

<b>Tab 1</b>	<b>SB 446 by Passidomo; (Similar to H 00379) Underground Facilities</b>				
126098	A	S	RCS	EP, Passidomo	Delete L.43: 03/14 04:07 PM
<b>Tab 2</b>	<b>SB 874 by Young (CO-INTRODUCERS) Mayfield; (Similar to H 00551) Nutrient Pollution from Onsite Sewage Treatment and Disposal Systems</b>				
683830	D	S	RCS	EP, Hutson	Delete everything after 03/14 04:08 PM
<b>Tab 3</b>	<b>SB 884 by Hutson; (Similar to H 00823) Sharks</b>				
225492	A	S	RCS	EP, Grimsley	Delete L.194 - 205: 03/14 04:09 PM
762006	A	S	RCS	EP, Grimsley	Delete L.290 - 299: 03/14 04:09 PM

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**ENVIRONMENTAL PRESERVATION AND CONSERVATION**

**Senator Book, Chair**  
**Senator Bradley, Vice Chair**

**MEETING DATE:** Tuesday, March 14, 2017

**TIME:** 2:30—4:00 p.m.

**PLACE:** *Mallory Horne Committee Room, 37 Senate Office Building*

**MEMBERS:** Senator Book, Chair; Senator Bradley, Vice Chair; Senators Farmer, Hutson, Latvala, Simmons, and Stewart

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 446</b> Passidomo (Similar H 379)	<p>Underground Facilities; Revising the information that must be submitted to the Legislature annually by the board of directors of Sunshine State One-Call of Florida, Inc.; requiring excavators to call the 911 emergency telephone number under certain circumstances; specifying how certain civil penalties issued by state law enforcement officers shall be distributed, etc.</p> <p>EP      03/14/2017 Fav/CS            CU            ACJ            AP</p>	Fav/CS Yea 5 Nays 0
2	<b>SB 874</b> Young (Similar H 551)	<p>Nutrient Pollution from Onsite Sewage Treatment and Disposal Systems; Specifying an appropriation from the Land Acquisition Trust Fund to reduce nutrient pollution by offsetting or partially offsetting property owner costs incurred to retrofit certain onsite sewage treatment and disposal systems, to connect certain properties to central sewer systems, and for certain muck dredging and stormwater improvements; authorizing the Department of Environmental Protection to make certain grants; requiring the department, as part of a basin management action plan, to develop onsite sewage treatment and disposal system remediation plans under certain conditions, etc.</p> <p>EP      03/14/2017 Favorable            AEN            AP</p>	Favorable Yea 7 Nays 0
3	<b>SB 884</b> Hutson (Similar H 823)	<p>Sharks; Prohibiting the possession, sale, offer for sale, trade, or distribution of shark fins or shark tails; requiring any shark fin or shark tail seized by the Fish and Wildlife Conservation Commission to be destroyed, etc.</p> <p>EP      03/14/2017 Fav/CS            AEN            AP</p>	Fav/CS Yea 6 Nays 0

## **COMMITTEE MEETING EXPANDED AGENDA**

## Environmental Preservation and Conservation Tuesday, March 14, 2017, 2:30—4:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	<b>SB 1018</b> Grimsley (Similar H 753)	Contaminated Site Cleanup; Providing an exception to a requirement that an applicant for advanced cleanup demonstrate an ability to pay cost share; requiring that the Department of Environmental Protection determine whether specified requirements are acceptable under certain circumstances; authorizing the department to initiate site assessment and remediation activities under certain circumstances; requiring that certain funds not pledged as loan guarantees or loan loss reserves be made available for certain voluntary tax credit authorizations, etc.	Fav/CS Yeas 5 Nays 0

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<b>Senate Confirmation Hearing:</b> A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.			
<b>Governing Board of the Northwest Florida Water Management District</b>			
5	Costello, Jonathan M. (Tallahassee)	03/01/2020	Temporarily Postponed
	Spring, Samuel R. (Port St. Joe)	03/01/2020	Temporarily Postponed
<b>Governing Board of the St. Johns River Water Management District</b>			
	Browning, John P., Jr. (Palatka)	03/01/2020	Temporarily Postponed
6	Bournique, Douglas C. (Vero Beach)	03/01/2020	Temporarily Postponed
<b>Governing Board of the South Florida Water Management District</b>			
7	Fernandez, Federico E. (Coral Gables)	03/01/2020	Temporarily Postponed
	O'Keefe, Daniel T. (Windermere)	03/01/2020	Temporarily Postponed

### Other Related Meeting Documents

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

---

BILL: CS/SB 446

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Passidomo

SUBJECT: Underground Facilities

DATE: March 14, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Mitchell	Rogers	EP	<u>Fav/CS</u>
2.		CU	
3.		ACJ	
4.		AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

## I. Summary:

CS/SB 446 amends ch. 556, F.S., the “Underground Facility Damage Prevention and Safety Act” by:

- Requiring an excavator that causes contact with or damage to any pipe or other underground facility to immediately report the contact or damage by calling 911 if any natural gas or other hazardous substance or hazardous material regulated by the Pipeline and Hazardous Materials Safety Administration (PHMSA) of the U.S. Department of Transportation (USDOT) has escaped;
- Requiring a member operator to file a report with the Sunshine State One-Call of Florida (SSOCF) system of all events it has received notice of through the system which have resulted in damages to its underground facilities. The report must be submitted at least on an annual basis or more frequently at the option and sole discretion of the member operator and must include, if known, the cause, nature, and location of the damage;
- Providing that if a citation is issued by a state law enforcement officer, 80 percent of the civil penalty collected by the clerk of the court for the citation will be distributed to the governmental entity whose employee issued it; and
- Requiring the SSOCF board of director’s annual progress report to the Legislature and the Governor on the participation by municipalities and counties in the one-call notification system, to include a summary of the damage reporting data received by the system for the preceding year and any analysis of the data by the board.

## II. Present Situation:

### Florida Underground Facility Damage Prevention and Safety Act

Chapter 556, F.S., is the “Underground Facility Damage Prevention and Safety Act” (Act). The purpose of the Act is to identify and locate underground facilities<sup>1</sup> prior to an excavation or demolition to prevent injury to persons or property or interruption of services resulting from damage to those facilities.<sup>2</sup> To accomplish this, the Act creates a not-for-profit corporation to administer a free-access notification system whereby a person intending to conduct excavation or demolition activities can give prior notice through the system of the person’s intended activities. Prior notifications provide operators of underground facilities the opportunity to identify and locate their nearby facilities.<sup>3</sup> All operators of underground facilities in the state are required to be members of the corporation (“member operators”) and are required to use and participate in the system.<sup>4</sup>

The not-for-profit corporation created under the Act is Sunshine State One-Call of Florida, Inc. (SSOCF), which exercises its powers through a board of directors.<sup>5</sup> The system provides a single toll-free telephone number within Florida which excavators use to notify member operators of planned excavation or demolition activities.<sup>6</sup> An excavator must notify the system not less than two full business days before beginning the operations.<sup>7</sup> The excavator must also provide specified identification, location, and operational information which remain valid for 30 calendar days.<sup>8</sup> Upon receipt of this notice, the system provides to the person a list of names of the member operators who will be advised of the notification and a notification number which specifies the date and time of the notification.<sup>9</sup>

The system operator in turn notifies the potentially affected member operators of the planned excavation or demolition activities.<sup>10</sup> Within two full business days after the time the notification is received by the system (or 10 days if the proposed excavation is in proximity to facilities

<sup>1</sup> Section 556.102(13), F.S., defines “underground facility” as “any public or private personal property which is buried, placed below ground, or submerged on any member operator’s right-of-way, easement, or permitted use which is being used or will be used in connection with the storage or conveyance of water; sewage; electronic, telephonic, or telegraphic communication; electric energy; oil; petroleum products; natural gas; optical signals; or other substances, and includes, but is not limited to, pipelines, pipes, sewers, conduits, cables, valves, and lines. For purposes of this act, a liquefied petroleum gas line regulated under ch. 527 is not an underground facility unless such line is subject to the requirements of Title 49 C.F.R. adopted by the Department of Agriculture and Consumer Services, provided there is no encroachment on any member operator’s right-of-way, easement, or permitted use. Petroleum storage systems subject to regulation pursuant to ch. 376 are not considered underground facilities for the purposes of this act unless the storage system is located on a member operator’s right-of-way or easement. Storm drainage systems are not considered underground facilities.”

<sup>2</sup> Section 556.101(3), F.S.

<sup>3</sup> Section 556.101(2), F.S.

<sup>4</sup> Section 556.103(1), F.S.

<sup>5</sup> Section 556.103, F.S.

<sup>6</sup> Section 556.104, F.S.

<sup>7</sup> Section 556.105(1)(a), F.S. The statute provides an exception to this requirement for excavation beneath state waters, but does not specify a time frame for notifying the system of such an excavation.

<sup>8</sup> Section 556.105(1)(c), F.S.

<sup>9</sup> Section 556.105(3), F.S.

<sup>10</sup> Section 556.105(5), F.S. The statute also provides that member operators with state-owned underground facilities located within the right-of-way of a state highway need not be notified of excavation or demolition activities and are under no obligation to mark or locate facilities.

beneath state waters), potentially affected member operators must determine the location of their underground facilities in relation to the proposed excavation or demolition. If a member operator determines that a proposed excavation or demolition is in proximity to or conflicts with an underground facility, the member operator must identify the horizontal route of the facility in a specified manner.<sup>11</sup> If this cannot be done within two business days after notification is received, the member operator must contact the person giving notice and negotiate a new schedule and time that is agreeable and does not unreasonably delay the excavator. An excavator is required to delay excavations until one of the following events occurs:

- All affected member operator's underground facilities have been marked and located;
- The excavator has been notified that no member operator has underground facilities in the area described in the notice; or
- The time allowed for markings has expired.

If a member operator has not located and marked its underground facilities within the time allowed for marking, the excavator may proceed with the excavation, provided the excavator does so with reasonable care and uses detection equipment or other acceptable means to locate underground facilities. An excavator may not conduct demolition in an area until all member operators' underground facilities have been marked and located or removed.<sup>12</sup>

The Act also establishes violations of certain provisions as noncriminal infractions that are enforceable by citations which may be issued by any local or state law enforcement officer, government code inspector, or code enforcement officer. The Act establishes a civil penalty of \$500, plus court costs, for such infractions.<sup>13</sup> If a citation is issued by a local law enforcement officer, a local government code inspector, or a code enforcement officer, 80 percent of the civil penalty collected by the clerk of the court will be distributed to the governmental entity whose employee issued the citation, with 20 percent of the penalty retained by the clerk of the court to cover administrative costs.<sup>14</sup> If a citation is issued by a state law enforcement officer, the civil penalty collected by the clerk of the court is retained by the clerk for deposit into the fine and forfeiture fund established pursuant to s. 142.01, F.S.<sup>15</sup> The fine and forfeiture fund is established by the clerk of the circuit court in each county of this state and functions as a separate fund for use by the clerk of the circuit court in performing court-related functions.

By March 31 of each year, each clerk of court must submit a report to SSOCF listing each violation notice written under s. 556.107(1)(a), F.S., which has been filed in that county during the preceding calendar year.<sup>16</sup> The report must state the name and address of the member or excavator who committed each infraction and indicate whether or not the civil penalty for the infraction was paid.<sup>17</sup> The Florida Court Clerks and Comptrollers reported that a total of 23 citations were issued statewide under the Act in 2015, and a total of 19 citations were issued in

---

<sup>11</sup> Section 556.105(5), F.S.

<sup>12</sup> Section 556.105(6), F.S.

<sup>13</sup> Section 556.107(1), F.S.

<sup>14</sup> Section 556.107(1)(c), F.S.

<sup>15</sup> *Id.*

<sup>16</sup> Section 556.107(2), F.S.

<sup>17</sup> *Id.*

2016. None of these citations were issued by state law enforcement officers.<sup>18</sup> Additionally, the SSOCF board must submit an annual progress report, including a summary of the reports to the system from the clerks of court, to the Governor, no later than 60 days before the convening of each regular session of the Legislature.<sup>19</sup> The SSOCF board must also submit to the President of the Senate, the Speaker of the House of Representatives, and the Governor, no later than 60 days before the convening of each regular session of the Legislature, an annual progress report on the participation by municipalities and counties in the one-call notification system, including a summary of the reports to the system from the clerks of court.<sup>20</sup>

### **U.S. Department of Transportation Pipeline and Hazardous Material Safety Administration - Pipeline Damage Prevention Programs**

The U.S. Department of Transportation (USDOT) has back stop authority to conduct administrative civil enforcement proceedings against excavators who damage hazardous liquid and natural gas pipelines in a state that has failed to adequately enforce its excavation damage prevention or one-call laws.<sup>21</sup>

On July 13, 2015, the USDOT Pipeline and Hazardous Materials Safety Administration (PHMSA) announced the issuance of a final rule to establish the process for evaluating state excavation damage prevention law enforcement programs and enforce minimum Federal damage prevention standards in states where damage prevention law enforcement is deemed inadequate or does not exist.<sup>22</sup>

Under its rule,<sup>23</sup> PHMSA uses the following criteria in evaluating the effectiveness of a state damage prevention program:

- Does the state have the authority to enforce its state excavation damage prevention law using civil penalties and other appropriate sanctions for violations?
- Has the state designated a state agency or other body as the authority responsible for enforcement of the state excavation damage prevention law?
- Is the state assessing civil penalties and other appropriate sanctions for violations at levels sufficient to deter noncompliance and is the state making publicly available information that demonstrates the effectiveness of the state's enforcement program?
- Does the enforcement authority (if one exists) have a reliable mechanism (e.g., mandatory reporting, complaint driven reporting) for learning about excavation damage to underground facilities?
- Does the state employ excavation damage investigation practices that are adequate to determine the responsible party or parties when excavation damage to underground facilities occurs?

<sup>18</sup> Email message dated March 7, 2017, from Christopher J. Campbell, Director, Legislative and Government Affairs, Florida Court Clerks and Comptrollers (on file with Senate Environmental Preservation and Conservation Committee).

<sup>19</sup> Section 556.103(4), F.S.

<sup>20</sup> Section 556.103(5), F.S.

<sup>21</sup> 49 U.S.C. § 60114.

<sup>22</sup> U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *About Excavation Enforcement Final Rule*, <http://phmsa.dot.gov/pipeline/safety-awareness-and-outreach/excavator-enforcement> (last visited Feb. 8, 2017).

<sup>23</sup> U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Pipeline Safety: Pipeline Damage Prevention Programs*, 80 Fed. Reg. 43,836 (July 23, 2015) (codified at 49 C.F.R. Pts. 196 and 198).

- At a minimum, does the state's excavation damage prevention program include the following requirements?:
  - Excavators may not engage in excavation activity without first using an available one-call notification system to establish the location of underground facilities in the excavation area.
  - Excavators may not engage in excavation activity without regard to the marked location of a pipeline facility as established by a pipeline operator.
  - An excavator who causes damage to a pipeline facility:
    - Must report the damage to the operator of the facility at the earliest practical moment following discovery of the damage; and
    - If the damage results in the escape of any PHMSA regulated natural or other gas or hazardous liquid, must promptly report to other appropriate authorities by calling the 911 emergency telephone number or another emergency telephone number.
- Does the state limit exemptions for excavators from its excavation damage prevention law?
  - A state must provide to PHMSA a written justification for any exemptions for excavators from state damage prevention requirements.
  - PHMSA will make the written justifications available to the public.<sup>24</sup>

Hazardous substances regulated by PHMSA include a host of chemical and radionuclides found in appendix A of Title 49, C.F.R., s. 172.101,<sup>25</sup> but do not include petroleum or crude oil, or natural gas in various states or mixtures.<sup>26</sup> Petroleum, crude oil, and natural gas are hazardous materials, regulated by PHMSA in Title 49, C.F.R., s. 172.101.<sup>27</sup> The SSOCF has identified proposals that will enhance the effectiveness of the Act according to the criteria adopted by PHMSA. They are reflected in the provisions of this bill.

### **III. Effect of Proposed Changes:**

#### **Procedures for Contact or Damage**

If an excavator's contact with or damage to an underground pipe or any other underground facility results in the escape of any natural gas or other hazardous substance or hazardous material regulated by the PHMSA, the excavator must immediately report the contact or damage by calling the 911 emergency telephone number.

The bill mandates that a member operator file with the SSOCF system a report of all events it has received notice of through the system that have resulted in damages to any pipe, cable or the cable's protective covering, or other underground facility. Member operators must submit these

<sup>24</sup> *Id.*

<sup>25</sup> U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Subchapter C - Hazardous Materials Regulations*, 49 C.F.R. s. 172.101, available at <https://www.gpo.gov/fdsys/pkg/CFR-2016-title49-vol2/xml/CFR-2016-title49-vol2-sec172-101.xml>.

<sup>26</sup> See 49 C.F.R. s. 171.8 for definitions of "hazardous material" and "hazardous substance," available at <https://www.gpo.gov/fdsys/pkg/CFR-2016-title49-vol2/xml/CFR-2016-title49-vol2-sec171-8.xml>.

<sup>27</sup> U.S. Department of Transportation, Pipeline and Hazardous Materials Safety Administration, *Subchapter C - Hazardous Materials Regulations*, 49 C.F.R. s. 172.101, available at <https://www.gpo.gov/fdsys/pkg/CFR-2016-title49-vol2/xml/CFR-2016-title49-vol2-sec172-101.xml>.

reports at least annually to the system, no later than March 31, for all such events that occurred in the prior calendar year. Member operators may, at their option and sole discretion, submit the reports to the system on a more frequent basis. These member operator reports are required to include, if known, the cause, nature, and location of the damage. The bill also requires the system to establish and maintain a process to facilitate submission of reports by member operators.

These reporting requirements enhance the Underground Facility Damage Prevention and Safety Act (Act) and may provide the procedures necessary to meet the requirements of the 2015 rule that contains the criteria used by the PHMSA in its evaluation of the effectiveness of Florida's damage prevention enforcement program.

### **Civil Penalty Citations**

The bill removes the provision that directs civil penalties collected by clerks of court from citations issued by state law enforcement officers to be retained by the clerk for deposit into the fine and forfeiture fund. Under the bill, 80 percent of the penalty resulting from a citation issued by a state law enforcement officer will be distributed to the state, and 20 percent of the penalty will be retained by the clerk of the court to cover administrative costs, in addition to other court costs. Eighty percent of the penalty resulting from a citation issued by a local government entity will continue to go to the local government that issues the citation.

### **Annual Progress Report on Participation by Municipalities and Counties**

The bill requires the SSOCF board of director's annual progress report to the President of the Senate, the Speaker of the House of Representatives, and the Governor on the participation by municipalities and counties in the one-call notification system to include:

- A summary of the damage reporting data received by the system for the preceding year regarding events that damage underground facilities, including information from member operator reports and from notifications member operators receive from excavators that have made contact with or damaged underground facilities, including information regarding temporary or permanent repairs to the facilities resulting from any contact or damage and 911 calls made as a result of the escape of substances from underground facilities that have been impacted; and
- Any analysis of the data by the board.

This expansion of information provided in an annual progress report may provide the data necessary to meet the requirements of PHMSA in its evaluation of the effectiveness of Florida's damage prevention enforcement program.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate as such authority existed on

February 1, 1989; or reduce the percentage of state tax shared with counties or municipalities.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

The bill may have an insignificant, positive impact on state government revenues.

**B. Private Sector Impact:**

The requirement that a member operator file an annual report with the SSOCF if an excavation or demolition event damages any of its pipes, cables, or other underground facilities does not appear to be a significant economic impact on the private sector.

**C. Government Sector Impact:**

By entitling a state law enforcement entity that issues a citation to receive 80 percent of the resulting civil penalties collected by the clerk of court, the bill may result in a slight increase in revenues to the state. The Florida Court Clerks and Comptrollers reported that a total of 23 citations were issued statewide under the Act in 2015, and a total of 19 citations were issued in 2016. However, in recent years no citations have been issued by state law enforcement.<sup>28</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends sections 556.103, 556.105, and 556.107 of the Florida Statutes.

---

<sup>28</sup> Email message dated March 7, 2017, from Christopher J. Campbell, Director, Legislative and Government Affairs, Florida Court Clerks and Comptrollers (on file with Senate Environmental Preservation and Conservation Committee).

**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 Environmental Preservation and Conservation on March 14, 2017:**  
Includes hazardous materials with any natural gas or other hazardous substances as contents requiring an excavator to call 911 should any of them escape from an underground pipe or other underground facility as a result of contact or damage to the pipe or facility by the excavator.

B. **Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

---

The Committee on Environmental Preservation and Conservation (Passidomo) recommended the following:

1                   **Senate Amendment**

2

3                   Delete line 43

4 and insert:

5                   substance or material regulated by the Pipeline and Hazardous  
6                   Materials

**By Senator Passidomo**

28-00474A-17

2017446

A bill to be entitled

An act relating to underground facilities; amending s. 556.103, F.S.; revising the information that must be submitted to the Legislature annually by the board of directors of Sunshine State One-Call of Florida, Inc.; amending s. 556.105, F.S.; requiring excavators to call the 911 emergency telephone number under certain circumstances; requiring member operators to file a report with the free-access notification system under certain circumstances; providing reporting frequencies and required data to be submitted; amending s. 556.107, F.S.; specifying how certain civil penalties issued by state law enforcement officers shall be distributed; deleting a requirement that certain citations be deposited into the fine and forfeiture fund; providing an effective date.

