

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

ENVIRONMENTAL PRESERVATION AND CONSERVATION

Senator Dean, Chair
 Senator Abruzzo, Vice Chair

MEETING DATE: Tuesday, April 9, 2013

TIME: 4:00 —6:00 p.m.

PLACE: Toni Jennings Committee Room, 110 Senate Office Building

MEMBERS: Senator Dean, Chair; Senator Abruzzo, Vice Chair; Senators Altman, Bullard, Gardiner, Grimsley, Latvala, Simpson, and Soto

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated.			
Fish and Wildlife Conservation Commission			
1	Bergeron, Ronald M. (Weston)	08/01/2017	Recommend Confirm Yeas 6 Nays 0
2	Rivard, Adrien A. III (Panama City Beach)	08/01/2017	Recommend Confirm Yeas 6 Nays 0
3	Corbett, Richard A. (Tampa)	01/06/2018	Recommend Confirm Yeas 6 Nays 0
Governing Board of the Southwest Florida Water Management District			
4	Beswick, Bryan K. (Arcadia)	03/01/2016	Recommend Confirm Yeas 6 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 320 Evers (Identical H 4001)	Florida Renewable Fuel Standard Act; Repealing the Florida Renewable Fuel Standard Act, to remove the requirement that all gasoline offered for sale in this state include a percentage of ethanol, subject to specified exemptions, waivers, suspensions, extensions, enforcement, and reporting, etc. CU 04/01/2013 Favorable EP 04/09/2013 Fav/CS	Fav/CS Yeas 7 Nays 0
6	SB 466 Altman (Compare CS/H 33)	State Lands; Authorizing individuals and corporations to submit requests to the Board of Trustees of the Internal Improvement Trust Fund to exchange state-owned land for conservation easements over privately held land; providing criteria for consideration of such requests; encouraging certain operations on such lands, etc. EP 04/09/2013 Temporarily Postponed AGG AP	Temporarily Postponed

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Environmental Preservation and Conservation

Tuesday, April 9, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 958 Richter (Similar CS/H 1083, Compare CS/H 1085, Link S 984)	Underground Natural Gas Storage; Declaring underground natural gas storage to be in the public interest; providing for the notice and permitting of storage in and recovery from natural gas storage reservoirs; granting authority to the Department of Environmental Protection to issue permits to establish natural gas storage facilities; providing that the department may consider the need for the operation as a unit for the storage of natural gas; providing for legal action against a person who appears to be violating a rule that relates to the storage or recovery of natural gas, etc. EP 04/09/2013 Fav/CS CU JU	Fav/CS Yeas 7 Nays 0
8	SB 984 Richter (Similar CS/H 1085, Compare CS/H 1083, Link S 958)	Public Records/Natural Gas Storage Facility Permit; Creating an exemption from public records requirements for certain information provided in an application for a natural gas storage facility permit to inject and recover gas into and from a natural gas storage reservoir; providing for future review and repeal of the public records exemption under the Open Government Sunset Review Act; providing a statement of public necessity, etc. EP 04/09/2013 Fav/CS GO RC	Fav/CS Yeas 7 Nays 0
9	SB 1028 Clemens (Compare CS/CS/H 743, CS/H 745, Link S 1776)	Fracturing Chemical Usage Disclosure Act; Directing the Division of Resource Management of the Department of Environmental Protection to establish an online hydraulic fracturing chemical registry; requiring owners and operators of wells on which a hydraulic fracturing treatment is performed to disclose certain information; requiring certain service companies and suppliers to disclose certain information; providing exceptions, etc. EP 04/09/2013 Fav/CS CA RC	Fav/CS Yeas 7 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Tuesday, April 9, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
10	CS/SB 1104 Transportation / Brandes (Compare H 7127)	Environment; Providing an exclusion from provisions that require all plant materials for highway landscaping be purchased from Florida commercial nursery stock in this state on a uniform competitive bid basis if prohibited by federal law or regulation; revising the criteria of the environmental impact inventory; revising the process and criteria for the payment by the Department of Transportation or participating transportation authorities of mitigation implemented by water management districts or the Department of Environmental Protection, etc. TR 03/21/2013 Fav/CS EP 04/09/2013 Favorable AP	Favorable Yeas 7 Nays 0
11	CS/SB 1160 Health Policy / Bullard (Similar CS/CS/CS/H 375)	Onsite Sewage Treatment and Disposal Systems; Extending the expiration date of building permits and permits issued by the Department of Environmental Protection or by a water management district; authorizing the department to approve and permit a property owner of an owner-occupied, single-family residence as a maintenance entity for the property owner's own aerobic treatment unit system under certain circumstances; prohibiting a septic tank contractor from being denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities, etc. HP 03/20/2013 Fav/CS CA 04/02/2013 Favorable EP 04/09/2013 Fav/CS RC	Fav/CS Yeas 6 Nays 0
12	CS/SB 1594 Communications, Energy, and Public Utilities / Bradley (Similar CS/H 1357)	Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act; Revising the terms "agency," "energy, water, and wastewater efficiency and conservation measure," and "energy, water, or wastewater cost savings"; providing that a contract may provide for repayments to a lender of an installation construction loan in installments for a period not to exceed 20 years; authorizing certain facility alterations to be included in a performance contract and to be supervised by the performance savings contractor; requiring that a proposed contract include an investment-grade audit certified by the Department of Management Services which states that the cost savings are appropriate and sufficient for the term of the contract, etc. CU 04/01/2013 Fav/CS EP 04/09/2013 Fav/CS CA	Fav/CS Yeas 6 Nays 0

Consideration of proposed committee bill:

COMMITTEE MEETING EXPANDED AGENDA

Environmental Preservation and Conservation

Tuesday, April 9, 2013, 4:00 —6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	SPB 7154	Ratification of Rules Implementing Total Maximum Daily Loads for Impaired Water Bodies; Ratifying specified rules of the Department of Environmental Protection for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule meeting any of the specified thresholds for likely adverse impact or increase in regulatory costs, etc.	Submitted as Committee Bill Yeas 7 Nays 0
14	Other related meeting documents		



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR THAD ALTMAN

16th District

April 5, 2013

The Honorable Charles S. Dean, Chair
Senate Committee on Environmental Preservation and Conservation
311 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Dean:

I respectfully request an excused absence for the Committee on Environmental Preservation and Conservation meeting on April 9, 2013 at 4:00 pm. Please contact me or my Legislative Assistants Rick Kendust or Selene Bruns if you have any questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in blue ink that reads "Thad Altman". The signature is stylized with a large initial "T" and a cursive "Altman".

Thad Altman

cc: Pepper Uchino, Staff Director, 325 Knott Building
Kim Bonn, Committee Administrative Assistant, 325 Knott Building

REPLY TO:

- ☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- ☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

850

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

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

Ronald M. Bergeron

is duly appointed a member of the

Fish and Wildlife Conservation Commission

for a term beginning on the
Eighth day of March, A.D., 2013,
until the First day of August, A.D., 2017
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 Twentieth day of March, A.D., 2013.*



Ken Detzner

Secretary of State



RICK SCOTT
GOVERNOR

RECEIVED
OFFICE OF THE GOVERNOR

2013 MAR 12 PM 4:07

DIVISION OF REVENUE
TALLAHASSEE, FL

March 8, 2013

The Honorable 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 Article IV, Section 9, and FL Constitution:

Mr. Ronald M. Bergeron Sr.
19612 Southwest 69th Place
Fort Lauderdale, Florida 33332

as a member of the Fish and Wildlife Conservation Commission, subject to confirmation by the Senate. This appointment is effective March 8, 2013 for a term ending August 1, 2017.

Sincerely,

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

Rick Scott
Governor

RS/jfl

HAND DELIVERED

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation.
The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

3-13-13

Date Completed

DIVISION OF ELECTIONS
TALLAHASSEE, FL

1. Name: Mr. Bergeron Ronald Milton
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 19612 SW 69th Place Ft. Lauderdale
Street Office # City
Florida 33332 954-680-6100
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 21111 SW 16th Street Weston Broward
Street City County
Florida 33326 954-680-6100
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # 954-680-3976
(optional)

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>21111 SW 16th Street</u>	<u>Weston, Florida</u>		<u>Present</u>

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
<u>None</u>			

5. Date of Birth: 09-15-1943 Place of Birth: New Orleans, LA

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1943

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Broward B. Current Party Affiliation: Republican

12. Education

A. High School: Stranahan High School - Ft. Lauderdale Year Graduated: 1962
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Bergeron Family of Companies</u>		<u>President / CEO</u>	<u>50+ years</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
<u>(Board member</u>	<u>Town of Davie - Zoning board</u>	

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have worked 15+ years with the FWC to save the Everglades and protect the wildlife.

I assisted the guide in the Panther study. I meet frequently with the CORE and SFWM regarding prioritizing projects in the Everglades Restoration to stop irreversible damage. I am an engineering contractor with a technical background in sheet flow and conveyance, hydrology and drainage for the protection and management of wildlife. I have been appointed by the Governor as Commissioner for the Florida Fish and Wildlife Commission since 2007.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

I have a 60+year real life experience in the Everglades. I was raised by my grandfather who was a game warden in the 1940's. I have formed the Bergeron Everglades Museum and Wildlife Foundation to preserve the history of the Everglades and to promote the education of the public on how important the Everglades and the environment is to the quality of life.

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Numerous magazines and newspapers have recognized my efforts to preserve the Everglades and protect our wildlife. Man of the Year - Ducks Unlimited. Safari Club, National Fish and wildlife foundation.
Arthur Marshall foundation - Champion of the Everglades.

D. Identify all association memberships and association offices held by you that relate to this appointment:

Lifetime member of the Broward County Airboat Association

Everglades Coordination Council

The Rotary Foundation of Rotary International

Florida Sportsmen Conservation Association

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
Commissioner	August 8, 2007	5 year	Florida Fish and Wildlife Conservation

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: 4-5 times per year

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
18	2	1. Major Hip replacement surgery
		2. Son in critical condition in hospital

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐ If "Yes", list:

A. Title of Office: Commissioner - Florida Fish and Wildlife Conservation

B. Term of Appointment: 5 years

C. Confirmation results: appointed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate Title & Number</u>	<u>Original Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
General Engineering Construction		Florida	n/a
Underground Contractor		Florida	n/a

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
FDOT		Contractor
SFWM		Contractor
Broward County		Contractor
Multiple Cities in the state of Florida and Municipalities		Contractor

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
Bergeron Family of Companies	SONS	Part Owners	Contractor

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
LT Colonel Army Corps of Engineer - Michael Kinard			
US Senate - Bill Nelson			
Congressmen - Allen West			
Former Broward County Sheriff - Al Lamberti			
Commissioner of Agriculture - Charles Bronson			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Boys & Girls Club of Broward County			
Broward Partnership for the Homeless			
Old Town of Davie School			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

CERTIFICATION

STATE OF FLORIDA
COUNTY OF

Broward

RECEIVED
DEPARTMENT OF STATE

2013 MAR 18 PM 1:41

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared

Ronald M. Bergeron SR.

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Signature of Applicant-Affiant

Sworn to and subscribed before me this 12 day of march, 2013.

Tina M. Garcia

Signature of Notary Public-State of Florida

Tina M. Garcia

(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____



TINA M. GARCIA
NOTARY PUBLIC
STATE OF FLORIDA
Comm# DD996730
Expires 5/31/2014

(seal)

850

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

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

Adrien A. Rivard, III

is duly appointed a member of the

Fish and Wildlife Conservation Commission

for a term beginning on the
Eighth day of March, A.D., 2013,
until the First day of August, A.D., 2017
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-First day of March, A.D., 2013.*



Ken Detzner

Secretary of State



rick scott
GOVERNOR

March 8, 2013

RECEIVED
OFFICE OF THE GOVERNOR
2013 MAR 12 PM 4:07
DIVISION OF ELECTIONS
TALLAHASSEE, FL

The Honorable 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:

Adrien A. Rivard III

as a member of the Fish and Wildlife Conservation Commission, succeeding Kathy Barco, for a term beginning March 8, 2013, and ending August 1, 2017.

Please prepare the necessary papers and mail to:

Mr. Adrien A. Rivard III
101 Harrison Avenue
Panama City, Florida 32401

Thank you for your assistance in this matter.

Sincerely,

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

Rick Scott
Governor

RS/jfl

HAND DELIVERED

RECEIVED 13 MAR 21 PM 2:07 DIVISION OF ELECTIONS SECRETARY OF STATE March 12, 2013 Date Completed QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

1. Name: Mr. Rivard III, Adrien A.
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 101 Harrison Avenue, Panama City
Street Office # City
FL 32402 (850) 769-7714
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 113 Dragon Circle, Panama City Beach Bay
Street City County
FL 32408 (850) 819-1317
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # (850) 769-7715
(optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
113 Dragon Circle	Panama City, FL		

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
None			

5. Date of Birth: 05/03/1971 Place of Birth: Atlanta, GA

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1972

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Bay B. Current Party Affiliation: Republican

12. Education

A. High School: Bay High School, Panama City, FL Year Graduated: 1989
(Name and Location)

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
Gulf Coast Community College	1989 - 1990	A.A.
University of Florida	1991 - 1993	B.A.
Samford University, Cumberland Law School	1993 - 1996	J.D.

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
Harrison Rivard Duncan & Buzzett, Chtd., 101 Harrison Ave., Panama City, FL 32401	Law Firm	Partner	2002 - Present

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

Growing up in Florida's panhandle, I had the opportunity to spend a lot of time outdoors with my father enjoying
hunting, fishing, camping and scalloping. I believe in the importance of conserving our natural resources
which, in turn, will ensure the public's enjoyment of them. My experience as a land use attorney may be
helpful in planning for the management of state lands and other natural resources.

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

D. Identify all association memberships and association offices held by you that relate to this appointment:

N/A

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☐ No ☒ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
---------------------	--	-----------------------	----------------------------

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: _____

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

Meetings Attended

Meetings Missed

Reason for Absence

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

Date

Nature of Violation

Disposition

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☐ No ☒ If "Yes", list:

A. Title of Office: _____

B. Term of Appointment: _____

C. Confirmation results: _____

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

--

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

License/Certificate

Original

Issuing Authority

Disciplinary Action/Date

Title & Number

Issue Date

0105211

04/15/97

Florida Bar

<u>License/Certificate</u>	<u>Original</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

Name of Business

Your Relationship to Business

Business' Relationship to Agency

Harrison Rivard, et al

Partner

Under contract with AG's office

Lincoln Bridge, LLC

Mgr. Mbr.

Sub to AECOM which has contract with DOT

Consolidated Disaster Services, LLC

Mgr. Mbr.

Contract with DMS for providing ice and water

--	--	--

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☒ No ☐

A. Did you receive any compensation other than reimbursement for expenses? Yes ☒ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
Florida Legislature Branch	City of Panama City, Florida; HCA Healthcare; Sacred Heart Health System; Associated Industries of Florida; Rubin Group; Gulf Co. Bd of Co. Commissioners
Florida Executive Branch	City of Panama City, Florida; HCA Healthcare; Sacred Heart Health System; Associated Industries of Florida; Royal American Development, Inc.; Atlantic Civil; Gulf Co. Bd of Co Commissioners

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Randall McElheney			
Steve Southerland			
Joe Tannehill, Jr.			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Republican Party of Florida Executive Committee	420 E. Jefferson St., Tallahassee, FL	32301	2011 - 2013
Bay County Chamber of Commerce	P.O. Box 1850, Panama City, FL	32402	Chairman 2011 - 2012

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

13 MAR 21 PM 2:07

RECEIVED
HAND DELIVERED

STATE OF FLORIDA
COUNTY OF

Bay

DIVISION OF ELECTIONS
SECRETARY OF STATE

Before me, the undersigned Notary Public of Florida, personally appeared

Adrien A. Rivard, III

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

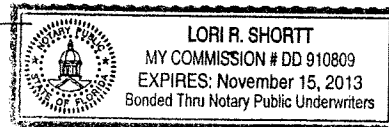
[Signature]

Signature of Applicant-Affiant

Sworn to and subscribed before me this 20th day of March, 2013.

[Signature]

Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: November 15, 2013

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

RECEIVED

13 MAR 21 PM 2:07

MEMORANDUM

DIVISION OF ELECTIONS
SECRETARY OF STATE

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

850

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

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

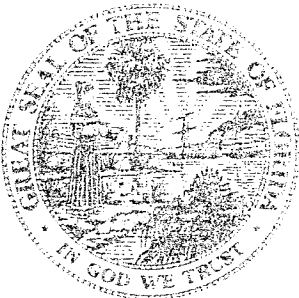
Richard A. Corbett

is duly appointed a member of the

Fish and Wildlife Conservation Commission

for a term beginning on the
Eighth day of March, A.D., 2013,
until the Sixth day of January, A.D., 2018
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 Eighteenth day of March, A.D., 2013.*



Ken Detzner

Secretary of State



RICK SCOTT
GOVERNOR

RECEIVED
GOVERNOR'S OFFICE
2013 MAR 12 PM 4:07
DIVISION OF ELECTIONS
TALLAHASSEE, FL

March 8, 2013

The Honorable 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 Article IV, Section 9, FL Constitution:

Mr. Richard A. Corbett
2202 North Westshore Boulevard
Suite 110
Tampa, Florida 33607

as a member of the Fish and Wildlife Conservation Commission, subject to confirmation by the Senate. This appointment is effective March 8, 2013 for a term ending January 6, 2018.

Sincerely,

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

Rick Scott
Governor

RS/jfl

✓
HAND DELIVERED

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation.
The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate.
Please type or print in blue or black ink.

RECEIVED
DEPARTMENT OF STATE

2013 MAR 18 PM 1 40

3/13/2013

Date Completed

DIVISION OF ELECTIONS
TALLAHASSEE, FL

1. Name: Mr. CORBETT RICHARD ALAN
Mr./Mrs./Ms. Last First Middle/Maiden

2. Business Address: 509 Guisando de Avila Suite 201 Tampa
Street Office # City
Florida 33613 813.264.6128
Post Office Box State Zip Code Area Code/Phone Number

3. Residence Address: 1043 Guisando de Avila Tampa Hillsborough
Street City County
Florida 33613 813.962.0000
Post Office Box State Zip Code Area Code/Phone Number

Specify the preferred mailing address: Business ☒ Residence ☐ Fax # _____ (optional)

4. A. List all your places of residence for the last five (5) years.

Address	City & State	From	To
1043 Guisando de Avila	Tampa, Florida	1986	Present
112 Pinckney Hill Road	Monticello, Florida	1970	Present
212 N. 2nd Street	Aspen, Colorado	1999	Present
748 N. Broadway	Saratoga Springs, NY	2006	Present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

Address	City & State	From	To
75 E. 77th Street	New York, NY	1970	1978
212 N. 2nd Street	Aspen, Colorado	1999	Present
748 N. Broadway	Saratoga Springs, NY	2006	Present

5. Date of Birth: 02.26.1938 Place of Birth: Rochester, NY

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: Florida

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

If you are a naturalized citizen, date of naturalization: _____

10. Since what year have you been a continuous resident of Florida? 1978

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: Hillsborough

B. Current Party Affiliation: Republican

12. Education

A. High School: Aquinas Institute, Rochester, NY
(Name and Location)

Year Graduated: 1956

B. List all postsecondary educational institutions attended:

<u>Name & Location</u>	<u>Dates Attended</u>	<u>Certificates/Degrees Received</u>
<u>University of Notre Dame</u>	<u>1956-1960</u>	<u>B.A. 1960</u>
<u>Harvard University-Business School</u>	<u>1962-1964</u>	<u>M.B.A. 1964</u>

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: _____

B. Branch or Component: _____

C. Date & type of discharge: _____

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

<u>Date</u>	<u>Place</u>	<u>Nature</u>	<u>Disposition</u>
-------------	--------------	---------------	--------------------

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

<u>Employer's Name & Address</u>	<u>Type of Business</u>	<u>Occupation/Job Title</u>	<u>Period of Employment</u>
<u>Concorde Companies</u>	<u>Private Investments</u>	<u>President/Owner</u>	<u>1978-Present</u>

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒ If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

<u>Position</u>	<u>Employing Agency</u>	<u>Period of Employment</u>
-----------------	-------------------------	-----------------------------

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

See Attachment

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

M.B.A. Harvard - Strong focus on resource management and trusteeship

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☒ No ☐ If "Yes", list:

Designated Instructor by Boy Scouts of America for Nature Merit Badge; acted as Wildlife Guide for Adolescent Expedition; Quebec Province, Canada; Taught Fish/Wildlife appreciation in Algonquin Preserve for children in summer camp; work on outdoor Animal Park at Nature's Classroom with Jim Fowler for Hillsborough Education Foundation to provide Wildlife experience for Tampa Grade School children & teachers

D. Identify all association memberships and association offices held by you that relate to this appointment:

See "C" above

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

Office Title	Date of Election or Appointment	Term of Office	Level of Government
FWC Commissioner	January 2003	5 year term	State
	January 2008	5 year term - total 10 years	State
FWC Vice Chairman	2010 - 2011		State

RICHARD A. CORBETT

ATTACHMENT TO QUESTIONNAIRE FOR SENATE CONFIRMATION

17. State your experiences and interest or elements of your personal history that qualify you for this appointment.

-Co-manage 17,000 acre hunting/fishing preserve in Monticello, Florida, including conservation easement with Red Hills.

-Long term association with Tall Timbers whose focus is the conservation and preservation of large land holdings for the continued survival of Florida and Georgia wildlife. Wife Cornelia active Board member.

-Avid Florida hunter and fisherman over the past 40 years.

-Advisor to Jim Fowler – National Wildlife TV – Mutual of Omaha show “Wild Kingdom”
– Presentation for NBC “Today Show” and CBS “Morning Show”

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: 5 - 6 meetings a year

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
<u>56</u>	<u>4</u>	<u>1 - illness</u>
		<u>1 - out of the country</u>
		<u>2 -prior mtgs scheduled</u>

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: _____ C. Reason for suspension: _____

B. Date of suspension: _____ D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐ If "Yes", list:

A. Title of Office: FWC Commissioner

B. Term of Appointment: 10 years

C. Confirmation results: Approved

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☐ No ☒ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u> <u>Title & Number</u>	<u>Original</u> <u>Issue Date</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
<u>Concorde Companies</u>	<u>General Partner</u>	<u>Long Term Land Lease with</u>
		<u>Hillsborough County Aviation Authority</u>
		<u>International Plaza Mall</u>

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☐

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
John Rood			
Will Weatherford	F		
Adam Putnam	F		

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
Florida Council of 100	102 W. Whiting St. Ste 200, Tampa, FL 33602		
--Resident Member from October 2009 - Present			
Ye Mystic Krewe of Gasparilla	114 W. Cass St. Tampa, FL 33606		
- Member since 1988 - Present			

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

STATE OF FLORIDA

COUNTY OF HILLSBOROUGH

RECEIVED
DEPARTMENT OF STATE
2013 MAR 18 PM 1:41

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared

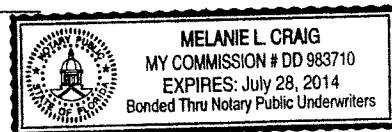
RICHARD A. CORBETT

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

X Richard A. Corbett
Signature of Applicant-Affiant

Sworn to and subscribed before me this 13 day of MARCH, 2013

Melanie L. Craig
Signature of Notary Public-State of Florida



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: _____

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

2460

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

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

Bryan K. Beswick

is duly appointed a member of the

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

for a term beginning on the
Fourth day of March, A.D., 2013,
until the First day of March, A.D., 2016
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-First day of March, A.D., 2013.*

Ken Detzner

Secretary of State



RICK SCOTT
GOVERNOR

RECEIVED
DEPARTMENT OF STATE

2013 MAR -7 AM 11:27

DIVISION OF RELATIONS
TALLAHASSEE, FL

March 4, 2013

The Honorable 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. Bryan K. Beswick
2912 South East Highway 31
Arcadia, Florida 34266

as a member of the Governing Board, Southwest Florida Water Management District, subject to confirmation by the Senate. This appointment is effective March 4, 2013 for a term ending March 1, 2016.

Sincerely,

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

Rick Scott
Governor

RS/jfl

QUESTIONNAIRE FOR SENATE CONFIRMATION

The information from this questionnaire will be used by the Florida Senate in considering action on your confirmation. The questionnaire **MUST BE COMPLETED IN FULL**. Answer "none" or "not applicable" where appropriate.

Please type or print in blue or black ink.

March 20, 2013

Date Completed

1. Name:	Mr.	Beswick	Bryan	K
	Mr./Mrs./Ms.	Last	First	Middle/Maiden
2. Business Address:	6057 Nichols Street			Arcadia
	Street	Office #	City	
	FL	34266	(863) 993-9661	
Post Office Box	State	Zip Code	Area Code/Phone Number	
3. Residence Address:	2912	SE Highway 31	Arcadia	DeSoto
	Street	City	County	
	FL	34226	(863) 990-0989	
Post Office Box	State	Zip Code	Area Code/Phone Number	
Specify the preferred mailing address:	Business ☐	Residence ☒	Fax # (863) 993-0647 (optional)	

4. A. List all your places of residence for the last five (5) years.

<u>Address</u>	<u>City & State</u>	<u>From</u>	<u>To</u>
2912 SE Highway 31	Arcadia, FL	2002	present

B. List all your former and current residences outside of Florida that you have maintained at any time during adulthood.

To 2018 MAR 21 AM
DIVISION OF FIELD
TALLAHASSEE
From
City & State
Address
N/A

5. Date of Birth: 05/31/1967 Place of Birth: Polk County, FL

6. Social Security Number: _____

7. Driver License Number: _____ Issuing State: FL

8. Have you ever used or been known by any other legal name? Yes ☐ No ☒ If "Yes" Explain _____

N/A

RECEIVED
DEPARTMENT OF STATE
MAR 21 AM 9:01
DIVISION OF ELECTRONICS
TALLAHASSEE, FL

9. Are you a United States citizen? Yes ☒ No ☐ If "No" explain:

N/A

If you are a naturalized citizen, date of naturalization: N/A

10. Since what year have you been a continuous resident of Florida? 1967

11. Are you a registered Florida voter? Yes ☒ No ☐ If "Yes" list:

A. County of Registration: DeSoto

B. Current Party Affiliation: Republican

12. Education

A. High School: Lakeland Senior High

Year Graduated: 1985

(Name and Location)

B. List all postsecondary educational institutions attended:

Name & Location

Dates Attended

Certificates/Degrees Received

Florida Southern College

1985-1989

B.S in Citrus Production

Minor in Business Administration

13. Are you or have you ever been a member of the armed forces of the United States? Yes ☐ No ☒ If "Yes" list:

A. Dates of Service: N/A

B. Branch or Component: N/A

C. Date & type of discharge: N/A

14. Have you ever been arrested, charged, or indicted for violation of any federal, state, county, or municipal law, regulation, or ordinance? (Exclude traffic violations for which a fine or civil penalty of \$150 or less was paid.) Yes ☐ No ☒ If "Yes" give details:

Date

Place

Nature

Disposition

N/A

15. Concerning your current employer and for all of your employment during the last five years, list your employer's name, business address, type of business, occupation or job title, and period(s) of employment.

Employer's Name & Address

Type of Business

Occupation/Job Title

Period of Employment

Blue Goose Growers

Citrus Management

Division II Farm Manager

9/99 - present

16. Have you ever been employed by any state, district, or local governmental agency in Florida? Yes ☐ No ☒
If "Yes", identify the position(s), the name(s) of the employing agency, and the period(s) of employment:

Position

Employing Agency

Period of Employment

N/A

17. A. State your experiences and interests or elements of your personal history that qualify you for this appointment.

I have worked in agriculture for 20 plus years and have experience working with the water management districts through permitting and conservation agricultural programs, such as the District's FARMS program. I have an understanding of water quality in the Southwest region of Florida, as well as an extensive understanding of water quantity issues in the Southern Water Use Caution Area (SWUCA).

B. Have you received any degree(s), professional certification(s), or designations(s) related to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

N/A

C. Have you received any awards or recognitions relating to the subject matter of this appointment? Yes ☐ No ☒ If "Yes", list:

N/A

D. Identify all association memberships and association offices held by you that relate to this appointment:

DeSoto County Farm Bureau Secretary/Treasurer

Peace River Valley Citrus Growers Association Board Member

18. Do you currently hold an office or position (appointive, civil service, or other) with the federal or any foreign government? Yes ☐ No ☒ If "Yes", list:

N/A

19. A. Have you ever been elected or appointed to any public office in this state? Yes ☒ No ☐ If "Yes", state the office title, date of election or appointment, term of office, and level of government (city, county, district, state, federal):

<u>Office Title</u>	<u>Date of Election or Appointment</u>	<u>Term of Office</u>	<u>Level of Government</u>
Governing Board Member	April 2008	4/2008 - 3/2012	Water Management District

B. If your service was on an appointed board(s), committee(s), or council(s):

(1) How frequently were meetings scheduled: Monthly plus as needed

(2) If you missed any of the regularly scheduled meetings, state the number of meetings you attended, the number you missed, and the reasons(s) for your absence(s).

<u>Meetings Attended</u>	<u>Meetings Missed</u>	<u>Reason for Absence</u>
58	12	Conflict with business

20. Has probable cause ever been found that you were in violation of Part III, Chapter 112, F.S., the Code of Ethics for Public Officers and Employees? Yes ☐ No ☒ If "Yes", give details:

<u>Date</u>	<u>Nature of Violation</u>	<u>Disposition</u>
N/A		

21. Have you ever been suspended from any office by the Governor of the State of Florida? Yes ☐ No ☒ If "Yes", list:

A. Title of office: N/A C. Reason for suspension: N/A

B. Date of suspension: N/A D. Result: Reinstated ☐ Removed ☐ Resigned ☐

22. Have you previously been appointed to any office that required confirmation by the Florida Senate? Yes ☒ No ☐ If "Yes", list:

A. Title of Office: Governing Board Member

B. Term of Appointment: April 2008 - March 2012

C. Confirmation results: Confirmed

23. Have you ever been refused a fidelity, surety, performance, or other bond? Yes ☐ No ☒ If "Yes", explain:

N/A

24. Have you held or do you hold an occupational or professional license or certificate in the State of Florida? Yes ☒ No ☐ If "Yes", provide the title and number, original issue date, and issuing authority. If any disciplinary action (fine, probation, suspension, revocation, disbarment) has ever been taken against you by the issuing authority, state the type and date of the action taken:

<u>License/Certificate</u>	<u>Original</u>	<u>Issuing Authority</u>	<u>Disciplinary Action/Date</u>
<u>Title & Number</u>	<u>Issue Date</u>		
Florida Real Estate	8/30/2005	FDBPR	N/A
Sales Associate License			
SL3137734			

25. A. Have you, or businesses of which you have been and owner, officer, or employee, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☒ No ☐ If "Yes", explain:

<u>Name of Business</u>	<u>Your Relationship to Business</u>	<u>Business' Relationship to Agency</u>
Blue Goose Growers, LLC	Farm Manager	Participation in FARMS Program
DeSoto Land, LLC	Farm Manager	Participation in FARMS Program
LD Hancock Company	Farm Manager	Participation in FARMS Program

B. Have members of your immediate family (spouse, child, parents(s), siblings(s)), or businesses of which members of your immediate family have been owners, officers, or employees, held any contractual or other direct dealings during the last four (4) years with any state or local governmental agency in Florida, including the office or agency to which you have been appointed or are seeking appointment? Yes ☐ No ☒ If "Yes", explain:

<u>Name of Business</u>	<u>Family Member's Relationship to You</u>	<u>Family Member's Relationship to Business</u>	<u>Business' Relationship to Agency</u>
N/A			

26. Have you ever been a registered lobbyist or have you lobbied at any level of government at any time during the past five (5) years? Yes ☐ No ☒

A. Did you receive any compensation other than reimbursement for expenses? Yes ☐ No ☒

B. Name of agency or entity you lobbied and the principal(s) you represented:

<u>Agency Lobbied</u>	<u>Principal Represented</u>
N/A	

27. List three persons who have known you well within the past five (5) years. Include a current, complete address and telephone number. Exclude your relatives and members of the Florida Senate.

<u>Name</u>	<u>Mailing Address</u>	<u>Zip Code</u>	<u>Area Code/Phone Number</u>
Darryl Trawick			
Steve Hall 7981			
Elton Lang Ford			

28. Name any business, professional, occupational, civic, or fraternal organizations(s) of which you are now a member, or of which you have been a member during the past five (5) years, the organization address(es), and date(s) of your membership(s).

<u>Name</u>	<u>Mailing Address</u>	<u>Office(s) Held & Term</u>	<u>Date(s) of Membership</u>
DeSoto County Farm Bureau	1278 SE US Hwy 31, Arcadia, FL 34266	Secretary/Treasurer 2011-present	2011-2014
PRVCGA	6 East Oak St., Arcadia, FL 34266	Board Member 2013-present	2013-2015

29. Do you know of any reason why you will not be able to attend fully to the duties of the office or position to which you have been or will be appointed? Yes ☐ No ☒ If "Yes", explain:

N/A

30. If required by law or administrative rule, will you file financial disclosure statements? Yes ☒ No ☐

CERTIFICATION

STATE OF FLORIDA

COUNTY OF Polk

RECEIVED
DEPARTMENT OF STATE
2013 MAR 21 AM 9:01
DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared

Brian K. Reswick

who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Brian K. Reswick

Signature of Applicant-Affiant

Sworn to and subscribed before me this 20th day of March, 2013.

Daniel L. Kushmer

Signature of Notary Public-State of Florida

DANIEL L. KUSHMER

NOTARY PUBLIC

STATE OF FLORIDA

Comm# EE036536



(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: 11/2/2014

Personally Known ☒ OR Produced Identification ☐

Type of Identification Produced _____

(seal)

MEMORANDUM

AS A GENERAL MATTER, APPLICATIONS FOR ALL POSITIONS WITHIN STATE GOVERNMENT ARE PUBLIC RECORDS WHICH MAY BE VIEWED BY ANYONE UPON REQUEST. HOWEVER, THERE ARE SOME EXEMPTIONS FROM THE PUBLIC RECORDS LAW FOR IDENTIFYING INFORMATION RELATING TO PAST AND PRESENT LAW ENFORCEMENT OFFICERS AND THEIR FAMILIES, VICTIMS OF CERTAIN CRIMES, ETC. IF YOU BELIEVE AN EXEMPTION FROM THE PUBLIC RECORDS LAW APPLIES TO YOUR SUBMISSION, PLEASE CHECK THIS BOX.

☐ Yes, I assert that identifying information provided in this application should be excluded from inspection under the Public Records Law.

Because: (please provide cite.) _____

IF YOU NEED ADDITIONAL GUIDANCE AS TO THE APPLICABILITY OF ANY PUBLIC RECORDS LAW EXEMPTION TO YOUR SITUATION, PLEASE CONTACT THE OFFICE OF THE ATTORNEY GENERAL.

The Office of the Attorney General
PL-01, The Capitol
Tallahassee, Florida 32399
(850) 245-0150

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 320

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Evers

SUBJECT: Florida Renewable Fuel Standard Act

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Favorable
2.	Hinton	Uchino	EP	Fav/CS
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/SB 320 removes a mandate for terminal suppliers, importers, blenders, and wholesalers to sell or offer to sell only blended gasoline. The CS encourages those entities to sell or offer to sell blended gasoline.

CS/SB 320 substantially amends s. 526.203 of the Florida Statutes.

