protect public safety and coastal resources.²⁸

Many local governments in the state have worked together to form regional resilience entities that vary in size and distance between member governments. Examples of regional resilience entities²⁹ that exist across the state include the Southeast Florida Regional Climate Change

²³ Section 380.093(6), F.S.

²⁴ Section 380.093(6), F.S.

²⁵ See DEP, Office of Resilience & Coastal Protection, *Resilient Florida*, available at <https://frcp.secure-platform.com/a> (last visited Jan. 25, 2022).

²⁶ See DEP, *Florida Adaptation Planning Guidebook*, at I, available at <https://floridadep.gov/sites/default/files/AdaptationPlanningGuidebook.pdf> (last visited Jan. 25, 2022).

²⁷ See DEP, *Florida Resilient Coastlines Program - Grants*, <https://floridadep.gov/rcp/florida-resilient-coastlines-program/content/florida-resilient-coastlines-program-funded> (last visited Jan. 25, 2022).

²⁸ Sections 380.24, 163.3177(6)(g), and 163.3178(2), F.S. Section 380.24, F.S., provides the description of which local governments are subject to these requirements: “[u]nits of local government abutting the Gulf of Mexico or the Atlantic Ocean, or which include or are contiguous to waters of the state where marine species of vegetation listed by rule as ratified in s. 373.4211 constitute the dominant plant community...”

²⁹ DEP, *Resilient Florida Grant Program Webinar Presentation*, available at <http://publicfiles.dep.state.fl.us/CAMA/FRCP/Resilient%20Florida%207.14.21%20Resources/Resilient%20Florida%20Grant%20Program%20Webinar%20Presentation%20-%20July%2014,%202021.pdf> (last visited Jan. 25, 2022).

Compact,³⁰ East Central Florida Regional Resilience Collaborative,³¹ and the Tampa Bay Regional Resiliency Coalition.³²

The majority of these type of entities follow the boundaries of Florida's RPCs and are often coordinated by the respective RPC. While membership is typically coordinated through county boundaries, resilience entities often seek out member partners from municipalities within the geographic region, as well as businesses, universities, and non-profit organizations.³³ Members of the entities often meet to enact compacts relating to the region's approach to resilience.

Southeast Florida Regional Climate Change Compact

The Southeast Florida Regional Climate Change Compact is a longstanding partnership between Broward, Miami-Dade, Monroe, and Palm Beach Counties executed in January 2010. This entity was formed to engage regional partners to work collaboratively to reduce regional greenhouse gas emissions, implement adaptation strategies, and build climate resilience within member communities and across the Southeast Florida region. Since its inception, the Compact counties have collaborated on mitigation and adaptation strategies, worked to build bipartisan support for climate action, and forged partnerships with stakeholders, including federal, state, and municipal governments and agencies; economic development entities; community-based organizations; and the academic community.³⁴

III. Effect of Proposed Changes:

SB 690 amends s. 286.011, F.S., to authorize resilience-related advisory committees whose membership is composed solely of representatives of four or more counties, when there is at least 200 miles of geographic distance between the county seats of the two most distant counties to conduct public meetings and workshops by means of communications media technology pursuant to the rules of the Administrative Procedures Act. Of the seven regional resilience entities that have applied for funding from DEP, this bill appears to currently apply only to the Southeast Florida Regional Climate Change Compact.

The bill provides that an advisory committee member who participates in a meeting or workshop by means of communications media technology is deemed to be present at such meeting. The bill

³⁰ Southeast Florida Regional Climate Change Compact, *About the Compact*, available at <https://southeastfloridaclimatecompact.org/> (last visited Jan. 25, 2022).

³¹ In 2018, the East Central Florida Regional Planning Council adopted a resolution to convene stakeholders across the region to develop a structure and framework for a regional resilience collaborative. Members include Lake, Orange, Osceola, Volusia, and Brevard counties and 22 member cities. See East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, available at <https://www.ecfrpc.org/resiliencecollaborative> (last visited Jan. 25, 2022).

³² The Tampa Bay Regional Resiliency Coalition is comprised of members from Citrus, Hernando, Hillsborough, Manatee, Pasco and Pinellas counties and the 21 municipalities that come together to discuss complex regional issues; develop strategic regional responses for resolving them; and build consensus for setting and accomplishing regional goals. See Tampa Bay Regional Planning Council, *Tampa Bay Regional Resiliency Coalition*, available at <https://www.tbrpc.org/coalition/> (last visited Jan. 25, 2022).

³³ Tampa Bay Regional Planning Council, *Participate in the Tampa Bay Regional Resiliency Coalition*, available at <https://www.tbrpc.org/coalitionpartner/> (last visited Jan. 25, 2022).

³⁴ Southeast Florida Regional Climate Change Compact, *What is the Compact?*, available at <https://southeastfloridaclimatecompact.org/about-us/what-is-the-compact/> (last visited Jan. 25, 2022).

requires that communications media technology must allow for all persons attending such public meeting or workshop to audibly communicate, as would be allowed if they were physically present.

The bill states that notice for such a meeting or workshop must state whether it will be conducted using communications media technology, how an interested person may participate, and the locations of any facilities where communications media technology will be available.

Additionally it clarifies that other public meetings laws must be liberally construed for such meetings.

The bill takes 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Authorizing resilience-related advisory committees to use communication media technology for meeting purposes may save on travel time and cost for these entities.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 286.011 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Rodriguez

39-00926-22

2022690__

1 A bill to be entitled
2 An act relating to resilience-related advisory
3 committees; amending s. 286.011, F.S.; authorizing
4 specified resilience-related advisory committees to
5 conduct public meetings and workshops by means of
6 communications media technology; providing that use of
7 such technology by a committee member constitutes that
8 member's presence at such meeting or workshop;
9 requiring that such technology allow the public to
10 audibly communicate; providing notice requirements for
11 public meetings or workshops conducted by means of
12 communications media technology; providing
13 construction; providing an effective date.
14

15 Be It Enacted by the Legislature of the State of Florida:
16

17 Section 1. Subsection (9) is added to section 286.011,
18 Florida Statutes, to read:

19 286.011 Public meetings and records; public inspection;
20 criminal and civil penalties.—

21 (9) (a) Notwithstanding any other law to the contrary,
22 resilience-related advisory committees whose membership is
23 composed solely of representatives of four or more counties,
24 when there is at least 200 miles of geographic distance between
25 the county seats of the two most distant counties, may conduct
26 public meetings and workshops by means of communications media
27 technology as defined in s. 120.54(5)(b)2. An advisory committee
28 member who participates in a meeting or workshop by means of
29 communications media technology is deemed to be present at such

39-00926-22

2022690__

30 meeting or workshop. For the purpose of this paragraph, the
31 communications media technology must allow for all persons
32 attending such public meeting or workshop to audibly
33 communicate, as would be allowed if they were physically
34 present.

35 (b) The notice for such a meeting or workshop must state
36 whether it will be conducted using communications media
37 technology, how an interested person may participate, and the
38 locations of any facilities where communications media
39 technology will be available.

40 (c) Any other laws applicable to public meetings or
41 workshops conducted by means of communications media technology
42 must be liberally construed in their application to meetings and
43 workshops conducted as provided in this subsection.

44 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: CS/SB 1238

INTRODUCER: Environment and Natural Resources Committee and Senator Polsky

SUBJECT: Saltwater Intrusion Vulnerability Assessments

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Fav/CS
2.			GO	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1238 amends the Resilient Florida Grant Program to authorize the Department of Environmental Protection (DEP) to provide grants to coastal counties to fund the costs of saltwater intrusion vulnerability assessments (Assessments).

It provides that beginning July 1, 2023, DEP may provide grants to coastal counties to conduct Assessments analyzing the effects of saltwater intrusion on their water supplies and preparedness to respond to such threats, including water utility infrastructure, wellfield protection, and freshwater supply management. Each Assessment must include certain information specified in the bill.

The bill requires DEP to use the information contained within the Assessment to update its Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set. DEP must also make any appropriate information from the Assessment available to the public on its website.

The bill also requires DEP to provide 50 percent cost-share funding, up to \$250,000, for each grant awarded under the Resilient Florida Grant Program. A county with a population of 50,000 or less is not required to contribute to the cost share.

II. Present Situation:

Saltwater Intrusion

Drinking water in Florida comes primarily from water found within underground layers of water-bearing rock or sand called aquifers.¹ Aquifers can be thought of as vast underground, porous rocks that hold water and allow water to move through the holes within the rock. They can be composed of different types of earthen materials, such as sand, shell, and limestone. Fresh and salt water fill the various sized holes in the rock; freshwater generally fills the uppermost part of aquifers, while saltwater is present at greater depths.² Where these aquifer layers meet the ocean (referred to as the freshwater/saltwater interface and depicted in the illustration below),³ there is the possibility of saltwater moving inland and polluting the freshwater aquifers.⁴

Saltwater intrusion is the movement of saline water into freshwater aquifers resulting in contamination of drinking water resources.⁵ It is caused by drilling wells too deep, excessive groundwater pumping, sea level rise, severe drought, and other factors.⁶ It occurs in different ways, including lateral encroachment from coastal waters and vertical movement of saltwater near discharging wells.⁷

Under natural conditions, the seaward movement of freshwater prevents saltwater from encroaching on freshwater coastal aquifers. However, groundwater pumping can reduce freshwater flow toward coastal areas and cause saltwater to be drawn toward the freshwater zones of the aquifer.⁸ Rising sea levels also push saltwater upstream in tidal rivers and streams, raise coastal ground water tables, and push saltwater further inland in soils at the margins of coastal wetlands causing wetland boundaries to expand where they are unimpeded.⁹

¹ See South Florida Water Management District (SFWMD), *Saltwater Intrusion in Coastal Aquifers*, <https://storymaps.arcgis.com/stories/3731671833e34567b783e9b881a8b36e> (last visited Jan. 25, 2022); see also St. Johns River Water Management District (SJRWMD), *Florida's Aquifers*, <https://www.sjrwmd.com/water-supply/aquifer/> (last visited Jan. 25, 2022).

² SJRWMD, *Florida's Aquifers*, <https://www.sjrwmd.com/water-supply/aquifer/> (last visited Jan. 25, 2022).

³ *Id.*

⁴ SFWMD, *Saltwater Intrusion in Coastal Aquifers*, <https://storymaps.arcgis.com/stories/3731671833e34567b783e9b881a8b36e> (last visited Jan. 25, 2022).

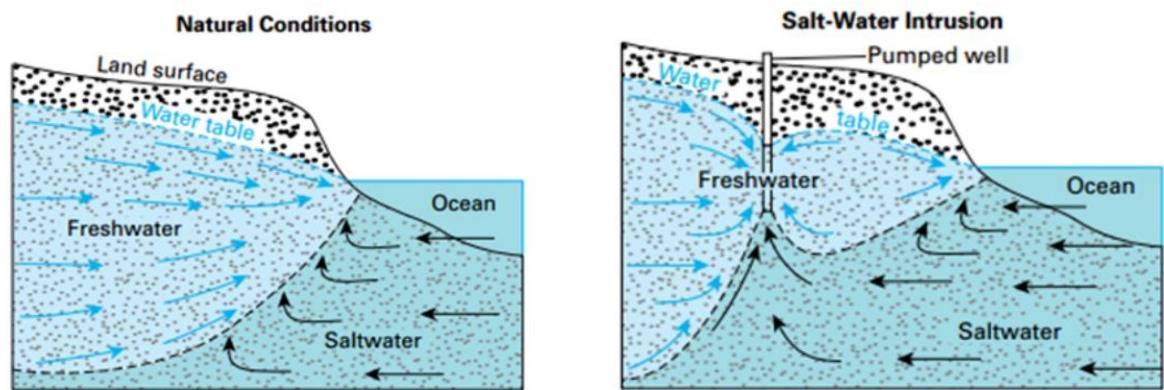
⁵ University of Pennsylvania, The Water Center, *Salt Intrusion: A Threat to Source Water Quality*, <https://watercenter.sas.upenn.edu/salt-intrusion-a-threat-to-source-water-quality/> (last visited Jan. 25, 2022).

⁶ *Id.*; U.S. Geological Survey (USGS), *Seawater Intrusion*, <https://www.usgs.gov/mission-areas/water-resources/science/saltwater-intrusion> (last visited Jan. 25, 2022); SJRWMD, *Florida's Aquifers*, <https://www.sjrwmd.com/water-supply/aquifer/> (last visited Jan. 25, 2022).

⁷ USGS, *Seawater Intrusion*, <https://www.usgs.gov/mission-areas/water-resources/science/saltwater-intrusion> (last visited Jan. 25, 2022).

⁸ *Id.*

⁹ Dep't of Emergency Management, *Enhanced State Hazard Mitigation Plan*, 107-108 (2018), available at https://www.floridadisaster.org/globalassets/dem/mitigation/mitigate-fl--shmp/shmp-2018-full_final_approved.6.11.2018.pdf (last visited Jan. 20, 2022).

(Effects on Coastal Waters)¹⁰

Water for drinking, irrigation, and most industrial uses needs to be potable.¹¹ Contamination from ocean saltwater moving into the aquifer means users must find another source of freshwater or treat the water to remove the salt, which is costly.¹² Public water supply utilities may shut down a well if it becomes too salty.¹³ Utilities with wellfields near the freshwater/saltwater interface that do not have an inland wellfield, have not developed alternative water supply sources, and have limited ability during a drought to meet user needs through interconnects with other utilities are considered more vulnerable.¹⁴

Saltwater intrusion can cause flooding.¹⁵ Because saltwater is denser than freshwater, the aquifer becomes stratified with a layer of freshwater that sits atop a layer of denser saltwater below. When sea level rise acts upon an aquifer like this, it can cause the freshwater layer to rise in response. This causes flooding as the top of the water, called the water table, gets closer to ground surface.¹⁶

Saltwater intrusion can also cause a decline in forest and agricultural productivity. Saltwater degrades coastal wetlands and barrier islands, which buffer inland areas from storm surge, by killing less salt-tolerant species and leaving behind “ghost forests” or wetland areas with only standing dead trees.¹⁷ Over time, saltwater intrusion, along with rising sea levels, convert these diverse wetland ecosystems into grass marshes and eventually into open water. The loss in forest

¹⁰ USGS, *Seawater Intrusion*, <https://www.usgs.gov/mission-areas/water-resources/science/saltwater-intrusion> (last visited Jan. 25, 2022).

¹¹ *Id.*; see also Scott Jasechko et al., *Groundwater Level Observations in 250,000 Coastal US Wells Reveal Scope of Potential Seawater Intrusion*, 11 NATURE COMMUNICATIONS 3229 (2020), available at <https://www.nature.com/articles/s41467-020-17038-2> (last visited Jan. 25, 2022).

¹² SFWMD, *Saltwater Intrusion in Coastal Aquifers*, <https://storymaps.arcgis.com/stories/3731671833e34567b783e9b881a8b36e> (last visited Jan. 25, 2022).

¹³ *Id.*; USGS, *Seawater Intrusion*, <https://www.usgs.gov/mission-areas/water-resources/science/saltwater-intrusion> (last visited Jan. 25, 2022).

¹⁴ SFWMD, *Saltwater Intrusion in Coastal Aquifers*, <https://storymaps.arcgis.com/stories/3731671833e34567b783e9b881a8b36e> (last visited Jan. 25, 2022).

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ U.S. Dep’t of Agriculture, Climate Hubs, *Saltwater Intrusion*, <https://www.climatehubs.usda.gov/taxonomy/term/399> (last visited Jan. 25, 2022).

and agricultural productivity due to increased soil salinity results in decreased ecosystem diversity and habitat for birds, fish, and the animals that prey on them.¹⁸

Coastal counties exhibiting the following characteristics are particularly susceptible to lateral saltwater intrusion:¹⁹

- Proximity to the ocean, inlets, and lagoons.
- A large number of coastal wellfields.
- Low land surface elevations (less than 10 feet above mean sea level).
- Drainage canals that lower the water table, which reduce the water pressure exerted against the saltwater interface.
- Canals without coastal water control structures to inhibit inland movement of seawater.
- Rising sea levels.²⁰

Several assessments have been prepared relevant to the impact of sea level rise on water supplies. For example, the South Florida Water Management District has evaluated saltwater intrusion in the surficial aquifer system of the Big Cypress Basin and southwest Florida²¹ and documented and mapped the saltwater interface in coastal aquifers within St. Lucie, Martin, Palm Beach, Broward, Collier, and Lee counties.²² The U.S. Geological Survey conducts saltwater interface mapping for Miami-Dade and Monroe counties.²³ At least one evaluation of Florida's saltwater intrusion monitoring network has been performed.²⁴ The Northwest Florida Water Management District has commissioned a report evaluating saltwater intrusion in the Floridan Aquifer in Walton, Okaloosa, and Santa Rosa counties.²⁵ There is also research more directly considering the potential effects to human health from sea level rise and saltwater intrusion impacts on water supplies.²⁶

Statewide Resilience Programs

In 2021, the Legislature, recognizing that Florida is vulnerable to flooding from increasing rainfall, storm surge, and sea level rise, established several statewide resilience programs.²⁷ Those programs include the following:

¹⁸ *Id.*

¹⁹ See SFWMD, *Saltwater Intrusion in Coastal Aquifers*, <https://storymaps.arcgis.com/stories/3731671833e34567b783e9b881a8b36e> (last visited Jan. 25, 2022).

²⁰ *Id.*

²¹ USGS, *Saltwater Intrusion in the Surficial Aquifer System of the Big Cypress Basin, Southwest Florida, and a Proposed Plan for Improved Salinity Monitoring: U.S. Geological Survey Open-File Report 2013-1088* (2013), available at <http://pubs.usgs.gov/of/2013/1088/> (last visited Jan. 27, 2022).

²² SFWMD, *Saltwater Interface Monitoring and Mapping Program*, Technical Publication WS-58 (Dec. 2020), 1, available at https://www.sfwmd.gov/sites/default/files/documents/ws-58_swi_mapping_report_final.pdf (last visited Jan. 27, 2022).

²³ *Id.*

²⁴ Scott T. Prinos, *Saltwater Intrusion Monitoring in Florida*, 79 FLORIDA SCIENTIST 4, 269 (Fall 2016), available at <https://www.jstor.org/stable/44113190> (last visited Jan. 27, 2022).

²⁵ HydroGeoLogic, Inc., *Saltwater Intrusion in the Floridan Aquifer in Walton, Okaloosa and Santa Rosa Counties, Florida, Eastern Model Domain, Final Report* (Sept. 2007), available at https://nwfwater.com/content/download/19030/127812/2007_09_HGL_R2_ED_model_final.pdf (last visited Jan. 27, 2022).

²⁶ Meagan L. Weisner, Florida Atlantic University Dep't of Geosciences, *Sea-Level Rise in South Florida: Impacts to Drinking Water and Human Health*, available at <http://www.ces.fau.edu/arctic-florida/pdfs/meagan-weisner.pdf> (last visited Jan. 27, 2022).

²⁷ See ch. 2021-28, Laws of Fla., codified in ss. 380.093, 380.0933, 403.928(4), F.S.

- The Department of Environmental Protection’s (DEP’s) Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets.²⁸ The findings of the assessments must be reported to DEP.
- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years.²⁹ DEP must:
 - By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.
 - By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.³⁰
- The Statewide Flooding and Sea Level Rise Resilience Plan.³¹
 - By each December 1, DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature for funding of ranked projects. These projects must address risks of flooding and sea level rise to coastal and inland communities in the state.³²
 - By each September 1, counties and municipalities may submit to DEP a list of proposed projects that address risks of flooding or sea level rise identified in vulnerability assessments meeting the requirements of the Resilient Florida Grant Program.³³
 - By each September 1, each water management district and flood control district may submit to DEP a list of any proposed projects that mitigate the risks of flooding or sea level rise on water supplies or water resources of the state and a corresponding evaluation of each project.³⁴

Coastal Counties

There are a total of 35 coastal counties in Florida, which are depicted in the following illustration:³⁵

²⁸ Section 380.093(2)(a), F.S. “Critical asset” is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

²⁹ Section 380.093(4), F.S.

³⁰ *Id.*

³¹ Section 380.093(5), F.S.

³² Section 380.093(5)(a)-(c), F.S.

³³ Section 380.093(5)(d)1., F.S.

³⁴ Section 380.093(5)(d)2., F.S.

³⁵ Dep’t of Environmental Protection, *Map of Florida’s Coastal Counties*, <https://floridadep.gov/rcp/fcmp/documents/map-floridas-coastal-counties> and <https://floridadep.gov/sites/default/files/CPI-coastal-Florida-map.pdf> (last visited Jan. 25, 2022).



Of these 35 counties, the following 7 counties are estimated to have populations that are less than 50,000 as of April 1, 2021:³⁶

- Gulf (14,824)
- Franklin (12,364)
- Wakulla (34,311)
- Jefferson (14,590)
- Taylor (20,957)
- Dixie (16,804)
- Levy (43,577)

III. Effect of Proposed Changes:

The bill amends the Resilient Florida Grant Program to authorize the Department of Environmental Protection (DEP) to provide grants to coastal counties to fund the costs of saltwater intrusion vulnerability assessments (Assessments).

It provides that beginning July 1, 2023, DEP may provide grants to coastal counties to conduct Assessments analyzing the effects of saltwater intrusion on their water supplies and preparedness to respond to such threats, including water utility infrastructure, wellfield protection, and freshwater supply management.

³⁶ Office of Economic and Demographic Research, *Florida Population Estimates by County and Municipality as of April 1, 2021*, available at http://www.edr.state.fl.us/Content/population-demographics/data/2021_pop_estimates.pdf (last visited Jan. 25, 2022).

Each Assessment must include all of the following information:

- The county's primary water utilities;
- Current maps of the county's freshwater wellfields and latest saltwater intrusion impact lines;
- Projections of saltwater intrusion over the next decade, including specific wells that may be impacted during that timeframe; and
- An analysis of the costs necessary to relocate freshwater wellfields that are anticipated to be impacted, including current projects that are underway to relocate the freshwater wellfields.

The bill requires DEP to use the information contained within the Assessment to update its Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set. DEP must also make any appropriate information from the Assessment available to the public on its website.

The bill also requires DEP to provide 50 percent cost-share funding, up to \$250,000, for each grant awarded under the Resilient Florida Grant Program. A county with a population of 50,000 or less is not required to contribute to the cost share.

The bill takes 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Coastal counties with a population greater than 50,000 that obtain a Resilient Florida Grant Program grant may receive up to half the costs associated with preparing the saltwater intrusion vulnerability assessment up to the \$250,000 cap on DEP's. Coastal counties with a population less than 50,000 will not need to provide 50 percent of the costs. This will have a positive fiscal impacts on coastal counties.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 380.093 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 January 31, 2022:**

- Revises s. 380.093, F.S., relating to resiliency planning and funding, to authorize the Department of Environmental Protection (DEP) to provide grants to coastal counties to fund the costs of saltwater intrusion vulnerability assessments (Assessments).
- Provides that beginning July 1, 2023, DEP may provide grants to coastal counties to conduct Assessments analyzing the effects of saltwater intrusion on their water supplies and preparedness to respond to such threats.
- Provides what information each Assessment must include.
- Requires DEP to use the information contained in the Assessment to update its Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set.
- Requires DEP to make appropriate information it receives in the Assessment available to the public on its website.
- Requires DEP to provide 50 percent cost-share funding, up to \$250,000, for each grant awarded.
- Provides that counties with a population of 50,000 or less are not required to contribute to the cost share.

B. Amendments:

None.



265632

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (b) of subsection (3) of section
380.093, Florida Statutes, is amended, and paragraph (e) is
added to that subsection, to read:

380.093 Resilient Florida Grant Program; comprehensive
statewide flood vulnerability and sea level rise data set and
assessment; Statewide Flooding and Sea Level Rise Resilience



265632

Plan; regional resilience entities.—

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(b) Subject to appropriation, the department may provide grants to a county or municipality to fund the costs of community resilience planning and necessary data collection for such planning, including comprehensive plan amendments and necessary corresponding analyses that address the requirements of s. 163.3178(2)(f); vulnerability assessments that identify or address risks of flooding and sea level rise; the development of projects, plans, and policies that allow communities to prepare for threats from flooding and sea level rise; saltwater intrusion vulnerability assessments for coastal counties pursuant to paragraph (e); and projects to adapt critical assets to the effects of flooding and sea level rise.

(e) Within the Resilient Florida Grant Program, beginning July 1, 2023, the department may provide grants to coastal counties to conduct vulnerability assessments analyzing the effects of saltwater intrusion on the county's water supply and the preparedness of the county to respond to such a threat, including water utility infrastructure, wellfield protection, and freshwater supply management.

1. Each saltwater vulnerability assessment must include all of the following information:

a. The county's primary water utilities.

b. Current maps of the county's freshwater wellfields and latest saltwater intrusion impact lines.

c. Projections of saltwater intrusion over the next decade, including specific wells that may be impacted during that timeframe.



265632

d. An analysis of the costs necessary to relocate freshwater wellfields that are anticipated to be impacted, including current projects that are underway to relocate the freshwater wellfields.

2. The department shall use the information contained within the county's vulnerability assessment to update its comprehensive statewide flood vulnerability and sea level rise data set under subsection (4).

3. The department must make any appropriate information from the vulnerability assessment it receives from coastal counties pursuant to this paragraph available to the public on the department's website.

4. The department shall provide 50 percent cost-share funding, up to \$250,000, for each grant awarded under this paragraph. A county with a population of 50,000 or less is not required to contribute to the cost share.

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 saltwater intrusion vulnerability assessments; amending s. 380.093, F.S.; authorizing the Department of Environmental Protection to provide grants for saltwater intrusion vulnerability assessments; specifying the purpose of and requirements for the assessments; requiring the



265632

69 department to update the comprehensive statewide flood
70 vulnerability and sea level rise data set and make
71 certain information received from the saltwater
72 intrusion vulnerability assessments available on its
73 website; requiring the department to provide cost-
74 share funding up to a specified amount for awarded
75 grants; providing an effective date.

By Senator Polsky

29-00292C-22

20221238__

1 A bill to be entitled
2 An act relating to saltwater intrusion vulnerability
3 assessments; amending s. 380.093, F.S.; requiring
4 coastal counties to conduct vulnerability assessments
5 analyzing the effects of saltwater intrusion on their
6 water supplies and their preparedness to respond to
7 threats, by a specified date; specifying requirements
8 for the assessments; requiring each coastal county to
9 provide copies of its assessment to the Department of
10 Environmental Protection and the respective water
11 management districts; requiring the water management
12 districts, in collaboration with the coastal counties,
13 to submit certain projects to the department based on
14 the assessments by a specified date; requiring the
15 department to update the comprehensive statewide flood
16 vulnerability and sea level rise data set and make
17 certain information received from the saltwater
18 intrusion vulnerability assessments available on its
19 website; requiring the department to provide cost-
20 share funding up to a specified amount for certain
21 coastal counties; providing an effective date.

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

24
25 Section 1. Paragraph (d) of subsection (5) of section
26 380.093, Florida Statutes, is amended to read:

27 380.093 Resilient Florida Grant Program; comprehensive
28 statewide flood vulnerability and sea level rise data set and
29 assessment; Statewide Flooding and Sea Level Rise Resilience

29-00292C-22

20221238__

30 Plan; regional resilience entities.—

31 (5) STATEWIDE FLOODING AND SEA LEVEL RISE RESILIENCE PLAN.—

32 (d)1. By September 1, 2021, and each September 1
33 thereafter, counties and municipalities may submit to the
34 department a list of proposed projects that address risks of
35 flooding or sea level rise identified in vulnerability
36 assessments that meet the requirements of subsection (3). A
37 regional resilience entity may also submit such proposed
38 projects to the department on behalf of one or more member
39 counties or municipalities.

40 2. By September 1, 2021, and each September 1 thereafter,
41 each water management district and flood control district may
42 submit to the department a list of any proposed projects that
43 mitigate the risks of flooding or sea level rise on water
44 supplies or water resources of this ~~the~~ state and a
45 corresponding evaluation of each project.

46 3. By September 1, 2022, each coastal county in this state
47 shall conduct a vulnerability assessment analyzing the effects
48 of saltwater intrusion on the county's water supply and the
49 preparedness of the county to respond to such a threat,
50 including water utility infrastructure, wellfield protection,
51 and freshwater supply management.

52 a. Each saltwater intrusion vulnerability assessment must
53 include all of the following information:

54 (I) The county's primary water utilities.

55 (II) Current maps of the county's freshwater wellfields and
56 latest saltwater intrusion impact lines.

57 (III) Projections of saltwater intrusion over the next
58 decade, including specific wells that may be impacted during

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that timeframe.

(IV) An analysis of the costs necessary to relocate freshwater wellfields that are anticipated to be impacted, including current projects that are underway to relocate the freshwater wellfields.

b. Each coastal county shall provide the department and the respective water management districts with a copy of the county's saltwater intrusion vulnerability assessment. The department shall use the information to update its comprehensive statewide flood vulnerability and sea level rise data set under subsection (4). The water management districts shall, in collaboration with their coastal counties, use the information detailed in the assessments to submit projects to the department pursuant to subparagraph 2.

c. The department shall make the vulnerability assessment information it receives from coastal counties pursuant to this subparagraph accessible to the public on the department's website.

d. For coastal counties with populations of 200,000 or less, the department shall provide 50 percent cost-share funding, up to \$150,000, for each county's saltwater intrusion vulnerability assessment.

4. Each project submitted to the department by a county, municipality, regional resilience entity, water management district, or flood control district for consideration by the department for inclusion in the plan must include:

a. A description of the project.

b. The location of the project.

c. An estimate of how long the project will take to

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20221238__

88 complete.

89 d. An estimate of the cost of the project.

90 e. The cost-share percentage available for the project.

91 f. The project sponsor.

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



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Florida Department of Environmental Protection

BILL INFORMATION

BILL NUMBER:	HB 965
BILL TITLE:	Environmental Management
BILL SPONSOR:	Truenow
EFFECTIVE DATE:	07/01/2022

COMMITTEES OF REFERENCE

1) Environment, Agriculture & Flooding Subcommittee
2) Ag & Natural Resources Approps. Subcommittee
3) State Affairs Committee
4) Click or tap here to enter text.
5) Click or tap here to enter text.

CURRENT COMMITTEE

Environment, Agriculture & Flooding Subcommittee
--

SIMILAR BILLS

BILL NUMBER:	SB 1426
SPONSOR:	Burgess

PREVIOUS LEGISLATION

BILL NUMBER:	HB 713/SB 754
SPONSOR:	Pigman/Grimsley
YEAR:	2013
LAST ACTION:	HB 713 Passed (see Chapter 2013-146, Laws of Florida)

IDENTICAL BILLS

BILL NUMBER:	None filed to date.
SPONSOR:	Click or tap here to enter text.

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	1/7/22
LEAD AGENCY ANALYST:	Alex Bickley
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Ann Prescott, Kenneth Hayman
FISCAL ANALYST:	Teresa Johnson

POLICY ANALYSIS

1. **EXECUTIVE SUMMARY**

Water Quality Enhancement Areas

The proposed addition to Chapter 373, F.S., enables Environmental Resource Permit (ERP) applicants to meet applicable water quality discharge requirements by purchasing credits generated from Department of Environmental Protection (DEP)-permitted offsite water quality enhancement areas (WQEAs).

The bill enumerates permitting criteria for permit applications for the development and operation of offsite WQEAs (facilities), including a requirement for demonstrated net water quality improvement to the receiving waterbody (although the bill does not define the “receiving waterbody”) and ability to achieve the defined performance or success criteria for reduction of those pollutants preventing the receiving waterbody from meeting state water quality standards.

The bill directs DEP to adopt rules to establish permitting criteria for these facilities, develop criteria for the assessment and determination of enhancement credits that would be generated for the facility, and establish the service areas in which the credits may be used.

The proposed addition to Chapter 403, F.S., authorizes DEP to enter into agreements or contracts with public or private entities to accept funds and payments in order to expedite the processing of that entity's ERP or State 404 permit applications.

Section 404 Permitting Assistance

The bill also provides for recurring spending authority of \$2,040,000 and authorizes 24 new full-time equivalent (FTE) positions to DEP for the processing of ERP or State 404 permit applications for entities who enter agreements with DEP.

2. SUBSTANTIVE BILL ANALYSIS

1. **PRESENT SITUATION:**

Environmental Resource Permits (ERP)

Part IV of chapter 373, F.S., regulates the construction, alteration, operation, maintenance, abandonment and removal of stormwater management systems, dams, impoundments, reservoirs, works and appurtenant works. Such projects include dredging and filling in wetlands and other surface waters.¹ DEP, the five water management districts (WMDs), and certain local governments delegated by DEP² jointly implement Florida's ERP program. The agencies' responsibilities are divided according to the Operating and Delegation Agreement³ and the geographic regions of the WMDs.⁴

To receive an ERP, an applicant must demonstrate the proposed activity will not be harmful to the water resources and will not be inconsistent with the overall objectives of the WMD. The applicant must provide reasonable assurance the activity will not violate the applicable water quality standards (either in the immediate receiving water or downstream waters) and the activity is not contrary to the public interest. For activities in Outstanding Florida Waters, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.⁵ It is the intent of DEP and the WMDs that they will implement these criteria in a manner that achieves a programmatic goal, and a project-permitting goal, of no net loss in wetlands or other surface water functions.⁶

ERP applicants must currently meet water quality standards at the point of discharge into the receiving waterbody. Compliance generally may not be achieved through offsite water quality improvement activities because offsite activities typically result in worse water quality at the point of discharge and may result in worse downstream water quality.

Sections of the ERP Applicants Handbook Volume II for NFWFMD (section 2.9), SWFWMD (section 4.8) and SRWMD (section 3.5), incorporated by reference in Rule 62-330, F.A.C., describe Compensating Stormwater Treatment and Overtreatment. Off-site compensation means to provide treatment to compensate for the lack of

¹ Section 373.413(1), F.S.; *Environmental Resource Permit Applicant's Handbook, Volume 1*, AH 1.0, incorporated by reference in r. 62-330.010(4), F.A.C.

² Section 373.441, F.S.

³ Incorporated by reference in chapter 62-113, F.A.C.

⁴ *Environmental Resource Permit Applicant's Handbook, Volume 1*, AH 1.0, incorporated by reference in r. 62-330.010(4), F.A.C.

⁵ Section 373.414(1), F.S.

⁶ DEP, *Environmental Resource Permit Applicant's Handbook, Volume 1*, AH 10.1, incorporated by reference in r. 62-330.010(4), F.A.C.

on-site treatment for portions of a proposed project, stipulating that the off-site treatment occurs in the same watershed as the project. The handbooks require modeling to provide reasonable assurance that the compensating treatment removes the same amount of stormwater pollution as the amount needing removal in the untreated area.

Water Quality

Pursuant to the federal Clean Water Act, states are required to develop lists of waterbodies that do not meet water quality standards (WQS) (impaired waters). For impaired waters, the state is charged with developing a total maximum daily load (TMDL) for the waterbody. A TMDL calculates the maximum allowable amount of a pollutant that the waterbody can receive, while implementing the WQS.⁷ A waterbody may have several TMDLs, one for each pollutant that exceeds the waterbody's capacity to absorb it safely.

When a TMDL has been established for an impaired water, a basin management action plan (BMAP) may be developed by DEP.⁸ BMAPs implement comprehensive regulatory, non-regulatory, and incentive-based strategies to reduce pollutant loadings. Regulatory actions may include the issuance or revision of permits for environmental resources, wastewater, and stormwater. Non-regulatory and incentive-based actions may include habitat preservation or restoration, and the development and implementation of best management practices (BMPs).⁹

BMAP development involves collaboration with local stakeholders, local government agencies, and state agencies, including the applicable WMD and the Department of Agriculture and Consumer Services (DACS).¹⁰ The BMAP must be adopted by order of the Secretary of the DEP pursuant to chapter 120, F.S.¹¹

In Florida, the existing Basin Management Action Plan (BMAP) program currently allows water quality credit trading to meet BMAP load reduction requirements for nutrients (phosphorus and nitrogen) only.¹² The BMAP credit trading program does not change ERP permitting requirements. BMAP credit trading is associated with stakeholders fulfilling their obligations to achieve allocated load reductions (often for waters far downstream of the discharge), while the ERP program is concerned with the discharge from an ERP-permitted activity achieving water quality and quantity requirements at the point of discharge.

Section 404 Permits

Section 404 of the Clean Water Act (CWA) provides the principle federal protection for wetlands.¹³ The United States Environmental Protection Agency (EPA) and the United States Army Corps of Engineers (Corps) jointly implement the section 404 dredge and fill permitting program (program).¹⁴ Under the law, no person may discharge dredge or fill materials into navigable waters without a permit.¹⁵ Navigable waters are waters of the United States, including the territorial seas.¹⁶

A state or tribe may seek assumption of the program in certain waters.¹⁷ The Corps retains jurisdiction in tidal waters and their adjacent wetlands and waters used as a means to transport interstate or foreign commerce and their adjacent wetlands.¹⁸ For those waters, an applicant will need to continue to seek authorizations from both the Corps and the state or tribe permitting agency. The state or tribe program must regulate all discharges of dredged or fill material into state assumed waters. EPA will not approve partial state programs.¹⁹ The state or tribe must implement its assumed program in accordance to the CWA and its regulations. A state's permitting criteria may be more stringent and encompass a greater scope than required by federal law.²⁰

⁷ 33 U.S.C. § 1313 (d) (1)(A).

⁸ Section 403.067(7), F.S.

⁹ Section 403.067(7)(b)1., F.S.

¹⁰ Section 403.067(7)(a)3., F.S.

¹¹ Section 403.067(7)(a)4., F.S.