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

Section 1. Subsection (5) of section 556.103, Florida Statutes, is amended to read:

556.103 Creation of the corporation; establishment of the board of directors; authority of the board; annual report.—

(5) The board of directors shall submit to the President of the Senate, the Speaker of the House of Representatives, and the Governor, not later than 60 days before the convening of each regular session of the Legislature, an annual progress report on the participation by municipalities and counties in the one-call notification system created by this chapter. The report must include a summary of the reports to the system from the clerks of court, a summary of the damage reporting data received by the system under s. 556.105(12) for the preceding year, and any

28-00474A-17

2017446

33        analysis of the data by the board of directors.

34        Section 2. Subsection (12) of section 556.105, Florida  
35        Statutes, is amended to read:

36        556.105 Procedures.—

37        (12) (a) If any contact with or damage to any pipe, cable,  
38        or its protective covering, or any other underground facility  
39        occurs, the excavator causing the contact or damage shall  
40        immediately notify the member operator. If contact with or  
41        damage to an underground pipe or any other underground facility  
42        results in the escape of any natural gas or other hazardous  
43        substance regulated by the Pipeline and Hazardous Materials  
44        Safety Administration of the United States Department of  
45        Transportation, the excavator must immediately report the  
46        contact or damage by calling the 911 emergency telephone number.

47        Upon receiving notice, the member operator shall send personnel  
48        to the location as soon as possible to effect temporary or  
49        permanent repair of the contact or damage. Until such time as  
50        the contact or damage has been repaired, the excavator shall  
51        cease excavation or demolition activities that may cause further  
52        damage to such underground facility.

53        (b) If an event damages any pipe, cable or its protective  
54        covering, or other underground facility, the member operator  
55        receiving the notice shall file a report with the system.  
56        Reports must be submitted annually to the system, no later than  
57        March 31 for the prior calendar year, or more frequently at the  
58        option and sole discretion of the member operator. Each report  
59        must describe, if known, the cause, nature, and location of the  
60        damage. The system shall establish and maintain a process to  
61        facilitate submission of reports by member operators.

28-00474A-17

2017446

62       Section 3. Paragraph (c) of subsection (1) of section  
63 556.107, Florida Statutes, is amended to read:

64       556.107 Violations.—

65       (1) NONCRIMINAL INFRACTIONS.—

66       (c) Any excavator or member operator who commits a  
67 noncriminal infraction under paragraph (a) may be required to  
68 pay a civil penalty for each infraction, which is \$500 plus  
69 court costs. If a citation is issued by a state law enforcement  
70 officer, a local law enforcement officer, a local government  
71 code inspector, or a code enforcement officer, 80 percent of the  
72 civil penalty collected by the clerk of the court shall be  
73 distributed to the local governmental entity whose employee  
74 issued the citation and 20 percent of the penalty shall be  
75 retained by the clerk to cover administrative costs, in addition  
76 to other court costs. If a citation is issued by a state law  
77 enforcement officer, the civil penalty collected by the clerk  
78 shall be retained by the clerk for deposit into the fine and  
79 forfeiture fund established pursuant to s. 142.01. Any person  
80 who fails to properly respond to a citation issued pursuant to  
81 paragraph (b) shall, in addition to the citation, be charged  
82 with the offense of failing to respond to the citation and, upon  
83 conviction, commits a misdemeanor of the second degree,  
84 punishable as provided in s. 775.082 or s. 775.083. A written  
85 warning to this effect must be provided at the time any citation  
86 is issued pursuant to paragraph (b).

87       Section 4. This act shall take effect July 1, 2017.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

---

BILL: **SB 874**

INTRODUCER: **Senators Young and Mayfield**

SUBJECT: **Nutrient Pollution from Onsite Sewage Treatment and Disposal Systems**

DATE: **March 13, 2017**

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Istler	Rogers	EP	<b>Favorable</b>
2.		AEN	
3.		AP	

---

## **I. Summary:**

SB 874 requires the Department of Environmental Protection (DEP) to develop remediation plans for onsite sewage treatment and disposal systems as part of a basin management action plan in coordination with the Department of Health and relevant local governments and wastewater utilities if the DEP determines that remediation is necessary to achieve a total maximum daily load.

The bill requires \$20 million to be appropriated annually from the Land Acquisition Trust Fund to:

- Offset or partially offset property owner costs incurred to retrofit or convert onsite sewage treatment and disposal systems the DEP determines to be individually or collectively contributing excess nutrient pollution in counties contributing to the Indian River Lagoon, the St. Lucie Estuary, or the Caloosahatchee Estuary, and their respective watersheds; and
- Conduct muck dredging and large-scale stormwater improvements in counties contributing to the Indian River Lagoon, the St. Lucie Estuary, or the Caloosahatchee Estuary, and their respective watersheds.

## **II. Present Situation:**

### **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.<sup>1</sup> Waterbodies or sections of waterbodies that do not meet the established water quality standards are deemed impaired. Pursuant to the federal Clean Water Act, the Department of Environmental Protection (DEP) is required to establish a TMDL for

---

<sup>1</sup> Section 403.067, F.S.

impaired waterbodies.<sup>2</sup> A TMDL for an impaired waterbody is defined as the sum of the individual waste load allocations for point sources and the load allocations for nonpoint sources and natural background.<sup>3</sup> Waste load allocations are pollutant loads attributable to existing and future point sources. Load allocations are pollutant loads attributable to existing and future nonpoint sources. 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.<sup>4</sup>

## **Basin Management Action Plans and Best Management Practices**

The DEP is the lead agency in coordinating the development and implementation of TMDLs. Basin Management Action Plans (BMAPs) are one of the primary mechanisms the DEP uses to achieve TMDLs. BMAPs are plans that use existing planning tools to address the entire pollution load, including point and nonpoint discharges, for a watershed. BMAPs generally include:

- Permitting and other existing regulatory programs, including water quality based effluent limitations;
- Non-regulatory and incentive-based programs, including best management practices (BMPs), cost sharing, waste minimization, pollution prevention, agreements, and public education;<sup>5</sup>
- Public works projects, including capital facilities; and
- Land acquisition.<sup>6</sup>

The DEP may establish a BMAP as part of the development and implementation of a TMDL for a specific waterbody. First, the BMAP equitably allocates pollutant reductions to individual basins, to all basins as a whole, or to each identified point source or category of nonpoint sources.<sup>7</sup> 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 and community leaders, and the public to collectively determine and share water quality clean-up responsibilities.<sup>8</sup>

BMAPs must include milestones for implementation and water quality improvement. They must also include an associated water quality monitoring component sufficient to evaluate whether reasonable progress in pollutant load reductions is being achieved over time. An assessment of

---

<sup>2</sup> *Id.*

<sup>3</sup> Section 403.031(21), F.S.

<sup>4</sup> Fla. Admin. Code R. 62-620.200(37). Point source means 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 essentially sources of pollution that are not point sources. They can include runoff from agricultural lands or residential areas; oil, grease and toxic materials from urban runoff; and sediment from improperly managed construction sites.

<sup>5</sup> Section 403.061, F.S., grants the DEP 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 the DEP to advise, consult, cooperate, and enter into agreements with other state agencies, the federal government, other states, interstate agencies, etc.

<sup>6</sup> Section 403.067(7), F.S.

<sup>7</sup> *Id.*

<sup>8</sup> Florida Department of Environmental Protection (FDEP), *Basin Management Action Plans (BMAPs)*, available at <http://www.dep.state.fl.us/central/Home/Watershed/BMAP.htm> (last visited Mar. 10, 2017).

progress toward these milestones must be conducted every 5 years and revisions to the BMAP must be made as appropriate.<sup>9</sup>

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.<sup>10</sup> 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.<sup>11</sup> BMPs are designed to reduce the amount of nutrients, sediments, and pesticides that enter the water system and help reduce water use. BMPs are developed for agricultural operations as well as for other activities, such as nutrient management on golf courses, silviculture (forestry) operations, and stormwater management.<sup>12</sup>

## Sources of Pollutants

### *Onsite sewage and disposal systems*

Onsite sewage treatment and disposal systems, hereafter referred to as septic systems, can contain any one of the following components: a septic tank; a subsurface drainfield; an aerobic treatment unit; a graywater tank; a laundry wastewater tank; a grease interceptor; a pump tank; a waterless, incinerating or organic waste-composting toilet; and a sanitary pit privy.<sup>13</sup> Septic systems are located underground and treat sewage without the presence of oxygen. Sewage flows from a home or business through a pipe into the first chamber, where solids settle out. The liquid then flows into the second chamber where anaerobic bacteria in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.<sup>14</sup>

The Department of Health (DOH) administers septic system programs, develops statewide rules, and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of septic systems within the state.<sup>15</sup> An estimated 2.7 million septic systems are in use statewide, serving approximately one third of the state's population.<sup>16</sup>

In Florida, development in some areas is dependent on septic systems due to the cost and time it takes to install central sewer systems. For example, in rural areas and low-density developments, central sewer systems are not cost effective. Less than one percent of septic systems in Florida

<sup>9</sup> Section 403.067(7)(a)5., F.S.

<sup>10</sup> Section 403.067(7)(b)2.g., F.S. BMPs for agriculture, for example, include activities such as managing irrigation water to minimize losses, limiting the use of fertilizers, and waste management.

<sup>11</sup> Section 403.067(7)(b)2.h., F.S.

<sup>12</sup> FDEP, *Best Management Practices, Public Information, and Environmental Education Resources*, available at [http://www.dep.state.fl.us/water/nonpoint/pubs.htm#SILVICULTURE\\_BMP](http://www.dep.state.fl.us/water/nonpoint/pubs.htm#SILVICULTURE_BMP) (last visited Mar. 10, 2017).

<sup>13</sup> FDEP, *Wastewater: Septic Systems*, <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited Mar. 5, 2017).

<sup>14</sup> *Id.*

<sup>15</sup> Section 381.0065(3), F.S.

<sup>16</sup> Florida Department of Health (FDOH), *Florida Onsite Sewage Nitrogen Reduction Strategies Study Final Report*, 17 (Dec. 31, 2015), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/10212016-finalnitrogenreport.pdf> (last visited Mar. 5, 2017).

are actively managed.<sup>17</sup> The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.<sup>18</sup> In Florida, approximately 30-40 percent of the nitrogen levels are reduced in a system that is installed 24 inches or more from groundwater.<sup>19</sup> This still leaves a significant amount of nitrogen to percolate into the groundwater, which makes nitrogen from septic systems a potential contaminant in groundwater.<sup>20</sup> Nitrogen sensitivity of Florida watersheds varies greatly, and includes areas of extremely high sensitivity to nitrogen loading and other areas where nitrogen loading from septic systems may be less critical.<sup>21</sup>

Section 373.807(3), F.S., requires the DEP, the DOH, relevant local governments, and relevant local public and private wastewater utilities to develop septic system remediation plans as part of a BMAP that includes an Outstanding Florida Spring,<sup>22</sup> if the DEP determines that septic systems within a priority focus area contribute at least 20 percent of nonpoint source nitrogen pollution or if the DEP determines remediation is necessary to achieve the TMDL. The remediation plan must include cost-effective and financially feasible projects necessary to reduce the nutrient impacts from septic systems within the area.<sup>23</sup>

### ***Muck accumulation***

Muck is a fine-grained organic rich sediment that is made up primarily of clay, sand, and decaying plant material. Thick layers of muck build up at the bottom of waterbodies and increase turbidity, inhibit seagrass growth, promote oxygen depletion in sediments and the water above, store and release nutrients, cover the natural bottom, and destroy healthy communities of benthic organisms.<sup>24</sup> Additionally, when muck is suspended within the water column due to wind or human activities, such as boating, these suspended solids limit light availability and further suppress seagrass growth.<sup>25</sup>

Muck removal projects are very expensive and entail dredging muck from the bottom of the waterbody.<sup>26</sup> Muck removal projects have more immediate effects on water quality than external reduction projects, because the nutrient load is reduced as soon as the muck is dredged or flushed from the system.<sup>27</sup> The dredged material is then usually stored temporarily at the site to dry out

---

<sup>17</sup> FDOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, 1 (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rpac/2008-11-06.pdf> (last visited Mar. 5, 2017).

<sup>18</sup> *Id.*

<sup>19</sup> *Id.* at 18.

<sup>20</sup> University of Florida Institute of Food and Agricultural Sciences (IFAS), *Onsite Sewage Treatment and Disposal Systems: Nitrogen*, 3 (Feb. 2014), available at <http://edis.ifas.ufl.edu/pdffiles/SS/SS55000.pdf> (last visited Mar. 8, 2017).

<sup>21</sup> FDOH, *Florida Onsite Sewage Nitrogen Reduction Strategies Study Final Report*, 14 (Dec. 31, 2015).

<sup>22</sup> See s. 373.802, F.S., for the definition of the term “Outstanding Florida Spring.”

<sup>23</sup> Section 373.807(3), F.S.

<sup>24</sup> Tetra Tech, Inc. & Closewaters, LLC, *Save Our Lagoon Project Plan for Brevard County, Florida*, 39 (July 2016) [hereinafter referred to as *Save Our Lagoon*], available at [http://loveourlagoon.com/BCsave-our-lagoon-project-plan\\_final.pdf](http://loveourlagoon.com/BCsave-our-lagoon-project-plan_final.pdf) (last visited Mar. 10, 2017).

<sup>25</sup> *Id.*

<sup>26</sup> See *id.* at 39-41.

<sup>27</sup> *Id.* at 39.

and can be used for beneficial purposes, if deemed safe and cost-effective, or is transported to a landfill property for disposal.<sup>28</sup>

### ***Stormwater runoff***

In undeveloped areas, precipitation typically soaks into the ground; however, when buildings, parking lots, roads, and other impervious surfaces are added to the landscape the ground cannot absorb the water.<sup>29</sup> Therefore, water from rain, known as stormwater, instead of soaking into the ground, flows into a waterbody or a storm drain.<sup>30</sup> Stormwater runoff often contains high levels of nitrogen and phosphorous from fertilizers and pet and yard waste.<sup>31</sup>

To develop what was once marshlands, expansive canal networks were constructed to drain areas for development and provide for flood control. The purpose of canals is to collect and divert stormwater for the purposes of drainage, flood control, irrigation, navigation, and recreation.<sup>32</sup> In the southeastern portion of state, the system was designed to drain water quickly to the coast.<sup>33</sup> The system is highly effective at serving its intended purpose, but has unintended consequences, such as an increase in the quantity, timing, and distribution of nutrients, sediments, and freshwater loadings to coastal waters.<sup>34</sup>

Polluted stormwater runoff is regulated through the implementation and enforcement of the National Pollutant Discharge Elimination System (NPDES) permitting program, which, in Florida, is enforced by the DEP. Under the program, every point source that discharges a pollutant into waters of the United States must obtain an NPDES permit establishing the amount of a particular pollutant that an individual point source can discharge into a specific waterbody. Municipal storm sewer systems (MS4s) transport polluted stormwater runoff.

An MS4 is a conveyance that is:

- Owned by a state, city, town, village, or other public entity that discharges to waters of the U.S.,
- Designed or used to collect or convey stormwater (e.g., storm drains, pipes, ditches),
- Not a combined sewer; and

---

<sup>28</sup> IFAS, *Muck Removal in the Save Our Lagoon Indian River Lagoon Project Plan, Brevard County*, <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/muck-fact-sheet.pdf?sfvrsn=1> (last visited Mar. 10, 2017); see also St. Johns River Water Management District, *Eau Gallie Muck Dredging Project Frequently Asked Questions*, (Feb. 2, 2017), available at <http://www.sjrwmd.com/EGRET/pdfs/Eau-Gallie-muck-dredging-project-FAQ.pdf> (last visited Mar. 10, 2017).

<sup>29</sup> United States Environmental Protection Agency (EPA), *Nutrient Pollution, Sources and Solutions: Stormwater*, <https://www.epa.gov/nutrientpollution/sources-and-solutions-stormwater> (last visited Mar. 10, 2017).

<sup>30</sup> *Id.*

<sup>31</sup> *Id.*

<sup>32</sup> IFAS, *Canals*, <https://plants.ifas.ufl.edu/manage/overview-of-florida-waters/waterbody-types/canals/> (last visited Mar. 10, 2017).

<sup>33</sup> See United States Geological Survey, *Development of Water-Management System and Impact on the Hydrology of Southeastern Florida*, <https://sofia.usgs.gov/publications/circular/1275/devimpact.html> (last visited Mar. 10, 2017).

<sup>34</sup> See Jones Edmunds & Associates, Inc. & Collective Water Resources, LLC, *Indian River Lagoon Stormwater Capture and Treatment Preliminary Feasibility Analysis*, 1 (Dec. 2016) [hereinafter referred to as *IRL Stormwater Feasibility Analysis*], available at [ftp://ftp.dep.state.fl.us/pub/outgoing/dear/septicmaps/IRL\\_FinalFeasibility\\_CompiledReport\\_20161223.pdf](ftp://ftp.dep.state.fl.us/pub/outgoing/dear/septicmaps/IRL_FinalFeasibility_CompiledReport_20161223.pdf) (last visited Mar. 11, 2017).

- Not part of a sewage treatment plant, or publicly owned treatment works (POTW).<sup>35</sup> To prevent harmful pollutants from being washed or dumped into waterbodies, the operator of an MS4 may be required to obtain an NPDES permit and develop a stormwater management program.<sup>36</sup>

Projects to remove pollutants from stormwater runoff or prevent such runoff from being quickly discharged to tide are being developed.<sup>37</sup> The benefits of effective stormwater management include protection of wetlands and aquatic ecosystems; improved water quality of receiving waterbodies; conservation of water resources; protection of public health; and flood control.<sup>38</sup>

### Indian River Lagoon

The Indian River Lagoon (IRL) spans 156 miles of Florida's east coast, extending from Ponce de Leon Inlet near New Smyrna Beach in Volusia County to Jupiter Inlet in Martin County.<sup>39</sup> The IRL system is composed of three main waterbodies: the Mosquito Lagoon, the Banana River, and the Indian River Lagoon.<sup>40</sup> More than 71 percent of its area and nearly half its length is within Brevard County.<sup>41</sup> The IRL system is an estuary in which freshwater from uplands and tributaries meets and mixes with saltwater from the ocean to create an estuarine environment.<sup>42</sup>

The IRL is one of the most biologically diverse estuaries in North America and is home to more than 2,000 species of plants, 600 species of fish, 300 species of birds, and 53 endangered or threatened species.<sup>43</sup> The estimated economic value received from the IRL in 2014 was approximately \$7.6 billion, \$1.57 million of which was attributable to recreation and visitor-related activity.<sup>44</sup> Industry groups that are directly influenced by the IRL support nearly 72,000 jobs, collecting wages of more than \$1.2 billion annually.<sup>45</sup>

The balance of the IRL's delicate ecosystem has been disturbed by increased development in the area. Development has led to harmful levels of nutrients and sediments entering the lagoon as a result of stormwater runoff from urban and agricultural areas, wastewater treatment facility discharges, septic systems, and excess fertilizer applications.<sup>46</sup> In the last 5 years, there have been recurring brown tides; unusual mortalities of dolphins, manatees, and shorebirds; and large

<sup>35</sup> EPA, *National Pollutant Discharge Elimination System (NPDES), NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Mar. 10, 2017).

<sup>36</sup> *Id.*

<sup>37</sup> EPA, *Nutrient Pollution, Sources and Solutions: Stormwater*, <https://www.epa.gov/nutrientpollution/sources-and-solutions-stormwater> (last visited Mar. 10, 2017).

<sup>38</sup> EPA, *National Pollutant Discharge Elimination System (NPDES), NPDES Stormwater Program*, <https://www.epa.gov/npdes/npdes-stormwater-program> (last visited Mar. 10, 2017).

<sup>39</sup> Indian River Lagoon Council (IRLC) , *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 10, 2017).

<sup>40</sup> *Id.*

<sup>41</sup> *Save Our Lagoon* at 1.

<sup>42</sup> IRLC, *About the Indian River Lagoon*, <http://www.irlcouncil.com/> (last visited Mar. 10, 2017).

<sup>43</sup> *Id.*

<sup>44</sup> East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, vi (Aug. 26, 2016), available at [http://tcrpc.org/special\\_projects/IRL\\_Econ\\_Valu/FinalReportIRL08\\_26\\_2016.pdf](http://tcrpc.org/special_projects/IRL_Econ_Valu/FinalReportIRL08_26_2016.pdf) (last visited Mar. 10, 2017).

<sup>45</sup> *Save Our Lagoon* at ix.