II. Present Situation:

Florida Renewable Fuel Standard Act

Sections 526.201-526.207, F. S., constitute the Florida Renewable Fuel Standard Act, adopted in 2008. The standard establishes a general requirement that all gasoline sold or offered for sale in Florida by a terminal supplier, importer, blender, or wholesaler be blended gasoline.¹ “Blended gasoline” is defined as a mixture of 90 to 91 percent gasoline and 9 to 10 percent fuel ethanol or other alternative fuel which meets the specifications adopted by the Department of Agriculture

¹ Section 526.203(2), F.S.

and Consumer Services (DACS).² The fuel ethanol or other alternative fuel portion may be derived from any agricultural source.

The following uses are exempted from the blended fuel requirement:

- Fuel used in aircraft;
- Fuel sold for use in bats and similar watercraft;
- Fuel sold to a blender;
- Fuel sold for use in collector vehicles or vehicles eligible to be licensed as collector vehicles, off-road vehicles, motorcycles, or small engines;
- Fuel unable to comply due to requirements of the U.S. Environmental Protection Agency (EPA);
- Fuel transferred between terminals;
- Fuel exported from the state in accordance with s. 206.052, F.S.;
- Fuel qualifying for any exemption in accordance with ch. 206, F.S.;
- Fuel for a railroad locomotive; and
- Fuel for equipment, including vehicle or vessel, covered by a warranty that would be voided, if explicitly stated in writing by the vehicle or vessel manufacturer, if the equipment were to be operated using fuel meeting the blended fuel requirements.³

Additionally, the standard does not prohibit a retail dealer from selling unblended gasoline if it is used for any of the exempted uses listed above, and requires the DACS to compile a list of retail fuel stations that sell or offer to sell unblended gasoline and provide this information on its website to inform consumers of the options available for unblended gasoline.⁴

Federal Renewable Fuel Standard

The federal Energy Policy Act of 2005 amended the Clean Air Act to establish a Renewable Fuel Standard program. The Renewable Fuel Standard requires the EPA to promulgate regulations to ensure that gasoline sold or introduced into commerce in the United States (except in noncontiguous states or territories), on an annual average basis, contains the required, applicable volume of renewable fuel.⁵ The required volume of the four types of motor vehicle fuels (renewable fuels, advanced biofuels, cellulosic biofuels, and biomass-derived diesel) that must be produced each year is stated in a schedule that lists the minimum amount, in billions of gallons, beginning in 2006 and ending in 2022, that must be produced. The amounts increase each year. The different types of fuels are defined as:

- “Renewable fuel” means “fuel that is produced from renewable biomass and that is used to replace or reduce the quantity of fossil fuel present in a transportation fuel.”
- “Advanced biofuels” means renewable fuel, other than ethanol derived from corn starch, that has lifecycle greenhouse gas emissions, as determined by the EPA, that are at least 50 percent less than baseline lifecycle greenhouse gas emissions. The types of fuels eligible for consideration as “advanced biofuels” may include any of the following:
 - Ethanol derived from cellulose, hemicellulose, or lignin;

² Section 526.203(1)(c), F.S.

³ Section 526.203(3), F.S.

⁴ Section 526.203(5), F.S.

⁵ 42 U.S.C. s. 7545(o) (2).

- Ethanol derived from sugar or starch (other than corn starch);
- Ethanol derived from waste material, including crop residue, other vegetative waste material, animal waste, and food waste and yard waste;
- Biomass-based diesel;
- Biogas (including landfill gas and sewage waste treatment gas) produced through the conversion of organic matter from renewable biomass;
- Butanol or other alcohols produced through the conversion of organic matter from renewable biomass; and
- Other fuel derived from cellulosic biomass.
- “Cellulosic biofuels” means renewable fuel derived from any cellulose, hemicellulose, or lignin that is derived from renewable biomass and that has lifecycle greenhouse gas emissions, as determined by the EPA, that are at least 60 percent less than the baseline lifecycle greenhouse gas emissions.
- “Biomass-based diesel” means renewable fuel that is derived from such things as animal wastes, including poultry fats and other waste materials, and municipal solid waste and sludges.⁶

The federal Renewable Fuel Standard does not create any obligation or standard for an individual state, nor are calculations to determine the standard’s annual requirements or compliance with those requirements calculated on a state-by-state basis.⁷ Instead, the standard creates a requirement on “obligated parties,” defined as:

any refiner that produces gasoline or diesel fuel within the 48 contiguous states or Hawaii, or any importer that imports gasoline or diesel fuel into the 48 contiguous states or Hawaii during a compliance period. A party that simply blends renewable fuel into gasoline or diesel fuel, as defined in §80.1407(c) or (e), is not an obligated party.⁸

The standard requires obligated parties to periodically prove ownership of a volume of renewable fuels as determined by their Renewable Volume Obligation (RVO).⁹ An obligated party’s RVO is determined by the equation $RVO_i = (RFStd_i \times GVi) + Di_{i-1}$, where:

RVO_i = The obligated party’s Renewable Volume Obligation for calendar year i, in gallons of renewable fuel;

RFStd_i = The renewable fuel standard for calendar year i, a percentage determined by EPA pursuant to Title 40 CFR s. 80.1105;

GV_i = The non-renewable gasoline volume which is produced or imported by the obligated party in calendar year i, in gallons;

Di_{i-1} = Renewable fuel deficit carryover from the previous year, per Title 40 CFR s. 80.1127(b), in gallons.¹⁰

⁶ 42 U.S.C. s. 13220(f)(1).

⁷ Email from Matthew Arsenault, Grant Manager, DACS Office of Energy, to Kelley Burk, Deputy Director, DACS Office of Energy (Jan. 24, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁸ 40 CFR s. 80.1406 (a)(1).

⁹ *Supra* note 7.

¹⁰ *Id.*

For example, assume the EPA determines the percentage of each type of renewable fuel that must be in the entire market in order to achieve the volume required by the standard for that year and determines that the total renewable fuel requirement is 5.59 percent. If a refinery produces 500,000 gallons of gasoline, its RVO would be 27,950 gallons. This means that it would have to prove ownership of 27,950 Renewable Identification Numbers (RINs) (assuming it does not have a deficit carryover from the previous year). Because the standard is a mandate on refiners to blend the fuel before it is taken to retail stores, all states receive the blended fuel.¹¹

III. Effect of Proposed Changes:

Section 1 amends s. 526.203, F.S., to encourage terminal suppliers, importers, blenders wholesalers to sell or offer to sell blended gasoline. This removes the mandate for those entities to sell blended gasoline.

Section 2 provides an effective date of July 1, 2013.

Other Potential Implications:

Removing the Florida mandate on sellers of gasoline will leave the federal requirements on producers in effect. The net effect appears to be that, although Florida sellers will be permitted to sell unblended fuel without restrictions, it may be or may become difficult to obtain significant amounts of unblended gasoline with the federal law still in effect.¹²

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.

¹¹ *Id.*

¹² See, e.g., Alic, Jen, *Ethanol Mandate: Jumping the Gun in a Big Way*, <http://oilprice.com/Alternative-Energy/Biofuels/Ethanol-Mandate-Jumping-the-Gun-in-a-Big-Way.html> (last visited Apr. 7, 2013).

B. Private Sector Impact:

Individuals wishing to purchase unblended fuel may have more opportunities to purchase it in the state. However, since federal law mandates the inclusion of increasing amounts of renewable fuel to be blended into transportation fuel through 2022, retailers wishing to sell unblended fuel may find it increasingly difficult as blended fuel becomes more prevalent. The effect is indeterminate.

According to the DACS, which administers Florida's liquid fuels statutes, the CS could have negative effects on the bio-fuel industry, including bio-refineries and producers of feedstocks used in the development of biofuels. There could be negative effects on communities with active or soon-to-be active bio-refineries. According to the Indian River County Economic Development Council, INEOS bio-energy plant will provide 53 full time jobs with an average wage of \$58,981 and a total capital investment of \$54.3 million. Algenol Biofuels hired more than 100 individuals in Lee County and is expected to increase its staff in the future. On the other hand, given that their products should qualify under the federal standard as advanced or cellulosic biofuels, there may be sufficient national demand to negate the projected impact. However, if demand decreases in Florida, these biofuel producers may have to ship excess biofuel outside the state, which may reduce their desire for further investment in Florida.

C. Government Sector Impact:

According to the DACS, the CS will have no government sector fiscal impact.

VI. Technical Deficiencies:

Removing the mandate for terminal suppliers, importers, blenders, and wholesalers in Florida to sell or make available blended gasoline renders many provisions found in ss. 526.202-526.207, F.S., having to do with the blended gasoline mandate, moot.

VII. Related Issues:

None.

VIII. 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 April 9, 2013:

- The CS no longer repeals ss. 526.201-526.207, F.S., known as the Florida Renewable Fuel Standard Act.
- The CS no longer repeals the requirement that terminal suppliers, importers, blenders, and wholesalers report, on a monthly basis, the amount of blended and unblended gasoline sold.
- The CS removes a mandate stating that all gasoline sold or offered for sale in this state by a terminal supplier, importer, blender, or wholesaler has to be blended

gasoline. Instead of a mandate, the CS provides that the sale of blended gasoline is encouraged.

B. Amendments:

None.

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



212136

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 526.203, Florida
Statutes, is amended to read:

526.203 Renewable fuel standard.—

(2) FUEL STANDARD.—~~Beginning December 31, 2010,~~ All
gasoline sold or offered for sale in this state ~~Florida~~ by a
terminal supplier, importer, blender, or wholesaler is
encouraged to ~~shall~~ be blended gasoline.

Section 2. This act shall take effect July 1, 2013.



212136

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to gasoline; amending s. 526.203,
F.S.; providing that gasoline sold in this state is
encouraged to be, rather than must be, blended
gasoline; providing an effective date.

By Senator Evers

2-00221-13

2013320__

1 A bill to be entitled
2 An act relating to the Florida Renewable Fuel Standard
3 Act; repealing ss. 526.201-526.207, F.S., the Florida
4 Renewable Fuel Standard Act, to remove the requirement
5 that all gasoline offered for sale in this state
6 include a percentage of ethanol, subject to specified
7 exemptions, waivers, suspensions, extensions,
8 enforcement, and reporting; amending s. 206.43, F.S.;
9 conforming a cross-reference; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Sections 526.201, 526.202, 526.203, 526.204,
15 526.205, 526.206, and 526.207, Florida Statutes, are repealed.

16 Section 2. Subsection (2) of section 206.43, Florida
17 Statutes, is amended to read:

18 206.43 Terminal supplier, importer, exporter, blender, and
19 wholesaler to report to department monthly; deduction.—The taxes
20 levied and assessed as provided in this part shall be paid to
21 the department monthly in the following manner:

22 (2)~~(a)~~ Such report may show in detail the number of gallons
23 so sold and delivered by the terminal supplier, importer,
24 exporter, blender, or wholesaler in the state, and the
25 destination as to the county in the state to which the motor
26 fuel was delivered for resale at retail or use shall be
27 specified in the report. The total taxable gallons sold shall
28 agree with the total gallons reported to the county destinations
29 for resale at retail or use. All gallons of motor fuel sold

2-00221-13

2013320__

shall be invoiced and shall name the county of destination for
resale at retail or use.

~~(b) Each terminal supplier, importer, blender, and
wholesaler shall also include in the report to the department
the number of gallons of blended and unblended gasoline, as
defined in s. 526.203, sold.~~

Section 3. This act shall take effect July 1, 2013.

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 466

INTRODUCER: Senator Altman

SUBJECT: State Lands

DATE: April 5, 2013

REVISED: _____

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

I. Summary:

SB 466 allows a private landowner to submit a request to the Board of Trustees of the Internal Improvement Trust Fund (Board) to transfer state-owned lands to a private landowner in exchange for a conservation easement over the privately held lands. It also specifies the circumstances and time frame for the Board's consideration of a request.

SB 466 substantially amends section 253.42 of the Florida Statutes.

II. Present Situation:

Disposition of State-owned Conservation Lands

Section 253.42, F.S., allows the Board to exchange lands vested or titled in the Board. This section authorizes the Board to set the terms and conditions for land exchanges with various parties. When exchanging conservation lands for which no consideration was paid, the Board may request land of equal conservation value from local governments. If consideration was paid for the conservation lands, the exchange must result in an equal or greater conservation benefit to the state. In addition, the Acquisition and Restoration Council (ARC) must make a determination of a net-positive conservation benefit, irrespective of appraised value.

Pursuant to article X, section 18 of the Florida Constitution, and ss. 253.42 and 253.034(6)(e), F.S., the Board, with the ARC's recommendation, must determine the conservation lands proposed for exchange are no longer needed for conservation purposes. Section 253.034(6), F.S., requires the Board to make the determination that the exchange will result in a net-positive conservation benefit. Additionally, s. 253.034(15), F.S., requires the Board to first offer surplus

lands proposed for lease, sublease or sale, to universities, community colleges and state agencies before they are offered to the general public.

Currently, requests for exchanges of state-owned lands are made to the Department of Environmental Protection (DEP), Division of State Lands, acting on behalf of the Board. All exchanges are handled pursuant to Rule 18-2, Florida Administrative Code (F.A.C.). With regard to exchanges of state-owned conservation lands with private entities, Rule 18-2.018(3)(b)6., F.A.C., states, “exchanges may be applied for by private landowners only if they own or can acquire land on an approved state acquisition list and the parcel sought by the private landowner has been selected for conveyance through the land disposal process.”

Conservation easements are defined by s. 704.06, F.S., as a right or interest in real property that retains the land in a natural state, including agriculture uses. These types of easements include maintaining the structural integrity or physical appearance of historical, architectural, archeological or culturally significant sites. Certain activities that are detrimental to the natural state, structural integrity or physical appearance are prohibited or limited.

Bond Restrictions for Land Buying Programs

Preservation 2000 bonds will be fully retired by July 1, 2013, and conservation lands purchased with proceeds from those bonds may be disposed of without regard to bond covenants. However, Florida Forever bonds will not be fully retired until December 2030. Disposition of conservation lands purchased with Florida Forever bond proceeds is limited by s. 253.618(7), F.S. Generally, this section prohibits the disposition of land if it would cause all or any portion of the interest of such bonds to lose the exclusion from gross income for federal income tax purposes.

Additionally, the disposition of state-owned conservation lands may trigger an Internal Revenue Service regulation regarding private use of state-owned lands. If this occurs, the state must act to remediate the action in order for the bonds to maintain their tax-exempt status. Three provisions, known as safe harbor provisions, govern how the state may remediate the private use of state-owned lands purchased with tax-exempt bond proceeds:¹

- The consideration for the transfer must be exclusively cash;
- The bond issuer reasonably expects to spend the cash received within two years of the transfer for other qualified uses; and
- Any cash left over must be used to redeem or void existing bonds.

If land is surplussed, the yield on investments purchased with disposition proceeds may exceed the yield on the bonds, provided, among other things, there is a reasonable expectation the proceeds will be used to purchase substitute property within two years. Any excess earnings are rebated to the Federal Government.²

¹ DEP, *White Paper: Private Use on Public Lands Acquired with Bond Funds* (2010) (on file with the Senate Committee on Environmental Preservation and Conservation).

² *Id.*

Conservation Land Management Plans

All conservation lands require a land management plan pursuant to the guidelines in ss. 253.034(5) and 259.032(1), F.S., which describes resources and recreational activities.³ Land managers must complete a checklist for conservation lands over 160 acres and include it when submitting land management plans to the ARC. The checklist includes:⁴

- acquisition information;
- use information;
- public involvement;
- a natural resources inventory;
- a water resources inventory;
- a historical, archeological and cultural resources inventory;
- facilities information concerning infrastructure, access and recreation; and
- any other information or managing agency tools.

Management plans for conservation lands over 160 acres must be submitted to the ARC for its review and recommendations at a regularly scheduled meeting. For those under 160 acres, the plans must be submitted to the ARC for review and recommendations but do not have to be presented at an official meeting unless requested by an ARC member. Changes to the plans may be necessary to improve resource protection or recreational opportunities.⁵ All activities conducted on conservation lands must be consistent with their management plans.

III. Effect of Proposed Changes:

Section 1 amends s. 253.42, F.S., to provide an alternative mechanism for the exchange of state-owned lands to the current process provided by the Florida Constitution, statute and adopted rules. The bill allows a private party to make a request directly to the Board to exchange fee simple title of state-owned lands for a non-perpetual conservation easement over the private lands.⁶ The private lands must be surrounded by state-owned lands on at least 30 percent of its perimeter and cannot create an inholding. If these two criteria are met, the Board must consider the request within 60 days. The bill requires special consideration be given to the request to exchange lands if the state retains a conservation easement in perpetuity. Finally, the bill strongly encourages low-impact uses, such as forest management, prescribed burning and wildlife management, on lands subject to the exchange.

Section 2 provides an effective date of July 1, 2013.

Other Potential Implications:

The exchange of state-owned lands, if purchased with tax-exempt bond proceeds, may threaten the tax-exempt status of Florida Forever bond proceeds if the safe harbor provisions are not met.

³ DEP, *Stewardship*, <http://www.dep.state.fl.us/lands/stewardship.htm> (last visited Apr. 5, 2013).

⁴ DEP, *Land Management Plan Compliance Checklist* (Rev. Feb. 2013), available at <http://www.dep.state.fl.us/lands/oes/Land%20Management%20Plan%20Compliance%20Checklist-%20revised%20February%202013.pdf> (last visited Apr. 5, 2013).

⁵ *Supra* note 2.

⁶ “Fee simple title” is a legal term meaning the title holder has an absolute interest in the land without restrictions.

The bill does not require the Board to retain a perpetual conservation easement over lands it transfers or over the conservation easements it acquires.

The bill potentially conflicts with existing law that requires certain surplusled lands be offered to universities, community colleges and local governments before being offered to the public.

The alternative exchange mechanism provided in the bill removes the ARC from its current role as the recommending body for conservation land use decisions for disposition of state-owned conservation lands. The ARC maintains a list of potential conservation lands targeted for acquisition that is approved by the Board annually. The process contained in the bill may allow for acquisition of lands not targeted for acquisition.

Public access may be limited if the private landowner does not allow the public on the formerly state-owned lands or privately held lands now subject to a conservation easement.

The bill *strongly encourages* low-impact uses for state-owned lands transferred to a private party but does not require it. More intense land uses may be incompatible with surrounding land use management plans or the purpose for which the land was originally purchased.

The Board does not have the expert staff needed to evaluate the net conservation benefit of lands considered under an exchange request. The bill is silent as to whether the Board may consult with the ARC or the Division of State Lands to evaluate this criterion.

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:

SB 466 does not require the Board to make a finding that the state-owned land is not needed for conservation purposes before an exchange may be executed. This provision may conflict with article X, section 18 of the Florida Constitution. It is assumed the Board would make such a determination before exchanging state-owned lands, but the bill is silent on this point.

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

None.

B. Private Sector Impact:

SB 466 may allow certain land owners to receive fee simple title to state-owned conservation lands that may not be available for disposition under current law.

If the Board exchanged state-owned lands accessible to the public for a conservation easement on privately held lands, individuals who currently use the state-owned lands would be prohibited from using the now privately held lands and the new lands subject to a conservation easement unless public access was maintained by the new owner. Conservation easements do not inherently contain a right of public access.

C. Government Sector Impact:

SB 466 may result in an increase in conservation easements held by the state but a decrease in lands held in fee simple. However, since the alternative exchange mechanism in this bill is permissive, the impact cannot be determined.

Pursuant to s. 193.501, F.S., lands subject to a conservation easement may be assessed at a lower valuation for tax purposes depending on the length of the easement. The tax gain or loss to the state and local governments can only be determined based on the specific terms and acreage of each exchange; therefore, the tax impact to the state and local governments cannot be determined at this time.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.



486936

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) is added to section 253.42,
Florida Statutes, to read:

253.42 Board of trustees may exchange lands.—The provisions
of this section apply to all lands owned by, vested in, or
titled in the name of the board whether the lands were acquired
by the state as a purchase, or through gift, donation, or any
other conveyance for which no consideration was paid.

(4) (a) A private individual or a private or public



486936

corporation with privately held land contiguous to state-owned land may submit a request directly to the board to exchange state-owned land for permanent conservation easements over the privately held land. This subsection does not apply to state-owned sovereign submerged land.

(b) The exchange may be in an amount of state-owned land not to exceed 640 acres equal in size to the monetary and ecological equivalent of privately held land that the private individual or private or public corporation is willing to put into a permanent conservation easement, not to exceed 1,280 acres per exchange.

(c) The board shall maintain a permanent conservation easement over the state-owned land being exchanged under this subsection which is similar to the permanent conservation easement that is being established over the privately held land.

1. The easement shall:

a. Prohibit conversion of native habitats, road construction, and use of agricultural irrigation and plant nutrients.

b. Require a perpetual management plan not limited to prescribed fire and control of nonnative invasive species and provide for penalties for failure to perform.

2. The applicant must provide financial assurance that the land will be maintained according to the terms of the easement.

(d) The board shall consider such request within 180 days after receipt and may approve the request only if:

1. The privately held land is surrounded by state-owned land on at least 30 percent of its perimeter, and the exchange does not create an inholding.



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42 2. The board or the Acquisition and Restoration Council
43 conducts an advertised public hearing in the county where the
44 state land is located and recommends the exchange after the
45 hearing. The hearing must include public comment on the equal
46 value exchange required under subsection (2).

47 3. The board makes an affirmative determination, based
48 solely on an assessment on the exchanged land's ecological
49 resources, that the property is no longer needed for
50 conservation purposes pursuant to s. 18, Art. X of the State
51 Constitution.

52 4. The approval does not result in the board, the
53 Department of Environmental Protection, the Department of
54 Agriculture and Consumer Services, the Fish and Wildlife
55 Conservation Commission, or a water management district
56 violating the terms of a preexisting lease agreement.

57 5. The exchange of privately held land and state-owned land
58 pursuant to paragraph (a) will not result in a net gain of
59 conservation value.

60 6. The applicant agrees to reimburse the state for mapping,
61 surveys, appraisals, environmental assessments, legal work, and
62 closing costs.

63 7. Such request is approved by a three-fourths vote of the
64 board.

65 (e) Special consideration shall be given to a request
66 submitted pursuant to this subsection that maintains public
67 access for any recreational purposes allowed on the state-owned
68 land at the time the request is submitted to the board.

69 (f) Lands that are exchanged pursuant to this subsection
70 are subject to inspection by the Department of Environmental



486936

Protection to ensure compliance with the terms of all permanent
conservation easements constituting the exchange.

Section 2. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to state lands; amending s. 253.42,
F.S.; authorizing individuals and corporations to
submit requests to the Board of Trustees of the
Internal Improvement Trust Fund to exchange state-
owned land for conservation easements over privately
held land; providing criteria for consideration of
such requests; providing that such lands are subject
to inspection; providing an effective date.



520688

LEGISLATIVE ACTION

Senate

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House

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

Senate Amendment to Amendment (486936)

Delete line 58
and insert:
pursuant to paragraph (a) will result in a net gain of
conservation value.

By Senator Altman

16-00207C-13

2013466__

1 A bill to be entitled
2 An act relating to state lands; amending s. 253.42,
3 F.S.; authorizing individuals and corporations to
4 submit requests to the Board of Trustees of the
5 Internal Improvement Trust Fund to exchange state-
6 owned land for conservation easements over privately
7 held land; providing criteria for consideration of
8 such requests; encouraging certain operations on such
9 lands; providing an effective date.

10
11 WHEREAS, the Legislature finds that significant economic
12 forces compel the state to be innovative in seeking new ways to
13 expand the protection and conservation of undeveloped lands
14 while reducing the overall fiscal impact to the state, and

15 WHEREAS, many of these undeveloped lands are held in
16 private ownership by individuals or are held by private or
17 public corporations and are contiguous to existing state-owned
18 land, and

19 WHEREAS, the Legislature recognizes that these individuals
20 or corporations may have additional management resources that
21 would assist in the conservation and protection of natural
22 resources on such lands and allow the state to increase the
23 amount of land under protective covenants, and

24 WHEREAS, it is the intent of the Legislature to encourage
25 the use of conservation easements over privately held land
26 through the exchange of state-owned land, to secure the future
27 of natural resource-based recreation areas, and to ensure the
28 survival of plant and animal species and the conservation of
29 finite and renewable natural resources, NOW, THEREFORE,

16-00207C-13

2013466__

30
31 Be It Enacted by the Legislature of the State of Florida:
32

33 Section 1. Subsection (4) is added to section 253.42,
34 Florida Statutes, to read:

35 253.42 Board of trustees may exchange lands.—The provisions
36 of this section apply to all lands owned by, vested in, or
37 titled in the name of the board whether the lands were acquired
38 by the state as a purchase, or through gift, donation, or any
39 other conveyance for which no consideration was paid.

40 (4) (a) An individual or a private or public corporation
41 with privately held land contiguous to state-owned land may
42 submit a request directly to the board to exchange state-owned
43 land for conservation easements over the privately held land.

44 (b) If the privately held land is surrounded by state-owned
45 land on at least 30 percent of its perimeter, and the exchange
46 will not create an inholding, the board shall consider the
47 request within 60 days after receipt of the request.

48 (c) Special consideration shall be given to a request
49 submitted pursuant to this subsection which allows the state to
50 retain a conservation easement in perpetuity. Furthermore, low-
51 impact operations such as grazing, forest management, prescribed
52 burning, and wildlife management practices are strongly
53 encouraged on such lands.

54 Section 2. This act shall take effect July 1, 2013.

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 958

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Richter

SUBJECT: Underground Natural Gas Storage

DATE: April 11, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Gudeman	Uchino	EP	Fav/CS
2.			CU	
3.			JU	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/SB 958 creates the Underground Natural Gas Storage Act. Specifically, the CS:

- Provides tax exemptions for natural gas stored in Florida;
- Declares that the underground storage of natural gas is in the public interest;
- Clarifies that natural gas stored in Florida is not subject to the specific provisions relating to the control and regulation of all common sources of oil or gas;
- Provides definitions and renumbers definitions;
- Provides authority to the Division of Resource Management (division) and provides the Department of Environmental Protection (DEP) with rulemaking authority;
- Provides specific permitting and permit application fee requirements and specifies the contents of the permit application;
- Requires each well to be permitted individually;
- Provides specific authority to the DEP to issue permits related to natural gas storage;
- Provides specific criteria and conditions under which a permit may be issued;
- Provides provisions for recertification of a permit;
- Provides specific circumstances for which a permit may not be issued;

- Provides for the protection of water supplies while providing defenses to claims for the contamination of a water supply;
- Provides for the protection of natural gas storage facilities and for the property rights of the natural gas injected;
- Allows the DEP to issue orders related to additional recovery of oil or gas, subject to specific conditions;
- Exempts stored natural gas from certain limitations;
- Provides penalties for violations of a permit for a natural gas storage facility;
- Prohibits pollution and requires the cost of clean-up to be incurred by the responsible party;
- Allows for underground natural gas storage facilities and interstate pipelines to be subject to expedited permitting; and
- Requires the DEP to adopt rules.

CS/SB 958 amends sections 211.02, 211.025, 376.301, 377.06, 377.18, 377.19, 377.21, 377.22, 377.24, 377.241, 377.242, 377.25, 377.28, 377.30, 377.34, 377.37, 377.371, and 403.973 of the Florida Statutes. The CS also creates sections 377.2407, 377.2431, 377.2432, 377.2433, and 377.2434 of the Florida Statutes, and an unnumbered section of law.

II. Present Situation:

Natural Gas Storage

Natural gas storage is critical to maintaining the reliability and supply needed to meet the demand of consumers. Underground natural gas storage was first introduced in 1909 by the United States Geological Survey and was carried out in 1916 in a depleted reservoir located in Concord, New York.¹

The most common type of underground natural gas storage facility is depleted natural gas wells where all of the recoverable natural gas has been extracted, leaving underground formations geologically capable of storing natural gas.² There are 326 depleted reservoir storage sites in the United States.³ These sites are favorable over other types of underground storage because the infrastructure from the extraction network is already in place and the geological characteristics of the reservoir are well known.⁴

For a depleted reservoir to be a viable option for underground storage, it must be located in a consuming region and close to transportation infrastructure. The porosity and permeability of the formation are also critical factors as porosity determines the amount of natural gas that may be held, and the permeability determines the rate at which the natural gas flows through the formation.⁵

¹ Arthur J. Kidnay and William R. Parrish, FUNDAMENTALS OF NATURAL GAS PROCESSING, 256 (2006).

² NaturalGas.org, *Storage of Natural Gas*, <http://www.naturalgas.org/naturalgas/storage.asp> (last visited Apr. 7, 2013).

³ U.S. Energy Information Administration, *Underground Natural Gas Storage*, http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/undgrnd_storage.html (last visited Apr. 7, 2013).

⁴ *Supra* note 2.

⁵ *Id.*

Aquifers and salt caverns are also used as underground storage facilities. Salt caverns storage facilities are formed out of existing salt deposits that are impermeable and self-sealing, creating a strong and environmentally sound storage system. Aquifer storage systems are underground porous, permeable rock formations that act as natural water reservoirs and are used to store natural gas in areas where there are no depleted reservoirs. Aquifers are the most expensive type of underground storage facility because of the extensive geologic testing that must be done prior to use.⁶ There are 43 aquifer storage sites and 31 salt cavern storage sites in the United States.⁷

To store natural gas in an underground storage facility, it is first reconditioned by injecting natural gas into the formation, which builds up pressure. As natural gas is added, the voids in the geologic formation are filled and become pressurized, similar to a natural gas container. Steady pressure in the reservoir allows gas to be extracted at a predictable rate, once the pressure drops below the wellhead, there is no pressure left to push the natural gas out of the reservoir. A “base gas” is used to maintain the pressure in the reservoir and remains in the reservoir at all times.⁸ The “working gas” is the natural gas that is injected, stored, and withdrawn.⁹ When the working gas pressure is high, gas may be extracted at a high rate; as the working gas pressure decreases, the flow rate of extracted natural gas decreases. The balance between the “base gas” pressure and the “working gas” pressure directly influences the deliverability rate of the storage facility.¹⁰

Currently in the United States, the majority of natural gas storage facilities are depleted reservoirs located in 22 states, primarily in the north east.¹¹ The Weekly Natural Gas Storage Report states that 1,724 billion cubic feet of natural gas has been stored over the last five years.¹²

Federal Regulation of Natural Gas

The Federal Energy Regulatory Commission (FERC) regulates interstate pipeline operations, storage, permitting and construction of new pipeline facilities, and the transmission rates that pipelines are permitted to charge. The FERC coordinates with other federal and state agencies to permit new pipelines and the conditions under which the pipelines may be constructed. The FERC also regulates the abandonment of facilities.¹³

Regulation of Oil and Gas Resources in Florida

The DEP’s Mining and Minerals Regulation Program (program) regulates oil and gas exploration and production in Florida under part I of ch. 377, F.S., and Rules 62C-25 through 30, Florida

⁶ *Id.*

⁷ *Supra* note 3.

⁸ “Base gas” is defined as the volume of gas needed as a permanent inventory to maintain adequate reservoir pressures and deliverability rates throughout the withdrawal season. All native gas is included in base gas volume. See U.S. Energy Information Administration, *Natural Gas, Definitions, Sources and Explanatory Notes*, http://www.eia.gov/dnav/ng/tbldefs/ng_stor_wkly_tbldef2.asp (last visited Apr. 7, 2013).

⁹ “Working gas” is defined as the volume of total gas storage capacity that contains natural gas available for withdrawal. See *id.*

¹⁰ *Supra* note 2.

¹¹ *Id.*

¹² U.S. Energy Information Administration, *Weekly Natural Gas Storage Report*, <http://ir.eia.gov/ngs/ngs.html> (last visited Apr. 7, 2013).

¹³ 15 U.S.C., s. 717 et seq.

Administrative Code. Companies that explore for, or produce oil and gas in Florida, are permitted through the program, which ensures compliance and safety of the activities. In order to drill for oil or gas, the applicant must first provide notice to the DEP and pay the required permit fee. The permit may be granted subject to specific statutory criteria. The local government or municipality in which the land is located must also approve the application for the permit by a resolution.¹⁴

Section 211.02(1), F.S., provides for a severance tax to be levied on the production of oil within Florida for sale, transport, storage, profit, or commercial use. The tax is measured by the value of the oil produced, saved or stored during a month.

Florida is not a large producer of natural gas as the amount recovered in south Florida is considered to be insignificant and approximately 700 billion cubic feet of natural gas has been produced in northwest Florida.¹⁵

There are no existing underground natural gas storage facilities in Florida and there are no regulatory provisions or rules for the storage of underground natural gas. All of the natural gas demand in Florida is served by two interstate pipelines delivering up to 4.5 billion cubic feet per day of natural gas. The existing pipelines are capable of providing enough natural gas to fuel approximately 26,000 mega watts of electric generation, which serves 5.5 to 6 million customers. The only natural gas reserves available in Florida are in the “line pack,” which is the actual amount of gas in the pipeline or distribution system. The “line pack” allows for operational flexibility for pipeline customers, but is not considered a method of storage.¹⁶

III. Effect of Proposed Changes:

Section 1 creates an unnumbered section of law to establish the “Florida Underground Natural gas Storage Act.”

Section 2 amends s. 211.02, F.S., to exempt gas-phase hydrocarbons that are transported into Florida, injected into an underground natural gas storage facility and later recovered as liquid hydrocarbons, from the severance tax on oil production.

Section 3 amends s. 211.025, F.S., to provide that the severance tax on natural gas applies only to native gas as defined in s. 377.19, F.S.

Section 4 amends s 376.301, F.S., to correct a cross-reference.

Section 5 amends s. 377.06, F.S., to declare that underground storage of natural gas is in the public interest because it:

- Promotes conservation of natural gas;
- Makes gas more readily available for domestic, commercial and industrial users; and

¹⁴ See ss. 377.242-377.24, F.S.

¹⁵ DEP, *Senate Bill 958/984 Agency Analysis* (Mar. 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁶ Email from Timothy Riley, Attorney, Hopping Green and Sams (Mar. 6, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

- Allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand.

Section 6 amends s. 377.18, F.S., to clarify that the existing provision relating to the control and regulation of all common sources of oil or gas apply only to native gas.

Section 7 amends s. 377.19, F.S., to add and revise definitions including:

- “Well site” is amended to include “inject gas into and recover gas from a natural gas storage facility.
- “Operator” is amended to include “As part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.”
- “Department” means the Department of Environmental Protection.
- “Lateral storage reservoir boundary” means the projections up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.
- “Native gas” means gas that occurs naturally within Florida and does not included gas produced outside or transported to Florida, and injected into a permitted natural gas storage facility.
- “Natural gas storage facility” means an underground reservoir from which oil or gas has been previously produced and which is used or to be used for the underground storage of natural gas, and any surface or subsurface structure, infrastructure, right, or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof. The term does not mean a transmission, distribution, or gathering pipeline or system that is not used primarily as integral piping for a natural gas storage facility.
- “Natural gas storage reservoir” means a pool or field from which oil or gas has previously been produced and which is suitable for or capable of being made suitable for the injection, storage, and recovery of gas.
- “Oil and gas” has the same meaning as the term “oil or gas.”
- “Reservoir protective area” means the area extending up to and including 2,000 feet surrounding a natural gas lateral storage reservoir boundary.
- “Shut-in bottom hole pressure” means the pressure at the casing head or wellhead when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.