¹² Rule 62-306.100(1), F.A.C.

¹³ 33 U.S.C. § 1344.

¹⁴ 33 U.S.C. § 1344(a) and (b).

¹⁵ 33 U.S.C. § 1344(a).

¹⁶ 33 U.S.C. § 1362(7).

¹⁷ 33 U.S.C. § 1344(g).

¹⁸ 33 U.S.C. § 1344(g)(1).

¹⁹ 40 C.F.R. § 233.1(b).

²⁰ 40 C.F.R. § 233.1(c).

When the state or tribe assumes administration of the program, they assume responsibility for the program, determines the regulated areas and activities, processes individual permits for specific proposed activities, and carries out enforcement activities.²¹

Florida received authorization to implement section 404 of the Clean Water Act in 2020.²²

2. EFFECT OF THE BILL:

Water Quality Enhancement Areas

The bill authorizes ERP applicants to meet water quality requirements for any water quality standard through purchase of credits from offsite activities that may be located miles away from the point of discharge, with no consideration for the impacts to the immediate receiving waters at the point of discharge or the ultimate benefit to the target downstream waterbody. This bill would change existing law for an undefined suite of projects (facilities) and activities.

The bill authorizes DEP to develop a permitting program for Water Quality Enhancement Areas (WQEA). These WQEA permits would be structured around ERPs and would be used to generate water quality enhancement credits that could be used by permittees to meet ERP requirements for stormwater treatment. The new program would establish a credit assessment method, ledger tracking, permitting requirements, and success criteria to ensure that the predicted water quality improvements were achieved and sustained. \

Section 404 Permitting Assistance

The bill also authorizes DEP to enter into agreements or contracts with public or private entities to fund the processing of these entities' ERP or State 404 permit applications. The bill requires the agreements or contracts to be effective for a minimum of three years. DEP would also receive spending authority of \$2,040,000 for the funding of 24 FTEs for the processing of the permit applications from the entities that would have entered into agreements or contracts with DEP.

The bill also requires DEP to post both existing and future active agreements or contracts on its website.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y ☒ N ☐

If yes, explain:	<u>Water Quality Enhancement Areas</u> This bill authorizes DEP to adopt rules and create a new regulatory program for the establishment, maintenance, and operation of WQEA, and to modify the existing ERP program for dischargers to utilize purchased credits, including the awarding and tracking of enhancement credits and establishment of related service areas for the use of those credits.
Is the change consistent with the agency's core mission?	Y ☒ N ☐
Rule(s) impacted (provide references to F.A.C., etc.):	Chapter 62-330, F.A.C., and the associated Applicant's Handbooks Volume I and II; Chapter 62-4, F.A.C., for the associated application fees; and Chapter 62-345, F.A.C., for development of an assessment method for water quality enhancement credits.

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	<u>Water Quality Enhancement Areas</u> Some private industry participants likely would be in favor of the WQEA section of the bill in order to avoid current rule and statute requirements for on-site water quality treatment. Further, this would create a new field of water
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²¹ EPA, *State or Tribal Assumption of the Section 404 Permit Program*, <https://www.epa.gov/cwa-404/state-or-tribal-assumption-section-404-permit-program> (last visited January 4, 2018).

²² 85 FR 83553

	quality mitigation banking, allowing some entities to make money creating and subsequently selling water quality credits. <u>Section 404 Permitting Assistance</u> Private industry will likely be supportive of entering into agreements or contracts with DEP to add staff so that their ERP or State 404 permit application processing could be expedited.
Opponents and summary of position:	<u>Water Quality Enhancement Areas</u> There are likely municipalities, environmental groups, and citizens of Florida who would oppose the WQEA section of bill because they would not wish to allow ERP dischargers to avoid meeting water quality criteria at the point of discharge, as the discharge would then negatively affect some local water areas, despite credits and water quality being achieved at another location. <u>Section 404 Permitting Assistance</u> Environmental advocates may raise a potential or perceived conflict of interest to the direct funding for permits to be processed for certain entities in the contracted position section of the bill.

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y ☐ N ☒

If yes, provide a description:	Click or tap here to enter text.
Date Due:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y ☐ N ☒

Board:	Click or tap here to enter text.
Board Purpose:	Click or tap here to enter text.
Who Appoints:	Click or tap here to enter text.
Changes:	Click or tap here to enter text.
Bill Section Number(s):	Click or tap here to enter text.

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y ☒ N ☐

Revenues:	Unknown
Expenditures:	<u>Water Quality Enhancement Areas</u> Local governments' Municipal Separate Storm Sewer System (MS4) permits might be affected negatively by requiring additional projects or treatment to

	compensate for the additional loading that is not being fully treated onsite, per the WQEA section of the bill. The WQEA section of the bill also prohibits local governments from requiring water quality treatment be located within their jurisdiction, which supersedes local government ordinances that require permit application and fees for stormwater treatment. <u>Section 404 Permitting Assistance</u> Local governments may choose to enter into an agreement or contract with the DEP to expedite the processing of their ERP or State 404 permit applications.
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT?Y ☒ N ☐

Revenues:	<u>Water Quality Enhancement Areas</u> WQEA applicants would be required to pay permit application fees to DEP for the processing of these permit applications. These fees would be based upon the area of work (acreage) and would likely range from \$420 to \$14,000. The number of applicants who would apply for these permits is unknown. A fee structure would be developed during the rulemaking process for this new regulatory program. These new permit application fees would be deposited into the Permit Fee Trust Fund.²³ <u>Section 404 Permitting Assistance</u> The bill provides spending authority and establishes additional positions in DEP to process ERP and State 404 applications that are submitted by the public or private entities that have entered into an agreement or contract with the DEP. It is unclear whether the funding for these positions comes from these agreements or contracts or from the legislative appropriation. The funding would appear to be contingent upon the expedited processing of these entities' permit applications. The bill authorizes increases in maximum rate of basic pay but does not specify the authorized frequency of that increase.
Expenditures:	<u>Water Quality Enhancement Areas</u> DEP would need eight additional staff to manage the new WQEA permitting program: one Environmental Administrator (SES); one Environmental Consultant; four Engineering Specialist IVs; two Environmental Specialist IIIs; and one Administrative Assistant I. Since DEP would be solely responsible for the administration of this program statewide, employees would routinely travel during the permit review process, as well as to perform extensive post-construction monitoring inspections. Routine water quality analysis would also likely be required at the time of application review; post-construction water quality data submittals would also be reviewed and analyzed.

²³ Section 373.109(3), F.S.

	The total financial impact for these positions – including salaries and benefits, expenses, and travel costs – would be approximately \$878,275 annually. <u>Section 404 Permitting Assistance</u> The recurring spending authority provided in the bill would be insufficient for the annual funding of twenty-four FTEs. The spending authority should be tied to the number of agreements and contracts DEP could enter in a three-year time period (minimum agreement/contract length per the bill). The spending authority would limit the number of agreements or contracts since DEP would be unable to expend the funding that would be provided by the agreements/contracts if it exceeded the \$2,040,000 spending authority allotment. The FTEs would need to include contract managers and administrative support positions to track and handle the funding agreements/contracts, permit reviewers and compliance inspectors handling the review and processing of the ERP and State 404 permit applications, as well as additional SES managers that would oversee the permitting positions and contract management. It is anticipated that routine travel would be necessary for the permit and compliance reviewers, so the spending authority needs to account for additional expenses and travel costs.
Does the legislation contain a State Government appropriation?	No, but it appears to contain spending authority for the agreements or contracts that DEP may enter with public or private entities.
If yes, was this appropriated last year?	Click or tap here to enter text.

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y ☒ N ☐

Revenues:	N/A
Expenditures:	<u>Water Quality Enhancement Areas</u> An ERP permittee who chooses to use a WQEA to provide the necessary water quality treatment would have to purchase credits. The cost per credit is unknown. This would be market-driven and not regulated by DEP. <u>Section 404 Permitting Assistance</u> The private sector may incur costs if they chose to enter into an agreement or contract with DEP and provide funding for additional employees for processing permit applications.
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y ☐ N ☒

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact to the agency including any fiscal impact.	The establishment of this new regulatory program would require the creation and tracking of water quality enhancement credits. This would include both database enhancements for oversight tracking as well as website development for the public to know where facilities were located and what credits were available. The costs of creating or enhancing a tracking system, as well as the recurring costs to maintain the system, are yet to be determined.
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y ☒ N ☐

If yes, describe the anticipated impact including any fiscal impact.	<u>Water Quality Enhancement Areas</u> Section 373.414(1), F.S., and in the ERP Applicant's Handbook Volume IIs incorporated by reference in Rule 62-330, F.A.C., require dischargers to meet water quality standards at the point of discharge. Compliance generally may not be achieved through offsite water quality improvement activities when the discharge results in a hot spot (i.e., a violation of water quality standards between the point of discharge and the WQEA facility). To the extent that the language authorizes violation of state water quality standards in areas between the point of discharge and the WQEA facility, such provisions may be inconsistent with the federal Clean Water Act (CWA) [see, e.g., 40 CFR 131.10(h)(1) and 33 USC 1311(a)(1)(C)]. Provisions that temporarily or permanently delay compliance with or otherwise change state water quality standards are reviewed by the U.S. Environmental Protection Agency (EPA), and must be found consistent with the CWA before becoming effective for state law purposes.²⁴ In addition, it is possible that the state would not be able to issue water quality certification under § 401 of the CWA. Normally, issuance of an ERP also constitutes issuance of State Water Quality Certification (Rule 62-330.062, F.A.C.). The U.S. Army Corps of Engineers (USACE) cannot issue a federal dredge and fill permit until the state has provided such certification (generally, section 401, DEP agreement with EPA/USACE).²⁵ In circumstances where the water quality impacts were being mitigated offsite, the project site (point of discharge) may not meet water quality standards. In such circumstances, the state would need to waive water quality certification for USACE to proceed, unless the EPA elected to issue or deny water quality certification for the project.
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²⁴ 40 C.F.R. 131.21(c)(2).

²⁵ 33 U.S.C. 1341(a)(1)

	<u>Section 404 Permitting Assistance</u> 33 USC 2352(2) states the U.S. Army Corps of Engineers “may accept and expend funds contributed by a non-Federal public entity or a public-utility company, natural gas company, or railroad carrier to expedite the evaluation of a permit of that entity, company, or carrier related to a project or activity for a public purpose under the jurisdiction of the Department of Army.” The funding under an agreement or contract as proposed by this bill may have to be limited to a public purpose project and be limited to certain entities so as not to conflict with the federal statute.
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ADDITIONAL COMMENTS

Water Quality Enhancement Area Comments:

- Tying “Enhancement Service Areas” to large watersheds may not offset environmental harm in the permitting context where dischargers are expected to meet water quality standards at the point of discharge. As currently written, a discharger in the Upper Kissimmee Chain of Lakes could buy all their water quality credits from a WQEA miles downstream in Okeechobee County, as both are within Lake Okeechobee BMAP boundaries. A pound of reduction at a downstream WQEA in Okeechobee County would not benefit to the immediate receiving water in the Upper Kissimmee, although it may have a greater benefit to Lake Okeechobee. On the other hand, if the WQEA is upstream of the discharger, a pound of reduction does not have the same environmental benefit as a pound of reduction at the downstream discharger because natural processes dilute the reduction over distance
- Unlike the BMAP credit trading rule²⁶, the proposed legislation sets the credit valuation at the time of the WQEA permit issuance with no ability to adjust based on the buyer’s location in relation to the WQEA or other appropriate adjustment factors. Adjustment factors help ensure that water quality standards are met. If no adjustment factors are permissible so that credits are always valued by the discharger (buyer) the same for permitting purposes, the proposed legislation makes water quality worse at the point of discharge and the target impaired waterbody.
- The bill significantly restricts DEP’s ability to enlarge and/or modify the terms provided in the bill language in its rulemaking efforts to add appropriate adjustment factors.
- Lines 85-88 limit WQEA to parameters within an enhancement service area that do not meet water quality standards. Lines 155-161 of the bill further limits the legislation to impaired target waters with either a BMAP, RAP or TMDL. Because the credit valuation is set at the time of the WQEA permit issuance, credits may still be sold even after the target waterbody is restored making future credit trading unnecessary after restoration of the waterbody.
- When referencing “natural systems,” the bill is unclear whether it is referring to the definition contained in rule 62-40.210(20), F.A.C. For purposes of this rule, “natural systems” means an ecological system supporting aquatic and wetland-dependent natural resources, including fish and aquatic and wetland-dependent wildlife habitat.
- The bill language implies that a “natural system” would be altered for the purposes of creating a WQEA. If that is the case, then adverse impacts to wetlands or surface waters would likely occur, and appropriate mitigation would be required.²⁷
- It is unclear if the bill’s intent is to alter existing natural systems (wetlands/waterbodies) to create a WQEA, or whether the intent is that a WQEA would be constructed and located adjacent to a natural system (i.e., waterbody) such that water or stormwater is treated before it enters or is returned to the natural system/waterbody. If there is alternation to the “natural system,” an ERP is likely required.
- The bill uses a TMDL, BMAP, or reasonable assurance plan (RAP, which a type of restoration plan authorized in Rule 62-303.600, F.A.C.) in lieu of a site-specific analysis to determine the bank’s planning unit. TMDLs, BMAPs and RAPs are not appropriate tools to serve as planning units because they are far too broad and would not provide an appropriate pollutant reduction target for the entire service area, while avoiding the creation of localized hot spots. Where there are detailed allocations within one of these tools, those requirements are not tailored to an individual site or development.
- The bill prohibits local governments from requiring the bank be located within their jurisdiction and supersedes local government ordinances which require stormwater treatment. This may cause problems for those local jurisdictions attempting to meet TMDL or BMAP reduction requirements. The legislation also creates the possibility of a few large regional banks with many – potentially thousands – of smaller sites that are discharging water spread out across very large BMAPs. Furthermore, the legislation allows

²⁶ Rule 62-306.100, F.A.C.

²⁷ Section 373.414(1)(b), F.S.

for water between the point of discharge and WQEA to exceed pollutant standards which could adversely affect people, wildlife, and natural resources along the way.

- The utility of the legislation may be limited, given that compliance generally may not be achieved through offsite water quality improvement activities, so the demand for purchasing enhancement credits would likely be very low. For purposes of meeting BMAP load reduction requirements, the existing water quality credit trading rule (Chapter 62-307, F.A.C.) already covers facilities that generate sellable credits.
- If permittees were to pursue offsite mitigation, the extent (or lack) of the regional treatment would need to be the limiting factor, and the scope of the WQEA would have to be designed based on clear hydrologic connection to the ERP project(s) being mitigated, along with the demonstrated ability of the regional project to effectively compensate for the specific pollutant load in a way that does not create hot spots between the point of discharge and the WQEA.
- The bill uses the terminology “water quality standards” in a number of places but should use the narrower term of “water quality criteria” because it is more precise and appropriate. Water quality standards are comprised of designated uses for the waterbody, water quality criteria to protect those uses, and antidegradation requirements. Components of water quality standards other than water quality criteria are not appropriate for credit trading.
- The bill allows for trading of any parameter that is not meeting state water quality standards. Because of the varying nature of different pollutants, trading programs are typically limited to nutrients and nutrient-related parameters, like with the BMAP credit trading program in Chapter 62-306, F.A.C.
- The bill contains no provision for WQEAs to undertake ongoing water quality monitoring to ensure that the anticipated reductions are occurring.

Bill Section 1:

(1) Legislative Findings and Intent (Lines 31-56)

- 1(a): The legislation will not result in improved water quality because the legislation moves the location of pollution reduction activities. However, the bill does not require additional pollution reduction than what currently is required.

(2) Definitions (Lines 57-77)

- (2)(a): The definition should be limited to phosphorus and nitrogen. Applying the credit trading program to other pollutants is problematic and unnecessary.

(5) Enhancement Service Area (Lines 155-174)

- 5(a): Subsection 5 equates the “enhancement service area” with a BMAP or RAP boundary. Such boundaries are typically quite large, for example, the Lake Okeechobee watershed. In the context of the BMAP program²⁸, credit trading makes sense because the discharger needs to meet water quality standards at the point of discharge, but still needs additional reductions to contribute to restoring the target waterbody that is often far downstream. In the context of ERP permitting compliance, allowing for enhancement credits between the discharge point and the WQEA facility may in some instances be protective of waters downstream of the facility, but will likely result in violations of water quality standards in between the discharge point and the WQEA facility. It may also likely result in violation of water quality standards where the discharge point has no eventual connection to the WQEA facility.
- (5)(b): These exceptions are taken verbatim from section 373.4136, F.S., (wetland mitigation banking) and are inappropriate here. Exceptions should be based on the quantity of pollutants entering the waterbody. There should be “or”s after each paragraph. 5(b)3. is concerning if it would allow the addition of impervious surfaces up to one acre in size without requiring water quality enhancement within the same service area.

(6) Enhancement Credits (Lines 175-216)

- (6)(c)1 and 2: The WQEA permittee would also need to request that the ledger be debited when an impact (ERP) permit is issued to use those specific credits. Debiting a ledger with just a sale would not guarantee that those credits would be determined to be appropriate for a specific permit use. The process should be similar to the debiting of mitigation bank credits.

²⁸ See Rule 62-306.100, F.A.C.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	<u>BILL SECTION 1</u> (2) Definitions (Lines 57-77) • (2)(b): The definition of “Enhancement Service Area” is vague. The definition is provided in paragraph (5)(a). It should likely be moved to this section. See discussion of (5)(a) below. • (2)(c): The definition of “Planning Unit” should be modified to clarify that planning units are defined through water body identification numbers (WBIDs) or 12-unit hydraulic unit codes (HUCs). Planning units should not be exclusive for TMDLs because most verified impaired waters do not have a TMDL. • (2)(d): The use of the term “natural system” is vague and confusing. • (2)(e): Should state that this permit is an environmental resource permit to match the reference in 3(a). Additionally, the definition states that a WQEA permit is issued for “the purchase and sale of credits.” (3) Water Quality Enhancement Areas (Lines 78-101) • (3)(a): If the rules pertaining to ERPs are applicable to WQEAs, then an applicant proposing to use natural systems as WQEAs could potentially be required to offset impacts to wetlands and surface waters during the creation and construction of the WQEA. (4) Water Quality Enhancement Area Permit (Lines 102-154) • The phrasing in the bill is confusing. It is unclear whether the intent is that the permit be issued for an area, or a facility, or a site. Phrasing would be clarified by altering the term “WQEA” to “WQE Facility.” • (4)(a)1: To what extent would the permit need to benefit water quality? Would it be limited to only those parameters that exceed water quality standards within the service area? • (4)(b)4: The wording sounds like DEP would have to approve alternate sites in advance of determining alternate sites are necessary. Would this require the department to approve data collection at locations at a distance from the proposed WQEA? • (4)(c): Would this prohibit the department from requiring wetland mitigation if the WQEA is anticipated to cause adverse impacts to wetlands or surface waters? (6) Enhancement Credits (Lines 175-216) • (6)(a): There is currently no requirement in Chapter 62-330, F.A.C., for ERP applicants to meet an assigned BMAP allocation. The ERP criteria is found in section 373.414(1), F.S. • (6)(b): This statement seems to be unnecessary. DEP would review the WQEA permit application and determine what credits could be generated by the proposed improvements/treatment. The term “natural systems” is again used here and needs to be better defined so the intent is clear. • (6)(e): Appears to conflict with 6(a); if you can only use credits to offset ERP impacts, how can it offset BMAP? • (6)(f): The purpose of this statement is not clear. • (6)(h): Local governments and water management districts have conflicting requirements regarding the permitting and use of WQEAs. A local government would be restricted from implementing land development regulations for water quality if the credit was outside of its MS4 regulated area, which is required by the Phase I MS4 permit. <u>BILL SECTION 2</u>
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	DEP Powers and Duties (Lines 222-260) • 33 USC 2352(2) states the U.S. Army Corps of Engineers – “The Secretary, after public notice, “may accept and expend funds contributed by a non-Federal public entity or a public-utility company, natural gas company, or railroad carrier to expedite the evaluation of a permit of that entity, company, or carrier related to a project or activity for a public purpose under the jurisdiction of the Department of Army.” Paragraph (22)(b) may need to limit the funding under an agreement or contract to a public purpose project and be limited to certain entities so as not to conflict with the federal statute.
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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 1426

INTRODUCER: Environment and Natural Resources Committee and Senator Burgess

SUBJECT: Water Quality Enhancement Areas

DATE: February 1, 2022

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1426 creates the concept of water quality enhancement areas (WQEAs). A WQEA is a natural system that is constructed, operated, managed, and maintained pursuant to a permit to provide offsite, compensatory, regional treatment within an identified enhancement service area and enhancement credits.

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

The bill adds that DEP may enter into agreements and contracts with public or private entities to accept and expend donations, grants of funds, and payments to expedite the dredge and fill permit or ERP evaluation process. The bill appropriates \$2.04 million in recurring funds to create 24 full-time positions to evaluate these dredge and fill permits and ERPs.

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

II. Present Situation:

Water Quality and Nutrients

Phosphorous and nitrogen are naturally present in water and are essential nutrients for the healthy growth of plant and animal life.¹ The correct balance of both nutrients is necessary for a healthy ecosystem; however, excessive amounts can cause significant water quality problems.

Phosphorous and nitrogen are derived from natural and human-made sources. 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.²

Excessive nutrient loads may result in harmful algal blooms, nuisance aquatic weeds, and the alteration of the natural community of plants and animals. 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.³

Total Maximum Daily Loads

A total maximum daily load (TMDL), which must be adopted by rule, 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.⁴ Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, DEP must establish a TMDL for impaired waterbodies.⁵ A TMDL for an impaired waterbody is the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.⁶ Point sources are discernible, confined, and discrete conveyances including pipes, ditches, and tunnels. Nonpoint sources are unconfined sources that include runoff from agricultural lands or residential areas.⁷

¹ U.S. Environmental Protection Agency (EPA), *Sources and Solutions*, <https://www.epa.gov/nutrientpollution/sources-and-solutions> (last visited Jan. 26, 2022).

² *Id.*

³ EPA, *The Issue*, <https://www.epa.gov/nutrientpollution/problem> (last visited Jan. 26, 2022).

⁴ Department of Environmental Protection (DEP), *Total Maximum Daily Loads Program*, <https://floridadep.gov/dear/water-quality-evaluation-tmdl/content/total-maximum-daily-loads-tmdl-program> (last visited Jan. 26, 2022).

⁵ Section 403.067(1), F.S.

⁶ Section 403.031(21), F.S.

⁷ 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. Nonpoint sources can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

Basin Management Action Plans and Best Management Practices

DEP is the lead agency in coordinating the development and implementation of TMDLs.⁸ Basin management action plans (BMAPs) are one of the primary mechanisms DEP uses to achieve TMDLs. BMAPs are plans that address the entire pollution load, including point and nonpoint discharges,⁹ for a watershed or a specific waterbody. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Best management practices (BMPs) and non-regulatory and incentive-based programs, including cost-sharing, waste minimization, pollution prevention, agreements, and public education;
- Public works projects, including capital facilities; and
- Land acquisition.¹⁰

A 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.¹¹ Then, the BMAP establishes the schedule for implementing projects and activities to meet the pollution reduction allocations. The BMAP development process provides an opportunity for local stakeholders, local government, community leaders, and the public to determine and share water quality cleanup responsibilities collectively.¹²

BMAPs must include milestones for implementation and water quality improvement.¹³ 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.¹⁴

Producers of nonpoint source pollution included in a BMAP must comply with the established pollutant reductions by either implementing the appropriate BMPs or by conducting water quality monitoring.¹⁵ A nonpoint source discharger may be subject to enforcement action by the DEP or a water management district (WMD) based on a failure to implement these requirements.¹⁶ BMPs are designed to reduce the amount of nutrients, sediments, and pesticides

⁸ 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.

⁹ 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.

¹⁰ Section 403.067(7), F.S.

¹¹ *Id.*

¹² DEP, *Basin Management Action Plans (BMAPs)*, <https://floridadep.gov/dear/water-quality-restoration/content/basin-management-action-plans-bmaps> (last visited Dec. 4, 2019).

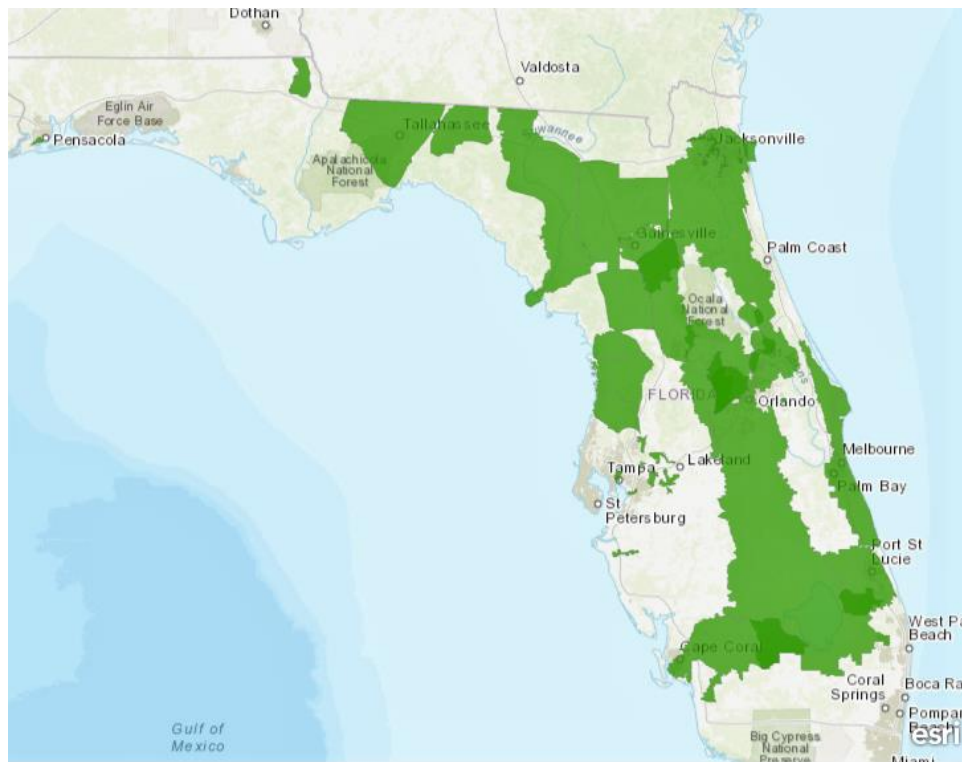
¹³ Section 403.067(7)(a)6., F.S.

¹⁴ *Id.*

¹⁵ Section 403.067(7)(b)2.g., F.S. For example, BMPs for agriculture include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

¹⁶ Section 403.067(7)(b)2.h., F.S.

that enter the water system and to help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, forestry operations, and stormwater management.¹⁷ The graphic below shows the state's BMAPs.¹⁸



Reasonable Assurance Plans

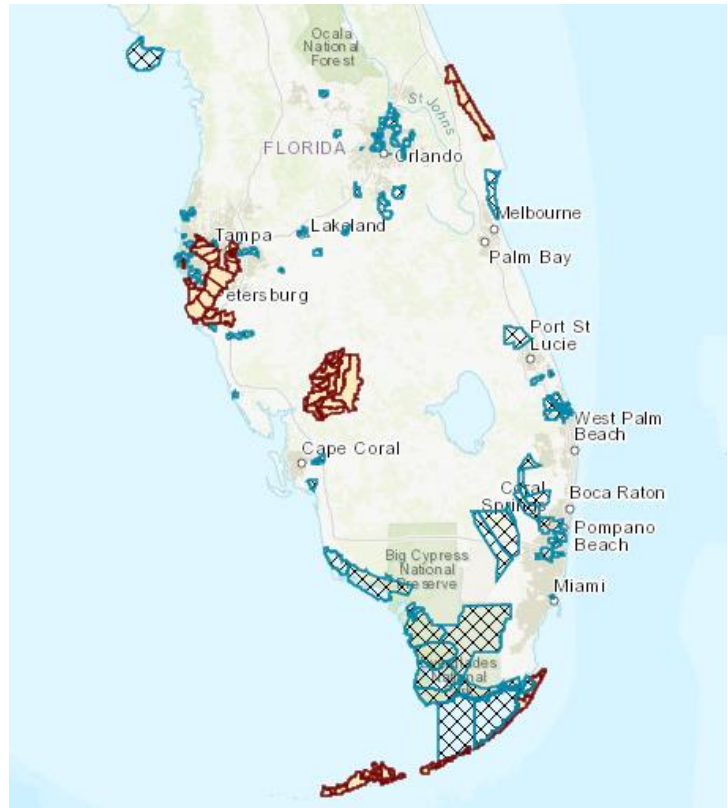
The U.S. Environmental Protection Agency allows states to place certain impaired waterbodies into Category 4b for Clean Water Act section 303(d) reporting purposes, meaning that the establishment of a TMDL is not required for an impaired waterbody if other required control measures are expected to result in the attainment of water quality standards in a reasonable period of time.¹⁹

¹⁷ DEP, *NPDES Stormwater Program*, <https://floridadep.gov/Water/Stormwater> (last visited Jan. 26, 2022).

¹⁸ DEP, *Impaired Waters, TMDLs, and Basin Management Action Plans Interactive Map*, <https://floridadep.gov/dear/water-quality-restoration/content/impaired-waters-tmdls-and-basin-management-action-plans> (last visited Jan. 26, 2022).

¹⁹ *Id.*; EPA, *EPA Integrated Reporting (IR) Categories and How ATTAINS Calculates Them*, 1 (Aug. 31, 2018) available at https://www.epa.gov/sites/default/files/2018-09/documents/attains_calculations_of_epa_ir_categories_2018-08-31.pdf (last visited Jan. 27, 2022).

A Reasonable Assurance Plan (RAP) is a control measure that DEP may implement for Category 4b impaired waterbodies.²⁰ DEP first determines if a waterbody is impaired or may be reasonably expected to become impaired within the next five years.²¹ If a waterbody fits this criteria, DEP evaluates whether existing or proposed technology-based effluent limitations and other pollution control programs are sufficient to result in the attainment of water quality standards. If the waterbody is expected to attain water quality standards in the future and to make reasonable progress towards attainment of those standards in a certain timeframe, the waterbody will not require a TMDL. DEP's decision must be based on a plan that provides reasonable assurance that proposed pollution control mechanisms and expected water quality improvements in the waterbody will attain water quality standards.²² The graphic on the right shows the RAP boundaries in the outlined areas without a grid.²³



²⁰ DEP, *Alternative Restoration Plans*, <https://floridadep.gov/DEAR/Alternative-Restoration-Plans> (last visited Jan. 27, 2022).

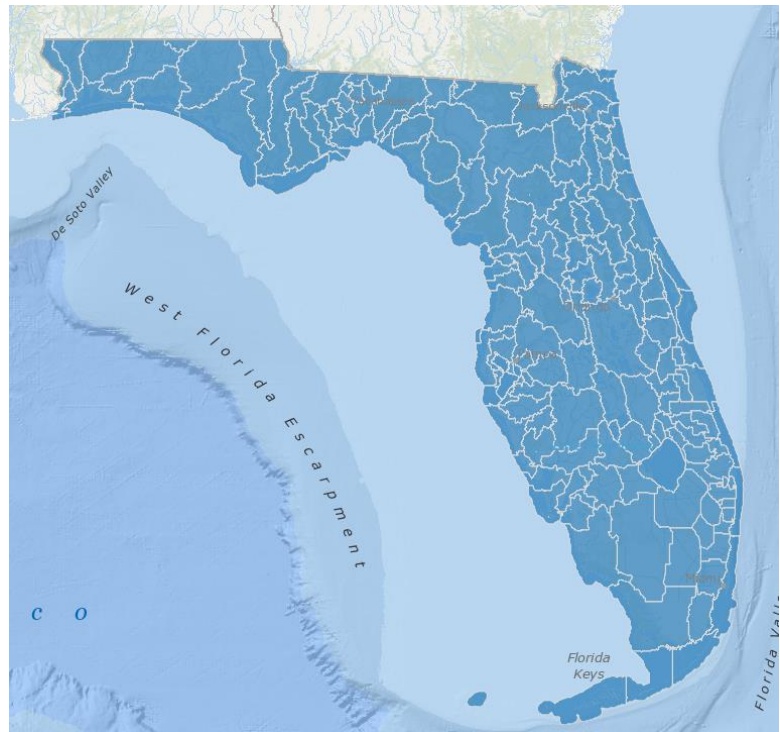
²¹ Fla. Admin. Code R. 62-303.600.

²² *Id.*

²³ DEP, *Restoration Plans*, <https://fdep.maps.arcgis.com/apps/View/index.html?appid=5a34b0e9d46447559b52d8267083596f> (last visited Jan. 28, 2022).

Planning Units

A planning unit is either an individual large tributary basin or a group of smaller adjacent tributary basins with similar characteristics.²⁴ Planning units help organize information and management strategies around prominent watershed characteristics, and they provide a more detailed geographic basis for identifying and assessing water quality improvement activities.²⁵ The graphic on the right shows the state's planning units.²⁶



Stormwater Management

Stormwater is the flow of water resulting from, and immediately following, a rainfall event.²⁷ When stormwater falls on pavement, buildings, and other impermeable surfaces, the runoff flows quickly and can pick up sediment, trash, chemicals, and other pollutants.²⁸ Stormwater is a major source of water pollution in Florida.²⁹

The regulatory programs that address reductions in water quality caused by stormwater are the federal National Pollution Discharge Elimination System (NPDES), which regulates discharges of pollutants into waters of the United States,³⁰ and the state Environmental Resource Permitting (ERP) Program, which regulates activities involving the alteration of surface water flows.³¹

²⁴ DEP, *TMDL Planning Units*, https://geodata.dep.state.fl.us/datasets/c97e066f49044131a13a79f5beeeaf40_6/about (last visited Jan. 27, 2022).

²⁵ *Id.*

²⁶ DEP, *TMDL Planning Units, Geospatial Open Data*, <https://geodata.dep.state.fl.us/datasets/FDEP::total-maximum-daily-load-tmdl-planning-units/explore?location=27.664924%2C-83.725800%2C7.00> (last visited Jan. 28, 2022).

²⁷ DEP and Water Management Districts, *Environmental Resource Permit Applicant's Handbook Volume I (General and Environmental)*, 2-10 (June 1, 2018), available at https://www.swfwmd.state.fl.us/sites/default/files/medias/documents/Applicant_Hanbook_I_-_Combined.pdf.

²⁸ DEP, *Stormwater Management*, 1 (2016), available at https://floridadep.gov/sites/default/files/stormwater-management_0.pdf. When rain falls on fields, forests, and other areas with naturally permeable surfaces the water not absorbed by plants filters through the soil and replenishes Florida's groundwater supply.

²⁹ DEP, *Stormwater Support*, <https://floridadep.gov/water/engineering-hydrology/content/stormwater-support> (last visited Oct. 6, 2021); DEP, *Nonpoint Source Program Update*, 10 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>.

³⁰ National Pollution Discharge Elimination System (NPDES), 33 U.S.C. s. 1342 (2019); 40 C.F.R. pt. 122; Under the Clean Water Act, the U.S. Environmental Protection Agency authorizes the NPDES permit program to state, tribal, and territorial governments, enabling them to perform many of the permitting, administrative, and enforcement aspects of the program. EPA, *About NPDES*, <https://www.epa.gov/npdes/about-npdes#overview> (last visited Jan. 27, 2022).

³¹ Chapter 373, pt. IV, F.S.; Fla. Admin. Code Ch. 62-330.

NPDES regulates stormwater pollution from certain municipal storm sewer systems and runoff from certain construction and industrial activities.³² The state's ERP program regulates activities that create stormwater runoff, as well as dredging and filling in wetlands and other surface waters.³³ ERPs aim to prevent flooding, protect wetlands and other surface waters, and protect water quality from stormwater pollution.³⁴ DEP, the WMDs, and local governments implement the ERP program.³⁵

DEP and the WMDs may require ERPs and impose reasonable conditions:

- To ensure that construction or alteration of stormwater management systems and related structures is consistent with applicable law and not harmful to water resources;³⁶ and
- For the maintenance or operation of such structures.³⁷

DEP's stormwater rules are technology-based effluent limitations, rather than water quality-based effluent limitations.³⁸ This means that stormwater rules rely on design criteria for BMPs to achieve a performance standard for pollution reduction, rather than specifying the amount of a specific pollutant that may be discharged to a waterbody and still ensure that the waterbody attains water quality standards.³⁹ The rules contain minimum stormwater treatment performance standards, which require design and performance criteria for new stormwater management systems to achieve at least 80 percent reduction of the average annual load of pollutants that would cause or contribute to violations of state water quality standards.⁴⁰

DEP and the WMDs require applicants to provide reasonable assurance that state water quality standards will not be violated.⁴¹ If a stormwater management system is designed in accordance with the stormwater treatment requirements and criteria adopted by DEP or the WMDs, then the system design is presumed not to cause or contribute to violations of applicable state water quality standards.⁴² If a stormwater management system is constructed, operated, and maintained for stormwater treatment in accordance with a valid permit or exemption, then the stormwater

³² Stormwater can be either a point source or a nonpoint source of pollution. EPA, *Monitoring and Evaluating Nonpoint Source Watershed Projects*, 1-1, available at https://www.epa.gov/sites/production/files/2016-02/documents/chapter_1_draft_aug_2014.pdf; DEP, *Nonpoint Source Program Update*, 9 (2015), available at <https://floridadep.gov/sites/default/files/NPS-ManagementPlan2015.pdf>; See generally EPA, *NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Jan. 26, 2022).