<sup>46</sup> *Id.* at vi.

fish kills due to low dissolved oxygen from decomposing algae.<sup>47</sup> Additionally during 2011, a massive phytoplankton algae bloom occurred throughout most of the Indian River Lagoon system, extending from Southern Mosquito Lagoon to just north of Ft. Pierce Inlet.<sup>48</sup> This “2011 Superbloom” lasted for a duration of 7 months and a massive loss of seagrass coverage. There is no single answer to why the bloom occurred, but studies have indicated that nitrogen inputs from septic systems in the Indian River Lagoon basin are a major source of nutrients that drive harmful algae blooms.<sup>49</sup>

The St. Johns River Water Management District (SJRWMD) and local governments have been proactive in implementing projects to address water quality issues in the lagoon. Brevard County established the Save Our Indian River Lagoon Project Plan. The plan outlines local projects planned to meet water quality targets and improve the health, productivity, aesthetic appeal, and economic value of the lagoon.<sup>50</sup> In 2016, the county passed a referendum, approved by 62.4 percent of the voting population, to authorize the issuance of a half-cent infrastructure sales tax to pay for a portion of the plan.<sup>51</sup> The sales tax is estimated to generate \$32 million per year.<sup>52</sup>

It is estimated to cost \$4.6 billion to accomplish the required nutrient load reductions in all four BMAPs that cover the IRL region.<sup>53</sup> With efforts extended over a 20-year period, it would require an annual investment of \$230 million to sustain an IRL-based economy.<sup>54</sup> The annual cost compared to the IRL’s estimated total economic output of \$7.6 billion provides a return on investment of 33:1, which can be expected to increase as the IRL improves in health and productivity.<sup>55</sup>

### ***Onsite sewage and disposal systems***

In 1990, the Legislature enacted the Indian River Lagoon System and Basin Act, in part, to protect the IRL system from the improper use of septic systems.<sup>56</sup> The act required the SJRWMD and the South Florida Water Management District (SFWMD) to identify areas where improper septic tank use poses a threat to the water quality of the IRL system.<sup>57</sup> There are six counties that

<sup>47</sup> *Id.* at 1.

<sup>48</sup> Indian River Lagoon Consortium, *Indian River Lagoon 2011 Superbloom Plan of Investigation*, 2 (June 2012), available at [http://www.sjrwmd.com/indianriverlagoon/technicaldocumentation/pdfs/2011superbloom\\_investigationplan\\_June\\_2012.pdf](http://www.sjrwmd.com/indianriverlagoon/technicaldocumentation/pdfs/2011superbloom_investigationplan_June_2012.pdf) (last visited Mar. 8, 2017).

<sup>49</sup> See Brian E. Lapointe, Laura W. Herren, David D. Debortoli, Margaret A. Vogel, *Evidence of sewage-driven eutrophication and harmful algae blooms in Florida’s Indian River Lagoon*, (Jan. 28, 2015), available at <http://static.politico.com/27/4c/d449d31440529b9d75d8ac3bb461/2015-study-of-indian-river-lagoon-algae.%202015.pdf> (last visited Mar. 8, 2017).

<sup>50</sup> *Save Our Lagoon* at vi.

<sup>51</sup> Brevard County Supervisor of Elections, *2016 General Election Official Results*, <http://enr.electionsfl.org/BRE/1616/Summary/> (last visited Mar. 9, 2017); see Brevard County Ordinance 2016-15, *Placing a Referendum on November 8, 2016 Ballot for One-Half Cent Infrastructure Sales Tax to Fund Implementation of the Save our Lagoon Project Plan* (August 23, 2016), available at <http://www.brevardfl.gov/docs/default-source/countymanager/save-our-lagoon-referendum-election-2016-ordinance-august-23-2016.pdf?sfvrsn=2> (last visited Mar. 9, 2017).

<sup>52</sup> *Save Our Lagoon* at 60.

<sup>53</sup> East Central Florida Regional Planning Council and the Treasure Coast Regional Planning Council, *Indian River Lagoon Economic Valuation Update*, x (Aug. 26, 2016).

<sup>54</sup> *Id.*

<sup>55</sup> *Id.*

<sup>56</sup> See ch. 90-262, Laws of Fla.

<sup>57</sup> Chapter 90-262, s. 4, Laws of Fla.

have septic systems that contribute to the health of the IRL including Volusia, Brevard, Indian River, St. Lucie, Martin, and Palm Beach counties.

In Brevard County alone, there are approximately 82,000 permitted septic systems, of which nearly 59,500 pollute groundwater that migrates to the lagoon.<sup>58</sup> The Save Our Lagoon Plan includes septic system upgrades and removals at a total cost of approximately \$64 million.<sup>59</sup> The estimated total cost to convert all septic tanks in the county to central sewage treatment is \$1.19 billion.<sup>60</sup>

### ***Muck accumulation***

Muck is not natural to the bottom of the lagoon, but it now covers an estimated 15,900 acres of the lagoon bottom in Brevard County, and tends to accumulate in deeper waters, sometimes in layers more than 6 feet thick.<sup>61</sup> Muck is transported into the lagoon through freshwater runoff, which carries with it soil from erosion and organic debris from sod, grass clippings, leaves, and other vegetation.<sup>62</sup>

When muck covers the naturally sandy bottom of the lagoon, it destroys habitats such as seagrass by inhibiting growth and impacts bottom-dwelling organisms by depleting oxygen in the sediments and surrounding waters.<sup>63</sup> Muck also accumulates potential pollutants and stores and releases nutrients into the water, which can feed algae blooms.<sup>64</sup> The annual release of nutrients from decaying muck is almost as much as the annual external loading delivered by stormwater and groundwater baseflow combined.<sup>65</sup>

Muck removal includes dredging large deposits of muck in big, open water areas within the lagoon with the goal of reducing the amount of nitrogen and phosphorous that could be released if the muck were to stay in the lagoon.<sup>66</sup> There are a few muck removal projects currently underway in Turkey Creek, the Eau Gallie River, and Cocoa Beach.<sup>67</sup> The estimated total cost for all muck removal projects is \$198.1 million.<sup>68</sup>

In 2016, the Legislature appropriated \$21.5 million to Brevard County for the removal of muck from the IRL.<sup>69</sup> Of the appropriation, \$1.5 million is required to be given to the Indian River Lagoon Research Institute for the purpose of a scientific assessment to determine the

---

<sup>58</sup> *Save our Lagoon* at 5.

<sup>59</sup> *Id.* at viii.

<sup>60</sup> *Id.* at 5.

<sup>61</sup> Florida SeaGrant, *Muck Removal in the Save Our Indian River Lagoon Project Plan*, Brevard County, <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/muck-fact-sheet.pdf?sfvrsn=1> (last visited Mar. 10, 2017).

<sup>62</sup> *Id.*

<sup>63</sup> *Id.*

<sup>64</sup> *Id.*

<sup>65</sup> *Save Our Lagoon* at 40.

<sup>66</sup> Florida SeaGrant, *Muck Removal in the Save Our Indian River Lagoon Project Plan*, Brevard County, <http://www.brevardfl.gov/docs/default-source/natural-resources-documents/muck-fact-sheet.pdf?sfvrsn=1> (last visited Mar. 10, 2017).

<sup>67</sup> *Id.*

<sup>68</sup> *Save Our Lagoon* at 58.

<sup>69</sup> Chapter 2016-66, Laws of Fla.

environmental benefits of the project.<sup>70</sup> The long-term success of muck removal is dependent upon continued reductions in land-based sources of pollutants to prevent the continued build-up of muck in the lagoon.<sup>71</sup>

### ***Stormwater runoff***

The drainage systems of the east coast of Florida were constructed to support agriculture and urban development. These systems have increased the volume of inflows into the IRL, while also changing the timing of flows and increasing nutrient loads conveyed to the IRL.<sup>72</sup> Canal diversions to the IRL increase nutrient, sediment, and freshwater loading to the IRL and decrease flows to the St. Johns River.<sup>73</sup> Stormwater runoff contributes a significant portion of total nitrogen and total phosphorus to the lagoon each year.<sup>74</sup>

In Brevard County, there are more than 1,500 stormwater outfalls to the IRL.<sup>75</sup> Brevard County in 1990 implemented a stormwater utility assessment, which established an annual assessment rate of \$36 per year per equivalent residential unit (ERU), which was increased to \$64/ERU in 2016.<sup>76</sup> The collections raised in 2016 due to this assessment is estimated at \$6 million.<sup>77</sup> Of the funding raised, a portion is available for capital improvement programs or other stormwater BMPs and is split between water quality improvement programs and flood control and mitigation programs.<sup>78</sup> In addition, funding is spent on annual program operating expenses, such as NPDES permit compliance activities (street sweeping, trap and box cleaning, and aquatic weed harvesting), and outfall/ditch treatments.<sup>79</sup>

Large-scale stormwater capture and treatment projects are intended to store and treat stormwater runoff before it enters the IRL. For example, the C-10 Water Management Area is a project that diverts water from the IRL system to the St. Johns River through a system of pump stations.<sup>80</sup> The project is estimated to provide a total nitrogen reduction of 29,300 pounds with an estimated capital cost of \$22.3 million.<sup>81</sup> Another example is the Nova Canal Watershed Alternative Water supply project to divert water away from the IRL to an integrated water resource system that fully utilizes stormwater, surface water, and reclaimed water.<sup>82</sup> The project is estimated to provide a total nitrogen reduction of 33,000 pounds with an estimated capital cost between \$22.1 million and \$35.9 million.<sup>83</sup>

---

<sup>70</sup> *Id.*

<sup>71</sup> *Id.*

<sup>72</sup> *IRL Stormwater Feasibility Analysis* at 4-1.

<sup>73</sup> *Id.* at 1-1.

<sup>74</sup> See *Save Our Lagoon* at 10, for specific nutrient loadings from different sources in each sub-lagoon.

<sup>75</sup> *Save Our Lagoon* at 32.

<sup>76</sup> *Id.* at 2.

<sup>77</sup> *Id.*

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> *IRL Stormwater Feasibility Analysis* at 6-37.

<sup>81</sup> *Id.* at 6-48, 49.

<sup>82</sup> *Id.* at 6-47.

<sup>83</sup> *Id.* at 6-48, 49.

## St. Lucie River and Estuary

The St. Lucie Estuary is located in Martin, St. Lucie, and Okeechobee counties.<sup>84</sup> The inland portion of the St. Lucie Estuary is composed of a North Fork and a South Fork, which converge at the Roosevelt Bridge to form a single waterbody that extends eastward and joins the southern portion of the Indian River Lagoon.<sup>85</sup> The North Fork receives flows from the C-23 and C-24 canals. The South Fork receives flows from the St. Lucie River, which is referred to as the C-44 Canal. Approximately 42 percent of the freshwater inflows from canals that discharge into the St. Lucie Estuary are from Lake Okeechobee and these discharges carry significant nutrient loads, which have a known impact on the estuary.<sup>86</sup> These canals swiftly convey large volumes of runoff from predominantly agricultural drainage areas, with associated nutrients and sediments, directly to the St. Lucie Estuary.<sup>87</sup>

This constructed drainage system rapidly drains the St. Lucie watershed basin into the St. Lucie Estuary. Large-scale flow storage and capture and treatment projects are necessary in the South-IRL basin.<sup>88</sup> Such projects include, for example, the City of Port St. Lucie Water Farming Project. This project consists of six phases and is located on the site of the McCarty Ranch extension.<sup>89</sup> The project's goal is to maximize the amount of water stored within the site at the end of the wet season without causing a discharge, and reduce harmful flows to the St. Lucie Estuary.<sup>90</sup>

In 2013, the DEP adopted a BMAP for the St. Lucie River and Estuary to address the TMDL for total phosphorous and total nitrogen.<sup>91</sup> Many of the municipalities in the basin, because they discharge stormwater and qualify as an MS4, are regulated by the NPDES permit program. The BMAP includes load reductions for total nitrogen for MS4s. The City of Port St. Lucie initiated the Veteran's Memorial Stormwater Retrofit Project, which includes the construction of several detention ponds and three control structures to treat stormwater.<sup>92</sup> Martin County is currently constructing the All American Ditch Stormwater Quality Retrofit Project, which includes the installation of water control structures and a pipe system that will capture and convey stormwater runoff from a 268-acre, predominantly medium-density residential neighborhood, to a treatment facility.<sup>93</sup>

<sup>84</sup> FDEP, *Final St. Lucie River and Estuary Basin Management Action Plan*, xi (May 2013), available at <http://www.dep.state.fl.us/water/watersheds/docs/bmap/stlucie-estuary-nutr-bmap.pdf> (last visited Mar. 10, 2017).

<sup>85</sup> *Id.*

<sup>86</sup> *Id.* at xiv.

<sup>87</sup> IRL Stormwater Feasibility Analysis at 6-1.

<sup>88</sup> *Id.* at 4-2.

<sup>89</sup> *Id.* at 6-7.

<sup>90</sup> *Id.* at 6-7

<sup>91</sup> FDEP, *Final St. Lucie River and Estuary Basin Management Action Plan*, xii (May 2013).

<sup>92</sup> FDEP, *2016 Progress Report for the St. Lucie River and Estuary Basin Management Action Plan*, 14 (Jan. 2017), available at <http://www.dep.state.fl.us/water/watersheds/docs/bmap/StLucieRiverEstuaryBMAP-APR-2016.pdf> (last visited Mar. 10, 2017).

<sup>93</sup> *Id.* at 15.

## Caloosahatchee River and Estuary

The Caloosahatchee River runs from Lake Okeechobee through a series of locks to San Carlos Bay, which divide the canal into freshwater and marine water segments.<sup>94</sup> The river conveys freshwater to the Caloosahatchee Estuary through the S-79 structure from both runoff from the Caloosahatchee River Watershed and releases from Lake Okeechobee. Approximately half of the volume of water that reaches the Caloosahatchee Estuary is water that passed through the S-77 structure from Lake Okeechobee.<sup>95</sup>

A BMAP for the Caloosahatchee River and Estuary was adopted in 2012 to implement the total nitrogen TMDL. Many of the municipalities in the basin, because they discharge stormwater and qualify as an MS4, are regulated by the NPDES permit program. The BMAP includes load reductions for total nitrogen for MS4s. Lee County is in the design and permitting phase of the Nalle Grade Stormwater Park project, which is a dry retention pond designed to provide a future load removal of 2,485 pounds per year of total nitrogen.<sup>96</sup> Additionally, the City of Cape Coral completed a phase-program to eliminate certain septic tanks and connect the systems to sewer.<sup>97</sup>

## Land Acquisition Trust Fund

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of \$0.70 per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at \$0.35 per \$100.<sup>98</sup>

In 2014, Florida voters approved Amendment One, a constitutional amendment to provide a dedicated funding source for water and land conservation and restoration. The amendment required that starting on July 1, 2015, and for 20 years thereafter, 33 percent of net revenues derived from the documentary stamp taxes be deposited into the Land Acquisition Trust Fund (LATF). Section 28, Art. X of the State Constitution requires that funds in the LATF be expended only for the following purposes:

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural

<sup>94</sup> FDEP, *Final Caloosahatchee Estuary Basin, Basin Management Action Plan for the Implementation of Total Maximum Daily Loads for Nutrients Adopted by the FDEP*, 1 (Dec. 2012), available at <http://www.dep.state.fl.us/water/watersheds/bmap.htm> (last visited Jan. 31, 2017).

<sup>95</sup> *Id.* at 3.

<sup>96</sup> FDEP, *2015 Progress Report for the Caloosahatchee Estuary Basin Management Action Plan*, 11, (June 2016) available at <http://www.dep.state.fl.us/water/watersheds/docs/bmap/caloosa-estuary-bmap-apr2015.pdf> (last visited Mar. 10, 2017).

<sup>97</sup> *Id.*

<sup>98</sup> See ss. 201.02 and 201.08, F.S.

landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.<sup>99</sup>

To implement s. 28, Art. X of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229 Laws of Florida.<sup>100</sup> This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes; and
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund to serve as the constitutionally mandated depository for a percentage of the tax revenues.<sup>101</sup>

In 2016, the Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”<sup>102</sup> Legacy Florida amended s. 375.041, F.S., to require specified minimum distributions from the LATF. Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
  - First to payments relating to debt service on Florida Forever bonds and Everglades restoration bonds; and
  - Then to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- Then, before funds are authorized to be appropriated for other uses:
  - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,<sup>103</sup> or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. The following specified distributions are required from these funds:
    - \$32 million through the 2023-2024 Fiscal Year for the Long-Term Plan;
    - After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million through the 2025-2026 Fiscal Year for the CERP; and
    - Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
  - A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for springs restoration, protection, and management projects; and
  - Five million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.<sup>104</sup>

<sup>99</sup> FLA. CONST. art. X, s. 28.

<sup>100</sup> Chapter 2015-229, Laws of Fla.

<sup>101</sup> Chapter 2015-229, s. 9, s. 50, Laws of Fla.

<sup>102</sup> Chapter 2016-201, Laws of Fla.

<sup>103</sup> Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

<sup>104</sup> Section 375.041, F.S.

- Then any remaining moneys are authorized to be appropriated for the purposes set forth in s. 28, Art. X, of the State Constitution.<sup>105</sup>

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 Fiscal Year a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF as required under s. 28, Art. X of the State Constitution.<sup>106</sup>

### **III. Effect of Proposed Changes:**

SB 874 requires the DEP, the DOH, relevant local governments, and relevant local public and private wastewater utilities to develop an onsite sewage treatment and disposal system remediation plan, as part of a BMAP, if the DEP determines that remediation is necessary to achieve a TMDL. The bill provides that in order to promote cost-effective remediation, the DEP is authorized to identify one or more priority focus areas.

The bill requires the DEP when identifying priority focus areas to consider:

- Soil conditions;
- Groundwater or surface water travel time;
- Proximity to surface waters, including predominantly marine waters as defined by DEP rule;
- Hydrogeology;
- Onsite system density;
- Nutrient load; and
- Other factors that may lead to water quality degradation.

Under the remediation plan, the DEP must identify cost-effective and financially feasible projects that are necessary to reduce the nutrient impacts from onsite sewage treatment and disposal systems. The plan is required to be completed and adopted as part of a BMAP no later than the first 5-year milestone assessment.

The bill provides that the DEP is the lead agency in coordinating the preparation and adoption of the remediation plan and in developing and adopting the plan must:

- Collect and evaluate credible scientific information on the effect of nutrients on surface and groundwater;
- Work with local stakeholders to develop a public education plan to provide area residents with reliable, understandable information about onsite sewage treatment and disposal systems and surface and groundwater pollution;
- Ensure that the plan includes options, if appropriate, for system repair, upgrade, or replacement; drainfield modification; the addition of effective nutrient-reducing features; connection to a central sewerage system; or other actions addressing onsite sewage treatment and disposal system issues;

---

<sup>105</sup> *Id.*

<sup>106</sup> Office of Economic and Demographic Research, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Jan. 23, 2017).

- Include a priority ranking for each onsite system, or group of systems, that requires remediation to be used to ensure the most effective, efficient use of the funding provided for onsite system remediation; and
- Ensure that the plan includes an implementation schedule for completion of the actions related to reducing onsite sewage treatment and disposal system nutrient loads, with milestones, periodic progress evaluations, and a completion date necessary to achieve the total maximum daily load within the timeframe established in the BMAP.

In awarding funds for onsite system remediation, the bill authorizes the department to consider expected nutrient reduction benefit per unit cost, the size and scope of the project, local financial contribution to the project relative to the overall cost, and the financial impact on property owners and the community. Additionally, the DEP is authorized, at its discretion, to totally or partially waive its funding considerations for local contributions for proposed projects within an area designated as a rural area of opportunity under s. 288.0656, F.S.

The bill requires that any installation, repair, modification, or upgrade of onsite sewage treatment and disposal system on a lot of 1 acre or less which is within the boundaries of a BMAP with an onsite sewage treatment and disposal remediation plan must conform to the requirements of the remediation plan.

The provisions in the bill relating to remediation plans for onsite sewage treatment and disposal systems are an expansion of s. 373.807, F.S., which only applies to Outstanding Florida Springs. The bill expands the requirements to apply to any waterbody or segment with a BMAP for which the DEP determines that remediation is necessary to achieve the TMDL.

The bill requires \$20 million to be appropriated annually from the Land Acquisition Trust Fund to:

- Offset or partially offset property owner costs incurred to retrofit or convert onsite sewage treatment and disposal systems the DEP determines to be individually or collectively contributing excess nutrient pollution in counties contributing to the Indian River Lagoon, the St. Lucie Estuary, or the Caloosahatchee Estuary, and their respective watersheds; and
- Conduct muck dredging and large-scale stormwater improvements in counties contributing to the Indian River Lagoon, the St. Lucie Estuary, or the Caloosahatchee Estuary, and their respective watersheds.

The DEP is authorized to use the appropriated fund to make grants or provide other forms of financial assistance to local governments or other entities for the stated purposes.

The bill has an effective date of July 1, 2017.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. Other Constitutional Issues:**

Section 28, Art. X of the State Constitution requires that 33 percent of net revenues derived from documentary stamp taxes be deposited into the LATF to be used for the acquisition and improvement of land, water areas, and related property interests, together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands. For the full text of s. 28, Art. X of the State Constitution, see the Present Situation section of this analysis beginning on page 11.

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

None.

**B. Private Sector Impact:**

Within local government areas where septic systems represent a significant water quality problem, now or in the future, as determined by the DEP, some property owners may be required as a result of the BMAP process to upgrade or replace their septic systems or connect to an available central sewer system, which would result in a negative, indeterminate cost to property owners. However, this cost may be offset by local government contributions or, for septic tanks that contribute to pollution in the Indian River Lagoon, the St. Lucie Estuary, or the Caloosahatchee Estuary, by specific appropriations from the LATF as required under the bill.