Section 8 amends s 377.21, F.S., to specify that the Division of Resource Management (division) has authority to administer and enforce laws relating to the storage of gas in and recovery of gas from natural gas storage reservoirs.

Section 9 amends s. 377.22, F.S., to provide the DEP with specific authority to adopt rules and issue orders with regard to the injection of gas into and recovery of gas from a natural gas storage reservoir, and for the protection of the integrity of natural gas storage reservoirs.

Section 10 amends s. 377.24, F.S., to require permits from the DEP prior to storing gas in, or recovering gas from, a natural gas storage reservoir, and requiring applications for such permits to include the name and address of the applicant.

Section 11 creates s. 377.2407, F.S., to specify the DEP must require an applicant to pay a reasonable permit application fee and the fee must be the amount necessary to cover the costs associated with permitting, processing, issuing, and recertifying the permit application, and inspecting activities for compliance.

The CS requires the permit application to include:

- A detailed, three-dimensional description of the natural gas storage reservoir;
- A geographic description of the lateral reservoir boundary;
- A general description and location of all injection, recovery, withdrawal-only, and observation wells;
- A description of the reservoir protective area;
- Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas;
- Information identifying all known abandoned or active wells within the natural gas storage facility;
- A field-monitoring plan that requires, at a minimum monthly field inspections of all wells that are part of the natural gas storage facility;
- A monitoring and testing plan to ensure well integrity;
- A well inspection plan that requires, at a minimum, the inspection of all wells that are part of the natural gas storage facility and plugged wells within the natural gas storage facility boundary;
- A spill prevention and response plan;
- A well spacing plan;
- An operating plan for the natural gas storage reservoir, which must include gas capacities, anticipated operating conditions, and maximum storage pressure;
- A gas migration response plan; and
- A location plat and general facility map surveyed and prepared by a registered land surveyor licensed under ch. 472, F.S.

The DEP may require additional necessary information from the applicant for completion of the permit application. The CS also requires each well to be permitted individually and that well construction and operation be subject to the criteria outlined in ch.377, F.S.

Section 12 adds s. 377.241, F.S., to confirm that the issuance of a natural gas storage facility permit considers the storage facility, the nature, structure, and proposed use of the natural gas storage reservoir suitable for the storage and recovery of gas without causing adverse effects to public health, safety, and the environment.

Section 13 amends s. 377.242, F.S., to provide that the DEP is vested with the power and authority to issue permits for natural gas storage facilities.

Section 14 creates s. 377.2431, F.S., to provide conditions under which a natural gas storage facility permit can be issued and requires that the permit be issued for the life of the facility, subject to recertification every ten years. The CS requires the applicant to adhere to specific conditions in order for the DEP to issue or reissue a permit. Specifically the CS requires that the applicant has:

- Implemented or is in the processing of implementing programs for the control and mitigation of pollution;
- Acquired the lawful right to develop the natural gas storage facility from at least 75 percent of the property interests or the applicant has obtained a certificate of public convenience and necessity from the Federal Energy Regulatory Commission pursuant to 15 U.S.C. ss. 717 et seq.
- Identified the known wells that have been drilled into or through the reservoir to the best of their ability and determined if the wells are inactive or abandoned and properly plugged. The applicant is required to plug or recondition any well that has not been properly plugged before conducting injection operations.
- Tested the quality of water from all water supply wells within the lateral boundary of the facility and complied with all of the requirements of s. 377.2432, F.S
- Determined whether native gas or oil will be produced in the process of recovering injected gas. If native gas or oil will be produced, the applicant or operator must acquire the rights to develop the gas or oil before injecting gas into the natural gas storage reservoir.

The CS requires all inspections and reports to be made available to the DEP for inspection at any reasonable time.

The CS also requires the natural gas storage facility operator to request approval of a maximum storage pressure in accordance with the following:

- The maximum storage pressure is the highest shut-in bottom hole pressure found to exist during production history, unless the DEP has established a higher pressure based on testing of caprock and pool containment. Methods for determining the higher pressure must be approved by the DEP.
- If the shut-in bottom hole pressure of the original discovery or highest production is not known, or the DEP has not established a higher pressure, then the maximum storage reservoir pressure must be limited to a freshwater hydrostatic gradient.

The CS prohibits a county or municipality from adopting an ordinance, resolution, comprehensive plan, or land development regulation, or attempting to regulate natural gas storage facilities that are regulated under ch. 377, F.S.

The CS specifies that the DEP may not issue a permit for a natural gas storage reservoir located under a source of drinking water unless the applicant can demonstrate the injection or recovery of natural gas will not cause or allow gas to migrate into the source of drinking water. It also prohibits a natural gas storage reservoir to be permitted offshore or within a salt formation.

Section 15 creates s. 377.2432, F.S., to require the operator of a natural gas storage facility that affects a water supply to restore and replace the affected supply and provide an alternate source.

The CS specifies that the facility operator is presumed responsible for pollution of water supplies within the lateral boundary of the facility if the pollution occurs within six months of completion of drilling or after initial injection, whichever is later, unless rebutted by a statutory defense.

The CS requires that if the water supply is contaminated in the rebuttable presumption area, the facility operator must provide a temporary alternative water supply.

The facility operator presumed responsible for contaminating a water supply may rebut the claim by proving any of the following:

- The pollution existed before the drilling or alteration as determined by a predrilling or prealteration survey;
- The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey;
- The water supply is not within the lateral boundary of the natural gas storage facility;
- The pollution occurred more than six months after completion of drilling or alteration of any well associated with the natural gas storage facility; and
- The pollution occurred as the result of a cause other than activities authorized under the natural gas storage permit.

The CS requires the facility operator to use an independent certified laboratory to conduct the predrilling and prealteration water quality surveys. The surveys are to be submitted to the DEP and the landowner or water supplier. The presumption that the facility operator is at fault for the water contamination may be void if the landowner or water supplier prohibits the facility operator access to conduct predrilling and prealteration water quality surveys.

The CS does not prevent the landowner or water supplier who claims the water source has been contaminated from seeking any other remedy at law or in equity.

Section 16 creates s. 377.2433, F.S., to provide for the protection of natural gas storage facilities, as follows:

- The DEP may not permit wells to be drilled into or through the reservoir except under conditions that prevent loss or migration of gas from the reservoir;
- The operator must have reasonable right of entry to observe the drilling of any such well within the permitted natural gas storage facility boundary or reservoir protective area;
- The DEP must ensure that any well drilled into a permitted natural gas storage reservoir or reservoir protective area is properly cased and cemented.

Section 17 creates s. 377.2434, F.S., to provide the injected gas is the property of the injector or the injector's heirs, successors, or assigns, whether owned by the injector or stored under contract.

The CS specifies the surface owner does not have the right to waste or exercise control over the gas; however, the ownership of hydrocarbons that occur naturally within the state or the right of a surface owner or mineral interest are not subject to these restrictions and they may drill or bore through a natural gas storage facility as long as the integrity of the natural gas storage facility is protected.

The CS requires that the injector, injector's heirs, or assigns, may not lose title to or possession of the gas that has migrated to adjoining properties or strata as long as they can prove the migrated gas is the same gas originally injected into the underground storage facility. The injector, injector's heirs, or assigns, at their own expense, have the right to conduct tests on the existing wells on the adjoining property to determine ownership of the gas.

The CS provides that property owners may be entitled to compensation in the event gas has migrated to their property.

Section 18 amends s. 377.25, to provide that well spacing requirements do not apply to injection wells associated with a natural gas storage facility.

Section 19 amends s. 377.28, F.S., to specify the additional recovery of oil or gas must not interfere with the storage or recovery of natural gas within a natural gas reservoir.

Section 20 amends s. 377.30, F.S., to provide that the limitations on the amount of oil and gas taken do not apply to nonnative gas recovered from a permitted natural gas storage facility.

Section 21 amends s. 377.34, F.S., to provide that the division may enforce laws, rules and orders against those engaged in storage or recovering of natural gas.

Section 22 amends s. 377.37, F.S., to clarify that the penalties provided in s. 377.37, F.S., may be applied to any person who violates the law or the provisions of a permit for a natural gas storage facility.

Section 23 amends s. 377.371, F.S., to clarify that the storage of natural gas is included in the prohibition on pollution when drilling for or producing oil, gas, or other petroleum products. The CS also specifies that the cost to clean-up state waters from pollution that was the result of a natural gas storage facility is the responsibility of the facility operator.

Section 24 amends s. 403.973, F.S., to provide projects for natural gas storage facilities permitted under ch. 377, F.S., and interstate natural gas pipelines that are subject to certification by the FERC are eligible for the expedited permitting process created in s. 403.973, F.S.

Section 25 creates an unnumbered section of law to require the DEP to adopt rules relating to natural gas storage before issuing a natural gas storage facility permit.

Section 26 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

There may be some benefit to the private sector to have stored natural gas during a time when supply may have otherwise been interrupted (e.g. hurricane season). In addition, if this act becomes law, companies that specialize in the types of natural gas storage facilities allowed by this CS will be able to apply for permits and begin operations if approved.

C. Government Sector Impact:

The CS provides for minor non-recurring costs that will be absorbed by the DEP for rulemaking procedures, public workshops, staff training, reviewing applications, and issuing permits. The DEP expects these costs to be partially offset by the permit fee and the remainder to be absorbed with existing resources.

The Department currently does not have the expertise to be able to regulate natural gas storage facilities appropriately. There would be a cost incurred to the DEP to obtain the engineering and field expertise necessary to implement a natural gas storage program. According to the DEP, due to the specialized field, the DEP would likely have to hire an outside contractor with the expertise necessary to oversee the engineering reviews and rulemaking. Permit fees developed during rulemaking would likely offset some of the costs incurred. The amount of regulatory oversight required to manage the program is unknown and the DEP has not been able to find an outside contractor with the appropriate experience to provide an estimate of the fee, therefore the exact amount of fees necessary to fund the program is unknown. The DEP does not expect to request an appropriation to begin the rulemaking process.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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 April 9, 2013:

- Revises definitions;
- Removes the provision that the act is “self-executing” and requires rulemaking before a permit may be issued;
- Removes the provision that prohibits the DEP from declaring a permit application invalid or prohibits the issuance of a permit solely because the DEP has not adopted rules for the underground storage of natural gas;
- Requires a the DEP to develop a reasonable application to cover programmatic costs;
- Specifies that a general description and location of all injection, recovery, withdrawal-only, and observations wells is required in a permit application;
- Requires an individual permit for each well related to natural gas storage;
- Extends the permit recertification requirement from five years to ten years;
- Clarifies requirements with respect to property ownership above the lateral extent of a natural gas storage reservoir;
- Removes all references to the power of eminent domain;
- Specifies requirements if native gas or oil is recovered during extraction of stored gas;
- Specifies that the well pressure records be made available for inspection by the DEP and clarifies the default maximum reservoir operating conditions that will be established in the facility permit;
- Specifies additional protections for storage facilities located beneath an underground source of drinking water;
- Specifies that storage facilities cannot be established in any offshore location or in salt formations;
- Removes the provision that allows a natural gas storage facility operator to petition the DEP to stop activities that may interfere with the reservoir;
- Clarifies unitization orders issued by the DEP with regard to natural gas storage;
- Removes the reference to the use of conservation agreements for common ownership; and
- Authorizes expedited permitting for interstate pipelines.

B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Florida
Underground Natural Gas Storage Act."

Section 2. Subsection (7) is added to section 211.02,
Florida Statutes, to read:

211.02 Oil production tax; basis and rate of tax; tertiary
oil and mature field recovery oil.—An excise tax is hereby
levied upon every person who severs oil in the state for sale,
transport, storage, profit, or commercial use. Except as



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otherwise provided in this part, the tax is levied on the basis of the entire production of oil in this state, including any royalty interest. Such tax shall accrue at the time the oil is severed and shall be a lien on production regardless of the place of sale, to whom sold, or by whom used, and regardless of the fact that delivery of the oil may be made outside the state.

(7) As used in this section, the term "oil" does not include gas-phase hydrocarbons that are transported into the state, injected in the gaseous phase into a natural gas storage facility permitted under part I of chapter 377, and later recovered as a liquid hydrocarbon.

Section 3. Subsection (6) is added to section 211.025, Florida Statutes, to read:

211.025 Gas production tax; basis and rate of tax.—An excise tax is hereby levied upon every person who severs gas in the state for sale, transport, profit, or commercial use. Except as otherwise provided in this part, the tax shall be levied on the basis of the entire production of gas in this state, including any royalty interest. Such tax shall accrue at the time the gas is severed and shall be a lien on production regardless of the place of sale, to whom sold, or by whom used and regardless of the fact that delivery of the gas may be made outside the state.

(6) This section applies only to native gas as defined in s. 377.19.

Section 4. Subsection (36) of section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and



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376.75, unless the context clearly requires otherwise, the term:

(36) "Pollutants" includes any "product" as defined in s. 377.19~~(11)~~, pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

Section 5. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas.—It is hereby declared ~~to be~~ the public policy of this ~~the~~ state to conserve and control the natural resources of oil and gas in this ~~said~~ state, and the products made from oil and gas in this state ~~therefrom~~; to prevent waste of ~~said~~ natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the ~~wherein said~~ natural resources lie, of and ~~and~~ the owners and producers of oil and gas resources and the products made from oil and gas ~~therefrom~~, and of others interested in these resources and products ~~therein~~; to safeguard the health, property, and public welfare of the residents ~~citizens~~ of this ~~said~~ state and other interested persons and for all purposes indicated by the provisions in this section ~~herein~~. Further, it is declared that underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas; makes gas more readily available to the domestic, commercial, and industrial consumers of this state; and allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand. It is not the intention of this section to limit, ~~or~~ restrict, or modify in any way the provisions of this law.

Section 6. Section 377.18, Florida Statutes, is amended to



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71 read:

72 377.18 Common sources of oil and gas.—All common sources of
73 supply of oil or native and gas ~~or either of them~~ shall have the
74 production ~~therefrom~~ controlled or regulated in accordance with
75 the provisions of this law.

76 Section 7. Section 377.19, Florida Statutes, is reordered
77 and amended to read:

78 377.19 Definitions.—As used ~~Unless the context otherwise~~
79 ~~requires, the words defined in this section shall have the~~
80 ~~following meanings when found in ss. 377.06, 377.07, and 377.10-~~
81 377.40, the term:

82 (3) ~~(1)~~ "Division" means the Division of Resource Management
83 of the Department of Environmental Protection.

84 (28) ~~(2)~~ "State" means the State of Florida.

85 (20) ~~(3)~~ "Person" means a any natural person, corporation,
86 association, partnership, receiver, trustee, guardian, executor,
87 administrator, fiduciary, or representative of any kind.

88 (15) ~~(4)~~ "Oil" means crude petroleum oil and other
89 hydrocarbons, regardless of gravity, which are produced at the
90 well in liquid form by ordinary production methods, and which
91 are not the result of condensation of gas after it leaves the
92 reservoir.

93 (5) "Gas" means all natural gas, including casinghead gas,
94 and all other hydrocarbons not defined as oil in subsection (4).

95 (21) ~~(6)~~ "Pool" means an underground reservoir containing or
96 appearing to contain a common accumulation of oil or gas or
97 both. Each zone of a general structure which is completely
98 separated from any other zone on the structure is considered a
99 separate pool as used herein.



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100 ~~(4)-(7)~~ "Field" means the general area that ~~which~~ is
101 underlaid, or appears to be underlaid, by at least one pool. The
102 term; ~~and "field"~~ includes the underground reservoir, or
103 reservoirs, containing oil or gas, or both. The terms ~~words~~
104 "field" and "pool" mean the same thing if ~~when~~ only one
105 underground reservoir is involved; however, the term "field,"
106 unlike the term "pool," may relate to two or more pools.

107 ~~(19)-(8)~~ "Owner" means the person who has the right to drill
108 into and to produce from any pool and to appropriate the
109 production ~~either~~ for the person or for the person and another,
110 or others.

111 ~~(22)-(9)~~ "Producer" means the owner or operator of a well or
112 wells capable of producing oil or gas, or both.

113 ~~(31)-(10)~~ "Waste," in addition to its ordinary meaning,
114 means "physical waste" as that term is generally understood in
115 the oil and gas industry. The term "waste" includes:

116 (a) The inefficient, excessive, or improper use or
117 dissipation of reservoir energy; and the locating, spacing,
118 drilling, equipping, operating, or producing of any oil or gas
119 well or wells in a manner that ~~which~~ results, or tends to
120 result, in reducing the quantity of oil or gas ultimately to be
121 stored or recovered from any pool in this state.

122 (b) The inefficient storing of oil; and the locating,
123 spacing, drilling, equipping, operating, or producing of any oil
124 or gas well or wells in a manner that causes, or tends ~~causing,~~
125 ~~or tending~~ to cause, unnecessary or excessive surface loss or
126 destruction of oil or gas.

127 (c) The producing of oil or gas in ~~such~~ a manner that
128 causes ~~as to cause~~ unnecessary water channeling or coning.



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(d) The operation of any oil well or wells with an inefficient gas-oil ratio.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) The underground waste, however caused and whether or not defined.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that ~~which~~ is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) Permitting gas produced from a gas well to escape into the air.

(k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

(23) ~~(11)~~ "Product" means a ~~any~~ commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

(8) ~~(12)~~ "Illegal oil" means oil that ~~which~~ has been



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produced within the state from any well or wells in excess of the amount allowed by rule, regulation, or order of the division, as distinguished from oil produced within the state from a well not producing in excess of the amount so allowed, which is "legal oil."

(7)~~(13)~~ "Illegal gas" means gas that ~~which~~ has been produced within the state from any well or wells in excess of the amount allowed by any rule, regulation, or order of the division, as distinguished from gas produced within the State of Florida from a well not producing in excess of the amount so allowed, which is "legal gas."

(9)~~(14)~~ "Illegal product" means a ~~any~~ product of oil or gas, any part of which was processed or derived, in whole or in part, from illegal gas or illegal oil or from any product thereof, as distinguished from "legal product," which is a product processed or derived to no extent from illegal oil or illegal gas.

(24)~~(15)~~ "Reasonable market demand" means the amount of oil reasonably needed for current consumption, together with a reasonable amount of oil for storage and working stocks.

(30)~~(16)~~ "Tender" means a permit or certificate of clearance for the transportation or the delivery of oil, gas, or products, approved and issued or registered under the authority of the division.

~~(17) The use of the word "and" includes the word "or" and the use of "or" includes "and," unless the context clearly requires a different meaning, especially with respect to such expressions as "oil and gas" or "oil or gas."~~

(32)~~(18)~~ "Well site" means the general area around a well,



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which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and recover gas from a natural gas storage facility.

~~(17)-(19)~~ "Oil and gas administrator" means the State Geologist.

~~(18)-(20)~~ "Operator" means the entity who:

(a) Has the right to drill and to produce a well; or

(b) As part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.

~~(1)-(21)~~ "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

~~(26)-(22)~~ "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

~~(29)-(23)~~ "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

~~(14)-(24)~~ "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

~~(6)-(25)~~ "Horizontal well" means a well completed with the



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wellbore in a horizontal or nearly horizontal orientation within 10 degrees of horizontal within the producing formation.

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

(10) "Lateral storage reservoir boundary" means the projection up to the land surface of the maximum horizontal extent of the gas volume contained in a natural gas storage reservoir.

(11) "Native gas" means gas that occurs naturally within this state and does not include gas produced outside the state, transported to this state, and injected into a permitted natural gas storage facility.

(12) "Natural gas storage facility" means an underground reservoir from which oil or gas has previously been produced and which is used or intended to be used for the underground storage of natural gas, and any surface or subsurface structure, or infrastructure, except wells. The term also includes a right or appurtenance necessary or useful in the operation of the facility for the underground storage of natural gas, including any necessary or reasonable reservoir protective area as designated for the purpose of ensuring the safe operation of the storage of natural gas or protecting the natural gas storage facility from pollution, invasion, escape, or migration of gas, or any subsequent extension thereof. The term does not mean a transmission, distribution, or gathering pipeline or system that is not used primarily as integral piping for a natural gas storage facility.

(13) "Natural gas storage reservoir" means a pool or field from which oil or gas has previously been produced and which is



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suitable for or capable of being made suitable for the
injection, storage, and recovery of gas, as identified in a
permit application submitted to the department under s.
377.2407.

(16) "Oil and gas" has the same meaning as the term "oil or
gas."

(25) "Reservoir protective area" means the area extending
up to and including 2,000 feet surrounding a natural gas storage
reservoir.

(27) "Shut-in bottom hole pressure" means the pressure at
the bottom of a well when all valves are closed and no oil or
gas has been allowed to escape for at least 24 hours.

Section 8. Subsection (1) of section 377.21, Florida
Statutes, is amended to read:

377.21 Jurisdiction of division.—

(1) The division shall have jurisdiction and authority over
all persons and property necessary to administer and enforce
effectively the provisions of this law and all other laws
relating to the conservation of oil and gas or to the storage of
gas in and recovery of gas from natural gas storage reservoirs.

Section 9. Subsection (2) of section 377.22, Florida
Statutes, is amended to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules
pursuant to ss. 120.536~~(1)~~ and 120.54 to implement and enforce
the provisions of this chapter. Such rules and orders shall
ensure that all precautions are taken to prevent the spillage of
oil or any other pollutant in all phases of the drilling for,
and extracting of, oil, gas, or other petroleum products, or



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during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are ~~shall be~~ for, but ~~shall~~ not be limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the pollution of the fresh, salt, or brackish waters or the lands of the state and to protect the integrity of natural gas storage reservoirs.

(b) To prevent the alteration of the sheet flow of water in any area.

(c) To require that appropriate safety equipment be installed to minimize the possibility of an escape of oil or other petroleum products in the event of accident, human error, or a natural disaster during drilling, casing, or plugging of any well and during extraction operations.

(d) To require the drilling, casing, and plugging of wells to be done in such a manner as to prevent the escape of oil or other petroleum products from one stratum to another.

(e) To prevent the intrusion of water into an oil or gas stratum from a separate stratum, except as provided by rules of the division relating to the injection of water for proper reservoir conservation and brine disposal.

(f) To require a reasonable bond, or other form of security acceptable to the department, conditioned upon the performance of the duty to plug properly each dry and abandoned well and the full and complete restoration by the applicant of the area over which geophysical exploration, drilling, or production is



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conducted to the similar contour and general condition in existence prior to such operation.

(g) To require and carry out a reasonable program of monitoring or inspection of all drilling operations, ~~or~~ producing wells, or injecting wells, including regular inspections by division personnel.

(h) To require the making of reports showing the location of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from the provisions of s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, ~~or~~ property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally



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understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s)~~(r)~~ If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t)~~(s)~~ To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u)~~(t)~~ To regulate the spacing of wells and to establish drilling units.

(v)~~(u)~~ To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w)~~(v)~~ To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.



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361 ~~(x)-(w)~~ To regulate aboveground crude oil storage tanks in a
362 manner which will protect the water resources of the state.

363 ~~(y)-(x)~~ To act in a receivership capacity for fractional
364 mineral interests for which the owners are unknown or unlocated
365 and to administratively designate the operator as the lessee.

366 Section 10. Subsections (1) and (2) of section 377.24,
367 Florida Statutes, are amended to read:

368 377.24 Notice of intention to drill well; permits;
369 abandoned wells and dry holes.—

370 (1) Before drilling a any well in search of oil or gas, or
371 before storing gas in or recovering gas from a natural gas
372 storage reservoir shall be drilled, the person who desires
373 desiring to drill for, store, or recover gas, or drill for oil,
374 the same shall notify the division upon such form as it may
375 prescribe and shall pay a reasonable fee set by rule of the
376 department not to exceed the actual cost of processing and
377 inspecting for each well or reservoir. The drilling of any well
378 and the storing and recovering of gas are is hereby prohibited
379 until such notice is given, the and such fee is has been paid,
380 and the permit is granted.

381 (2) An Each application for the drilling of a well in
382 search of oil or gas, or for the storing of gas in and
383 recovering of gas from a natural gas storage reservoir, in this
384 state must shall include the address of the residence of the
385 applicant, or applicants each applicant, which must address
386 shall be the address of each person involved in accordance with
387 the records of the Division of Resource Management until such
388 address is changed on the records of the division after written
389 request.



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Section 11. Section 377.2407, Florida Statutes, is created to read:

377.2407 Natural gas storage facility permit application to inject gas into and recover gas from a natural gas storage reservoir.—

(1) Before drilling a well to inject gas into and recover gas from a natural gas storage reservoir, the person who desires to conduct such operation shall apply to the department in the manner described in this section using such form as the department may prescribe to obtain a natural gas storage facility permit. The Department of Environmental Protection shall also require any applicant seeking to obtain such permit to pay a reasonable permit application fee. Such fee must be in an amount necessary to cover the costs associated with permitting, processing, issuing, and recertifying the permit application, and inspecting for compliance with the permit.

(2) Each application must contain:

(a) A detailed, three-dimensional description of the natural gas storage reservoir, including geologic-based descriptions of the reservoir boundaries, and the horizontal and vertical dimensions.

(b) A geographic description of the lateral reservoir boundary.

(c) A general description and location of all injection, recovery, withdrawal-only, and observation wells.

(d) A description of the reservoir protective area.

(e) Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas.



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(f) Information identifying all known abandoned or active wells within the natural gas storage facility.

(g) A field-monitoring plan that requires, at a minimum, monthly field inspections of all wells that are part of the natural gas storage facility.

(h) A monitoring and testing plan for the well integrity.

(i) A well inspection plan that requires, at a minimum, the inspection of all wells that are part of the natural gas storage facility and plugged wells within the natural gas storage facility boundary.

(j) A spill prevention and response plan.

(k) A well spacing plan.

(l) An operating plan for the natural gas storage reservoir, which must include gas capacities, anticipated operating conditions, and maximum storage pressure.

(m) A gas migration response plan.

(n) A location plat and general facility map surveyed and prepared by a registered land surveyor licensed under chapter 472.

(3) The department may require additional information that is deemed necessary to permit the development of the natural gas storage facility. Each well related to the natural gas storage facility shall be authorized and permitted individually upon the applicant satisfying applicable well construction and operation criteria under this part; however, notwithstanding any other provision under this chapter, well spacing requirements do not apply.

Section 12. Subsection (4) is added to section 377.241, Florida Statutes, to read:



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377.241 Criteria for issuance of permits.—The division, in the exercise of its authority to issue permits as hereinafter provided, shall give consideration to and be guided by the following criteria:

(4) For activities and operations concerning a natural gas storage facility, the nature, structure, and proposed use of the natural gas storage reservoir is suitable for the storage and recovery of gas without adverse effect to public health or safety or the environment.

Section 13. Subsection (3) of section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for ~~temporary~~ storage in natural gas storage subsurface reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before June 7, 1991.

Section 14. Section 377.2431, Florida Statutes, is created to read:

377.2431 Conditions for granting permits for natural gas storage facilities.—



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477 (1) A natural gas storage facility permit shall authorize
478 the construction and operation of a natural gas storage facility
479 and must be issued for the life of the facility, subject to
480 recertification every 10 years.

481 (2) Before issuing or recertifying a permit, the division
482 shall require satisfactory evidence of the following:

483 (a) The applicant has implemented, or is in the process of
484 implementing, programs for the control and mitigation of
485 pollution related to oil, petroleum products or their
486 byproducts, and other pollutants.

487 (b) The applicant or operator has acquired a lawful right
488 to drill, explore, or develop a natural gas storage reservoir
489 from owners of at least 75 percent of the storage rights within
490 the natural gas storage reservoir, or the applicant or operator
491 has obtained a certificate of public convenience and necessity
492 for the natural gas storage reservoir from the Federal Energy
493 Regulatory Commission pursuant to the Natural Gas Act, 15 U.S.C.
494 ss. 717 et seq.

495 (c) The applicant has used all reasonable means to identify
496 known wells that have been drilled into or through the natural
497 gas storage reservoir or reservoir protective area to determine
498 the status of the wells and whether inactive or abandoned wells
499 have been properly plugged. For any well that has not been
500 properly plugged, before conducting injection operations and
501 after issuance of the permit, the applicant must plug or
502 recondition the well to ensure the integrity of the storage
503 reservoir or reservoir protective area.

504 (d) The applicant has tested the quality of water produced
505 by all water supply wells within the lateral boundary of the



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natural gas storage facility and complied with all requirements under s. 377.2432. The applicant shall provide to the department and the owner of the water supply well a written copy of the water quality data collected under this paragraph.

(e) A determination has been made regarding whether native gas or oil will be severed from below the soil or water of this state in the recovery of injected gas. If native gas or oil will be severed, the applicant or operator must acquire a lawful right to develop the native gas or oil before injecting gas into the natural gas storage reservoir.

(3) The applicant shall maintain records of well pressures recorded monthly, and monthly volumes of gas injected into and withdrawn from the reservoir. These records shall be maintained at the natural gas storage facility and shall be made available for inspection by the department at any reasonable time.

(4) (a) The maximum storage pressure for a natural gas storage reservoir shall be the highest shut-in bottom hole pressure found to exist during the production history of the reservoir, unless a higher pressure is established by the department based on testing of caprock and pool containment. The methods used for determining the higher pressure must be approved by the department.

(b) If the shut-in bottom hole pressure of the original discovery or of the highest production is not known, or a higher pressure has not been established through a method approved by the department pursuant to paragraph (a), the maximum storage reservoir pressure must be limited to a freshwater hydrostatic gradient.

(5) A county or municipality may not adopt an ordinance,



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resolution, comprehensive plan, or land development regulation,
or otherwise attempt to regulate or enforce any matter
concerning natural gas storage facilities governed under this
part.

(6) A permit may not be issued for a natural gas storage
facility that includes a natural gas storage reservoir located
beneath an underground source of drinking water unless the
applicant demonstrates that the injection or recovery of natural
gas will not cause or allow natural gas to migrate into the
underground source of drinking water; or in any offshore
location in the Gulf of Mexico, the Straits of Florida, or the
Atlantic Ocean; or in any solution-mined cavern within a salt
formation.

Section 15. Section 377.2432, Florida Statutes, is created
to read:

377.2432 Natural gas storage facilities; protection of
water supplies.—

(1) An operator of a natural gas storage facility who
affects a public or private underground water supply by
pollution or diminution shall restore or replace the affected
supply with an alternate source of water adequate in quantity
and quality for the purposes served by the supply. The
department shall ensure that the quality of restored or replaced
water is comparable to the quality of the water before it was
affected by the operator.

(2) Unless rebutted by a defense established in subsection
(4), a natural gas storage facility operator is presumed
responsible for pollution of an underground water supply if:

(a) The water supply is within the lateral boundary of the



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natural gas storage facility; and

(b) The pollution occurred within 6 months after completion of drilling or alteration of any well under or associated with the natural gas storage facility permit or after the initial injection of gas into the natural gas storage reservoir, whichever is later.

(3) If the affected underground water supply is within the rebuttable presumption area as provided in subsection (2) and the rebuttable presumption applies, the natural gas storage facility operator shall provide a temporary water supply if the water user is without a readily available alternative source of water at no cost to the owner of the affected water supply. The temporary water supply provided under this subsection must be adequate in quantity and quality for the purposes served by the affected supply.

(4) A natural gas storage facility operator rebuts the presumption in subsection (2) by affirmatively proving any of the following:

(a) The pollution existed before the drilling or alteration activity as determined by a predrilling or prealteration survey.

(b) The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

(c) The water supply well is not within the lateral boundary of the natural gas storage facility.

(d) The pollution occurred more than 6 months after completion of drilling or alteration of any well under or associated with the natural gas storage facility permit.

(e) The pollution occurred as the result of a cause other



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than activities authorized under the natural gas storage facility permit.

(5) A natural gas storage facility operator electing to preserve a defense under subsection (4) must retain an independent certified laboratory to conduct a predrilling or prealteration survey of the water supply. A copy of survey results must be submitted to the department and the landowner or water purveyor in the manner prescribed by the department.

(6) A natural gas storage facility operator must provide written notice to the landowner or water purveyor indicating that the presumption established under subsection (2) may be void if the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey. Proof of written notice to the landowner or water purveyor must be provided to the department in order for the operator to retain the protections under subsection (4).

(7) This section does not prevent a landowner or water purveyor who claims pollution or diminution of a water supply from seeking any other remedy at law or in equity.

Section 16. Section 377.2433, Florida Statutes, is created to read:

377.2433 Protection of natural gas storage facilities.—

(1) The department may not authorize the drilling of any well into or through a permitted natural gas storage reservoir or reservoir protective area, except upon conditions deemed by the department to be sufficient to prevent the loss, migration, or escape of gas from the natural gas storage reservoir. The department shall provide written notice to the natural gas storage facility operator of any application filed with the



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department and any agency action taken related to drilling a well into or through a permitted natural gas storage facility boundary or reservoir protective area.

(2) As a condition for the issuance of a permit by the department, an applicant seeking to drill a well into or through a permitted natural gas storage facility boundary or reservoir protective area must provide the affected natural gas storage facility operator a reasonable right of entry to observe and monitor all drilling activities.

(3) The department shall ensure that any well drilled into or through a permitted natural gas storage reservoir or reservoir protective area is cased and cemented in a manner sufficient to protect the integrity of the natural gas storage reservoir.

Section 17. Section 377.2434, Florida Statutes, is created to read:

377.2434 Property rights to injected natural gas.—

(1) All natural gas that has previously been reduced to possession and that is subsequently injected into a natural gas storage facility is at all times the property of the injector or the injector's heirs, successors, or assigns, whether owned by the injector or stored under contract.

(2) Such gas may not be subject to the right of the owner of the surface of the lands or of any mineral interest therein, under which the natural gas storage facilities lie, or to the right of any person, other than the injector or the injector's heirs, successors, or assigns, to waste or otherwise interfere with or exercise control over such gas, to produce, to take, or to reduce to possession, by means of the law of capture or



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otherwise. This subsection does not affect the ownership of hydrocarbons occurring naturally within this state or the right of the owner of the surface of the lands or of any mineral interest therein to drill or bore through the natural gas storage facilities in a manner that will protect the facilities against pollution or the escape of stored natural gas.

(3) With regard to natural gas that has migrated to adjoining property or to a stratum, or portion thereof, which has not been condemned or otherwise purchased:

(a) The injector or the injector's heirs, successors, or assigns:

1. May not lose title to or possession of the gas if the injector or the injector's heirs, successors, or assigns can prove by a preponderance of the evidence that the gas was originally injected into the underground storage; and

2. Have the right to conduct tests on any existing wells on adjoining property as may be reasonable to determine ownership of the gas, but the tests are solely at the injector's risk and expense.

(b) The owner of the stratum and the owner of the surface are entitled to compensation, including compensation for use of or damage to the surface or substratum, as provided by law.

Section 18. Subsection (3) of section 377.25, Florida Statutes, is amended to read:

377.25 Production pools; drilling units.—

(3) Each well permitted to be drilled upon any drilling unit shall be drilled approximately in the center thereof, with such exception as may be reasonably necessary where the division finds that the unit is partly outside the pool or, for some



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other reason, a well approximately in the center of the unit would be nonproductive or where topographical conditions are such as to make the drilling approximately in the center of the unit unduly burdensome or where the operator proposes to complete the well with a horizontal or nearly horizontal well in the producing zone. Whenever an exception is granted, the division shall take such action as will offset any advantage which the person securing the exception may have over other producers by reason of the drilling of the well as an exception, and so that drainage from developed units to the tract, with respect to which the exception is granted, will be prevented or minimized, and the producer of the well drilled, as an exception, will be allowed to produce no more than his or her just and equitable share of the oil and gas in the pool, as such share is set forth in this section. This subsection does not apply to wells associated with a natural gas storage facility.