³³ DEP, *DEP 101: Environmental Resource Permitting*, <https://floridadep.gov/comm/press-office/content/dep-101-environmental-resource-permitting> (last visited Jan. 26, 2022).

³⁴ South Florida Water Management District, *Environmental Resource Permits*, <https://www.sfwmd.gov/doing-business-with-us/permits/environmental-resource-permits> (last visited Jan. 26, 2022).

³⁵ Fla. Admin. Code R. 62-330.010(3).

³⁶ Section 373.413, F.S.; see s. 403.814(12), F.S.

³⁷ Section 373.416, F.S.

³⁸ DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Jan. 26, 2022).

³⁹ See generally, EPA, *National Pollutant Discharge Elimination System (NPDES)*, www.epa.gov/npdes/npdes-permit-limits (last visited Jan. 26, 2022).

⁴⁰ Fla. Admin. Code R. 62-40.432(2).

⁴¹ Section 373.414(1), F.S.; see s. 373.403(11), F.S.; see Fla. Admin. Code Ch. 62-4, 62-302, 62-520, and 62-550.

⁴² Section 373.4131(3)(b), F.S. Fla. Admin. Code R. 62-40.432(2); see also DEP, *ERP Stormwater*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/erp-stormwater> (last visited Jan. 27, 2022) (stating that a key component of the stormwater rule is a “rebuttable presumption that discharges from a stormwater management system designed in accordance with the BMP design criteria will not cause harm to water resources”).

discharged from the system is presumed not to cause or contribute to violations of applicable state water quality standards.⁴³ If an applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, DEP or a WMD must consider mitigation measures that cause a net improvement of the water quality in the waterbody that does not meet the standards.⁴⁴

2020 Stormwater Rulemaking

In 2020, the Florida Legislature passed CS/SB 712, the Clean Waterways Act, to address known sources of nutrient pollution in waterways and to strengthen regulatory requirements.⁴⁵ The Clean Waterways Act required DEP and the WMDs to update stormwater regulations to reflect the latest scientific information. In response, DEP created the Clean Waterways Act Stormwater Rulemaking Technical Advisory Committee (TAC). The TAC's goal is to develop and provide consensus stormwater rulemaking recommendations for DEP and the WMDs.⁴⁶ The TAC's initial discussion topics were as follows:

- Options for identifying stormwater design criteria and BMPs that are effective for increasing nutrient removal from stormwater runoff;
- Measures for consistent application of the net improvement performance standard to ensure significant reductions of any pollutant loadings to a waterbody thought to be impaired by stormwater runoff; and
- Changes to improve existing stormwater operation regulations to ensure water resources are protected by the rulemaking directed under the Clean Waterways Act.⁴⁷

Water Quality Credit Trading

Water quality credit trading is a market-based approach to water quality improvements that can be used to control pollutants from sources that collectively worsen water quality conditions.⁴⁸ Water quality credit trading allows one source of pollution to control a pollutant at levels greater than required and to sell the resulting water quality credits to another source to supplement its level of treatment to comply with pollutant regulations.⁴⁹ This practice must result in water quality that is as good as or better than what would be achieved through meeting pollutant level requirements and must not create pollutant hotspots.⁵⁰ Water quality credit trades may result in a broad area of water quality improvement, while causing acute or chronic localized effects, or hotspots.⁵¹

The Florida Statutes provide a framework for water quality credit trading in the state. DEP is the agency responsible for authorizing water quality credit trading in adopted BMAPs and for

⁴³ Section 373.4131(3)(c), F.S.

⁴⁴ Section 373.414(1)(b)3., F.S.

⁴⁵ DEP, *Clean Waterways Act Stormwater Rulemaking Technical Advisory Committee (TAC)*, <https://floridadep.gov/CWA-TAC> (last visited Feb 1, 2022).

⁴⁶ *Id.*

⁴⁷ *Id.*

⁴⁸ EPA, *Water Quality Trading*, <https://www.epa.gov/npdes/water-quality-trading> (last visited Jan. 26 2022).

⁴⁹ *Id.*

⁵⁰ *Id.*

⁵¹ *Id.*

establishing the pollutant load reduction value of water quality credits.⁵² DEP cannot participate in the establishment of water quality credit prices. Water quality credit sellers are responsible for achieving the load reductions on which the water quality credits are based and complying with the terms of the DEP authorization and any trading agreements into which they have entered; buyers are responsible for complying with the terms of the DEP water discharge permit.⁵³ Land set-asides and land use modification not otherwise required by state law or a permit, including constructed wetlands or other water quality improvement projects, that reduce nutrient loads into impaired surface waters may be used for water quality credit trading.⁵⁴ In the past, water quality credits have been traded in the state, however there are no water quality credits available for trade as of January 28, 2022.⁵⁵

Mitigation Banking

Generally, mitigation banking is a practice in which an environmental enhancement and preservation project is conducted by a public agency or private entity to provide mitigation for unavoidable wetland impacts within a defined mitigation service area.⁵⁶ The bank is the site itself, and the currency sold by the banker to the impact permittee is a credit, representing the wetland ecological value equivalent to the complete restoration of one acre.⁵⁷ The number of potential credits permitted for the bank, and the credit debits required for impact permits, are determined by the permitting agencies.⁵⁸

Creation of a mitigation bank in Florida requires both a permit from DEP or a WMD, and federal approval of a mitigation bank instrument from several agencies led by the U.S. Army Corps of Engineers (USACE), in a joint state/federal interagency review team.⁵⁹ Through this process, depending on agency approval, a mitigation bank may provide mitigation for permittees under both the federal and state permitting programs.

Requirements for permitting mitigation banks differ between mitigation bank instruments issued by the USACE and state permits issued by DEP or the WMDs. Under the federal process, a mitigation banking instrument serves as the legal document for the establishment, operation, and use of a mitigation bank.⁶⁰ They are approved by an interagency review team, through procedures involving public notice and comment.⁶¹ Mitigation banking instruments must include

⁵² Section 403.067(8), F.S.

⁵³ Water quality credit trading must be implemented through permits, including water quality credit trading permits, other authorizations, or other legally binding agreements as establish by DEP rule. *Id.*

⁵⁴ *Id.*

⁵⁵ DEP, *Florida Water Quality Credit Trading Registry*, <https://floridadep.gov/dear/water-quality-restoration/content/florida-water-quality-credit-trading-registry> (Jan. 17, 2022); DEP, *Credits Traded Document* (Sept. 7, 2018) available at <http://publicfiles.dep.state.fl.us/DEAR/DEARweb/BMAP/DEP%20WQCT%20Spreadsheet.pdf> (last visited Jan. 27, 2022).

⁵⁶ DEP, *Mitigation and Mitigation Banking*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-and-mitigation-banking> (last visited Jan. 26, 2022).

⁵⁷ *Id.*

⁵⁸ *Id.*

⁵⁹ DEP, *Mitigation Banking Rule and Procedure Synopsis*, <https://floridadep.gov/water/submerged-lands-environmental-resources-coordination/content/mitigation-banking-rule-and> (last visited Jan. 26, 2022).

⁶⁰ 33 C.F.R. s. 332.2.

⁶¹ 33 C.F.R. s. 332.8; 40 C.F.R. s. 230.98.

certain detailed elements, such as a comprehensive mitigation plan including financial assurances, and a credit release schedule that is tied to the achievement of specific milestones.⁶²

Under Florida law, to obtain a mitigation bank permit, the applicant must provide reasonable assurance that the mitigation bank will:

- Improve ecological conditions of the regional watershed;
- Provide viable and sustainable ecological and hydrological functions for the proposed mitigation service area;
- Be effectively managed in perpetuity;
- Not destroy areas with high ecological value;
- Achieve mitigation success; and
- Be adjacent to lands that will not adversely affect the long-term viability of the mitigation bank due to unsuitable land uses or conditions.⁶³

The applicant must also provide reasonable assurance that:

- Any surface water management system that will be constructed, altered, operated, maintained, abandoned, or removed within a mitigation bank will meet the requirements of part IV of ch. 373, F.S., which regulates management and storage of surface waters, and rules adopted thereunder;
- The applicant has sufficient legal or equitable interest in the property to ensure perpetual protection and management of the land within a mitigation bank; and
- The applicant can meet the financial responsibility requirements prescribed for mitigation banks.⁶⁴

Section 404 Permitting

Section 404 of the Clean Water Act (CWA) is the principle federal protection for wetlands.⁶⁵ The U.S. Environmental Protection Agency and the USACE jointly implement the section 404 dredge and fill permitting program.⁶⁶ Under the law, no person may discharge dredge or fill materials into navigable waters without a permit.⁶⁷

A state or tribe may seek assumption of the program in certain waters.⁶⁸ Thereafter, the state or tribe program must regulate all discharges of dredge and fill material into state assumed waters in accordance with the CWA.⁶⁹ In 2020, Florida was authorized to implement section 404.⁷⁰ Upon program approval, USACE was required to transfer all pending applications within

⁶² See generally 33 C.F.R. s. 332.8(d)(6); see also 40 C.F.R. s. 230.98(d)(6).

⁶³ Section 373.4136(1), F.S.

⁶⁴ *Id.*; Fla. Admin. Code R. 62-342.400.

⁶⁵ 33 U.S.C. s. 1344.

⁶⁶ 33 U.S.C. s. 1344(a) and (b).

⁶⁷ 33 U.S.C. s. 1344(a). Navigable waters are waters of the U.S., including the territorial seas. 33 U.S.C. s. 1362(7).

⁶⁸ 33 U.S.C. s. 1344(g).

⁶⁹ 33 U.S.C. s. 233.1(b).

⁷⁰ 85 FR 83553.

assumed waters.⁷¹ In January 2021 USACE transferred over 500 applications, and nine months after DEP had been administering the program, it had received a total of 3,098 applications. DEP estimated that the workload would be a total of 770 permits per year.⁷² DEP has worked to improve efficiency through:

- Enhanced training and training of in-office staff on federal reporting commitments,
- Collaboration with water management districts to have eligible employees complete wetland delineations,
- Appointment of a 404 lead position, and
- Requests for 23 new positions in the 2022-2023 fiscal year.⁷³

Graywater, Residential Systems, and Development Incentives

Graywater is the part of domestic sewage that is not carried off by toilets, urinals, and kitchen drains. It includes waste from the bath, lavatory, laundry, and sink, except for kitchen sink waste.⁷⁴ Graywater installations occur in both residential and non-residential installations and the capture, treatment, and reuse of graywater yields usable water that would otherwise be directed to the sewer.⁷⁵ Reusing graywater also reduces the use of potable water for non-potable needs and conserves fresh water.⁷⁶

The Florida Building Code specifies that graywater may only be used for flushing of toilets and urinals. Any discharge from the building must be connected to a public sewer or an onsite sewage treatment and disposal system in accordance with Department of Health regulations in chapter 64E-6 of the Florida Administrative Code.⁷⁷ Graywater systems in Florida have several requirements: the graywater must be filtered, disinfected, and dyed; and storage reservoirs must have drains and overflow pipes which must be indirectly connected to the sanitary drainage system.⁷⁸

To encourage adoption of residential graywater reuse, states, counties, municipalities, or special districts are required to implement incentives for the use of graywater technologies.⁷⁹ To do this, they must authorize the use of residential graywater technologies in their respective jurisdictions and provide specific density or intensity bonuses to developers or homebuilders if a certain percentage of a proposed or existing development will have a graywater system installed.⁸⁰

⁷¹ DEP, *Florida's State 404 Program*, 9 (Oct. 21, 2021)

<https://www.myfloridahouse.gov/Sections/Documents/loaddoc.aspx?PublicationType=Committees&CommitteeId=3113&Session=2022&DocumentType=Meeting+Packets&FileName=eaf+10-21-21.pdf> (last visited Feb. 1, 2022).

⁷² *Id.*

⁷³ *Id.* at 11.

⁷⁴ Section 381.0065(2)(e), F.S.

⁷⁵ Alliance for Water Efficiency, *Graywater Systems*, <https://www.allianceforwaterefficiency.org/resources/topic/graywater-systems> (last visited Jan. 31, 2022).

⁷⁶ Martinez, Christopher J., *Gray Water Reuse in Florida*, University of Florida IFAS Extension, <https://edis.ifas.ufl.edu/ae453#:~:text=Gray%20water%20must%20be%20filtered,to%20the%20sanitary%20drainage%20system> (last visited Jan. 31, 2022).

⁷⁷ 2020 Florida Building Code – Plumbing, Seventh Edition (Dec. 2020), available at <https://codes.iccsafe.org/content/FLPC2020P1>.

⁷⁸ *Id.*

⁷⁹ Section 403.892(2), F.S.

⁸⁰ *Id.*

III. Effect of Proposed Changes:

Section 1 creates s. 373.4134, F.S. to authorize the creation of water quality enhancement areas (WQEAs). The bill lists the following legislative findings:

- Water quality will be improved and adverse water quality impacts of activities regulated under provisions of law relating to the management and storage of surface waters may be offset by WQEAs that provide offsite compensatory treatment;
- An expansion of existing authority for regional treatment to include offsite compensatory treatment in WQEAs to make water quality enhancement credits available for purchase by governmental entities to offset impacts regulated by provisions of law relating to the management and storage of surface waters is needed;
- WQEAs will improve the certainty and long-term viability of water quality treatment systems;
- WQEAs are a valuable tool to assist governmental entities in satisfying the net improvement performance standard⁸¹ to ensure significant reductions of pollutant loadings; and
- WQEAs that provide credits to governmental entities seeking permits under this bill and governmental entities seeking to meet an assigned basin management action plan (BMAP) allocation or reasonable assurance plan (RAP) are considered an appropriate and permissible option.

The bill provides the following definitions:

- “Enhancement credit” means a standard unit of measure which represents a quantity of pollutant removed;
- “Enhancement service area” means the geographic area where the water quality enhancement area can reasonably be expected to offset adverse water quality impacts;
- “Governmental entities” means any political subdivision of this state, including any state agency, department, county, municipality, special district, school district, utility authority, or other authority or instrumentality, agency, unit, or department thereof;
- “Planning unit” means the total maximum daily load (TMDL) planning unit that is an individual tributary basin or a group of smaller adjacent tributary basins with similar characteristics;
- “Water quality enhancement area” means a natural system constructed, operated, managed, and maintained pursuant to a permit issued under this part for the purpose of providing offsite, compensatory, regional treatment within an identified enhancement service area, for which enhancement credits may be provided; and
- “Water quality enhancement area permit” means a permit issued for a WQEA which authorizes its construction, operation, management, and maintenance and the purchase and sale of credits.

The bill provides that the construction, operation, management, and maintenance of a WQEA must be approved through the environmental resource permitting (ERP) process. DEP rules pertaining to ERPs apply to WQEAs and credits. The bill provides that WQEA credits may be

⁸¹ If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the governing board or DEP shall consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards. Section 373.414(1)(b)3., F.S.

sold only to governmental entities. It provides that a WQEA must address contributions of pollutants for those parameters in an enhancement service area that do not meet state water quality standards. Further, the bill requires that a WQEA must use, create, or improve natural systems to improve water quality.

The bill allows a governmental entity to use a WQEA for its own water quality needs. However it may not act as a sponsor to construct, operate, manage, maintain, or market credits to third parties. Further, the bill prevents a local government from requiring a permit or otherwise regulating the operation of WQEAs. It provides that the issuance of a WQEA permit does not preclude the responsibility of an applicant to obtain other applicable federal, state, and local permits for the construction activities associated with the WQEA.

To obtain a WQEA permit, the bill directs an applicant to provide reasonable assurances that the proposed WQEA will:

- Meet the requirements for issuance of an ERP;
- Benefit water quality in the enhancement service area;
- Achieve defined performance or success criteria for the reduction of pollutants or other constituents that prevent receiving waters from meeting state water quality standards;
- Assure long-term pollutant reduction through effective operation and maintenance in perpetuity by designation of a responsible long-term maintenance entity supported by an endowment or other long-term financial assurance sufficient to assure perpetual maintenance;
- Demonstrate sufficient legal or equitable interest in the property to ensure access and perpetual protection and management of land within the WQEA; and
- Provide for permanent preservation of the site through a conservation easement.

The bill requires a WQEA permit to provide for the assessment, valuation, and award of credits based on units of pollutant removed. It requires a WQEA application to include the following information to assist DEP in determining credits:

- Rainfall data over the longest period of record available collected from the closest site to the proposed WQEA, preferably within the same drainage basin;
- Anticipated average annual water quality and quantity inflows to the proposed WQEA, based on published local data collected over a period of record that most closely matches the rainfall data;
- Site-specific conditions affecting the anticipated performance of the proposed WQEA, including the proposed treatment type and anticipated associated reduction rates, as demonstrated by the performance of other areas where the treatment type has been established and operating over a minimum of two consecutive wet and dry seasons; and
- Data from collection stations approved by DEP in sites that DEP deems sufficient to determine flows and local water quality conditions.

The bill provides that an enhancement services area must be based on a BMAP or RAP boundary adopted by DEP, or the planning unit if DEP does not adopt a BMAP or RAP. The bill allows a WQEA to only provide credits in an enhancement service area, except for:

- Projects with adverse impacts located partially within the enhancement service area; and
- Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or certain seaports.

The bill directs DEP or water management districts to authorize the sale and use of credits to governmental entities to offset adverse water quality impacts of activities regulated under the bill or to assist entities seeking to meet an assigned BMAP allocation or RAP. The bill allows an applicant to use water quality improvement projects that use natural systems or land use modifications, including constructed wetlands or minor impoundments that reduce pollutants to a receiving water body, to generate credits if approved by DEP. The bill directs DEP to provide for and maintain a ledger that tracks the award, release, and use of credits. In furtherance of the ledger requirement, the bill directs a WQEA operator to notify DEP of the amount of credits sold or used within 30 days of the date the credits transaction is completed. It also directs a water management district that authorizes credit use to report to DEP the amount of credits used by an applicant.

The bill provides that reductions in pollutant loading required under any state regulatory program are not eligible to be considered as credits. It specifies that credits may not be used by point source dischargers to satisfy regulatory requirements other than those necessary to obtain an ERP for construction and operation of the surface water management system of the site. The bill provides that use of credits is voluntary, and any landowner, discharger, or other responsible person implementing applicable management strategies specified in a BMAP or RAP may not be required to use credits to reduce pollutant loads to achieve pollutant reductions. Further, the bill provides that a local government may not deny the use of credits due to the location of the WQEA outside the jurisdiction of the local government.

The bill provides that the authority granted to DEP by this bill is supplemental to the authority granted under the statutes regulating water quality credit trading. It authorizes DEP to adopt rules to implement WQEAs.

Section 2 amends s. 403.061, F.S. to clarify that DEP may enter into contracts with state agencies, the Federal Government, other states, interstate agencies, groups, political subdivisions, and certain industries. The bill provides that DEP may also enter into agreements and contracts with public or private entities to accept and expend donations, grants of funds, and payments to expedite the evaluation of the entity's application for a dredge and fill permit or an ERP. These agreements and contracts must be effective for at least three years. The bill directs that permit evaluations must follow the same permit application evaluation procedures as those for an entity that does not have an agreement or a contract with DEP. Further, the bill provides that DEP must ensure that these agreements and contracts do not substantively or procedurally affect the impartial evaluation of the entity's permit application. The bill requires these agreements and contracts to be posted on DEP's website.

Section 3 amends s. 403.892, F.S., to add to a condition to qualify for graywater technology use incentives that each residence forming part of a multifamily project must be serviced by its own residential graywater system or a master graywater collection and re-use system for the entire project. The bill also clarifies that the maintenance of the graywater system is the responsibility of the owner. The bill provides that the graywater technology use incentives do not apply to multifamily projects that are more than five stories and clarifies that whether a dwelling is occupied by an owner is not an eligibility criterion for a developer or homebuilder to receive incentives. The bill also corrects a reference.

Section 4 directs DEP to adopt and modify rules relating to mitigation banks and activities in surface waters and wetlands to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation measures. The bill requires DEP, in consultation with the water management districts, to include this required rulemaking in existing active rulemaking or to complete rule development by June 30, 2023.

Section 5 appropriates \$2.04 million in recurring funds, effective July 1, 2022, from the Grants and Donations Trust Fund to DEP and authorizes 24 full-time positions to evaluate dredge and fill permits and ERPs for entities with which DEP has entered into agreements or contracts. Allows DEP to increase the maximum rate of basic pay up to 30 percent for each position to obtain and retain such positions.

Section 6 provides that the bill will take effect upon becoming 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

Local governments may experience a negative fiscal impact from loss of permit application fees for stormwater treatment due to the bill preventing local governments from requiring water quality treatment to be located within their jurisdiction.⁸² Other fiscal effects are indeterminate.

The state government may experience revenue increases from WQEA permit application fees. These fees would be based on acreage and would likely range from \$420 to \$14,000. The number of applicants is unknown. The new permit application fees would be deposited into the Permit Fee Trust Fund.⁸³

DEP would incur costs from operating the WQEA program, because it would need eight additional staff members and associated travel. The total financial impact for these positions including salaries, benefits, expenses, and travel costs would be approximately \$878,275 annually.⁸⁴

The bill provides spending authority and establishes 24 full-time positions in DEP to process dredge and fill and environmental resource permits. According to DEP, the \$2.04 million spending authority would be insufficient to fund the 24 positions and associated travel expenses.⁸⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

The Department of Environmental Protection has identified numerous issues, as provided in its analysis.⁸⁶

VIII. Statutes Affected:

This bill creates section 373.4134 of the Florida Statutes and substantially amends sections 403.061 and 403.892 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.)

⁸² DEP, *House Bill 965 Legislative Analysis* (Jan. 7, 2022) (on file with the Senate Committee on Environment and Natural Resources).

⁸³ *Id.*

⁸⁴ *Id.*

⁸⁵ *Id.*

⁸⁶ *Id.*

CS by Environment and Natural Resources on February 1, 2022:

- Specifies that only governmental entities may purchase and use water quality enhancement (WQEA) credits.
- Defines “governmental entity” as any political subdivision of the state, including any state agency, department, county, municipality, special district, school district, utility authority, or other authority or instrumentality, agency, unit, or department thereof.
- Removes the prohibition against water quality enhancement credits being used to compensate for wetland or other surface water impacts.
- Deletes the exception that allows water quality enhancement credit use outside of the enhancement service area for projects with total adverse impacts of less than one acre.
- Adds that DEP may enter into agreements and contracts with public or private entities to accept and expend donations, grants, and payments to expedite the evaluation of the entity’s application for dredge and fill or environmental resource permits.
- Amends a condition to qualify for incentives for the use of graywater technologies to add that each residence that is part of a multifamily project will be serviced by either its own residential graywater system or a master graywater collection and reuse system for the entire project.
- Directs DEP to adopt and modify rules relating to mitigation banks and activities in surface waters and wetlands to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation measures.
- Appropriates \$2.04 million in recurring funds, effective July 1, 2022, from the Grants and Donations Trust Fund to DEP and authorizes 24 full-time positions to evaluate dredge and fill and environmental resource permits for entities with which DEP has entered into agreements or contracts.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 373.4134, Florida Statutes, is created
to read:

373.4134 Water quality enhancement areas.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
that:

(a) Water quality will be improved and adverse water



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quality impacts of activities regulated under this part may be offset by the construction, operation, maintenance, and long-term management of water quality enhancement areas that provide offsite compensatory treatment.

(b) An expansion of existing authority for regional treatment to include offsite compensatory treatment in water quality enhancement areas to make credits available for purchase by governmental entities to offset impacts regulated under this part is needed.

(c) The construction, operation, maintenance, and long-term management of water quality enhancement areas pursuant to this section will improve the certainty and long-term viability of water quality treatment systems.

(d) Water quality enhancement areas are a valuable tool to assist governmental entities in satisfying the net improvement performance standard pursuant to s. 373.414(1)(b)3. to ensure significant reductions of pollutant loadings.

(e) Water quality enhancement areas that provide water quality enhancement credits to governmental entities seeking permits under this part and to governmental entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan pursuant to s. 403.067 are considered an appropriate and permissible option.

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

(a) "Enhancement credit" means a standard unit of measure which represents a quantity of pollutant removed.

(b) "Enhancement service area" means the geographic area where the water quality enhancement area can reasonably be expected to offset adverse water quality impacts.



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(c) "Governmental entity" means any political subdivision of this state, including any state agency, department, county, municipality, special district, school district, utility authority, or other authority or instrumentality, agency, unit, or department thereof.

(d) "Planning unit" means the total maximum daily load planning unit that is an individual tributary basin or a group of smaller adjacent tributary basins with similar characteristics.

(e) "Water quality enhancement area" means a natural system constructed, operated, managed, and maintained pursuant to a permit issued under this section for the purpose of providing offsite, compensatory, regional treatment within an identified enhancement service area, for which enhancement credits may be provided.

(f) "Water quality enhancement area permit" means a permit issued for a water quality enhancement area which authorizes the construction, operation, management, and maintenance of the area and the purchase and sale of enhancement credits.

(3) WATER QUALITY ENHANCEMENT AREAS.—

(a) The construction, operation, management, and maintenance of a water quality enhancement area must be approved through the environmental resource permitting process. Department rules pertaining to environmental resource permits apply to water quality enhancement areas and enhancement credits.

(b) Water quality enhancement credits may be sold only to governmental entities.

(c) A water quality enhancement area must address



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69 contributions of pollutants for those parameters in an
70 enhancement service area which do not meet state water quality
71 standards.

72 (d) A water quality enhancement area must use, create, or
73 improve natural systems in order to improve water quality.

74 (e) A governmental entity may use a water quality
75 enhancement area for its own water quality needs. However, a
76 governmental entity may not act as a sponsor to construct,
77 operate, manage, maintain, or market enhancement credits to
78 third parties.

79 (f) A local government may not require a permit or
80 otherwise impose regulations governing the operation of a water
81 quality enhancement area.

82 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.—

83 (a) To obtain a water quality enhancement area permit, the
84 applicant must provide reasonable assurances that the proposed
85 water quality enhancement area will:

86 1. Meet the requirements for issuance of an environmental
87 resource permit.

88 2. Benefit water quality in the enhancement service area.

89 3. Achieve defined performance or success criteria for the
90 reduction of pollutants or other constituents that prevent
91 receiving waters from meeting state water quality standards.

92 4. Assure long-term pollutant reduction through effective
93 operation and maintenance in perpetuity by designation of a
94 responsible long-term maintenance entity supported by an
95 endowment or other long-term financial assurance sufficient to
96 assure perpetual maintenance.

97 5. Demonstrate sufficient legal or equitable interest in



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the property to ensure access and perpetual protection and management of the land within the water quality enhancement area.

6. Provide for permanent preservation of the site pursuant to s. 704.06.

(b) The water quality enhancement area permit must provide for the assessment, valuation, and award of credits based on units of pollutant removed. To assist the department in determining enhancement credits, a water quality enhancement area application must include the following information:

1. Rainfall data over the longest period of record available, collected from the closest site to the proposed water quality enhancement area, preferably within the same drainage basin.

2. Anticipated average annual water quality and quantity inflows to the proposed water quality enhancement area, based on published local data collected over a period of record that most closely matches the rainfall data under this paragraph.

3. Site-specific conditions affecting the anticipated performance of the proposed water quality enhancement area, including the proposed treatment type and anticipated associated reduction rates, as demonstrated by the performance of other areas where the treatment type has been established and operating over a minimum of two consecutive wet and dry seasons.

4. Data from collection stations approved in advance by the department in sites that the department deems sufficient to determine flows and local water quality conditions.

(c) The issuance of a water quality enhancement area permit under this section does not preclude the responsibility of an



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applicant to obtain other applicable federal, state, and local permits for the construction activities associated with the water quality enhancement area.

(5) ENHANCEMENT SERVICE AREA.—

(a) An enhancement service area must be based on a basin management action plan or reasonable assurance plan boundary adopted by the department. If the department does not adopt a basin management action plan or reasonable assurance plan boundary, the enhancement service area must be the planning unit.

(b) A water quality enhancement area may provide enhancement credits only in an enhancement service area, except for:

1. Projects with adverse impacts located partially within the enhancement service area.

2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports listed in s. 311.09(1).

(c) Once an enhancement service area has been established by the department, the enhancement service area must be accepted by all water management districts and local governments.

(6) ENHANCEMENT CREDITS.—

(a) The department or water management district shall authorize the sale and use of enhancement credits governmental entities to offset adverse water quality impacts of activities regulated under this part or to assist governmental entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan pursuant to s. 403.067.

(b) Water quality improvement projects using natural



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systems or land use modifications, including, but not limited to, constructed wetlands or minor impoundments that reduce pollutants to a receiving water body, may be used by an applicant to generate enhancement credits if approved by the department.

(c) The department shall provide for and maintain a ledger that tracks the award, release, and use of enhancement credits.

1. The operator of a water quality enhancement area shall notify the department of the amount of enhancement credits sold or used within 30 days of the date the enhancement credit transaction is completed.

2. A water management district that authorizes applicants seeking permits under this part to use enhancement credits to offset water quality impacts must report to the department the amount of enhancement credits used by the applicant.

(d) Reductions in pollutant loading required under any state regulatory program are not eligible to be considered as enhancement credits.

(e) Enhancement credits may not be used by point source dischargers to satisfy regulatory requirements other than those necessary to obtain an environmental resource permit for construction and operation of the surface water management system of the site.

(f) Use of enhancement credits made available by water quality enhancement areas is voluntary.

(g) Any landowner, discharger, or other responsible person regulated under this part or s. 403.067 implementing applicable management strategies specified in an adopted basin management action plan or reasonable assurance plan may not be required by



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any permit or other enforcement action to use enhancement credits to reduce pollutant loads to achieve the pollutant reductions established pursuant to s. 403.067.

(h) A local government may not deny the use of enhancement credits due to the location of the water quality enhancement area outside the jurisdiction of the local government.

(7) AUTHORITY.—The authority granted to the department under this section is supplemental to the authority granted under s. 403.067(8).

(8) RULES.—The department may adopt rules to implement this section.

Section 2. Subsection (22) of section 403.061, Florida Statutes, is amended to read:

403.061 Department; powers and duties.—The department shall have 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 and, for this purpose, to:

(22) (a) Advise, consult, cooperate, and enter into agreements and contracts with other agencies of the state, the Federal Government, other states, interstate agencies, groups, political subdivisions, and industries affected by the provisions of this act, rules, or policies of the department. However, the secretary of the department shall not enter into any interstate agreement relating to the transport of ozone precursor pollutants, nor modify its rules based upon a recommendation from the Ozone Transport Assessment Group or any other such organization that is not an official subdivision of the United States Environmental Protection Agency but which studies issues related to the transport of ozone precursor



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pollutants, without prior review and specific legislative approval.

(b) Enter into agreements and contracts with public or private entities to accept and expend donations, grants of funds, and payments to expedite the evaluation of the entity's application for a permit under s. 373.4131 or s. 373.4146. Such agreements and contracts must be effective for at least 3 years. Permit evaluations under this paragraph must follow the same permit application evaluation procedures as those for an entity that does not have an agreement or a contract with the department. The department shall ensure that agreements and contracts entered into under this paragraph do not substantively or procedurally affect the impartial evaluation of the entity's permit application. Such active agreements and contracts must be posted on the department's website.

The department shall implement such programs in conjunction with its other powers and duties and shall place special emphasis on reducing and eliminating contamination that presents a threat to humans, animals or plants, or to the environment.

Section 3. Paragraph (b) of subsection (1) and paragraphs (a), (b), and (d) of subsection (3) of section 403.892, Florida Statutes, are amended, and subsection (6) is added to that section, to read:

403.892 Incentives for the use of graywater technologies.—

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

(b) "Graywater" has the same meaning as in s. 381.0065(2)(f) ~~s. 381.0065(2)(e)~~.

(3) To qualify for the incentives under subsection (2), the



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developer or homebuilder must certify to the applicable governmental entity as part of its application for development approval or amendment of a development order that all of the following conditions are met:

(a) The proposed or existing development has at least 25 single-family residential homes that are either detached or multifamily dwellings. ~~This paragraph does not apply to multifamily projects over five stories in height.~~

(b) Each single-family residential home or residence will have its own residential graywater system ~~that is~~ dedicated for its use. Each residence forming part of a multifamily project will be serviced by either its own residential graywater system dedicated for its use or a master graywater collection and reuse system for the entire project.

(d) The required maintenance of the graywater system will be the responsibility of the owner ~~residential homeowner~~.

(6) This section does not apply to multifamily projects more than five stories in height. Whether a dwelling is occupied by an owner is not an eligibility criterion for a developer or homebuilder to receive the incentives authorized pursuant to this section.

Section 4. The Department of Environmental Protection shall adopt and modify rules adopted pursuant to ss. 373.4136 and 373.414, Florida Statutes, to ensure that required financial assurances are equivalent and sufficient to provide for the long-term management of mitigation permitted under ss. 373.4136 and 373.414, Florida Statutes. The department, in consultation with the water management districts, shall include the rulemaking required by this section in existing active



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rulemaking or shall complete rule development by June 30, 2023.

Section 5. Effective July 1, 2022, the sum of \$2.04 million in recurring funds from the Grants and Donations Trust Fund is appropriated to the Department of Environmental Protection, and 24 full-time equivalent positions are authorized, to evaluate applications for permits issued under ss. 373.4131 and 373.4146, Florida Statutes, for entities with which the department has entered into agreements or contracts under s. 403.061(22), Florida Statutes. To obtain and retain such positions, the department may increase the maximum rate of basic pay up to 30 percent for each position.

Section 6. 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 environmental management; creating s. 373.4134, F.S.; providing legislative findings and intent; defining terms; providing for water quality enhancement areas, enhancement service areas, and enhancement credits; providing requirements for water quality enhancement area permits, enhancement service areas, and enhancement credits; directing the Department of Environmental Protection and water management districts to authorize the sale and use of enhancement credits to offset certain adverse water quality impacts and to meet certain water quality



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requirements; providing construction; requiring the department to maintain enhancement credit ledgers; authorizing the department to adopt rules; amending s. 403.061, F.S.; authorizing the department to enter into agreements and contracts with public and private entities for donations, funds, and payments to expedite the evaluation of environmental resource and dredge and fill permits; providing requirements for such agreements and contracts and permit evaluations; requiring the department to make such agreements and contracts publicly available on its website; amending s. 403.892, F.S.; correcting a cross-reference; revising the conditions that a developer or homebuilder must certify it meets as part of its application for development approval or amendment of a development order; providing applicability; requiring the department to adopt or modify specified rules, as applicable; providing requirements for such rulemaking; providing an appropriation and authorizing full-time equivalent positions; authorizing the department to increase the maximum rate of basic pay for certain positions by up to a specified percentage; providing an effective date.

By Senator Burgess

20-00660A-22

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A bill to be entitled
An act relating to water quality enhancement areas;
creating s. 373.4134, F.S.; providing legislative
findings and intent; defining terms; providing for
water quality enhancement areas, enhancement service
areas, and enhancement credits; providing requirements
for water quality enhancement area permits,
enhancement service areas, and enhancement credits;
directing the Department of Environmental Protection
and water management districts to authorize the sale
and use of enhancement credits to offset certain
adverse water quality impacts and to meet certain
water quality requirements; providing construction;
directing the department to maintain enhancement
credit ledgers and adopt rules; providing an effective
date.

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

Section 1. Section 373.4134, Florida Statutes, is created
to read:

373.4134 Water quality enhancement areas.—

(1) LEGISLATIVE FINDINGS AND INTENT.—The Legislature finds
that:

(a) Water quality will be improved and adverse water
quality impacts of activities regulated under this part may be
offset by the construction, operation, maintenance, and long-
term management of water quality enhancement areas that provide
offsite compensatory treatment.

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30 (b) An expansion of existing authority for regional
31 treatment to include offsite compensatory treatment in water
32 quality enhancement areas to make credits available for purchase
33 to offset impacts regulated under this part, is needed.

34 (c) The construction, operation, maintenance, and long-term
35 management of water quality enhancement areas pursuant to this
36 section will improve the certainty and long-term viability of
37 water quality treatment systems.

38 (d) Water quality enhancement areas are a valuable tool to
39 assist applicants in satisfying the net improvement performance
40 standard pursuant to s. 373.414(1)(b)3. to ensure significant
41 reductions of pollutant loadings.

42 (e) Water quality enhancement areas that provide water
43 quality enhancement credits to applicants seeking permits under
44 this part and entities seeking to meet an assigned basin
45 management action plan allocation or reasonable assurance plan
46 pursuant to s. 403.067 are considered an appropriate and
47 permissible option.

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

49 (a) "Enhancement credit" means a standard unit of measure
50 which represents a quantity of pollutant removed.

51 (b) "Enhancement service area" means the geographic area
52 where the water quality enhancement area can reasonably be
53 expected to offset adverse water quality impacts.

54 (c) "Planning unit" means the total maximum daily load
55 planning unit that is an individual tributary basin or a group
56 of smaller adjacent tributary basins with similar
57 characteristics.

58 (d) "Water quality enhancement area" means a natural system

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59 constructed, operated, managed, and maintained pursuant to a
60 permit issued under this part for the purpose of providing
61 offsite, compensatory, regional treatment within an identified
62 enhancement service area, for which enhancement credits may be
63 provided.

64 (e) "Water quality enhancement area permit" means a permit
65 issued for a water quality enhancement area which authorizes the
66 construction, operation, management, and maintenance of the area
67 and the purchase and sale of enhancement credits.

68 (3) WATER QUALITY ENHANCEMENT AREAS.—

69 (a) An environmental resource permit issued by the
70 department under this part must authorize the construction,
71 operation, management, and maintenance of a water quality
72 enhancement area. Department rules pertaining to environmental
73 resource permits apply to water quality enhancement areas and
74 enhancement credits.