**C. Government Sector Impact:**

The bill has a negative, recurring impact to the LATF of \$20 million. The bill may have an indeterminate, positive fiscal impact on counties that receive financial assistance as a result of this bill.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 375.041 and 403.067.

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

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

None.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---

**By Senator Young**

18-00415A-17

2017874

A bill to be entitled

An act relating to nutrient pollution from onsite sewage treatment and disposal systems; amending s. 375.041, F.S.; specifying an appropriation from the Land Acquisition Trust Fund to reduce nutrient pollution by offsetting or partially offsetting property owner costs incurred to retrofit certain onsite sewage treatment and disposal systems, to connect certain properties to central sewer systems, and for certain muck dredging and stormwater improvements; authorizing the Department of Environmental Protection to make certain grants; amending s. 403.067, F.S.; defining "onsite sewage treatment and disposal system"; requiring the department, as part of a basin management action plan, to develop onsite sewage treatment and disposal system remediation plans under certain conditions; specifying parameters for selecting priority focus areas for remediation; specifying the parameters for developing and adopting a remediation plan; specifying requirements for the installation, repair, modification, or upgrade of certain onsite sewage treatment and disposal systems; providing an effective date.

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

Section 1. Paragraph (b) of subsection (3) of section

375.041, Florida Statutes, is amended to read:

### 375.041 Land Acquisition Trust Fund.—

(3) Funds distributed into the Land Acquisition Trust Fund pursuant to s. 201.15 shall be applied:

18-00415A-17

2017874

33       (b) Of the funds remaining after the payments required  
34 under paragraph (a), but before funds may be appropriated,  
35 pledged, or dedicated for other uses:

36       1. A minimum of the lesser of 25 percent or \$200 million  
37 shall be appropriated annually for Everglades projects that  
38 implement the Comprehensive Everglades Restoration Plan as set  
39 forth in s. 373.470, including the Central Everglades Planning  
40 Project subject to Congressional authorization; the Long-Term  
41 Plan as defined in s. 373.4592(2); and the Northern Everglades  
42 and Estuaries Protection Program as set forth in s. 373.4595.  
43 From these funds, \$32 million shall be distributed each fiscal  
44 year through the 2023-2024 fiscal year to the South Florida  
45 Water Management District for the Long-Term Plan as defined in  
46 s. 373.4592(2). After deducting the \$32 million distributed  
47 under this subparagraph, from the funds remaining, a minimum of  
48 the lesser of 76.5 percent or \$100 million shall be appropriated  
49 each fiscal year through the 2025-2026 fiscal year for the  
50 planning, design, engineering, and construction of the  
51 Comprehensive Everglades Restoration Plan as set forth in s.  
52 373.470, including the Central Everglades Planning Project  
53 subject to Congressional authorization. The Department of  
54 Environmental Protection and the South Florida Water Management  
55 District shall give preference to those Everglades restoration  
56 projects that reduce harmful discharges of water from Lake  
57 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a  
58 timely manner. For the purpose of performing the calculation  
59 provided in this subparagraph, the amount of debt service paid  
60 pursuant to paragraph (a) for bonds issued after July 1, 2016,  
61 for the purposes set forth under paragraph (b) shall be added to

18-00415A-17

2017874

62 the amount remaining after the payments required under paragraph  
63 (a). The amount of the distribution calculated shall then be  
64 reduced by an amount equal to the debt service paid pursuant to  
65 paragraph (a) on bonds issued after July 1, 2016, for the  
66 purposes set forth under this subparagraph.

67 2. A minimum of the lesser of 7.6 percent or \$50 million  
68 shall be appropriated annually for spring restoration,  
69 protection, and management projects. For the purpose of  
70 performing the calculation provided in this subparagraph, the  
71 amount of debt service paid pursuant to paragraph (a) for bonds  
72 issued after July 1, 2016, for the purposes set forth under  
73 paragraph (b) shall be added to the amount remaining after the  
74 payments required under paragraph (a). The amount of the  
75 distribution calculated shall then be reduced by an amount equal  
76 to the debt service paid pursuant to paragraph (a) on bonds  
77 issued after July 1, 2016, for the purposes set forth under this  
78 subparagraph.

79 3. The sum of \$5 million shall be appropriated annually  
80 each fiscal year through the 2025-2026 fiscal year to the St.  
81 Johns River Water Management District for projects dedicated to  
82 the restoration of Lake Apopka. This distribution shall be  
83 reduced by an amount equal to the debt service paid pursuant to  
84 paragraph (a) on bonds issued after July 1, 2016, for the  
85 purposes set forth in this subparagraph.

86 4. A minimum of \$20 million shall be appropriated annually  
87 to offset or partially offset property owner costs incurred to  
88 retrofit onsite sewage treatment and disposal systems determined  
89 by the Department of Environmental Protection to be individually  
90 or collectively contributing excess nutrient pollution in the

18-00415A-17

2017874

91       counties contributing to the Indian River Lagoon, the St. Lucie  
92       and Caloosahatchee estuaries, and their watersheds; to connect  
93       properties with such onsite systems to central sewer systems; or  
94       to conduct muck dredging and large-scale stormwater improvements  
95       in counties contributing to the Indian River Lagoon, the St.  
96       Lucie and Caloosahatchee estuaries, and their watersheds. The  
97       Department of Environmental Protection is authorized to use the  
98       appropriated funds to make grants or provide other forms of  
99       financial assistance to local governments and other entities for  
100       these purposes.

101       Section 2. Present paragraph (d) of subsection (7) of  
102       section 403.067, Florida Statutes, is redesignated as paragraph  
103       (e), and a new paragraph (d) is added to that subsection, to  
104       read:

105       403.067 Establishment and implementation of total maximum  
106       daily loads.—

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

109       (d) Onsite sewage treatment and disposal systems.—

110       1. For purposes of this section, "Onsite sewage treatment  
111       and disposal system" has the same meaning as in s. 381.0065.

112       2. As part of a basin management action plan, the  
113       department, the Department of Health, relevant local  
114       governments, and relevant local public and private wastewater  
115       utilities must develop an onsite sewage treatment and disposal  
116       system remediation plan if the department determines that  
117       remediation is necessary to achieve a total maximum daily load.  
118       In order to promote cost-effective remediation, the department  
119       may identify one or more priority focus areas. The department

18-00415A-17

2017874

120 shall identify these areas by considering soil conditions;  
121 groundwater or surface water travel time; proximity to surface  
122 waters, including predominantly marine waters as defined by  
123 department rule; hydrogeology; onsite system density; nutrient  
124 load; and other factors that may lead to water quality  
125 degradation. The remediation plan must identify cost-effective  
126 and financially feasible projects necessary to reduce the  
127 nutrient impacts from onsite sewage treatment and disposal  
128 systems. The plan shall be completed and adopted as part of the  
129 basin management action plan no later than the first 5-year  
130 milestone assessment identified in subparagraph (a)6. The  
131 department is the lead agency in coordinating the preparation  
132 and adoption of the plan. In developing and adopting the plan,  
133 the department shall:

134 a. Collect and evaluate credible scientific information on  
135 the effect of nutrients on surface and groundwaters;  
136 b. Work with local stakeholders to develop a public  
137 education plan to provide area residents with reliable,  
138 understandable information about onsite sewage treatment and  
139 disposal systems and surface and groundwater pollution;  
140 c. Ensure that the plan includes options, if appropriate,  
141 for system repair, upgrade, or replacement; drainfield  
142 modification; the addition of effective nutrient-reducing  
143 features; connection to a central sewerage system; or other  
144 actions addressing onsite sewage treatment and disposal system  
145 issues. The department shall include in the plan a priority  
146 ranking for each onsite system, or group of systems, that  
147 requires remediation. The priority ranking shall be used to  
148 ensure the most effective, efficient use of the funding provided

18-00415A-17

2017874

149 for onsite system remediation. In awarding any such funds, the  
150 department may consider expected nutrient reduction benefit per  
151 unit cost, the size and scope of the project, local financial  
152 contribution to the project relative to the overall cost, and  
153 the financial impact on property owners and the community. For  
154 the purpose of awarding funds, the department may, at its  
155 discretion, totally or partially waive this consideration of the  
156 local contribution for proposed projects within an area  
157 designated as a rural area of opportunity under s. 288.0656; and

158       d. Ensure that the plan includes an implementation schedule  
159 for completion of the actions related to reducing onsite sewage  
160 treatment and disposal system nutrient loads, with milestones,  
161 periodic progress evaluations, and a completion date necessary  
162 to achieve the total maximum daily load within the timeframe  
163 established in the basin management action plan.

164       3. The installation, repair, modification, or upgrade of  
165 onsite sewage treatment and disposal systems on lots of 1 acre  
166 or less and within the boundaries of a basin management action  
167 plan with an onsite sewage treatment and disposal remediation  
168 plan must conform to the requirements of the remediation plan.

169       Section 3. This act shall take effect July 1, 2017.

The Florida Senate  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

BILL: CS/SB 884

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Hutson

SUBJECT: Sharks

DATE: March 15, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Istler	Rogers	EP	Fav/CS
2.		AEN	
3.		AP	

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

## I. Summary:

CS/SB 884 codifies the prohibition against shark finning, which is established by the Florida Fish and Wildlife Conservation Commission (FWC) by rule and provides enhanced penalties for violations relating thereto.

## II. Present Situation:

Pursuant to Article IV, s. 9 of the Florida Constitution, the Florida Fish and Wildlife Conservation Commission exercises the regulatory and executive powers with respect to marine life, including sharks.<sup>1</sup> Florida's shark population is diverse and includes species that range in size from only a few feet to more than 40 feet in total length.<sup>2</sup> Most species of sharks have slow rates of growth and late age-at-maturity, which limits their ability to withstand fishing pressure and have a longer recovery time in response to overfishing.<sup>3</sup>

Global shark catches have tripled since 1950 and reached an all-time high of 888,000 tons in 2000.<sup>4</sup> Because overfishing in some areas of the world's oceans has led to concerns for the

<sup>1</sup> FLA. CONST. art. IV, s. 9.

<sup>2</sup> University of Florida's Institute of Food and Agricultural Sciences (IFAS), *Common Sharks in Florida*, SGEF-203 (Reviewed Nov. 2016), available at <http://edis.ifas.ufl.edu/pdffiles/SG/SG06200.pdf> (last visited Mar. 9, 2017).

<sup>3</sup> United Nations Food and Agriculture Organization of the United Nations (FAO), *International Plan of Action for Conservation and Management of Sharks*, <http://www.fao.org/ipoa-sharks/background/sharks/en/> (last visited Mar. 9, 2017).

<sup>4</sup> *Id.*

populations of some shark species, adequate conservation and management of shark populations has become increasingly important on a global scale.<sup>5</sup> In response to concerns about growing shark harvests internationally, many countries have banned shark fishing in their waters in favor of promoting tourism opportunities relating to sharks.<sup>6</sup>

### **Harvesting Sharks off Florida's Coast**

Fishermen harvest sharks primarily for their meat, fins, skin, cartilage, and liver.<sup>7</sup> Meat from some species of shark is an important dietary component in many developing countries and shark fins, the most valuable of shark products, are used to make traditional shark fin soup, which is a delicacy in the Chinese culture.<sup>8</sup> However, despite the high value of some shark products, sharks have been historically considered a low-value fish and mostly seen as a by-product of other more profitable fisheries, such as tuna.<sup>9</sup>

Within Florida's seaward boundary, the use of hook and line gear is the only lawful means to harvest sharks in or from the waters of the state.<sup>10</sup> A person may not harvest in or from the waters of the state more than one shark per day.<sup>11</sup> The possession of more than two sharks harvested from the state waters aboard any vessel with two or more persons is prohibited.<sup>12</sup> While certain species of shark, including any part of these species, are prohibited under state law from being harvested, possessed, landed, purchased, sold, or exchanged in the state, the prohibition does not apply to sharks harvested lawfully in federal waters when the shark is transported directly through state waters.<sup>13</sup>

Due to Florida's strict regulations, the state's commercial shark fishery occurs mainly in federal waters off Florida's coast.<sup>14</sup> The National Oceanic and Atmospheric Administration National Marine Fisheries Service (NOAA Fisheries) manages commercial shark fishing with a series of quotas that apply throughout the Atlantic Ocean and Gulf of Mexico waters. Florida's commercial fishermen are subject to these quotas. Shark quotas are assigned by species groups and some quotas are linked to other groups. For example, if a quota for one species group is reached, all the species groups linked to that one will also close. Quotas are also adjusted from

---

<sup>5</sup> *Id.*; see Boris Worm, Brendal Davis, Lisa Kettner, Christine A. Ward-Paige, Demian Chapman, Michael R. Heithaus, Steven Kessel, and Samuel H. Gruber, *Global catches, exploitation rates, and rebuilding options for sharks*, *Marine Policy* 40 (2013) 194-204, available at <http://www.sciencedirect.com/science/article/pii/S0308597X13000055> (last visited Mar. 9, 2017).

<sup>6</sup> U.S. Department of Commerce National Oceanic and Atmospheric Administration (NOAA), *Shark Finning Report to Congress Pursuant to the Shark Finning Prohibition Act*, 2 (2015) available at [http://www.nmfs.noaa.gov/sfa/laws\\_policies/sca/documents/shark-finning-report-2015.pdf](http://www.nmfs.noaa.gov/sfa/laws_policies/sca/documents/shark-finning-report-2015.pdf) (last visited Mar. 10, 2017).

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> Frans Teutsch, FAO, *Sharks (Chondrichthyes)*, <http://www.fao.org/docrep/006/Y5261E/y5261e08.htm> (last visited Mar. 9, 2017).

<sup>10</sup> Fla. Admin. Code R. 68B-44.003; Florida's seaward boundary extends 9 nautical miles in the Gulf of Mexico and 3 nautical miles in the Atlantic.

<sup>11</sup> *Id.*

<sup>12</sup> *Id.*

<sup>13</sup> Fla. Admin. Code R. 68B-44.008.

<sup>14</sup> See Florida Fish and Wildlife Conservation Commission (FWC), *Sharks and Shark Fins* (Oct. 10, 2016) (on file with the Senate Environmental Preservation and Conservation Committee).

year to year to account for any quotas that were exceeded in the previous year. There are separate quotas for sharks harvested in the Atlantic Ocean and Gulf of Mexico waters.<sup>15</sup>

To commercially harvest sharks, an individual must possess a federal annual vessel permit.<sup>16</sup> The commercial harvest season technically spans the entire year, but, as quotas are met, the Marine Fisheries Commission closes waters to harvesting.<sup>17</sup> A commercial harvester may only sell sharks, or any parts thereof, to a holder of a valid federal Atlantic shark dealer permit.<sup>18</sup> Commercial harvesting permits are not “open access,” meaning the permit must be transferred from someone who currently holds a permit and chooses to sell that permit and leave the fishery. No new permits are being issued.<sup>19</sup> As of 2014, there were a total of 219 permits issued for the Atlantic Ocean and Gulf of Mexico fisheries, and Florida residents held 129 of them. New Jersey and North Carolina residents held the next highest number with 22 and 18 permits, respectively.<sup>20</sup>

## **Shark Finning**

Shark finning is the practice of removing and retaining shark fins at sea while discarding the remainder of the shark’s body, often while the shark is still alive, into the waters. In Florida, the practice of shark finning was prohibited in 1992 by requiring sharks harvested to be landed in a whole condition.<sup>21</sup> Violations of shark finning rules are Level Two offenses, which are second degree misdemeanors, punishable by up to 60 days in jail and up to a \$500 fine.<sup>22</sup>

In the United States, shark finning was prohibited in 2000.<sup>23</sup> In 2010, the Shark Conservation Act strengthened the prohibition by improving the ability to enforce the shark finning prohibition by making it unlawful to:

- Remove any of the fins of a shark, including the tail, at sea;
- Have custody, control, or possession of any such fin aboard a fishing vessel unless it is naturally attached to the corresponding carcass;
- Transfer any such fin from one vessel to another vessel at sea; or
- Land any such fin that is not naturally attached to the corresponding carcass or land any shark carcass without such fins naturally attached.<sup>24</sup>

A person who violates these federal laws may be subject to a civil penalty of up to \$100,000 for each violation, as determined by the U.S. Secretary of Commerce.<sup>25</sup>

---

<sup>15</sup> See NOAA Fisheries, *Shark Landings Updates*, <http://www.nmfs.noaa.gov/sfa/hms/species/sharks/Landings/index.html>, for a current list of quotas. NOAA Fisheries publishes reported shark landings on a monthly basis. The landings reports list updated total landings for the year and yearly quotas for various shark species in Atlantic and Gulf waters.

<sup>16</sup> Fla. Admin. Code R. 68B-44.005.

<sup>17</sup> Fla. Admin. Code R. 68B-44.006.

<sup>18</sup> Fla. Admin. Code R. 68B-44.005.

<sup>19</sup> 50 C.F.R. s. 635.4 (2013).

<sup>20</sup> FWC, *Senate Bill 540 Agency Analysis* (Feb. 2014) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>21</sup> Fla. Admin. Code R. 68B-44.004.

<sup>22</sup> See ss. 379.401(2)5., 775.082, and 775.083, F.S.; note that there are enhanced penalties for subsequent violations.

<sup>23</sup> 16 U.S.C. s. 1857 (2000).

<sup>24</sup> 16 U.S.C. s. 1826 (2010).

<sup>25</sup> 16 U.S.C. s. 1858 (2014).

While the practice of shark finning is prohibited in the United States, the trade in shark fins is legal. In 2011, the last year for which full global data is available, the total declared value of world exports was \$438.6 million for 17,154 tons imported.<sup>26</sup> The United States is both an importer and exporter of shark fins.<sup>27</sup> In 2011, the U.S. exported 38 tons of shark fins and imported 58 tons.<sup>28</sup> A number of the countries that the U.S. imports shark fins from do not have a ban in place, such as China, Indonesia, and Japan. In response, some U.S. states have passed laws to ban the trade of shark fins, such states include Hawaii, California, Oregon, Washington, Illinois, Maryland, Delaware, New York, Massachusetts, and Texas.<sup>29</sup>

California's ban on trade in shark fins was challenged in federal court. On appeal, the plaintiffs alleged that the ban violated the Supremacy Clause under Art. VI of the U.S. Constitution and the Commerce Clause under Art. I, s. 8 of the U.S. Constitution.<sup>30</sup> The United States District Court held that states are authorized to regulate "on-land activities," as the Magnuson-Stevens Fishery Conservation and Management Act was enacted as a federal-state partnership and expressly preserved the jurisdiction of the states over fishery management within their boundaries.<sup>31</sup> Additionally, the court held that the ban did not violate the Commerce Clause as it does not "interfere with activity that is inherently national or that requires a uniform system of regulation," and its purpose is to "conserve state resources, prevent animal cruelty, and protect wildlife and public health," purposes which are matters of local concern.<sup>32</sup>

### III. Effect of Proposed Changes:

CS/SB 884 defines the term:

- "Land" to mean "the physical act of bringing a harvested shark organism, or any part thereof, ashore;"
- "Shark" to mean "any of the species from the superorder *Selachimorpha*;"
- "Shark fin" to mean "the detached fin of a shark, including the caudal or tail fin, or any portion thereof."

The bill codifies the prohibition against shark finning, which is established by the Florida Fish and Wildlife Conservation Commission (FWC) by rule.<sup>33</sup> The bill prohibits the possession of a shark fin in or on the waters of this state which has been separated from a shark or the landing of a separated shark fin in this state, unless:

- Authorized by commission rule; or
- Such fin has been lawfully obtained on land, prepared by taxidermy, and is possessed for the purposes of display.

<sup>26</sup> FAO, *State of the global market for shark products*, 1 (2015), available at <http://www.fao.org/3/a-i4795e.pdf> (last visited Mar. 10, 2017).

<sup>27</sup> *Id.* at 85.

<sup>28</sup> *Id.* at 19, 21.

<sup>29</sup> See HAW. REV. STAT. § 188-40.7; CAL. FISH & GAME § 2021; OR. REV. STAT. § 509.160; WASH. REV. CODE § 77.15.770; 515 ILL. COMP. STAT. 5/5-30; MD CODE ANN., NAT. RES. § 4-747; DEL. CODE TIT. 7, § 928A; N.Y. ENVTL. CONSERV. LAW § 13-0338; MASS. GEN. LAWS ch. 130, § 106; and TEX. PARKS & WILD. CODE § 66.2161.

<sup>30</sup> *Chinatown Neighborhood Ass'n. vs. Harris*, 794 F.3d 1136 (9th Cir. 2015), cert. denied, 136 S.Ct. 2448 (2016).

<sup>31</sup> *Id.*

<sup>32</sup> *Id.*

<sup>33</sup> See Fla. Admin. Code R. 68B-44.004.

The bill subjects commercial harvesters to the following penalties:

- For a first violation, a misdemeanor of the second degree, punishable by up to 60 days in jail or a \$500 fine. In addition, the commission shall assess an administrative fine of \$5,000 and suspend all of the harvester's saltwater license privileges under this chapter for 180 days.
- For a second violation, a misdemeanor of the second degree, punishable by up to 60 days in jail or a \$500 fine. In addition, the commission shall assess an administrative fine of \$10,000 and suspend all of the harvester's saltwater license privileges under this chapter for 180 days.
- For a third and any subsequent violations, a misdemeanor of the first degree, punishable by up to one year in jail or a \$1,000 fine. In addition, the commission shall assess an administrative fine of \$10,000 and permanently revoke all of the harvester's saltwater license privileges under this chapter.