Section 19. Subsection (2) of section 377.28, Florida Statutes, is amended to read:

377.28 Cycling, pooling, and unitization of oil and gas.—

(2) The department shall issue an order requiring unit operation if it finds that:

(a) Unit operation of the field, or of any pool or pools, portion or portions, or combinations thereof within the field, is reasonably necessary to prevent waste, to avoid the drilling of unnecessary wells, or to increase the ultimate recovery of oil or gas by additional recovery methods; ~~and~~

(b) The estimated additional cost incident to the conduct of such operation will not exceed the value of the estimated additional recovery of oil or gas; and



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(c) The additional recovery of oil or gas does not adversely interfere with the storage or recovery of natural gas within a natural gas storage reservoir.

The phrase "additional recovery methods" as used herein includes, but is not limited to, the maintenance or partial maintenance of reservoir pressures; recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid hydrocarbons, any other substance, or any combination thereof; or any other method of producing additional hydrocarbons approved by the department.

Section 20. Subsection (4) is added to section 377.30, Florida Statutes, to read:

377.30 Limitation on amount of oil or gas taken.—

(4) This section does not apply to nonnative gas recovered from a permitted natural gas storage facility.

Section 21. Subsection (1) of section 377.34, Florida Statutes, is amended to read:

377.34 Actions and injunctions by division.—

(1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is violating, or threatening to violate, any statute of this state with respect to the conservation of oil or gas, or both, or any provision of this law, or any rule, regulation or order made ~~thereunder~~ by any act done in the operation of a ~~any~~ well producing oil or gas, or storing or recovering natural gas, or by omitting an ~~any~~ act required to be done ~~thereunder~~, the division, through its counsel, or the Department of Legal Affairs on its own initiative, may bring suit against such person in the Circuit Court in the County of Leon, state, or in



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the circuit court in the county in which the well in question is located, at the option of the division, or the Department of Legal Affairs, to restrain such person or persons from continuing such violation or from carrying out the threat of violation. In such suit, the division, or the Department of Legal Affairs, may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of illegal oil, illegal gas or illegal product, and any or all such commodities may be ordered to be impounded or placed under the control of a receiver appointed by the court if, in the judgment of the court, such action is advisable.

Section 22. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), or to store gas in a natural gas storage facility, or any lessee, permitholder, or operator of equipment or facilities used in the exploration for, drilling for, or production of oil, gas, or other petroleum products, or storage of gas in a natural gas storage facility, who refuses inspection by the division as provided in this chapter, is liable to the state for any damage caused to the air, waters, or property, including animal, plant, or aquatic life, of the state and for reasonable costs and expenses of the state in tracing the source



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of the discharge, in controlling and abating the source and the pollutants, and in restoring the air, waters, and property, including animal, plant, and aquatic life, of the state.

Furthermore, such person, lessee, permitholder, or operator is subject to the judicial imposition of a civil penalty in an amount of not more than \$10,000 for each offense. However, the court may receive evidence in mitigation. Each day during any portion of which such violation occurs constitutes a separate offense. Nothing herein shall give the department the right to bring an action on behalf of any private person.

Section 23. Subsections (1) and (3) of section 377.371, Florida Statutes, are amended to read:

377.371 Pollution prohibited; reporting, liability.—

(1) A No person drilling for or producing oil, gas, or other petroleum products, or storing gas in a natural gas storage facility, may not ~~shall~~ pollute land or water; damage aquatic or marine life, wildlife, birds, or public or private property; or allow any extraneous matter to enter or damage any mineral or freshwater-bearing formation.

(3) Because it is the intent of this chapter to provide the means for rapid and effective cleanup and to minimize damages resulting from pollution in violation of this chapter, if the waters of the state are polluted by the drilling, storage of natural gas, or production operations of any person or persons and such pollution damages or threatens to damage human, animal, or plant life, public or private property, or any mineral or water-bearing formation, said person shall be liable to the state for all costs of cleanup or other damage incurred by the state. In any suit to enforce claims of the state under this



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chapter, it ~~is shall~~ not be necessary for the state to plead or prove negligence in any form or manner on the part of the person or persons conducting the drilling or production operations; the state need only plead and prove the fact of the prohibited discharge or other polluting condition and that it occurred at the facilities of the person or persons conducting the drilling or production operation. A No person or persons conducting the drilling, storage, or production operation may not shall be held liable if said person or persons prove that the prohibited discharge or other polluting condition was the result of any of the following:

(a) An act of war.

(b) An act of government, either state, federal, or municipal.

(c) An act of God, which means an unforeseeable act exclusively occasioned by the violence of nature without the interference of any human agency.

(d) An act or omission of a third party without regard to whether any such act or omission was or was not negligent.

Section 24. Paragraph (b) of subsection (14) and paragraph (b) of subsection (19) of section 403.973, Florida Statutes, are amended, and paragraphs (g) and (h) are added to subsection (3) of that section, to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(g) Projects for natural gas storage facilities that are permitted under chapter 377 are eligible for the expedited permitting process.



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(h) Projects to construct interstate natural gas pipelines subject to certification by the Federal Energy Regulatory Commission are eligible for the expedited permitting process.

(14)

(b) Projects identified in paragraph (3) (f), (3) (g), or (3) (h) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

(19) The following projects are ineligible for review under this part:

(b) A project, the primary purpose of which is to:

1. Effect the final disposal of solid waste, biomedical waste, or hazardous waste in this state.

2. Produce electrical power, unless the production of electricity is incidental and not the primary function of the project or the electrical power is derived from a fuel source for renewable energy as defined in s. 366.91(2)(d).

3. Extract natural resources.

4. Produce oil.

5. Construct, maintain, or operate an oil, petroleum, ~~natural gas~~, or sewage pipeline.

Section 25. The Department of Environmental Protection shall adopt rules relating to natural gas storage before issuing



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a natural gas storage facility permit.

Section 26. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to underground natural gas storage;
providing a short title; amending s. 211.02, F.S.;
narrowing the use of the term "oil"; amending s.
211.025, F.S.; narrowing the scope of the gas
production tax to apply only to native gas; amending
s. 376.301, F.S.; conforming a cross-reference;
amending s. 377.06, F.S.; making grammatical changes;
declaring underground natural gas storage to be in the
public interest; amending s. 377.18, F.S.; clarifying
common sources of oil and gas; amending s. 377.19,
F.S.; modifying and providing definitions; amending s.
377.21, F.S.; extending the jurisdiction of the
Division of Resource Management of the Department of
Environmental Protection; amending s. 377.22, F.S.;
expanding the scope of the department's rules and
orders; amending s. 377.24, F.S.; providing for the
notice and permitting of storage in and recovery from
natural gas storage reservoirs; creating s. 377.2407,
F.S.; establishing a natural gas storage facility
permit application process; specifying requirements
for an application, including fees; amending s.



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377.241, F.S.; providing criteria that the division must consider in issuing permits; amending s. 377.242, F.S.; granting authority to the department to issue permits to establish natural gas storage facilities; creating s. 377.2431, F.S.; establishing conditions and procedures for granting natural gas storage facility permits; limiting the right of a county or municipality to regulate natural gas storage facilities; prohibiting a permit for certain natural gas storage facilities; creating s. 377.2432, F.S.; providing for the protection of water supplies at natural gas storage facilities; providing that a natural gas storage facility operator is presumed responsible for pollution of an underground water supply under certain circumstances; creating s. 377.2433, F.S.; providing for the protection of natural gas storage facilities through a requirement of notice, compliance with certain standards, and a right of entry to monitor activities; creating s. 377.2434, F.S.; providing that property rights to injected natural gas are with the injector or the injector's heirs, successors, or assigns; providing for compensation to the owner of the stratum and the owner of the surface for use of or damage to the surface or substratum; amending s. 377.25, F.S.; limiting the scope of certain drilling unit requirements; amending s. 377.28, F.S.; modifying situations in which the department is required to issue an order requiring unit operation; amending s.



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377.30, F.S.; providing that limitations on the amount of oil or gas taken do not apply to nonnative gas recovered from a permitted natural gas storage facility; amending s. 377.34, F.S.; providing for legal action against a person who appears to be violating a rule that relates to the storage or recovery of natural gas; amending s. 377.37, F.S.; expanding penalties to reach persons who violate the terms of a permit relating to storage of gas in a natural gas storage facility; amending s. 377.371, F.S.; providing that a person storing gas in a natural gas storage facility may not pollute or otherwise damage certain areas and that a person who pollutes water by storing natural gas is liable for cleanup or other costs incurred by the state; amending s. 403.973, F.S.; allowing expedited permitting for natural gas storage facilities permitted under ch. 377, F.S., and for certain projects to construct interstate natural gas pipelines; providing that natural gas storage facilities are subject to certain requirements; requiring the Department of Environmental Protection to adopt rules; providing an effective date.

By Senator Richter

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1 A bill to be entitled
2 An act relating to underground natural gas storage;
3 providing a short title; amending s. 211.02, F.S.;
4 narrowing the use of the term "oil"; amending s.
5 211.025, F.S.; narrowing the scope of the gas
6 production tax to apply only to native gas; amending
7 s. 376.301, F.S.; conforming a cross-reference;
8 amending s. 377.06, F.S.; making grammatical changes;
9 declaring underground natural gas storage to be in the
10 public interest; amending s. 377.18, F.S.; clarifying
11 common sources of oil and gas; amending s. 377.19,
12 F.S.; modifying and providing definitions; amending s.
13 377.21, F.S.; extending the jurisdiction of the
14 Division of Resource Management of the Department of
15 Environmental Protection; amending s. 377.22, F.S.;
16 expanding the scope of the department's rules and
17 orders; providing that the department's authority must
18 be self-executing and that a regulatory action may not
19 be deemed invalid solely because the department has
20 not yet adopted a certain rule; amending s. 377.24,
21 F.S.; providing for the notice and permitting of
22 storage in and recovery from natural gas storage
23 reservoirs; creating s. 377.2407, F.S.; establishing a
24 natural gas storage facility permit application
25 process; specifying requirements for an application,
26 including fees; amending s. 377.241, F.S.; providing
27 criteria that the division must consider in issuing
28 permits; amending s. 377.242, F.S.; granting authority
29 to the department to issue permits to establish

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30 natural gas storage facilities; creating s. 377.2431,
31 F.S.; establishing conditions and procedures for
32 granting natural gas storage facility permits;
33 limiting the right of a county or municipality to
34 regulate natural gas storage facilities; creating s.
35 377.2432, F.S.; providing for the protection of water
36 supplies at natural gas storage facilities; providing
37 that an operator is presumed responsible for pollution
38 of an underground water supply under certain
39 circumstances; creating s. 377.2433, F.S.; providing
40 for the protection of natural gas storage facilities
41 through an administrative hearing; creating s.
42 377.2434, F.S.; providing that property rights to
43 injected natural gas are with the injector or the
44 injector's heirs, successors, or assigns; providing
45 for compensation to the owner of the stratum and the
46 owner of the surface for use of or damage to the
47 surface or substratum; amending s. 377.25, F.S.;
48 limiting the scope of certain drilling unit
49 requirements; amending s. 377.28, F.S.; providing that
50 the department may consider the need for the operation
51 as a unit for the storage of natural gas; modifying
52 situations in which the department is required to
53 issue an order requiring unit operation; amending s.
54 377.29, F.S.; authorizing certain agreements between
55 owners and operators of a natural gas storage
56 facility; amending s. 377.30, F.S.; providing that
57 limitations on the amount of oil or gas taken do not
58 apply to nonnative gas recovered from a permitted

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natural gas storage facility; amending s. 377.34, F.S.; providing for legal action against a person who appears to be violating a rule that relates to the storage or recovery of natural gas; amending s. 377.37, F.S.; expanding penalties to reach persons who violate the terms of a permit relating to storage of gas in a natural gas storage facility; amending s. 377.371, F.S.; providing that a person storing gas in a natural gas storage facility may not pollute or otherwise damage certain areas and that a person who pollutes water by storing natural gas is liable for cleanup or other costs incurred by the state; amending s. 403.973, F.S.; allowing expedited permitting for natural gas storage facilities permitted under ch. 377, F.S.; providing that natural gas storage facilities are subject to certain requirements; providing an effective date.

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

Section 1. This act may be cited as the "Florida Underground Natural Gas Storage Act."

Section 2. Subsection (7) is added to section 211.02, Florida Statutes, to read:

211.02 Oil production tax; basis and rate of tax; tertiary oil and mature field recovery oil.—An excise tax is hereby levied upon every person who severs oil in the state for sale, transport, storage, profit, or commercial use. Except as otherwise provided in this part, the tax is levied on the basis

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of the entire production of oil in this state, including any royalty interest. Such tax shall accrue at the time the oil is severed and shall be a lien on production regardless of the place of sale, to whom sold, or by whom used, and regardless of the fact that delivery of the oil may be made outside the state.

(7) As used in this section, the term "oil" does not include gas-phase hydrocarbons that are transported into the state, injected in the gaseous phase into a natural gas storage facility permitted under part I of chapter 377, and later recovered as a liquid hydrocarbon.

Section 3. Subsection (6) is added to section 211.025, Florida Statutes, to read:

211.025 Gas production tax; basis and rate of tax.—An excise tax is hereby levied upon every person who severs gas in the state for sale, transport, profit, or commercial use. Except as otherwise provided in this part, the tax shall be levied on the basis of the entire production of gas in this state, including any royalty interest. Such tax shall accrue at the time the gas is severed and shall be a lien on production regardless of the place of sale, to whom sold, or by whom used and regardless of the fact that delivery of the gas may be made outside the state.

(6) This section applies only to native gas as defined in s. 377.19.

Section 4. Subsection (36) of section 376.301, Florida Statutes, is amended to read:

376.301 Definitions of terms used in ss. 376.30-376.317, 376.70, and 376.75.—When used in ss. 376.30-376.317, 376.70, and 376.75, unless the context clearly requires otherwise, the term:

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(36) "Pollutants" includes any "product" as defined in s. 377.19(11), pesticides, ammonia, chlorine, and derivatives thereof, excluding liquefied petroleum gas.

Section 5. Section 377.06, Florida Statutes, is amended to read:

377.06 Public policy of state concerning natural resources of oil and gas.—It is hereby declared ~~to be~~ the public policy of this ~~the~~ state to conserve and control the natural resources of oil and gas in this ~~said~~ state, and the products made from oil and gas in this state ~~therefrom~~; to prevent waste of ~~said~~ natural resources; to provide for the protection and adjustment of the correlative rights of the owners of the land in which the ~~wherein said~~ natural resources lie, of and the owners and producers of oil and gas resources and the products made from oil and gas ~~therefrom~~, and of others interested in these resources and products ~~therein~~; to safeguard the health, property, and public welfare of the residents ~~citizens~~ of this ~~said~~ state and other interested persons and for all purposes indicated by the provisions in this section ~~herein~~. Further, it is declared that underground storage of natural gas is in the public interest because underground storage promotes conservation of natural gas; makes gas more readily available to the domestic, commercial, and industrial consumers of this state; and allows the accumulation of large quantities of gas in reserve for orderly withdrawal during emergencies or periods of peak demand. It is not the intention of this section to limit, ~~or~~ restrict, or modify in any way the provisions of this law.

Section 6. Section 377.18, Florida Statutes, is amended to read:

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377.18 Common sources of oil and gas.—All common sources of supply of oil or native and gas ~~or either of them~~ shall have the production ~~therefrom~~ controlled or regulated in accordance with the provisions of this law.

Section 7. Section 377.19, Florida Statutes, is reordered and amended to read:

377.19 Definitions.—As used ~~Unless the context otherwise requires, the words defined in this section shall have the following meanings when found~~ in ss. 377.06, 377.07, and 377.10-377.40, the term:

(3)~~(1)~~ "Division" means the Division of Resource Management of the Department of Environmental Protection.

(28)~~(2)~~ "State" means the State of Florida.

(20)~~(3)~~ "Person" means a ~~any~~ natural person, corporation, association, partnership, receiver, trustee, guardian, executor, administrator, fiduciary, or representative of any kind.

(15)~~(4)~~ "Oil" means crude petroleum oil and other hydrocarbons, regardless of gravity, which are produced at the well in liquid form by ordinary production methods, and which are not the result of condensation of gas after it leaves the reservoir.

(5) "Gas" means all natural gas, including casinghead gas, and all other hydrocarbons not defined as oil in subsection (4).

(21)~~(6)~~ "Pool" means an underground reservoir containing or appearing to contain a common accumulation of oil or gas or both. Each zone of a general structure which is completely separated from any other zone on the structure is considered a separate pool as used herein.

(4)~~(7)~~ "Field" means the general area that ~~which~~ is

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underlaid, or appears to be underlaid, by at least one pool. The
~~term; and "field"~~ includes the underground reservoir, or
reservoirs, containing oil or gas, or both. The terms ~~words~~
"field" and "pool" mean the same thing ~~if~~ when only one
underground reservoir is involved; however, the term "field,"
unlike the term "pool," may relate to two or more pools.

(19)(8) "Owner" means the person who has the right to drill
into and to produce from any pool and to appropriate the
production ~~either~~ for the person or for the person and another,
or others.

(22)(9) "Producer" means the owner or operator of a well or
wells capable of producing oil or gas, or both.

(31)(10) "Waste," in addition to its ordinary meaning,
means "physical waste" as that term is generally understood in
the oil and gas industry. The term "waste" includes:

(a) The inefficient, excessive, or improper use or
dissipation of reservoir energy; and the locating, spacing,
drilling, equipping, operating, or producing of any oil or gas
well or wells in a manner that ~~which~~ results, or tends to
result, in reducing the quantity of oil or gas ultimately to be
stored or recovered from any pool in this state.

(b) The inefficient storing of oil; and the locating,
spacing, drilling, equipping, operating, or producing of any oil
or gas well or wells in a manner that causes, or tends ~~causing,~~
~~or tending~~ to cause, unnecessary or excessive surface loss or
destruction of oil or gas.

(c) The producing of oil or gas in ~~such~~ a manner that
causes ~~as to cause~~ unnecessary water channeling or coning.

(d) The operation of any oil well or wells with an

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inefficient gas-oil ratio.

(e) The drowning with water of any stratum or part thereof capable of producing oil or gas.

(f) The underground waste, however caused and whether or not defined, which does not include seepage or migration of injected nonnative gas from a natural gas storage reservoir.

(g) The creation of unnecessary fire hazards.

(h) The escape into the open air, from a well producing both oil and gas, of gas in excess of the amount that ~~which~~ is necessary in the efficient drilling or operation of the well.

(i) The use of gas for the manufacture of carbon black.

(j) The unnecessary escape into the air of ~~Permitting~~ gas produced from a gas well ~~to escape into the air.~~

(k) The abuse of the correlative rights and opportunities of each owner of oil and gas in a common reservoir due to nonuniform, disproportionate, and unratable withdrawals, causing undue drainage between tracts of land.

~~(23)-(11)~~ "Product" means a ~~any~~ commodity made from oil or gas and includes refined crude oil, crude tops, topped crude, processed crude petroleum, residue from crude petroleum, cracking stock, uncracked fuel oil, fuel oil, treated crude oil, residuum, gas oil, casinghead gasoline, natural gas gasoline, naphtha, distillate, condensate, gasoline, waste oil, kerosene, benzine, wash oil, blended gasoline, lubricating oil, blends or mixtures of oil with one or more liquid products or byproducts derived from oil or gas, and blends or mixtures of two or more liquid products or byproducts derived from oil or gas, whether hereinabove enumerated or not.

~~(8)-(12)~~ "Illegal oil" means oil that ~~which~~ has been

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233 produced within the state from any well or wells in excess of
234 the amount allowed by rule, regulation, or order of the
235 division, as distinguished from oil produced within the state
236 from a well not producing in excess of the amount so allowed,
237 which is "legal oil."

238 (7)~~(13)~~ "Illegal gas" means gas that ~~which~~ has been
239 produced within the state from any well or wells in excess of
240 the amount allowed by any rule, regulation, or order of the
241 division, as distinguished from gas produced within the State of
242 Florida from a well not producing in excess of the amount so
243 allowed, which is "legal gas."

244 (9)~~(14)~~ "Illegal product" means a ~~any~~ product of oil or
245 gas, any part of which was processed or derived, in whole or in
246 part, from illegal gas or illegal oil or from any product
247 thereof, as distinguished from "legal product," which is a
248 product processed or derived to no extent from illegal oil or
249 illegal gas.

250 (24)~~(15)~~ "Reasonable market demand" means the amount of oil
251 reasonably needed for current consumption, together with a
252 reasonable amount of oil for storage and working stocks.

253 (30)~~(16)~~ "Tender" means a permit or certificate of
254 clearance for the transportation or the delivery of oil, gas, or
255 products, approved and issued or registered under the authority
256 of the division.

257 ~~(17) The use of the word "and" includes the word "or" and~~
258 ~~the use of "or" includes "and," unless the context clearly~~
259 ~~requires a different meaning, especially with respect to such~~
260 ~~expressions as "oil and gas" or "oil or gas."~~

261 (32)~~(18)~~ "Well site" means the general area around a well,

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which area has been disturbed from its natural or existing condition, as well as the drilling or production pad, mud and water circulation pits, and other operation areas necessary to drill for or produce oil or gas, or to inject gas into and recover gas from a natural gas storage facility.

~~(17)-(19)~~ "Oil and gas administrator" means the State Geologist.

~~(18)-(20)~~ "Operator" means the entity who:

(a) Has the right to drill and to produce a well; or

(b) As part of a natural gas storage facility, injects, or is engaged in the work of preparing to inject, gas into a natural gas storage reservoir; or stores gas in, or removes gas from, a natural gas storage reservoir.

~~(1)-(21)~~ "Completion date" means the day, month, and year that a new productive well, a previously shut-in well, or a temporarily abandoned well is completed, repaired, or recompleted and the operator begins producing oil or gas in commercial quantities.

~~(26)-(22)~~ "Shut-in well" means an oil or gas well that has been taken out of service for economic reasons or mechanical repairs.

~~(29)-(23)~~ "Temporarily abandoned well" means a permitted well or wellbore that has been abandoned by plugging in a manner that allows reentry and redevelopment in accordance with oil or gas rules of the Department of Environmental Protection.

~~(14)-(24)~~ "New field well" means an oil or gas well completed after July 1, 1997, in a new field as designated by the Department of Environmental Protection.

~~(6)-(25)~~ "Horizontal well" means a well completed with the

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wellbore in a horizontal or nearly horizontal orientation within
10 degrees of horizontal within the producing formation.

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

(10) "Lateral storage reservoir boundary" means the
projection up to the land surface of the maximum horizontal
extent of the gas volume contained in a natural gas storage
reservoir.

(11) "Native gas" means gas that occurs naturally within
this state and does not include gas produced outside the state,
transported to this state, and injected into a permitted natural
gas storage facility.

(12) "Natural gas storage facility" means an underground
reservoir used or to be used for the underground storage of
natural gas, and any surface or subsurface structure,
infrastructure, right, or appurtenance necessary or useful in
the operation of the facility for the underground storage of
natural gas, including any necessary or reasonable reservoir
protective area as designated for the purpose of ensuring the
safe operation of the storage of natural gas or protecting the
natural gas storage facility from pollution, invasion, escape,
or migration of gas, or any subsequent extension thereof.

(13) "Natural gas storage reservoir" means a pool or field
suitable for or capable of being made suitable for the
injection, storage, and recovery of gas.

(16) "Oil and gas" has the same meaning as the term "oil or
gas."

(25) "Reservoir protective area" means the area extending
up to and including 2,000 feet surrounding a natural gas lateral

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storage reservoir boundary.

(27) "Shut-in wellhead pressure" means the pressure at the casinghead or wellhead when all valves are closed and no oil or gas has been allowed to escape for at least 24 hours.

Section 8. Subsection (1) of section 377.21, Florida Statutes, is amended to read:

377.21 Jurisdiction of division.—

(1) The division shall have jurisdiction and authority over all persons and property necessary to administer and enforce effectively the provisions of this law and all other laws relating to the conservation of oil and gas or to the storage of gas in and recovery of gas from natural gas storage reservoirs.

Section 9. Subsection (2) of section 377.22, Florida Statutes, is amended, and subsection (3) is added to that section, to read:

377.22 Rules and orders.—

(2) The department shall issue orders and adopt rules pursuant to ss. 120.536~~(1)~~ and 120.54 to implement and enforce the provisions of this chapter. Such rules and orders shall ensure that all precautions are taken to prevent the spillage of oil or any other pollutant in all phases of the drilling for, and extracting of, oil, gas, or other petroleum products, or during the injection of gas into and recovery of gas from a natural gas storage reservoir. The department shall revise such rules from time to time as necessary for the proper administration and enforcement of this chapter. Rules adopted and orders issued in accordance with this section are ~~shall be~~ for, but ~~shall not be~~ limited to, the following purposes:

(a) To require the drilling, casing, and plugging of wells

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349 to be done in such a manner as to prevent the pollution of the
350 fresh, salt, or brackish waters or the lands of the state and to
351 protect the integrity of natural gas storage reservoirs.

352 (b) To prevent the alteration of the sheet flow of water in
353 any area.

354 (c) To require that appropriate safety equipment be
355 installed to minimize the possibility of an escape of oil or
356 other petroleum products in the event of accident, human error,
357 or a natural disaster during drilling, casing, or plugging of
358 any well and during extraction operations.

359 (d) To require the drilling, casing, and plugging of wells
360 to be done in such a manner as to prevent the escape of oil or
361 other petroleum products from one stratum to another.

362 (e) To prevent the intrusion of water into an oil or gas
363 stratum from a separate stratum, except as provided by rules of
364 the division relating to the injection of water for proper
365 reservoir conservation and brine disposal.

366 (f) To require a reasonable bond, or other form of security
367 acceptable to the department, conditioned upon the performance
368 of the duty to plug properly each dry and abandoned well and the
369 full and complete restoration by the applicant of the area over
370 which geophysical exploration, drilling, or production is
371 conducted to the similar contour and general condition in
372 existence prior to such operation.

373 (g) To require and carry out a reasonable program of
374 producing or injecting wells, or monitoring or inspection of all
375 drilling operations ~~or producing wells,~~ including regular
376 inspections by division personnel.

377 (h) To require the making of reports showing the location

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of all oil and gas wells; the making and filing of logs; the taking and filing of directional surveys; the filing of electrical, sonic, radioactive, and mechanical logs of oil and gas wells; if taken, the saving of cutting and cores, the cuts of which shall be given to the Bureau of Geology; and the making of reports with respect to drilling and production records. However, such information, or any part thereof, at the request of the operator, shall be exempt from the provisions of s. 119.07(1) and held confidential by the division for a period of 1 year after the completion of a well.

(i) To prevent wells from being drilled, operated, or produced in such a manner as to cause injury to neighboring leases, ~~or~~ property, or natural gas storage reservoirs.

(j) To prevent the drowning by water of any stratum, or part thereof, capable of producing oil or gas in paying quantities and to prevent the premature and irregular encroachment of water which reduces, or tends to reduce, the total ultimate recovery of oil or gas from any pool.

(k) To require the operation of wells with efficient gas-oil ratio, and to fix such ratios.

(l) To prevent "blowouts," "caving," and "seepage," in the sense that conditions indicated by such terms are generally understood in the oil and gas business.

(m) To prevent fires.

(n) To identify the ownership of all oil or gas wells, producing leases, refineries, tanks, plants, structures, and storage and transportation equipment and facilities.

(o) To regulate the "shooting," perforating and chemical treatment of wells.

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(p) To regulate secondary recovery methods, including the introduction of gas, air, water, or other substance into producing formations.

(q) To regulate gas cycling operations.

(r) To regulate the storage and recovery of gas injected into natural gas storage facilities.

(s)~~(r)~~ If necessary for the prevention of waste, as herein defined, to determine, limit, and prorate the production of oil or gas, or both, from any pool or field in the state.

(t)~~(s)~~ To require, either generally or in or from particular areas, certificates of clearance or tenders in connection with the transportation or delivery of oil or gas, or any product.

(u)~~(t)~~ To regulate the spacing of wells and to establish drilling units.

(v)~~(u)~~ To prevent, so far as is practicable, reasonably avoidable drainage from each developed unit which is not equalized by counterdrainage.

(w)~~(v)~~ To require that geophysical operations requiring a permit be conducted in a manner which will minimize the impact on hydrology and biota of the area, especially environmentally sensitive lands and coastal areas.

(x)~~(w)~~ To regulate aboveground crude oil storage tanks in a manner which will protect the water resources of the state.

(y)~~(x)~~ To act in a receivership capacity for fractional mineral interests for which the owners are unknown or unlocated and to administratively designate the operator as the lessee.

(3) Notwithstanding the grant of rulemaking authority in this section, the authority of the department to regulate the

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activities described in this section must be self-executing. A regulatory action taken by the department, including, but not limited to, the receipt and processing of permit applications or the issuance of permits, may not be deemed invalid solely because the department has not yet adopted rules regarding such regulatory action.

Section 10. Subsections (1) and (2) of section 377.24, Florida Statutes, are amended to read:

377.24 Notice of intention to drill well; permits; abandoned wells and dry holes.—

(1) Before drilling a ~~any~~ well in search of oil or gas, or before storing gas in or recovering gas from a natural gas storage reservoir ~~shall be drilled~~, the person who desires ~~desiring~~ to drill, store, or recover oil or gas ~~the same~~ shall notify the division upon such form as it may prescribe and shall pay a reasonable fee set by rule of the department not to exceed the actual cost of processing and inspecting for each well or reservoir. The drilling of any well and the storing and recovering of gas are ~~is hereby~~ prohibited until such notice is given, the ~~and such~~ fee is ~~has been~~ paid, and the permit is granted.

(2) An ~~Each~~ application for the drilling of a well in search of oil or gas, or for the storing of gas in and recovering of gas from a natural gas storage reservoir, in this state must ~~shall~~ include the address of the residence of the applicant, or applicants ~~each applicant~~, which must ~~address~~ ~~shall~~ be the address of each person involved in accordance with the records of the Division of Resource Management until such address is changed on the records of the division after written

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request.

Section 11. Section 377.2407, Florida Statutes, is created to read:

377.2407 Natural gas storage facility permit application to inject gas into and recover gas from a natural gas storage reservoir.—

(1) Before drilling a well to inject gas into and recover gas from a natural gas storage reservoir, the person who desires to conduct such operation shall apply to the department in the manner described in this section or using such form as the department may prescribe and shall pay a reasonable fee for processing to obtain a natural gas storage facility permit.

(2) Each application must contain:

(a) A detailed, three-dimensional description of the natural gas storage reservoir, including geologic-based descriptions of the reservoir boundaries, and the horizontal and vertical dimensions.

(b) A geographic description of the lateral reservoir boundary.

(c) A description and location of all injection, recovery, and observation wells, including casing and cementing plans for each well.

(d) A description of the reservoir protective area.

(e) Information demonstrating that the proposed natural gas storage reservoir is suitable for the storage and recovery of gas.

(f) Information identifying all known abandoned or active wells within the natural gas storage facility.

(g) A field-monitoring plan that requires, at a minimum,

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monthly field inspections of all wells that are part of the
natural gas storage facility.

(h) A monitoring and testing plan for the well integrity.

(i) A well inspection plan that requires, at a minimum, the
inspection of all wells that are part of the natural gas storage
facility and plugged wells within the natural gas storage
facility boundary.

(j) A casing inspection plan.

(k) A spill prevention and response plan.

(l) A well spacing plan.

(m) An operating plan for the natural gas storage
reservoir, which must include gas capacities, anticipated
operating conditions, and maximum storage pressure.

(n) A gas migration response plan.

(3) Each application may require additional information
that is deemed necessary to permit the development of wells;
drilling of wells; and operation of exploratory investigation,
injection of gas into and recovery of gas from reservoirs, and
monitoring of wells. Each well may be authorized under the
natural gas storage facility permit subject to each well
individually satisfying applicable well construction and
operation criteria under this part.

Section 12. Subsection (4) is added to section 377.241,
Florida Statutes, to read:

377.241 Criteria for issuance of permits.—The division, in
the exercise of its authority to issue permits as hereinafter
provided, shall give consideration to and be guided by the
following criteria:

(4) For activities and operations concerning a natural gas

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storage facility, the nature, structure, and proposed use of the natural gas storage reservoir is suitable for the storage and recovery of gas without adverse effect to public health or safety or the environment.

Section 13. Subsection (3) of section 377.242, Florida Statutes, is amended to read:

377.242 Permits for drilling or exploring and extracting through well holes or by other means.—The department is vested with the power and authority:

(3) To issue permits to establish natural gas storage facilities or construct wells for the injection and recovery of any natural gas for ~~temporary~~ storage in natural gas storage subsurface reservoirs.

Each permit shall contain an agreement by the permitholder that the permitholder will not prevent inspection by division personnel at any time. The provisions of this section prohibiting permits for drilling or exploring for oil in coastal waters do not apply to any leases entered into before June 7, 1991.

Section 14. Section 377.2431, Florida Statutes, is created to read:

377.2431 Conditions for granting permits for natural gas storage facilities.—

(1) A natural gas storage facility permit must be issued for the life of the facility, subject to recertification every 5 years.

(2) Before issuing or reissuing a permit, the division shall require satisfactory evidence of the following:

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552 (a) The applicant has implemented, or is in the process of
553 implementing, programs for the control and mitigation of
554 pollution related to oil, petroleum products or their
555 byproducts, and other pollutants.

556 (b) The applicant or operator has acquired a lawful right
557 to drill, explore, or develop a natural gas storage reservoir
558 from a majority of the property interests, which may be acquired
559 through eminent domain or by any legal instrument conveying to
560 the applicant or operator such property interests or the right
561 to develop the natural gas storage reservoir; or the applicant
562 or operator has obtained a certificate of public convenience and
563 necessity for the natural gas storage reservoir from the Federal
564 Energy Regulatory Commission pursuant to the Natural Gas Act, 15
565 U.S.C. ss. 717 et seq.

566 (c) The applicant has used all reasonable means to identify
567 known wells that have been drilled into or through the natural
568 gas storage reservoir to determine the status of the wells and
569 whether inactive or abandoned wells have been properly plugged.
570 For any well that has not been properly plugged, before
571 conducting injection operations and after issuance of the
572 permit, the applicant must plug or recondition the well to
573 ensure the integrity of the storage reservoir.

574 (d) The applicant has tested the quality of water produced
575 by all water supply wells within the lateral boundary of the
576 natural gas storage facility and complied with all requirements
577 under s. 377.2432. The applicant shall provide to the department
578 and the owner of the water supply well a written copy of the
579 water quality data collected under this paragraph.

580 (3) All inspections and other reports required under this

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section must be submitted to the department in the manner
prescribed by rule.

(4) A natural gas storage facility operator shall request
approval of a maximum storage pressure for a natural gas storage
reservoir in accordance with the following:

(a) The maximum shut-in wellhead pressure may not exceed
the highest shut-in wellhead pressure found to exist during the
production history of the reservoir, unless a higher pressure is
established by the department based on testing of caprock and
pool containment. The methods used for determining the higher
pressure must be approved by the department.