75 (b) A water quality enhancement area must address
76 contributions of pollutants for those parameters in an
77 enhancement service area which do not meet state water quality
78 standards.

79 (c) A water quality enhancement area must use, create, or
80 improve natural systems in order to improve water quality.

81 (d) A water quality enhancement area may not provide
82 credits to compensate for wetland or other surface water
83 impacts.

84 (e) A governmental entity may use a water quality
85 enhancement area for its own water quality needs. However, a
86 governmental entity may not act as a sponsor to construct,
87 operate, manage, maintain, or market enhancement credits to

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88 third parties.

89 (f) A local government may not require a permit or
90 otherwise impose regulations governing the operation of a water
91 quality enhancement area.

92 (4) WATER QUALITY ENHANCEMENT AREA PERMIT.—

93 (a) To obtain a water quality enhancement area permit, the
94 applicant must provide reasonable assurances that the proposed
95 water quality enhancement area will:

96 1. Meet the requirements for issuance of an environmental
97 resource permit.

98 2. Benefit water quality in the enhancement service area.

99 3. Achieve defined performance or success criteria for the
100 reduction of pollutants or other constituents that prevent
101 receiving waters from meeting state water quality standards.

102 4. Assure long-term pollutant reduction through effective
103 operation and maintenance in perpetuity by designation of a
104 responsible long-term maintenance entity supported by an
105 endowment or other long-term financial assurance sufficient to
106 assure perpetual maintenance.

107 5. Demonstrate sufficient legal or equitable interest in
108 the property to ensure access and perpetual protection and
109 management of the land within the water quality enhancement
110 area.

111 6. Provide for permanent preservation of the site pursuant
112 to s. 704.06.

113 (b) The water quality enhancement area permit must provide
114 for the assessment, valuation, and award of credits based on
115 units of pollutant removed. To assist the department in
116 determining enhancement credits, a water quality enhancement

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area application must include the following information:

1. Rainfall data over the longest period of record available collected from the closest site to the proposed water quality enhancement area, preferably within the same drainage basin.

2. Anticipated average annual water quality and quantity inflows to the proposed water quality enhancement area, based on published local data collected over a period of record that most closely matches the rainfall data under this paragraph.

3. Site-specific conditions affecting the anticipated performance of the proposed water quality enhancement area, including the proposed treatment type and anticipated associated reduction rates, as demonstrated by the performance of other areas where the treatment type has been established and operating over a minimum of two consecutive wet and dry seasons.

4. Proposed data collection sites. An applicant may use data collection stations approved in advance by the department in sites that the department deems insufficient to determine flows and local water quality conditions.

(c) The issuance of a water quality enhancement area permit under this section does not preclude the responsibility of an applicant to obtain other applicable federal, state, and local permits for the construction activities associated with the water quality enhancement area.

(5) ENHANCEMENT SERVICE AREA.—

(a) An enhancement service area must be based on a basin management action plan or reasonable assurance plan boundary adopted by the department. If the department does not adopt a basin management action plan or reasonable assurance plan

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boundary, the enhancement service area must be the planning unit.

(b) A water quality enhancement area may only provide enhancement credits in an enhancement service area, except for:

1. Projects with adverse impacts located partially within the enhancement service area.

2. Linear projects, such as roadways, transmission lines, distribution lines, pipelines, railways, or seaports listed in s. 311.09(1).

3. Projects with total adverse impacts of less than 1 acre in size.

(c) Once an enhancement service area has been established by the department, the enhancement service area must be accepted by all water management districts and local governments.

(6) ENHANCEMENT CREDITS.—

(a) The department or water management district shall authorize the sale and use of enhancement credits to offset adverse water quality impacts of activities regulated under this part or to assist entities seeking to meet an assigned basin management action plan allocation or reasonable assurance plan pursuant to s. 403.067.

(b) Water quality improvement projects using natural systems or land use modifications, including, but not limited to, constructed wetlands or minor impoundments that reduce pollutants to a receiving water body, may be used by an applicant to generate enhancement credits if approved by the department.

(c) The department shall provide for and maintain a ledger that tracks the award, release, and use of enhancement credits.

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175 1. The operator of a water quality enhancement area shall
176 notify the department of the amount of enhancement credits sold
177 or used within 30 days of the date the enhancement credit
178 transaction is completed.

179 2. A water management district that authorizes applicants
180 seeking permits under this part to use enhancement credits to
181 offset water quality impacts must report to the department the
182 amount of enhancement credits used by the applicant.

183 (d) Reductions in pollutant loading required under any
184 state regulatory program are not eligible to be considered as
185 enhancement credits.

186 (e) Enhancement credits may not be used by point source
187 dischargers to satisfy regulatory requirements other than those
188 necessary to obtain an environmental resource permit for
189 construction and operation of the surface water management
190 system of the site.

191 (f) Use of enhancement credits made available by water
192 quality enhancement areas is voluntary.

193 (g) Any landowner, discharger, or other responsible person
194 regulated under this part or s. 403.067 implementing applicable
195 management strategies specified in an adopted basin management
196 action plan or reasonable assurance plan may not be required by
197 any permit or other enforcement action to use enhancement
198 credits to reduce pollutant loads to achieve the pollutant
199 reductions established pursuant to s. 403.067.

200 (h) A local government may not deny the use of enhancement
201 credits due to the location of the water quality enhancement
202 area outside the jurisdiction of the local government.

203 (7) AUTHORITY.—The authority granted to the department

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204 under this section is supplemental to the authority granted
205 under s. 403.067(8).

206 (8) RULES.—The department shall adopt rules to implement
207 this section.

208 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: CS/SB 290

INTRODUCER: Environment and Natural Resources Committee and Senator Ausley

SUBJECT: Surplus State-owned Nonconservation Lands

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Fav/CS
2.			CA	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 290 provides that if the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) determines that nonconservation lands located within a fiscally constrained county are no longer needed, the Board of Trustees may elect to:

- Convey the nonconservation lands for less than appraised value to the county, if the county will use the nonconservation lands for a public purpose; or
- Sell or lease the nonconservation lands for less than appraised value to a private entity, if the private entity prepares and submits an economic development plan to the Board of Trustees identifying how its proposed use of the lands will create new full-time employment opportunities or will otherwise promote and enhance economic development in the county.

It provides that surplus nonconservation lands in fiscally constrained counties do not need to be initially offered for sale by competitive bid before acquisition by the county or a private entity.

II. Present Situation:

Surplus of State Lands

State law designates the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees)¹ as the entity responsible for determining which state lands (the title to which are

¹ The Board of Trustees is a four-person board consisting of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture. See s. 253.02(1), F.S.

vested in the Board of Trustees) may be surplus.² The statute addresses two different categories of state-owned lands: conservation lands and nonconservation lands.³

- For all conservation lands, the Acquisition and Restoration Council⁴ must first make a recommendation to the Board of Trustees, then the Board of Trustees determines whether the lands are no longer needed for conservation purposes.⁵ If it determines that they are no longer needed, it may dispose of such lands by an affirmative vote of at least three members.⁶
- For nonconservation lands, the Board of Trustees determines whether they are no longer needed. If it determines that they are no longer needed, it may dispose of such lands by an affirmative vote of at least three members.⁷

The statute also provides that local government requests for the state to surplus conservation or nonconservation lands, whether for purchase or exchange, must be expedited throughout the surplus process. Property jointly acquired by the state and other entities may not be surplus without the consent of all joint owners.⁸

The Division of State Lands is responsible for determining the sale price of lands determined to be surplus lands.⁹ It must consider an appraisal of the property or, if the estimated value of the land is \$500,000 or less, a comparable sales analysis or a broker's opinion of value. The value must be based upon the highest and best use of the property, considering all applicable development rights, to ensure the maximum benefit and use to the state consistent with state law. "Highest and best use" means the reasonable, probable, and legal use of vacant land or an improved property which is physically possible, appropriately supported, financially feasible, and results in the highest value.¹⁰

A unit of government that acquires title to surplus lands for less than appraised value cannot sell or transfer title to all or any portion of the lands to any private owner for 10 years.¹¹ Moreover, a unit of government seeking to transfer or sell lands must first give the Board of Trustees an opportunity to reacquire such lands for the price at which the Board of Trustees sold such lands to the unit of government.¹²

² Section 253.0341(1), F.S.

³ *Id.*

⁴ The Acquisition and Restoration Council (ARC) is a 10-member group with representatives from four state agencies, four appointees of the Governor, one appointee by the Fish and Wildlife Conservation Commission, and one appointee by the Commissioner of Agriculture and Consumer Services. Section 259.035, F.S. ARC has responsibility for the evaluation, selection and ranking of state land acquisition projects on the Florida Forever priority list, as well as the review of management plans and land uses for all state-owned conservation lands. Dep't of Environmental Protection, *Acquisition and Restoration Council*, <https://floridadep.gov/lands/environmental-services/content/acquisition-and-restoration-council-arc> (last visited Jan. 21, 2022); *see also* s. 253.0341(6), F.S. (providing that before any decision by the Board of Trustees, ARC must review and make recommendations to the Board of Trustees concerning the request for surplus, and must determine whether the request is compatible with the resource values of and management objectives for such lands).

⁵ Section 253.0341(1), F.S.

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ Section 253.0341(8), F.S.

¹⁰ *Id.*

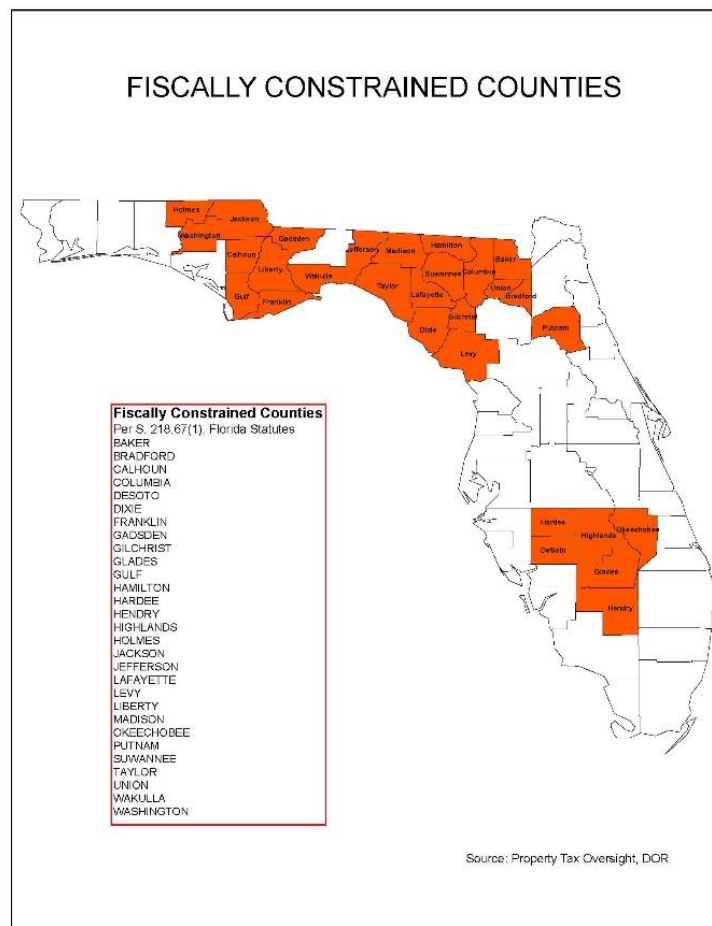
¹¹ Section 253.0341(8)(b), F.S.

¹² *Id.*

Parcels with a market value over \$500,000 must be initially offered for sale by competitive bid.¹³ Any parcels unsuccessfully offered for sale by competitive bid, and parcels with a market value of \$500,000 or less, may be sold by any reasonable means, including procuring real estate services, open or exclusive listings, competitive bid, auction, negotiated direct sales, or other appropriate services, to facilitate the sale.¹⁴

Fiscally Constrained Counties and Rural Areas of Opportunity

A “fiscally constrained county” is a county that is “entirely within a rural area of opportunity [RAO] as designated by the Governor pursuant to s. 288.0656” or “for which the value of a mill will raise no more than \$5 million in revenue, based on the taxable value certified pursuant to s. 1011.62(4)(a)1.a., from the previous July 1[.]”¹⁵ There are 29 fiscally constrained counties: Baker, Bradford, Calhoun, Columbia, DeSoto, Dixie, Franklin, Gadsden, Gilchrist, Glades, Gulf, Hamilton, Hardee, Hendry, Highlands, Holmes, Jackson, Jefferson, Lafayette, Levy, Liberty, Madison, Okeechobee, Putnam, Suwannee, Taylor, Union, Wakulla, and Washington.¹⁶



¹³ Section 253.0341(9), F.S.

¹⁴ *Id.*

¹⁵ See s. 218.67(1), F.S.

¹⁶ Florida Dep’t of Revenue, *Fiscally Constrained Counties*, <https://floridarevenue.com/property/Documents/fcco081210.pdf> (last visited Jan. 21, 2022).

An RAO is a rural community, or a region composed of rural communities, designated by the Governor, which has been adversely affected by an extraordinary economic event, severe or chronic distress, or a natural disaster or that presents a unique economic development opportunity of regional impact.¹⁷ The three designated RAOs are the:

- Northwest RAO; which includes Calhoun, Franklin, Gadsden, Gulf, Holmes, Jackson, Liberty, Wakulla, and Washington counties, and the City of Freeport;
- South Central RAO; which includes DeSoto, Glades, Hardee, Hendry, Highlands, and Okeechobee counties, and the Cities of Pahokee, Belle Glade, South Bay, and Immokalee; and
- North Central RAO; which includes Baker, Bradford, Columbia, Dixie, Gilchrist, Hamilton, Jefferson, Lafayette, Levy, Madison, Putnam, Suwannee, Taylor, and Union counties.¹⁸

III. Effect of Proposed Changes:

The bill provides that if the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) determines that nonconservation lands located within a fiscally constrained county is no longer needed, the Board of Trustees may elect to:

- Convey the nonconservation lands for less than appraised value to the county, if the county will use the nonconservation lands for a public purpose; or
- Sell or lease the nonconservation lands for less than appraised value to a private entity, if the private entity prepares and submits an economic development plan to the Board of Trustees identifying how its proposed use of the lands will create new full-time employment opportunities or will otherwise promote and enhance economic development in the county.

The bill also provides that surplus nonconservation lands in fiscally constrained counties do not need to be initially offered for sale by competitive bid before acquisition by the county or a private entity.

The bill clarifies that local government requests for the state to surplus conservation or nonconservation lands may be for donation in addition to for purchase or exchange.

The bill takes effect on July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁷ Section 288.0656(2)(d), F.S.

¹⁸ Florida Dep't of Economic Opportunity, *RAO*, available at <http://www.floridajobs.org/community-planning-and-development/rural-community-programs/rural-areas-of-opportunity> (last visited Jan. 21, 2022).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill will positively impact the private sector in fiscally constrained counties. It will benefit private entities by making it possible for them to acquire state-owned, underutilized, nonconservation lands at a discounted value.

C. Government Sector Impact:

The bill will positively impact the government sector in fiscally constrained counties. It will make it easier for fiscally constrained counties to acquire state-owned, underutilized, nonconservation lands from the state and make use of them for public purposes.

To the extent nonconservation lands are donated to a fiscally constrained county for a public purpose, said donations may reduce the funds donated into the Internal Improvement Trust Fund or the Architects Incidental Trust Fund.¹⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

DEP's bill analysis on SB 290 discusses how it believes the Board of Trustees already has the legal authority it needs to convey surplus property by sale, gift, or exchange.²⁰

¹⁹ DEP, 2022 Legislative Session, Bill # SB 290, 1-2 (2021) (on file with the Florida Senate Environment and Natural Resources Committee).

²⁰ DEP, 2022 Legislative Session, Bill # SB 290, 1-2 (2021) (on file with the Florida Senate Environment and Natural Resources Committee).

VIII. Statutes Affected:

This bill substantially amends section 253.0341 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 January 31, 2022:**

- Revises the bill to provide that surplus nonconservation lands in fiscally constrained counties do not need to be initially offered for sale by competitive bid before acquisition by the county or a private entity.
- Eliminates the value-based voting thresholds in the bill, reverting to the existing threshold of at least three members to convey surplus state-owned lands.
- Provides that, for nonconservation lands located within a fiscally constrained county, the Board of Trustees of the Internal Improvement Trust Fund (Board of Trustees) may elect to:
 - Convey the nonconservation lands for less than appraised value to the county, if the county will use the nonconservation lands for a public purpose; or
 - Sell or lease the nonconservation lands for less than appraised value to a private entity, if the private entity prepares and submits an economic development plan to the Board of Trustees identifying how its proposed use of the lands will create new full-time employment opportunities or will otherwise promote and enhance economic development in the county.

B. Amendments:

None.



352126

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
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The Committee on Environment and Natural Resources (Ausley)
recommended the following:

Senate Amendment (with title amendment)

Delete lines 35 - 49
and insert:
may dispose of such lands by an affirmative vote of at least
three members.

(c) Surplus nonconservation lands in fiscally constrained
counties do not need to be initially offered for sale by
competitive bid pursuant to subsection (9) before acquisition by
the county or the private entity. For nonconservation lands



352126

located within a fiscally constrained county as described in s.
218.67(1), the board of trustees may elect to:

1. Convey the nonconservation lands for less than appraised
value to the county, if the county will use the nonconservation
lands for a public purpose; or

2. Sell or lease the nonconservation lands for less than
appraised value to a private entity, if the private entity
prepares and submits an economic development plan to the board
of trustees identifying how its proposed use of the lands will
create new full-time employment opportunities or will otherwise
promote and enhance economic development in the county.

(d) Local government requests for the state to surplus

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

And the title is amended as follows:

Delete lines 5 - 7

and insert:

Fund to dispose of surplus nonconservation lands under
certain circumstances; authorizing the board to convey
such lands to fiscally

By Senator Ausley

3-00418-22

2022290__

1 A bill to be entitled
2 An act relating to surplus state-owned nonconservation
3 lands; amending s. 253.0341, F.S.; authorizing the
4 Board of Trustees of the Internal Improvement Trust
5 Fund to dispose of surplus nonconservation lands at
6 specified values under certain circumstances;
7 authorizing the board to donate such lands to fiscally
8 constrained counties under certain circumstances;
9 authorizing the board of trustees to sell or lease
10 surplus nonconservation lands located in fiscally
11 constrained counties to private entities under certain
12 circumstances; providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:
15

16 Section 1. Subsection (1) of section 253.0341, Florida
17 Statutes, is amended to read:

18 253.0341 Surplus of state-owned lands.—

19 (1) The board of trustees shall determine which lands, the
20 title to which is vested in the board, may be surplusued.

21 (a) For all conservation lands, the Acquisition and
22 Restoration Council shall make a recommendation to the board of
23 trustees, and the board of trustees shall determine whether the
24 lands are no longer needed for conservation purposes. If the
25 board of trustees determines the lands are no longer needed for
26 conservation purposes, it may dispose of such lands by an
27 affirmative vote of at least three members. In the case of a
28 land exchange involving the disposition of conservation lands,
29 the board of trustees must determine by an affirmative vote of

3-00418-22

2022290__

at least three members that the exchange will result in a net positive conservation benefit.

(b) For all nonconservation lands, the board of trustees shall determine whether the lands are no longer needed. If the board of trustees determines the lands are no longer needed, it may dispose of such lands at a value:

1. Not less than the sale price, as determined by subsection (8), if agreed to by an affirmative vote of at least three members; or

2. Less than the sale price, as determined by subsection (8), if agreed to by an affirmative vote of four members. The board may dispose of surplus nonconservation lands for less than the sale price by:

a. Donating the land to a fiscally constrained county as described in s. 218.67(1) for a public purpose; or

b. Selling or leasing such lands located in a fiscally constrained county as described in s. 218.67(1) to a private entity, if the use of the land is expected to create economic development or new full-time jobs in such county.

(c) Local government requests for the state to surplus conservation or nonconservation lands, whether for donation, purchase, or exchange, shall be expedited throughout the surplus process. Property jointly acquired by the state and other entities may not be surplus without the consent of all joint owners.

Section 2. This act shall take effect July 1, 2022.

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 1156

INTRODUCER: Environment and Natural Resources Committee and Senator Stewart

SUBJECT: Study to Establish a Statewide Long-term Recycling Goal

DATE: February 1, 2022

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1156 directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023 and to convene a technical assistance group within DEP to develop the plan. The bill provides minimum criteria for the plan and directs DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon its completion.

II. Present Situation:

Florida's Recycling Goal

In 2008, in recognition of the volume of waste generated by Floridians and visitors every year and the value of some of these discarded commodities, the Legislature set a statewide goal to recycle at least 75 percent of the municipal solid waste that would otherwise be disposed of in waste management facilities, landfills, or incineration facilities by 2020.¹ The Department of Environmental Protection (DEP) has established numerous programs and initiatives to reach that

¹ Section 403.7032, F.S.; Ch. 2008-227, s. 95, Laws of Fla.; see Department of Environmental Protection (DEP), *Final Report, Florida and the 2020 75% Recycling Goal*, 2 (2020), available at <https://floridadep.gov/waste/permitting-compliance-assistance/documents/75-recycling-goal-final-report> (last visited Jan. 31, 2022).

goal.² In 2010, the Legislature established the interim goals that counties must pursue leading up to 2020.³

In those years when the recycling rate does not meet the statutory thresholds for these interim goals, DEP must provide a report to the President of the Senate and the Speaker of the House of Representatives.⁴ This report must identify those additional programs or statutory changes needed to achieve the state's recycling goals.⁵ Florida achieved the interim recycling goals established for 2012 and 2014, but Florida's recycling rate for 2016 was 56 percent, falling short of the interim recycling goal of 60 percent by 2017.⁶ Since 2016, Florida's statewide recycling rate exhibited a general decline. In 2020, when DEP released the final report "Florida and the 2020 75% Recycling Goal," the recycling rate was only 50 percent, falling short of the 75 percent goal.⁷

The report states that in 2020 alone, Florida residents and tourists generated municipal solid waste (MSW) equivalent to over two tons per resident.⁸ That is above the national average of about one ton per resident per year, since Florida's MSW calculations per resident do not include the number of tourists, as measured by the U.S. Environmental Protection Agency and other states. There is no universal methodology for measuring progress toward recycling goals, which makes it difficult to compare states' recycling rates. Florida's recycling goal includes only MSW, meaning that waste from industrial, agricultural, and mining operations and wastewater treatment sludge, is excluded from the calculations.⁹ The goal is also measured by weight, which pushed counties to recycle heavy materials, rather than traditional recyclables like metal cans and plastic bottles.¹⁰

As published in the report, the Florida Recycling Workgroup and a group of local governments have provided recycling ideas and recommendations, which include:

- Replacing the weight-based 75% goal;
- Transitioning to a goal or set of goals that are better indicators of program performance and desired environmental and economic outcomes; and
- Focusing on developing recycling markets, education and outreach, and funding and incentives to support local government recycling efforts.¹¹

In the report, DEP recommends convening a technical assistance group (TAG) that will include the Florida Recycling Workgroup, local governments, and any interested parties to develop a comprehensive waste reduction and recycling plan for Florida. The plan will implement stakeholder recommendations by:

² DEP, *Recycling*, <http://www.dep.state.fl.us/waste/categories/recycling/default.htm> (last visited Jan. 27, 2022).

³ Section 403.706(2)(a), F.S.

⁴ Section 403.706(2)(e), F.S.; see s. 403.705(3), F.S. DEP must evaluate and report biennially to the President of the Senate and the Speaker of the House on the state's success in meeting the solid waste recycling goal in s. 403.706(2), F.S.

⁵ Section 403.706(2)(e), F.S.

⁶ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 2.

⁷ *Id.*

⁸ *Id.* at 8.

⁹ *Id.*

¹⁰ *Id.* at 3.

¹¹ *Id.* at 4.

- Identifying a set of recycling goals that use sustainable materials management and waste diversion concepts;
- Developing objectives and proposing a three-year plan to develop a recycling market, education and outreach, and local government assistance; and
- Proposing statutory language to implement the revised recycling goals and strategies.¹²

Local Government Solid Waste Responsibilities

Each Florida county has the responsibility and authority to provide for the operation of solid waste disposal facilities to meet the needs of all incorporated and unincorporated areas of the county.¹³ Counties may charge reasonable fees for the handling and disposal of solid waste at their facilities.¹⁴ Municipalities are responsible for collecting and transporting solid waste from their jurisdictions to a solid waste disposal facility operated by a county or operated under a contract with a county.¹⁵ Under Florida law, “recycling” is defined as “any process by which solid waste, or materials that would otherwise become solid waste, are collected, separated, or processed and reused or returned to use in the form of raw materials or intermediate or final products.”¹⁶

Each Florida county must have a recyclable materials recycling program that has a goal of recycling 40 percent of recyclable solid waste by December 31, 2012; 50 percent by December 31, 2014; 60 percent by December 31, 2016; 70 percent by December 31, 2018; and 75 percent by December 31, 2020.¹⁷ These programs must be designed to recover a significant portion of at least four of the following materials from the solid waste stream prior to final disposal at a solid waste disposal facility and to offer these materials for recycling:

- Newspapers.
- Aluminum cans.
- Steel cans.
- Glass.
- Plastic bottles.
- Cardboard.
- Office paper.
- Yard trash.¹⁸

Each county must ensure, to the maximum extent possible, that municipalities within its boundaries participate in the preparation and implementation of recycling and solid waste management programs through interlocal agreements or other means provided by law.¹⁹ Counties and municipalities are encouraged to form cooperative arrangements for implementing recycling

¹² *Id.*

¹³ Section 403.706(1), F.S. Municipalities may also be authorized to construct and operate solid waste disposal facilities, if certain statutory requirements are met; Fla. Admin. Code Ch. 62-701.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ Section 403.703(31), F.S.

¹⁷ Section 403.706(2)(a), F.S. These are interim goals to help Florida reach the goal of recycling at least 75% of municipal solid waste by 2020; Ch. 2010-143, s. 7, Laws of Fla.; *see also* s. 403.7032(2), F.S.

¹⁸ Section 403.706(2)(f), F.S.

¹⁹ Section 403.706(3), F.S.

programs.²⁰ Certain activities are eligible for special credit towards achieving a county's recycling goals, including the use of solid waste as a fuel in a renewable energy facility, the innovative use of yard trash or other clean wood waste or paper waste, and providing opportunities to recycle in counties with smaller populations.²¹ To assess progress, counties must provide information on their solid waste management programs and recycling activities to DEP by April 1 of each year.²²

"Municipal solid waste" includes any solid waste, except for sludge, resulting from the operation of residential, commercial, governmental, or institutional establishments that would normally be collected, processed, and disposed of through a public or private solid waste management service.²³ The term includes yard trash but does not include solid waste from industrial, mining, or agricultural operations. DEP may reduce or modify the municipal solid waste recycling goal that a county is required to achieve if the county demonstrates to DEP that:

- The achievement of the goal would have an adverse effect on the financial obligations of the county that are directly related to the county's waste-to-energy facility; and
- The county cannot remove normally combustible materials from solid waste that is to be processed at a waste-to-energy facility because of the need to maintain a sufficient amount of solid waste to ensure the financial viability of the facility.²⁴

The goal may only be reduced or modified to the extent necessary to alleviate the adverse effects on the financial viability of a county's waste-to-energy facility.²⁵

In the development and implementation of a curbside recyclable materials collection program, a county or municipality must enter into negotiations with a franchisee who is operating to exclusively collect solid waste within a service area of a county or municipality to undertake curbside recyclable materials collection responsibilities for a county or municipality.²⁶ Local governments are authorized to enact ordinances that require and direct all residential properties, multifamily dwellings, and apartment complexes and industrial, commercial, and institutional establishments as defined by the local government to establish programs for the separation of recyclable materials designated by the local government.²⁷ Local governments are authorized to provide for the collection of the recyclable materials. A market must exist for the recyclable materials, and the local government must specifically intend for them to be recycled.²⁸ Such ordinances may include, but are not limited to, prohibiting any person from knowingly disposing of recyclable materials designated by the local government, and ensuring the collection of recovered materials as necessary to protect public health and safety.²⁹

²⁰ Section 403.706(2)(a), F.S.

²¹ Section 403.706(4), F.S.

²² Section 403.706(7), F.S.; Fla. Admin. Code R. 62-716.450.

²³ Section 403.706(5), F.S.

²⁴ Section 403.706(6), F.S.

²⁵ *Id.*

²⁶ Section 403.706(9), F.S.

²⁷ Section 403.706(21), F.S.

²⁸ *Id.*

²⁹ Section 403.706(21), F.S.

A local government may not:

- Require a commercial establishment that generates source-separated recovered materials to sell or otherwise convey its recovered materials to the local government or to a facility designated by the local government;
- Restrict such a generator's right to sell or otherwise convey such recovered materials to any properly certified recovered materials dealer who has satisfied the statutory requirements; or
- Enact any ordinance that prevents such a dealer from entering into a contract with a commercial establishment to purchase, collect, transport, process, or receive source-separated recovered materials.³⁰

Local governments may require a commercial establishment to source-separate the recovered materials generated on the premises.³¹

Local Government Recycling Assistance

In 1988, the Solid Waste Management Act required counties to initiate recycling programs to address the growing costs and environmental problems associated with solid waste disposal in the state. To aid counties in setting up recycling programs, the Legislature established the Recycling and Education Grant Program. Under the program, counties received funds for initial capital costs, operations, recycling education, market development, and special projects. The program sunset in 2001. The report provides that the TAG will evaluate the benefits and problems of the Recycling and Education Grant Program, make a recommendation to reinstate the program, or consider other means to provide recycling assistance to local governments.³²

Sustainable Materials Management and Waste Diversion

Sustainable materials management is a term for alternative approaches to recycling that recognize the differences among waste components with respect to environmental and resource outcomes. Sustainable materials management focuses on using and reusing materials more productively over their life cycles.³³

Waste diversion, or waste reduction, is already an important part of the state's MSW management system. Waste diversion is the amount of material that is reduced, reused, prevented, and recycled, per capita and can be measured by the amount of waste not being disposed of in landfills. In setting a waste diversion goal, it is important to determine whether the goal is a state or local goal, or both; the percentage waste reduction expected; and the base year, so that the amount of waste disposed can be compared over time.³⁴

Recycling Education and Outreach

Education on the types of recycling service available, how materials are collected, and what materials are accepted is important for a successful recycling program. Because recycling

³⁰ Section 403.7046(3), F.S.

³¹ Section 403.7046(3)(a), F.S.

³² DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 5.

³³ *Id.* at 4.

³⁴ *Id.*

programs in the state vary significantly, education should be tailored to local recycling programs.³⁵

Currently, DEP operates several education programs, including:

- The Florida Food Waste Prevention Week, which focuses on engagement with local municipalities, universities, national food recovery networks, and the hospitality industry to raise awareness about food waste;
- Phase Three of the Rethink.Reset.Recycle. Program, which focuses on providing counties and municipalities with a variety of customized digital products illustrating correct preparation of recyclables prior to disposing of them; and
- The Recycling Recognition Program, which encourages private businesses, institutions, schools, organizations, and the public to increase recycling by setting recycling goals.³⁶

The report provides that the TAG will propose an education and outreach approach that evaluates statewide solutions but is customized for local needs, including a possible application for mobile devices that provides recycling information based on location.³⁷

Recycling Market Challenges

Until 2017, China consumed about 70 percent of the recycled paper and plastic in the world, including millions of tons of recycling from the U.S.³⁸ In 2018, China banned the import of 24 recyclable materials, such as post-consumer plastics and mixed paper, and also announced a 0.5 percent contamination standard for most recyclables not named in the ban.³⁹ The ban was later expanded to include post-industrial plastics and a variety of scrap metals, and China implemented pre-shipment inspection requirements for inbound loads of scrap material.⁴⁰ The ban has caused shipments of recyclables to other Southeast Asian countries to increase dramatically, resulting in nations including Malaysia, Indonesia, Thailand, and Vietnam enacting policies restricting the import of recyclable materials.⁴¹

³⁵ *Id.*

³⁶ *Id.* at 20, 21.

³⁷ *Id.* at 5.

³⁸ National Waste & Recycling Association, *Issue Brief: China's Changing Policies on Important Recyclables*, 1 (Apr. 2018), available at https://c.ymcdn.com/sites/wasterecycling.siteym.com/resource/resmgr/files/issue_brief/China%27s_Changing_Policies_on.pd (last visited Jan. 27, 2022); Cheryl Katz, *Piling Up: How China's Ban on Importing Waste Has Stalled Global Recycling*, Yale Environment 360 (March 7, 2019), <https://e360.yale.edu/features/piling-up-how-chinas-ban-on-importing-waste-has-stalled-global-recycling> (last visited Jan. 27, 2022).

³⁹ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*, <https://resource-recycling.com/recycling/2018/02/13/green-fence-red-alert-china-timeline/> (last visited Jan. 27, 2022).

⁴⁰ *Id.*; see Resource Recycling, *China Reiterates Total Ban and Tries to Define "Solid Waste"* (Apr. 9, 2019), <https://resource-recycling.com/recycling/2019/04/09/china-reiterates-total-ban-and-tries-to-define-solid-waste/> (last visited Jan. 27, 2022). China is planning a total ban on virtually all recovered material imports.

⁴¹ Resource Recycling, *From Green Fence to Red Alert: A China Timeline*; Christopher Joyce, *Where Will Your Plastic Trash Go Now That China Doesn't Want It?* (Mar. 13, 2019), <https://www.npr.org/sections/goatsandsoda/2019/03/13/702501726/where-will-your-plastic-trash-go-now-that-china-doesnt-want-it> (last visited Jan. 27, 2022).

In Florida, local governments struggle with issues like the rising costs of processing and high contamination rates.⁴² Many local governments use single stream recycling programs.⁴³ These programs allow all accepted recyclables to be placed in a single, curbside recycling cart, comingling materials from paper and plastic bottles to metal cans and glass containers.⁴⁴ While single stream recycling programs have been successful in increasing residential participation, they have hurt recycling markets by increasing contamination.⁴⁵

The closure of foreign export markets led to a disruption in the U.S. recycling industry.⁴⁶ In Florida, recycling haulers and material recovery facilities compensated for this change by partnering with state and municipalities to focus on eliminating contamination and by shifting overall sales to domestic markets.⁴⁷ Because of this shift, the average price of mixed recyclables dropped from \$60/ton in 2018 to \$47/ton in 2020. There were fluctuations in the price of mixed recyclables during that two-year period due to the expansion of domestic markets, however the final average reflected a 21 percent decrease.⁴⁸

III. Effect of Proposed Changes:

Section 1 amends s. 403.7032, F.S., to direct the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023 based on recommendations from DEP's "Florida and the 2020 75% Recycling Goal Final Report." The bill requires DEP to convene a technical assistance group within DEP to develop the plan.

The bill provides that the plan must:

- Identify recycling goals based on sustainable materials management and waste diversion.
- Include a three-year plan to implement the following strategies:
 - Recycling education and outreach. DEP must propose statewide solutions to provide local recycling information and education.
 - Local government recycling assistance. DEP must evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing assistance to local governments.
 - Recycling materials market development. DEP must consider and recommend plans to develop and promote markets for recycling materials.

The bill directs DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan. The bill requires that the report include

⁴² Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Jan. 27, 2022); DEP, *Rethink, Reset, Recycle*, <http://floridarecycles.org/#:~:text=Floridians%20are%20contaminating%20their%20home%20recycling%20bins%20with,pizza%20boxes%2C%20thin%20plastic%20packaging%20and%20much%20more> (last visited Jan. 27, 2022).

⁴³ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁴ DEP, *Volume I – Report, Florida and the 2020 75% Recycling Goal*, 13 (2017), available at https://floridadep.gov/sites/default/files/FinalRecyclingReportVolume1_0_0.pdf (last visited Jan. 27, 2022).

⁴⁵ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁶ Waste Dive, *How Recycling is Changing in All 50 States* (June 5, 2019), <https://www.wastedive.com/news/what-chinese-import-policies-mean-for-all-50-states/510751/> (last visited Jan. 27, 2022).

⁴⁷ DEP, *Final Report, Florida and the 2020 75% Recycling Goal* at 13.

⁴⁸ *Id.*

an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

Section 2 provides an effective date of July 1, 2022.

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.

E. Other Constitutional Issues:

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 costs in convening a technical assistance group and developing a comprehensive waste reduction and recycling plan.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 403.7032 of the Florida Statutes.

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

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

CS by Environment and Natural Resources on February 1, 2022:

- Directs the Department of Environmental Protection (DEP) to develop a comprehensive waste reduction and recycling plan by July 1, 2023, and to convene a technical assistance group within DEP to develop the plan.
- Provides minimum criteria for the plan.
- Directs DEP to provide a report to the President of the Senate and the Speaker of the House of Representatives upon completion of the plan.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
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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. Subsection (6) is added to section 403.7032,
Florida Statutes, to read:

403.7032 Recycling.—

(6) By July 1, 2023, the Department of Environmental
Protection shall develop a comprehensive waste reduction and
recycling plan for this state based on recommendations from the



791982

department's Florida and the 2020 75% Recycling Goal Final Report. The department shall convene a technical assistance group within the department to help develop the plan.

(a) The comprehensive plan, at a minimum, must:

1. Identify recycling goals based on sustainable materials management and waste diversion.

2. Include a 3-year plan to implement the following strategies:

a. Recycling education and outreach. The department shall propose statewide solutions to provide local recycling information and education throughout this state.

b. Local government recycling assistance. The department shall evaluate the benefits and challenges of the former state Recycling and Education Grant Program and provide recommendations for reinstating the program or considering other means of providing assistance to local governments.

c. Recycling materials market development. The department shall consider and recommend plans to develop and promote markets for recycling materials.