The bill clarifies that while a commercial harvester's license privileges are under suspension or revocation, a person may not participate in the taking or harvesting, or attempt the taking or harvesting, of saltwater products from any vessel within the waters of the state; be aboard any vessel on which a commercial quantity of saltwater products is possessed through an activity requiring a license pursuant to this chapter; or engage in any other activity requiring a license, permit, or certificate issued pursuant to this chapter.

The bill subjects individuals who are not commercial harvesters to the following penalties:

- For a first violation, a misdemeanor of the second degree, punishable by up to 60 days in jail or a \$500 fine. In addition, the commission shall assess an administrative fine of up \$5,000.
- For a second violation, a misdemeanor of the first degree, punishable by up to one year in jail or a \$1,000 fine. In addition, the commission shall assess an administrative fine of up to \$10,000.
- For a third and any subsequent violations, a misdemeanor of the first degree, punishable by up to one year in jail or a \$1,000 fine. In addition, the commission shall assess an administrative fine of no less than \$5,000, but not more than \$10,000.

The bill takes effect October 1, 2017.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The bill may have a positive, indeterminate fiscal impact to the state due to revenues derived from the enhanced penalties relating to unlawfully possessing a separated shark fin.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill creates section 379.2426 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 Environmental Preservation and Conservation on March 14, 2016:**

The CS removes the provisions of the bill relating to the prohibition on possession or trade in shark fins and, instead, codifies the current prohibition on shark finning and provides enhanced penalties relating thereto.

**B. Amendments:**

None.



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

The Committee on Environmental Preservation and Conservation (Hutson) recommended the following:

1                   **Senate Amendment (with title amendment)**

2                   Delete everything after the enacting clause  
3 and insert:

4  
5                   Section 1. Section 379.2426, Florida Statutes, is created  
6 to read:

7                   379.2426 Possession of separated shark fins on the water  
8 prohibited; penalties.—

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

10                   (a) "Land" means the physical act of bringing a harvested



11 organism, or any part thereof, ashore.

12 (b) "Shark" means any of the species from the superorder  
*Selachimorpha.*

14 (c) "Shark fin" means the detached fin of a shark,  
15 including the caudal or tail fin, or any portion thereof.

16 (2) A person may not possess in or on the waters of this  
17 state a shark fin that has been separated from a shark or land a  
18 separated shark fin in this state, unless:

19 (a) Such possession is authorized by commission rule; or  
20 (b) Such fin has been lawfully obtained on land, prepared  
21 by taxidermy, and is possessed for the purposes of display.

22 (3) A commercial harvester who commits a violation of this  
23 section is subject to the following penalties:

24 (a) For a first violation, a misdemeanor of the second  
25 degree, punishable as provided in s. 775.082 or s. 775.083. In  
26 addition, the commission shall assess an administrative fine of  
27 \$5,000 and suspend all of the harvester's saltwater license  
28 privileges under this chapter for 180 days.

29 (b) For a second violation, a misdemeanor of the second  
30 degree, punishable as provided in s. 775.082 or s. 775.083. In  
31 addition, the commission shall assess an administrative fine of  
32 \$10,000 and suspend all of the harvester's saltwater license  
33 privileges under this chapter for 180 days.

34 (c) For a third and any subsequent violations, a  
35 misdemeanor of the first degree, punishable as provided in s.  
36 775.082 or s. 775.083. In addition, the commission shall assess  
37 an administrative fine of \$10,000 and permanently revoke all of  
38 the harvester's saltwater license privileges under this chapter.



40 While his or her saltwater license privileges are under  
41 suspension or revocation pursuant to this subsection, a person  
42 may not participate in the taking or harvesting, or attempt the  
43 taking or harvesting, of saltwater products from any vessel  
44 within the waters of the state; be aboard any vessel on which a  
45 commercial quantity of saltwater products is possessed through  
46 an activity requiring a license pursuant to this chapter; or  
47 engage in any other activity requiring a license, permit, or  
48 certificate issued pursuant to this chapter.

49 (4) A person in violation of this section who is not a  
50 commercial harvester is subject to the following penalties:  
51 (a) For a first violation, a misdemeanor of the second  
52 degree, punishable as provided in s. 775.082 or s. 775.083. In  
53 addition, the commission shall assess an administrative fine of  
54 up \$5,000.

55 (b) For a second violation, a misdemeanor of the first  
56 degree, punishable as provided in s. 775.082 or s. 775.083. In  
57 addition, the commission shall assess an administrative fine of  
58 up to \$10,000.

59 (c) For a third and any subsequent violations, a  
60 misdemeanor of the first degree, punishable as provided in s.  
61 775.082 or s. 775.083. In addition, the commission shall assess  
62 an administrative fine of no less than \$5,000, but not more than  
63 \$10,000.

64 Section 2. This act shall take effect October 1, 2017.

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

66 And the title is amended as follows:

67 Delete everything before the enacting clause



683830

69 | and insert:

A bill to be entitled

71 An act relating to shark fins; creating s. 379.2426,  
72 F.S.; defining terms; prohibiting persons from  
73 possessing separated shark fins except under certain  
74 conditions; providing penalties; prohibiting persons  
75 with suspended or revoked saltwater license privileges  
76 from engaging in certain activities; providing an  
77 effective date.

By Senator Hutson

7-01491-17

2017884

A bill to be entitled

An act relating to sharks; creating s. 379.2426, F.S.; prohibiting the possession, sale, offer for sale, trade, or distribution of shark fins or shark tails; providing definitions; providing an exemption for certain licensees or permitholders under specified circumstances; requiring any shark fin or shark tail seized by the Fish and Wildlife Conservation Commission to be destroyed; providing penalties; authorizing the commission to adopt rules to administer the act; providing an effective date.

WHEREAS, sharks, or elasmobranchs, are critical to the health of ocean ecosystems, and

WHEREAS, sharks are particularly susceptible to decline due to overfishing because they are slow to reach reproductive maturity and birth small litters, and cannot rebuild their populations quickly once they are overfished, and

WHEREAS, though sharks occupy the top of the marine food chain, their decline is an urgent problem that upsets the balance of species in ocean ecosystems and negatively affects other fisheries, constituting a serious threat to biodiversity and to open ocean and coastal ecosystems, and

WHEREAS, the practice of shark finning, where a shark is caught, its fins cut off, and the animal dumped back into the water to starve to death, drown from lack of oxygen that would otherwise be forced through its gills from constant movement, or be slowly be eaten by other fish is a cruel practice that causes tens of millions of sharks to die each year, and

WHEREAS, data from federal and international agencies show a decline in shark populations worldwide, and

WHEREAS, Florida is a market for shark fins and shark fin

7-01491-17

2017884

33 products and this demand helps drive the cruel practice of shark  
34 finning, leading to a decline in shark populations, and

35 WHEREAS, by taking steps to address this problem, Florida  
36 can help ensure that sharks do not become extinct as a result of  
37 shark finning, and

38 WHEREAS, sharks have a long lifespan and bioaccumulate  
39 mercury in their bodies throughout their lives, so shark fins  
40 often contain high levels of mercury, which has been proven  
41 dangerous to consumers' health, NOW, THEREFORE,

42

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

44

45 Section 1. Section 379.2426, Florida Statutes, is created  
46 to read:

47 379.2426 Trade in shark fins or tails prohibited.—

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

49 (a) "Shark" means any species of the subclass  
50 elasmobranchii.

51 (b) "Shark fin" means the raw, dried, or otherwise  
52 processed detached fin of a shark.

53 (c) "Shark tail" means the raw, dried, or otherwise  
54 processed detached tail of a shark.

55 (2) Except as provided in this section, no person shall  
56 possess, sell, offer for sale, trade, or distribute a shark fin  
57 or shark tail.

58 (3) A person who holds a license or permit to take or land  
59 sharks may separate a shark fin or shark tail from a lawfully  
60 landed shark during the ordinary course of preparing the body of  
61 the shark for consumption, sale, trade, or distribution;

7-01491-17

2017884

62 provided, however, that a shark fin or shark tail so separated  
63 from the shark shall be immediately destroyed unless used by the  
64 person for the purposes of taxidermy and subsequent display.

65 (4) The Fish and Wildlife Conservation Commission may issue  
66 a permit for the possession of a shark fin or shark tail to a  
67 person conducting noncommercial, scientific research.

68 (5) A shark fin or shark tail seized by the Fish and  
69 Wildlife Conservation Commission through the enforcement of this  
70 section shall be destroyed.

71 (6) Any person who violates this section commits a Level  
72 Three violation under s. 379.401; provided, however, that each  
73 shark fin or shark tail possessed, sold, offered for sale,  
74 traded, or distributed in violation of this section constitutes  
75 a separate offense. A violation of this section by a person  
76 holding a commercial or recreational license or permit pursuant  
77 to this chapter shall result in the suspension or revocation of  
78 the person's license or permit.

79 (7) The Fish and Wildlife Conservation Commission may adopt  
80 rules to administer this section.

81 Section 2. This act shall take effect October 1, 2017.

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

---

Prepared By: The Professional Staff of the Committee on Environmental Preservation and Conservation

---

BILL: CS/SB 1018

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Grimsley

SUBJECT: Contaminated Site Cleanup

DATE: March 14, 2017

REVISED: \_\_\_\_\_

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Mitchell	Rogers	EP	Fav/CS
2.		AEN	
3.		AP	

---

**Please see Section IX. for Additional Information:**

COMMITTEE SUBSTITUTE - Substantial Changes

---

## **I. Summary:**

CS/SB 1018 provides for the advancement ahead of priority ranking for the rehabilitation of individual petroleum contaminated sites proposed for redevelopment; the elimination of the 25 percent cost-share requirement for the advanced cleanup of such sites; a \$5 million increase in the annual funding available to the Department of Environmental Protection (DEP) for petroleum rehabilitation advance cleanup work; advanced site assessments for certain sites contaminated with drycleaning solvents; and a \$5 million increase in the amount of annual voluntary cleanup tax credit funding DEP is authorized to allocate.

The bill has a \$5 million recurring impact to the Inland Protection Trust Fund and a \$5 million impact to the General Revenue Fund.

## **II. Present Situation:**

### **Petroleum Restoration Program**

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of accidental spills, storage tank system leaks, or poor maintenance practices.<sup>1</sup> These discharges

---

<sup>1</sup> Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012), [http://www.dep.state.fl.us/waste/quick\\_topics/publications/pss/pcp/geninfo/2012Program\\_Briefing\\_11Jan12.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/geninfo/2012Program_Briefing_11Jan12.pdf).

pose a significant threat to groundwater quality, and Florida relies on groundwater for 90 percent of its drinking water.<sup>2</sup> The identification and cleanup of petroleum contamination is particularly challenging due to Florida's diverse geology, diverse water systems, and the complex dynamics between contaminants and the environment.<sup>3</sup>

In 1983, Florida began enacting legislation to regulate underground and aboveground storage tank systems in an effort to protect Florida's groundwater from past and future petroleum releases.<sup>4</sup> The Department of Environmental Protection (DEP) is responsible for regulating these storage tank systems. In 1986, the Legislature enacted the State Underground Petroleum Environmental Response Act (SUPER Act) to address the pollution problems caused by leaking underground petroleum storage systems.<sup>5</sup> The SUPER Act authorized the Department to establish criteria for the prioritization, assessment and cleanup, and reimbursement for cleanup of contaminated areas, which led to the creation of the Petroleum Restoration Program (Restoration Program). The Restoration Program establishes the requirements and procedures for cleaning up contaminated land as well as the circumstances under which the state will pay for the cleanup.

### **Abandoned Tank Restoration Program**

In 1990, the Legislature established the Abandoned Tank Restoration Program (ATRP). The ATRP was created to address the contamination at facilities that had out-of-service or abandoned tanks as of March 1990. The ATRP originally had a one-year application period, but the deadline was subsequently extended to 1992, then 1994. In 1996, the Legislature waived the deadline indefinitely for owners who are unable to pay for the closure of abandoned tanks. To be eligible for the ATRP, applicants must certify that the petroleum system has not stored petroleum products for consumption, use, or sale since March 1, 1990.<sup>6</sup> In 2016, the Legislature eliminated the June 30, 1996 application deadline.<sup>7</sup>

### **Site Rehabilitation**

Florida law requires land contaminated by petroleum to be cleaned up, or rehabilitated, so that the concentration of each contaminant in the ground is below a certain level.<sup>8</sup> These levels are known as Cleanup Target Levels (CTLs).<sup>9</sup> Once the CTLs for a contaminated site<sup>10</sup> has been attained, rehabilitation is complete and the site may be closed. When a site is closed, no further

---

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> Ch. 83-310, Laws of Fla.

<sup>5</sup> Ch. 86-159, Laws of Fla.

<sup>6</sup> Chapter 89-188, Laws of Fla.

<sup>7</sup> Section 376.305(6), F.S.

<sup>8</sup> Sections 376.301(8) and 376.3071(5), F.S.

<sup>9</sup> *Id.*

<sup>10</sup> A "site" is any contiguous land, sediment, surface water, or groundwater area upon or into which a discharge of petroleum or petroleum products has occurred or for which evidence exists that such a discharge has occurred. The site is the full extent of the contamination, regardless of property boundaries.

cleanup action is required unless the contaminant levels increase above the CTs or another discharge occurs.<sup>11</sup>

### **State Funding Assistance for Rehabilitation**

In 2012, the average cost to rehabilitate a site was approximately \$400,000, but some sites may cost millions of dollars to rehabilitate.<sup>12</sup> Under Florida law, an owner of contaminated land (site owner) is responsible for rehabilitating the land unless the site owner can show that the contamination resulted from the activities of a previous owner or other third party (responsible party), who is then responsible.<sup>13</sup> Over the years, different eligibility programs have been implemented to provide state financial assistance to certain site owners and responsible parties for site rehabilitation.

---

<sup>11</sup> Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012),

[http://www.dep.state.fl.us/waste/quick\\_topics/publications/pss/pcp/geninfo/2012Program\\_Briefing\\_11Jan12.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/geninfo/2012Program_Briefing_11Jan12.pdf).

<sup>12</sup> *Id.*

<sup>13</sup> Section 376.308, F.S.

To receive rehabilitation funding assistance, a site must qualify under one of these programs, which are outlined in the following table:

**Table 1: State Assisted Petroleum Cleanup Eligibility Programs**

Program Name	Program Dates	Program Description
<b>Early Detection Incentive Program (EDI)</b> (s. 376.30371(9), F.S.)	Discharges must have been reported between July 1, 1986, and December 31, 1988, to be eligible	<ul style="list-style-type: none"> <li>First state-assisted cleanup program</li> <li>100 percent state funding for cleanup if site owners reported releases</li> <li>Originally gave site owners the option of conducting cleanup themselves and receiving reimbursement from the state or having the state conduct the cleanup in priority order</li> <li>Reimbursement option was phased out, so all cleanups are now conducted by the state</li> </ul>
<b>Petroleum Liability and Restoration Insurance Program (PLRIP)</b> (s. 376.3072, F.S.)	Discharges must have been reported between January 1, 1989, and December 31, 1998, to be eligible	<ul style="list-style-type: none"> <li>Required facilities to purchase third party liability insurance to be eligible</li> <li>Provides varying amounts of state-funded site restoration coverage</li> </ul>
<b>Abandoned Tank Restoration Program (ATRP)</b> (s. 376.305(6), F.S.)	For petroleum storage systems that have not stored petroleum since March 1, 1990 <sup>14</sup>	Provides 100 percent state funding for cleanup, less deductible, at facilities that had out-of-service or abandoned tanks as of March 1990
<b>Innocent Victim Petroleum Storage System Restoration Program</b> (s. 376.30715, F.S.)	The application period began on July 1, 2005, and remains open	Provides 100 percent state funding for a site acquired before July 1, 1990, that ceased operating as a petroleum storage or retail business before January 1, 1985
<b>Petroleum Cleanup Participation Program (PCPP)</b> (s. 376.3071(13), F.S.)	Remains open	<ul style="list-style-type: none"> <li>Created to provide financial assistance for sites that had missed all previous opportunities</li> <li>Only discharges that occurred before 1995 were eligible</li> <li>Site owner or responsible party must pay 25 percent of cleanup costs<sup>15</sup></li> <li>Originally had a \$300,000 cap on the amount of coverage, which was raised to \$400,000 beginning July 1, 2008</li> </ul>
<b>Consent Order (aka “Hardship” or “Indigent”)</b> (s. 376.3071(7)(c), F.S.)	The program began in 1986 and remains open	<ul style="list-style-type: none"> <li>Created to provide financial assistance under certain circumstances for sites that the Department initiates an enforcement action to clean up</li> <li>An agreement is formed whereby the Department conducts the cleanup and the site owner or responsible party pays for a portion of the costs</li> </ul>

<sup>14</sup> The ATRP originally had a one-year application period, but the deadline was extended. The deadline is now waived indefinitely for site owners who are financially unable to pay for the closure of abandoned tanks. Section 376.305(6)(b), F.S.

<sup>15</sup> The 25 percent copay requirement can be reduced or eliminated if the site owner and all responsible parties demonstrate that they are financially unable to comply. Section 376.3071(13)(c), F.S.

As of October 2015, there are 19,128 sites eligible for state funding through one of the above programs.<sup>16</sup> Of these, approximately 8,603 have been rehabilitated and closed, approximately 5,576 are currently undergoing some phase of rehabilitation, and approximately 4,949 await rehabilitation.<sup>17</sup>

### **Inland Protection Trust Fund**

To fund the cleanup of contaminated sites, the SUPER Act created the Inland Protection Trust Fund (IPTF).<sup>18</sup> The IPTF is funded by an excise tax per barrel on petroleum and petroleum products in or imported into the state.<sup>19</sup> The amount of the excise tax per barrel is determined by a formula, which is dependent upon the unobligated balance of the IPTF.<sup>20</sup> Each year, approximately \$200 million from the excise tax is deposited into the IPTF to fund restoration of petroleum contaminated sites.<sup>21</sup> At present, the excise tax is 80 cents per barrel.<sup>22</sup>

Funding for rehabilitation of a site is based on a relative risk scoring system. Each funding-eligible site receives a numeric score based on the threat the site contamination poses to the environment or to human health, safety, or welfare.<sup>23</sup> Sites currently in the Restoration Program range in score from 5 to 115 points, with a score of 115 representing a substantial threat and a score of 5 representing a very low threat.<sup>24</sup> Sites are rehabilitated in priority order beginning with the highest score, with funding based on available budget.<sup>25</sup> The Department sets the priority score funding threshold, which is the minimum score a site must be assigned to receive restoration funding at a particular point in time.<sup>26</sup>

### **Expediting Site Rehabilitation**

Eligible contaminated sites typically receive state rehabilitation funding in priority order based on their numeric score. However, there are some programs that allow sites to receive funding for rehabilitation or site closure out of priority score order, as long as the sites are eligible under one of the programs in Table 1. Two of these programs are Advanced Cleanup and Low Scored Site Initiative.

---

<sup>16</sup> DEP, *2016 House Bill 697 Agency Analysis*, (December 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>17</sup> *Id.*

<sup>18</sup> Section 376.3071(3)-(4), F.S.

<sup>19</sup> Sections 206.9935(3) and 376.3071(6), F.S.

<sup>20</sup> The amount of the excise tax per barrel is based on the following formula: 30 cents if the unobligated balance is between \$100 million and \$150 million; 60 cents if the unobligated balance is between \$50 million and \$100 million; and 80 cents if the unobligated balance is \$50 million or less. Section 206.9935(3), F.S.

<sup>21</sup> DEP, *2016 House Bill 697 Agency Analysis*, (December 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>22</sup> Department of Revenue, *Pollutants Tax*, <http://dor.myflorida.com/dor/taxes/fuel/pollutants.html> (last visited March 11, 2017).

<sup>23</sup> Section 376.3071(5), F.S., Fla. Admin. Code R. 62-771.100.

<sup>24</sup> DEP, *2016 House Bill 697 Agency Analysis*, (December 15, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>25</sup> Fla. Admin. Code R. 62-771.300.

<sup>26</sup> DEP, *2015 Senate Bill 314 Agency Analysis*, (Mar. 13, 2015) (on file with the Senate Committee on Environmental Preservation and Conservation).

### ***Advanced Cleanup***

The advanced cleanup (formerly known as Preapproved Advanced Cleanup) of petroleum contaminated sites was begun in 1996 to allow an eligible petroleum contamination site to receive state rehabilitation funding even if the site's priority score did not fall within the threshold currently being funded.<sup>27</sup> The purpose of creating the advanced cleanup process was to facilitate property transactions and public works projects on contaminated sites.<sup>28</sup> To obtain authorization for advanced cleanup, a site must be eligible for state restoration funding under the Early Detection Incentive Program (EDI), the Petroleum Liability and Restoration Insurance Program (PLRIP), or the Abandoned Tank Restoration Program (ATRP).<sup>29</sup>

Advanced cleanup is also available for discharges eligible for restoration funding under the Petroleum Cleanup Participation Program (PCPP) for the state's cost share of site rehabilitation.<sup>30</sup> An application for advanced cleanup for a discharge eligible under PCPP must include a cost-sharing commitment for funding under the advanced cleanup criteria in addition to the 25 percent copayment requirement of the PCPP.