(b) If the shut-in wellhead pressure of the original
discovery or of the highest production is not known, or a higher
pressure has not been established through a method approved by
the department pursuant to paragraph (a), the maximum storage
reservoir pressure must be limited to a freshwater hydrostatic
gradient.

(5) The department may issue a permit to an applicant
regardless of whether the department has adopted rules for the
activities or operations authorized under this section, or rules
prescribing the forms of the application for a permit.

(6) A county or municipality may not adopt an ordinance,
resolution, comprehensive plan, or land development regulation,
or otherwise attempt to regulate or enforce any matter
concerning natural gas storage facilities governed under this
part.

Section 15. Section 377.2432, Florida Statutes, is created
to read:

377.2432 Natural gas storage facilities; protection of

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610 water supplies.—

611 (1) An operator of a natural gas storage facility who
612 affects a public or private underground water supply by
613 pollution or diminution shall restore or replace the affected
614 supply with an alternate source of water adequate in quantity
615 and quality for the purposes served by the supply. The
616 department shall ensure that the quality of restored or replaced
617 water is comparable to the quality of the water before it was
618 affected by the operator.

619 (2) Unless rebutted by a defense established in subsection
620 (4), an operator is presumed responsible for pollution of an
621 underground water supply if:

622 (a) The water supply is within the horizontal boundary of
623 the natural gas storage facility; and

624 (b) The pollution occurred within 6 months after completion
625 of drilling or alteration of any well under or associated with
626 the natural gas storage facility permit.

627 (3) If the affected underground water supply is within the
628 rebuttable presumption area as provided in subsection (2) and
629 the rebuttable presumption applies, the operator shall provide a
630 temporary water supply if the water user is without a readily
631 available alternative source of water. The temporary water
632 supply provided under this subsection must be adequate in
633 quantity and quality for the purposes served by the affected
634 supply.

635 (4) A natural gas storage facility operator rebuts the
636 presumption in subsection (2) by affirmatively proving any of
637 the following:

638 (a) The pollution existed before the drilling or alteration

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activity as determined by a predrilling or prealteration survey.

(b) The landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey.

(c) The water supply well is not within the lateral boundary of the natural gas storage facility.

(d) The pollution occurred more than 6 months after completion of drilling or alteration of any well under or associated with the natural gas storage facility permit.

(e) The pollution occurred as the result of a cause other than activities authorized under the natural gas storage facility permit.

(5) An operator electing to preserve a defense under subsection (4) must retain an independent certified laboratory to conduct a predrilling or prealteration survey of the water supply. A copy of survey results must be submitted to the department and the landowner or water purveyor in the manner prescribed by the department.

(6) An operator must provide written notice to the landowner or water purveyor indicating that the presumption established under subsection (2) may be void if the landowner or water purveyor refused to allow the operator access to conduct a predrilling or prealteration survey. Proof of written notice to the landowner or water purveyor must be provided to the department in order for the operator to retain the protections under subsection (4).

(7) This section does not prevent a landowner or water purveyor who claims pollution or diminution of a water supply from seeking any other remedy at law or in equity.

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668 Section 16. Section 377.2433, Florida Statutes, is created
669 to read:

670 377.2433 Protection of natural gas storage facilities;
671 remedies.—

672 (1) The department may not authorize the drilling of any
673 well into or through a permitted natural gas storage reservoir
674 or reservoir protective area, except upon conditions deemed by
675 the department to be sufficient to prevent the loss, migration,
676 or escape of gas from the natural gas storage reservoir. The
677 department shall provide written notice to the natural gas
678 storage facility operator of any application filed with the
679 department and any agency action taken related to drilling a
680 well into or through a permitted natural gas storage facility
681 boundary or reservoir protective area.

682 (2) As a condition for the issuance of a permit by the
683 department, an applicant seeking to drill a well into or through
684 a permitted natural gas storage facility boundary or reservoir
685 protective area must provide the affected natural gas storage
686 facility operator a reasonable right of entry to observe and
687 monitor all drilling activities.

688 (3) The department shall ensure that any well drilled into
689 or through a permitted natural gas storage reservoir or
690 reservoir protective area is cased and cemented in a manner
691 sufficient to protect the integrity of the natural gas storage
692 reservoir.

693 (4) A natural gas storage facility operator may petition
694 the department for a determination that any other activity is
695 causing gas migration, escape, or loss, or in any other respect
696 adversely affecting the integrity and use of the natural gas

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697 storage reservoir. Upon the filing of such petition, the
698 department shall conduct a preliminary investigation and make a
699 preliminary determination of whether probable cause exists to
700 believe that the allegations of the petition may be true and
701 correct. If the department determines that probable cause
702 exists, the department shall:

703 (a) Require the activity allegedly causing the adverse
704 effect to immediately cease operations or take other steps
705 necessary to prevent harm pending a final determination.

706 (b) Refer the petition to the Division of Administrative
707 Hearings to conduct formal administrative proceedings pursuant
708 to ss. 120.57 and 120.569 to make findings of fact regarding the
709 allegations of the petition. Based upon such findings of fact,
710 the department shall enter a final order granting or denying the
711 petition. Any final order granting such petition must include
712 remedial measures to be undertaken by the activity alleged to be
713 causing gas migration up to and including complete cessation of
714 such activity. Final orders issued pursuant to this paragraph
715 are appealable pursuant to s. 120.68.

716 (5) This section does not prohibit a natural gas storage
717 facility operator from seeking any other remedy at law or in
718 equity.

719 Section 17. Section 377.2434, Florida Statutes, is created
720 to read:

721 377.2434 Property rights to injected natural gas.—

722 (1) All natural gas that has previously been reduced to
723 possession and that is subsequently injected into a natural gas
724 storage facility, whether the storage rights were acquired by
725 eminent domain or otherwise, are at all times the property of

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the injector or the injector's heirs, successors, or assigns,
whether owned by the injector or stored under contract.

(2) Such gas may not be subject to the right of the owner
of the surface of the lands or of any mineral interest therein,
under which the natural gas storage facilities lie, or to the
right of any person, other than the injector or the injector's
heirs, successors, or assigns, to waste or otherwise interfere
with or exercise control over such gas, to produce, to take, or
to reduce to possession, by means of the law of capture or
otherwise. This subsection does not affect the ownership of
hydrocarbons occurring naturally within this state or the right
of the owner of the surface of the lands or of any mineral
interest therein to drill or bore through the natural gas
storage facilities in a manner that will protect the facilities
against pollution or the escape of stored natural gas.

(3) With regard to natural gas that has migrated to
adjoining property or to a stratum, or portion thereof, which
has not been condemned or otherwise purchased:

(a) The injector or the injector's heirs, successors, or
assigns:

1. May not lose title to or possession of the gas if the
injector or the injector's heirs, successors, or assigns can
prove by a preponderance of the evidence that the gas was
originally injected into the underground storage; and

2. Have the right to conduct tests on any existing wells on
adjoining property as may be reasonable to determine ownership
of the gas, but the tests are solely at the injector's risk and
expense.

(b) The owner of the stratum and the owner of the surface

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are entitled to compensation, including compensation for use of
or damage to the surface or substratum, as provided by law.

Section 18. Subsection (3) of section 377.25, Florida
Statutes, is amended to read:

377.25 Production pools; drilling units.—

(3) Each well permitted to be drilled upon any drilling
unit shall be drilled approximately in the center thereof, with
such exception as may be reasonably necessary where the division
finds that the unit is partly outside the pool or, for some
other reason, a well approximately in the center of the unit
would be nonproductive or where topographical conditions are
such as to make the drilling approximately in the center of the
unit unduly burdensome or where the operator proposes to
complete the well with a horizontal or nearly horizontal well in
the producing zone. Whenever an exception is granted, the
division shall take such action as will offset any advantage
which the person securing the exception may have over other
producers by reason of the drilling of the well as an exception,
and so that drainage from developed units to the tract, with
respect to which the exception is granted, will be prevented or
minimized, and the producer of the well drilled, as an
exception, will be allowed to produce no more than his or her
just and equitable share of the oil and gas in the pool, as such
share is set forth in this section. This subsection does not
apply to injection wells associated with a natural gas storage
facility.

Section 19. Subsections (1), (2), and (4) of section
377.28, Florida Statutes, are amended to read:

377.28 Cycling, pooling, and unitization of oil and gas.—

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(1) The department may consider the need for the operation as a unit of an entire field, or of any pool or pools, portion or portions, or combinations thereof within a field, for the storage of natural gas, or for the production of oil or gas, or both, and other minerals which may be associated and produced therewith, in order to avoid the drilling of unnecessary wells, otherwise to prevent waste, or to increase the ultimate storage of gas and recovery of the unitized minerals by additional recovery methods.

(2) The department shall issue an order requiring unit operation if it finds that:

(a) Unit operation of the field, or of any pool or pools, portion or portions, or combinations thereof within the field, is reasonably necessary to prevent waste, to avoid the drilling of unnecessary wells, or to increase the ultimate storage or recovery of oil or gas by additional recovery methods; ~~and~~

(b) The estimated additional cost incident to the conduct of such operation will not exceed the value of the estimated additional recovery of oil or gas; and

(c) The additional recovery of oil or gas does not adversely interfere with the storage or recovery of natural gas within a natural gas storage reservoir.

The phrase "additional recovery methods" as used herein includes, but is not limited to, the maintenance or partial maintenance of reservoir pressures; recycling; flooding a pool or pools, or parts thereof, with air, gas, water, liquid hydrocarbons, any other substance, or any combination thereof; or any other method of producing additional hydrocarbons

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approved by the department.

(4) An order requiring unit operation does ~~shall~~ not become effective unless and until the department makes a finding, in the order or a supplemental order, of the following:

(a) A contract incorporating the unitization agreement has been signed or ratified or approved in writing by the owners of at least 75 percent in interest as costs are shared under the terms of the order and by 75 percent in interest as production is to be allocated to the royalty owners in the unit area. If any entity owns both royalty interests and interests responsible for costs, such party may vote as an owner responsible for costs or as a royalty owner, at his or her election, but not as both, and the entity's interest that is not voted shall be excluded in calculating the percentages of consent and nonconsent.

(b) A contract incorporating the required arrangements for operations has been signed or ratified or approved in writing by the owners of at least 75 percent in interest as costs are shared. However, if the contract is incorporating the unitization agreement or arrangements for operations of a unitization agreement, only 50 percent of the owners of the pore space comprising the natural gas storage reservoir must sign or ratify the contract or approve it in writing.

~~, and the department has made a finding to that effect either in the order or in a supplemental order.~~ Both contracts may be encompassed in a single document. If ~~In the event~~ the required percentage interests have not signed, ratified, or approved the ~~said~~ agreements within 6 months after the date of such order, or within such extended period as the department may prescribe, it

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shall be automatically revoked.

Section 20. Section 377.29, Florida Statutes, is amended to read:

377.29 Agreements in interest of conservation.—Agreements made in the interest of conservation of oil or gas, or both, or for the prevention of waste, between and among owners and operators, or both, or between and among owners and operators of a natural gas storage facility, or both, owning separate holdings in the same oil or gas pool, or in any area that appears from geological or other data to be underlaid, by a common accumulation of oil or gas, or both, or between and among such owners or operators, or both, and royalty owners therein, of the pool or area, or any part thereof, as a unit for establishing and carrying out a plan for the cooperative development and operation thereof, when such agreements are approved by the division, are hereby authorized and may ~~shall~~ not be held or construed to violate any of the statutes of this state relating to trusts, monopolies, or contracts and combinations in restraint of trade.

Section 21. Subsection (4) is added to section 377.30, Florida Statutes, to read:

377.30 Limitation on amount of oil or gas taken.—

(4) This section does not apply to nonnative gas recovered from a permitted natural gas storage facility.

Section 22. Subsection (1) of section 377.34, Florida Statutes, is amended to read:

377.34 Actions and injunctions by division.—

(1) Whenever it appears ~~shall appear~~ that a ~~any~~ person is violating, or threatening to violate, any statute of this state

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with respect to the conservation of oil or gas, or both, or any provision of this law, or any rule, regulation or order made ~~thereunder~~ by any act done in the operation of a any well producing oil or gas, or storing or recovering natural gas, or by omitting an any act required to be done ~~thereunder~~, the division, through its counsel, or the Department of Legal Affairs on its own initiative, may bring suit against such person in the Circuit Court in the County of Leon, state, or in the circuit court in the county in which the well in question is located, at the option of the division, or the Department of Legal Affairs, to restrain such person or persons from continuing such violation or from carrying out the threat of violation. In such suit, the division, or the Department of Legal Affairs, may obtain injunctions, prohibitory and mandatory, including temporary restraining orders and temporary injunctions, as the facts may warrant, including, when appropriate, an injunction restraining any person from moving or disposing of illegal oil, illegal gas or illegal product, and any or all such commodities may be ordered to be impounded or placed under the control of a receiver appointed by the court if, in the judgment of the court, such action is advisable.

Section 23. Paragraph (a) of subsection (1) of section 377.37, Florida Statutes, is amended to read:

377.37 Penalties.—

(1)(a) Any person who violates any provision of this law or any rule, regulation, or order of the division made under this chapter or who violates the terms of any permit to drill for or produce oil, gas, or other petroleum products referred to in s. 377.242(1), ~~or~~ to store gas in a natural gas storage facility,

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900 or any lessee, permitholder, or operator of equipment or
901 facilities used in the exploration for, drilling for, or
902 production of oil, gas, or other petroleum products, or storage
903 of gas in a natural gas storage facility, who refuses inspection
904 by the division as provided in this chapter, is liable to the
905 state for any damage caused to the air, waters, or property,
906 including animal, plant, or aquatic life, of the state and for
907 reasonable costs and expenses of the state in tracing the source
908 of the discharge, in controlling and abating the source and the
909 pollutants, and in restoring the air, waters, and property,
910 including animal, plant, and aquatic life, of the state.
911 Furthermore, such person, lessee, permitholder, or operator is
912 subject to the judicial imposition of a civil penalty in an
913 amount of not more than \$10,000 for each offense. However, the
914 court may receive evidence in mitigation. Each day during any
915 portion of which such violation occurs constitutes a separate
916 offense. Nothing herein shall give the department the right to
917 bring an action on behalf of any private person.

918 Section 24. Subsections (1) and (3) of section 377.371,
919 Florida Statutes, are amended to read:

920 377.371 Pollution prohibited; reporting, liability.—

921 (1) A ~~No~~ person drilling for or producing oil, gas, or
922 other petroleum products, or storing gas in a natural gas
923 storage facility, may not ~~shall~~ pollute land or water; damage
924 aquatic or marine life, wildlife, birds, or public or private
925 property; or allow any extraneous matter to enter or damage any
926 mineral or freshwater-bearing formation.

927 (3) Because it is the intent of this chapter to provide the
928 means for rapid and effective cleanup and to minimize damages

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929 resulting from pollution in violation of this chapter, if the
930 waters of the state are polluted by the drilling, storage of
931 natural gas, or production operations of any person or persons
932 and such pollution damages or threatens to damage human, animal,
933 or plant life, public or private property, or any mineral or
934 water-bearing formation, said person shall be liable to the
935 state for all costs of cleanup or other damage incurred by the
936 state. In any suit to enforce claims of the state under this
937 chapter, it is ~~shall~~ not be necessary for the state to plead or
938 prove negligence in any form or manner on the part of the person
939 or persons conducting the drilling or production operations; the
940 state need only plead and prove the fact of the prohibited
941 discharge or other polluting condition and that it occurred at
942 the facilities of the person or persons conducting the drilling
943 or production operation. A ~~No~~ person or persons conducting the
944 drilling, storage, or production operation may not ~~shall~~ be held
945 liable if said person or persons prove that the prohibited
946 discharge or other polluting condition was the result of any of
947 the following:

948 (a) An act of war.

949 (b) An act of government, either state, federal, or
950 municipal.

951 (c) An act of God, which means an unforeseeable act
952 exclusively occasioned by the violence of nature without the
953 interference of any human agency.

954 (d) An act or omission of a third party without regard to
955 whether any such act or omission was or was not negligent.

956 Section 25. Paragraph (g) is added to subsection (3) of
957 section 403.973, Florida Statutes, and paragraph (b) of

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subsection (14) of that section is amended, to read:

403.973 Expedited permitting; amendments to comprehensive plans.—

(3)

(g) Projects for natural gas storage facilities that are permitted under chapter 377 are eligible for the expedited permitting process.

(14)

(b) Projects identified in paragraph (3) (f) or paragraph (3) (g) or challenges to state agency action in the expedited permitting process for establishment of a state-of-the-art biomedical research institution and campus in this state by the grantee under s. 288.955 are subject to the same requirements as challenges brought under paragraph (a), except that, notwithstanding s. 120.574, summary proceedings must be conducted within 30 days after a party files the motion for summary hearing, regardless of whether the parties agree to the summary proceeding.

Section 26. This act shall take effect July 1, 2013.

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 984

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Richter

SUBJECT: Public Records/Natural Gas Storage Facility Permit

DATE: April 10, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Gudeman	Uchino	EP	Fav/CS
2. _____	_____	GO	_____
3. _____	_____	RC	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/SB 984 creates s. 377.24075, F.S., to provide that “proprietary business information” related to underground natural gas storage is exempt from the public records requirements of s. 119.15, F.S. The CS defines “proprietary business information” and provides legislative findings related to the public records exemption.

II. Present Situation:

Natural Gas Storage

Natural gas storage is critical to maintaining the reliability and supply needed to meet the demand of consumers. Underground natural gas storage was first introduced in 1909 by the United States Geological Survey and was carried out in 1916 in a depleted reservoir located in Concord, New York.¹

The most common type of underground natural gas storage facility is depleted natural gas wells where all of the recoverable natural gas has been extracted, leaving underground formations

¹ Arthur J. Kidnay and William R. Parrish, FUNDAMENTALS OF NATURAL GAS PROCESSING, 256 (2006).

geologically capable of storing natural gas.² There are 326 depleted reservoir storage sites in the United States.³ These sites are favorable over other types of underground storage because the infrastructure from the extraction network is already in place and the geological characteristics of the reservoir are well known.⁴

For a depleted reservoir to be a viable option for underground storage, it must be located in a consuming region and close to transportation infrastructure. The porosity and permeability of the formation are also critical factors as porosity determines the amount of natural gas that may be held, and the permeability determines the rate at which the natural gas flows through the formation.⁵

Aquifers and salt caverns are also used as underground storage facilities. Salt caverns storage facilities are formed out of existing salt deposits that are impermeable and self-sealing, creating a strong and environmentally sound storage system. Aquifer storage systems are underground porous, permeable rock formations that act as natural water reservoirs and are used to store natural gas in areas where there are no depleted reservoirs. Aquifers are the most expensive type of underground storage facility because of the extensive geologic testing that must be done prior to use.⁶ There are 43 aquifer storage sites and 31 salt cavern storage sites in the United States.⁷

To store natural gas in an underground storage facility, it is first reconditioned by injecting natural gas into the formation, which builds up pressure. As natural gas is added, the voids in the geologic formation are filled and become pressurized, similar to a natural gas container. Steady pressure in the reservoir allows gas to be extracted at a predictable rate, once the pressure drops below the wellhead, there is no pressure left to push the natural gas out of the reservoir. A “base gas” is used to maintain the pressure in the reservoir and remains in the reservoir at all times.⁸ The “working gas” is the natural gas that is injected, stored, and withdrawn.⁹ When the working gas pressure is high, gas may be extracted at a high rate; as the working gas pressure decreases, the flow rate of extracted natural gas decreases. The balance between the “base gas” pressure and the “working gas” pressure directly influences the deliverability rate of the storage facility.¹⁰

Currently in the United States, the majority of natural gas storage facilities are depleted reservoirs located in 22 states, primarily in the northeast.¹¹ The Weekly Natural Gas Storage Report states that 1,724 billion cubic feet of natural gas has been stored over the last five years.¹²

² NaturalGas.org, *Storage of Natural Gas*, <http://www.naturalgas.org/naturalgas/storage.asp> (last visited Apr. 7, 2013).

³ U.S. Energy Information Administration, *Underground Natural Gas Storage*, http://www.eia.gov/pub/oil_gas/natural_gas/analysis_publications/ngpipeline/undrgrnd_storage.html (last visited Apr. 7, 2013).

⁴ *Supra* note 2.

⁵ *Id.*

⁶ *Id.*

⁷ *Supra* note 3.

⁸ “Base gas” is defined as the volume of gas needed as a permanent inventory to maintain adequate reservoir pressures and deliverability rates throughout the withdrawal season. All native gas is included in base gas volume. See U.S. Energy Information Administration, *Natural Gas, Definitions, Sources and Explanatory Notes*, http://www.eia.gov/dnav/ng/tbldefs/ng_stor_wkly_tbldef2.asp (last visited Apr. 7, 2013).

⁹ “Working gas” is defined as the volume of total gas storage capacity that contains natural gas available for withdrawal. See *id.*

¹⁰ *Supra* note 2.

¹¹ *Id.*

Federal Regulation of Natural Gas

The Federal Energy Regulatory Commission (FERC) regulates interstate pipeline operations, storage, permitting and construction of new pipeline facilities, and the transmission rates that pipelines are permitted to charge. The FERC coordinates with other federal and state agencies to permit new pipelines and the conditions under which the pipelines may be constructed. The FERC also regulates the abandonment of facilities.¹³

Regulation of Oil and Gas Resources in Florida

The Department of Environmental Protection's (DEP) Mining and Minerals Regulation Program (program) regulates oil and gas exploration and production in Florida under part I of ch. 377, F.S., and Rules 62C-25 through 30, Florida Administrative Code. Companies that explore for, or produce oil and gas in Florida, are permitted through the program, which ensures compliance and safety of the activities. In order to drill for oil or gas, the applicant must first provide notice to the DEP and pay the required permit fee. The permit may be granted subject to specific statutory criteria. The local government or municipality in which the land is located must also approve the application for the permit by a resolution.¹⁴

Section 211.02(1), F.S., provides for a severance tax to be levied on the production of oil within Florida for sale, transport, storage, profit, or commercial use. The tax is measured by the value of the oil produced, saved or stored during a month.

Florida is not a large producer of natural gas as the amount recovered in south Florida is considered insignificant. Approximately 700 billion cubic feet of natural gas has been produced in northwest Florida.¹⁵

There are no existing underground natural gas storage facilities in Florida and there are no regulatory provisions or rules for the storage of underground natural gas. All of the natural gas demand in Florida is served by two interstate pipelines delivering up to 4.5 billion cubic feet per day of natural gas. The existing pipelines are capable of providing enough natural gas to fuel approximately 26,000 mega watts of electric generation, which serves 5.5 to 6 million customers. The only natural gas reserves available in Florida are in the "line pack," which is the actual amount of gas in the pipeline or distribution system. The "line pack" allows for operational flexibility for pipeline customers, but is not considered a method of storage.¹⁶

¹² U.S. Energy Information Administration, *Weekly Natural Gas Storage Report*, <http://ir.eia.gov/ngs/ngs.html> (last visited Apr. 7, 2013).

¹³ 15 U.S.C., s. 717 et seq.

¹⁴ See ss. 377.242-377.24, F.S.

¹⁵ DEP, *Senate Bill 958/984 Agency Analysis* (Mar. 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁶ Email from Timothy Riley, Attorney, Hopping Green and Sams (Mar. 6, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

Public Records Law

Article I, section 24(a) of the Florida Constitution sets the state's public policy regarding access to government records. The section guarantees every person a right to inspect or copy any public record of the legislative, executive, and judicial branches of government. The Legislature may provide for the exemption of records from the requirements of the constitution; however, the Legislature must specify the public necessity to justify the exemption.¹⁷

Access to public records is also addressed in s. 119.07(1), F.S., which guarantees every person the right to inspect and copy any state, county, or municipal record. The Open Government Sunset Review Act under s. 119.15, F.S., provides that a public record or public meeting exemption may only be created or maintained if it serves a public purpose. The Legislature created a number of specific exemptions from the Sunset Review Act, including documents submitted by a private party that constitute trade secrets as defined in s. 812.081, F.S., and are stamped as confidential at the time of submission to an agency.¹⁸

Underground natural gas storage facilities are not currently permitted in Florida; however, oil and gas wells that are permitted have a one-year exemption from public records requirements.

III. Effect of Proposed Changes:

Section 1 creates s. 377.24075, F.S., to provide that proprietary business information related to an application for an underground natural gas storage facility is exempt from the public record requirements in s. 119.07(1), F.S., and article I, section 24(a) of the Florida Constitution.

The CS provides a definition for “proprietary business information,” which includes information that:

- Is owned or controlled by the applicant or person affiliated with the applicant;
- Is intended to be private and is treated by the applicant as private;
- Has not been disclosed except as required by law or private agreement; and
- Is not publicly available.

The CS also specifies that proprietary business information includes:

- Trade secrets;
- Leasing plans, real property acquisition plans, exploration budgets, or marketing studies; and
- Competitive interests, which may include well design, completion plans, geologic and engineering studies, utilization strategies or operating plans.

The CS includes that information in a document filed with the DEP or sent to the DEP from another governmental entity is in the definition of proprietary business information.

The CS allows the DEP to disclose confidential and proprietary business information under certain circumstances which include:

- Compliance with a court order;

¹⁷ FLA. CONST. art I, s. 24(c).

¹⁸ See ss. 119.15 and 812.081, F.S.

- The applicant gives prior written consent; or
- The information is given to a state or federal agency that agrees in writing to maintain the confidential and exempt status of the information and provides evidence that it is authorized to do so.

The CS provides this section is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S. and must be repealed on October 2, 2018, unless reenacted by the legislature.

Section 2 creates an unnumbered section of law to provide legislative findings. Specifically the bill states:

- It is in the public necessity that information provided to the DEP by the applicant be confidential;
- The disclosure of proprietary confidential information could injure an applicant in the marketplace;
- Without the exemption the applicant could be less willing to invest the resources necessary to develop natural gas storage in Florida where it is critically needed;
- The lack of stored resources could hinder utility companies from providing service and adversely affect customers;
- Proprietary confidential information and trade secret information provides potential economic value from not being available to the public;
- The exemption created by the bill allows for the increase in domestic storage of natural gas and provides a benefit to customers; and
- The public benefit derived from the disclosure of information is outweighed by the public and private harm that would result if the disclosure occurred within 10 years of submittal.

Section 3 provides the act takes effect on October 1, 2013, provided a companion or similar legislation becomes law during the 2013 Regular Session or an extension thereof.

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:

To the extent that protection of proprietary business information benefits private companies engaged in natural gas storage, the CS protects that information until the provision is repealed on October 2, 2018, unless reenacted by the Legislature.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 April 9, 2013:

- provides that “proprietary business information” is exempt from s. 119.07(1), F.S., and provides a definition of “proprietary business information”;
- removes the ten year time limitation on the exemption; and
- provides specific provisions under which the DEP may disclose proprietary business information.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 377.24075, Florida Statutes, is created
to read:

377.24075 Exemption from public records requirements.—
Proprietary business information held by the Department of
Environmental Protection in accordance with its statutory duties
with respect to an application for a natural gas storage
facility permit is confidential and exempt from s. 119.07(1) and
s. 24(a), Art. I of the State Constitution.



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13 (1) As used in this section, the term "proprietary business
14 information" means information that:

15 (a) Is owned or controlled by the applicant or a person
16 affiliated with the applicant.

17 (b) Is intended to be private and is treated by the
18 applicant as private because disclosure would harm the applicant
19 or the applicant's business operations.

20 (c) Has not been disclosed except as required by law or a
21 private agreement that provides that the information will not be
22 released to the public.

23 (d) Is not publicly available or otherwise readily
24 ascertainable through proper means from another source in the
25 same configuration as requested by the department.

26 (e) Includes, but is not limited to:

27 1. Trade secrets;

28 2. Leasing plans, real property acquisition plans,
29 exploration budgets, or marketing studies, the disclosure of
30 which would impair the efforts of the applicant or its
31 affiliates to contract for goods or services or to acquire real
32 property interests on favorable terms; or

33 3. Competitive interests, which may include well design or
34 completion plans, geological or engineering studies related to
35 storage reservoir performance characteristics, or field
36 utilization strategies or operating plans, the disclosure of
37 which would impair the competitive business of the applicant
38 providing the information.

39 (f) May be found in a document:

40 1. Filed with the Department of Environmental Protection by
41 the applicant or affiliated person seeking a natural gas storage



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42 facility permit pursuant to s. 377.2407; or

43 2. Sent to the Department of Environmental Protection from
44 another governmental entity for use by the department in the
45 performance of its duties. This subparagraph applies only if the
46 information is otherwise confidential or exempt as held by the
47 governmental entity.

48 (2) The Department of Environmental Protection may disclose
49 confidential and exempt proprietary business information:

50 (a) Pursuant to a court order;

51 (b) If the applicant to which it pertains gives prior
52 written consent; or

53 (c) To another state agency in this or another state or to
54 a federal agency if the recipient agrees in writing to maintain
55 the confidential and exempt status of the document, material, or
56 other information and has verified in writing its legal
57 authority to maintain such confidentiality.

58 (3) This section is subject to the Open Government Sunset
59 Review Act in accordance with s. 119.15 and shall stand repealed
60 on October 2, 2018, unless reviewed and saved from repeal
61 through reenactment by the Legislature.

62 Section 2. (1) The Legislature finds that it is a public
63 necessity that proprietary business information provided to the
64 Department of Environmental Protection which relates to trade
65 secrets, leasing plans, real property acquisition plans,
66 exploration budgets, proprietary well design or completion
67 plans, geological or engineering studies related to storage
68 reservoir performance characteristics, field utilization
69 strategies or operating plans, commercial or marketing studies,
70 or other proprietary business information provided by a person



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in conjunction with an application to establish an underground natural gas storage facility as defined in s. 377.19, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The disclosure of such proprietary business information could injure an applicant in the marketplace by giving competitors detailed insight into technical assessments, design, and experience, thereby putting the applicant at a competitive disadvantage. Without this exemption, applicants might be less willing to expend or commit to expend the substantial resources necessary to determine the feasibility of establishing, permitting, and operating an underground natural gas storage facility, resulting in limited opportunities for developing the additional natural gas storage capacity that this state critically needs to meet current and future residential, commercial, and industrial energy needs. The resulting lack of resources could hinder the ability of electric utility services to optimize services to their customers and could adversely affect those customers by depriving them of the opportunities and energy security that comes with domestic reserves of natural gas stored underground.

(2) Proprietary business information derives actual or potential independent economic value from not being generally known to and not being readily ascertainable by other persons who can derive economic value from its disclosure or use. The Department of Environmental Protection, in the course of reviewing and issuing permitting decisions relating to underground natural gas storage facility permits, may need to obtain proprietary business information. Disclosure of such



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information could destroy the value of that property and could
cause economic harm to the applicant providing the information.
Additionally, the reduced competition for the provision of
domestic underground storage of natural gas could adversely
affect energy utility customers. The exemption created by this
act will enhance the ability to increase domestic storage of
natural gas, thereby creating a significant benefit to energy
utility customers. In finding that the public records exemption
created by this act is a public necessity, the Legislature also
finds that any public benefit derived from disclosure of the
information is significantly outweighed by the public and
private harm that could result from disclosure after submittal
of such proprietary business information.

Section 3. This act shall take effect October 1, 2013, if
SB 958 or similar legislation is adopted in the same legislative
session or an extension thereof and becomes a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; creating s.
377.24075, F.S.; creating an exemption from public
records requirements for certain information provided
in an application for a natural gas storage facility
permit to inject and recover gas into and from a
natural gas storage reservoir; providing for future
review and repeal of the public records exemption



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129 under the Open Government Sunset Review Act; providing
130 a statement of public necessity; providing a
131 contingent effective date.

By Senator Richter

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1 A bill to be entitled
2 An act relating to public records; creating s.
3 377.24075, F.S.; creating an exemption from public
4 records requirements for certain information provided
5 in an application for a natural gas storage facility
6 permit to inject and recover gas into and from a
7 natural gas storage reservoir; providing for future
8 review and repeal of the public records exemption
9 under the Open Government Sunset Review Act; providing
10 a statement of public necessity; providing a
11 contingent effective date.
12

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

15 Section 1. Section 377.24075, Florida Statutes, is created
16 to read:

17 377.24075 Exemption from public records requirements.—

18 (1) Any information that an applicant provides to the
19 Department of Environmental Protection pursuant to s. 377.2407
20 relating to leasing plans, exploration budgets, proprietary well
21 design or completion plans, geological or engineering studies
22 related to storage reservoir performance characteristics, field
23 utilization strategies or operating plans, commercial or
24 marketing studies, or other proprietary confidential business
25 information or trade secret as defined in s. 812.081 which could
26 provide an economic advantage to competitors is confidential and
27 exempt from s. 119.07(1) for a period of 10 years.

28 (2) This section is subject to the Open Government Sunset
29 Review Act in accordance with s. 119.15 and shall stand repealed

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on October 2, 2018, unless reviewed and saved from repeal
through reenactment by the Legislature.

Section 2. (1) The Legislature finds that it is a public
necessity that information provided to the Department of
Environmental Protection which relates to leasing plans,
exploration budgets, proprietary well design or completion
plans, geological or engineering studies related to storage
reservoir performance characteristics, field utilization
strategies or operating plans, commercial or marketing studies,
or other proprietary confidential business information or trade
secret provided by a person in conjunction with an application
to establish an underground natural gas storage facility as
defined in s. 377.19, Florida Statutes, be made confidential and
exempt from s. 119.07(1), Florida Statutes, and s. 24(a),
Article I of the State Constitution for a period of 10 years.
The disclosure of such proprietary confidential business
information or trade secret could injure an applicant in the
marketplace by giving competitors detailed insight into
technical assessments, design, and experience, thereby putting
the applicant at a competitive disadvantage. Without this
exemption, applicants could be less willing to expend or commit
to expend the substantial resources necessary to determine the
feasibility of establishing, permitting, and operating an
underground natural gas storage facility, resulting in limited
opportunities for developing the additional natural gas storage
capacity that Florida critically needs to meet current and
future residential, commercial, and industrial energy needs. The
resulting lack of resources could hinder the ability of electric
utility services to optimize services to their customers and

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could adversely affect those customers by depriving them of the opportunities and energy security that comes with domestic reserves of natural gas stored underground.

(2) Proprietary confidential business information and trade secret information derives actual or potential independent economic value from not being generally known to, and not being readily ascertainable by, other persons who can derive economic value from its disclosure or use. The Department of Environmental Protection, in the course of reviewing and issuing permitting decisions relating to underground natural gas storage facility permits, may need to obtain proprietary confidential business information. Disclosure of such information could destroy the value of that property, if disclosed within 10 years after submittal, and could not only cause economic harm to the applicant providing the information, but the reduced competition for provision of domestic underground storage of natural gas could also adversely affect energy utility customers. The exemption created by this act will enhance the ability to increase domestic storage of natural gas, thereby creating a significant benefit to energy utility customers. In finding that the public records exemption created by this act is a public necessity, the Legislature also finds that any public benefit derived from disclosure of the information is significantly outweighed by the public and private harm that could result from disclosure within 10 years after submittal of such proprietary confidential business information.