(b) Upon completion of the plan, the department shall provide a report to the President of the Senate and the Speaker of the House of Representatives. The report must include an update on the status of the plan and any recommendations for statutory changes necessary to achieve the recycling goals or strategies identified in the plan.

Section 2. This act shall take effect July 1, 2022.

===== T I T L E A M E N D M E N T =====
And the title is amended as follows:



791982

40 Delete everything before the enacting clause
41 and insert:

42 A bill to be entitled
43 An act relating to a comprehensive waste reduction and
44 recycling plan; amending s. 403.7032, F.S.; requiring
45 the Department of Environmental Protection to develop
46 a comprehensive waste reduction and recycling plan for
47 this state by a specified date, based on certain
48 department recommendations; requiring the department
49 to convene a technical assistance group for a
50 specified purpose; providing minimum requirements for
51 the plan; requiring the department to submit a report
52 to the Legislature upon completion of the
53 comprehensive plan; providing requirements for the
54 report; providing an effective date.

By Senator Stewart

13-00581-22

20221156__

1 A bill to be entitled
2 An act relating to a study to establish a statewide
3 long-term recycling goal; amending s. 403.7032, F.S.;
4 requiring the Department of Environmental Protection
5 to conduct a study on the establishment of a new long-
6 term, statewide recycling goal; providing requirements
7 for the study; requiring the department to submit a
8 report of the results of the study and any policy
9 recommendations to the Governor and the Legislature
10 upon completion of the study; providing an effective
11 date.

12
13 Be It Enacted by the Legislature of the State of Florida:

14
15 Section 1. Subsection (2) of section 403.7032, Florida
16 Statutes, is amended to read:

17 403.7032 Recycling.—

18 (2) (a) By the year 2020, the long-term goal for the
19 recycling efforts of state and local governmental entities,
20 private companies and organizations, and the general public is
21 to recycle at least 75 percent of the municipal solid waste that
22 would otherwise be disposed of in waste management facilities,
23 landfills, or incineration facilities. However, any solid waste
24 used for the production of renewable energy shall count toward
25 the long-term recycling goal as set forth in this part.

26 (b) The Department of Environmental Protection shall
27 conduct a study on the establishment of a new long-term
28 recycling goal for state and local governmental entities,
29 private companies and organizations, and the general public to

13-00581-22

20221156__

30 achieve by the year 2030.

31 1. The study must:

32 a. Provide an update on the progress that was made in
33 reaching the goal established by paragraph (a) for the year
34 2020, including any challenges experienced or successes achieved
35 in reaching that goal;

36 b. Update any data compiled by the department in
37 establishing the 2020 goal; and

38 c. Consider successful recycling programs in other states
39 and provide recommendations for the implementation of such
40 policies in this state.

41 2. Upon completion of the study, the department shall
42 submit a report of the results of the study and any policy
43 recommendations to the Governor, the President of the Senate,
44 and the Speaker of the House of Representatives.

45 Section 2. This act shall take effect July 1, 2022.

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 1418

INTRODUCER: Senator Albritton

SUBJECT: Soil and Groundwater Contamination

DATE: January 28, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Pre-meeting
2. _____	_____	AEG	_____
3. _____	_____	AP	_____

I. Summary:

SB 1418 does the following:

- Requires the Department of Environmental Protection (DEP) to adopt by rule statewide cleanup target levels (CTLs) for perfluoroalkyl and polyfluoroalkyl substances (PFAS) in soils and groundwater, which do not take effect until ratified by the Legislature.
- Provides a limitation of liability, until DEP's rules have been ratified for a particular PFAS constituent, from actions brought by local or state government entities to compel or enjoin site rehabilitation, require payment of site rehabilitation costs, or require payment of fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent.
- Tolls any statute of limitations that would bar a state or local government entity from pursuing relief under its existing authority, from the effective date of the act until site rehabilitation is complete or the Legislature ratifies the CTLs.
- Requires the Office of Program Policy Analysis and Government Accountability to conduct an analysis of programs in other states for the assessment and cleanup of soils and groundwater contamination, and submit a report of its findings and recommendations to the Governor and Legislature by January 1, 2023.

II. Present Situation:

Cleanup Target Levels

A cleanup target level (CTL) is the concentration for each contaminant identified by an applicable analytical test method, in the medium of concern, at which a site rehabilitation program is deemed complete.¹ The Department of Environmental Protection (DEP) establishes

¹ Section 376.301(8), F.S.

by rule CTLs for specific contaminants.² These CTLs apply to requirements for site rehabilitation across numerous programs.

Risk-Based Corrective Action

Risk-Based Corrective Action (RBCA) is a decision-making process that combines site assessments and responses to chemical releases with human health and environmental risk assessments to determine the need for remedial action and tailor corrective actions to site-specific conditions and risks, which can vary greatly.³

In Florida, prior to 2003, RBCA was only used under specific DEP programs such as the brownfields or petroleum programs, and contamination at a site was typically remediated to the default CTLs contained in ch. 62-777 of the Florida Administrative Code.⁴ This meant there was little flexibility for site-specific remediation strategies.⁵

In 2003, the Legislature created s. 376.30701, F.S., to establish a “global RBCA” process.⁶ The original goal was a flexible site-specific cleanup process reflecting the intended use of the property following cleanup, while maintaining adequate protection of human health, safety, and the environment through the evaluation of contamination toxicity and exposure pathways.⁷ Section 376.30701, F.S., applies to all contaminated sites resulting from a discharge of pollutants or hazardous substances where legal responsibility for site rehabilitation exists, except for those contaminated sites subjected to the risk-based corrective action cleanup criteria established for the petroleum, brownfields, and drycleaning programs pursuant to ss. 376.3071, 376.81, and 376.3078, F.S., respectively.⁸

The statute requires DEP to establish by rule criteria for determining on a site-specific basis the tasks comprising a site rehabilitation program and the level at which a task and a program may be deemed completed.⁹ Section 376.30701, F.S., contains requirements for determining or establishing appropriate CTLs for groundwater and soil using RBCA principles.¹⁰

² See generally Fla. Admin. Code Ch. 62-777.

³ Dep’t of Environmental Protection (DEP), *Contaminated Soils Forum -- Policy Group, Waste Cleanup Focus Group, Issues paper-- “Universal” Applicability of Risk-Based Correction Action at Florida Waste Cleanup Sites*, 2 (1998), available at <https://floridadep.gov/sites/default/files/Universal-applicability-of-risk-based-corrective-action.pdf> (last visited Jan. 18, 2022).

⁴ Ralph DeMeo et al., *Risk-Based Corrective Action in Florida: How is it Working?*, 89 FLORIDA BAR JOURNAL 1, 47 (Jan. 2015), <https://www.floridabar.org/the-florida-bar-journal/risk-based-corrective-action-in-florida-how-is-it-working/> (last visited Jan. 18, 2022).

⁵ *Id.*

⁶ See ch. 2003-173, s. 1, Laws of Fla.

⁷ Ralph DeMeo et al., *Risk-Based Corrective Action in Florida: How is it Working?*, 89 FLORIDA BAR JOURNAL 1, 47 (Jan. 2015), <https://www.floridabar.org/the-florida-bar-journal/risk-based-corrective-action-in-florida-how-is-it-working/> (last visited Jan. 18, 2022).

⁸ Section 376.30701(1)(b), F.S.

⁹ Section 376.30701(2), F.S.

¹⁰ *Id.*

Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS)

Perfluoroalkyl and Polyfluoroalkyl Substances (PFAS) are a group of thousands of man-made compounds developed to provide oil and water repellency, chemical and thermal stability, and friction reduction.¹¹ Perfluorooctane sulfonic acid (PFOS) and perfluorooctanoic acid (PFOA) are the most common and the best-studied of these compounds.¹² PFAS were widely used since the 1950s, with applications in many industries, including the aerospace, semiconductor, medical, automotive, construction, electronics, and aviation industries, as well as in consumer products (e.g., carpets, clothing, furniture, outdoor equipment, food packaging) and firefighting applications.¹³ While U.S. manufacturers have voluntarily phased out use of the chemicals,¹⁴ they persist in the environment, particularly at fire colleges, airports, and military installations.¹⁵ Although PFOA and PFOS are no longer manufactured in the U.S., they are still produced internationally and can be imported into the U.S. in consumer goods such as carpet, leather and apparel, textiles, paper and packaging, coatings, rubber, and plastics.¹⁶

PFAS chemicals do not break down in the environment, can move through soil and water, and can accumulate in fish and wildlife.¹⁷ Because of the widespread use and ease of transport, they can be found virtually everywhere. The Centers for Disease Control and Prevention has detected PFAS in nearly all persons it has tested, indicating widespread exposure in the U.S. population.¹⁸ Based on recent studies, health effects from PFAS potentially include increased risk of certain cancers, increased cholesterol levels, impacts on hormones and the immune system, and fetal and infant developmental effects.¹⁹

¹¹ Interstate Technology Regulatory Council (ITRC), *History and Use of PFAS*, 1 (2020), available at https://pfas-1.itrcweb.org/wp-content/uploads/2020/10/history_and_use_508_2020Aug_Final.pdf (last visited Jan. 18, 2022).

¹² Dep't of Health (DOH), *PFAS Chemical Awareness*, <http://www.floridahealth.gov/environmental-health/hazardous-waste-sites/contaminant-facts/documents/doh-pfas-poster.pdf> (last visited Jan. 18, 2022).

¹³ ITRC, *History and Use of PFAS*, 1, 8 (2020), available at https://pfas-1.itrcweb.org/wp-content/uploads/2020/10/history_and_use_508_2020Aug_Final.pdf (last visited Jan. 18, 2022).

¹⁴ DEP, *PFAS Update, Presentation to the Florida Senate Committee on Environment and Natural Resources*, 18:00 (Dec. 9, 2019), available at <https://thefloridachannel.org/videos/12-9-19-senate-committee-on-environment-and-natural-resources/> (last visited Jan. 18, 2022). In the U.S., PFOS was phased out of production around 2002, and PFOA was phased out around 2015.

¹⁵ U.S. Environmental Protection Agency (EPA), *PFAS Explained*, <https://www.epa.gov/pfas/pfas-explained> (last visited Jan. 18, 2022); EPA, *Our Current Understanding of the Human Health and Environmental Risks of PFAS*, <https://www.epa.gov/pfas/our-current-understanding-human-health-and-environmental-risks-pfas> (last visited Jan. 18, 2022).

¹⁶ *Id.*; see also DEP, *PFAS Update, Presentation to the Florida Senate Committee on Environment and Natural Resources*, 18:00 (Dec. 9, 2019), available at <https://thefloridachannel.org/videos/12-9-19-senate-committee-on-environment-and-natural-resources/> (last visited Jan. 18, 2022).

¹⁷ Centers for Disease Control and Prevention, *Per- and Polyfluorinated Substances (PFAS) Factsheet*, https://www.cdc.gov/biomonitoring/PFAS_FactSheet.html (last visited Jan. 18, 2022).

¹⁸ *Id.*

¹⁹ DOH, *PFAS Chemical Awareness*, 2, <http://www.floridahealth.gov/environmental-health/hazardous-waste-sites/contaminant-facts/documents/doh-pfas-poster.pdf> (last visited Jan. 18, 2022).

While the health effects from low-level concentrations of PFAS are not yet fully understood, litigation and public interest is increasing nation-wide.²⁰ In Florida, generally, issues exist regarding liability for cleanup and third-party liability.²¹

The U.S. Environmental Protection Agency (EPA) prioritizes research and data collection for new chemicals that are being discovered in water that previously had not been detected or are being detected at levels that may be different than expected.²² These are called “contaminants of emerging concern” (CEC). While CECs do not have regulatory limits, there may be a long-term potential risk to human health or the environment associated with them. As part of EPA’s data collection on CECs, all large and selected smaller public water systems across the U.S. are required to monitor for CECs.²³ Once EPA’s study and evaluation is complete, if EPA decides not to regulate a CEC, then it may decide to develop a health advisory level (HAL) for the detected contaminants. While HALs are non-enforceable federal limits, they serve as technical guidance for federal, state, and local officials.²⁴ For drinking water, the EPA has established a HAL of 70 parts per trillion for PFOA and PFOS.²⁵ The Department of Health (DOH) has adopted the same HAL for those compounds.²⁶

DEP has established provisional CTLs for PFAS to enable site cleanup under DEP’s contaminated site cleanup criteria.²⁷ DEP has created numerical provisional CTLs and screening levels for PFOS and PFOA in the following categories: Provisional Groundwater CTLs, Provisional Soil CTLs, Provisional Irrigation Water Screening Levels, and Surface Water Screening Levels.²⁸ These provisional standards are designed to protect human health, and the provisional groundwater CTLs are the same as the EPA’s HAL for drinking water.

PFAS is common in firefighting foams that have been stored and used for fire suppression, fire training, and flammable vapor suppression.²⁹ These firefighting agents include Class B fluorine-containing firefighting foams, such as aqueous film-forming foam (AFFF).³⁰ PFAS are so prevalent in firefighting agents that at least nine states have passed legislation to restrict or

²⁰ Ralph A. DeMeo & Jorge Caspary, *PFApocalypse Now: The PFAS Firestorm and Implications for Florida*, 94 FLORIDA BAR JOURNAL 3, 46 (May/June 2020), <https://www.floridabar.org/the-florida-bar-journal/pfapocalypse-now-the-pfas-firestorm-and-implications-for-florida/#u7068> (last visited Jan. 18, 2022).

²¹ *Id.*

²² DEP, *Regulated Drinking Water Contaminants and Contaminants of Emerging Concern*, <https://floridadep.gov/comm/press-office/content/regulated-drinking-water-contaminants-and-contaminants-emerging-concern> (last visited Jan. 18, 2022).

²³ *Id.*

²⁴ EPA, *How EPA Regulates Drinking Water Contaminants*, <https://www.epa.gov/dwregdev/how-epa-regulates-drinking-water-contaminants> (last visited Jan. 18, 2022).

²⁵ EPA, *Drinking Water Health Advisories for PFOA and PFOS*, <https://www.epa.gov/ground-water-and-drinking-water/drinking-water-health-advisories-pfoa-and-pfos> (last visited Jan. 18, 2022).

²⁶ DOH, *Maximum Contaminant Levels and Health Advisory Levels*, 5 (2016) available at <http://www.floridahealth.gov/environmental-health/drinking-water/documents/hal-list.pdf> (last visited Jan. 18, 2022).

²⁷ DEP, *PFAS Update, Presentation to the Florida Senate Committee on Environment and Natural Resources*, 25:00 (Dec. 9, 2019), available at <https://thefloridachannel.org/videos/12-9-19-senate-committee-on-environment-and-natural-resources/> (last visited Jan. 18, 2022); see Fla. Admin. Code Ch. 62-780.

²⁸ DEP, *Per- and Polyfluoroalkyl Substances (PFAS) Dynamic Plan*, 9-10 (Feb. 2021), available at https://floridadep.gov/sites/default/files/Dynamic_Plan_Revised_Feb2021.pdf (last visited Jan. 18, 2022).

²⁹ ITRC, *PFAS*, <https://pfas-1.itrcweb.org/3-firefighting-foams/> (last visited Jan. 18, 2022).

³⁰ *Id.*

prohibit the use of PFAS in firefighting agents or activities.³¹ In Florida, DEP has already assessed each fire training facility in the state to ensure that PFAS-containing firefighting agents are disposed of and that only firefighting agents that do not have PFAS are being used.³² Of the 25 active facilities in the state with known or suspected use of AFFF, investigations indicate that 22 of the 25 had analytical results for PFOA and PFOS above the provisional groundwater CTL.³³ Where contamination is identified, DEP will help the facility develop a cleanup plan to remove or contain the contamination to prevent future environmental impact and human exposure.³⁴

In February of 2021, DEP published the current version of its PFAS Dynamic Plan.³⁵ The Dynamic Plan establishes a comprehensive path forward with the understanding that it may be necessary to change the approach as the science associated with these emerging contaminants continues to develop.³⁶ The plan describes the current screening and provisional CTLs, and summarizes data and lessons learned from prior and ongoing investigations. The plan states that future investigations will be based on potential risk and will include a continued coordinated response with DOH to quickly evaluate and address any impacts to drinking water resources.³⁷

Office of Program Policy Analysis and Government Accountability (OPPAGA)

The Office of Program Policy Analysis and Government Accountability (OPPAGA) was created by the Legislature in 1994.³⁸ OPPAGA describes itself as the “research arm of the Florida Legislature.”³⁹ OPPAGA provides data, evaluative research, and objective analyses to assist legislative budget and policy deliberations. OPPAGA conducts research as directed by state law, the presiding officers, or the Joint Legislative Auditing Committee.⁴⁰ OPPAGA’s research services include:

- Performance evaluations and policy reviews of government programs;
- Research and technical assistance to legislators and legislative committees;
- Government Program Summaries (GPS), an electronic encyclopedia containing descriptive and evaluative information on all major state programs; and

³¹ National Law Review, *Expert Focus: US States Outpace EPA on PFAS Firefighting Foam Laws*, <https://www.natlawreview.com/article/expert-focus-us-states-outpace-epa-pfas-firefighting-foam-laws> (last visited Jan. 18, 2022); The New York State Senate, *Senate Bill S439A*, <https://www.nysenate.gov/legislation/bills/2019/S439> (last visited Jan. 18, 2022).

³² DEP, *PFAS Update, Presentation to the Florida Senate Committee on Environment and Natural Resources*, 36:00 (Dec. 9, 2019), available at <https://thefloridachannel.org/videos/12-9-19-senate-committee-on-environment-and-natural-resources/> (last visited Jan. 18, 2022).

³³ DEP, *Per- and Polyfluoroalkyl Substances (PFAS) Dynamic Plan*, 12 (Feb. 2021), available at https://floridadep.gov/sites/default/files/Dynamic_Plan_Revised_Feb2021.pdf (last visited Jan. 18, 2022).

³⁴ DEP, *Fire Training Facility Preliminary Site Assessments*, <https://floridadep.gov/waste/waste-cleanup/content/fire-training-facility-preliminary-site-assessments> (last visited Jan. 18, 2022).

³⁵ See DEP, *Per- and Polyfluoroalkyl Substances (PFAS) Dynamic Plan* (Feb. 2021), available at https://floridadep.gov/sites/default/files/Dynamic_Plan_Revised_Feb2021.pdf (last visited Jan. 18, 2022).

³⁶ *Id.* at 3.

³⁷ *Id.*

³⁸ Ch. 94-249, Laws of Fla.

³⁹ Office of Program Policy Analysis and Government Accountability (OPPAGA), *About OPPAGA*, <https://oppaga.fl.gov/About> (last visited Jan. 18, 2022).

⁴⁰ *Id.*

- Policy Notes, a weekly electronic newsletter of policy research of interest to Florida policymakers.⁴¹

III. Effect of Proposed Changes:

Section 1 creates s. 376.91, F.S., entitled “Statewide cleanup of perfluoroalkyl and polyfluoroalkyl substances.”

The bill contains a definitions section, defining two terms as they are used in s. 376.91, F.S.:

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

The bill requires the Department of Environmental Protection (DEP) to adopt by rule statewide cleanup target levels for PFAS in soils and groundwater. These cleanup target levels must be developed using the criteria set forth in s. 376.30701, F.S., which establishes a process for risk-based corrective action, and priority must be given to PFOA and PFOS. The bill prohibits these cleanup target levels from taking effect until ratified by the Legislature.

The bill provides that, until DEP’s rule for a particular PFAS constituent has been ratified by the Legislature, a person may not be subject to any administrative or judicial action brought by or on behalf of any state or local governmental entity to compel or enjoin site rehabilitation, to require payment for the costs of rehabilitation of environmental contamination, or to require payment of any fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent. The bill tolls any statute of limitations that would bar a state or local government entity from pursuing relief in accordance with its existing authority, from the effective date of the bill until site rehabilitation is completed or cleanup target levels are ratified by the Legislature. The bill states that it does not affect the ability or authority to seek contribution from any person who may have liability with respect to a contaminated site and who did not receive the liability protection provided by the bill.

Section 2 requires the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an analysis of programs in other states for the assessment and cleanup of soil and groundwater contamination. The assessment must include programs for brownfields, petroleum, drycleaning solvents, and other chemical contamination. Based on this analysis, OPPAGA must recommend any changes to Florida’s current programs that would improve the state’s ability to effectively address environmental contamination assessment and cleanup, including the efficacy of consolidating the state’s programs into a single remediation program.

The analysis must include, at a minimum:

- Funding mechanisms and sources of funding.
- Funding eligibility requirements.
- Current levels of funding.

⁴¹ *Id.*

- An evaluation of best practices for successful cleanup programs and single remediation programs in other states and how such practices and programs address the needs of investigation and remediation stakeholders.
- A comparison of best practices for successful cleanup programs and single remediation programs in other states and cleanup and remediation programs in this state.

The bill requires OPPAGA to submit a report of its findings and any recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2023.

Section 3 directs the Division of Law Revision to replace the phrase “the effective date of this act” wherever it occurs in the bill with the date the bill becomes a law.

Section 4 states that the bill takes 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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill’s liability protections against state and local government actions regarding site rehabilitation for PFAS constituents may have an indeterminate, positive fiscal impact on private entities that receive such liability protections.

C. Government Sector Impact:

The bill may result in increased costs for the Department of Environmental Protection (DEP). The bill requires DEP to adopt by rule cleanup target levels for PFAS in soils and groundwater.

The bill may result in increased costs for the Legislature's Office of Program Policy Analysis and Government Accountability. The bill requires the office to conduct an analysis of programs in other states for the assessment and cleanup of soil and groundwater contamination, and submit a report of its findings and recommendations to the Governor and Legislature by January 1, 2023.

The bill's liability protections against state and local government actions regarding site rehabilitation for PFAS constituents may have an indeterminate, positive fiscal impact on public entities that receive such liability protections.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 376.91 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Albritton

26-01563-22

20221418__

A bill to be entitled
An act relating to soil and groundwater contamination;
creating s. 376.91, F.S.; defining terms; requiring
the Department of Environmental Protection to adopt
rules for statewide cleanup target levels for
perfluoroalkyl and polyfluoroalkyl substances in soil
and groundwater; prohibiting such rules from taking
effect until ratified by the Legislature; providing
that certain persons are not subject to administrative
or judicial action under certain circumstances;
providing that certain statutes of limitation are
tolled from a specified date; providing construction;
requiring the Office of Program Policy Analysis and
Government Accountability to conduct a specified
analysis of certain assessment and cleanup programs
and submit a report to the Governor and the
Legislature by a specified date; providing a directive
to the Division of Law Revision; providing an
effective date.

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

Section 1. Section 376.91, Florida Statutes, is created to
read:

376.91 Statewide cleanup of perfluoroalkyl and
polyfluoroalkyl substances.—

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

(a) "Department" means the Department of Environmental
Protection.

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(b) "PFAS" means perfluoroalkyl and polyfluoroalkyl substances, including perfluorooctanoic acid (PFOA) and perfluorooctane sulfonate (PFOS).

(2) STATEWIDE CLEANUP TARGET LEVELS.—

(a) The department shall adopt by rule statewide cleanup target levels for PFAS in soils and groundwater using criteria set forth in s. 376.30701, with priority given to PFOA and PFOS. The rules for statewide cleanup target levels may not take effect until ratified by the Legislature.

(b) Until the department's rule for a particular PFAS constituent has been ratified by the Legislature, a person may not be subject to any administrative or judicial action brought by or on behalf of any state or local governmental entity to compel or enjoin site rehabilitation, to require payment for the cost of rehabilitation of environmental contamination, or to require payment of any fines or penalties regarding rehabilitation based on the presence of that particular PFAS constituent.

(c) Until site rehabilitation is completed or rules for statewide cleanup target levels are ratified by the Legislature, any statute of limitations that would bar a state or local governmental entity from pursuing relief in accordance with its existing authority is tolled from the effective date of this act.

(d) This section does not affect the ability or authority to seek contribution from any person who may have liability with respect to a contaminated site and who did not receive protection under paragraph (b).

Section 2. (1) The Office of Program Policy Analysis and

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20221418__

Government Accountability shall conduct an analysis of programs in other states for the assessment and cleanup of soil and groundwater contamination, including programs for brownfields, petroleum, drycleaning solvents, and other chemical contamination. Based on its analysis, the office shall recommend any changes to Florida's current programs that would improve the state's ability to effectively address environmental contamination assessment and cleanup, including the efficacy of consolidating the state's programs into a single remediation program. The analysis must include, at a minimum:

(a) Funding mechanisms and sources of funding.

(b) Funding eligibility requirements.

(c) Current levels of funding.

(d) An evaluation of best practices for successful cleanup programs and single remediation programs in other states and how such practices and programs address the needs of investigation and remediation stakeholders.

(e) A comparison of best practices for successful cleanup programs and single remediation programs in other states and cleanup and remediation programs in this state.

(2) The office shall submit a report of its findings and any recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 1, 2023.

Section 3. The Division of Law Revision is directed to replace the phrase "the effective date of this act" wherever it occurs in this act with the date this act becomes a law.

Section 4. 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 1562

INTRODUCER: Senator Ausley

SUBJECT: Solar Photovoltaic Facility Development

DATE: January 28, 2022

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Collazo	Rogers	EN	Favorable
2. _____	_____	AEG	_____
3. _____	_____	AP	_____

I. Summary:

SB 1562, entitled the “Brownfields to Brightfields Act” (Act), directs the Department of Environmental Protection (DEP), in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites, as defined in state law, and closed landfill sites, to determine viable sites for redevelopment as solar photovoltaic (PV) facilities.

The study must include, at a minimum:

- A list of brownfield sites and closed landfill sites with potential for redevelopment as solar PV facilities, divided into high, medium, and low potential.
- An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis.
- An analysis of the potential costs and benefits of installing solar PV facilities to adjacent communities.
- A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar PV facilities.

The bill directs DEP to submit a report on the findings and recommendations of the study to the Governor, the Legislature, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

II. Present Situation:

The Brownfields Redevelopment Act

Florida's Brownfields Redevelopment Act (Act) was adopted in 1997 to provide incentives for local governments and individuals to voluntarily clean up and redevelop brownfield sites.¹ A "brownfield site" is defined as real property, the expansion, redevelopment, or reuse of which may be complicated by actual or perceived environmental contamination.² The primary goals of the Act are to reduce public health and environmental hazards on existing commercial and industrial sites that are abandoned or underused due to these hazards; create financial and regulatory incentives to encourage voluntary cleanup and redevelopment of sites; derive cleanup target levels and a process for obtaining a "no further action" letter using risk-based corrective action principles; and provide the opportunity for environmental equity and justice.³ The Act authorizes the Department of Environmental Protection's (DEP) Brownfields Redevelopment Program. Participation in the program results in environmental cleanup, protection of public health, reuse of infrastructure, and job creation.⁴

For a property to participate in the program, a local government must first designate the site as a brownfield area by resolution.⁵ The local government may then identify a "person responsible for brownfield site rehabilitation," which simply entitles the identified person to voluntarily execute a "brownfield site rehabilitation agreement" with DEP or an approved local program.⁶ If actual contamination exists at the site, the person must enter into such an agreement.⁷ Pursuant to the Act, a brownfield site rehabilitation agreement must contain several elements, including a brownfield site rehabilitation schedule; a commitment to conduct site rehabilitation activities in accordance with applicable cleanup criteria; a commitment to implement reasonable pollution prevention measures; and certification that the local government approves of the proposed redevelopment.⁸

¹ Chapter 97-277, Laws of Fla.; ss. 376.77-376.85, F.S.; Dep't of Environmental Protection (DEP), *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 3, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

² Section 376.79(4), F.S.

³ DEP, *Brownfields Program*, <https://floridadep.gov/waste/waste-cleanup/content/brownfields-program> (last visited Jan. 24, 2022).

⁴ DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 3, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

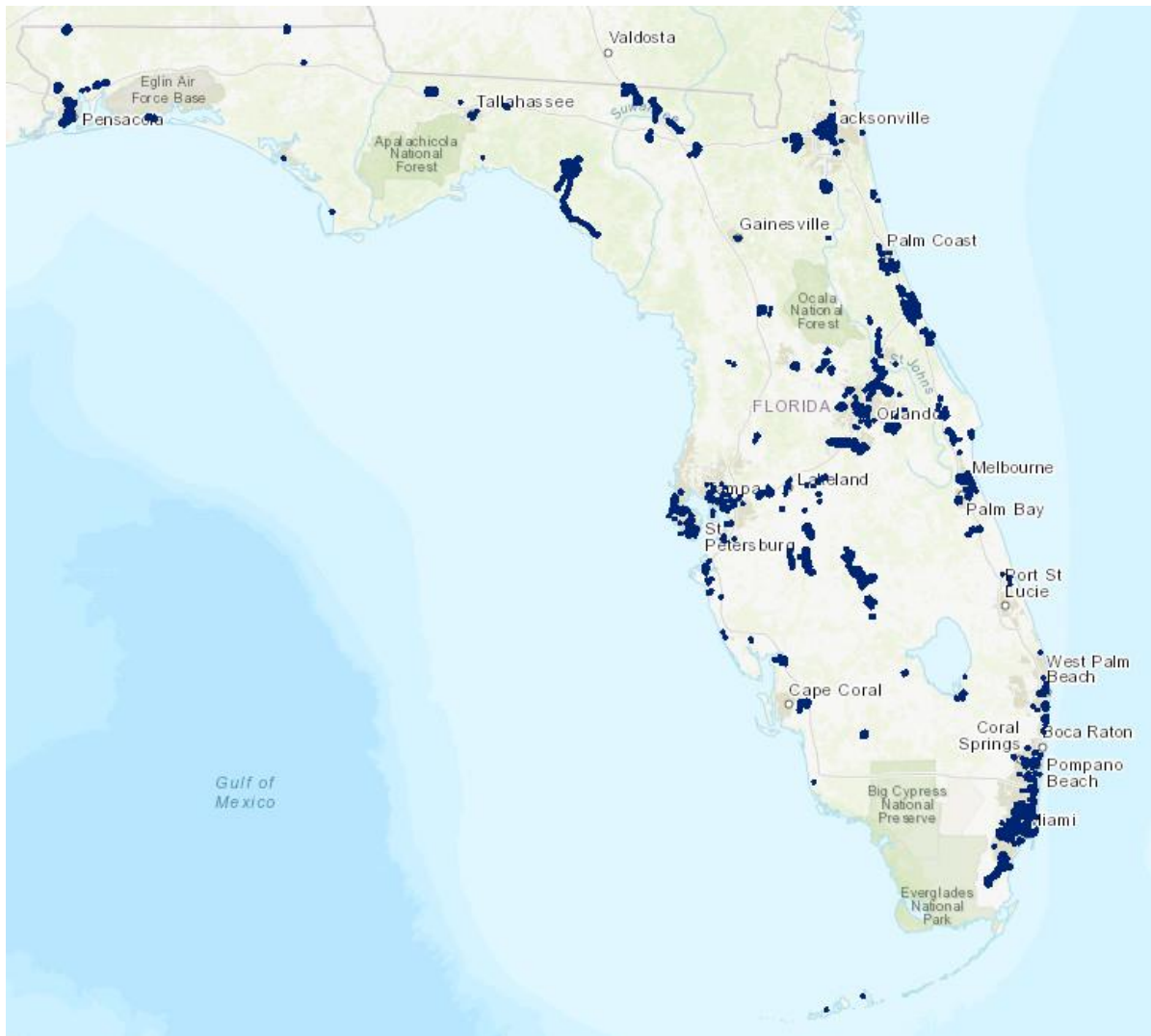
⁵ Section 376.80, F.S.; see also s. 376.79(5), F.S. (defining a "brownfield area" as a contiguous area of one or more brownfield sites, some of which may not be contaminated, and which has been designated by a local government by resolution).

⁶ Section 376.80(2)(d), F.S.; see also s. 376.79(15), F.S. (defining the "person responsible for brownfield site rehabilitation" as "the individual or entity that is designated by the local government to enter into the brownfield site rehabilitation agreement with the department or an approved local pollution control program and enters into an agreement with the local government for redevelopment of the site"); see also DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 9, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022) (providing that DEP has delegated authority to administer the program to three county governments: Broward, Hillsborough, and Miami-Dade counties).

⁷ Section 376.80(5), F.S.

⁸ Section 376.80(5), F.S.; see Fla. Admin. Code Ch. 62-780 (containing cleanup criteria requirements that apply to site rehabilitation governed by a brownfield site rehabilitation agreement).

Since 1997, Florida has amassed 533 locally designated brownfield areas encompassing approximately 291,679 acres, and 178 site rehabilitation completion orders have been issued.⁹



(Map of Brownfield Areas in Florida)¹⁰

Solid Waste Disposal Facilities

DEP is responsible for implementing and enforcing Florida's solid waste management laws in ch. 403, F.S.¹¹ These statutes provide the authority for ch. 62-701, F.A.C., which are DEP's current rules for solid waste management facilities.¹² The rules define solid waste management

⁹ DEP, *Florida Brownfields Redevelopment Program, Annual Report: August 2021* (2021), 4-5, available at https://floridadep.gov/sites/default/files/Florida_Brownfields_Redevelopment_Program_Annual_Report_August2021.pdf (last visited Jan. 24, 2022).

¹⁰ DEP, *DEP Brownfields GeoViewer*, <https://floridadep.gov/waste/waste-cleanup/content/dep-brownfields-geoviewer> and <https://ca.dep.state.fl.us/mapdirect/?focus=brnfllds> (last visited Jan. 26, 2022).

¹¹ Section 403.704, F.S.; see DEP, *Solid Waste Section*, <https://floridadep.gov/waste/permitting-compliance-assistance/content/solid-waste-section> (last visited Jan. 24, 2022).

¹² Fla. Admin. Code Ch. 62-701.

facilities as any solid waste disposal area, transfer station, materials recovery facility, or other facility (including landfills), the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste.¹³ No person may store, process, or dispose of solid waste except as authorized at a permitted solid waste management facility.¹⁴ A permit from DEP is required for the construction, operation, or closure of a solid waste management facility.¹⁵

DEP's rules for landfills require compliance with water quality and air quality standards, and they establish minimum requirements for water quality monitoring.¹⁶ Landfills that close must comply with DEP's requirements for closure permitting and long-term care.¹⁷ Consultation with DEP is required prior to conducting any activities at closed landfill areas.¹⁸ DEP provides guidance on requirements and recommendations for disturbing or using old, closed landfills or disposal areas.¹⁹ These areas include old waste disposal areas that were operated and closed without permits and which may have had few or no records available of their operations.²⁰ In these old waste disposal areas, DEP prefers uses such as recreational facilities instead of residential housing, and discourages some construction due to issues such as landfill gas and settlement problems.²¹

Photovoltaic Technology and Facilities

Photovoltaic (PV) materials and devices convert sunlight into electrical energy.²² A single PV device is known as a cell. An individual PV cell is usually small, typically producing about 1 or 2 watts of power. These cells are made of different semiconductor materials and are often less than the thickness of four human hairs. In order to withstand the outdoors for many years, cells are enclosed between protective materials in a combination of glass and plastics.²³

To boost the power output of PV cells, they are connected together in chains to form larger units known as modules or panels.²⁴ Modules can be used individually, or several can be connected to form arrays. One or more arrays is then connected to the electrical grid as part of a complete PV system. Because of this modular structure, PV systems can be built to meet almost any electric power need, small or large.²⁵

¹³ Fla. Admin. Code R. 62-701.200(112).

¹⁴ Fla. Admin. Code R. 62-701.300.

¹⁵ Section 403.707, F.S.; Fla. Admin. Code R. 62-701.320. The rule specifies certain exemptions.

¹⁶ Fla. Admin. Code Rules 62-701.340 and 62-701.510.

¹⁷ Fla. Admin. Code Rules 62-701.600 and 62-701.620.

¹⁸ Fla. Admin. Code R. 62-701.610(1).

¹⁹ DEP, *Guidance For Disturbance and Use of Old Closed Landfills or Waste Disposal Areas in Florida, Version 2.3* (Apr. 2, 2019), 1, available at https://floridadep.gov/sites/default/files/Old_Dump_Guidance-02Apr2019.pdf (last visited Jan. 24, 2022).

²⁰ *Id.* at 2.

²¹ *Id.* at 16-18.

²² U.S. Dep't of Energy, Office of Energy Efficiency & Renewable Energy (DOE), *Solar Photovoltaic Technology Basics*, <https://www.energy.gov/eere/solar/solar-photovoltaic-technology-basics> (last visited Jan. 21, 2022).

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

PV modules and arrays are just one part of a PV system.²⁶ Systems also include mounting structures that point panels toward the sun, along with the components that take the direct-current (DC) electricity produced by modules and convert it to the alternating-current (AC) electricity used to power all of the appliances in the typical home.²⁷



(Image of Photovoltaic Panels)²⁸

PV cells and modules will produce the largest amount of electricity when they are directly facing the sun.²⁹ PV modules and arrays can use tracking systems that move the modules to constantly face the sun, but these systems are expensive. Most PV systems have modules in a fixed position with the modules facing directly south (in the northern hemisphere—directly north in the southern hemisphere) and at an angle that optimizes the physical and economic performance of the system.³⁰

The smallest photovoltaic systems power calculators and wristwatches.³¹ Larger systems can provide electricity to pump water, to power communications equipment, to supply electricity for a single home or business, or to form large arrays that supply electricity to thousands of electricity consumers.³²

²⁶ *Id.*

²⁷ *Id.*

²⁸ Nancy W. Stauffer, “Researchers find benefits of solar photovoltaics outweigh costs,” MIT NEWS (June 23, 2020), available at <https://news.mit.edu/2020/researchers-find-solar-photovoltaics-benefits-outweigh-costs-0623> (last visited Jan. 26, 2022).