To apply for advanced cleanup of petroleum contamination, a facility owner or operator or the person otherwise responsible for site rehabilitation must submit an advanced cleanup application between May 1 and June 30 for the fiscal year beginning July 1 or between November 1 and December 31. The application must consist of:

- A commitment to pay 25 percent or more of the total cleanup cost deemed recoverable along with proof of the ability to pay the cost share. Applications submitted for cleanup may be submitted in one of two formats to meet the cost-share requirement:
  - The applicant may use a commitment to pay, a demonstrated cost savings to DEP, or both to meet the requirement; or
  - For an application relying on a demonstrated cost savings to DEP, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application a 25 percent cost savings<sup>31</sup> to DEP for cleanup of the site under the application compared to the cost of cleanup of the same site using the current rates provide to DEP by the proposed agency term contractor. DEP shall determine whether the cost savings demonstration is acceptable.
- A nonrefundable review fee of \$250 to cover DEP's administrative costs to review the application;
- A limited contamination assessment report;
- A proposed course of action; and
- A DEP site access agreement, or similar agreement.

DEP ranks applications based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing. In some circumstances where applicants propose the same percentage of cost

---

<sup>27</sup> Section 376.30713(1), F.S.

<sup>28</sup> *Id.*

<sup>29</sup> Section 376.30713(1)(d), F.S.

<sup>30</sup> For PCPP sites, Advanced Cleanup is only available for discharge cleanup if the 25 percent copay requirement of PCPP has not been reduced or eliminated pursuant to s. 376.3071(13)(d). s. 376.30713(1)(d), F.S.

<sup>31</sup> For aggregate applications of five sites or more the percentage is not specified.

sharing and funds are not available to commit to all of such proposals, applicants may raise their individual cost share commitments and DEP will rerank the applications.<sup>32</sup>

DEP negotiates with applicants based on DEP's rankings. If DEP and an applicant agree on the course of action, DEP may enter into a contract with the applicant and negotiate the terms and conditions of the contract. Advanced cleanup must be conducted pursuant to requirements of the Inland Protection Trust Fund and DEP rule. If the terms of the advanced cleanup contract are not fulfilled, the applicant forfeits any right to future payment for any site rehabilitation work conducted under the contract.<sup>33</sup>

DEP may enter into contracts for a total of up to \$25 million of advanced cleanup work in each fiscal year.<sup>34</sup> All funds collected by DEP pursuant contracts for advanced cleanup work must be deposited into the Inland Protection Trust Fund to be used in the advanced cleanup of petroleum contaminated sites.<sup>35</sup>

### ***Low Scored Site Initiative***

The Low Scored Site Initiative (LSSI) was created to expedite the assessment and closure of sites that contain minimal contamination and that are not a threat to human health or the environment. Low scored sites have a priority ranking score of 29 points or less.<sup>36</sup> These sites are eligible for state funds of up to \$70,000 each for assessment and limited remediation. DEP may not encumber more than \$15 million for LSSI in any fiscal year.<sup>37</sup>

### **Drycleaning Solvent Cleanup Program**

The Florida Legislature has established a state-funded program to cleanup properties that are contaminated as a result of operations of a drycleaning facility or wholesale supply facility (Ch. 376, F.S.). The program is administered by DEP. The legislation was supported by the drycleaning industry to address environmental, economic, and liability issues resulting from drycleaning solvent contamination. The program limits the liability of the owner, operator and real property owner of drycleaning or wholesale supply facilities for cleanup of drycleaning solvent contamination if the parties meet the conditions stated in the law.<sup>38</sup>

### ***Funding: Taxes and Fees***

A fund has been established to pay for costs related to the cleanup of these properties. The source of revenue for the fund is a gross receipts sales tax, a tax on perchloroethylene sold to or imported by a drycleaning facility, and annual registration fees.<sup>39</sup>

---

<sup>32</sup> Section 376.30713(2)(b), F.S.

<sup>33</sup> Section 376.30713(3), F.S.

<sup>34</sup> Section 376.30713(4), F.S.

<sup>35</sup> Section 376.30713(5), F.S.

<sup>36</sup> Section 376.3071(12)(b), F.S.

<sup>37</sup> *Id.*

<sup>38</sup> Florida Department of Environmental Protection, *Dry Cleaning Solvent Cleanup Program*, [http://www.dep.state.fl.us/waste/quick\\_topics/publications/wc/drycleaning/information/General-Information\\_04Jan17.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/wc/drycleaning/information/General-Information_04Jan17.pdf)

<sup>39</sup> *Id.*

### ***Program Application***

The application period for entry into the Drycleaning Solvent Cleanup Program ended December 31, 1998. Applications to the Drycleaning Solvent Cleanup Program are no longer being accepted.<sup>40</sup>

### ***Eligibility and Priority Ranking***

Section 376.3078(3), F.S., identifies certain criteria that must be met in order for a site to be eligible, and to remain eligible, for the program. Eligibility in this program does not relieve the owner, operator, or real property owner from federal actions or from current waste management requirements. The score that the site receives determines the order in which the Department will begin site rehabilitation activities. For eligible sites, costs incurred by the state for site rehabilitation will be absorbed at the expense of the fund minus a deductible amount as specified in the law.<sup>41</sup>

### ***Scoring System***

DEP uses a scoring system to rank and prioritize eligible sites for rehabilitation. Sites are assigned points based upon statutory point values for each site's characteristics.<sup>42</sup> DEP has developed a priority list of sites for rehabilitation based upon the scoring system, with ranking commensurate with the size of a site's score.<sup>43</sup> Regardless of scoring, however, any site having a condition that exhibits a fire or explosion hazard is highest priority for rehabilitation. The following site characteristics are assigned points in the scoring system:

- The threat the site poses to drinking water supplies based on:
  - The size of the largest uncontaminated public water supply well located within 1 mile of the site;
  - The size of the largest uncontaminated private drinking water well located within 1 mile of the site;
  - The size of the largest contaminated public water supply well located within 1 mile of the site;
  - The size of the largest contaminated private drinking water well located within 1 mile of the site;
  - The proximity of both uncontaminated and contaminated water wells to the site;
- The vulnerability of groundwater to contamination from the site;
- The Aquifer Classification for the aquifer area where the site is located;
- The concentrations of chlorinated drycleaning solvents in the soil of the site; and
- The location of the site if it is within:
  - One half mile of an uncontaminated surface water body used as a permitted public water system;
  - One half mile of an Outstanding Florida Water body;
  - One quarter mile of a surface water body; or
  - One quarter mile of an area of critical state concern.

---

<sup>40</sup> *Id.*

<sup>41</sup> Section 376.3078(3)(e), F.S.

<sup>42</sup> Section 376.3078(7), F.S.

<sup>43</sup> Section 376.3078(8), F.S.

Scored sites are incorporated into the priority list on a quarterly basis with the ranking of all sites adjusted accordingly. Assignments for program tasks to be conducted by state contractors are made according to the current priority list and based on criteria DEP determines is necessary to achieve cost-effective site rehabilitation. Regardless of the score of a site, DEP may initiate emergency action for those sites that are a threat to human health and safety, or where failure to prevent migration of drycleaning solvents would cause irreversible damage to the environment.<sup>44</sup>

### ***Contaminated Site Cleanup Criteria***

DEP rules establish criteria for the purpose of determining, on a site-specific basis, a site rehabilitation program and the level at which a site rehabilitation program may be deemed completed. These rules incorporate to the maximum extent feasible, risk-based corrective action principles to achieve protection of human health and safety and the environment in a cost-effective manner.<sup>45</sup> For site rehabilitation to reach a status of site closure or “no further action,” often appropriate institutional controls must be agreed to by the owner and applicant and implemented for the site. Institutional controls are the restrictions on use of, or access to, a site such as deed restrictions, restrictive covenants, or conservation easements to eliminate or minimize exposure to petroleum products’ chemicals of concern, drycleaning solvents, or other contaminants.<sup>46</sup>

### ***Average Costs and Budget Projections***

The cost for cleanup at a site varies greatly depending on the extent of contamination. Typically, sites that transition quickly from assessment to no further action (closure), have lower average costs than sites that remain in the cleanup process. The below chart includes the average costs per phase of cleanup for no further action (closed) sites, and the average costs per phase for sites that are still undergoing cleanup (active) sites. This provides the range in costs associated with closed and active sites.

Phase of Cleanup	Assessment	Design	Remedial Action	Operation & Maintenance	Monitoring	Interim Remedial Measure	Total Average Cost
Closed Sites	\$96,038	\$20,516	\$98,817	\$84,160	\$31,347	\$59,954	\$184,469
Active Sites	\$147,211	\$55,598	\$257,120	\$212,836	\$49,390	\$86,511	\$578,605

Annual budget projections require the Drycleaning Solvent Cleanup Program to track average costs associated with each phase of cleanup, and to anticipate the number of sites that will transition from one phase of cleanup to the next. Based on a dataset of 322 sites, where the remedy has been selected or the site has been closed, approximately 72 percent of all sites will require active remediation to reach closure, 10 percent will require monitoring only to reach closure, and 18 percent will meet the requirements for no further action following the site assessment. The average cost for site closure will depend on the type of closure achieved (active

<sup>44</sup> Section 376.3078(7) and (8), F.S.

<sup>45</sup> Fla. Admin. Code Ch. 62-780.

<sup>46</sup> Section 376.301(22), F.S.

remediation, monitoring only, or no further action), as shown below.<sup>47</sup>

Sites Issued a Site Rehabilitation Completion Order (Closure) following:	Average Cost
Active Remediation	\$306,462
Monitoring Only	\$138,308
No Further Action	\$62,419

## The Brownfields Redevelopment Act

The term “brownfield” was originally coined in the 1970s and referred to any previously developed property, regardless of any contamination issues. The term as it is currently used is defined by the U.S. Environmental Protection Agency (EPA) as, “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant.”<sup>48</sup> In 1995, the EPA created the Brownfields Program in order to manage contaminated property through site remediation and redevelopment. The program was designed to provide local communities access to federal funds allocated for redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.<sup>49</sup>

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).<sup>50</sup> The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.<sup>51</sup> The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.<sup>52</sup>

---

<sup>47</sup> Email message dated March 12, 2017, from Wayne Kiger, Director’s Office, Division of Waste Management, Florida Department of Environmental Protection (on file with the Senate Committee on Environmental Preservation and Conservation).

<sup>48</sup> Robert A. Jones and William F. Welsh, Michigan Brownfield Redevelopment Innovation: Two Decades of Success 2 (Sept. 2010), available at <http://www.miseagrant.umich.edu/downloads/focus/brownfields/10-201-EMU-Final-Report.pdf> (last visited March 10, 2017).

<sup>49</sup> The Florida Brownfields Association, Brownfields 101 2, available at <http://c.ymcdn.com/sites/www.floridabrownfields.org/resource/resmgr/imported/Brownfields101.pdf> (last visited March 10, 2017).

<sup>50</sup> Ch. 97-173, s. 1, Laws of Fla.

<sup>51</sup> DEP, Florida Brownfields Redevelopment Act-1998 Annual Report 1 (1998), available at [http://www.dep.state.fl.us/waste/quick\\_topics/publications/wc/brownfields/leginfo/1998/98final.pdf](http://www.dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/leginfo/1998/98final.pdf) (last visited March 10, 2017).

<sup>52</sup> Section 376.82, F.S.

### ***Voluntary Cleanup Tax Credits***

In 1998, the Florida Legislature established the Voluntary Cleanup Tax Credit (VCTC) Program to provide an incentive for the voluntary cleanup of drycleaning solvent-contaminated sites and brownfield sites in designated brownfield areas (s. 376.30781, F.S.). At these sites, a tax credit of 50 percent is allowed for the cost of voluntary cleanup activity that is integral to site rehabilitation, with a maximum of \$500,000 per site per year. Additionally, at brownfield sites in designated brownfield areas, a one-time 50 percent tax credit is allowed for solid waste removal, with a maximum of \$500,000 per site. Tax credits may be applied to state corporate income tax. Effective July 1, 2011, the Legislature increased the annual tax credit authorization from \$2 million to \$5 million. The VCTC Program has approved \$66,875,735 in tax credits since it began. However, approved applications must wait until sufficient credits exist to claim them.<sup>53</sup>

Effective July 1, 2015, the Legislature approved a one-time VCTC authorization of \$21.6 million. This authorization was only effective through June 30, 2016. On July 1, 2016, the annual VCTC authorization returned to \$5 million per year.<sup>54</sup> The additional authorization allowed DEP to issue certificates for all approved tax credits, eliminating the backlog.<sup>55</sup>

The Brownfields and VCTC Programs have been successful in promoting the cleanup and redevelopment of contaminated, underutilized properties. The one-time increase in the annual authorized VCTC funding level addressed all approved tax credits through June 30, 2015. However, as shown in the figure below, since 2007, the approved tax credits have exceeded the available authorization, and since 2012, the approved tax credits have averaged more than \$8.3 million per year. If the dollar amount of future tax credit applications remains consistent with the previous 5 years, the backlog for un-issued tax credits will continue to grow. As of the issuance of the August 2016 Brownfields Redevelopment Program Report, DEP anticipated, with the \$5 million authorization available July 1, 2016, it will issue tax credit certificates to 33 of the 99 applicants for 2015 expenditures. Sixty-four applicants will receive their tax credits in July 2017 and nine applicants will receive their tax credits in July 2018.<sup>56</sup>

---

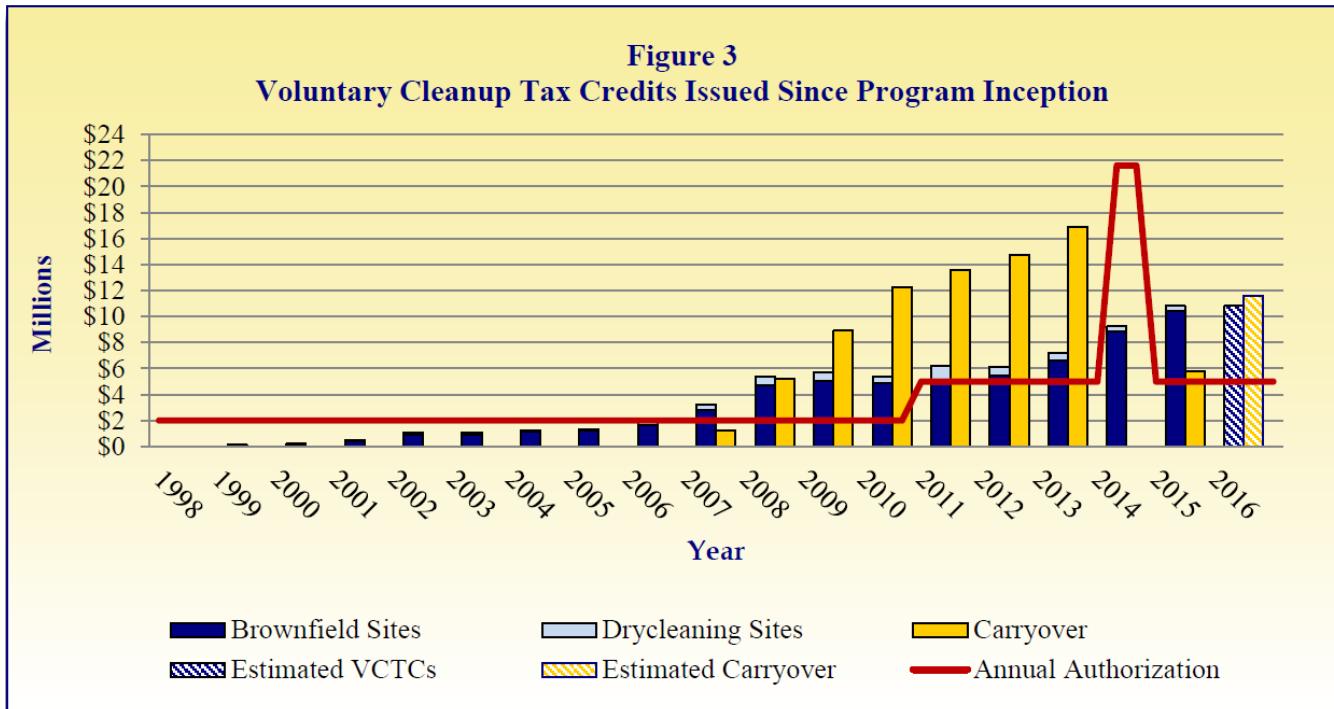
<sup>53</sup> DEP, *Florida Brownfields Redevelopment Program Annual Report* (2016),

[http://dep.state.fl.us/waste/quick\\_topics/publications/wc/brownfields/AnnualReport/2016/2015-16\\_FDEP\\_Annual.pdf](http://dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf)

<sup>54</sup> Section 376.30781(4), F.S.

<sup>55</sup> *Id.*

<sup>56</sup> *Id.*



### III. Effect of Proposed Changes:

#### Advanced Cleanup - Property Redevelopment

CS/SB 1018 adds legislative findings regarding the rehabilitation of a site contaminated by discharges of petroleum or petroleum products in advance of its priority ranking. The bill contains findings that the inability to advance a site's priority ranking may substantially impede or prohibit property redevelopment and that it is in the public interest and of substantial economic benefit to the state to advance site rehabilitation on a limited basis in order to encourage property redevelopment.

The bill creates a separate procedure and criteria for the advancement ahead of its priority ranking of an individual contamination site slated for property redevelopment. The submittal of advanced cleanup applications for such sites are not limited to the two annual application periods from May 1 through June 30 and from November 1 through December 31, as are all other advanced cleanup applications, but are instead accepted on a first-come, first-served basis. Applicants for the advanced cleanup of individual contamination sites slated for redevelopment are also not subject to the 25 percent cost share copayment commitment required of other advanced cleanup applicants provided they demonstrate, as deemed acceptable by DEP, that the following have been included in their applications for cleanup:

- Certification that:
  - The applicant has consulted with the local government having jurisdiction over the area about the proposed redevelopment of the site;
  - The local government is in agreement with or approves the proposed redevelopment; and
  - The proposed redevelopment complies with applicable laws and requirements for such redevelopment; and

- A demonstrated reasonable assurance that the applicant has sufficient financial resources to implement and complete the redevelopment project.

The certifications required to be included in the site redevelopment advanced cleanup application are sufficient if the application is accompanied by one or more of the following:

- A legally recorded or officially approved land use or site plan or a reference to such recorded or approved use or plan;
- A development order or approval;
- A building permit;
- A similar official document issued by the local government which reflects the local government's approval of the proposed redevelopment of the site; or
- A letter from the local government which describes the proposed redevelopment of the site and expresses the local government's agreement with or approval of the proposed redevelopment.

The bill also increases the dollar amount of the contracts for advance cleanup work into which DEP is authorized to enter from \$25 million to a total of \$30 million in each fiscal year. DEP is authorized to designate up to \$5 million of those funds for the advance cleanup of individual contaminated sites that meet the criteria in the bill for redevelopment. A single facility or applicant for advance cleanup of an individual contaminated site slated for redevelopment may not be approved for more than \$1 million of cleanup activity per fiscal year.

### **Advanced Site Assessment - Drycleaning**

CS/SB 1018 makes a finding that it is in the public interest and of substantial environmental and economic benefit to the state to conduct site assessments on a limited basis at sites contaminated with drycleaning solvents in advance of the priority ranking of contaminated sites.

The bill provides that a property owner who is eligible for site rehabilitation under the drycleaning solvent cleanup program may request, and DEP may authorize, an advanced site assessment if the following criteria are met:

- Information from the site assessment would be sufficient for DEP to better evaluate the actual risk of the contamination, reducing the risk to public health and the environment;
- The property owner agrees to:
  - Implement the appropriate institutional controls at the time the owner requests the advanced site assessment; and
  - Upon completion of the cleanup, implement and maintain the required institutional controls, or a combination of institutional and engineering controls, when the site meets site rehabilitation criteria for closure with controls in accordance with DEP rules for site rehabilitation;
- Current conditions at the site allow the site assessment to be conducted in a manner that will result in cost savings to the Water Quality Assurance Trust Fund;
- The annual Water Quality Assurance Trust Fund appropriation for the drycleaning solvent cleanup program is sufficient to pay for the site assessment; and
- The property owner provides access to the site and has paid the appropriate deductible amount depending on when contamination was reported to DEP as part of a completed

application for the Drycleaning Contamination Cleanup Program to rehabilitate the drycleaning facility.

The bill also provides that a site may be assessed out of priority ranking order at DEP's discretion when the site assessment will provide a cost savings to the program.

The bill requires an advanced site assessment under the drycleaning solvent cleanup program to incorporate risk-based corrective action principles to achieve protection of human health and safety and the environment in a cost-effective manner, in accordance with DEP rules for site rehabilitation. The advanced site assessment must also be sufficient to estimate the cost of cleanup, the proposed course of action for site cleanup, and that the site is appropriate for one of the following:

- Remedial action at the site to mitigate risks that, in the judgment of DEP, are a threat to human health or where failure to prevent migration of drycleaning solvents would cause irreversible damage to the environment;
- Additional groundwater monitoring at the site to support natural attenuation monitoring or long-term groundwater monitoring; or
- A recommendation of "no further action," with or without institutional controls or institutional and engineering controls, if the site meets the "no further action" criteria in accordance with DEP rules for site rehabilitation.