Section 3. This act shall take effect October 1, 2013, if SB _____ or similar legislation is adopted in the same legislative session or an extension thereof and becomes a law.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1028

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Clemens

SUBJECT: Fracturing Chemical Usage Disclosure Act

DATE: April 10, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Gudeman	Uchino	EP	Fav/CS
2. _____	_____	CA	_____
3. _____	_____	RC	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/SB 1028 creates s. 377.45, F.S., to establish the Fracturing Chemical Usage Disclosure Act. The CS requires the Division of Resource Management (division) of the Department of Environmental Protection (DEP) to establish an online hydraulic fracturing chemical registry. The CS requires owners and operators of wells, service companies, and suppliers to disclose information about the chemicals used in hydraulic fracturing. The CS provides some exceptions to the disclosure requirements and authorizes the DEP to adopt rules to administer the chemical usage disclosure act.

SB 1028 creates s. 377.45 of the Florida Statutes.

II. Present Situation:

Hydraulic Fracturing

Hydraulic fracturing was first used in the United States in 1947 at the Hugoton field in Kansas,

and has become the standard method for stimulating production of oil and gas wells.¹

Hydraulic fracturing is a technique that is done after a well has been drilled. Large amounts of fluid at high pressure are injected into a wellbore to create and extend fractures in the rock formation. The fractures are held open by a slurry mixture which allows natural gas to flow from the fractures into the production well.²

The injected fluid is composed of water, proppants, and chemical additives. The composition of the injected fluid varies between rock formations but the majority of the fluid, 98 to 99.5 percent, is water. The proppants are made of sand, ceramic pellets or other small incompressible particles that hold the fractures open. The chemical additives include bactericides, buffers, stabilizers, fluid-loss additives, and surfactants that improve the effectiveness of the fracturing process and prevent damage to the rock formation.³

The placement of the fracturing fluid is sequenced and the blend and proportions of the additives used vary depending on the characteristics of the rock formation; however, all of the additives are used during the fracturing process. The acid stage consists of several thousand gallons of water mixed with hydrochloric acid or muriatic acid that work to clear cement debris and create an open path for the fracturing fluids. The pad stage consists of approximately 100,000 gallons of “slick-water,” which is a friction reducing agent that reduces the pressure needed to pump fluid into the wellbore and facilitate the flow and placement of the proppant material. The propp sequence stage, which may include several sub-stages, uses several hundred thousand gallons of water mixed with varying sized particulates that keep the fractures open. Finally, there is a flushing stage that consists of enough water to adequately flush the excess proppant from the wellbore.⁴

Additional additives are used in the fracturing of Marcellus shale, including dilute acid solution, biocide or disinfectant to reduce the growth of bacteria, a scale inhibitor to reduce the build-up of carbonates and sulfate minerals, an iron control agent to inhibit the precipitation of iron compounds, friction reducing agents to decrease the amount of pressure needed to pump fluid to the wellbore, corrosion inhibitors to prevent the degradation of the steel well casing, gelling agents to help transport the proppant material, and a cross-linking additive to enhance the characteristics of the gelling agent.⁵

In 1986, Congress enacted the Emergency Planning and Community Right to Know Act (EPCRA), which requires federal, local and state governments to report hazardous and toxic chemicals in order to increase the public’s knowledge and access to information on chemicals at individual facilities. The EPCRA includes the Toxic Release Inventory (TRI), which is a publicly available database that contains information on chemical releases and waste management reported by certain industries. The U.S. Environmental Protection Agency (EPA)

¹ U.S. Environmental Protection Agency, *White Paper: Hydraulic Fracturing White Paper* (2004), available at http://www.epa.gov/ogwdw/uic/pdfs/cbmstudy_attach_uic_append_a_doe_whitepaper.pdf (last visited Mar. 27, 2013).

² Frac Focus Chemical Disclosure Registry, *Hydraulic Fracturing: The Process*, <http://fracfocus.org/hydraulic-fracturing-how-it-works/hydraulic-fracturing-process>. (last visited Mar. 27, 2013).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

has not included oil and gas extraction as an industry that must report under the TRI because the EPA determined the oil and gas extraction industry is not a high priority for reporting. The decision is based on the fact that most of the information that the TRI requires is already reported by oil and gas providers to the individual state agencies and reporting for the hundreds and thousands of oil and gas sites would overwhelm the system.⁶

In May 2012, the Bureau of Land Management (BLM) published a proposed rule that would require companies that conduct hydraulic fracturing on lands managed by the BLM to disclose the composition of the fracturing fluid. Congress has also proposed legislation requiring the disclosure of chemicals under the Fracturing Responsibility and Awareness of Chemicals Act.⁷

To date, federal legislation has not been implemented to require the disclosure of chemicals used in hydraulic fracturing; therefore, many states have taken steps to develop their own chemical disclosure laws. The disclosure requirements that have been established in certain states include the information about the chemical additives and whether the disclosures are made to state agencies or available to the public, the composition of the chemicals, the protections provided in trade secrets, and when the disclosure of the chemicals is to take place in relation to the fracturing process.⁸

The Department of Environmental Protection's Oil and Gas Program is in the Mining and Minerals Regulation Program and is regulated under s. 377.01, F.S. Companies that are interested in oil and gas exploration or production in Florida must apply for a permit to drill the exploration well. Hydraulic fracturing is not currently being conducted in Florida.⁹

FracFocus Chemical Disclosure Registry

FracFocus is a national hydraulic fracturing chemical registry that is operated by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission. The registry provides public access to reported chemicals used for hydraulic fracturing. FracFocus does not replace state governmental information systems but is used by ten states as the primary means of state chemical disclosure. Currently there are 41,118 well sites registered with the database.¹⁰

III. Effect of Proposed Changes:

Section 1 creates an unnumbered section of law to establish the "Fracturing Chemical Usage Disclosure Act."

Section 2 creates s. 377.45, F.S., to establish the hydraulic fracturing chemical registry. The CS requires the DEP to establish and maintain an online hydraulic fracturing registry for all wells that use hydraulic fracturing. The registry must include the volume of water used and the chemical ingredients that are subject to regulation under 29 C.F.R. s. 1910.1200(g)(2). The DEP

⁶ *Id.*

⁷ *Id.*

⁸ Congressional Research Service, *Hydraulic Fracturing: Chemical Disclosure Requirements* (June 19, 2012) available at <http://www.fas.org/sgp/crs/misc/R42461.pdf> (last visited Mar. 27, 2013).

⁹ See s. 377.01, F.S.

¹⁰ *Supra* note 2.

may not require the concentrations of the chemical ingredients or the additives in which they are used.

The CS requires the DEP to provide a link through its website to FracFocus.org, the national hydraulic fracturing chemical registry website. If the chemical disclosure registry is unable to make any information available to the public, then the service provider, vendor, or well owner or operator is required to submit the information to the DEP.

The CS requires the service provider, vendor, or well owner or operator to report on which wells hydraulic fracturing is performed. The CS also requires the service provider, vendor, or well owner or operator to notify the DEP of any chemical that has not been previously reported. It also requires service companies that perform hydraulic fracturing treatments or the supplier of the additives to disclose the chemical ingredients to the owner or operator of the well.

The CS exempts chemicals that were not purposefully added to the hydraulic fracturing treatment, occur incidentally or are unintentionally in the treatment, or are not disclosed to the well owner or operator by the supplier.

The DEP may adopt rules to administer the requirements of the CS.

Section 3 provides an effective date July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

As there are currently no hydraulic fracturing operations in Florida, there is no impact to the private sector.

C. Government Sector Impact:

The cost to input information into FracFocus or implement a registry required in CS/SB 1028 is minimal and may be done with existing resources at the DEP.¹¹ However, as stated above, there are currently no hydraulic fracturing operations in Florida.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. 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 April 9, 2013:

The CS specifies that the DEP, not the division, must establish and maintain the chemical registry.

The CS requires that the DEP provide a link to FracFocus on its website and if the registry is not able to accept the information specified in the CS, then the service provider, vendor, or well owner or operator must submit the information to the DEP.

B. Amendments:

None.

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

¹¹ Email from Pierce Schuessler, DEP, Legislative Affairs Director (Mar. 28, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).



824852

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2013	.	
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The Committee on Environmental Preservation and Conservation
(Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Fracturing
Chemical Usage Disclosure Act."

Section 2. Section 377.45, Florida Statutes, is created to
read:

377.45 Hydraulic fracturing chemical registry.—

(1) As used in this section, the term "department" means
the Department of Environmental Protection.

(2) The department shall designate or establish an online



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hydraulic fracturing chemical registry for all wells on which hydraulic fracturing treatments are performed. The department may designate the FracFocus Chemical Disclosure Registry, developed by the Ground Water Protection Council and the Interstate Oil and Gas Compact Commission, as the state's official registry.

(a) Except as provided in subsection (4), within 60 days after the cessation of hydraulic fracturing operations, the operator shall report to the chemical registry and notify the department of all wells on which hydraulic fracturing treatments are performed.

(b) The operator shall report to the chemical registry, at a minimum, the total volume of water used in the hydraulic fracturing treatment and each chemical ingredient that is subject to 29 C.F.R. s. 1910.1200(g)(2) for each well on which hydraulic fracturing treatments are performed, as provided by a service company or chemical supplier, or by the well owner or operator if the owner or operator provides such chemical ingredients. For purposes of this subsection, the department may not require chemical ingredients to be identified by concentration or based on the additive in which they are found.

(c) The department must provide a link to FracFocus, the national hydraulic fracturing chemical registry website, through the department's website.

(d) If the FracFocus Chemical Disclosure Registry is unable to accept and make publicly available any of the information specified in this section, the operator shall submit the information to the department.

(3) (a) The owner or operator of a well on which a hydraulic



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fracturing treatment is performed shall update the chemical registry and notify the department of any chemical ingredients not previously reported which are intentionally included and used for the purpose of creating a hydraulic fracturing treatment for the well.

(b) Pursuant to this section, the service company that performs a hydraulic fracturing treatment on a well, or a supplier of an additive used in a hydraulic fracturing treatment on a well, must disclose to the owner or operator of the well the chemical ingredients used to perform the treatment.

(4) This section does not apply to ingredients that:

(a) Were not purposefully added to the hydraulic fracturing treatment.

(b) Occur incidentally or are otherwise unintentionally present in the treatment.

(c) Are not disclosed to the well owner or operator by a service company or supplier.

(5) The department may adopt rules to administer this section.

Section 3. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to hydraulic fracturing; providing a
short title; creating s. 377.45, F.S.; providing a
definition; creating the Fracturing Chemical Usage



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71 Disclosure Act; directing the Department of
72 Environmental Protection to designate or establish an
73 online hydraulic fracturing chemical registry;
74 requiring owners and operators of wells on which a
75 hydraulic fracturing treatment is performed to update
76 certain information in the chemical registry and to
77 notify the department of such updates; requiring
78 certain service companies and suppliers to disclose
79 certain information; providing exceptions; authorizing
80 the department to adopt rules; providing an effective
81 date.



411302

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
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The Committee on Environmental Preservation and Conservation
(Soto) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. This act may be cited as the "Fracturing
Chemical Usage Disclosure Act."

Section 2. Section 377.45, Florida Statutes, is created to
read:

377.45 Hydraulic fracturing chemical registry.—

(1) For the purposes of this section, "department" means
the Department of Environmental Protection.

(2) (a) The department shall establish and maintain an



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13 online hydraulic fracturing chemical registry for all wells on
14 which hydraulic fracturing treatments are performed.

15 (b) The registry shall include, at a minimum, the total
16 volume of water used in the hydraulic fracturing treatment and
17 each chemical ingredient that is subject to 29 C.F.R. s.
18 1910.1200(g)(2) for each well on which hydraulic fracturing
19 treatments are performed by a service provider or vendor or by
20 the well owner or operator if the owner or operator provides
21 such chemical ingredients. Solely for the purposes of this
22 subsection, the department may not require chemical ingredients
23 to be identified by concentration or based on the additive in
24 which they are found.

25 (c) The department shall provide a link through the
26 department's website to FracFocus.org, the national hydraulic
27 fracturing chemical registry website operated by the Ground
28 Water Protection Council and the Interstate Oil and Gas Compact
29 Commission.

30 (d) If the Chemical Disclosure Registry is unable to accept
31 and make publicly available any information specified in this
32 section, the well owner or operator shall submit the information
33 to the department.

34 (3) A service provider, vendor, or well owner or operator
35 shall:

36 (a) Report information as required by the department with
37 respect to wells on which a hydraulic fracturing treatment is
38 performed.

39 (b) Notify the department of any chemical ingredients not
40 previously reported that are intentionally included and used for
41 the purpose of hydraulically fracturing a well.



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42 (4) This section does not apply to ingredients that:

43 (a) Were not purposefully added to the hydraulic fracturing
44 treatment.

45 (b) Occur incidentally or are otherwise unintentionally
46 present in the treatment.

47 (5) The department may adopt rules to administer this
48 section.

49 Section 3. This act shall take effect July 1, 2013.

50
51 ===== T I T L E A M E N D M E N T =====

52 And the title is amended as follows:

53 Delete everything before the enacting clause
54 and insert:

55 A bill to be entitled
56 An act relating to the Fracturing Chemical Usage
57 Disclosure Act; creating such act and providing a
58 short title; creating s. 377.45, F.S.; directing the
59 Department of Environmental Protection to establish an
60 online hydraulic fracturing chemical registry;
61 requiring owners and operators of wells on which a
62 hydraulic fracturing treatment is performed to
63 disclose certain information; requiring certain
64 service providers and vendors to disclose certain
65 information; providing for applicability; authorizing
66 the department to adopt rules; providing an effective
67 date.

By Senator Clemens

27-00778-13

20131028__

1 A bill to be entitled
2 An act relating to the Fracturing Chemical Usage
3 Disclosure Act; creating such act and providing a
4 short title; creating s. 377.45, F.S.; directing the
5 Division of Resource Management of the Department of
6 Environmental Protection to establish an online
7 hydraulic fracturing chemical registry; requiring
8 owners and operators of wells on which a hydraulic
9 fracturing treatment is performed to disclose certain
10 information; requiring certain service companies and
11 suppliers to disclose certain information; providing
12 exceptions; authorizing the division to adopt rules;
13 providing an effective date.

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

16
17 Section 1. This act may be cited as the "Fracturing
18 Chemical Usage Disclosure Act."

19 Section 2. Section 377.45, Florida Statutes, is created to
20 read:

21 377.45 Hydraulic fracturing chemical registry.-

22 (1) (a) The division shall establish and maintain an online
23 hydraulic fracturing chemical registry for all wells on which
24 hydraulic fracturing treatments are performed.

25 (b) The registry shall include, at a minimum, the total
26 volume of water used in the hydraulic fracturing treatment and
27 each chemical ingredient that is subject to 29 C.F.R. s.
28 1910.1200(g) (2), for each well on which hydraulic fracturing
29 treatments are performed, as provided by a service company or

27-00778-13

20131028__

chemical supplier, or by the well owner or operator if the owner or operator provides such chemical ingredients. The division may not require chemical ingredients to be identified by concentration or based on the additive in which they are found.

(c) The registry and the information provided pursuant to this subsection must be accessible to the public through the division's website.

(2) (a) The owner or operator of a well on which a hydraulic fracturing treatment is performed shall report information as required by the division. The well owner or operator must notify the division of any chemical ingredients not previously reported that are intentionally included and used for the purpose of creating a hydraulic fracturing treatment for the well.

(b) A service company that performs a hydraulic fracturing treatment on a well or a supplier of an additive used in a hydraulic fracturing treatment on a well must disclose the chemical ingredients used to perform the treatment to the owner or operator of the well pursuant to this section.

(3) This section does not apply to ingredients that:

(a) Were not purposefully added to the hydraulic fracturing treatment.

(b) Occur incidentally or are otherwise unintentionally present in the treatment.

(c) Are not disclosed to the well owner or operator by a service company or supplier.

(4) The division may adopt rules to administer this section.

Section 3. This act shall take effect July 1, 2013.

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 1104

INTRODUCER: Transportation Committee and Senator Brandes

SUBJECT: Environment

DATE: April 8, 2013

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Price	Eichin	TR	Fav/CS
2. Gudeman	Uchino	EP	Favorable
3. _____	_____	AP	_____
4. _____	_____	_____	_____
5. _____	_____	_____	_____
6. _____	_____	_____	_____

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/SB 1104 revises various provisions relating to mitigation for environmental impacts of transportation projects. Specifically CS/SB 1104:

- Provides an exception from the current requirement that the Florida Department of Transportation (FDOT) purchase all landscaping plant materials from Florida commercial nursery stock on a uniform competitive basis where such purchases are prohibited by federal law;
- Revises the responsibilities of the FDOT, a county, or a city to improve or maintain a road that provides access to property within the state park system;
- Specifies that mitigation be implemented in an efficient, timely, and cost effective manner;
- Provides requirements for the development of environmental impact inventories;
- Requires the FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a water management district (WMD) plan;
- Requires specific conditions for the FDOT to implement the mitigation option identified in the environmental impact inventory;
- Provides specific funding requirements for mitigation;

- Requires the projected amount of mitigation to be reconciled with the actual amount of mitigation each quarter;
- Allows the FDOT to purchase mitigation credits or other mitigation options under certain circumstances and exempts the FDOT from continuing responsibility;
- Provides specific conditions, requirements, and dates for a WMD or the Department of Environmental Protection (DEP) to invoice the FDOT;
- Provides specific invoice requirements for a WMD or the DEP for mitigation projects that occur on existing WMD or DEP mitigation sites;
- Provides specific criteria to be included in the record of costs;
- Provides specific requirements for funds identified in the FDOT's work program or participating transportation authorities' escrow account;
- Provides specific requirements for the WMDs annual mitigation plan;
- Requires the WMDs to maintain specified records of costs incurred and payments received for providing mitigation services;
- Requires the mitigation plan to be submitted to the DEP following the approval of a WMD's governing board;
- Provides reimbursement provisions to the WMDs in certain circumstances;
- Allows for the FDOT to exclude certain projects from mitigation plans if mitigation credits prove to be more efficient and cost effective;
- Provides specific circumstances under which the use of mitigation credits is required;
- Requires mitigation plans to be in compliance with federal requirements;
- Directs the FDOT to consider mitigation credits over amending mitigation plans for new projects; and
- Specifies the public information system is subject to approval by the FDOT and the Federal Highway Administration and revises an exemption relating to public information systems located on WMD property.

CS/SB 1104 amends s. 334.044, 335.06, 373.4137, and 373.618 of the Florida Statutes.

II. Present Situation:

Roadside Enhancement and Maintenance Requirements

The FDOT is responsible for enhancing environment benefits, preventing roadside erosion, conserving natural roadside growth and scenery, and providing for the implementation and maintenance of roadside conservation, enhancement, and stabilization programs.¹ The FDOT is required to purchase all plant materials from Florida Commercial nursery stock on a uniform competitive basis. This provision conflicts with federal requirements that specify a state transportation department cannot require the use of materials produced in state or restrict the use of materials produced out of state.² Failure to comply with federal requirements for purchases of plant material for roadside landscaping may subject the FDOT to a significant federal funds penalty, generally 10 percent of annual highway constructions funds.³

¹ See s. 334.044(26), F.S.

² See 23 C.F.R. s. 635.409.

³ See 23 U.S.C. s. 131(b).

The FDOT is currently required to maintain any road that is part of the State Highway System and provides access to property within the state park system. Local governments are required to maintain roads that are part of the county road or city street system.⁴

Environmental Mitigation for Transportation Projects

Pursuant to s. 373.4137, F.S., the FDOT and participating transportation authorities offset adverse environmental impacts of transportation projects through the use of mitigation banks and other mitigation options, including the payment of funds to the WMDs to develop and implement mitigation plans. The mitigation plan is developed by the WMDs and is ultimately approved by the DEP. The ability to exclude a project from the mitigation plan is provided to the FDOT, a participating transportation authority, or a WMD.

In 2012, HB 599 modified s. 373.413, F.S., to reflect that adverse impacts may be offset by the use of mitigation banks or the payment of funds to develop and implement mitigation plans. The mitigation plan is based on an environmental impact inventory that is created by the FDOT and reflects habitats that would be adversely impacted by transportation projects listed in the next three years of the FDOT's tentative work program. The FDOT provides funding in its work program to the DEP or the WMDs for its mitigation requirements. To fund the programs, the statute directs the FDOT and the authorities to pay \$75,000 per impacted acre, adjusted by a calculation using the Consumer Product Index (CPI).⁵

Pursuant to s. 373.4137, F.S., mitigation plans developed by the WMDs must consider water resource needs and focus on activities in wetlands and surface waters, including preservation, restoration and enhancement, as well as control of invasive and exotic vegetation. The WMDs must also consider the purchase of credits from public and private mitigation banks if the purchase provides equal benefit to water resources and is the most cost effective option. Before transportation projects are added to the WMDs mitigation plans, the FDOT must consider if using mitigation bank credits will be more cost-effective and efficient. The WMD mitigation plans are updated annually to reflect the most recent FDOT work program and transportation authority project list and may be amended throughout the year. The mitigation plans are submitted to the governing board of the WMD or its designee for approval, and to the DEP for final approval.⁶

The FDOT and the participating expressway authorities are required to transfer funds each year to pay for mitigation of the projected impact acreage resulting from projects identified in the inventory. The projected impact acreage and costs are reconciled quarterly with the actual impact acreage, and the costs and balances are adjusted.⁷

Section 373.4137, F.S., provides for exclusion of specific transportation projects from the mitigation plan at the discretion of the FDOT, participating transportation authorities, and the WMDs.

⁴ See s. 335.06, F.S.

⁵ See s. 373.4137 F.S.

⁶ *Id.*

⁷ *Id.*

Public Information Systems

Pursuant to s. 373.618, F.S., public information systems may be located on WMD property, provided certain terms and conditions are met. The systems must display messages to the general public concerning water management services, activities, events, watering restrictions, severe weather reports, amber alerts, and other essential public information. The law prohibits the use of WMDs funds to acquire, develop, construct, operate, or manage a public information system. Commercial messages are to be paid for by private sponsors.⁸

Section 479.02, F.S., requires the FDOT to regulate the size, height, lighting, and spacing of signs on the interstate highway system in accordance with state and federal regulations. A permit and annual fee are required by any individual that proposes to erect, operate, use, or maintain any sign on the State Highway System outside an urban area or on any portion of the interstate or federal-aid primary highway system. Certain signs do not require a permit as long as the signs are in compliance with the provisions in s. 479.11(4)-(8), F.S.⁹

Section 479.16, F.S., specifies that signs owned by a municipality or county that contain messages related to any commercial enterprise, a commercial sponsor of an event, personal messages, or political messages, are not considered information regarding government services. The FDOT may potentially be subject to an annual loss of 10 percent of federal highway funding if these signs are located within a “controlled area.”¹⁰

III. Effect of Proposed Changes:

Section 1 amends s. 334.044, F.S., to provide that the FDOT purchase all plant materials from Florida commercial nursery stock in this state on a uniform competitive bid basis, except as prohibited by applicable federal law or regulation. This will ensure compliance with federal regulation.

Section 2 amends s. 335.06, F.S., to allow the FDOT to improve and maintain a road that is part of the State Highway System and within a state park. If the FDOT does not maintain a county or city road that is part of the county road system or city street system and provides access to the state park, then the road must be maintained the appropriate county or municipality.

Section 3 amends s. 373.4137, F.S., to provide that mitigation take place in an efficient, timely, and cost-effective manner. The bill requires the following for the development of environmental impact inventories for transportation projects proposed by the FDOT or a transportation authority:

- The FDOT must submit an environmental impact inventory of habitat impacts and the proposed amount of mitigation needed to offset the impacts to the WMDs by July 1, and the proposed amount of mitigation needed for future projects; and

⁸ See s. 373.918, F.S.

⁹ See s. 479.11(4)-(8), F.S.

¹⁰ “Controlled area” means 660 feet or less from the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system and beyond 660 feet of the nearest edge of the right-of-way of any portion of the State Highway System, interstate, or federal-aid primary system outside an urban area. See s. 479.01, F.S.

- The environmental impact inventory must include the proposed amount of mitigation needed based on the Uniform Mitigation Assessment Method (UMAM).

The CS requires FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan, taking into account state and federal requirements, maintenance, and liability.

The CS allows FDOT to implement the mitigation option identified in the environmental impact inventory by:

- Purchasing credits for current and future use directly from a mitigation bank;
- Purchasing mitigation services through the WMDs or the DEP;
- Conducting its own mitigation; or
- Using other mitigation options that meet state and federal requirements.

The CS requires funding for the identified mitigation option in the inventory to be included in FDOT's work program under s. 339.135, F.S. The CS specifies that FDOT include funding for the identified mitigation option and the amount programmed each year to correspond to an estimated cost of \$150,000 per mitigation credit, multiplied by the projected number of credits identified in the inventory. The estimated cost per credit will be adjusted every two years by FDOT based on the average cost per UMAM credit.

The CS specifies that for mitigation implemented by the WMDs or the DEP, the amount paid each year must be based on mitigation services provided by the WMD or the DEP pursuant to an approved WMD mitigation plan. The WMDs or DEP may request payment no sooner than 30 days before the date the funds are needed.

The CS requires that each quarter, the projected amount of mitigation must be reconciled with the actual amount of mitigation needed for projects as permitted. The programming of funds must be adjusted to reflect the mitigation as permitted.

FDOT may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements, if the WMD:

- Excludes a project from an approved WMD mitigation plan;
- Cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or
- The proposed mitigation does not meet state and federal requirements.

The CS specifies that WMD or DEP, as appropriate, has continuing responsibility for the mitigation project upon final payment for mitigation and FDOT's or the participating transportation authority's obligation is satisfied.

The CS requires each WMD or the DEP to invoice the FDOT for mitigation services to offset only the impacts of an FDOT project identified in the inventory, beginning with the March 2014 WMD plans. If the WMD identifies the use of mitigation bank credits to offset an FDOT impact, the WMD must exclude that purchase from the mitigation plan and the FDOT must purchase the bank credits.

The CS requires that for mitigation activities occurring on existing WMD or DEP mitigation sites initiated with FDOT mitigation funds prior to July 1, 2013, the WMD or the DEP is required to invoice FDOT at \$75,000 per acre multiplied by the projected acres of impact. The cost per acre must be adjusted by a calculation using the CPI.

The WMD must maintain records of the costs incurred including:

- Land acquisition;
- Design and construction;
- Staff support, long-term maintenance and monitoring of the mitigation site; and
- Other costs necessary to meet federal requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

The CS requires the funds identified in the FDOT's work program or participating transportation authorities' escrow accounts, for preparing and implementing the mitigation plans, adopted by the WMDs on or before March 1, 2013, to correspond to \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI. The WMD must maintain records of the costs incurred in implementing the mitigation. If monies paid to a WMD exceed the amount spent by the WMD to implement the mitigation, the funds must be refunded to FDOT or the participating transportation authority. This provision expires June 30, 2014.

The CS requires each WMD to develop a plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation. The WMD plan must identify the site where the WMD will mitigate, the scope of the mitigation activities at each mitigation site, and the functional gain at each mitigation site as determined using UMAM. The mitigation plan must be submitted to the WMD's governing board for review and approval. The bill requires that the WMD provide a copy of the draft mitigation plan to the DEP at least 14 days before governing board approval. The plan may not be implemented until it is subsequently approved by the DEP.

The CS also requires the plan to describe how the mitigation offsets the impacts of each transportation project, and provides a schedule for the mitigation services.

The CS requires the WMDs to consider the purchase of credits from public or private mitigation banks as part of determining the activities to be included in the annual mitigation plans. The CS also removes the requirement that for each transportation project with a funding request for the next fiscal year, the mitigation plan must include an explanation of why a mitigation bank was or was not chosen as a mitigation option.

The FDOT or a participating authority is prohibited from excluding a transportation project from the mitigation plan when mitigation is scheduled in the current fiscal year, except if:

- The transportation project is removed from the FDOT's work program or a transportation authority's funding plan;
- The mitigation cannot be timely permitted to offset the impacts of an FDOT project identified in the inventory; or
- The proposed mitigation does not meet state and federal requirements.

If a project is removed from the work program or the mitigation plan, costs incurred by the WMD prior to removal are eligible for reimbursement.

The FDOT is required to exclude a project from the mitigation plan when using mitigation credits results in efficiency, timeliness in project delivery, cost effectiveness, and transfer of liability for success and long-term maintenance.

The CS directs the WMDs to comply with all federal permitting requirements in developing and implementing the mitigation plan. The CS adds to the WMDs' authority to deviate from the approved mitigation plan during the federal permitting process in order to comply with federal permitting requirements. The CS also requires consideration to be given to mitigation banks and other available mitigation options before amending the mitigation plan to include new projects.

Section 4 amends s. 373.618, F.S., to provide that a public information system located on WMD property that is subject to the Highway Beautification Act of 1965 must be approved by the FDOT and the Federal Highway Administration, if such approval is required by federal law.

Section 5 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private mitigation banks may experience increased opportunities for participation in mitigation of transportation project environmental impacts.

C. Government Sector Impact:

CS/SB 1104 eliminates a potential annual loss of 10 percent of federal highway funding resulting from a violation of federal law prohibiting in-state preferences when purchasing materials for roadside projects.

CS/SB 1104 may benefit state parks as the costs of a selected project to improve or maintain an off-system road that provides access to a state park may be included in FDOT's work program budget submitted annually to the Legislature. However, if the FDOT begins to maintain county or city roads leading to state parks, the state will incur the costs previously borne by local governments.

CS/SB 1104 provides that the FDOT may recoup 10 percent of federal highway funds by regaining control of outdoor advertising.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

CS by Transportation on March 21, 2013:

The committee adopted two amendments and incorporated them into the original bill as a committee substitute. The amendments:

- Provide an exception from the current requirements that the FDOT purchase all landscaping plant materials from Florida commercial nursery stock on a uniform competitive basis where such purchases are prohibited by federal law;
- Require the FDOT to consider using credits from a permitted mitigation bank before projects are identified for inclusion in a WMD plan;
- Include the purchase of mitigation services through a WMD or the DEP in the FDOT's available mitigation options;
- Direct the FDOT to include funding in its work program for mitigation at an estimated cost of \$150,000 per mitigation credit multiplied by the projected number of credits in the inventory;
- Allow the FDOT's reassign funds if the associated transportation project is excluded from a WMD plan or if the mitigation will no longer be implemented by the DEP and allows the FDOT to use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies the requirements, if the WMD:
 - Excludes a project from an approved WMD mitigation plan;
 - Cannot timely permit a mitigation site to offset the impacts of an FDOT project identified in the inventory; or

- The proposed mitigation does not meet state and federal requirements.
- Require a WMD or the DEP, beginning with the March 2014 WMD plans to invoice the FDOT for mitigation services that offset only the impacts of a FDOT project identified in the inventory;
- Require a WMD to exclude a project from the mitigation plan if a WMD identifies the use of mitigation bank credits to offset a FDOT impact, and require the FDOT in such instance to purchase the bank credits;
- Require the WMD or the DEP to invoice the FDOT at \$75,000 per acre multiplied by the projected acres of impact, adjusted by the CPI, for mitigation activities occurring on existing WMD or DEP mitigation sites initiated with the FDOT mitigation funds prior to July 1, 2013;
- Require each WMD's annual mitigation plan to offset only the impacts of transportation projects in the inventory for which a WMD is implementing mitigation;
- Eliminate specifying in the plan the cost per mitigation credit; and
- Require the WMDs to maintain specified records of costs incurred and payments received for providing mitigation services.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/08/2013	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Between lines 84 and 85
insert:

Section 3. Subsections (13) and (14) are added to section
373.406, Florida Statutes, to read:

373.406 Exemptions.—The following exemptions shall apply:
(13) Nothing in this part, or in any rule, regulation, or
order adopted pursuant to this part, applies to construction,
alteration, operation, or maintenance of any wholly owned,
manmade farm ponds as defined in s. 403.927 constructed entirely
in uplands.



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(14) Nothing in this part, or in any rule, regulation, or order adopted pursuant to this part, may require a permit for activities affecting wetlands created solely by the unauthorized flooding or interference with the natural flow of surface water caused by an unaffiliated adjoining landowner. This exemption does not apply to activities that discharge dredged or fill material into waters of the United States, including wetlands, subject to federal jurisdiction under section 404 of the federal Clean Water Act, 33 U.S.C. s. 1344.

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

And the title is amended as follows:

Delete line 12

and insert:

park system; amending s. 373.406, F.S.; exempting specified ponds, ditches, and wetlands from surface water management and storage requirements; amending s. 373.4137, F.S.; providing

By the Committee on Transportation; and Senator Brandes

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1 A bill to be entitled
2 An act relating to the environment; amending s.
3 334.044, F.S.; providing an exclusion from provisions
4 that require all plant materials for highway
5 landscaping be purchased from Florida commercial
6 nursery stock in this state on a uniform competitive
7 bid basis if prohibited by federal law or regulation;
8 amending s. 335.06, F.S.; revising the
9 responsibilities of the Department of Transportation,
10 a county, or a municipality to improve or maintain a
11 road that provides access to property within the state
12 park system; amending s. 373.4137, F.S.; providing
13 legislative intent that mitigation be implemented in a
14 manner that promotes efficiency, timeliness, and cost-
15 effectiveness in project delivery; revising the
16 criteria of the environmental impact inventory;
17 revising the criteria for mitigation of projected
18 impacts identified in the environmental impact
19 inventory; requiring the Department of Transportation
20 to include funding for environmental mitigation for
21 its projects in its work program; revising the process
22 and criteria for the payment by the department or
23 participating transportation authorities of mitigation
24 implemented by water management districts or the
25 Department of Environmental Protection; revising the
26 requirements for the payment to a water management
27 district or the Department of Environmental Protection
28 of the costs of mitigation planning and implementation
29 of the mitigation required by a permit; revising the

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30 payment criteria for preparing and implementing
31 mitigation plans adopted by water management districts
32 for transportation impacts based on the environmental
33 impact inventory; adding federal requirements for the
34 development of a mitigation plan; providing for
35 transportation projects in the environmental
36 mitigation plan for which mitigation has not been
37 specified; revising a water management district's
38 responsibilities relating to a mitigation plan;
39 amending s. 373.618, F.S.; revising the outdoor
40 advertisement exemption criteria for a public
41 information system; providing an effective date.

42
43 Be It Enacted by the Legislature of the State of Florida:

44
45 Section 1. Section 1. Subsection (26) of section 334.044,
46 Florida Statutes, is amended to read:

47 334.044 Department; powers and duties.—The department shall
48 have the following general powers and duties:

49 (26) To provide for the enhancement of environmental
50 benefits, including air and water quality; to prevent roadside
51 erosion; to conserve the natural roadside growth and scenery;
52 and to provide for the implementation and maintenance of
53 roadside conservation, enhancement, and stabilization programs.
54 No less than 1.5 percent of the amount contracted for
55 construction projects shall be allocated by the department on a
56 statewide basis for the purchase of plant materials. Department
57 districts may not expend funds for landscaping in connection
58 with any project that is limited to resurfacing existing lanes

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59 unless the expenditure has been approved by the department's
60 secretary or the secretary's designee. To the greatest extent
61 practical, a minimum of 50 percent of the funds allocated under
62 this subsection shall be allocated for large plant materials and
63 the remaining funds for other plant materials. Except as
64 prohibited by applicable federal law or regulation, all plant
65 materials shall be purchased from Florida commercial nursery
66 stock in this state on a uniform competitive bid basis. The
67 department shall develop grades and standards for landscaping
68 materials purchased through this process. To accomplish these
69 activities, the department may contract with nonprofit
70 organizations having the primary purpose of developing youth
71 employment opportunities.