²⁹ U.S. Energy Information Administration (EIA), *Solar Explained: Photovoltaics and Electricity*, <https://www.eia.gov/energyexplained/solar/photovoltaics-and-electricity.php> (last visited Jan. 21, 2022).

³⁰ *Id.*

³¹ *Id.*

³² *Id.*

Batteries allow for the storage of solar PV energy, which makes it possible to use PV energy to power homes at night or when weather elements keep sunlight from reaching PV panels.³³ Not only can batteries be used in homes, but they are playing an increasingly important role for utilities. As customers feed solar energy back into the grid, batteries can store it so it can be returned to customers at a later time.³⁴

Advantages and Disadvantages

Some advantages of PV systems are:

- They can be designed for a variety of applications and operational requirements³⁵ (e.g. they can supply electricity in locations where electricity distribution systems (power lines) do not exist).³⁶
- They can be used for either centralized or distributed power generation.³⁷
- Quick installation.
- Energy independence.
- Environmental compatibility.
- Fuel (sunlight) is free.
- No noise or pollution.
- Minimal maintenance.
- No moving parts.
- Modular.
- Expandable.
- Transportable.
- Long service lifetimes.³⁸

Some disadvantages of PV systems are:

- The high cost of PV modules and equipment (as compared to conventional energy sources).³⁹
- Surface area requirements for PV arrays.⁴⁰

Solar Electricity Generation from PV Power Plants

The U.S. Energy Information Administration (EIA)⁴¹ estimates that solar electricity generation at utility-scale PV power plants increased from 76 million kilowatthours (kWh) in 2008 to about 88

³³ DOE, *Solar Photovoltaic System Design Basics*, <https://www.energy.gov/eere/solar/solar-photovoltaic-system-design-basics> (last visited Jan. 21, 2022).

³⁴ *Id.*

³⁵ University of Central Florida, The Florida Solar Energy Center (UCF FSEC), *Pros & Cons of PV*, http://www.fsec.ucf.edu/en/consumer/solar_electricity/basics/pros_cons.htm (last visited Jan. 21, 2022).

³⁶ EIA, *Solar Explained: Photovoltaics and Electricity*, <https://www.eia.gov/energyexplained/solar/photovoltaics-and-electricity.php> (last visited Jan. 21, 2022).

³⁷ UCF FSEC, *Pros & Cons of PV*, http://www.fsec.ucf.edu/en/consumer/solar_electricity/basics/pros_cons.htm (last visited Jan. 21, 2022).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.* Due to the diffuse nature of sunlight and the existing sunlight to electrical energy conversion efficiencies of photovoltaic devices, surface area requirements for PV array installations are on the order of 8 to 12 m² (86 to 129 ft²) per kilowatt of installed peak array capacity. *Id.*

⁴¹ See 42 U.S.C. s. 7135 (establishing the EIA as a “central, comprehensive, and unified energy data and information program which will collect, evaluate, assemble, analyze, and disseminate data and information which is relevant to energy resource

billion kWh in 2020.⁴² It also estimates that about 42 billion kWh were generated by small-scale grid-connected PV systems in 2020, up from 11 billion kWh in 2014. Utility-scale power plants have at least 1,000 kilowatts (or one megawatt (MW)) of electricity generation capacity and small-scale systems have less than one MW generation capacity. Most small-scale PV systems are located on buildings and are sometimes called rooftop PV systems.⁴³

The National Environmental Justice Advisory Council and the White House Justice Advisory Council

The National Environmental Justice Advisory Council (NEJAC) is a federal advisory committee to the U.S. Environmental Protection Agency (EPA).⁴⁴ Established in 1993, NEJAC provides independent advice and recommendations to the EPA Administrator regarding a broad range of strategic, scientific, technological, regulatory, community engagement, and economic issues related to environmental justice.⁴⁵

The White House Environmental Justice Advisory Council (WHEJAC), established in 2021 pursuant to Executive Order 14008 (entitled “Tackling the Climate Crisis at Home and Abroad”), advises the Chair of the Council of Environmental Quality and the newly established White House Environmental Justice Interagency Council to increase the Federal Government’s efforts to address environmental justice.⁴⁶

On May 13, 2021, WHEJAC released an interim final report⁴⁷ setting forth recommendations regarding the Biden administration’s environmental justice agenda, and it finalized those recommendations on May 21, 2021.⁴⁸ WHEJAC’s recommendations focus on how the administration may pursue its Justice40 Initiative, which is a “whole-of-government” effort to ensure that Federal agencies work with state and local communities to deliver at least 40 percent of the overall benefits from Federal investments in climate and clean energy to disadvantaged communities.⁴⁹ WHEJAC’s recommendations regarding Justice40 include the following:

reserves, energy production, demand, and technology, and related economic and statistical information, or which is relevant to the adequacy of energy resources to meet demands in the near and longer term future for the Nation’s economic and social needs”). EIA collects, analyzes, and disseminates independent and impartial energy information to promote sound policymaking, efficient markets, and public understanding of energy and its interaction with the economy and the environment. EIA, *About EIA*, <https://www.eia.gov/about/> (last visited Jan. 24, 2022).

⁴² *Id.*

⁴³ *Id.*

⁴⁴ U.S. Environmental Protection Agency (EPA), *National Environmental Justice Advisory Council*, <https://www.epa.gov/environmentaljustice/national-environmental-justice-advisory-council> (last visited Jan. 25, 2022).

⁴⁵ *Id.*

⁴⁶ EPA, *White House Environmental Justice Advisory Council*, <https://www.epa.gov/environmentaljustice/white-house-environmental-justice-advisory-council> (last visited Jan. 26, 2022).

⁴⁷ White House Environmental Justice Advisory Council (WHEJAC), *Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions, Interim Final Recommendations* (May 13, 2021), https://www.epa.gov/sites/default/files/2021-05/documents/whejac_interim_final_recommendations_0.pdf (last visited Jan. 26, 2021).

⁴⁸ White House Environmental Justice Advisory Council (WHEJAC), *Final Recommendations: Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions* (May 21, 2021), available at <https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf> (last visited Jan. 26, 2022).

⁴⁹ The White House, *The Path to Achieving Justice40*, <https://www.whitehouse.gov/omb/briefing-room/2021/07/20/the-path-to-achieving-justice40/> (last visited Jan. 26, 2022).

- The administration should establish a single unit or office to oversee President Biden’s Justice40 Initiative.⁵⁰
- Support for clean energy projects, clean energy jobs training, lead water pipe replacement, public transportation and community and green housing. Those projects include recommendations for solar grants for communities with an energy cost burden of 12.5 percent or greater and the expansion of USDA Rural Energy for America Program to tax-exempt entities, such as nonprofits and government agencies, with increased program funding to \$100 million per year.⁵¹
- Opposition to investments in activities that would extend the life span or capacity of fossil fuel-fired generation, carbon capture and storage, nuclear power, and the establishment or advancement of carbon markets.⁵²
- Expansion of tools to help communities impacted by the transition away from coal, including increased funding for the Partnerships for Opportunity and Workforce and Economic Revitalization and Assistance to Coal Communities programs, subsidized broadband construction in coal-impacted communities, and incentives for hiring remote workers in those communities by extending the Work Opportunity Tax Credit.⁵³

III. Effect of Proposed Changes:

Section 1 entitles the bill the “Brownfields to Brightfields Act” (Act).

The bill directs the Department of Environmental Protection (DEP), in coordination with the Office of Energy within the Department of Agriculture and Consumer Services, to conduct a study of brownfield sites, as defined in state law, and closed landfill sites, to determine viable sites for redevelopment as solar photovoltaic facilities.

The study must include, at a minimum:

- A list of brownfield sites and closed landfill sites with potential for redevelopment as solar photovoltaic facilities, divided into high, medium, and low potential. The list must be based on:
 - Site characteristics including physical, legal, and zoning barriers to redevelopment.
 - Proximity to existing energy generation and transmission infrastructure.
 - Proximity to current and projected population centers.
 - Environmental justice considerations, including, but not limited to, the interim final recommendations of the National Environmental Justice Advisory Council dated May 13, 2021.
- An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis. Potential sites must vary in lot size, geographic proximity to current and projected population centers, and geographic region.

⁵⁰ WHEJAC, *Final Recommendations: Justice40 Climate and Economic Justice Screening Tool and Executive Order 12898 Revisions* (May 21, 2021), 15, available at <https://www.epa.gov/sites/default/files/2021-05/documents/whiteh2.pdf> (last visited Jan. 26, 2022).

⁵¹ *Id.* at 16-18, 58.

⁵² *Id.* at 59.

⁵³ *Id.* at 25-26.

- An analysis of the potential costs and benefits of installing solar photovoltaic facilities to adjacent communities.
- A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar photovoltaic facilities.

The bill also directs DEP to submit a report on the findings and recommendations of the study to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

Section 2 provides that the bill takes effect July 1, 2022.

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.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Environmental Protection and the Office of Energy of the Department of Agriculture and Consumer Services will likely incur costs associated with preparing the required study.

VI. Technical Deficiencies:

The bill references, “the interim final recommendations of the National Environmental Justice Advisory Council [(NEJAC)] dated May 13, 2021.” However, the White House Environmental Justice Advisory Council (WHEJAC), a different entity, issued interim final recommendations on May 13, 2021, and final recommendations on May 21, 2021. Amending the bill to reference WHEJAC’s final recommendations instead of NEJAC’s interim final recommendations would address this issue.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Ausley

3-01706-22

20221562__

A bill to be entitled
An act relating to solar photovoltaic facility
development; providing a short title; directing the
Department of Environmental Protection, in
coordination with the Office of Energy within the
Department of Agriculture and Consumer Services, to
conduct a study of brownfield sites and closed
landfill sites to determine viable locations for
redevelopment as solar photovoltaic facilities;
providing study requirements; directing the department
to submit a report to the Governor, Legislature,
Florida Public Service Commission, and regional
planning council chairs by a specified date; providing
an effective date.

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

Section 1. (1) This act may be cited as the "Brownfields to
Brightfields Act."

(2) The Department of Environmental Protection, in
coordination with the Office of Energy within the Department of
Agriculture and Consumer Services, shall conduct a study of
brownfield sites, as defined in s. 288.107(1)(b), Florida
Statutes, and closed landfill sites to determine viable sites
for redevelopment as solar photovoltaic facilities.

(3) The study must include, at a minimum:

(a) A list of brownfield sites and closed landfill sites
with potential for redevelopment as solar photovoltaic
facilities, divided into high, medium, and low potential. The

3-01706-22

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list must be based on:

1. Site characteristics including physical, legal, and zoning barriers to redevelopment.

2. Proximity to existing energy generation and transmission infrastructure.

3. Proximity to current and projected population centers.

4. Environmental justice considerations, including, but not limited to, the interim final recommendations of the National Environmental Justice Advisory Council dated May 13, 2021.

(b) An assessment of the potential and logistics for solar energy generation from a diverse subset of high to medium potential sites for redevelopment, including a cost-benefit analysis. Potential sites must vary in lot size, geographic proximity to current and projected population centers, and geographic region.

(c) An analysis of the potential costs and benefits of installing solar photovoltaic facilities to adjacent communities.

(d) A list of recommended local and state policy changes to facilitate the redevelopment of brownfield and landfill sites into solar photovoltaic facilities.

(4) The department shall submit a report on the findings and recommendations of the study to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Florida Public Service Commission, and the chairs of each regional planning council by August 1, 2023.

Section 2. This act shall take effect July 1, 2022.

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 1658

INTRODUCER: Environment and Natural Resources Committee and Senators Bean and Rodrigues

SUBJECT: Executive Appointments

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Carroll	Rogers	EN	Fav/CS
2.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1658 revises the appointment criteria for the executive director of the Department of Law Enforcement, the secretary of the Department of Environmental Protection, and the executive director of the Department of Veterans' Affairs.

II. Present Situation:

Structure of the Executive Branch of the State of Florida

The Florida Constitution creates the structure of all branches of the Florida Government. Article IV of the Florida Constitution establishes the executive branch and delineates its structure. The executive power is divided among four public officials: the Governor and the three members of the Florida Cabinet.¹ Article IV also requires that all functions of the executive branch of state government be allotted among not more than 25 departments, not including those provided for or authorized in the Constitution itself.² The administration of each department must be placed by law under the direct supervision of the Governor, the Lieutenant Governor, the Governor and Cabinet, a Cabinet member, or an officer or board appointed by and serving at the pleasure of the Governor.³ The Legislature may provide by law that an appointment to or the removal from any

¹ The Florida Constitution also creates the office of the Lieutenant Governor but does not specify the powers of that office, instead requiring the Lieutenant Governor to perform such duties pertaining to the office of the Governor as are assigned by the Governor. Art. IV, s. 2, FLA. CONST.

² Art. IV, s. 6, FLA. CONST.

³ *Id.*

designated statutory office must require confirmation by the Senate or the approval of three members of the Cabinet.⁴

Cabinet

The Florida Cabinet has existed in some form since 1868.⁵ The 1868 Constitution created a Cabinet that consisted of executive officers appointed by the Governor and confirmed by the Senate.⁶ The 1885 Florida Constitution created six independently elected administrative officers to assist the Governor in governing the executive branch.⁷ The following officers comprised the cabinet under the 1885 Constitution:

- Secretary of State,
- Attorney General,
- Comptroller,
- Treasurer,
- Superintendent of Public Instruction, and
- Commissioner of Agriculture.

The Cabinet largely remained in this form until 2003. In 1998, the Constitution Revision Commission⁸ placed Amendment 8, “Restructuring the Florida Cabinet,” on the ballot.⁹ The amendment reduced the Cabinet to three members by merging the cabinet offices of the treasurer and comptroller into a new position entitled the Chief Financial Officer (CFO) and removed the Secretary of State and the Commissioner of Education¹⁰ from the Cabinet. The amendment passed and became effective on January 7, 2003. The current Cabinet consists of the CFO, Attorney General, and the Commissioner of Agriculture.¹¹ The CFO serves as the chief fiscal officer of the state, settles and approves accounts against the state, and keeps all state funds and securities. The Attorney General is the chief state legal officer. The Commissioner of Agriculture supervises all matters pertaining to agriculture except as otherwise provided by law.¹²

The Governor and Cabinet meet as a collegial body.¹³ The Florida Constitution specifies that when a tie vote occurs, the side on which the Governor voted is deemed to prevail.¹⁴ Florida law

⁴ Art. IV, s. 6(a), FLA. CONST.

⁵ See Joseph W. Landers, Jr., *The Myth of the Cabinet System: The Need to Restructure Florida's Executive Branch*, 19 Fla. St. U. L. Rev. 1089 (1992) available at <https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=2445&context=lr> (last visited Feb. 1, 2022).

⁶ *Id.*

⁷ Art. IV, s. 20, FLA. CONST. (1885).

⁸ The Constitution Revision Commission meets every 20 years to examine the state constitution, hold public hearings, and proposed revisions. Art. IV, s. 2, FLA. CONST.

⁹ Amendment 8, Florida Department of State, <https://dos.elections.myflorida.com/initiatives/fulltext/pdf/11-4.pdf> (last visited Feb. 1, 2022).

¹⁰ The Commissioner of Education was formerly known as the Superintendent of Public Instruction.

¹¹ Art. IV, s. 4, FLA. CONST.

¹² *Id.*

¹³ See Edwin Bayo & Kent Perez, *Florida's Cabinet System: Y2K and Beyond*, Fla. B.J., Nov. 2000 at 68, available at <https://www.floridabar.org/the-florida-bar-journal/floridas-cabinet-system-y2k-and-beyond> (last visited Feb. 1, 2022).

¹⁴ Art. IV, s. 4(a), FLA. CONST.

further specifies that when a tie vote occurs and the side the Governor votes on prevails, the vote satisfies the requirement that the action taken be by “majority” or “simple majority.”¹⁵

Department Head Appointments Requiring Unanimous Cabinet Approval

Three departments – Department of Law Enforcement¹⁶ (FDLE), Department of Environmental Protection¹⁷ (DEP), and Department of Veterans’ Affairs¹⁸ (DVA) – require the Governor and three members of the Cabinet to approve the appointment of the department’s secretary or executive director. This requirement existed prior to the Cabinet reorganization in 2003. With the six-member Cabinet that existed prior to 2003, the three Cabinet member approval requirement, when added with the Governor’s choice, would have been a majority.¹⁹ However, the reduction of the Cabinet to three members in 2003 means that the Cabinet vote in these instances must be unanimous.

Florida Department of Law Enforcement

The Florida Department of Law Enforcement (FDLE) was created in 1969, replacing the Bureau of Law Enforcement, with the head of the agency being the Governor and Cabinet.²⁰ Since its creation, the executive director of FDLE has been appointed by the Governor, with the approval of three members of the Cabinet, subject to Senate confirmation.²¹ The executive director serves at the pleasure of the Governor and Cabinet.²² FDLE’s mission is to “promote public safety and strengthen domestic security by providing services in partnership with local, state, and federal criminal justice agencies to prevent, investigate, and solve crimes while protecting Florida’s citizens and visitors.”²³

FDLE is composed of seven Regional Operating Centers²⁴ and the following programs are established in law:

- Criminal Justice Investigations and Forensic Science,
- Criminal Justice Information,
- Criminal Justice Professionalism, and
- Florida Capitol Police.²⁵

¹⁵ Section 14.2001, F.S.

¹⁶ Section 20.201, F.S.

¹⁷ Section 20.255, F.S.

¹⁸ Section 20.37, F.S.

¹⁹ See Kent Perez, *The New Constitutional Cabinet “Florida’s Four,”* Fla. B.J., Apr. 2008 at 62, <https://www.floridabar.org/the-florida-bar-journal/the-new-constitutional-cabinet-floridas-four> (last visited Feb. 1, 2022).

²⁰ Ch. 69-106, Laws of Fla.

²¹ Section 20.201(1), F.S.; see also Art. IV, s. 4(g), FLA. CONST.

²² *Id.*

²³ FDLE, *Statement of Agency Organization and Operation*, available at <https://www.fdle.state.fl.us/About-Us/Documents/StatementofAgencyOrg.aspx> (last visited Feb. 1, 2022).

²⁴ The Regional Operating Centers report to “a Regional Director (Special Agent in Charge) instead of headquarters.” FDLE, *About Us*, <https://www.fdle.state.fl.us/About-Us/General-Information.aspx> (last visited Feb. 1, 2022).

²⁵ *Id.*; see also section 20.201(2), F.S., establishing four programs within FDLE: Criminal Justice Investigations and Forensic Science Program; Criminal Justice Information Program; Criminal Justice Professionalism Program; and Capitol Police.

Department of Environmental Protection

DEP was created in 1993 by the Florida Environmental Reorganization Act of 1993,²⁶ replacing the Department of Environmental Regulation and the Department of Natural Resources.²⁷ Since the department's creation, the head of DEP has been a secretary²⁸ appointed by the Governor, with the concurrence of three members of the Cabinet, subject to Senate confirmation.²⁹ The secretary serves at the pleasure of the Governor.³⁰

DEP is the state's lead agency for environmental management and stewardship.³¹ DEP is divided into three primary program areas:

- Land and recreation programs, which acquire land for preservation and recreation;
- Regulatory programs, which oversee permitting and compliance activities that protect air and water quality and manage waste cleanups; and
- Ecosystems restoration programs, which protect and improve water quality and aquatic resources.³²

DEP has six administrative districts involved in regulatory matters of water management, water resource management, wetlands, and air resources.³³ DEP has nine divisions, which direct the district offices and bureaus in matters of interpretation and applicability of DEP's rules and programs.³⁴ The divisions are:

- Administrative Services,
- Air Resource Management,
- Water Resource Management,
- Environmental Assessment and Restoration,
- Waste Management,
- Recreation and Parks,
- State Lands,
- Water Restoration Assistance, and
- Law Enforcement.³⁵

Department of Veterans' Affairs

In 1988, a constitutional amendment was adopted that required the Legislature to create the DVA in law and prescribe its duties.³⁶ The amendment also specified that the head of the DVA is the Governor and Cabinet.³⁷ Thereafter, the Legislature established the DVA in statute and required

²⁶ Ch. 93-213, Laws of Fla.

²⁷ *Id.*

²⁸ The term "secretary" means an individual who is appointed by the Governor to head a department and who is not otherwise named in the State Constitution. Section 20.03(5), F.S.

²⁹ Section 20.255(1), F.S.

³⁰ *Id.*

³¹ DEP, *About DEP*, <https://floridadep.gov/about-dep> (last visited Jan 12, 2022).

³² *Id.*

³³ Section 20.255(d), F.S.

³⁴ Section 20.255(e), F.S.

³⁵ *Id.*

³⁶ Art. IV, s. 11, FLA. CONST.

³⁷ *Id.*

the executive director be appointed by the Governor, with the approval of three members of the Cabinet, subject to confirmation by the Senate. The executive director serves at the pleasure of the Governor and Cabinet.³⁸

Section 20.37, F.S., establishes the Division of Administration and Public Information and within that division, the Bureau of Information and Research. It also establishes the Division of Veterans' Benefits and Assistance with the following bureaus created within the division:

- Bureau of Veteran Claims Services.
- Bureau of Veteran Field Services.
- Bureau of State Approving for Veterans' Training.³⁹

III. Effect of Proposed Changes:

Section 1 amends s. 20.201, F.S., to provide that the director of the Department of Law Enforcement is appointed by the Governor subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side.

Section 2 amends s. 20.255, F.S., to provide that, notwithstanding the statutory requirement that the Senate must confirm the appointment of a secretary appointed by the Governor to serve as head of a department, the secretary of the Department of Environmental Protection shall be appointed by the Governor with the concurrence of three members of the Cabinet or subject to confirmation by the Senate.

The bill provides that upon appointment, the Governor shall notify the Cabinet and the President of the Senate in writing that he or she will seek either the concurrence of three members of the Cabinet or confirmation of the appointee by the Senate. If the Governor chooses the former, such concurrence must be obtained at the first scheduled meeting of the Cabinet following the appointment. The bill provides that if the concurrence is not obtained at such meeting, the appointee may be held over until his or her successor is appointed and qualified for a maximum of 30 days from the date of the Cabinet meeting at which the appointment was considered.

The bill provides that an appointee who does not receive the concurrence of three members of the Cabinet is not eligible for appointment to the same office for one year after the date of the Cabinet meeting at which the appointment was considered. The bill also provides that if the Governor seeks confirmation of the appointee by the Senate, s. 114.05, F.S., applies. That section governs the issuance of a letter of appointment, confirmation by the Senate, and refusal or failure to confirm.

Section 3 amends s. 20.37, F.S., to provide that the executive director of Veterans' Affairs is appointed by the Governor subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side.

Section 4 provides that the bill will take effect upon becoming law.

³⁸ Section 20.37(1), F.S.

³⁹ *Id.*

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.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends sections 20.201, 20.255, and 20.37 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 January 31, 2022:

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

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (1) of section 20.201, Florida
Statutes, is amended to read:

20.201 Department of Law Enforcement.—

(1) There is created a Department of Law Enforcement. The
head of the department is the Governor and Cabinet. The
executive director of the department shall be appointed by the



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Governor subject to a majority vote of the Governor and Cabinet,
with the Governor on the prevailing side. The appointment is
~~with the approval of three members of the Cabinet and~~ subject to
confirmation by the Senate. The executive director shall serve
at the pleasure of the Governor and Cabinet. The executive
director may establish a command, operational, and
administrative services structure to assist, manage, and support
the department in operating programs and delivering services.

Section 2. Subsection (1) of section 20.255, Florida
Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is
created a Department of Environmental Protection.

(1) Notwithstanding s. 20.05(2), the head of the Department
of Environmental Protection shall be a secretary, who shall be
appointed by the Governor, with the concurrence of three members
of the Cabinet or subject to confirmation by the Senate.

(a) Upon appointment, the Governor shall, in writing,
notify the Cabinet and the President of the Senate that he or
she will seek either the concurrence of three members of the
Cabinet or confirmation of the appointee by the Senate.

(b) If the Governor seeks the concurrence of three members
of the Cabinet for the appointment, such concurrence must be
obtained at the first scheduled meeting of the Cabinet following
the appointment. If concurrence of three members of the Cabinet
is not obtained at such meeting, the appointee may be held over
until his or her successor is appointed and qualified, but the
period of such holdover may not exceed 30 days from the date of
the Cabinet meeting at which the appointment was considered. An
appointee who does not receive the concurrence of three members



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of the Cabinet is not eligible for appointment to the same office for 1 year after the date of the Cabinet meeting at which the appointment was considered.

(c) If the Governor seeks confirmation of the appointee by the Senate, s. 114.05 applies ~~The secretary shall be confirmed by the Florida Senate.~~

(d) The secretary shall serve at the pleasure of the Governor.

Section 3. Subsection (1) of section 20.37, Florida Statutes, is amended to read:

20.37 Department of Veterans' Affairs.—There is created a Department of Veterans' Affairs.

(1) The head of the department is the Governor and Cabinet. The executive director of the department shall be appointed by the Governor subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side. The appointment is ~~with the approval of three members of the Cabinet~~ and subject to confirmation by the Senate. The executive director shall serve at the pleasure of the Governor and Cabinet.

Section 4. 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 executive appointments; amending s.
20.201, F.S.; requiring that the executive director of



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the Department of Law Enforcement be appointed subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side; amending s. 20.255, F.S.; requiring the appointment of the secretary of the Department of Environmental Protection be subject to the concurrence of three members of the Cabinet or confirmation by the Senate; requiring the Governor to notify the Cabinet and the President of the Senate in writing of the method of confirmation; requiring the Governor, if seeking the concurrence of the Cabinet, to seek such concurrence at the first scheduled meeting after appointment; providing that an appointee who does not receive the concurrence of the Cabinet may serve for a specified timeframe; providing that an appointee who does not receive concurrence from the Cabinet is not eligible for appointment to the same office for a specified timeframe; providing procedures for confirmation by the Senate; amending s. 20.37, F.S.; requiring that the executive director of the Department of Veterans' Affairs be appointed subject to a majority vote of the Governor and Cabinet, with the Governor on the prevailing side; providing an effective date.

By Senator Bean

4-01822A-22

20221658__

A bill to be entitled

An act relating to executive appointments; amending s.
20.255, F.S.; removing the requirement that
appointment of the Secretary of Environmental
Protection be subject to the concurrence of three
members of the Cabinet; providing an effective date.

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

Section 1. Subsection (1) of section 20.255, Florida
Statutes, is amended to read:

20.255 Department of Environmental Protection.—There is
created a Department of Environmental Protection.

(1) The head of the Department of Environmental Protection
shall be a secretary, who shall be appointed by the Governor,
~~with the concurrence of three members of the Cabinet.~~ The
appointment is subject to confirmation ~~secretary shall be~~
~~confirmed~~ by the ~~Florida~~ Senate. The secretary serves ~~shall~~
~~serve~~ at the pleasure of the Governor.

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: CS/SB 1940

INTRODUCER: Environment and Natural Resources Committee and Senator Brodeur

SUBJECT: Statewide Flooding and Sea Level Rise Resilience

DATE: February 1, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Collazo	Rogers	EN	Fav/CS
2.			AEG	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1940 establishes the Statewide Office of Resilience within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

The bill requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System. The bill identifies goals of the action plan and requires it to include certain components. It also requires DOT to submit the action plan to the Governor and the Legislature by June 20, 2023, and a status report every third year on June 30 thereafter.

The bill makes various revisions to s. 380.093, F.S., relating to statewide resiliency funding and planning, including:

- Authorizing the use of Resilient Florida Grant Program funds to fund preconstruction activities for Statewide Flooding and Sea-Level Rise Resilience Plan (Plan) projects in municipalities and counties meeting certain population thresholds, but not for projects that adapt critical assets to flooding and sea-level rise;
- Pushing back by one year (to 2023 and 2024, respectively) the dates by which the Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and the Assessment must be completed; and
- Revising the \$100 million cap on funding proposed for each year of the Plan to a minimum threshold of \$100 million.

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

Beginning January 1, 2023, the bill also directs surveyors and mappers to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on DEM's website.

II. Present Situation:

Chief Resilience Officer

In January of 2019, Governor DeSantis issued Executive Order 19-12, creating the Office of Resilience and Coastal Protection to help prepare Florida's coastal communities and habitats for impacts from sea-level rise by providing funding, technical assistance, and coordination among state, regional, and local entities.¹ This office oversees a broad range of state programs.²

In August of 2019, the Governor appointed Florida's first Chief Resilience Officer (CRO), Dr. Julia Nesheiwat. The CRO reports directly to the Executive Office of the Governor and is tasked with preparing Florida for the environmental, physical, and economic impacts of sea level rise.³ In February of 2020, Dr. Nesheiwat stepped down as CRO. Former Secretary of the Department of Environmental Protection (DEP), Noah Valenstein, served as the interim CRO until he resigned in May 2021. The current Secretary of DEP, Shawn Hamilton, served as CRO until Governor DeSantis appointed Wesley Brooks, the current CRO, in November 2021.⁴

Statewide Resilience Programs

Department of Environmental Protection Programs

In 2021, the Legislature, recognizing that Florida is vulnerable to flooding from increasing rainfall, storm surge, and sea level rise, established several statewide resilience programs administered by DEP.⁵ Those programs include the following:

- DEP's Resilient Florida Grant Program provides grants to counties or municipalities for community resilience planning, such as vulnerability assessments, plan development, and projects to adapt critical assets.⁶ The findings of the assessments must be reported to DEP.

¹ State of Florida, Office of the Governor, *Executive Order Number 19-12*, 5 (2019), available at <https://www.flgov.com/wp-content/uploads/2019/01/EO-19-12-.pdf> (last visited Jan. 26, 2022).

² Dep't of Environmental Protection (DEP), *Office of Resilience and Coastal Protection*, <https://floridadep.gov/rcp> (last visited Jan. 26, 2022).

³ See Governor Ron DeSantis, News Releases, *Governor Ron DeSantis Announces Dr. Julia Nesheiwat as Florida's First Chief Resilience Officer* (Aug. 1, 2019), <https://flgov.com/2019/08/01/governor-ron-desantis-announces-dr-julia-nesheiwat-as-floridas-first-chief-resilience-officer/> (last visited Jan. 26, 2022).

⁴ Governor Ron DeSantis, News Releases, *Governor DeSantis Announces Four Key Appointments to His Administration* (Nov. 19, 2021), <https://www.flgov.com/2021/11/19/governor-desantis-announces-four-key-appointments-to-his-administration/> (last visited Jan. 26, 2022); Renzo Downey, "After 20 months of uncertainty, Gov. DeSantis names Wesley Brooks as Chief Resilience Officer," *FLORIDA POLITICS*, available at <https://floridapolitics.com/archives/474849-after-20-months-of-uncertainty-gov-desantis-names-wesley-brooks-as-chief-resilience-officer/> (last visited Jan. 26, 2022).

⁵ Sections 380.093, 380.0933, 403.928(4), F.S.; see ch. 2021-28, Laws of Fla.

⁶ Section 380.093(2)(a), F.S. "Critical asset" is defined to include broad lists of assets relating to transportation, critical infrastructure, emergency facilities, natural resources, and historical and cultural resources.

- The Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment, which must be updated at least every five years. DEP must:
 - By July 1, 2022, develop a statewide data set, including statewide sea level rise projections, containing information necessary to determine the risks of flooding and sea level rise to inland and coastal communities.
 - By July 1, 2023, develop a statewide assessment, using the statewide data set, identifying vulnerable infrastructure, geographic areas, and communities. The statewide assessment must include an inventory of critical assets.
- The Statewide Flooding and Sea Level Rise Resilience Plan. By each December 1, DEP must develop the plan on a three-year planning horizon and submit it to the Governor and Legislature. The plan must consist of ranked projects addressing the risks of flooding and sea level rise to communities in the state. The funding proposed in the plan may not exceed \$100 million in one year and is subject to review and appropriation by the Legislature. Each project must have a minimum 50 percent cost-share, unless it assists or is within a financially disadvantaged small community.⁷ Counties, municipalities, and regional resilience entities⁸ are authorized to submit to DEP lists of proposed projects for inclusion, and water management districts and flood control districts are authorized to submit to DEP lists of proposed projects specifically relating to water supplies or water resources for inclusion.⁹ DEP must assess projects for inclusion by implementing a four-tiered scoring system.¹⁰

Department of Transportation Programs

The Department of Transportation (DOT) regulates access to the facilities forming part of the State Highway System.¹¹ The Florida Transportation Code¹² defines the State Highway System¹³ as meaning:

- The interstate system and all other roads within the state which were under the jurisdiction of the state on June 10, 1995;
- Roads constructed by an agency of the state for the State Highway System; and
- Roads transferred into the state's jurisdiction after June 10, 1995 by mutual consent with another governmental entity, but not including roads transferred out of the state's jurisdiction in the same way.¹⁴

⁷ Section 380.093(5)(e), F.S. "Financially Disadvantaged Small Community," for purposes of s. 380.093, F.S., is defined as a municipality with a population of 10,000 or fewer and a per capita annual income that is less than the state's per capita annual income, or a county with a population of 50,000 or fewer and a per capita annual income that is less than the state's per capita annual income.

⁸ Section 380.093(6), F.S. The bill authorizes DEP to provide funding, subject to specific legislative appropriation, to regional resilience entities for providing technical assistance to counties and municipalities, coordinating multijurisdictional vulnerability assessments, and developing project proposals for the statewide resilience plan.

⁹ Section 380.093(5)(d), F.S.

¹⁰ Section 380.093(5)(h), F.S.

¹¹ Section 334.03(24), F.S.

¹² Chapters 334-339, 341, 348, and 349, F.S., and ss. 332.003-332.007, 351.35, 351.36, 351.37, and 861.011, F.S. See s. 334.01, F.S. (identifying the chapters and sections of the Florida Statutes that may be cited as the Florida Transportation Code).

¹³ Section 334.03(24), F.S.

¹⁴ *Id.*

In April 2020, Secretary of DOT Kevin Thibault signed Policy 000-525-053,¹⁵ entitled Resiliency of State Transportation Infrastructure (Resiliency Policy), to make it the official policy of DOT to consider the resiliency of the state's transportation system to support the safety, mobility, quality of life, and economic prosperity of Florida and to preserve the quality of its environment and communities.¹⁶

The Resiliency Policy recognizes that resiliency includes the ability of the transportation system to adapt to changing conditions and prepare for, withstand, and recover from disruption. To that end, DOT has pledged to:¹⁷

- Continue to identify risks, particularly related to sea level rise, flooding, and storms; assess potential impacts; and employ strategies to avoid, mitigate, or eliminate impacts;
- Collaborate with appropriate agencies and organizations for information sharing and alignment of resiliency strategies; and
- Implement the Resiliency Policy through DOT's long-range and modal plans; work program; asset management plans; research efforts; and internal manuals, tools, guidelines, procedures, and related documents, guiding planning, programming, project development, design, construction, operations, and maintenance.¹⁸

Consistent with its Resiliency Policy, DOT is doing all of the following to advance resiliency:¹⁹

¹⁵ Dep't of Transportation (DOT), *Resiliency of State Transportation Infrastructure, Topic No. 000-525-053* (Apr. 27, 2020), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/resilience/resiliency_policy_000-525-053.pdf?sfvrsn=4dae64fd_2 (last visited Jan. 28, 2022). The U.S. Department of Transportation, Federal Highway Administration (FHWA), has also issued an order directing FHWA to integrate consideration of climate change and extreme weather event impacts and adaptation responses into the delivery and stewardship of the Federal aid and Federal Lands Highway programs. This includes encouraging state departments of transportation and other agencies to develop, prioritize, implement, and evaluate risk-based and cost-effective strategies to minimize climate and extreme weather risks and protect critical infrastructure using the best available science, technology, and information. See U.S. Dep't of Transportation, Federal Highway Administration, *Transportation System Preparedness and Resilience to Climate Change and Extreme Weather Events, Order 5520* (Dec. 15, 2014), available at <https://www.fhwa.dot.gov/legisregs/directives/orders/5520.pdf> (last visited Jan. 31, 2022).

¹⁶ *Id.*

¹⁷ DOT, *Resiliency of State Transportation Infrastructure, Topic No. 000-525-053* (Apr. 27, 2020), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/resilience/resiliency_policy_000-525-053.pdf?sfvrsn=4dae64fd_2 (last visited Jan. 28, 2022).

¹⁸ *Id.*

¹⁹ DOT, *Resiliency Subject Brief, 2*, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheets_resilience_0630.pdf?sfvrsn=1173ebf_2 (last visited Jan. 28, 2022).

- Incorporating resiliency in statewide planning efforts including the Florida Transportation Plan,²⁰ Strategic Intermodal System (SIS) Policy Plan,²¹ Freight Mobility and Trade Plan,²² and Transportation Asset Management Plan.²³
- Providing resources such as the Resilience Quick Guide²⁴ for incorporating resiliency into Metropolitan Planning Organizations' (MPOs') long range plans and the Resilience Primer that establishes a process framework, documents industry best practices, and provides a resiliency toolbox.²⁵
- Laying the groundwork for a SIS Resilience Action Plan as part of phase II of a vulnerability assessment for Florida's high priority transportation facilities.
- Developing and coordinating training for the Sea Level Scenario Sketch Planning Tool²⁶ to aid the assessment of potential long-range sea level rise impacts on transportation infrastructure.
- Designing for rising sea levels and tidal issues by analyzing projected sea levels and tides in the design of bridge replacement projects and incorporating closed drainage system upgrades and backflow devices into coastal projects.
- Supporting research activities that provide a better understanding of the impacts and potential responses to sea level rise, tidal flooding, and other stresses and shocks.
- Managing infrastructure assets like roadway pavements through analysis and implementation of methods that address environmental conditions such as extreme heat.
- Safeguarding information technology through an agency-wide team established to ensure the protection of critical data and network resources from cyberattacks and other threats.²⁷

²⁰ DOT, *Florida Transportation Plan (FTP)*, available at <http://floridatransportationplan.com/index.htm> (last visited Jan. 29, 2022). The Florida Transportation Plan is the single overarching plan guiding Florida's transportation future. Updated every five years, it is a collaborative effort of state, regional, and local transportation partners in the public and private sectors.