If the site is not appropriate for one of these actions, it is not eligible for advanced site assessment. DEP must notify the property owner in writing of this determination and return the site to the priority ranking order based on its priority score.

The bill requires that advanced site assessment program tasks be assigned by the drycleaning solvent cleanup program. Task assignment must be based on:

- The potential for the development of new site assessment information to allow DEP to better evaluate the actual risk of the contamination;
- Compatibility with appropriate institutional controls or a combination of institutional and engineering controls;
- The potential for cost savings to the Water Quality Assurance Trust Fund;
- The availability of funds from the annual Water Quality Assurance Trust Fund appropriation for the drycleaning solvent program;
- DEP's determination of contractor logistics;
- Geographical considerations; and
- Other criteria that DEP determines are necessary to achieve the most cost-effective approach.

The bill limits available funding for advanced site assessments to 10 percent of the annual Water Quality Assurance Trust Fund appropriation for the drycleaning solvent cleanup program. The total funds that may be committed to any one site are capped at \$70,000. DEP must prioritize requests for advanced site assessment at sites under the drycleaning solvent cleanup program based on the date of receipt and the environmental and economic value to the state until the available funding for advanced site assessments has been obligated.

## **Voluntary Cleanup Tax Credit (VCTC) Funding**

The bill increases the annual cap on voluntary cleanup tax credits from \$5 million to \$10 million.<sup>57</sup>

The bill takes effect July 1, 2017.

## **IV. Constitutional Issues:**

### **A. Municipality/County Mandates Restrictions:**

Not applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

### **B. Public Records/Open Meetings Issues:**

None.

### **C. Trust Funds Restrictions:**

None.

## **V. Fiscal Impact Statement:**

### **A. Tax/Fee Issues:**

None.

### **B. Private Sector Impact:**

The bill should have a positive fiscal impact on the private sector. Redevelopment of property will be encouraged by an additional \$5 million available annually for petroleum contamination site rehabilitation for sites proposed for redevelopment. Also, an additional \$5 million in funds will be available for voluntary cleanup corporate income tax credits for the rehabilitation of dry-cleaning solvent contaminated sites or brownfield sites.

### **C. Government Sector Impact:**

The bill will have a \$5 million recurring impact to the Inland Protection Trust Fund. The bill will have a \$5 million recurring impact to the General Revenue Fund by increasing the annual cap on the VCTC.

---

<sup>57</sup> Sections 220.1845 and 376.30781, F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill amends sections 376.30713, 376.3078, and 376.86 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 Environmental Preservation and Conservation on March 14, 2017:**

- Removes unnecessary language that was inserted into the “emergency action” exception to the drycleaning rehabilitation scoring criteria. New subsection (14) in s. 376.308, F.S., already makes it clear that advance assessments are not subject to the scoring criteria.
- Increases the annual cap for the VCTC. The CS replaces the modification in the bill to the brownfield areas loan guaranty program, which had been intended to have the same practical effect.

**B. Amendments:**

None.

---

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

---



LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

---

The Committee on Environmental Preservation and Conservation (Grimsley) recommended the following:

1                   **Senate Amendment (with title amendment)**

2  
3                   Delete lines 194 - 205

4 and insert:

5                   Section 2. Subsection (14) is added to section 376.3078,  
6 Florida Statutes, to read:

7                   376.3078 Drycleaning facility restoration; funds; uses;  
8 liability; recovery of expenditures.—

9  
10 ===== T I T L E    A M E N D M E N T =====



11 And the title is amended as follows:  
12 Delete lines 17 - 19  
13 and insert:  
14 376.3078, F.S.; providing a statement of public



762006

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/14/2017	.	
	.	
	.	
	.	

---

The Committee on Environmental Preservation and Conservation (Grimsley) recommended the following:

1                   **Senate Amendment (with title amendment)**

2

3                   Delete lines 290 - 299

4 and insert:

5                   Section 3. Paragraph (f) of subsection (2) of section  
6 220.1845, Florida Statutes, is amended to read:

7                   220.1845 Contaminated site rehabilitation tax credit.—

8                   (2) AUTHORIZATION FOR TAX CREDIT; LIMITATIONS.—

9                   (f) The total amount of the tax credits which may be  
10 granted under this section is \$21.6 million in the 2015-2016



762006

11 fiscal year, and \$5 million in the 2016-2017 fiscal year, and  
12 \$10 million annually thereafter.

13 Section 4. Subsection 4 of section 376.30781, Florida  
14 Statutes, is amended to read:

15 376.30781 Tax credits for rehabilitation of drycleaning-  
16 solvent-contaminated sites and brownfield sites in designated  
17 brownfield areas; application process; rulemaking authority;  
18 revocation authority.—

19 (4) The Department of Environmental Protection is  
20 responsible for allocating the tax credits provided for in s.  
21 220.1845, which may not exceed a total of \$21.6 million in tax  
22 credits in the 2015-2016 fiscal year, and \$5 million in tax  
23 credits in the 2016-2017 fiscal year, and \$10 million in tax  
24 credits annually thereafter.

25  
26 ===== T I T L E A M E N D M E N T =====  
27 And the title is amended as follows:

28 Delete lines 27 - 30  
29 and insert:

30 requests; amending s. 220.1845, F.S.; increasing the  
31 total amount of an authorization for tax credits;  
32 amending s. 376.30781, F.S.; increasing the total  
33 amount of tax credits the department is responsible  
34 for allocating; providing an effective

**By** Senator Grimsley

26-00417B-17

20171018

26-00417B-17

20171018

30 tax credit authorizations; providing an effective  
31 date.

32

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

34

35 Section 1. Paragraphs (a) and (c) of subsection (1) and  
36 subsections (2) and (4) of section 376.30713, Florida Statutes,  
37 are amended to read:

38 376.30713 Advanced cleanup.—

39 (1) In addition to the legislative findings provided in s.  
40 376.3071, the Legislature finds and declares:

41 (a) That the inability to conduct site rehabilitation in  
42 advance of a site's priority ranking pursuant to s.

43 376.3071(5)(a) may substantially impede or prohibit property  
44 redevelopment, property transactions, or the proper completion  
45 of public works projects.

46 (c) It is in the public interest and of substantial  
47 economic benefit to the state to provide an opportunity for site  
48 rehabilitation to be conducted on a limited basis at  
49 contaminated sites, in advance of the site's priority ranking,  
50 to encourage redevelopment and facilitate property transactions  
51 or public works projects.

52 (2) The department may approve an application for advanced  
53 cleanup at eligible sites, notwithstanding the site's priority  
54 ranking established pursuant to s. 376.3071(5)(a), pursuant to  
55 this section. Only the facility owner or operator or the person  
56 otherwise responsible for site rehabilitation qualifies as an  
57 applicant under this section.

58 (a) Advanced cleanup applications may be submitted between

26-00417B-17

20171018

59 May 1 and June 30 and between November 1 and December 31 of each  
60 fiscal year. Applications submitted between May 1 and June 30  
61 shall be for the fiscal year beginning July 1. An application  
62 must consist of:

63 1. A commitment to pay 25 percent or more of the total  
64 cleanup cost deemed recoverable under this section along with  
65 proof of the ability to pay the cost share or a demonstration  
66 that the applicant is in compliance with sub-sub-subparagraphs  
67 c.(I) and (II). The department shall determine whether the cost  
68 savings or compliance demonstration is acceptable. Such  
69 determination is not subject to chapter 120.

70 a. Applications for the aggregate cleanup of five or more  
71 sites may be submitted in one of two formats to meet the cost-  
72 share requirement:

73 (I) For an aggregate application proposing that the  
74 department enter into a performance-based contract, the  
75 applicant may use a commitment to pay, a demonstrated cost  
76 savings to the department, or both to meet the requirement.

77 (II) For an aggregate application relying on a demonstrated  
78 cost savings to the department, the applicant shall, in  
79 conjunction with the proposed agency term contractor, establish  
80 and provide in the application the percentage of cost savings in  
81 the aggregate that is being provided to the department for  
82 cleanup of the sites under the application compared to the cost  
83 of cleanup of those same sites using the current rates provided  
84 to the department by the proposed agency term contractor.

85 b. Applications for the cleanup of individual sites may be  
86 submitted in one of two formats to meet the cost-share  
87 requirement:

26-00417B-17

20171018

88       (I) For an individual application proposing that the  
89 department enter into a performance-based contract, the  
90 applicant may use a commitment to pay, a demonstrated cost  
91 savings to the department, or both to meet the requirement.

92       (II) For an individual application relying on a  
93 demonstrated cost savings to the department, the applicant  
94 shall, in conjunction with the proposed agency term contractor,  
95 establish and provide in the application a 25-percent cost  
96 savings to the department for cleanup of the site under the  
97 application compared to the cost of cleanup of the same site  
98 using the current rates provided to the department by the  
99 proposed agency term contractor.

100       2. A nonrefundable review fee of \$250 to cover the  
101 administrative costs associated with the department's review of  
102 the application.

103       3. A limited contamination assessment report.

104       4. A proposed course of action.

105       5. A department site access agreement, or similar  
106 agreements approved by the department that do not violate state  
107 law, entered into with the property owner or owners, as  
108 applicable, and evidence of authorization from such owner or  
109 owners for petroleum site rehabilitation program tasks  
110 consistent with the proposed course of action where the  
111 applicant is not the property owner for any of the sites  
112 contained in the application.

113  
114       The limited contamination assessment report must be sufficient  
115 to support the proposed course of action and to estimate the  
116 cost of the proposed course of action. Costs incurred related to

26-00417B-17

20171018

117 conducting the limited contamination assessment report are not  
118 refundable from the Inland Protection Trust Fund. Site  
119 eligibility under this subsection or any other provision of this  
120 section is not an entitlement to advanced cleanup or continued  
121 restoration funding. The applicant shall certify to the  
122 department that the applicant has the prerequisite authority to  
123 enter into an advanced cleanup contract with the department. The  
124 certification must be submitted with the application.

125 c. Applications for the cleanup of individual redevelopment  
126 sites are not subject to the application period limitations  
127 specified in paragraph (a) or to the cost-share provisions in  
128 paragraph (1) (d) and are accepted on a first-come, first-served  
129 basis. Applications for the cleanup of individual redevelopment  
130 sites must include:

131 (I) Certification that the applicant has consulted with the  
132 local government having jurisdiction over the area about the  
133 proposed redevelopment of the site, that the local government is  
134 in agreement with or approves the proposed redevelopment, and  
135 that the proposed redevelopment complies with applicable laws  
136 and requirements for such redevelopment. The certification shall  
137 be accomplished by referencing or providing a legally recorded  
138 or officially approved land use or site plan, a development  
139 order or approval, a building permit, or a similar official  
140 document issued by the local government which reflects the local  
141 government's approval of the proposed redevelopment of the site  
142 or by providing a letter from the local government which  
143 describes the proposed redevelopment of the site and expresses  
144 the local government's agreement with or approval of the  
145 proposed redevelopment.

26-00417B-17

20171018

146        (II) A demonstrated reasonable assurance that the applicant  
147 has sufficient financial resources to implement and complete the  
148 redevelopment project.

149        (b) The department shall rank the applications specified in  
150 sub-subparagraphs (a)1.a. and b. based on the percentage of  
151 cost-sharing commitment proposed by the applicant, with the  
152 highest ranking given to the applicant who proposes the highest  
153 percentage of cost sharing. If the department receives  
154 applications that propose identical cost-sharing commitments and  
155 that exceed the funds available to commit to all such proposals  
156 during the advanced cleanup application period, the department  
157 shall proceed to rerank those applicants. Those applicants  
158 submitting identical cost-sharing proposals that exceed funding  
159 availability must be so notified by the department and offered  
160 the opportunity to raise their individual cost-share  
161 commitments, in a period specified in the notice. At the close  
162 of the period, the department shall proceed to rerank the  
163 applications pursuant to this paragraph.

164        (4) The department may enter into contracts for a total of  
165 up to \$30 \$25 million of advanced cleanup work in each fiscal  
166 year. Up to \$5 million of these funds may be designated for  
167 cleanup of individual redevelopment sites as referenced in sub-  
168 subparagraph (2)(a)1.c.

169        (a) However, A facility or an applicant who bundles  
170 multiple sites as specified in subparagraph (2)(a)1. may not be  
171 approved for more than \$5 million of cleanup activity in each  
172 fiscal year.

173        (b) A facility or an applicant applying for cleanup of  
174 individual redevelopment sites as referenced in sub-subparagraph

26-00417B-17

20171018

175 (2) (a)1.c. may not be approved for more than \$1 million of  
176 cleanup activity in each fiscal year.

177       (c) A property owner or responsible party may enter into a  
178 voluntary cost-share agreement in which the property owner or  
179 responsible party commits to bundle multiple sites and lists the  
180 facilities that will be included in those future bundles. The  
181 facilities listed are not subject to agency term contractor  
182 assignment pursuant to department rule. The department reserves  
183 the right to terminate or amend the voluntary cost-share  
184 agreement for any identified site under the voluntary cost-share  
185 agreement if the property owner or responsible party fails to  
186 submit an application to bundle any site, not already covered by  
187 an advance cleanup contract, under such voluntary cost-share  
188 agreement within a subsequent open application period during  
189 which it is eligible to participate. For the purposes of this  
190 section, the term "facility" includes, but is not limited to,  
191 multiple site facilities such as airports, port facilities, and  
192 terminal facilities even though such enterprises may be treated  
193 as separate facilities for other purposes under this chapter.

194       Section 2. Paragraph (h) of subsection (8) of section  
195 376.3078, Florida Statutes, is amended, and subsection (14) is  
196 added to that section, to read:

197       376.3078 Drycleaning facility restoration; funds; uses;  
198 liability; recovery of expenditures.—

199       (8) SCORING SYSTEM APPLICATION.—

200       (h) Regardless of the score of a site, the department may  
201 initiate site assessment and remediation activities, or  
202 emergency action, for those sites that, in the judgment of the  
203 department, are a threat to human health and safety, or where

26-00417B-17

20171018

204 failure to prevent migration of drycleaning solvents would cause  
205 irreversible damage to the environment.

206 (14) ADVANCED SITE ASSESSMENT.—It is in the public  
207 interest, and of substantial environmental and economic benefit  
208 to the state, to provide an opportunity to conduct site  
209 assessment on a limited basis at contaminated sites in advance  
210 of the ranking of the sites on the priority list as specified in  
211 subsection (8).

212 (a) A real property owner who is eligible for site  
213 rehabilitation at a facility that has been determined eligible  
214 for the drycleaning solvent cleanup program under this section  
215 may request an advanced site assessment, and the department may  
216 authorize the performance of a site assessment in advance of the  
217 ranking of the site on the priority list as specified in  
218 subsection (8), if the following criteria are met:

219 1. The site assessment information would provide new  
220 information that would be sufficient for the department to  
221 better evaluate the actual risk of the contamination, thereby  
222 reducing the risk to public health and the environment;

223 2. The property owner agrees:

224 a. To implement the appropriate institutional controls  
225 allowed by department rules adopted pursuant to subsection (4)  
226 at the time the property owner requests the advanced site  
227 assessment; and

228 b. To implement and maintain, upon completion of the  
229 cleanup, the required institutional controls, or a combination  
230 of institutional and engineering controls, when the site meets  
231 the site rehabilitation criteria for closure with controls in  
232 accordance with department rules adopted pursuant to subsection

26-00417B-17

20171018

233 (4);

234 3. Current conditions at the site allow the site assessment  
235 to be conducted in a manner that will result in cost savings to  
236 the Water Quality Assurance Trust Fund;

237 4. There is sufficient money in the annual Water Quality  
238 Assurance Trust Fund appropriation for the drycleaning solvent  
239 cleanup program to pay for the site assessment; and

240 5. In accordance with subsection (3), access to the site is  
241 provided and the deductible is paid.

242 (b) A site may be assessed out of priority ranking order  
243 when, at the department's discretion, the site assessment will  
244 provide a cost savings to the program.

245 (c) An advanced site assessment must incorporate risk-based  
246 corrective action principles to achieve protection of human  
247 health and safety and the environment in a cost-effective  
248 manner, in accordance with subsection (4). The site assessment  
249 must also be sufficient to estimate the cost and determine the  
250 proposed course of action toward site cleanup. Advanced site  
251 assessment activities performed under this subsection shall be  
252 designed to affirmatively demonstrate that the site meets one of  
253 the following findings based on the following specified  
254 criteria:

255 1. Recommend remedial action to mitigate risks that, in the  
256 judgment of the department, are a threat to human health or  
257 where failure to prevent migration of drycleaning solvents would  
258 cause irreversible damage to the environment;

259 2. Recommend additional groundwater monitoring to support  
260 natural attenuation monitoring or long-term groundwater  
261 monitoring; or

26-00417B-17

20171018

262       3. Recommend "no further action," with or without  
263       institutional controls or institutional and engineering  
264       controls, for those sites that meet the "no further action"  
265       criteria department rules adopted pursuant to subsection (4).

266

267       If the site does not meet one of the findings specified in  
268       subparagraphs 1.-3., the department shall notify the property  
269       owner in writing of this decision, and the site shall be  
270       returned to its priority ranking order in accordance with its  
271       score.

272       (d) Advanced site assessment program tasks shall be  
273       assigned by the drycleaning solvent cleanup program. In addition  
274       to the provisions in paragraph (a), the assignment of site  
275       assessment tasks shall be based on the department's  
276       determination of contractor logistics, geographical  
277       considerations, and other criteria that the department  
278       determines are necessary to achieve the most cost-effective  
279       approach.

280       (e) Available funding for advanced site assessments may not  
281       exceed 10 percent of the annual Water Quality Assurance Trust  
282       Fund appropriation for the drycleaning solvent cleanup program.

283       (f) The total funds committed to any one site may not  
284       exceed \$70,000.

285       (g) The department shall prioritize the requests for  
286       advanced site assessment, based on the date of receipt and the  
287       environmental and economic value to the state, until 10 percent  
288       of the annual Water Quality Assurance Trust Fund appropriation,  
289       as provided in paragraph (e), has been obligated.

290       Section 3. Subsection (9) is added to section 376.86,

26-00417B-17

20171018

291 Florida Statutes, to read:

292 376.86 Brownfield Areas Loan Guarantee Program.—

293 (9) Funds not pledged by the council for loan guarantees or  
294 as loan loss reserves pursuant to this section must be made  
295 available annually for the voluntary cleanup tax credit  
296 authorizations provided in ss. 220.1845 and 376.30781. By June 1  
297 of each year, the department shall determine the amount of funds  
298 that will be made available for the voluntary tax credit  
299 authorizations specified in this subsection.

300 Section 4. This act shall take effect July 1, 2017.

Amended

Sct#9

A black and white copy of this document is not official

2405

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

*Jonathan M. Costello*

is duly appointed a member of the  
Governing Board,  
Northwest Florida Water Management District

for a term beginning on the Second day of August, A.D., 2016, until  
the First day of March, A.D., 2020 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 Thirtieth day of November, A.D., 2016.



*Ken Detzner*

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.

"State of Florida" appears in small letters across the face of this 8 1/2 x 11" document.



**RICK SCOTT**  
GOVERNOR

RECEIVED

16 AUG -9 AM 9:21

DIVISION OF ELECTIONS  
SECRETARY OF STATE

August 3, 2016

Kenneth W. Detzner  
Secretary of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 373.073, Florida Statutes:

Mr. Jonathan Matthew Costello  
2566 Twain Drive  
Tallahassee, Florida 32311

as a member of the Governing Board, Northwest Florida Water Management District, subject to confirmation by the Senate. This appointment is effective August 2, 2016, for a term ending March 1, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/aa

HAND DELIVERED

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Leon

RECEIVED  
DEPARTMENT OF STATE

16 SEP 29 PM 4:28

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

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

Northwest Florida Water Management District Governing Board Member  
(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.]

Jonathan M. Costello  
Signature

Sworn to and subscribed before me this 29 day of September

Ruthie J. Dickson  
Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR Produced Identification

Type of Identification Produced \_\_\_\_\_

# ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

2566 TWAIN DR.

Street or Post Office Box

Tallahassee, FL 32311

City, State, Zip Code

Jonathan M. Costello

Print name as you desire commission issued

Jonathan M. Costello  
Signature

2405

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

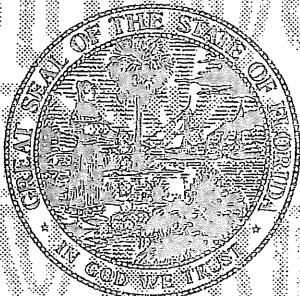
*Samuel R. Spring*

is duly appointed a member of the

Governing Board,  
Northwest Florida Water Management  
District

for a term beginning on the Second day of August, A.D., 2016,  
until the First day of March, A.D., 2020 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 Thirtieth day of September, A.D., 2016.