72 Section 2. Section 335.06, Florida Statutes, is amended to
73 read:

74 335.06 Access roads to the state park system.—~~A Any~~ road
75 that ~~which~~ provides access to property within the state park
76 system must ~~shall~~ be maintained by the department if the road is
77 a part of the State Highway System and may be improved and
78 maintained by the department if the road is part of a county
79 road system or city street system. If the department does not
80 maintain a county or city road that is a part of the county road
81 system or the city street system and that provides access to the
82 state park system, the road must ~~or shall~~ be maintained by the
83 appropriate county or municipality ~~if the road is a part of the~~
84 ~~county road system or the city street system.~~

85 Section 3. Section 373.4137, Florida Statutes, is amended
86 to read:

87 373.4137 Mitigation requirements for specified

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88 transportation projects.—

89 (1) The Legislature finds that environmental mitigation for
90 the impact of transportation projects proposed by the Department
91 of Transportation or a transportation authority established
92 pursuant to chapter 348 or chapter 349 can be more effectively
93 achieved by regional, long-range mitigation planning rather than
94 on a project-by-project basis. It is the intent of the
95 Legislature that mitigation to offset the adverse effects of
96 these transportation projects be funded by the Department of
97 Transportation and be carried out by the use of mitigation banks
98 and any other mitigation options that satisfy state and federal
99 requirements in an efficient, timely, and cost-effective manner.

100 (2) Environmental impact inventories for transportation
101 projects proposed by the Department of Transportation or a
102 transportation authority established pursuant to chapter 348 or
103 chapter 349 shall be developed as follows:

104 (a) By July 1 of each year, the Department of
105 Transportation, or a transportation authority established
106 pursuant to chapter 348 or chapter 349 which chooses to
107 participate in the program, shall submit to the water management
108 districts a list of its projects in the adopted work program and
109 an environmental impact inventory of habitat impacts and the
110 proposed amount of mitigation needed to offset impacts as
111 described in paragraph (b). The environmental impact inventory
112 must be based on ~~habitats addressed in~~ the rules adopted
113 pursuant to this part, ~~and~~ s. 404 of the Clean Water Act, 33
114 U.S.C. s. 1344, ~~and which may be impacted by~~ the Department of
115 Transportation ~~its~~ plan of construction for transportation
116 projects in the next 3 years of the tentative work program. The

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Department of Transportation or a transportation authority established pursuant to chapter 348 or chapter 349 may also include in its environmental impact inventory the habitat impacts and the proposed amount of mitigation needed for ~~of~~ any future transportation project. The Department of Transportation and each transportation authority established pursuant to chapter 348 or chapter 349 may fund any mitigation activities for future projects using current year funds.

(b) The environmental impact inventory must ~~shall~~ include a description of ~~these~~ habitat impacts, including ~~their~~ location, acreage, and type; the proposed amount of mitigation needed based on the functional loss as determined through the Uniform Mitigation Assessment Method (UMAM) adopted in Chapter 62-345, F.A.C.; identification of the proposed mitigation option; state water quality classification of impacted wetlands and other surface waters; any other state or regional designations for these habitats; and a list of threatened species, endangered species, and species of special concern affected by the proposed project.

(c) Before projects are identified for inclusion in a water management district mitigation plan as described in subsection (4), the Department of Transportation must consider using credits from a permitted mitigation bank. The Department of Transportation must consider availability of suitable and sufficient mitigation bank credits within the transportation project's area, ability to satisfy commitments to regulatory and resource agencies, availability of suitable and sufficient mitigation purchased or developed through this section, ability to complete existing water management district or Department of

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146 Environmental Protection suitable mitigation sites initiated
147 with Department of Transportation mitigation funds, and ability
148 to satisfy state and federal requirements including long-term
149 maintenance and liability.

150 (3)(a) To implement the mitigation option ~~fund development~~
151 ~~and implementation of the mitigation plan for the projected~~
152 ~~impacts~~ identified in the environmental impact inventory
153 described in subsection (2), the Department of Transportation
154 may purchase credits for current and future use directly from a
155 mitigation bank; purchase mitigation services through the water
156 management districts or the Department of Environmental
157 Protection; conduct its own mitigation; or use other mitigation
158 options that meet state and federal requirements. ~~shall identify~~
159 ~~funds quarterly in an escrow account within the State~~
160 ~~Transportation Trust Fund for the environmental mitigation phase~~
161 ~~of projects budgeted by~~ Funding for the identified mitigation
162 option as described in the environmental impact inventory must
163 be included in the Department of Transportation's work program
164 developed pursuant to s. 339.135. ~~for the current fiscal year.~~
165 ~~The escrow account shall be maintained by the Department of~~
166 ~~Transportation for the benefit of the water management~~
167 ~~districts. Any interest earnings from the escrow account shall~~
168 ~~remain with the Department of Transportation.~~ The amount
169 programmed each year by the Department of Transportation and
170 participating transportation authorities established pursuant to
171 chapter 348 or chapter 349 must correspond to an estimated cost
172 per credit of \$150,000 multiplied by the projected number of
173 credits identified in the environmental impact inventory
174 described in subsection (2). This estimated cost per credit will

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175 be adjusted every 2 years by the Department of Transportation
176 based on the average cost per UMAM credit paid through this
177 section.

178 (b) Each transportation authority established pursuant to
179 chapter 348 or chapter 349 that chooses to participate in this
180 program shall create an escrow account within its financial
181 structure and deposit funds in the account to pay for the
182 environmental mitigation phase of projects budgeted for the
183 current fiscal year. The escrow account shall be maintained by
184 the authority for the benefit of the water management districts.
185 Any interest earnings from the escrow account shall remain with
186 the authority.

187 (c) For mitigation implemented by the water management
188 district or the Department of Environmental Protection, as
189 appropriate, the amount paid each year must be based on
190 mitigation services provided by the water management districts
191 or Department of Environmental Protection pursuant to an
192 approved water management district plan, as described in
193 subsection (4). ~~Except for current mitigation projects in the~~
194 ~~monitoring and maintenance phase and except as allowed by~~
195 ~~paragraph (d),~~ The water management districts or the Department
196 of Environmental Protection, as appropriate, may request payment
197 ~~a transfer of funds from an escrow account~~ no sooner than 30
198 days before the date the funds are needed to pay for activities
199 associated with development or implementation of ~~the~~ permitted
200 mitigation meeting the requirements pursuant to this part, 33
201 U.S.C. s. 1344, and 33 C.F.R. s. 332, in the approved mitigation
202 plan described in subsection (4) for the current fiscal year.
203 ~~including, but not limited to, design, engineering, production,~~

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204 ~~and staff support. Actual conceptual plan preparation costs~~
205 ~~incurred before plan approval may be submitted to the Department~~
206 ~~of Transportation or the appropriate transportation authority~~
207 ~~each year with the plan. The conceptual plan preparation costs~~
208 ~~of each water management district will be paid from mitigation~~
209 ~~funds associated with the environmental impact inventory for the~~
210 ~~current year. The amount transferred to the escrow accounts each~~
211 ~~year by the Department of Transportation and participating~~
212 ~~transportation authorities established pursuant to chapter 348~~
213 ~~or chapter 349 shall correspond to a cost per acre of \$75,000~~
214 ~~multiplied by the projected acres of impact identified in the~~
215 ~~environmental impact inventory described in subsection (2).~~
216 ~~However, the \$75,000 cost per acre does not constitute an~~
217 ~~admission against interest by the state or its subdivisions and~~
218 ~~is not admissible as evidence of full compensation for any~~
219 ~~property acquired by eminent domain or through inverse~~
220 ~~condemnation. Each July 1, the cost per acre shall be adjusted~~
221 ~~by the percentage change in the average of the Consumer Price~~
222 ~~Index issued by the United States Department of Labor for the~~
223 ~~most recent 12-month period ending September 30, compared to the~~
224 ~~base year average, which is the average for the 12-month period~~
225 ~~ending September 30, 1996. Each quarter, the projected amount of~~
226 ~~mitigation must acreage of impact shall be reconciled with the~~
227 ~~actual amount of mitigation needed for acreage of impact of~~
228 ~~projects as permitted, including permit modifications, pursuant~~
229 ~~to this part and s. 404 of the Clean Water Act, 33 U.S.C. s.~~
230 ~~1344. The subject year's programming transfer of funds shall be~~
231 ~~adjusted accordingly to reflect the mitigation acreage of~~
232 ~~impacts as permitted. The Department of Transportation and~~

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~~participating transportation authorities established pursuant to chapter 348 or chapter 349 are authorized to transfer such funds from the escrow accounts to the water management districts to carry out the mitigation programs. Environmental mitigation funds that are identified for or maintained in an escrow account for the benefit of a water management district may be released if the associated transportation project is excluded in whole or part from the mitigation plan. For a mitigation project that is in the maintenance and monitoring phase, the water management district may request and receive a one-time payment based on the project's expected future maintenance and monitoring costs. If the water management district excludes a project from an approved water management district mitigation plan, cannot timely permit a mitigation site to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or if the proposed mitigation does not meet state and federal requirements, the Department of Transportation may use the associated funds for the purchase of mitigation bank credits or any other mitigation option that satisfies state and federal requirements. Upon final~~
disbursement of the final maintenance and monitoring payment for mitigation of a transportation project as permitted, the obligation of the Department of Transportation or the participating transportation authority is satisfied and the water management district or the Department of Environmental Protection, as appropriate, will have continuing responsibility for the mitigation project. , the escrow account for the project established by the Department of Transportation or the participating transportation authority may be closed. Any

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~~interest earned on these disbursed funds shall remain with the water management district and must be used as authorized under this section.~~

(d) Beginning with the March 2014 water management district mitigation plans, in the 2005-2006 fiscal year, each water management district or the Department of Environmental Protection, as appropriate, shall invoice the Department of Transportation for mitigation services to offset only the impacts of a Department of Transportation project identified in the environmental impact inventory, including planning, design, construction, maintenance and monitoring, and other costs necessary to meet requirements pursuant to this section, 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded transportation projects that are included on the environmental impact inventory and that have an approved mitigation plan. Beginning in the 2009-2010 fiscal year, each water management district shall be paid a lump-sum amount of \$75,000 per acre, adjusted as provided under paragraph (c), for federally funded and nonfederally funded transportation projects that have an approved mitigation plan. All mitigation costs, including, but not limited to, the costs of preparing conceptual plans and the costs of design, construction, staff support, future maintenance, and monitoring the mitigated acres shall be funded through these lump-sum amounts. If the water management district identifies the use of mitigation bank credits to offset a Department of Transportation impact, the water management district shall exclude that purchase from the mitigation plan, and the Department of Transportation must purchase the bank

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291 credits.

292 (e) For mitigation activities occurring on existing water
293 management district or Department of Environmental Protection
294 mitigation sites initiated with Department of Transportation
295 mitigation funds before July 1, 2013, the water management
296 district or Department of Environmental Protection shall invoice
297 the Department of Transportation or a participating
298 transportation authority at a cost per acre of \$75,000
299 multiplied by the projected acres of impact as identified in the
300 environmental impact inventory. The cost per acre must be
301 adjusted by the percentage change in the average of the Consumer
302 Price Index issued by the United States Department of Labor for
303 the most recent 12-month period ending September 30, compared to
304 the base year average, which is the average for the 12-month
305 period ending September 30, 1996. When implementing the
306 mitigation activities necessary to offset the permitted impacts
307 as provided in the approved mitigation plan, the water
308 management district shall maintain records of the costs incurred
309 in implementing the mitigation. The records must include, but
310 are not limited to, costs for planning, land acquisition,
311 design, construction, staff support, long-term maintenance and
312 monitoring of the mitigation site, and other costs necessary to
313 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.

314 (f) For purposes of preparing and implementing the
315 mitigation plans to be adopted by the water management districts
316 on or before March 1, 2013, for impacts based on the July 1,
317 2012, environmental impact inventory, the funds identified in
318 the Department of Transportation's work program or participating
319 transportation authorities' escrow accounts must correspond to a

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cost per acre of \$75,000 multiplied by the project acres of impact as identified in the environmental impact inventory. The cost per acre shall be adjusted by the percentage change in the average of the Consumer Price Index issued by the United States Department of Labor for the most recent 12-month period ending September 30, compared to the base year average, which is the average for the 12-month period ending September 30, 1996. Payment as provided under this paragraph is limited to those mitigation activities that are identified in the first year of the 2013 mitigation plan and for which the transportation project is permitted and is in the Department of Transportation's adopted work program, or equivalent for a transportation authority. When implementing the mitigation activities necessary to offset the permitted impacts as provided in the approved mitigation plan, the water management district shall maintain records of the costs incurred in implementing the mitigation. The records must include, but are not limited to, costs for planning, land acquisition, design, construction, staff support, long-term maintenance and monitoring of the mitigation site, and other costs necessary to meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332. To the extent moneys paid to a water management district by the Department of Transportation or a participating transportation authority exceed the amount expended by the water management districts in implementing the mitigation to offset the permitted impacts, these funds must be refunded to the Department of Transportation or participating transportation authority. This paragraph expires June 30, 2014.

(4) Before March 1 of each year, each water management

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349 district shall develop a mitigation plan to offset only the
350 impacts of transportation projects in the environmental impact
351 inventory for which a water management district is implementing
352 mitigation that meets the requirements of this section, 33
353 U.S.C. s. 1344, and 33 C.F.R. s. 332. The water management-
354 district mitigation plan must be developed, in consultation with
355 the Department of Environmental Protection, the United States
356 Army Corps of Engineers, the Department of Transportation,
357 participating transportation authorities established pursuant to
358 chapter 348 or chapter 349, and other appropriate federal,
359 state, and local governments, and other interested parties,
360 including entities operating mitigation banks, ~~shall develop a~~
361 ~~plan for the primary purpose of complying with the mitigation~~
362 ~~requirements adopted pursuant to this part and 33 U.S.C. s.~~
363 ~~1344.~~ In developing such plans, the water management districts
364 shall use sound ecosystem management practices to address
365 significant water resource needs and consider ~~shall focus on~~
366 activities of the Department of Environmental Protection and the
367 water management districts, such as surface water improvement
368 and management (SWIM) projects and lands identified for
369 potential acquisition for preservation, restoration, or
370 enhancement, and the control of invasive and exotic plants in
371 wetlands and other surface waters, to the extent that the
372 activities comply with the mitigation requirements adopted under
373 this part, ~~and 33 U.S.C. s. 1344, and 33 C.F.R. s. 332. The~~
374 water management district mitigation plan must identify each
375 site where the water management district will mitigate for a
376 transportation project. For each mitigation site, the water
377 management district shall provide the scope of the mitigation

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378 services, provide the functional gain as determined through the
379 UMAM per Chapter 62-345, F.A.C., describe how the mitigation
380 offsets the impacts of each transportation project as permitted,
381 and provide a schedule for the mitigation services. The water
382 management districts shall maintain records of costs incurred
383 and payments received for providing these services. Records must
384 include, but are not limited to, planning, land acquisition,
385 design, construction, staff support, long-term maintenance and
386 monitoring of the mitigation site, and other costs necessary to
387 meet the requirements of 33 U.S.C. s. 1344 and 33 C.F.R. s. 332.
388 To the extent monies paid to a water management district by the
389 Department of Transportation or a participating transportation
390 authority exceed the amount expended by the water management
391 districts in providing the mitigation services to offset the
392 permitted transportation project impacts, these monies must be
393 refunded to the Department of Transportation or participating
394 transportation authority. In determining the activities to be
395 ~~included in the plans, the districts shall consider the purchase~~
396 ~~of credits from public or private mitigation banks permitted~~
397 ~~under s. 373.4136 and associated federal authorization and shall~~
398 ~~include the purchase as a part of the mitigation plan when the~~
399 ~~purchase would offset the impact of the transportation project,~~
400 ~~provide equal benefits to the water resources than other~~
401 ~~mitigation options being considered, and provide the most cost-~~
402 ~~effective mitigation option.~~ The mitigation plan shall be
403 submitted to the water management district governing board, or
404 its designee, for review and approval. At least 14 days before
405 approval by the governing board, the water management district
406 shall provide a copy of the draft mitigation plan to the

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Department of Environmental Protection and any person who has requested a copy. Subsequent to governing board approval, the mitigation plan must be submitted to the Department of Environmental Protection for approval. The plan may not be implemented until it is submitted to and approved, in part or in its entirety, by the Department of Environmental Protection.

~~(a) For each transportation project with a funding request for the next fiscal year, the mitigation plan must include a brief explanation of why a mitigation bank was or was not chosen as a mitigation option, including an estimation of identifiable costs of the mitigation bank and nonbank options and other factors such as time saved, liability for success of the mitigation, and long-term maintenance.~~

~~(a) (b)~~ Specific projects may be excluded from the mitigation plan, in whole or in part, and are not subject to this section upon the election of the Department of Transportation, a transportation authority if applicable, or the appropriate water management district. The Department of Transportation or a participating transportation authority may not exclude a transportation project from the mitigation plan when mitigation is scheduled for implementation by the water management district in the current fiscal year, except when the transportation project is removed from the Department of Transportation's work program or transportation authority funding plan, the mitigation cannot be timely permitted to offset the impacts of a Department of Transportation project identified in the environmental impact inventory, or the proposed mitigation does not meet state and federal requirements. If a project is removed from the work program or

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the mitigation plan, costs expended by the water management district prior to removal are eligible for reimbursement by the Department of Transportation or participating transportation authority.

~~(b)(e)~~ When determining which projects to include in or exclude from the mitigation plan, the Department of Transportation shall investigate using credits from a permitted mitigation bank before those projects are submitted for inclusion in a water management district mitigation ~~the plan~~. ~~The investigation shall consider the cost-effectiveness of mitigation bank credits, including, but not limited to, factors such as time saved, transfer of liability for success of the mitigation, and long-term maintenance.~~ The Department of Transportation shall exclude a project from the mitigation plan if the investigation undertaken pursuant to this paragraph results in the conclusion that the use of credits from a permitted mitigation bank promotes efficiency, timeliness in project delivery, cost-effectiveness, and transfer of liability for success and long-term maintenance.

(5) The water management district shall ensure that mitigation requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332 are met for the impacts identified in the environmental impact inventory for which the water management district will implement mitigation described in subsection (2), by implementation of the approved mitigation plan described in subsection (4) to the extent funding is provided by the Department of Transportation, or a transportation authority established pursuant to chapter 348 or chapter 349, if applicable. In developing and implementing the mitigation plan,

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the water management district shall comply with federal permitting requirements pursuant to 33 U.S.C. s. 1344 and 33 C.F.R. s. 332. During the federal permitting process, the water management district may deviate from the approved mitigation plan in order to comply with federal permitting requirements upon notice and coordination with the Department of Transportation or participating transportation authority.

(6) The water management district mitigation plans shall be updated annually to reflect the most current Department of Transportation work program and project list of a transportation authority established pursuant to chapter 348 or chapter 349, if applicable, and may be amended throughout the year to anticipate schedule changes or additional projects which may arise. Before amending the mitigation plan to include new projects, the Department of Transportation shall consider mitigation banks and other available mitigation options that meet state and federal requirements. Each update and amendment of the mitigation plan shall be submitted to the governing board of the water management district or its designee for approval. However, such approval shall not be applicable to a deviation as described in subsection (5).

(7) Upon approval by the governing board of the water management district and the Department of Environmental Protection ~~or its designee~~, the mitigation plan shall be deemed to satisfy the mitigation requirements under this part for impacts specifically identified in the environmental impact inventory described in subsection (2) and any other mitigation requirements imposed by local, regional, and state agencies for these same impacts. The approval of the governing board of the

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494 water management district ~~or its designee~~ and the Department of
495 Environmental Protection shall authorize the activities proposed
496 in the mitigation plan, and no other state, regional, or local
497 permit or approval shall be necessary.

498 (8) This section shall not be construed to eliminate the
499 need for the Department of Transportation or a transportation
500 authority established pursuant to chapter 348 or chapter 349 to
501 comply with the requirement to implement practicable design
502 modifications, including realignment of transportation projects,
503 to reduce or eliminate the impacts of its transportation
504 projects on wetlands and other surface waters as required by
505 rules adopted pursuant to this part, or to diminish the
506 authority under this part to regulate other impacts, including
507 water quantity or water quality impacts, or impacts regulated
508 under this part that are not identified in the environmental
509 impact inventory described in subsection (2).

510 ~~(9) The process for environmental mitigation for the impact~~
511 ~~of transportation projects under this section shall be available~~
512 ~~to an expressway, bridge, or transportation authority~~
513 ~~established under chapter 348 or chapter 349. Use of this~~
514 ~~process may be initiated by an authority depositing the~~
515 ~~requisite funds into an escrow account set up by the authority~~
516 ~~and filing an environmental impact inventory with the~~
517 ~~appropriate water management district. An authority that~~
518 ~~initiates the environmental mitigation process established by~~
519 ~~this section shall comply with subsection (6) by timely~~
520 ~~providing the appropriate water management district with the~~
521 ~~requisite work program information. A water management district~~
522 ~~may draw down funds from the escrow account as provided in this~~

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523 ~~section.~~

524 Section 4. Section 373.618, Florida Statutes, is amended to
525 read:

526 373.618 Public service warnings, alerts, and
527 announcements.—The Legislature believes it is in the public
528 interest that each ~~all~~ water management district ~~districts~~
529 created pursuant to s. 373.069 own, acquire, develop, construct,
530 operate, and manage public information systems. Public
531 information systems may be located on property owned by the
532 water management district, upon terms and conditions approved by
533 the water management district, and must display messages to the
534 general public concerning water management services, activities,
535 events, and sponsors, as well as other public service
536 announcements, including watering restrictions, severe weather
537 reports, amber alerts, and other essential information needed by
538 the public. Local government review or approval is not required
539 for a public information system owned or hereafter acquired,
540 developed, or constructed by the water management district on
541 its own property. A public information system is exempt from the
542 requirements of chapter 479; however, a public information
543 system that is subject to the Highway Beautification Act of 1965
544 must be approved by the Department of Transportation and the
545 Federal Highway Administration if required by federal law and
546 federal regulation under the agreement between the state and the
547 United States Department of Transportation, and federal
548 regulations enforced by the Department of Transportation under
549 s. 479.02(1). Water management district funds may not be used to
550 pay the cost to acquire, develop, construct, operate, or manage
551 a public information system. Any necessary funds for a public

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552 information system shall be paid for and collected from private
553 sponsors who may display commercial messages.

554 Section 5. This act shall take effect July 1, 2013.

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/CS/SB 1160

INTRODUCER: Environmental Preservation and Conservation Committee; Health Policy Committee;
and Senator Bullard

SUBJECT: Onsite Sewage Treatment and Disposal Systems

DATE: April 10, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Stovall	HP	Fav/CS
2.	Toman	Yeatman	CA	Favorable
3.	Hinton	Uchino	EP	Fav/CS
4.			RC	
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1160 amends s. 381.0065, F.S., to:

- Provide that inspection reports of aerobic treatment units (ATU) may be submitted electronically to the Department of Health (DOH);
- Clarify that property owners of owner-occupied single-family residences may be approved and permitted by the DOH as a maintenance entity for their own ATU system upon written certification from the manufacturer that they have received training on the proper installation and maintenance of ATU systems;
- Clarify that maintenance entity service contracts must conspicuously disclose that property owners of owner-occupied single-family residences have the right to maintain their own ATU systems and are exempt from contractor registration requirements for performing construction, maintenance, or repairs on an ATU system, but are subject to all permitting requirements;
- Provide that a septic tank contractor licensed under ch. 489, part III, F.S., must not be denied access to ATU training and spare parts by the manufacturer for maintenance entities;

- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires;
- Require Monroe County property owners who are not scheduled to be served by a central sewer by December 31, 2015, to comply with certain concentration level standards;
- Provide that an onsite sewage treatment and disposal system (OSTDS) that reduces nitrogen concentrations by at least 70 percent, or if the OSTDS system has been tested and certified to reduce nitrogen concentrations by at least 70 percent, it is deemed to be in compliance with current nitrogen standards;
- Allow Monroe County property owners that have recently installed OSTDSs in areas scheduled to be served by a central sewer system to continue to use the systems until 2020, except in the Town of Islamorada;
- Allow property owners who have paid connection fees or assessments for connection to a central sewer system, in an areas scheduled to be served by a central sewer by December 31, 2015, the option of installing a holding tank with a high water alarm until they are able to connect to a central sewer system.

CS/CS/SB 1160 substantially amends s. 381.0065 of the Florida Statutes.

II. Present Situation:

The Bureau of Onsite Sewage Programs (Bureau), part of the DOH, develops statewide rules and provides training and standardization for county health department employees responsible for issuing permits for the installation and repair of OSTDSs within the state.¹ The Bureau also licenses over 700 septic tank contractors and oversees 2.3 million onsite wastewater systems in Florida.²

In Florida, septic systems are referred to as OSTDSs. An OSTDS can contain any one of the following components: a septic tank; a subsurface drainfield; an ATU; 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.³ Septic tanks are tanks in the ground that 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, which do not require oxygen, in the sewage break down the organic matter, allowing cleaner water to flow out of the second chamber into a drainfield.⁴

¹ The DOH does not permit the use of onsite sewage treatment and disposal systems where the estimated domestic sewage flow from the establishment is over 10,000 gallons per day (gpd) or the commercial sewage flow is over 5,000 gpd; where there is a likelihood that the system will receive toxic, hazardous or industrial wastes; where a sewer system is available; or of any system or flow from the establishment is currently regulated by the DEP. The DEP issues the permits for systems that discharge more than 10,000 gpd.

² DOH, Division of Disease Control and Health Protection, *About Us*, <http://www.myfloridaeh.com/about/index.html> (last visited Apr. 6, 2013).

³ See Department of Environmental Protection (DEP) *Wastewater: Septic Systems*, <http://www.dep.state.fl.us/water/wastewater/dom/septic.htm> (last visited Apr. 6, 2013).

⁴ EPA, *Primer for Municipal Wastewater Treatment Systems*, 2004, p. 22, available at http://water.epa.gov/aboutow/owm/upload/2005_08_19_primer.pdf (last visited Apr. 6, 2013).

Aerobic Treatment Units

ATUs are similar to septic tanks, except that air is introduced and mixed with the wastewater inside the tank.⁵ Aerobic bacteria, which require oxygen, consume the organic matter in the sewage.⁶ The effluent discharge from an aerobic system is typically released through a drainfield or may be disinfected and discharged directly into surface water.⁷

ATUs require the removal and disposal of solids that accumulate in the tank. Therefore, routine maintenance is necessary for them to function properly. The National Sanitation Foundation requires ATU manufacturers to provide an initial two-year warranty with two inspections per year.⁸ According to the DOH analysis, there are 11,600 ATUs in operation in Florida, 8,770 of which are in four counties: Brevard, Charlotte, Franklin, and Monroe.⁹

Pursuant to s. 381.0065, F.S., and Rule 64E-6.012, F.A.C., owners of ATUs are required to enter into a maintenance entity service agreement with a maintenance entity that is permitted by the DOH. That agreement must initially be for a period of at least two years and subsequent maintenance agreement renewals must be for at least one-year periods for the life of the system. The maintenance entity must obtain a system operating permit from the DOH for each ATU under service contract. The maintenance entity, which sets the fee for service contracts, must inspect each ATU at least twice each year and report quarterly to the DOH the number of ATUs inspected and serviced.

Furthermore, maintenance entities are required to provide documentation that they have been trained by the ATU manufacturer, which sets the maintenance requirements, and have access to required manuals and spare parts. Maintenance entities are also required to be registered as either state-licensed septic tank contractors or state-licensed plumbers.

Homeowners are exempt from the requirement that a person may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an OSTDS without being registered under part III of ch. 489, F.S.,¹⁰ but the homeowner must be permitted as a maintenance entity by the DOH and be trained and certified by the manufacturer. The annual maintenance entity permit fee is \$25.

Florida Keys Area of Critical State Concern

In 1972, the Legislature adopted the Environmental Land and Water Management Act, which provided the basis for the state to designate an Area of Critical State Concern. To be designated, an area must contain, or have a significant impact upon, environmental or natural resources of

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ The National Sanitation Foundation is an “independent, not-for-profit organization that provides standards development, product certification, auditing, education, and risk management for public health and the environment.” See http://www.nsf.org/business/about_NSF/ (last visited Apr. 6, 2013).

⁹ DOH, *Senate Bill 1160 Analysis* (Feb. 27, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

¹⁰ Section 381.0065(4), F.S.

regional or statewide importance where uncontrolled private or public development would cause substantial deterioration of such resources.¹¹

In 1979, Monroe County, including its municipalities and the Florida Keys, was designated as an Area of Critical State Concern pursuant to the “Florida Keys Area Protection Act.”¹² The legislative intent was to establish a land use management system for the Florida Keys that would:

- Protect the natural environment and improve the near shore water quality;
- Support a diverse economic base that promotes balanced growth in accordance with the capacity of public facilities;
- Promote public land acquisition and ensure that the population of the Florida Keys can be safely evacuated;
- Provide affordable housing in close proximity to places of employment; and
- Protect property rights and promote coordination among governmental agencies that have permitting jurisdiction.

In 1996, Rule 28-20, F.A.C., was adopted. The rule contained a Work Program that, when complete, would improve water quality and better protect habitats for threatened and endangered species, and resolve other challenges. Of particular concern was the declining water quality of the near shore environment due to a lack of central sewer facilities, the loss of habitat for state and federally listed endangered species, public safety in the event of hurricanes, and a deficit of affordable housing.¹³

Concerns about water quality resulted in legislative action. Chapter 2010-205, Laws of Florida, required that by December 2015 all sewage disposal in the Florida Keys must be upgraded to meet advanced wastewater treatment standards that reduce the amount of nitrogen, phosphorus, biological oxygen demand and total suspended solids.¹⁴ As a result, when the construction of the central sewage system is concluded, approximately 23,000 septic tanks will be eliminated.¹⁵ The bond financing in the Save our Everglades Program, approved by the Legislature in 2012, and the extension of the Monroe County Infrastructure Sales Tax will provide the foundation to complete the central sewer by 2015.

Nitrogen Reduction

In 2008 the Legislature directed the DOH to conduct a six-year study to develop passive strategies for nitrogen reduction for OSTDS. Regardless of the source, excessive nitrogen has negative effects on public health and the environment. The project is in its fourth year and is within the original \$5.1 million budget. The final phase of the project is from 2013 to 2015. Project tasks will be to complete monitoring and other field activities, perform additional testing

¹¹ Section 380.05(2)(a), F.S.

¹² Section 380.0552(3), F.S.

¹³ Florida Department of Economic Opportunity, *Florida Keys Area of Critical State Concern Annual Report*, p. 11, 2012, available at www.floridajobs.org/fdcp/dcp/acsc/Files/2012FLKeysReport.pdf (last visited Apr. 6, 2013).

¹⁴ Section 381.0065(4)(l), F.S.

¹⁵ See *supra* note 13.

as deemed appropriate by the Legislature, and make final reporting recommendations on onsite sewage nitrogen reduction strategies for Florida's future.¹⁶

Current law requires OSTDSs to cease discharge by December 31, 2015, or comply with the DOH rules and provide the level of treatment that, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:¹⁷

- Biochemical Oxygen Demand of 10 mg/l;
- Suspended Solids of 10 mg/l;
- Total Nitrogen of 10 mg/l; and
- Total Phosphorus of 1 mg/l.

Tests performed by the nitrogen reduction study have produced results of reduction in total nitrogen of over 95 percent with a final effluent concentration of 2.6 mg/l or less for several of the systems.¹⁸

III. Effect of Proposed Changes:

Section 1 of the CS amends s. 381.0065, F.S., to:

- Provide that OSTDSs in Monroe County must meet certain standards by December 31, 2015, or they must cease operating;
- Provide that in Monroe County, in areas not scheduled to be served by a central sewer, OSTDSs must comply with DOH rules and provide a minimum level of treatment;
- Provide that inspection reports of ATUs may be submitted electronically to the DOH;
- Clarify that property owners of owner-occupied single-family residences may be approved and permitted by the DOH as maintenance entities for their own ATU system under certain conditions;
- Clarify that ATU maintenance entity service agreements must conspicuously disclose that property owners of owner-occupied single-family residences have the right to maintain their own systems and are exempt from contractor registration requirements, but are subject to all permitting requirements;
- Provide that a septic tank contractor licensed under part III of ch. 489, F.S., may not be denied access to ATU training and spare parts by the manufacturer for maintenance entities; and
- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires.
- For property owners with OSTDSs in Monroe County, there are several situations that may apply, depending on certain factors:
 - If a property owner lives in an area that is scheduled to be served by a central sewer system by December 31, 2015:

¹⁶ See DOH, *Status Report on Phase II and Phase III of the Florida Onsite Sewage Nitrogen Reduction Strategies Study*, Feb. 1, 2013, <http://www.myfloridaeh.com/ostds/research/Nitrogen.html> (last visited on Apr. 6, 2013).

¹⁷ Section 381.0065(4)(l), F.S.

¹⁸ *Supra* note 16.

- If they have paid connection fees or assessments to connect to a central sewer system, they may install a holding tank with a high water alarm to use until they connect to the central sewer;
 - They may also keep their existing systems until they connect to the central sewer system provided the existing tanks are pumped, inspected and certified as being watertight and free of defects in accordance with DOH rule; and
 - They have to cease using their OSTDSs when they are able to connect to the central sewer system.
- If a property owner lives in an area that is not scheduled to be served by a central sewer system by December 31, 2015, the property owner must meet DOH effluent standards, for:
 - Biochemical Oxygen Demand (CBOD5) of 10 mg/l;
 - Suspended Solids of 10 mg/l;
 - Total nitrogen of 10 mg/l or a reduction in nitrogen of at least 70 percent or a system that has been tested and certified to reduce nitrogen concentrations by at least 70 percent; and
 - Total phosphorous of 1 mg/l.
- If a property owner uses an ATU that was installed after July 1, 2010, the property owner is not required to connect to a central sewer until December 31, 2020, except for the Town of Islamorada which must meet the existing timelines in Rule 28-19.310, F.A.C.

Section 2 provides an effective date of July 1, 2013.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1160 may have a positive fiscal impact on owners with ATU systems by allowing them to maintain their own systems; however, home-owners may see an up-front cost for the training necessary to maintain their own systems.

An ATU requires a significant financial commitment to install and operate over the life of the system. Connecting to a central sewer system is also a significant investment. For residents who have installed an ATU since July 1, 2010, the CS provides assurance that they may continue to operate their ATUs until December 31, 2020.

Owners with conventional OSTDSs do not have to meet the heightened effluent standards for biological oxygen demand, suspended solids, nitrogen, and phosphorous if they will be connected to centralized sewer by December 31, 2015. A property owner will also have the option of installing a holding tank with a high water alarm. Savings are indeterminate because pumping costs for a holding tank can be high, but it expands the options available to property owners.

C. Government Sector Impact:

The DOH would have to amend Rule 64E-6.012, F.A.C., to comply with the changes in the CS. The DOH estimates the cost of notices and meetings will be \$5,000, which can be absorbed within its existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

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

CS/CS by Environmental Preservation and Conservation on April 9, 2013:

- Removes a provision concerning development orders in the Florida Keys;
- Adds a provision that a reduction in nitrogen of at least 70 percent from OSTDSs in Monroe County is deemed in compliance with DOH rules concerning total nitrogen concentrations in OSTDS effluent; and
- Provides that in areas scheduled to be served by central sewer by December 31, 2015, property owners may install a holding tank with a high water alarm until they connect to the central sewer if they have paid connection fees or assessments for connection to the central sewer.