²¹ DOT, *Strategic Intermodal System Policy Plan* (Mar. 2016), available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/content/planning/systems/programs/mspi/plans/sis-policyplan.pdf?sfvrsn=4d7341ad_0 (last visited Jan. 29, 2022). The Strategic Intermodal System Policy Plan establishes the policy framework for planning and managing Florida's Strategic Intermodal System, the high priority network of transportation facilities important to the state's economic competitiveness. *Id.* at ii.

²² DOT, *Freight Mobility and Trade Plan* (2020), available at <https://www.fdot.gov/fmtp> (last visited Jan. 29, 2022).

²³ DOT, *Transportation Asset Management Plan* (2015), available at <https://www.fdot.gov/docs/default-source/planning/tamp/TAMP-2015.pdf> (last visited Jan. 29, 2022).

²⁴ DOT, *Resilience Quick Guide: Incorporating Resilience in the MPO Long Range Transportation Plan*, 2 (2020), available at http://www.floridatransportationplan.com/pdf/2020-01-29_FDOT%20Resilience%20Quick%20Start%20Guide_FINAL.pdf (last visited Jan. 26, 2022). The purpose of the Quick Guide is to help MPOs improve the resiliency and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation in the long-range transportation planning process. Florida MPOs must consider resilience as a planning factor when assessing projects, strategies, and services during development of their Long Range Transportation Plans (LRTPs). The Quick Guide outlines the steps for MPOs to consider throughout the development of the LRTP.

²⁵ DOT, *Resiliency Subject Brief*, 2, available at https://fdotwww.blob.core.windows.net/sitefinity/docs/default-source/planning/policy/briefing-sheets/briefing_sheets_resilience_0630.pdf?sfvrsn=1173ebf_2 (last visited Jan. 28, 2022). MPOs must, in cooperation with the state and public transportation operators, "[i]mprove the resilience and reliability of the transportation system and reduce or mitigate stormwater impacts of surface transportation" in the long range transportation planning process. *See id.*; *see also* 23 C.F.R. s. 450.306(b)(9).

²⁶ University of Florida GeoPlan Center, *Sea Level Scenario Sketch Planning Tool*, <https://sls.geoplan.ufl.edu/> (last visited Jan. 29, 2022). The purpose of the Sea Level Scenario Sketch Planning Tool is to help identify transportation infrastructure exposed to current and future flood risks. It was created by the University of Florida GeoPlan Center with funding from DOT. *Id.*

²⁷ *Id.*

Division of Emergency Management Programs

The Division of Emergency Management (DEM) in the Executive Office of the Governor maintains a statewide emergency management program, and its roles include administering federal mitigation grant programs and serving as Florida's state coordinating agency for the National Flood Insurance Program (NFIP).²⁸

NFIP was created by passage of the National Flood Insurance Act of 1968.²⁹ The NFIP is managed by FEMA and enables homeowners, business owners, and renters in flood-prone areas to purchase flood insurance protection from the federal government.³⁰ Flood insurance through the NFIP is only available in communities that adopt and enforce federal floodplain management criteria.³¹

The NFIP elevation certificate is used to provide elevation information necessary to ensure compliance to community floodplain management ordinances, to determine the proper insurance premium rate, or to support a request for a Letter of Map Amendment.³² As part of the agreement for making flood insurance available in a community, the NFIP requires each community to adopt floodplain management regulations that specify minimum requirements for reducing flood losses.³³ One such requirement is for the community to obtain the elevation of the lowest floor (including the basement) of all new and substantially improved buildings, and maintain a record of such information. The elevation certificate provides a way for a community to document compliance with the community's floodplain management ordinance.³⁴

In Florida, elevation certificates must be completed by a surveyor and mapper.³⁵ Since January 1, 2017, surveyors and mappers are required to submit, within 30 days after completion, a copy of each elevation certificate that he or she completes to DEM. The surveyor and mapper must retain a signed and sealed original in his or her records.³⁶ Elevation certificates may be submitted to DEM using its online web application³⁷ developed for this purpose.³⁸

²⁸ Division of Emergency Management (DEM), *Mitigation*, <https://www.floridadisaster.org/dem/mitigation/> (last visited Jan. 26, 2022); DEM, *State Floodplain Management Program*, <https://www.floridadisaster.org/dem/mitigation/floodplain/> (last visited Jan. 26, 2022).

²⁹ 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 (last visited Jan. 29, 2022).

³⁰ Benefits.gov, *National Flood Insurance Program (NFIP)*, <https://www.benefits.gov/benefit/435> (last visited Jan. 29, 2022).

³¹ *Id.*

³² FEMA, *Elevation Certificate and Instructions (2019 Edition)*, available at https://www.fema.gov/sites/default/files/2020-07/fema_nfip_elevation-certificate-form_feb-2020.pdf (last visited Jan. 29, 2022).

³³ *Id.*

³⁴ *Id.*

³⁵ Section 472.0366(1)(b), F.S.

³⁶ Section 472.0366(2), F.S.

³⁷ DEM, *Elevation Certificates Submittal Form*, <https://maps.floridadisaster.org/portal/apps/GeoForm/index.html?appid=d5642b277af24b7191107524b390bada> (last visited Jan. 31, 2022).

³⁸ DEM, *Elevation Certificates*, <https://www.floridadisaster.org/elevation-certificates/> (last visited Jan. 31, 2022).

Other State, Regional, and Local Programs

The following list includes examples of resilience efforts by other government entities in Florida:

- Florida’s coastal local governments must have a coastal management element in their comprehensive plans,³⁹ and this element may include an “adaptation action area” designation⁴⁰ and must contain a redevelopment component in compliance with the 2015 “Peril of Flood” law.⁴¹
- The Department of Economic Opportunity assists communities with adaptation planning, and its Office of Long-Term Resiliency supports communities following disasters, which includes administering federal funds that support resiliency efforts.⁴²
- The Fish and Wildlife Conservation Commission is Florida’s lead agency on addressing the impacts of climate change on fish and wildlife.⁴³ In 2016, the Commission published a guide of adaptation strategies for the predicted impacts of climate changes.⁴⁴
- The Department of Agriculture and Consumer Services’ Office of Energy develops Florida’s energy policy and works on climate change issues.⁴⁵
- The Department of Business and Professional Regulation’s Florida Building Commission adopts floodplain management and resilience standards into the Florida Building Code.⁴⁶
- The water management districts implement a range of resilience and flood control programs.⁴⁷
- Florida is divided into ten Regional Planning Councils, and some do resilience planning.⁴⁸
 - The Northeast Florida Regional Council’s efforts include grant funding, technical support, and resources including an online mapping tool for determining risk.⁴⁹

³⁹ Sections 380.24, 163.3177(6)(g), and 163.3178(2), F.S.

⁴⁰ Chapter 2011-139, Laws of Fla.; ss. 163.3164(1) and 163.3177(6)(g)10., F.S.

⁴¹ Chapter 2015-69, Laws of Fla.; s. 163.3178(2)(f), F.S.

⁴² Dep’t of Economic Opportunity (DEO), *Adaptation Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/adaptation-planning> (last visited Jan. 26, 2022); DEO, *Office of Long-Term Resiliency*, <http://www.floridajobs.org/community-planning-and-development/assistance-for-governments-and-organizations/disaster-recovery-initiative> (last visited Jan. 26, 2022).

⁴³ Florida Fish and Wildlife Conservation Commission (FWC), *What FWC is Doing*, <https://myfwc.com/conservation/special-initiatives/climate-change/fwc/> (last visited Jan. 26, 2022).

⁴⁴ FWC, *A Guide to Climate Change Adaptation for Conservation*, 1-1 (2016), available at <https://myfwc.com/media/5864/adaptation-guide.pdf> (last visited Feb. 3, 2021).

⁴⁵ Dep’t of Agriculture and Consumer Services (DACS), *Office of Energy*, <https://www.fdacs.gov/Divisions-Offices/Energy> (last visited Jan. 26, 2022).

⁴⁶ Chapter 553, pt. IV, F.S.; Fla. Admin. Code R. 61g20-1.001; see Building a Safer Florida, Inc., *Flood Resistant Construction and the 6th Edition Florida Building Code*, 1 (2017), available at https://floridabuilding.org/fbc/thecode/2017-6edition/BASF_2017_flood_061217.pdf (last visited Jan. 26, 2022).

⁴⁷ St. John’s River Water Management District, *Sea-Level Rise and Resiliency*, <https://www.sjrwmd.com/localgovernments/sea-level-rise/> (last visited Jan. 26, 2022); Akintunde Owosina, Chief, Hydrology and Hydraulics Bureau, South Florida Water Management District (SFWMD), Governing Board Meeting, June 13, 2019, *Impact of Sea Level Rise on the SFWMD Mission, Focus on Flood Protection*, 2, 6-10 (June 13, 2019), available at <https://apps.sfwmd.gov/webapps/publicMeetings/viewFile/21964> (last visited Jan. 26, 2022); Dr. Carolina Maran, District Resiliency Officer, SFWMD, Governing Board Meeting, March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, 1 (Mar. 12, 2020), available at <https://apps.sfwmd.gov/ci/publicmeetings/viewFile/25445> (last visited Jan. 26, 2022). In 2020, SFWMD appointed a District Resiliency Officer. It also implements a Flood Control Level of Service Program and, in collaboration with the U.S. Army Corps of Engineers, has initiated the Central and South Florida Flood Resiliency Study. See *id.*; see also SFWMD, *Resiliency and Flood Protection*, <https://www.sfwmd.gov/our-work/resiliency-and-flood-protection> (last visited Jan. 29, 2022).

⁴⁸ Sections 186.501-186.513, F.S.

⁴⁹ Northeast Florida Regional Council, *Resiliency Services*, <https://www.nefrc.org/resiliency> (last visited Jan. 26, 2022).

- The East Central Florida Regional Planning Council has formed the East Central Florida Regional Resilience Collaborative, which includes 25 member counties and cities and six member organizations and agencies.⁵⁰
- The Tampa Bay Regional Planning Council is active on resiliency planning.⁵¹
- The U.S. Army Corps of Engineers (USACE) is planning and implementing many projects in Florida related to resilience.
 - The Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study is a three-year study, ending in September of 2021, that has tentatively recommended a plan that may include storm surge barriers, floodproofing of critical infrastructure countywide, and nonstructural measures (including home elevations or floodproofing) in seven refined focus areas determined to be the most socially vulnerable economic damage centers in Miami-Dade County.⁵²
 - The Central and Southern Florida Flood Resiliency Study was proposed by USACE, with the support of the South Florida Water Management District, to reevaluate the Central and Southern Florida Project to address climate change, sea level rise, and more.⁵³
- The Federal Emergency Management Agency (FEMA) administers hazard mitigation programs that increase resilience and facilitate hazard mitigation planning and grant funding.⁵⁴ FEMA also administers the National Flood Insurance Program (NFIP), which includes insurance, floodplain mapping, and federal, state, and local regulations.⁵⁵

The Office of Economic and Demographic Research

The Legislature's Office of Economic and Demographic Research (EDR) is a research arm principally concerned with forecasting economic and social trends that affect policy making, revenues, and appropriations.⁵⁶ EDR to conducts an annual assessment of Florida's water resources and conservation lands.⁵⁷ For water resources, the assessment must include historical, current, and estimated future expenditures associated with water supply and demand, water quality protection and restoration, and government revenues dedicated for such purposes.⁵⁸ Also,

⁵⁰ East Central Florida Regional Planning Council, *East Central Florida Regional Resilience Collaborative*, <https://www.ecfrpc.org/resiliencycollaborative> (last visited Jan. 26, 2022).

⁵¹ Tampa Bay Regional Planning Council, *Resiliency Planning*, <https://www.tbrpc.org/resiliency/> (last visited Jan. 26, 2022).

⁵² USACE, *Miami-Dade Back Bay Coastal Storm Risk Management Feasibility Study*, <https://www.saj.usace.army.mil/MiamiDadeBackBayCSRMFeasibilityStudy/> (last visited Jan. 26, 2022); U.S. Army Corps of Engineers, *Miami-Dade Back Bay Coastal Storm Risk management Draft Integrated Feasibility Report and Programmatic Environmental Impact Statement*, 177-178, 181, 222-238 (May 2020), available at <https://usace.contentdm.oclc.org/utis/getfile/collection/p16021coll7/id/14453> (last visited Jan. 26, 2022).

⁵³ Dr. Carolina Maran, District Resiliency Officer, South Florida Water Management District, Governing Board Meeting March 12, 2020, *Central and Southern Florida Flood Resiliency Study*, video begins at 4:50:30 (Mar. 12, 2020), available at <http://sfwmd.igq2.com/Citizens/SplitView.aspx?Mode=Video&MeetingID=2008&Format=Agenda> (last visited Jan. 26, 2022); see also SFWMD, *Central and Southern Florida Flood Resiliency Study*, <https://www.sfwmd.gov/our-work/central-and-southern-florida-flood-resiliency-study> (last visited Jan. 29, 2022).

⁵⁴ Federal Emergency Management Agency (FEMA), *Hazard Mitigation Assistance Guidance - Hazard Mitigation Grant Program, Pre-Disaster Mitigation Program, and Flood Mitigation Assistance Program*, 1–5 (2015), available at https://www.fema.gov/sites/default/files/2020-07/fy15_HMA_Guidance.pdf (last visited Jan. 26, 2022).

⁵⁵ FEMA, *National Flood Insurance Program (NFIP), Floodplain Management Requirements, FEMA 480*, 2-6–2-8 (2005), available at https://www.fema.gov/sites/default/files/documents/fema-480_floodplain-management-study-guide_local-officials.pdf (last visited Jan. 26, 2022); see 44 C.F.R. parts 59 and 60.

⁵⁶ EDR, *Welcome*, <http://edr.state.fl.us/Content/> (last visited Mar. 3, 2021); see s. 1.01(19), F.S.

⁵⁷ Section 403.928, F.S.

⁵⁸ Section 403.928(1), F.S.

beginning with the assessment due January 1, 2022, the assessment must include an analysis of the expenditures necessary to repair, replace, and expand water-related infrastructure.⁵⁹ For conservation lands, the assessment must include expenditures, revenues, and tax implications related to government acquisition and maintenance of conservation lands in the state.⁶⁰

EDR must submit the assessment to the Legislature by January 1 of each year.⁶¹ In 2021, EDR published the most recent edition of the Annual Assessment of Florida's Water Resources and Conservation Lands.⁶²

Florida Flood Hub for Applied Research and Innovation

The Florida Flood Hub for Applied Research and Innovation (Flood Hub) is established within the University of South Florida (USF) College of Marine Science.⁶³ Its purpose is to coordinate efforts between the academic and research institutions of the state. USF's College of Marine Science serves as the lead institution and engages other academic and research institutions, private partners, and financial sponsors to coordinate efforts to support applied research and innovation to address the flooding and sea level rise challenges of the state.⁶⁴

In 2021, the Legislature created the Flood Hub and tasked it with all of the following minimum duties:⁶⁵

- Organize existing data needs for a comprehensive statewide flood vulnerability and sea level rise analysis and perform a gap analysis to determine data needs;
- Develop statewide open source hydrologic models for physically-based flood frequency estimation and real-time forecasting of floods, including hydraulic models of floodplain inundation mapping, real-time compound and tidal flooding forecasts, future groundwater elevation conditions, and economic damage and loss estimates;
- Coordinate research funds from the state, the federal government, or other funding sources for related Flood Hub activities across all participating entities;
- Establish community-based programs to improve flood monitoring and prediction along major waterways, including intracoastal waterways and coastlines, of the state and to support ongoing flood research;
- Coordinate with agencies, including, but not limited to, DEP and water management districts;
- Share its resources and expertise;
- Assist in the development of training and in the development of a workforce in the state that is knowledgeable about flood and sea level rise research, prediction, and adaptation and mitigation strategies;
- Develop opportunities to partner with other flood and sea level rise research and innovation leaders for sharing technology or research; and

⁵⁹ *Id.*

⁶⁰ Section 403.928(2), F.S.

⁶¹ Section 403.928(7), F.S.

⁶² EDR, *Annual Assessment of Florida's Water Resources and Conservation Lands* (2021), available at http://edr.state.fl.us/Content/natural-resources/LandandWaterAnnualAssessment_2021Edition.pdf (last visited Jan. 28, 2022).

⁶³ Section 380.0933(1), F.S.

⁶⁴ *Id.*

⁶⁵ Ch. 2021-28, s. 2, Laws of Fla., as codified in s. 380.0933(2), F.S.

- Conduct these activities in cooperation with various local, state, and federal government entities as well as other flood and sea level rise research centers.⁶⁶

III. Effect of Proposed Changes:

Section 1 of the bill establishes a Statewide Office of Resilience within the Executive Office of the Governor. The bill provides that the office must be headed by a Chief Resilience Officer, who is appointed by and serves at the pleasure of the Governor.

Section 2 of the bill requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System based on current conditions and forecasted future events. The goals of the resilience action plan are to do all of the following:

- Recommend strategies to enhance infrastructure and the operational resilience of the State Highway System, which may be incorporated into the transportation asset management plan.
- Recommend design changes for retrofitting existing and constructing new state highway facilities.
- Enhance partnerships for collaboration to address multijurisdictional resilience needs.

The bill requires the resilience action plan to include an assessment of the State Highway System to identify roadway facilities and drainage outfalls that may be subject to vulnerabilities associated with tidal, rainfall, the combination of tidal and rainfall, and storm surge flooding, including future projections of sea-level rise, using existing data for current and forecasted future events. As part of the assessment, DOT must do all of the following using the most up-to-date National Oceanic and Atmospheric Administration precipitation frequency and sea-level rise data:

- Synthesize historical and current infrastructure resilience issues statewide.
- Evaluate alternatives for retrofitting existing systems and infrastructure.
- Develop prioritization criteria for resilience project identification.
- Develop a prioritized resilience needs project list, in addition to existing projects within the work program, with the associated costs and timeline.
- Develop a statewide database identifying and documenting those assets vulnerable to current and future flooding. The department shall develop a cost estimate and schedule to enhance existing data to include site-specific details and existing criteria to improve the needs prioritization.

The bill requires DOT to perform a systemic review of its policies, procedures, manuals, tools, and guidance documents to identify revisions that will facilitate cost-effective improvements to address existing and future State Highway System infrastructure vulnerabilities associated with flooding and sea-level rise.

DOT must also provide technical assistance to local agencies and modal partners on resilience issues related to the State Highway System and the deployment of local and regional solutions.

The bill requires DOT to submit the resilience action plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives by June 20, 2023. Every third year on

⁶⁶ *Id.*

June 30 thereafter, DOT must submit a status report reviewing updates to the action plan and the associated implementation activities.

Section 3 of the bill amends s. 380.093, F.S., relating to the Resilient Florida Grant Program; the Comprehensive Statewide Flood Vulnerability and Sea Level Rise Data Set and Assessment; the Statewide Flooding and Sea Level Rise Resilience Plan; and regional resilience entities.

The bill creates two new definitions:

- “Preconstruction activities” means activities associated with a project which occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys, site development, solicitation, public hearings, local code amendments, establishing local funding sources, and easement acquisition.
- “Regionally significant assets” means critical assets that support the needs of communities spanning multiple geopolitical jurisdictions, including, but not limited to, regional medical centers, emergency operations centers, regional utilities, major transportation hubs and corridors, airports, and seaports.

The bill clarifies that, subject to appropriation, the Department of Environmental Protection (DEP) may provide grants to a county or municipality to fund vulnerability assessments that identify or address risks of “inland or coastal” flooding and sea-level rise.

The bill provides that subject to appropriation, DEP may also provide grants to a county or municipality to fund preconstruction activities for projects to be submitted for inclusion in the Statewide Flooding and Sea-Level Rise Resilience Plan, which are located in a municipality that has a population of 10,000 or fewer, or a county that has a population of 50,000 or fewer, according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research’s website.

The bill eliminates the authorization for DEP to provide grants to a county or municipality to fund projects to adapt critical assets to the effects of flooding and sea-level rise.

With respect to vulnerability assessments funded by the Resilient Florida Grant Program, the bill requires noncoastal communities to include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Projections of future rainfall conditions should be utilized, if available.

The bill provides that DEP must complete the required comprehensive statewide flood vulnerability and sea-level rise data set by July 1, 2023 instead of July 1, 2022, and that in developing the data set, DEP must work in coordination with the Florida Flood Hub for Applied Research and Innovation. It also requires DEP to complete the required comprehensive statewide flood vulnerability and sea-level rise assessment by July 1, 2024 instead of July 1, 2023.

The bill provides that all eligible projects submitted to DEP for inclusion in the statewide flooding and sea-level rise resilience plan must be ranked and included in the plan. Each plan must include:

- A detailed narrative overview describing how the plan was developed, including a description of the methodology used by DEP to determine project eligibility;
- A description of the methodology used to rank projects;
- The specific scoring system used;
- The project proposal application form;
- A copy of each submitted project proposal application form with projects separated by “eligible” and “not eligible”;
- The total number of project proposals received and deemed eligible;
- The total funding requested; and
- The total funding requested for eligible projects.

The bill provides that the preliminary plan that must be submitted by December 1, 2021, must include projects submitted by the water management districts which mitigate the risks of flooding or sea-level rise on water supplies or water resources of the state. It also provides that the plan submitted by December 1, 2023, will be an update to the preliminary plan, and pushes back by one year (to December 1, 2024) the date by which the plan must address risks of flooding and sea-level rise identified in the comprehensive flood vulnerability and sea-level rise assessment.

The bill expands the list of entities that may submit a list of proposed projects to DEP that address risks of flooding or sea-level rise identified in the vulnerability assessments funded by the Resilient Florida Grant Program, to include special districts as defined in state law, if they are responsible for the operation and maintenance of an airport or a seaport facility. The bill also provides that for the plans submitted by December 1, 2021; December 1, 2022; and December 1, 2023, counties, municipalities, and special districts may submit projects identified in existing vulnerability assessments which do not comply with Resilient Florida Grant Program requirements.

The bill expands the list of entities that may submit a list of proposed projects to DEP that mitigate the risks of flooding or sea-level rise on water supplies or water resources to include drainage districts, erosion control districts, and regional water supply authorities.

The bill revises the \$100 million cap on funding proposed for each year of the statewide flooding and sea-level rise resilience plan to a minimum threshold of \$100 million.

Section 4 of the bill requires the Florida Flood Hub for Applied Research and Innovation (Flood Hub) to provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments that are conducted pursuant to the Resilient Florida Grant Program. The Flood Hub must provide rainfall-induced and compound flooding data sets; however, more localized data or modeling may be used.

Section 5 of the bill amends existing law to direct surveyors and mappers, beginning January 1, 2023, to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on DEM’s website.

Section 6 of the bill provides an effective date of July 1, 2022.

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.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

Indeterminate.

C. Government Sector Impact:

The bill will likely cause DOT to incur costs associated with developing the required resilience action plan for the State Highway System.

VI. Technical Deficiencies:

The bill amends s. 472.0366(2), F.S., to direct surveyors and mappers to submit digital copies of the elevation certificates they complete “beginning January 1, 2023.” However, this amendment could be interpreted as eliminating the existing requirement to submit copies of elevation certificates before and through January 1, 2023. Amending the subsection to read as follows would address the issue.

Delete lines 593 – 596 and insert:

(2) ~~Beginning January 1, 2017,~~ A surveyor and mapper shall, within 30 days after completion, submit to the division a copy of each elevation certificate that he or she completes as

outlined on the division's website. Beginning January 1, 2023, such copies shall be submitted digitally. The copy must

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates sections 14.2031 and 339.157 of the Florida Statutes, and amends sections 380.093, 380.0933, and 472.0366 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 January 31, 2022:

- Retains the creation of the Statewide Office of Resilience headed by a Chief Resilience Officer.
- Requires the Department of Transportation (DOT) to develop a resilience action plan for the State Highway System. The bill identifies goals of the action plan and requires it to include certain components. It also requires DOT to submit the action plan to the Governor and the Legislature by June 20, 2023, and a status report reviewing updates to the action plan and associated implementation activities every third year on June 30 thereafter.
- Makes various revisions to s. 380.093, F.S., relating to statewide resiliency funding and planning. It:
 - Defines “Preconstruction activities” and “Regionally significant assets.”
 - Clarifies that the Department of Environmental Protection (DEP) may use the Resilient Florida Grant Program (Grant Program) to fund “inland or coastal” flooding and sea-level rise vulnerability assessments.
 - Provides that DEP may use the Grant Program to fund preconstruction activities for Statewide Flooding and Sea-Level Rise Resilience Plan (Plan) projects in municipalities and counties meeting certain population thresholds, but may not use such funds for projects to adapt critical assets to flooding and sea-level rise.
 - Specifies when noncoastal communities must and should use certain rainfall data for vulnerability assessments funded by the Grant Program.
 - Pushes back by one year (to 2023 and 2024, respectively) the dates by which the Comprehensive Statewide Flood Vulnerability and Sea-Level Rise Data Set and the Assessment must be completed.
 - Provides that all eligible projects submitted to DEP for inclusion in the Plan must be included in the Plan and identifies what each Plan must include.
 - Provides that the preliminary Plan must include projects submitted by the water management districts that mitigate the risks of flooding or sea-level rise on water supplies or resources.

- Provides that the Plans submitted in 2022 and 2023 will be updates to the preliminary plan, and that the Plan submitted in 2024 and thereafter must address risks of flooding and sea-level rise identified in the assessment.
- Provides that, in addition to counties and municipalities, certain special districts may also submit a list of proposed projects to DEP that address risks of flooding or sea-level rise identified in the vulnerability assessments funded by the Grant Program. Also provides that for certain Plans, such entities may submit projects that do not comply with Grant Program requirements.
- Adds drainage districts, erosion control districts, and regional water supply authorities to the entities that may submit a list of proposed projects to DEP that mitigate the risks of flooding or sea-level rise on water supplies or water resources.
- Revises the \$100 million cap on funding proposed for each year of the Plan to a minimum threshold of \$100 million.
- Requires the Florida Flood Hub for Applied Research and Innovation to provide certain data to counties and municipalities for vulnerability assessments.
- Directs surveyors and mappers, beginning January 1, 2023, to submit digital copies of the elevation certificates they complete to the Division of Emergency Management (DEM) as outlined on DEM's website.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 14.2031, Florida Statutes, is created to
read:

14.2031 Statewide Office of Resilience.—The Statewide
Office of Resilience is established within the Executive Office
of the Governor. The office shall be headed by a Chief
Resilience Officer, who is appointed by and serves at the



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pleasure of the Governor.

Section 2. Section 339.157, Florida Statutes, is created to read:

339.157 Resilience action plan.—

(1) The department shall develop a resilience action plan for the State Highway System based on current conditions and forecasted future events. The goals of the action plan are to do all of the following:

(a) Recommend strategies to enhance infrastructure and the operational resilience of the State Highway System which may be incorporated into the transportation asset management plan.

(b) Recommend design changes for retrofitting existing and constructing new state highway facilities.

(c) Enhance partnerships for collaboration to address multijurisdictional resilience needs.

(2) The resilience action plan must include all of the following components:

(a) An assessment of the State Highway System to identify roadway facilities and drainage outfalls that may be subject to vulnerabilities associated with tidal, rainfall, the combination of tidal and rainfall, and storm surge flooding, including future projections of sea-level rise, using existing data for current and forecasted future events. As part of the assessment, the department shall do all of the following using the most up-to-date National Oceanic and Atmospheric Administration precipitation frequency and sea-level rise data:

1. Synthesize historical and current infrastructure resilience issues statewide.

2. Evaluate alternatives for retrofitting existing systems



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and infrastructure.

3. Develop prioritization criteria for resilience project identification.

4. Develop a prioritized resilience needs project list, in addition to existing projects within the work program, with the associated costs and timeline.

5. Develop a statewide database identifying and documenting those assets vulnerable to current and future flooding. The department shall develop a cost estimate and schedule to enhance existing data to include site-specific details and existing criteria to improve the needs prioritization.

(b) A systemic review of the department's policies, procedures, manuals, tools, and guidance documents to identify revisions that will facilitate cost-effective improvements to address existing and future State Highway System infrastructure vulnerabilities associated with flooding and sea-level rise.

(c) Provision of technical assistance to local agencies and modal partners on resilience issues related to the State Highway System and the deployment of local and regional solutions.

(3) By June 20, 2023, the department shall submit the resilience action plan to the Governor, the President of the Senate, and the Speaker of the House of Representatives. Every third year on June 30 thereafter, the department shall submit a status report reviewing updates to the action plan and the associated implementation activities.

Section 3. Section 380.093, Florida Statutes, is amended to read:

380.093 Resilient Florida Grant Program; comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise data



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set and assessment; Statewide Flooding and Sea-Level ~~Sea-Level~~
Rise Resilience Plan; regional resilience entities.—

(1) LEGISLATIVE INTENT.—

(a) The Legislature recognizes that this ~~the~~ state is particularly vulnerable to adverse impacts from flooding resulting from increases in frequency and duration of rainfall events, storm surge from more frequent and severe weather systems, and sea-level ~~sea-level~~ rise. Such adverse impacts pose economic, social, environmental, and public health and safety challenges to this ~~the~~ state. To most effectively address these challenges, funding should be allocated in a manner that prioritizes addressing the most significant risks.

(b) The Legislature further recognizes that the adverse impacts of flooding and sea-level ~~sea-level~~ rise affect coastal and inland communities all across the state. Consequently, a coordinated approach is necessary to maximize the benefit of efforts to address such impacts and to improve the state's resilience to flooding and sea-level ~~sea-level~~ rise.

(c) The Legislature further recognizes that to effectively and efficiently address and prepare for the adverse impacts of flooding and sea-level ~~sea-level~~ rise in this ~~the~~ state, it is necessary to conduct a comprehensive statewide assessment of the specific risks posed to this ~~the~~ state by flooding and sea-level ~~sea-level~~ rise and develop a statewide coordinated approach to addressing such risks.

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

(a) "Critical asset" includes:

1. Transportation assets and evacuation routes, including airports, bridges, bus terminals, ports, major roadways,



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marinas, rail facilities, and railroad bridges.

2. Critical infrastructure, including wastewater treatment facilities and lift stations, stormwater treatment facilities and pump stations, drinking water facilities, water utility conveyance systems, electric production and supply facilities, solid and hazardous waste facilities, military installations, communications facilities, and disaster debris management sites.

3. Critical community and emergency facilities, including schools, colleges, universities, community centers, correctional facilities, disaster recovery centers, emergency medical service facilities, emergency operation centers, fire stations, health care facilities, hospitals, law enforcement facilities, local government facilities, logistical staging areas, affordable public housing, risk shelter inventory, and state government facilities.

4. Natural, cultural, and historical resources, including conservation lands, parks, shorelines, surface waters, wetlands, and historical and cultural assets.

(b) "Department" means the Department of Environmental Protection.

(c) "Preconstruction activities" means activities associated with a project which occur before construction begins, including, but not limited to, design of the project, permitting for the project, surveys, site development, solicitation, public hearings, local code amendments, establishing local funding sources, and easement acquisition.

(d) "Regionally significant assets" means critical assets that support the needs of communities spanning multiple geopolitical jurisdictions, including, but not limited to,



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regional medical centers, emergency operations centers, regional
utilities, major transportation hubs and corridors, airports,
and seaports.

(3) RESILIENT FLORIDA GRANT PROGRAM.—

(a) The Resilient Florida Grant Program is established
within the department.

(b) Subject to appropriation, the department may provide
grants to a county or municipality to fund:

1. The costs of community resilience planning and necessary
data collection for such planning, including comprehensive plan
amendments and necessary corresponding analyses that address the
requirements of s. 163.3178(2)(f).

2. Vulnerability assessments that identify or address risks
of inland or coastal flooding and sea-level ~~sea-level~~ rise.

3. The development of projects, plans, and policies that
allow communities to prepare for threats from flooding and sea-
level ~~sea-level~~ rise.

4. Preconstruction activities for projects to be submitted
for inclusion in the Statewide Flooding and Sea-Level Rise
Resilience Plan which are located in a municipality that has a
population of 10,000 or fewer or a county that has a population
of 50,000 or fewer, according to the most recent April 1
population estimates posted on the Office of Economic and
Demographic Research's website ~~projects to adapt critical assets
to the effects of flooding and sea level rise.~~

(c) A vulnerability assessment conducted pursuant to
paragraph (b) must encompass the entire county or municipality;
include all critical assets owned or maintained by the grant
applicant; and use the most recent publicly available Digital



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Elevation Model and generally accepted analysis and modeling techniques. An assessment may encompass a smaller geographic area or include only a portion of the critical assets owned or maintained by the grant applicant with appropriate rationale and upon approval by the department. Locally collected elevation data may also be included as part of the assessment as long as it is submitted to the department pursuant to this paragraph.

1. The assessment must include an analysis of the vulnerability of and risks to critical assets, including regionally significant assets, owned or managed by the county or municipality.

2. Upon completion of a vulnerability assessment, the county or municipality shall submit to the department the following:

a. A report detailing the findings of the assessment.

b. All electronic mapping data used to illustrate flooding and sea-level ~~sea-level~~ rise impacts identified in the assessment. When submitting such data, the county or municipality shall include:

(I) Geospatial data in an electronic file format suitable for input to the department's mapping tool.

(II) Geographic information system data that has been projected into the appropriate Florida State Plane Coordinate System and that is suitable for the department's mapping tool. The county or municipality must also submit metadata using standards prescribed by the department.

c. A list of critical assets, including regionally significant assets, that are impacted by flooding and sea-level ~~sea-level~~ rise.



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(d) A vulnerability assessment conducted pursuant to paragraph (b) must include all of the following, if applicable:

1. Peril of flood comprehensive plan amendments that address the requirements of s. 163.3178(2)(f), if the county or municipality is subject to such requirements and has not complied with such requirements as determined by the Department of Economic Opportunity.

2. The depth of:

a. Tidal flooding, including future high tide flooding, which must use thresholds published and provided by the department. To the extent practicable, the analysis should also geographically display the number of tidal flood days expected for each scenario and planning horizon.

b. Current and future storm surge flooding using publicly available National Oceanic and Atmospheric Administration or Federal Emergency Management Agency storm surge data. The initial storm surge event used must equal or exceed the current 100-year flood event. Higher frequency storm events may be analyzed to understand the exposure of a critical asset.

c. To the extent practicable, rainfall-induced flooding using spatiotemporal analysis or existing hydrologic and hydraulic modeling results. Future boundary conditions should be modified to consider sea-level ~~sea-level~~ rise and high tide conditions. Vulnerability assessments for noncoastal communities must include the depth of rainfall-induced flooding for a 100-year storm and a 500-year storm, as defined by the applicable water management district or, if necessary, the appropriate federal agency. Projections of future rainfall conditions should be utilized, if available.



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d. To the extent practicable, compound flooding or the combination of tidal, storm surge, and rainfall-induced flooding.

3. The following scenarios and standards:

a. All analyses in the North American Vertical Datum of 1988.

b. At least two local sea-level ~~sea-level~~ rise scenarios, which must include the 2017 National Oceanic and Atmospheric Administration intermediate-low and intermediate-high sea-level ~~sea-level~~ rise projections.

c. At least two planning horizons that include planning horizons for the years 2040 and 2070.

d. Local sea-level ~~sea-level~~ data that has been interpolated between the two closest National Oceanic and Atmospheric Administration tide gauges. Local sea-level ~~sea-level~~ data may be taken from one such gauge if the gauge has a higher mean sea level. Data taken from an alternate tide gauge may be used with appropriate rationale and department approval, as long as it is publicly available or submitted to the department pursuant to paragraph (b).

(4) COMPREHENSIVE STATEWIDE FLOOD VULNERABILITY AND SEA-LEVEL ~~SEA-LEVEL~~ RISE DATA SET AND ASSESSMENT.—

(a) By July 1, 2023 ~~2022~~, the department shall complete the development of a comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise data set sufficient to conduct a comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise assessment. In developing the data set, the department, in coordination with the Florida Flood Hub for Applied Research and Innovation, shall compile, analyze, and



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incorporate, as appropriate, information related to vulnerability assessments submitted to the department pursuant to subsection (3) or any previously completed assessments that meet the requirements of subsection (3).

1. The Chief Science Officer shall, in coordination with necessary experts and resources, develop statewide sea-level ~~sea level~~ rise projections that incorporate temporal and spatial variability, to the extent practicable, for inclusion in the data set. This subparagraph does not supersede regionally adopted projections.

2. The data set must include information necessary to determine the risks to inland and coastal communities, including, but not limited to, elevation, tidal levels, and precipitation.

(b) By July 1, 2024 ~~2023~~, the department shall complete a comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment that identifies inland and coastal infrastructure, geographic areas, and communities in this ~~the~~ state that are vulnerable to flooding and sea-level ~~sea level~~ rise and the associated risks.

1. The department shall use the comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise data set to conduct the assessment.