*Ken Detzner*

Secretary of State



**RICK SCOTT**  
GOVERNOR

RECEIVED

16 AUG -9 AM 9:21

DIVISION OF ELECTIONS  
SECRETARY OF STATE

August 3, 2016

Kenneth W. Detzner  
Secretary of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 373.073, Florida Statutes:

Mr. Samuel Read Bolton Spring  
519 Windmark Way  
Port Saint Joe, Florida 32456

as a member of the Governing Board, Northwest Florida Water Management District, subject to confirmation by the Senate. This appointment is effective August 2, 2016, for a term ending March 1, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/aa

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Gulf

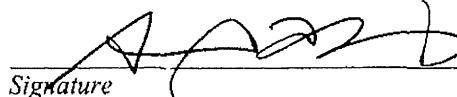
I do solemnly swear (or affirm) that I will support, protect, and defend the Constitution and Government of the United States and of the State of Florida; that I am duly qualified to hold office under the Constitution of the State, and that I will well and faithfully perform the duties of

Governing Board Member, Northwest Florida Water Management District

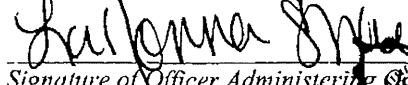
(Title of Office)

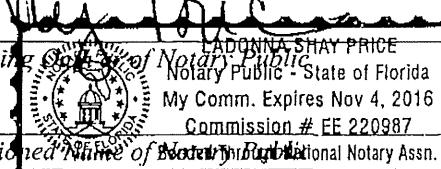
on which I am now about to enter, so help me God.

[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

  
Signature

Sworn to and subscribed before me this 23<sup>rd</sup> day of Sept, 2016

  
Signature of Officer Administering Oath

  
DONNA SHAY PRICE  
Notary Public - State of Florida  
My Comm. Expires Nov 4, 2016  
Commission # FF 220987

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR  Produced Identification   
Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

519 Windmark Way

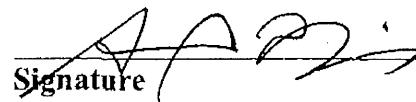
Street or Post Office Box

Port Saint Joe, FL 32456

City, State, Zip Code

Samuel R. Spring

Print name as you desire commission issued

  
Signature

2420

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

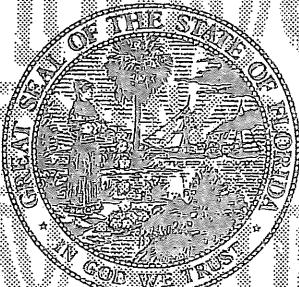
*John P. Browning, Jr.*

is duly appointed a member of the

**Governing Board,  
Saint Johns River Water Management  
District**

for a term beginning on the Fourteenth day of March, A.D.,  
2016, until the First day of March, A.D., 2020 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 Twenty-Seventh day of June, A.D., 2016.



*Ken Detzner*

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.

"State of Florida" appears in small letters across the face of this 8 1/2" x 11" document.



**RICK SCOTT**  
GOVERNOR

RECEIVED  
DEPARTMENT OF STATE  
2016 APR - 1 AM 8:54  
DIVISION OF ELECTIONS  
TALLAHASSEE, FL

March 15, 2016

Secretary Kenneth W. Detzner  
Department of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes:

Mr. John P. Browning Jr.  
119 Browning Lane  
East Palatka, Florida 32131

as a member of the Governing Board, St. Johns River Water Management District, succeeding George Robbins, subject to confirmation by the Senate. This appointment is effective March 14, 2016, for a term ending March 1, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/cw

# OATH OF OFFICE

(Art. II. § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Putnam

RECEIVED  
DEPARTMENT OF STATE

2016 JUN 15 AM 9:39

DIVISION OF ELECTIONS  
TALLAHASSEE, FL

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

Governing Board Member St Johns River Water Management  
(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

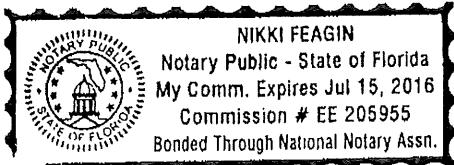
Sworn to and subscribed before me this 7 day of JUNE 2014.

Nikki Feagin  
Signature of Officer Administering Oath or of Notary Public

Nikki Feagin  
Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR      Produced Identification

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

450 Hwy 17 S  
Street or Post Office Box

San Mateo, FL 32187  
City, State, Zip Code

John P. Browning, Jr.  
Print name as you desire commission issued

Signature

2420

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

*Douglas C. Bournique*

is duly appointed a member of the

**Governing Board,  
Saint Johns River Water Management  
District**

for a term beginning on the Twenty-Ninth day of July, A.D., 2016, until the First day of March, A.D., 2020 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 Twenty-Ninth day of September, A.D., 2016.

*Ken Detzner*

Secretary of State





**RICK SCOTT**  
GOVERNOR

RECEIVED  
16 AUG -9 AM 9:22  
DIVISION OF ELECTIONS  
SECRETARY OF STATE

August 3, 2016

Kenneth W. Detzner  
Secretary of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 373.073, Florida Statutes:

Mr. Douglas Clement Bournique  
1145 Pegasus Place  
Vero Beach, Florida 32963

as a member of the Governing Board, St. Johns River Water Management District, subject to confirmation by the Senate. This appointment is effective July 29, 2016, for a term ending March 1, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/aa

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

16 AUG 25 AM 9:27

STATE OF FLORIDA

County of St. Lucie

DIVISION OF ELECTIONS  
SECRETARY OF STATE

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

St. Johns River Water Management District Governing Board Member

(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

Douglas C. Bournique

Sworn to and subscribed before me this 22 day of August 2016.

Karen S. Smith

Signature of Officer Administering Oath or of Notary Public

Karen S. Smith

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR

Produced Identification

Type of Identification Produced



KAREN S. SMITH  
MY COMMISSION # FF 01  
EXPIRES: February 21,  
Banded Thru Budget Notary Se

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

2001 S. Rock Road

Street or Post Office Box

Ft. Pierce, FL 34945

City, State, Zip Code

Douglas C. Bournique

Print name as you desire commission issued

Douglas C. Bournique

2435

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

*Federico E. Fernandez*

is duly appointed a member of the

Governing Board,  
South Florida Water Management District

for a term beginning on the Twenty-Sixth day of August, A.D.,  
2016, until the First day of March, A.D., 2020 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 First day of November, A.D., 2016.

*Ken Detzner*

Secretary of State





**RICK SCOTT**  
GOVERNOR

RECEIVED

16 SEP -1 AM 9:14

DIVISION OF ELECTIONS  
SECRETARY OF STATE

August 26, 2016

Kenneth W. Detzner  
Secretary of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following appointment under the provisions of Section 373.073, Florida Statutes:

Mr. Federico Fernandez  
777 Brickell Avenue  
Miami, Florida 33131

As a member of the Governing Board, South Florida Water Management District, succeeding Anne Batchelor-Robjohns, subject to confirmation by the Senate. This appointment is effective August 26, 2016, for a term ending March 1, 2020.

Sincerely,

A handwritten signature in black ink, appearing to read "Rick Scott".

Rick Scott  
Governor

RS/aa

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

16 OCT 28 AM 10:05

County of Miami-Dade

DIVISION OF ELECTIONS  
SECRETARY OF STATE

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

Governing Board Member - South Florida Water Management District

(Title of Office)

on which I am now about to enter, so help me God.

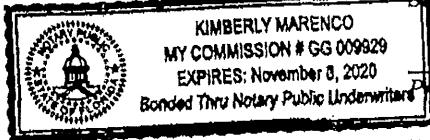
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

*Signature*

Sworn to and subscribed before me this 27 day of October, 2016.

*Kimberly Marenco*

Signature of Officer Administering Oath or of Notary Public



Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR  Produced Identification

Type of Identification Produced \_\_\_\_\_

## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

777 Brickell Ave, Suite 630

Street or Post Office Box

Miami FL, 33131

City, State, Zip Code

Federico E. Fernandez

Print name as you desire commission issued

*Signature*

2435

STATE OF FLORIDA  
DEPARTMENT OF STATE  
Division of Elections

I, Ken Detzner, Secretary of State,  
do hereby certify that

*Daniel T. O'Keefe*

is duly appointed a member of the

**Governing Board,**  
**South Florida Water Management District**

for a term beginning on the Twenty-Sixth day of August, A.D.,  
2016, until the First day of March, A.D., 2020 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 Twenty-Ninth day of September, A.D. 2016.*

*Ken Detzner*

Secretary of State





**RICK SCOTT**  
GOVERNOR

RECEIVED

16 SEP - 1 AM 9:14

DIVISION OF ELECTIONS  
SECRETARY OF STATE

August 26, 2016

Kenneth W. Detzner  
Secretary of State  
State of Florida  
R. A. Gray Building, Room 316  
500 South Bronough Street  
Tallahassee, Florida 32399-0250

Dear Secretary Detzner:

Please be advised I have made the following reappointment under the provisions of Section 373.073, Florida Statutes:

Mr. Daniel O'Keefe  
300 South Orange Avenue  
Suite 1000  
Orlando, Florida 32801

As a member of the Governing Board, South Florida Water Management District, subject to confirmation by the Senate. This appointment is effective August 26, 2016, for a term ending March 1, 2020.

Sincerely,

Rick Scott  
Governor

RS/aa

# OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

STATE OF FLORIDA

County of Orange

RECEIVED  
DEPARTMENT OF STATE  
2016 SEP 28 AM 10:44  
DIVISION OF STATE  
ELECTIONS

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

Member of the Governing Board, South Florida 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.]

Dan O'Keefe  
Signature

Sworn to and subscribed before me this 27<sup>th</sup> day of September, 2016.

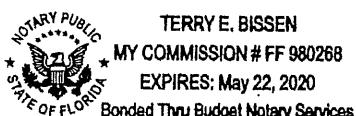
Jerry E. Bissen  
Signature of Officer Administering Oath or of Notary Public

Terry E. Bissen

Print, Type, or Stamp Commissioned Name of Notary Public

Personally Known  OR      Produced Identification

Type of Identification Produced \_\_\_\_\_



## ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address:  Home  Office

300 S. Orange Avenue, Suite 1000

Street or Post Office Box

Orlando, FL 32801

City, State, Zip Code

Daniel T. O'Keefe

Print name as you desire commission issued

Dan O'Keefe  
Signature

## THE FLORIDA SENATE

## APPEARANCE RECORD

1

3/14/17

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

SB 446  
Bill Number (if applicable)

Meeting Date

Topic Underground Facilities

Amendment Barcode (if applicable)

Name Bruce Kershner

Job Title

Address 731 West Bay AvePhone 407-830-1882

Street

LongwoodState FLZip 32750Email RBKershner@att.net

City

Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing Sunshine 811Appearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No\*Not speaking on behalf of lobby client but as Sunshine 811 Board of Dir.  
While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

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

3-14-17

Meeting Date

446

Bill Number (if applicable)

Topic \_\_\_\_\_

Amendment Barcode (if applicable)

Name Dale Calhoun

Job Title \_\_\_\_\_

Address 201 S Monroe St Unit A

Phone 850 681 0496

Street

Tallahassee

FL

32301

State

Zip

City

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Florida Natural Gas Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

3-14-17

Meeting Date

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

SB 446

Bill Number (if applicable)

Topic Underground Utilities

Amendment Barcode (if applicable)

Name Karen Hebrank

Job Title Exec. Vice President

Address 113 East College

Street

Tallahassee

State

FL 32301

Zip

Phone 564-7874

Email Khebrank@wilson  
mgmt.com

Speaking:  For  Against  Information

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

Representing National Utility Contractors Assoc. of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

## APPEARANCE RECORD

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

3/14/17  
Meeting DateSB 874  
Bill Number (if applicable)Topic Nutrient Pollution from Onsite Sewage Treatment Amendment Barcode (if applicable)Name Van B. Poole

Job Title

Address 106 E. College Ave Suite 1100 Phone 850 681-1986

Street

TallahasseeFL32301Email van@poolemcwinley.com

City

State

Zip

Speaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing City of SanibelAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/14/17

Meeting Date

SB 874

Bill Number (if applicable)

Topic SB 874

Amendment Barcode (if applicable)

Name Jim Spratt

Job Title

Address Po Box 10011

Street

TCH

FL

32302

State

Zip

Phone 850-228-1296

Email Jim@magnoliastrategies.com

Speaking:  For  Against  Information

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

Representing Associated Industries of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

March 14, 2017  
Meeting Date

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

SB 874

Bill Number (if applicable)

Topic Nutrient Pollution - OSDS

Amendment Barcode (if applicable)

Name Duane DeFreeze

Job Title Exec. Director IRL Council / IRL NATIONAL ESTUARY Program

Address 1235 Main Street

Phone 321-313-0764

Street

Sebastian

FL

32958

City

State

Zip

Email ddfreeze@irlcouncil.org

Speaking:  For  Against  Information

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

Representing INDIAN River lagoon National Estuary Program

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/15/17  
Meeting Date

874  
Bill Number (if applicable)

Topic Septic to Sewer Conversion

Amendment Barcode (if applicable)

Name Devin West

Job Title Legislative Affairs Director

Address 2401 SE Monterey

Street

Stuart

FL

33496

Zip

Phone 321-243-2270

City

Email dwest@martin.fl.us

Speaking:  For  Against  Information

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

Representing Martin County Board of County Commissioners

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

3

3-14-17

Meeting Date

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

884

Bill Number (if applicable)

~~3683830~~

Amendment Barcode (if applicable)

Topic Shark Finning

Name Bob Harris

Job Title \_\_\_\_\_

Address 2618 Centennial Place

Street

Tallahassee FL

City

State

32308

Zip

Phone 222-0720

Email bharris@lau.fl.gov

Speaking:  For  Against  Information

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

Representing DEMA -

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

Meeting Date

SB 884  
Bill Number (if applicable)

Topic Sharks

683830  
Amendment Barcode (if applicable)

Name Jerry Sanson

Job Title

Address Po Box 700

Phone 321-680-4400

Street

Cocoa

FL

32923

Email Fishhawk@AOL.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing

Organized fishermen of FL

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

## THE FLORIDA SENATE

## APPEARANCE RECORD

3

3/14/17  
Meeting Date

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

SB 884

Bill Number (if applicable)

Topic SHARKS

Amendment Barcode (if applicable)

Name GENE McGEE

Job Title

Address 215 S. MONROE ST. STE 306  
StreetPhone (850)466-7110City TALLAHASSEE State FL Zip 32301Email GENE@GNALOBBY.COMSpeaking:  For  Against  InformationWaive Speaking:  In Support  Against  
(The Chair will read this information into the record.)Representing SEAWORLD PARKS & ENTERTAINMENTAppearing at request of Chair:  Yes  NoLobbyist registered with Legislature:  Yes  No*While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.**This form is part of the public record for this meeting.*

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

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

3/14/17  
Meeting Date

884

Bill Number (if applicable)

Topic Shark Fin

Amendment Barcode (if applicable)

Name Fred Dickinson

Job Title Tool McKinley

Address 106 E. College Ave, TLU 71  
Street

Phone 850.681-8886

Tall City FL State 32301 Zip

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Guy Harvey Ocean Foundation

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

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

3/14/17  
Meeting Date

884

Bill Number (if applicable)

Topic Sharks

Amendment Barcode (if applicable)

Name Kate MacFall

Job Title Statis director

Address 1624 Metropolita Circle

Street

Tallahassee

City

State

FL

Zip

32308

Phone 850 508-1001

Email KMacFall@humane.org

Speaking:  For  Against  Information

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

Representing

Humane Society of the United States

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

Duplicate

March 14, 2017

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

1018

Meeting Date

Bill Number (if applicable)

762006

Topic Contaminated Site Cleanup

Amendment Barcode (if applicable)

Name Rheb ("Reeb") Harbison

Job Title Senior Director Government Affairs

Address 301 South Bronough Steet, Suite 600

Phone (850) 577-9090

Street

Tallahassee

FL

32301

Email rheb.harbison@gray-robinson.com

City

State

Zip

Speaking:  For  Against  Information

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

Representing The Florida Brownfields Association

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE  
**APPEARANCE RECORD**

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

3/14/17

Meeting Date

SB 1018

Bill Number (if applicable)

Topic DRYCLEANING SOLVENT CLEANUP PROGRAM

Amendment Barcode (if applicable)

Name JEFF LITTLEJOHN

Job Title LITTLEJOHN MANN + ASSOC.

Address 310 W. COLLEGE AVE

Phone 850-222-7535

Street

TALLAHASSEE, FL

State

City

32301

Zip

Email jeff@littlejohnmann.com

Speaking:  For  Against  Information

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

Representing FLORIDA DRYCLEANERS ASSOCIATION

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

**APPEARANCE RECORD**

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

1/14/17  
Meeting Date

1018

Bill Number (if applicable)

Topic Contaminated Site Cleanup

Amendment Barcode (if applicable)

Name Edward Briggs

Job Title \_\_\_\_\_

Address 113 E. College Ave.  
Street

Tallahassee

FL

32301

City

State

Zip

Phone 850-933-8994

Email \_\_\_\_\_

Speaking:  For  Against  Information

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

Representing Environmental Professionals of Florida

Appearing at request of Chair:  Yes  No

Lobbyist registered with Legislature:  Yes  No

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

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

S-001 (10/14/14)

# CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Committee on Environmental Preservation

Judge:

Started: 3/14/2017 2:33:48 PM

Ends: 3/14/2017 3:02:38 PM

Length: 00:28:51

2:33:47 PM Meeting called to order  
2:33:57 PM Quorum present  
2:34:02 PM Tab 2  
2:34:46 PM Senate Bill 874  
2:34:52 PM Senator Mayfield on SB 874  
2:35:19 PM Questions?  
2:35:58 PM Senator Stewart  
2:36:15 PM Appearance forms?  
2:36:31 PM Van B. Poole, City of Sanibel  
2:36:32 PM Jim Sprett, Associated Industries of Florida  
2:36:36 PM Duane DeFreese, Indian River Lagoon National Estuary Program  
2:37:28 PM Devin West, Martin County Board of Commissioners  
2:38:30 PM Debate?  
2:39:16 PM Senator Farmer  
2:39:20 PM Senator Mayfield closes on SB 874  
2:40:14 PM Roll call on SB 874  
2:40:44 PM SB 874 reported favorably  
2:40:56 PM Temporary recess  
2:42:27 PM Tab 3  
2:42:40 PM SB 884  
2:42:54 PM Senator Hutson  
2:43:00 PM Delete all amendment 683830  
2:43:52 PM Senator Bradley  
2:44:02 PM Appearance forms?  
2:44:16 PM Bob Harris, DEMA  
2:47:06 PM Jerry Sansom, Organized Fishermen of FL  
2:49:43 PM Senator Hutson closes on the amendment  
2:50:43 PM Amendment is adopted  
2:50:50 PM Back on bill as amended  
2:50:56 PM Questions?  
2:51:00 PM Appearance forms  
2:51:04 PM Gene McGee, SeaWorld Parks & Entertainment  
2:51:09 PM Fred Dickinson, Guy Harvey Ocean Foundation  
2:51:12 PM Kate Macfall, Humane Society of the United States  
2:52:27 PM Debate?  
2:52:30 PM Senator Hutson to close on the bill as amended  
2:53:08 PM Roll call on 884  
2:53:23 PM 884 is reported favorably  
2:53:33 PM Tab 4  
2:53:38 PM SB 1018  
2:53:44 PM Senator Grimsley on SB 1018  
2:54:09 PM Questions?  
2:55:09 PM Late filed amendment  
2:55:14 PM Barcode 225492  
2:55:23 PM Senator Grimsley on the amendment  
2:55:33 PM Questions on amendment?  
2:55:54 PM Senator Grimsley closes on amendment  
2:56:05 PM Amendment is adopted  
2:56:10 PM Late filed amendment barcode 762006  
2:56:22 PM Questions?  
2:56:27 PM Appearance cards  
2:56:31 PM Rheb Harbison, The Florida Brownfields Association

**2:56:42 PM** Senator Grimsley closes on amendment  
**2:56:51 PM** Back on bill as amended  
**2:56:55 PM** Appearance cards?  
**2:56:59 PM** Jeff Littlejohn, Florida Drycleaners Association  
**2:57:33 PM** Edward Briggs, Environmental Professionals of Florida  
**2:57:42 PM** Senator Grimsley closes on bill  
**2:57:48 PM** Roll call on SB 1018  
**2:58:10 PM** Tab 1  
**2:58:11 PM** SB 446  
**2:58:16 PM** Senator Passidomo  
**2:59:26 PM** Questions?  
**3:00:05 PM** Amendment on the desk  
**3:00:14 PM** Barcode 126098  
**3:00:21 PM** Questions?  
**3:00:41 PM** Appearance forms?  
**3:00:44 PM** Debate?  
**3:00:47 PM** Senator Passidomo closes on amendment  
**3:00:55 PM** Amendment adopted  
**3:00:58 PM** Back on bill as amended  
**3:01:03 PM** Appearance cards  
**3:01:07 PM** Bruce Kershner, Sunshine 811  
**3:01:11 PM** Dale Calhoun, Florida Natural Gas Association  
**3:01:19 PM** Kari Hebrank, National Utility Contractors Association of Florida  
**3:01:24 PM** Debate?  
**3:01:36 PM** Senator Passidomo closes on bill  
**3:01:42 PM** Roll call on SB 446  
**3:01:50 PM** SB 446 reported favorably  
**3:01:57 PM** Senator Bradley moves we adjourn  
**3:02:30 PM** Meeting adjourned