2. The assessment must incorporate local and regional analyses of vulnerabilities and risks, including, as appropriate, local mitigation strategies and postdisaster redevelopment plans.

3. The assessment must include an inventory of critical assets, including regionally significant assets, that are



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essential for critical government and business functions, national security, public health and safety, the economy, flood and storm protection, water quality management, and wildlife habitat management, and must identify and analyze the vulnerability of and risks to such critical assets. When identifying critical assets for inclusion in the assessment, the department shall also take into consideration the critical assets identified by local governments and submitted to the department pursuant to subsection (3).

(c) The department shall update the comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise data set and assessment every 5 years. The department may update the data set and assessment more frequently if it determines that updates are necessary to maintain the validity of the data set and assessment.

(5) STATEWIDE FLOODING AND SEA-LEVEL ~~SEA-LEVEL~~ RISE RESILIENCE PLAN.—

(a) By December 1, 2021, and each December 1 thereafter, the department shall develop a Statewide Flooding and Sea-Level ~~Sea-Level~~ Rise Resilience Plan on a 3-year planning horizon and submit it to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The plan must consist of ranked projects that address risks of flooding and sea-level ~~sea-level~~ rise to coastal and inland communities in the state. All eligible projects submitted to the department under this section must be ranked and included in the plan. Each plan must include a detailed narrative overview describing how the plan was developed, including a description of the methodology used by the department to determine project eligibility, a



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description of the methodology used to rank projects, the specific scoring system used, the project proposal application form, a copy of each submitted project proposal application form with projects separated by "eligible" and "not eligible," the total number of project proposals received and deemed eligible, the total funding requested, and the total funding requested for eligible projects.

(b) The plan submitted by December 1, 2021, before the comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment is completed, will be a preliminary plan that includes projects that address ~~addresses~~ risks of flooding and sea-level ~~sea level~~ rise identified in available local government vulnerability assessments and projects submitted by water management districts which mitigate the risks of flooding or sea-level rise on water supplies or water resources of the state. The plan submitted by December 1, 2022, and the plan submitted by December 1, 2023, will be updates ~~an update~~ to the preliminary plan. The plan submitted by December 1, 2024 ~~2023~~, and each plan submitted by December 1 thereafter, must ~~shall~~ address risks of flooding and sea-level ~~sea level~~ rise identified in the comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment.

(c) Each plan submitted by the department pursuant to this subsection must include the following information for each recommended project:

1. A description of the project.
2. The location of the project.
3. An estimate of how long the project will take to complete.



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4. An estimate of the cost of the project.

5. The cost-share percentage available for the project.

6. A summary of the priority score assigned to the project.

7. The project sponsor.

(d)1. By September 1, 2021, and each September 1 thereafter, the following entities ~~counties and municipalities~~ may submit to the department a list of proposed projects that address risks of flooding or sea-level ~~sea-level~~ rise identified in vulnerability assessments that meet the requirements of subsection (3):-

a. Counties.

b. Municipalities.

c. Special districts, as defined in s. 189.012, which are responsible for the operation and maintenance of an airport or a seaport facility.

For the plans submitted by December 1, 2021; December 1, 2022; and December 1, 2023, such entities may submit projects identified in existing vulnerability assessments which do not comply with subsection (3). A regional resilience entity may also submit ~~such~~ proposed projects to the department pursuant to this subparagraph on behalf of one or more member counties or municipalities.

2. By September 1, 2021, and each September 1 thereafter, the following entities ~~each water management district and flood control district~~ may submit to the department a list of any proposed projects that mitigate the risks of flooding or sea-level ~~sea-level~~ rise on water supplies or water resources of this ~~the~~ state and a corresponding evaluation of each project:-



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359 a. Water management districts.

360 b. Drainage districts.

361 c. Erosion control districts.

362 d. Flood control districts.

363 3. Each project submitted to the department pursuant to
364 this paragraph ~~by a county, municipality, regional resilience~~
365 ~~entity, water management district, or flood control district~~ for
366 consideration by the department for inclusion in the plan must
367 include:

368 a. A description of the project.

369 b. The location of the project.

370 c. An estimate of how long the project will take to
371 complete.

372 d. An estimate of the cost of the project.

373 e. The cost-share percentage available for the project.

374 f. The project sponsor.

375 (e) Each project included in the plan must have a minimum
376 50 percent cost share unless the project assists or is within a
377 financially disadvantaged small community. For purposes of this
378 section, the term "financially disadvantaged small community"
379 means:

380 1. A municipality that has a population of 10,000 or fewer,
381 according to the most recent April 1 population estimates posted
382 on the Office of Economic and Demographic Research's website,
383 and a per capita annual income that is less than the state's per
384 capita annual income as shown in the most recent release from
385 the Bureau of the Census of the United States Department of
386 Commerce that includes both measurements; or

387 2. A county that has a population of 50,000 or fewer,



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according to the most recent April 1 population estimates posted on the Office of Economic and Demographic Research's website, and a per capita annual income that is less than the state's per capita annual income as shown in the most recent release from the Bureau of the Census of the United States Department of Commerce that includes both measurements.

(f) To be eligible for inclusion in the plan, a project must have been submitted ~~by a county, municipality, regional resilience entity, water management district, or flood control district~~ pursuant to paragraph (d) or must have been identified in the comprehensive statewide flood vulnerability and sea-level ~~sea level~~ rise assessment, as applicable.

(g) Expenses ineligible for inclusion in the plan include, but are not limited to, expenses associated with:

1. Aesthetic vegetation.
2. Recreational structures such as piers, docks, and boardwalks.
3. Water quality components of stormwater and wastewater management systems, except for expenses to mitigate water quality impacts caused by the project or expenses related to water quality which are necessary to obtain a permit for the project.
4. Maintenance and repair of over-walks.
5. Park activities and facilities, except expenses to control flooding or erosion.
6. Navigation construction, operation, and maintenance activities.
7. Projects that provide only recreational benefits.

(h) The department shall implement a scoring system for



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assessing each project eligible for inclusion in the plan pursuant to this subsection. The scoring system must include the following tiers and associated criteria:

1. Tier 1 must account for 40 percent of the total score and consist of all of the following criteria:

a. The degree to which the project addresses the risks posed by flooding and sea-level ~~sea-level~~ rise identified in the local government vulnerability assessments or the comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise assessment, as applicable.

b. The degree to which the project addresses risks to regionally significant assets.

c. The degree to which the project reduces risks to areas with an overall higher percentage of vulnerable critical assets.

d. The degree to which the project contributes to existing flooding mitigation projects that reduce upland damage costs by incorporating new or enhanced structures or restoration and revegetation projects.

2. Tier 2 must account for 30 percent of the total score and consist of all of the following criteria:

a. The degree to which flooding and erosion currently affect the condition of the project area.

b. The overall readiness of the project to proceed in a timely manner, considering the project's readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, and the availability of local funding sources.

c. The environmental habitat enhancement or inclusion of nature-based options for resilience, with priority given to



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state or federal critical habitat areas for threatened or endangered species.

d. The cost-effectiveness of the project.

3. Tier 3 must account for 20 percent of the total score and consist of all of the following criteria:

a. The availability of local, state, and federal matching funds, considering the status of the funding award, and federal authorization, if applicable.

b. Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project.

c. The exceedance of the flood-resistant construction requirements of the Florida Building Code and applicable flood plain management regulations.

4. Tier 4 must account for 10 percent of the total score and consist of all of the following criteria:

a. The proposed innovative technologies designed to reduce project costs and provide regional collaboration.

b. The extent to which the project assists financially disadvantaged communities.

(i) The total amount of funding proposed for each year of the plan may not be less than ~~exceed~~ \$100 million. Upon review and subject to appropriation, the Legislature shall approve funding for the projects as specified in the plan. Multiyear projects that receive funding for the first year of the project must be included in subsequent plans and funded until the project is complete, provided that the project sponsor has complied with all contractual obligations and funds are



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available.

(j) The department shall initiate rulemaking by August 1, 2021, to implement this section.

(6) REGIONAL RESILIENCE ENTITIES.—Subject to specific legislative appropriation, the department may provide funding for the following purposes to regional entities that are established by general purpose local governments and whose responsibilities include planning for the resilience needs of communities and coordinating intergovernmental solutions to mitigate adverse impacts of flooding and sea-level ~~sea-level~~ rise:

(a) Providing technical assistance to counties and municipalities.

(b) Coordinating multijurisdictional vulnerability assessments.

(c) Developing project proposals to be submitted for inclusion in the Statewide Flooding and Sea-Level ~~Sea-Level~~ Rise Resilience Plan.

Section 4. Section 380.0933, Florida Statutes, is amended to read:

380.0933 Florida Flood Hub for Applied Research and Innovation.—

(1) The Florida Flood Hub for Applied Research and Innovation is established within the University of South Florida College of Marine Science to coordinate efforts between the academic and research institutions of the state. The University of South Florida College of Marine Science or its successor entity will serve as the lead institution and engage other academic and research institutions, private partners, and



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financial sponsors to coordinate efforts to support applied research and innovation to address the flooding and sea-level ~~sea-level~~ rise challenges of this ~~the~~ state.

(2) The hub shall, at a minimum:

(a) Organize existing data needs for a comprehensive statewide flood vulnerability and sea-level ~~sea-level~~ rise analysis and perform a gap analysis to determine data needs.

(b) Develop statewide open source hydrologic models for physically based flood frequency estimation and real-time forecasting of floods, including hydraulic models of floodplain inundation mapping, real-time compound and tidal flooding forecasts, future groundwater elevation conditions, and economic damage and loss estimates.

(c) Coordinate research funds from the state, the federal government, or other funding sources for related hub activities across all participating entities.

(d) Establish community-based programs to improve flood monitoring and prediction along major waterways, including intracoastal waterways and coastlines, of this ~~the~~ state and to support ongoing flood research.

(e) Coordinate with agencies, including, but not limited to, the Department of Environmental Protection and water management districts.

(f) Share its resources and expertise.

(g) Assist in the development of training and in the development of a workforce in this ~~the~~ state that is knowledgeable about flood and sea-level ~~sea-level~~ rise research, prediction, and adaptation and mitigation strategies.

(h) Develop opportunities to partner with other flood and



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sea-level ~~sea-level~~ rise research and innovation leaders for sharing technology or research.

(i) Conduct the activities under this subsection in cooperation with various local, state, and federal government entities as well as other flood and sea-level ~~sea-level~~ rise research centers.

(3) The hub must provide tidal and storm surge flooding data to counties and municipalities for vulnerability assessments that are conducted pursuant to s. 380.093(3). The hub must provide rainfall-induced and compound flooding data sets; however, more localized data or modeling may be used.

(4) The hub shall employ an executive director.

(5) ~~(4)~~ By July 1, 2022, and each July 1 thereafter, the hub shall provide an annual comprehensive report to the Governor, the President of the Senate, and the Speaker of the House of Representatives that outlines its clearly defined goals and its efforts and progress on reaching such goals.

Section 5. Subsection (2) of section 472.0366, Florida Statutes, is amended to read:

472.0366 Elevation certificates; requirements for surveyors and mappers.—

(2) Beginning January 1, 2023 ~~2017~~, a surveyor and mapper shall, within 30 days after completion, submit to the division a digital copy of each elevation certificate that he or she completes as outlined on the division's website. The copy must be unaltered, except that the surveyor and mapper may redact the name of the property owner. The copy need not be signed and sealed when submitted to the division; however, an original signed and sealed copy must be retained in the surveyor and



313534

mapper's records as prescribed by rule of the board.

Section 6. This act shall take effect July 1, 2022.

===== 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 statewide flooding and sea-level
rise resilience; creating s. 14.2031, F.S.;
establishing the Statewide Office of Resilience within
the Executive Office of the Governor; providing for
the appointment of a Chief Resilience Officer;
creating s. 339.157, F.S.; requiring the Department of
Transportation to develop a resilience action plan for
the State Highway System; providing the goals and
required components of the plan; requiring the
department to submit the plan to the Governor and the
Legislature by a specified date; requiring the plan to
be updated every 3 years; providing requirements for
the updated plan; amending s. 380.093, F.S.; defining
terms; revising the projects the Department of
Environmental Protection may fund within the Resilient
Florida Grant Program; revising vulnerability
assessment requirements for noncoastal communities;
extending the dates by which the department must
complete a comprehensive statewide flood vulnerability
and sea-level rise data set and assessment; requiring
the data set to be developed in coordination with the



313534

Florida Flood Hub for Applied Research and Innovation;
requiring eligible projects submitted to the
department to be ranked and included in the Statewide
Flood and Sea-Level Rise Resilience Plan; revising the
entities authorized to submit proposed projects by
specified dates for the plan; amending s. 380.0933,
F.S.; requiring the Florida Flood Hub for Applied
Research and Innovation to provide tidal and storm
surge flooding data to counties and municipalities for
vulnerability assessments; amending s. 472.0366, F.S.;
revising the effective date of a requirement that a
surveyor and mapper submit a copy of completed
elevation certificates to the Division of Emergency
Management; requiring the surveyor and mapper to
submit a digital copy of a completed elevation
certificate to the division; providing an effective
date.



565136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/31/2022	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (313534)

Between lines 362 and 363

insert:

e. Regional water supply authorities.

By Senator Brodeur

9-01431-22

20221940__

A bill to be entitled
An act relating to statewide flooding and sea level
rise resilience; creating s. 14.2031, F.S.;
establishing the Statewide Office of Resiliency within
the Executive Office of the Governor; providing for
the appointment of a Chief Resilience Officer;
providing an effective date.

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

Section 1. Section 14.2031, Florida Statutes, is created to
read:

14.2031 Statewide Office of Resiliency.—The Statewide
Office of Resiliency is established within the Executive Office
of the Governor. The office shall be headed by a Chief
Resilience Officer, who is appointed by and serves at the
pleasure of the Governor.

Section 2. This act shall take effect July 1, 2022.

2425

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

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Michael A. Register

is duly appointed

**Executive Director,
Saint Johns River Water Management
District**

for a term beginning on the Fourteenth day of September, A.D.,
2021, to serve at the pleasure of the District's Governing Board
and is subject to be confirmed by the Senate during the next
regular session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Twelfth day of November, A.D., 2021.*



Secretary of State

DSDE 99 (3/03)

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



St. Johns River Water Management District

Michael A. Register, P.E., Executive Director

4049 Reid Street • P.O. Box 1429 • Palatka, FL 32178-1429 • 386-329-4500 • www.sjrwmd.com

November 9, 2021

Office of Governor Ron DeSantis
State of Florida
The Capitol
400 S. Monroe St.
Tallahassee, FL 32399-0001

Dear Governor DeSantis,

It is my pleasure to inform you that the Governing Board of the St. Johns River Water Management District (District) appointed Michael Register, P.E., to the position of Executive Director on September 14, 2021, pursuant to section 373.073(4)(a), Florida Statutes.

Mr. Register has served the District since 1990 and has worked in a variety of areas. I am confident he will continue the District's successful work on behalf of Florida's water and natural resources.

Sincerely,

A handwritten signature in black ink, appearing to read 'Doug Burnett', is written over a horizontal line.

Douglas Burnett
Chair

cc: Laurel M. Lee, Secretary of State
R.A. Gray Building
500 S. Bronough St.
Tallahassee, FL 32399-0250

RECEIVED
DEPARTMENT OF STATE

2021 NOV 12 AM 11:18

DIVISION OF ELECTIONS
TALLAHASSEE, FL

GOVERNING BOARD

Douglas Burnett, CHAIRMAN
ST. AUGUSTINE

Doug Bournique

Rob Bradley, VICE CHAIRMAN
PLEWING ISLAND

Maryam Ghyabi-White

Cole Oliver

Ron Howse, TREASURER
COCCA

J. Chris Peterson

Ryan Atwood
MOUNT DORA

Janet Price

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

2021 SEP 28 AM 10:58

VISION OF ELECTIONS
TALLAHASSEE, FL

STATE OF FLORIDA

County of Putnam

I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Executive Director, St. Johns River Water Management District

(Title of Office)

on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

[Signature]
Signature

Sworn to and subscribed before me by means of ☒ physical presence or
_____ online notarization, this 14th day of September, 2021.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Kathy F. Breed
Print, Type, or Stamp Commissioned Name of Notary Public

Notary Public - State of Florida
My Comm. Expires Sep 8, 2022
Bonded through National Notary Assn.

Personally ☒ I have seen the Identification ☐

Type of Identification

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: ☐ Home ☒ Office

4049 Reid Street
Street or Post Office Box
Palatka, FL 32177
City, State, Zip Code

Michael A. Register, P.E.

Print Name

[Signature]
Signature

The Florida Senate
APPEARANCE RECORD

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

1/31/22
Meeting Date
Env. & NR
Committee

SB 690
Bill Number or Topic

Name MSTA CALDER Phone 858-228-5900
Address 3780 RAVINE DR, Email metacalder@gmail.com
TALL FL 32312
City State Zip

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

☒ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☐ 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:

FLORIDA LEAGUE OF WOMEN VOTERS

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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1/31/2022

Meeting Date

Environment & Natural Resources

Committee

SB 690

Bill Number or Topic

Name Devon West

Phone 954-789-9293

Amendment Barcode (if applicable)

Address 100 S. Andrews Ave

Street

Email dewest@brownard.org

Fort Lauderdale FL 33301

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:

Broward County

☐ 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 \(flsenate.gov\)](#)

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1/31/22

Meeting Date

Senate Env. & Nat. Res.

Committee

Name

Paul Owens

Address

308 N. Monroe St.

Street

Tallahassee, FL 32301

City

State

Zip

The Florida Senate

APPEARANCE RECORD

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SB690

Bill Number or Topic

Amendment Barcode (if applicable)

Phone

850-222-6277

Email

powens@1000fof.org

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:

1000 Friends of 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/31/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 1156

S. Environment & Natural Resources

Deliver both copies of this form to
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Bill Number or Topic

Committee

791982

Amendment Barcode (if applicable)

Name

Keyna Cory

Phone

850.681.1065

Address

730 East Park Avenue

Email

keynacory@paconsultants.com

Street

Tallahassee,

FL

32301

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against



I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:



I am a registered lobbyist,
representing:

National Waste & Recycling
Assn. - FL Chapter



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 \(flsenate.gov\)](#)

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1/31/22

Meeting Date

Environment & Natural Resources

Committee

The Florida Senate
APPEARANCE RECORD

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SB 1156

Bill Number or Topic

791982 DE

Amendment Barcode (if applicable)

Name

JEFF SCALA

Phone

(727) 637-4081

Address

100 S Monroe Street

Street

Email

jscala@fl-courties.com

Tallahassee

FL

323

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:

Florida Association of Counties

☐

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 \(flsenate.gov\)](#)

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The Florida Senate
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SB 1156

Bill Number or Topic

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DRIVE
Street

Email meteorlano@gmail.com

TALL FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTER

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.

1/31/22

Meeting Date

Environ. & Nat. Resources

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1156

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone

Address **PO Box 1757**

Street

Email

Tallahassee

FL

32302

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:

Florida League of Cities

☐

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.

The Florida Senate
APPEARANCE RECORD

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

11/31/22
Meeting Date
Environment & Natural Resources
Committee

SB 1238
Bill Number or Topic
263632 DE
Amendment Barcode (if applicable)

Name JEFF SCALA Phone 727 637-4081
Address 100 S Monroe St
Street
Tallahassee FL 32301
City State Zip
Email jscala@fl-countries.com

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:

Florida Association of Countries

☐ 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 \(flsenate.gov\)](#)

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The Florida Senate
APPEARANCE RECORD

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

SB 1238

Bill Number or Topic

Amendment Barcode (if applicable)

1/31/22
Meeting Date
SMU, + NR
Committee

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR
Street

Email metaorleans@gmail.com

TALL FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTERS

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)

1/31/22
Meeting Date
Env + NR
Committee

The Florida Senate
APPEARANCE RECORD

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

1238
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lindsay Cross
Address 1700 N Monroe 11-286
Tallahassee FL 32301
Street City State Zip

Phone _____
Email lindsay@fcvoters.org

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:
Florida conservation voters
- ☐ 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.

1/31/2022

Meeting Date

S. Environment & Natural Resources

Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1418

Bill Number or Topic

Name **Keyna Cory**

Phone **850.681.1065**

Amendment Barcode (if applicable)

Address **730 East Park Avenue**

Street

Email **keynacory@paconsultants.com**

Tallahassee

FL

32301

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☐ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am a registered lobbyist,
representing:

**National Waste & Recycling
Assn. - FL Chapter**

☐ 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.

The Florida Senate
APPEARANCE RECORD

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

SB 1418
Bill Number or Topic

Amendment Barcode (if applicable)

1/31/22
Meeting Date
Env. & N. R.
Committee

Name META CALDER Phone 850-228-5900
Address 3740 RAVINE DR Email metaorleans@gmail.com
TALL FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTERS

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.

1/31/22

Meeting Date

Environ. & Nat. Resources

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1418

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone _____

Address **PO Box 1757**

Email _____

Street

Tallahassee

FL

32302

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:

Florida League of Cities

☐ 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

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

1/31/22
Meeting Date

Env & NR
Committee

1418
Bill Number or Topic

Amendment Barcode (if applicable)

Name Lindsay Cross

Phone _____

Address 1700 N Monroe 11-286
Street

Email lindsay@fcvoters.org

Tallahassee FL 32301
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:

Florida Conservation voters

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.

January 31, 2022

Meeting Date
Environment and Natural Resources

The Florida Senate
APPEARANCE RECORD

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

1418

Bill Number or Topic

Committee
Name
Darrick D. McGhee, Sr.

Amendment Barcode (if applicable)
(850) 321-6489

Address
537 East Park Avenue

Phone
darrick@teamjrb.com

Street
Tallahassee Florida 32301
City State Zip

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:

Florida Airports Council

☐ 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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001

1 / 31 / 22
Meeting Date

Ag and Natural Resources
Committee

The Florida Senate
APPEARANCE RECORD

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

1426
Bill Number or Topic

739428
Amendment Barcode (if applicable)

Name Frank Bernardino

Phone (561) 718-2345

Address 201 West Park Ave. Suite 100

Email Frank@antfieldflorida.com

Tallahassee FL 32301
City State Zip

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

☐ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am a registered lobbyist,
representing:

Polk County

☐ 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.

1/31/22

Meeting Date

The Florida Senate

APPEARANCE RECORD

DUPLICATE

1426

Bill Number or Topic

ENR

Committee

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

Amendment Barcode (if applicable)

Name

DAVID CULLEN

Phone

941-323-2404

Address

9830 ELM ST

Street

Email

cullenasea@gmail.com

OCEAN CITY

MD

21842

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/31/22
Meeting Date
Env. & NR
Committee

SB 1426
Bill Number or Topic

Amendment Barcode (if applicable)

Name META CALDER Phone 850-228-5900

Address 3740 RAVINE DR. Email metacalder@gmail.com
Street

TALL. FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTERS

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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The Florida Senate
APPEARANCE RECORD

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

1/31/2022

Meeting Date

Env + NR

Committee

1426

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lindsay Cross

Phone

Address

1700 N Monroe 11-286

Street

Email

lindsay@fvoters.org

Tallahassee FL 32301

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:

Florida Conservation Voters

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

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

1 / 31 / 22

Meeting Date

Ag and Natural Resources
Committee

1426

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Frank Bernardino

Phone

(561) 718-2345

Address

201 West Park Ave, Suite 100

Email

Frank@antfieldflorida.com

Street

Tallahassee

City

FL

State

32301

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:

Polk County

☐ 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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

1/31/22
Meeting Date
Env. + N. R.
Committee

SB 1562
Bill Number or Topic

Name META CALDER Phone 850-228-5900
Address 3740 RAVINE DR Email meta.orleans@gmail.com
TALL FL 32312
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:

FLORIDA LEAGUE OF WOMEN VOTERS

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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1/31/22

Meeting Date

Environ. & Nat. Resources

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1562

Bill Number or Topic

Amendment Barcode (if applicable)

Name Rebecca O'Hara Phone _____

Address PO Box 1757 Email _____

Street

Tallahassee

FL

32302

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:

Florida League of Cities

☐ 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/31/2022

Meeting Date

The Florida Senate
APPEARANCE RECORD

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

SB 1562 - Solar Photovoltaic Facility

Bill Number or Topic

Environment & Natural Resources

Committee

Name **Jonathan Webber**

Phone **954-593-4449**

Amendment Barcode (if applicable)

Address **1700 N. Monroe St. #11-286**

Email **jwebber@fcvoters.org**

Street

Tallahassee

FL

32303

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

☐ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am a registered lobbyist,
representing:

Florida Conservation Voters

☐ 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)

January 31, 2022

Meeting Date

Environment and Natural Resources

Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1658

Bill Number or Topic

Name **Carlos Nathan**

Phone **850-617-7700**

Amendment Barcode (if applicable)

Address **400 S. Monroe Street PL 10 Capitol**

Email **carlos.nathan@fdacs.gov**

Tallahassee

FL

32399

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

☐ I am appearing without
compensation or sponsorship.

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am a registered lobbyist,
representing:

FDACS

☐ 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.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to

Senate professional staff conducting the meeting

1/31/2022

Meeting Date

Environment & Natural Resources

Committee

SB 1940

Bill Number or Topic

565136

Amendment Barcode (if applicable)

Name Devon West

Phone 954-788-9293

Address 100 S. Andrews Ave

Street

Email dewest@broward.org

Fort Lauderdale, FL 33301

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:

Broward County

☐ 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.

1/31/2022

Meeting Date

Environment and Natural Resources

Committee

The Florida Senate

APPEARANCE RECORD

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

1940

Bill Number or Topic

565136

Amendment Barcode (if applicable)

Name **Laura Jacobs Donaldson**

Phone **813-495-0575**

Address **109 North Brush, Suite 300**

Email **ldonaldson@mansonbolves.com**

Street

Tampa

City

FL

State

33602

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:

**Peace River Manasota Regional
Water Supply Authority**

☐

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

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

SB 1940

Bill Number or Topic

313534

Amendment Barcode (if applicable)

1/31/22

Meeting Date

Env & Nat. Resources

Committee

Name Alan Suskey

Phone

Address 113 E College Ave.

Street

Email asuskey@shumaker
advisors.com

Tallahassee FL

City

State

32301

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:

Ocean
Conservancy

☐ 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

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

1/31/2022

Meeting Date: Environment, Natural Resources

1940

Bill Number or Topic

313534

Amendment Barcode (if applicable)

Name: Kate Wesner

Phone: (501) 722-3054

Address: 151 Catrache Lane

Email: Kate@floodcoalition.org

City: Jupiter State: FL Zip: 33458

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:

American Flood Coalition Action

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.

1/31/22

Meeting Date

Environmental and Natural Resources

Committee

The Florida Senate
APPEARANCE RECORD

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

SB 1940

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Slater Bayliss**

Phone **8502228900**

Address **204 S Monroe St**

Street

Email **swb@cardenaspartners.com**

Tallahassee

FL

32301

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:

The Environmental Defense Fund

☐ 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)

1/31/22

Meeting Date

Environ. & Nat. Resources

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 1940

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Rebecca O'Hara**

Phone _____

Address **PO Box 1757**

Email _____

Street

Tallahassee

FL

32302

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:

Florida League of Cities

☐

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

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SB 1940

Bill Number or Topic

1/31/22

Meeting Date

Env. & N.R.

Committee

Amendment Barcode (if applicable)

Name META CALDER

Phone 850-228-5900

Address 3788 RAVINE DR.

Street

Email metaorleans@gmail.com

JAL.

City

FL

State

32312

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:

FLORIDA LEAGUE OF WOMEN VOTERS

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

1940

1/31/22

Meeting Date

Env + NR

Committee

Deliver both copies of this form to
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Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lindsay Cross

Phone

Address

1700 N Monroe 11-286

Email

lindsay@fcvoters.org

Street

Tallahassee FL 32301

City

State

Zip

Speaking:



☐ 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:

Florida conservation voters

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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1/31/22

Meeting Date

Senate Env & Nat. Res.

Committee

SB1940

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Paul Owens

Phone

850-222-6277

Address

308 N. Monroe St.

Email

powens@1000fof.org

Street

Tallahassee, FL

State

32301

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:

1000 Friends of 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

1/31/2022
Meeting Date

Env. & Natural Resources
Committee

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

SB 1940
Bill Number or Topic

Amendment Barcode (if applicable)

Name Alan Suskey / Ocean Conservancy Phone _____

Address 113 E. College Ave Email asuskey@shumakeradvisors.com
Street

Tallahassee FL 32301
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:

Ocean Conservancy

☐ 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 \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

1/31/22

Meeting Date

Enviro. & Natural Resources

Committee

SB 1940

Bill Number or Topic

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

Amendment Barcode (if applicable)

Name

Cody Rogers

Phone

954-591-6437

Address

1163 Camellia Cir

Email

Street

Weston

City

FL

State

33326

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:

The CLEO institute

☐

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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

1/31/2022

Meeting Date

Environment and Natural Resources

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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1940

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Spencer Pylant**

Phone **305-577-5421**

Address **1601 Biscayne Blvd., Ballroom Level**

Email **spylant@miamichamber.com**

Street

Miami

City

FL

State

33132

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:

**Greater Miami Chamber of
Commerce**

☐ 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 \(flsenate.gov\)](#)

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S-001 (08/10/2021)

CourtSmart Tag Report

Room: SB 37
Caption: Senate Environment and Natural Resources Committee

Type:
Judge:

Started: 1/31/2022 3:02:47 PM
Ends: 1/31/2022 4:04:36 PM
Length: 01:01:50

3:02:46 PM Meeting will come to order
3:02:49 PM Roll Call
3:02:52 PM Quorum Present
3:02:59 PM Pledge
3:03:33 PM Tab 1 SB 690 Senator Rodriguez
3:03:45 PM Senator Rodriguez explains bill
3:03:57 PM Questions on bill
3:04:30 PM Appearance form
3:04:40 PM Meta Calder with Florida League of Women Voters waives in support
3:04:47 PM Devon West of Broward County waiving in support
3:04:59 PM Paul Owens with 1000 Friends of Florida waiving in support
3:05:10 PM Debate
3:05:14 PM Senator Rodriguez waive close
3:05:22 PM Roll call
3:05:23 PM
3:05:25 PM SB 690 is reported favorably
3:05:39 PM Tab 2 SB 1238 Senator Polsky
3:05:56 PM Senator Polsky explains bill
3:06:13 PM Amendment strike all barcode 265632
3:06:23 PM Amendment explained
3:06:45 PM Questions on amendment
3:06:56 PM Appearance form
3:06:59 PM Jeff Scala with Florida Association of Counties waives in support
3:07:07 PM Debate
3:07:10 PM Amendment adopted
3:07:15 PM Back on bill
3:07:19 PM Appearance form
3:07:26 PM Meta Calder with Florida League of Women Voters speaking in favor
3:08:17 PM Lindsay Cross with Florida Conservation Voters waive in support
3:08:31 PM Debate
3:08:36 PM Senator Polsky waives close
3:08:43 PM Roll call
3:08:48 PM CS/SB 1238 is reported favorably
3:09:07 PM Tab 4 SB 290 Senator Ausley
3:09:19 PM Senator Ausley explains bill
3:10:05 PM Amendment barcode 352126
3:10:29 PM Questions on amendment
3:10:50 PM Debate
3:10:56 PM Amendment adopted
3:11:02 PM Back on bill
3:11:07 PM Questions
3:11:12 PM Debate
3:11:15 PM Senator Albritton with debate
3:11:24 PM Senator Ausley waive close
3:11:35 PM Roll call
3:11:39 PM CS/SB 290 reported favorably
3:11:56 PM Tab 5 SB 1156 Vice Chair Stewart
3:12:12 PM Amendment barcode 791982
3:13:25 PM Questions on amendment
3:13:53 PM Appearance form
3:13:58 PM Keyna Cory with National Waste and Recycling speaking in favor
3:15:01 PM Jeff Scala with Florida Association of Counties waives in favor

3:16:08 PM Debate
3:16:16 PM Amendment adopted
3:16:22 PM Back on bill
3:16:39 PM Questions
3:16:45 PM Senator Bean with question
3:17:04 PM Appearance form
3:17:09 PM Meta Calder with Florida League of Women Voters waive in support
3:17:19 PM Rebecca O'Hara with Florida League of Cities waive in support
3:17:27 PM Debate
3:17:31 PM Vice Chair Stewart waive close
3:17:39 PM Roll Call
3:17:46 PM CS/SB 1156 is reported favorably
3:18:00 PM Tab 6 1418 Senator Albritton
3:18:14 PM Motion by Senator Albritton to TP SB 1418
3:18:25 PM Tab 7 SB 1562 Senator Ausley
3:19:05 PM Senator Ausley explains bill
3:19:48 PM Question
3:19:53 PM Senator Bean with question
3:20:07 PM Appearance form
3:20:11 PM Meta Calder with Florida League of Women Voters waive in support
3:20:17 PM Rebecca O'Hara with Florida League of Cities waive in support
3:20:23 PM Jonathan Webber with Florida Conservation Voters waives in support
3:20:35 PM Debate
3:20:39 PM Senator Ausley waive close
3:20:51 PM Roll call
3:20:57 PM SB 1562 is reported favorably
3:21:11 PM Tab 9 SB 1658 Senator Bean
3:21:22 PM Senator Bean explains bill
3:21:29 PM Take up amendment barcode 731196
3:23:51 PM Questions
3:24:53 PM Appearance form
3:24:58 PM Debate
3:25:07 PM Senator Stewart with debate
3:25:20 PM Senator Ausley with debate
3:25:52 PM Senator Bean closes on amendment
3:26:05 PM Amendment adopted
3:26:56 PM Back on bill
3:27:00 PM Questions
3:27:02 PM Appearance form
3:27:06 PM Carlos Nathan with FDACS waives against
3:27:15 PM Debate
3:27:18 PM Senator Bean waive close
3:27:26 PM Roll call
3:27:28 PM CS/SB 1658 reported favorably
3:27:45 PM Gavel passed to Vice Chair Stewart
3:27:56 PM Tab 9 CS/SB 1940 Senator Brodeur
3:28:13 PM Senator Brodeur explains Strike-all
3:29:41 PM Questions on amendment barcode 313534
3:30:49 PM Amendment barcode 565136 Senator Albritton
3:31:11 PM Questions
3:31:15 PM Appearance form
3:31:28 PM Devon West of Broward County waiving in support
3:31:35 PM Laura Jacobs Donaldson with Peace River Manasota Regional Water Supply Authority waives in favor
3:31:49 PM Debate
3:31:50 PM Senator Albritton closes on amendment
3:31:57 PM Amendment to amendment adopted
3:32:13 PM Back on amendment as amended
3:32:21 PM appearance form
3:32:25 PM Allen Suskey with Ocean Conservancy waive in support
3:32:43 PM Kate Wesner with American Flood Coalition Action speaking in favor
3:33:28 PM Debate
3:33:33 PM Senator Ausley with debate

3:34:03 PM Chair Brodeur closes on amendment as amended
3:34:13 PM Amendment is adopted
3:34:18 PM Back on bill
3:34:24 PM Questions on bill
3:34:27 PM Appearance forms
3:34:35 PM Slater Bayliss with The Environmental Defense Fund waives in support
3:34:52 PM Rebecca O'Hara with Florida League of Cities waive in support
3:34:56 PM Meta Calder with Florida League of Women Voters waive in support
3:35:08 PM Lindsay Cross with Florida Conservation Voters speaking in support
3:37:28 PM Paul Owens with 1000 Friends of Florida speaking in favor
3:40:08 PM Alan Suskey with Ocean Conservancy waives in support
3:40:53 PM Cody Rodgers with Cleo Institute waiving in support
3:41:09 PM Spencer Pylant with Greater Miami Chamber of Commerce waive in support
3:41:21 PM Debate
3:41:27 PM Chair Brodeur closes on bill
3:41:38 PM Roll call
3:41:42 PM CS/SB 1940 is reported favorably
3:41:56 PM Gavel back to Chair Brodeur
3:42:06 PM Tab 3 1426 Senator Burgess
3:42:29 PM Amendment barcode 739428
3:43:39 PM Questions on amendment
3:44:41 PM Senator Ausley with question
3:44:57 PM Senator Burgess responds
3:48:36 PM Chair Brodeur with question
3:49:55 PM Senator Ausley with question to Chair Brodeur
3:50:31 PM Senator Albritton with statement
3:51:17 PM Senator Ausley with question
3:51:34 PM Senator Burgess with response
3:52:08 PM Appearance form
3:52:15 PM Frank Bernardino with Polk County speaking in favor
3:55:44 PM Debate
3:56:09 PM Waive close
3:56:14 PM Amendment adopted
3:56:20 PM Back on bill
3:56:23 PM Questions
3:56:27 PM Appearance form
3:56:32 PM David Cullen with Sierra Club Florida speaking in favor
3:58:08 PM Meta Calder Florida League of Women Voters speaking against
3:59:24 PM Lindsay Cross with Florida Conservation Voters waives against
3:59:35 PM Frank Bernardino of Polk County waives in support
3:59:46 PM Debate
3:59:48 PM Senator Ausley with debate
4:00:18 PM Senator Albritton with debate
4:00:52 PM Senator Stewart with debate
4:01:05 PM Senator Burgess closes on bill
4:01:44 PM Roll call
4:02:21 PM CS/SB 1426 reported favorably
4:02:42 PM Confirmation for tab 10 - Michael Register, ED SJRWMD
4:03:01 PM Senator Bean moves to recommend
4:03:11 PM Roll call
4:03:17 PM Conformation recommend favorably
4:03:36 PM Senator Bean with additional announcement
4:04:01 PM Welcome Dr. Michale Haye
4:04:18 PM Meeting Adjourned