CS by Health Policy Committee on March 20, 2013:

The CS substantially amends SB 1160 to:

- Provide that inspection reports may be submitted electronically to the DOH;
- Clarify that property owners of an owner-occupied single-family residence may be approved and permitted by the DOH as a maintenance entity for their own systems upon written certification from the manufacturer that they have received training on the proper installation and maintenance of the unit;

- Clarify that maintenance entities must conspicuously disclose that property owners of owner-occupied single-family residences have the right to maintain their own systems and are exempt from contractor registration requirements for performing construction, maintenance, or repairs on their systems, but are subject to all permitting requirements;
- Provide that a septic tank contractor licensed under part III of ch. 489, F.S., must not be denied the access to training and spare parts by the manufacturer for maintenance entities;
- Allow component parts for ATUs to be replaced with parts that meet the manufacturer's specifications but are manufactured by others after the original warranty period for the ATU expires;
- Exclude Monroe County property owners who are scheduled to be served by a central sewer by December 31, 2015, from the requirement to comply with certain concentration level standards;
- Provide that a tested and certified OSTDS that reduces nitrogen concentrations by at least 70 percent is deemed to be in compliance with current nitrogen standards.
- Allow Monroe County property owners that have recently installed OSTDSs in areas scheduled to be served by central sewer systems to continue to use the systems until 2020; and
- Provide for the extension of building permits for property owners within the Florida Keys Area of Critical State Concern.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
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The Committee on Environmental Preservation and Conservation
(Bullard) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (l) and (u) of subsection (4) of
section 381.0065, Florida Statutes, are amended to read:

381.0065 Onsite sewage treatment and disposal systems;
regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not
construct, repair, modify, abandon, or operate an onsite sewage
treatment and disposal system without first obtaining a permit
approved by the department. The department may issue permits to



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13 carry out this section, but shall not make the issuance of such
14 permits contingent upon prior approval by the Department of
15 Environmental Protection, except that the issuance of a permit
16 for work seaward of the coastal construction control line
17 established under s. 161.053 shall be contingent upon receipt of
18 any required coastal construction control line permit from the
19 Department of Environmental Protection. A construction permit is
20 valid for 18 months from the issuance date and may be extended
21 by the department for one 90-day period under rules adopted by
22 the department. A repair permit is valid for 90 days from the
23 date of issuance. An operating permit must be obtained prior to
24 the use of any aerobic treatment unit or if the establishment
25 generates commercial waste. Buildings or establishments that use
26 an aerobic treatment unit or generate commercial waste shall be
27 inspected by the department at least annually to assure
28 compliance with the terms of the operating permit. The operating
29 permit for a commercial wastewater system is valid for 1 year
30 from the date of issuance and must be renewed annually. The
31 operating permit for an aerobic treatment unit is valid for 2
32 years from the date of issuance and must be renewed every 2
33 years. If all information pertaining to the siting, location,
34 and installation conditions or repair of an onsite sewage
35 treatment and disposal system remains the same, a construction
36 or repair permit for the onsite sewage treatment and disposal
37 system may be transferred to another person, if the transferee
38 files, within 60 days after the transfer of ownership, an
39 amended application providing all corrected information and
40 proof of ownership of the property. There is no fee associated
41 with the processing of this supplemental information. A person



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may not contract to construct, modify, alter, repair, service, abandon, or maintain any portion of an onsite sewage treatment and disposal system without being registered under part III of chapter 489. A property owner who personally performs construction, maintenance, or repairs to a system serving his or her own owner-occupied single-family residence is exempt from registration requirements for performing such construction, maintenance, or repairs on that residence, but is subject to all permitting requirements. A municipality or political subdivision of the state may not issue a building or plumbing permit for any building that requires the use of an onsite sewage treatment and disposal system unless the owner or builder has received a construction permit for such system from the department. A building or structure may not be occupied and a municipality, political subdivision, or any state or federal agency may not authorize occupancy until the department approves the final installation of the onsite sewage treatment and disposal system. A municipality or political subdivision of the state may not approve any change in occupancy or tenancy of a building that uses an onsite sewage treatment and disposal system until the department has reviewed the use of the system with the proposed change, approved the change, and amended the operating permit.

(1) For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat



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71 areas cannot be met, an injection well, approved and permitted
72 by the department, may be used for disposal of effluent from
73 onsite sewage treatment and disposal systems. The following
74 additional requirements apply to onsite sewage treatment and
75 disposal systems in Monroe County:

76 1. The county, each municipality, and those special
77 districts established for the purpose of the collection,
78 transmission, treatment, or disposal of sewage shall ensure, in
79 accordance with the specific schedules adopted by the
80 Administration Commission under s. 380.0552, the completion of
81 onsite sewage treatment and disposal system upgrades to meet the
82 requirements of this paragraph.

83 2. Onsite sewage treatment and disposal systems must cease
84 discharge by December 31, 2015, or must comply with department
85 rules and provide the level of treatment which, on a permitted
86 annual average basis, produces an effluent that contains no more
87 than the following concentrations:

88 a. Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

89 b. Suspended Solids of 10 mg/l.

90 c. Total Nitrogen, expressed as N, of 10 mg/l, or a
91 reduction in nitrogen of at least at 70 percent. A system that
92 has been tested and certified to reduce nitrogen concentrations
93 by at least 70 percent is deemed to be in compliance with this
94 standard.

95 d. Total Phosphorus, expressed as P, of 1 mg/l.

96
97 In addition, onsite sewage treatment and disposal systems
98 discharging to an injection well must provide basic disinfection
99 as defined by department rule.



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100 3. In areas not scheduled to be served by a central sewer,
101 onsite sewage treatment and disposal systems must, by December
102 31, 2015, comply with department rules and provide the level of
103 treatment described in subparagraph 2.

104 ~~4.3. On or after July 1, 2010, all new, modified, and~~
105 ~~repaired onsite sewage treatment and disposal systems must~~
106 ~~provide the level of treatment described in subparagraph 2.~~
107 ~~However,~~ In areas scheduled to be served by central sewer by
108 December 31, 2015, if the property owner has paid a connection
109 fee or assessment for connection to the central sewer system,
110 the property owner may install a holding tank with a high water
111 alarm, or an onsite sewage treatment and disposal system that
112 meets ~~may be repaired to~~ the following minimum standards:

113 a. The existing tanks must be pumped and inspected and
114 certified as being watertight and free of defects in accordance
115 with department rule; and

116 b. A sand-lined drainfield or injection well in accordance
117 with department rule must be installed.

118 ~~5.4.~~ Onsite sewage treatment and disposal systems must be
119 monitored for total nitrogen and total phosphorus concentrations
120 as required by department rule.

121 ~~6.5.~~ The department shall enforce proper installation,
122 operation, and maintenance of onsite sewage treatment and
123 disposal systems pursuant to this chapter, including ensuring
124 that the appropriate level of treatment described in sub-
125 subparagraph b. ~~subparagraph 2.~~ is met.

126 ~~7.6.~~ The authority of a local government, including a
127 special district, to mandate connection of an onsite sewage
128 treatment and disposal system is governed by s. 4, chapter 99-



335594

395, Laws of Florida.

8. Notwithstanding any other provision of law to the contrary, an onsite sewage treatment and disposal system installed after July 1, 2010, which meets the standards in subparagraph 2., is not required to connect to a sewer until December 31, 2020. This subparagraph does not apply to chapter 28-19.310, F.A.C.

(u)1. The owner of an aerobic treatment unit system shall maintain a current maintenance service agreement with an aerobic treatment unit maintenance entity permitted by the department. The maintenance entity shall obtain a system operating permit from the department for each aerobic treatment unit under service contract. The maintenance entity shall inspect each aerobic treatment unit system at least twice each year and shall report quarterly to the department on the number of aerobic treatment unit systems inspected and serviced. The reports may be submitted electronically.

2. The department may approve and permit a property owner of an owner-occupied, single-family residence as a maintenance entity for the property owner's own aerobic treatment unit system if the system manufacturer's approved representative certifies in writing that the property owner has received training on the proper installation and service of the system. The maintenance entity service agreement must conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from contractor registration requirements for performing construction, maintenance, or repairs on the system. However, the property owner is subject to all permitting requirements.



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158 3. A manufacturer may not deny a septic tank contractor
159 licensed under part III of chapter 489 access to aerobic
160 treatment unit system training or spare parts for maintenance
161 entities. After the original warranty period, component parts
162 for an aerobic treatment unit system may be replaced with parts
163 that meet manufacturer's specifications but are manufactured by
164 others. The maintenance entity shall maintain documentation for
165 a period of 2 years of the substitute part's equivalency and
166 shall provide such documentation to the department upon request.

167 4. The owner of an aerobic treatment unit system shall
168 obtain an annual system operating permit from the department and
169 allow the department to inspect during reasonable hours each
170 aerobic treatment unit system at least annually, and such
171 inspection may include collection and analysis of system-
172 effluent samples for performance criteria established by rule of
173 the department.

174 Section 2. Within the Florida Keys area, which is an area
175 of critical state concern, any building permit and any permit
176 issued by the Department of Environmental Protection or by a
177 water management district pursuant to part IV of chapter 373,
178 Florida Statutes, which has an expiration date of January 1,
179 2012, through January 1, 2016, is extended and renewed for a
180 period of 3 years after its previously scheduled expiration
181 date. This extension includes any local government-issued
182 development order or building permit, including certificates of
183 levels of service. This section does not prohibit conversion
184 from the construction phase to the operation phase upon
185 completion of construction and is in addition to any permit
186 extension. Extensions granted under this section; s. 14, chapter



335594

2009-96, Laws of Florida, as reauthorized by s. 47, chapter 2010-147, Laws of Florida; s. 46, chapter 2010-147, Laws of Florida; s. 74, chapter 2011-139, Laws of Florida; or s. 79, chapter 2011-139, Laws of Florida, may not exceed 7 years in total. Specific development order extensions granted pursuant to s. 380.06(19)(c)2., Florida Statutes, may not be further extended by this section. This section does not apply to an area subject to chapter 28-19.310, F.A.C.

Section 3. This act shall take effect July 1, 2013.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; requiring onsite sewage treatment and disposal systems to comply with rules of the Department of Environmental Protection and provide a certain level of treatment; providing that certain onsite sewage treatment and disposal systems installed after a specified date are not required to connect to a sewer until a specified date; providing for nonapplicability; deleting a provision that requires a maintenance entity to obtain a system operating permit; authorizing the department to approve and permit a property owner of an owner-occupied, single-family residence as a maintenance entity for the



335594

property owner's own aerobic treatment unit system under certain circumstances; requiring the maintenance entity service agreement to conspicuously disclose that the property owner has the right to maintain his or her own system and is exempt from certain contractor registration requirements; prohibiting a septic tank contractor from being denied access by the manufacturer to aerobic treatment unit system training or spare parts for maintenance entities; providing that component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications; requiring the maintenance entity to maintain documentation for a specified period of time and to provide the documentation to the department upon request; requiring an owner of an aerobic treatment unit system to obtain an annual system operating permit and allow the department to annually inspect each aerobic treatment unit system; extending the expiration date of building permits and permits issued by the Department of Environmental Protection or by a water management district; providing that the extension of the expiration date does not prohibit conversion from the construction phase to the operation phase upon completion of construction; providing that certain extensions may not exceed a specified number of years; prohibiting certain extensions; providing for nonapplicability; providing an effective date.



621468

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
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The Committee on Environmental Preservation and Conservation
(Bullard) recommended the following:

**Senate Amendment to Amendment (335594) (with title
amendment)**

Delete line 168.

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

And the title is amended as follows:

Delete lines 231 - 234

and insert:

extending the expiration date



935540

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
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The Committee on Environmental Preservation and Conservation
(Bullard) recommended the following:

**Senate Amendment to Amendment (335594) (with title
amendment)**

Delete lines 174 - 194.

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

And the title is amended as follows:

Delete lines 234 - 243

and insert:

treatment unit system; providing an effective date.

By the Committee on Health Policy; and Senator Bullard

588-02809-13

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1 A bill to be entitled
2 An act relating to onsite sewage treatment and
3 disposal systems; amending s. 381.0065, F.S.;
4 extending the expiration date of building permits and
5 permits issued by the Department of Environmental
6 Protection or by a water management district;
7 providing that the extension of the expiration date
8 does not prohibit conversion from the construction
9 phase to the operation phase upon completion of
10 construction; providing that certain extensions may
11 not exceed a specified number of years; prohibiting
12 certain extensions; requiring onsite sewage treatment
13 and disposal systems to comply with department rules
14 and provide a certain level of treatment; providing
15 that certain onsite sewage treatment and disposal
16 systems installed after a specified date are not
17 required to connect to a sewer until a specified date;
18 authorizing the department to approve and permit a
19 property owner of an owner-occupied, single-family
20 residence as a maintenance entity for the property
21 owner's own aerobic treatment unit system under
22 certain circumstances; requiring the maintenance
23 entity service agreement to conspicuously disclose
24 that the property owner has the right to maintain his
25 or her own system and is exempt from certain
26 contractor registration requirements; prohibiting a
27 septic tank contractor from being denied access by the
28 manufacturer to aerobic treatment unit system training
29 or spare parts for maintenance entities; providing

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that component parts for an aerobic treatment unit system may be replaced with parts that meet manufacturer's specifications; requiring the maintenance entity to maintain documentation for a specified period of time and to provide the documentation to the department upon request; requiring an owner of an aerobic treatment unit system to allow the department to annually inspect each aerobic treatment unit system; providing an effective date.

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

Section 1. Paragraphs (l) and (u) of subsection (4) of section 381.0065, Florida Statutes, are amended to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(4) PERMITS; INSTALLATION; AND CONDITIONS.—A person may not construct, repair, modify, abandon, or operate an onsite sewage treatment and disposal system without first obtaining a permit approved by the department. The department may issue permits to carry out this section, but shall not make the issuance of such permits contingent upon prior approval by the Department of Environmental Protection, except that the issuance of a permit for work seaward of the coastal construction control line established under s. 161.053 shall be contingent upon receipt of any required coastal construction control line permit from the Department of Environmental Protection. A construction permit is valid for 18 months from the issuance date and may be extended

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59 by the department for one 90-day period under rules adopted by
60 the department. A repair permit is valid for 90 days from the
61 date of issuance. An operating permit must be obtained prior to
62 the use of any aerobic treatment unit or if the establishment
63 generates commercial waste. Buildings or establishments that use
64 an aerobic treatment unit or generate commercial waste shall be
65 inspected by the department at least annually to assure
66 compliance with the terms of the operating permit. The operating
67 permit for a commercial wastewater system is valid for 1 year
68 from the date of issuance and must be renewed annually. The
69 operating permit for an aerobic treatment unit is valid for 2
70 years from the date of issuance and must be renewed every 2
71 years. If all information pertaining to the siting, location,
72 and installation conditions or repair of an onsite sewage
73 treatment and disposal system remains the same, a construction
74 or repair permit for the onsite sewage treatment and disposal
75 system may be transferred to another person, if the transferee
76 files, within 60 days after the transfer of ownership, an
77 amended application providing all corrected information and
78 proof of ownership of the property. There is no fee associated
79 with the processing of this supplemental information. A person
80 may not contract to construct, modify, alter, repair, service,
81 abandon, or maintain any portion of an onsite sewage treatment
82 and disposal system without being registered under part III of
83 chapter 489. A property owner who personally performs
84 construction, maintenance, or repairs to a system serving his or
85 her own owner-occupied single-family residence is exempt from
86 registration requirements for performing such construction,
87 maintenance, or repairs on that residence, but is subject to all

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88 permitting requirements. A municipality or political subdivision
89 of the state may not issue a building or plumbing permit for any
90 building that requires the use of an onsite sewage treatment and
91 disposal system unless the owner or builder has received a
92 construction permit for such system from the department. A
93 building or structure may not be occupied and a municipality,
94 political subdivision, or any state or federal agency may not
95 authorize occupancy until the department approves the final
96 installation of the onsite sewage treatment and disposal system.
97 A municipality or political subdivision of the state may not
98 approve any change in occupancy or tenancy of a building that
99 uses an onsite sewage treatment and disposal system until the
100 department has reviewed the use of the system with the proposed
101 change, approved the change, and amended the operating permit.

102 (1) 1. Within the Florida Keys area, which is a critical
103 state concern, any building permit and any permit issued by the
104 Department of Environmental Protection or by a water management
105 district pursuant to part IV of chapter 373, which has an
106 expiration date of January 1, 2012, through January 1, 2016, is
107 extended and renewed for a period of 3 years after its
108 previously scheduled expiration date. This extension includes
109 any local government-issued development order or building
110 permit, including certificates of levels of service. This
111 section does not prohibit conversion from the construction phase
112 to the operation phase upon completion of construction and is in
113 addition to any permit extension. Extensions granted under this
114 section; s. 14, chapter 2009-96, Laws of Florida, as
115 reauthorized by s. 47, chapter 2010-147, Laws of Florida; s. 46,
116 chapter 2010-147, Laws of Florida; s. 74, chapter 2011-139, Laws

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of Florida; or s. 79, chapter 2011-139, Laws of Florida, may not exceed 7 years in total. Specific development order extensions granted pursuant to s. 380.06(19)(c)2., may not be further extended by this section.

2. For the Florida Keys, the department shall adopt a special rule for the construction, installation, modification, operation, repair, maintenance, and performance of onsite sewage treatment and disposal systems which considers the unique soil conditions and water table elevations, densities, and setback requirements. On lots where a setback distance of 75 feet from surface waters, saltmarsh, and buttonwood association habitat areas cannot be met, an injection well, approved and permitted by the department, may be used for disposal of effluent from onsite sewage treatment and disposal systems. The following additional requirements apply to onsite sewage treatment and disposal systems in Monroe County:

~~a.1.~~ The county, each municipality, and those special districts established for the purpose of the collection, transmission, treatment, or disposal of sewage shall ensure, in accordance with the specific schedules adopted by the Administration Commission under s. 380.0552, the completion of onsite sewage treatment and disposal system upgrades to meet the requirements of this paragraph.

~~b.2.~~ In areas not scheduled to go to a centralized sewer, onsite sewage treatment and disposal systems must ~~cease~~ ~~discharge~~ by December 31, 2015, ~~or must~~ comply with department rules and provide the level of treatment which, on a permitted annual average basis, produces an effluent that contains no more than the following concentrations:

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(I)~~a.~~ Biochemical Oxygen Demand (CBOD5) of 10 mg/l.

(II)~~b.~~ Suspended Solids of 10 mg/l.

(III)~~c.~~ Total Nitrogen, expressed as N, of 10 mg/l. A system tested and certified to provide at least a 70 percent reduction in Nitrogen is in compliance with this standard.

(IV)~~d.~~ Total Phosphorus, expressed as P, of 1 mg/l.

In addition, onsite sewage treatment and disposal systems discharging to an injection well must provide basic disinfection as defined by department rule.

~~c.3. On or after July 1, 2010, all new, modified, and repaired onsite sewage treatment and disposal systems must provide the level of treatment described in subparagraph 2.~~

~~However,~~ In areas scheduled to be served by central sewer by December 31, 2015, if the property owner has paid a connection fee or assessment for connection to the central sewer system, an onsite sewage treatment and disposal system may be repaired to the following minimum standards:

(I)~~a.~~ The existing tanks must be pumped and inspected and certified as being watertight and free of defects in accordance with department rule; and

(II)~~b.~~ A sand-lined drainfield or injection well in accordance with department rule must be installed.

~~d.4.~~ Onsite sewage treatment and disposal systems must be monitored for total nitrogen and total phosphorus concentrations as required by department rule.

~~e.5.~~ The department shall enforce proper installation, operation, and maintenance of onsite sewage treatment and disposal systems pursuant to this chapter, including ensuring

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175 that the appropriate level of treatment described in sub-
176 subparagraph b. ~~subparagraph 2.~~ is met.

177 f.6. The authority of a local government, including a
178 special district, to mandate connection of an onsite sewage
179 treatment and disposal system is governed by s. 4, chapter 99-
180 395, Laws of Florida. Notwithstanding any other provision of law
181 to the contrary, an onsite sewage treatment and disposal system,
182 installed after July 1, 2010, which meets the standards in sub-
183 subparagraph b., is not required to connect to a sewer until
184 December 31, 2020.

185 (u)1. The owner of an aerobic treatment unit system shall
186 maintain a current maintenance service agreement with an aerobic
187 treatment unit maintenance entity permitted by the department.
188 The maintenance entity shall obtain a system operating permit
189 from the department for each aerobic treatment unit under
190 service contract. The maintenance entity shall inspect each
191 aerobic treatment unit system at least twice each year and shall
192 report quarterly to the department on the number of aerobic
193 treatment unit systems inspected and serviced. The reports may
194 be submitted electronically.

195 2. The department may approve and permit a property owner
196 of an owner-occupied, single-family residence as a maintenance
197 entity for the property owner's own aerobic treatment unit
198 system if the system manufacturer's approved representative
199 certifies in writing that the property owner has received
200 training on the proper installation and service of the system.
201 The maintenance entity service agreement must conspicuously
202 disclose that the property owner has the right to maintain his
203 or her own system and is exempt from contractor registration

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204 requirements for performing construction, maintenance, or
205 repairs on the system. However, the property owner is subject to
206 all permitting requirements.

207 3. A manufacture may not deny a septic tank contractor
208 licensed under part III of chapter 489 access to aerobic
209 treatment unit system training or spare parts for maintenance
210 entities. After the original warranty period, component parts
211 for an aerobic treatment unit system may be replaced with parts
212 that meet manufacturer's specifications but are manufactured by
213 others. The maintenance entity shall maintain documentation for
214 a period of 2 years of the substitute part's equivalency and
215 shall provide such documentation to the department upon request.

216 4. The owner of an aerobic treatment unit system shall
217 allow the department to inspect during reasonable hours each
218 aerobic treatment unit system at least annually, and such
219 inspection may include collection and analysis of system-
220 effluent samples for performance criteria established by rule of
221 the department.

222 Section 2. This act shall take effect July 1, 2013.

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/CS/SB 1594

INTRODUCER: Environmental Preservation and Conservation Committee; Communications, Energy, and Public Utilities Committee; and Senator Bradley

SUBJECT: Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act

DATE: April 9, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Caldwell	CU	Fav/CS
2.	Hinton	Uchino	EP	Fav/CS
3.			CA	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|--|---|
| A. COMMITTEE SUBSTITUTE..... | ☒ | Statement of Substantial Changes |
| B. AMENDMENTS..... | ☐ | Technical amendments were recommended |
| | ☐ | Amendments were recommended |
| | ☐ | Significant amendments were recommended |

I. Summary:

CS/CS/SB 1594 adds a county or city school district, or an institution of higher education, including all state universities, colleges, and technical colleges to the list of governmental entities authorized to enter into guaranteed energy, water, and wastewater performance savings contracts.

The CS revises the definition of the term “energy, water, and wastewater efficiency and conservation measure” to expressly include not only an addition to existing facilities or infrastructure but also a building retrofit or renovation. It also authorizes inclusion of a variety of new savings measures in a contract.

Finally, the CS requires that the Office of the Chief Financial Officer complete its review and approval of a performance savings contract, a contract or lease for third-party financing, or any combination of such contracts within 10 business days after receiving the proposed contract or lease. To make this review more efficient, the CS requires that a proposed contract or lease with a state agency must include an investment-grade audit, certified by the Department of

Management Services, that states the cost savings are appropriate and sufficient for the term of the contract.

CS/CS/SB 1594 substantially amends s. 489.145 of the Florida Statutes.

II. Present Situation:

Section 489.145, F.S., is the “Guaranteed Energy, Water, and Wastewater Performance Savings Contracting Act.” The act is based upon a legislative finding that investment in energy, water, and wastewater efficiency and conservation measures in agency facilities can reduce the amount of energy and water consumed and wastewater produced, and produce immediate and long-term savings. It encourages each agency to invest in these measures to minimize energy and water consumption and wastewater production and maximize energy, water, and wastewater savings, and to reinvest any resulting savings in additional efficiency and conservation measures.

The statute authorizes an agency seeking to achieve energy, water, or wastewater cost savings to enter into a guaranteed energy, water, and wastewater performance savings contract (performance contract) with a guaranteed energy, water, and wastewater performance savings contractor (contractor) and to have the contractor use an energy, water, and wastewater efficiency and conservation measure (measure).¹

Agency is defined as the state, a municipality, or a political subdivision, thus authorizing these entities to enter into performance contracts.²

A performance contract is a contract for the evaluation, recommendation, and implementation of energy, water, or wastewater efficiency or conservation measures. It must, at a minimum, include:

- The design and installation of equipment to implement one or more measures and, if applicable, operation and maintenance of the measures.
- The amount of any actual annual savings that meet or exceed total annual contract payments made by the agency for the contract and may include allowable cost avoidance if determined appropriate by the Chief Financial Officer.
- The finance charges incurred by the agency over the life of the contract.³

A contractor is a person or business with experience in the analysis, design, implementation, or installation of energy, water, and wastewater efficiency and conservation measures through energy performance contracts and that is licensed under:

- Chapter 471, F.S., – providing for the licensing of engineers;
- Chapter 481, F.S., – providing for the licensing of architects, interior designers, and landscape architects; or
- Chapter 489, F.S., – providing for the licensing of construction contractors.⁴

¹ Section 489.145(4)(a), F.S.

² Section 489.145(3)(a), F.S.

³ Section 489.145(3)(d), F.S.

⁴ Section 489.145(3)(e), F.S.

An energy, water, and wastewater efficiency and conservation measure is a training program incidental to the contract, facility alteration, or equipment purchase to be used in new construction, including an addition to existing facilities or infrastructure, which reduces energy or water consumption, wastewater production, or energy-related operating costs and includes, but is not limited to:

- Insulation of the facility structure and systems within the facility;
- Storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing, or heat-reflective, glazed and coated window and door systems, additional glazing, reductions in glass area, and other window and door system modifications that reduce energy consumption;
- Automatic energy control systems;
- Heating, ventilating, or air-conditioning system modifications or replacements;
- Replacement or modifications of lighting fixtures to increase the energy efficiency of the lighting system, which, at a minimum, must conform to the applicable state or local building code;
- Energy recovery systems;
- Cogeneration systems that produce steam or forms of energy such as heat, as well as electricity, for use primarily within a facility or complex of facilities;
- Energy conservation measures that reduce British thermal units (Btu), kilowatts (kW), or kilowatt hours (kWh) consumed or provide long-term operating cost reductions;
- Renewable energy systems, such as solar, biomass, or wind systems;
- Devices that reduce water consumption or sewer charges;
- Energy storage systems, such as fuel cells and thermal storage;
- Energy-generating technologies, such as microturbines; or
- Any other repair, replacement, or upgrade of existing equipment.⁵

Finally, energy, water, or wastewater cost savings is a measured reduction in the cost of fuel, energy or water consumption, wastewater production, and stipulated operation and maintenance created from the implementation of one or more measures when compared with an established baseline for the previous cost of fuel, energy or water consumption, wastewater production, and stipulated operation and maintenance.⁶

An agency may enter into a performance contract only if the agency finds that the amount the agency would spend on the measures is not likely exceed the amount of the cost savings for up to 20 years from the date of installation if the recommendations in the report were followed, with calculations based on the life-cycle cost calculations provided in s. 255.255, F.S. Additionally, the qualified provider or providers must give a written guarantee that the cost savings will meet or exceed the costs of the system. Actual computed cost savings must meet or exceed the estimated cost savings provided in each agency's program approval.⁷

Prior to entering into a performance contract, any contract or lease for third-party financing, or any combination of such contracts, a state agency must submit the proposed contract or lease to

⁵ Section 489.145(3)(b), F.S.

⁶ Section 489.145(3)(c), F.S.

⁷ Section 489.145(4)(c), F.S.

the Office of the Chief Financial Officer for review and approval.⁸ Section 489.145, F.S., provides that an investment grade energy audit is a detailed energy, water, and wastewater audit, including an accompanying analysis of proposed energy, water, and wastewater conservation measures along with their costs, savings and benefits, completed prior to entry into an energy savings contract.⁹

III. Effect of Proposed Changes:

Section 1 amends s. 489.145, F.S., to add a county or city school district, or an institution of higher education, including all state universities, colleges, and technical colleges, to the definition of the term “agency,” which allows these entities to enter into performance contracts.

It revises the definition of the term “energy, water, and wastewater efficiency and conservation measure” to include not only an addition to existing facilities or infrastructure, but also a building retrofit or renovation. It also adds to the list of cost savings measures:

- Installing or modifying window and door systems that reduce energy consumption or operating costs;
- Installing or modifying automated, electronic, or remotely controlled technologies, systems, or measures that reduce utility or operating costs;
- Installing or modifying software-based systems that reduce facility management or other facility operating costs;
- Installing or modifying energy information and control systems that monitor consumption, redirect systems to optimal energy sources, and manage energy-using equipment;
- Installing, replacing, or modifying heating, ventilating, air-conditioning systems, or lighting fixtures;
- Implementing a program to reduce energy costs through rate adjustments, load shift to reduce peak demand, use demand response programs, change to more favorable rate schedules, or audit utility billing and metering;
- An improvement that reduces solid waste and associated removal costs;
- Meter replacement, installation of an automated meter reading system, or other construction, modification, installation, or remodeling of water, electric, gas, fuel, communication, or other supplied utility system;
- Any other energy conservation measure that reduces Btu, kW, or kWh; reduces fuel or water consumption in the building or wastewater production; or reduces an operating cost or provides long-term cost reductions;
- Any other repair, replacement, or upgrade of existing equipment that produces measurable savings, or any other construction, modification, installation, or remodeling that is approved by an agency and that is within the legislative authority granted the agency, such as an energy conservation measure; and
- Any other measure not otherwise defined in ch. 489, F.S., that is designed to reduce utility consumption, revenue enhancements, wastewater cost savings, avoided capital costs, or similar efficiency gains to a governmental unit.

⁸ Section 489.145(6), F.S.

⁹ Section 149.145(3)(f), F.S.

Finally, the CS requires that the Office of the Chief Financial Officer complete its review and approval of a performance savings contract, a contract or lease for third-party financing, or any combination of such contracts within 10 business days after receiving the proposed contract or lease. To make this review more efficient, the CS requires that a proposed contract or lease with a state agency must include an investment-grade audit, certified by the Department of Management Services, which states that the cost savings are appropriate and sufficient for the term of the contract.

Section 2 provides an effective date of July 1, 2013.

Other Potential Implications:

Lines 228-233 allow a performance contract to include “a facility alteration that includes expenditures that are required to properly implement other energy conservation measures may be included as part of a performance contract. In such case, notwithstanding any provision of law, the installation of these additional measures may be supervised by the performance savings contractor.” As was set forth above, a “guaranteed energy, water, and wastewater performance savings contractor” is a person or business that is licensed pursuant to one of three specified chapters in the Florida Statutes and is experienced in the analysis, design, implementation, or installation of energy, water, and wastewater efficiency and conservation measures through energy performance contracts. These three chapters contain approximately 25 different types of licenses, as listed above. This language in the CS may allow a contractor to engage in activities that otherwise would be unlicensed activity and that the contractor is not qualified to do.

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:

The CS may result in more performance contracts with contractors. The effect is indeterminate at this time.

C. **Government Sector Impact:**

The CS may result in additional cost savings to agencies entering into performance contracts, including the state, a municipality, a political subdivision, a county or city school district, or an institution of higher education, including all state universities, colleges, and technical colleges. The effect is indeterminate at this time.

VI. **Technical Deficiencies:**

On lines 121-125, the CS includes in allowable efficiency and conservation measures “[a]ny other measure not otherwise defined in this chapter which is designed to reduce utility consumption, revenue enhancements, wastewater cost savings, avoided capital costs, or similar efficiency gains to a governmental unit.” The word “reduce” appears to modify “utility consumption,” “revenue enhancements,” “wastewater cost savings,” and “avoided capital costs.” This would appear to be a drafting error and needs to be corrected.

VII. **Related Issues:**

None.

VIII. **Additional Information:**

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

CS/CS by Environmental Preservation and Conservation Committee on April 9, 2013:

The CS removes language that conflicted with current law regarding alternative energy suppliers. The Florida Statutes grant energy suppliers exclusive territories.

CS by Communications, Energy, and Public Utilities on April 1, 2013:

- retains the existing statutory requirement that cost calculations be based on the life-cycle costs provided in s. 255.255, F.S., and the prohibition on applying any grants, etc., in performing these calculations;
- deletes the proposed language allowing a performance contract to include “an improvement that is not causally connected to an energy conservation measure”; and
- requires a proposed contract or lease to include an investment-grade audit certified by the Department of Management Services, which approves cost savings.

B. **Amendments:**

None.



584468

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/10/2013	.	
	.	
	.	
	.	

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

Senate Amendment

Delete lines 97 - 102
and insert:

3. Implementing a program to reduce energy costs through
rate adjustments, load shifting to reduce peak demand, demand
response programs, changes to more favorable rate schedules, or
auditing utility billing and metering.

By the Committee on Communications, Energy, and Public Utilities; and Senator Bradley

579-03336-13

20131594c1

1 A bill to be entitled
2 An act relating to the Guaranteed Energy, Water, and
3 Wastewater Performance Savings Contracting Act;
4 amending s. 489.145, F.S.; revising the terms
5 "agency," "energy, water, and wastewater efficiency
6 and conservation measure," and "energy, water, or
7 wastewater cost savings"; providing that a contract
8 may provide for repayments to a lender of an
9 installation construction loan in installments for a
10 period not to exceed 20 years; requiring a contract to
11 provide that repayments to a lender of an installation
12 construction loan may be made over time, not to exceed
13 20 years from a certain date; requiring a contract to
14 provide for a certain amount of repayment to the
15 lender of the installation construction loan within 2
16 years of a specified date; authorizing certain
17 facility alterations to be included in a performance
18 contract and to be supervised by the performance
19 savings contractor; limiting the time allotted to the
20 Office of the Chief Financial Officer to review and
21 approve an agency's guaranteed energy, water, and
22 wastewater performance savings contract; requiring
23 that a proposed contract include an investment-grade
24 audit certified by the Department of Management
25 Services which states that the cost savings are
26 appropriate and sufficient for the term of the
27 contract; clarifying that, for funding purposes of
28 consolidated financing of deferred payment commodity
29 contracts, an agency means a state agency; conforming

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language; providing an effective date.

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

Section 1. Paragraphs (a) through (c) of subsection (3), paragraphs (c) and (j) of subsection (4), and subsections (5) through (7) of section 489.145, Florida Statutes, are amended to read:

489.145 Guaranteed energy, water, and wastewater performance savings contracting.—

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

(a) "Agency" means the state, a municipality, ~~or a~~ political subdivision, a county or city school district, or an institution of higher education, including all state universities, colleges, and technical colleges.

(b) "Energy, water, and wastewater efficiency and conservation measure" means a training program incidental to the contract, facility alteration, or equipment purchase to be used in a building retrofit, addition, or renovation or in new construction, ~~including an addition to existing facilities or infrastructure,~~ which reduces energy or water consumption, wastewater production, or energy-related operating costs and includes, but is not limited to, any of the following:

1. Installing or modifying any of the following:

a. Insulation of the facility structure and systems within the facility.

b. ~~2.~~ Window and door systems that reduce energy consumption or operating costs, such as storm windows and doors, caulking or weatherstripping, multiglazed windows and doors, heat-absorbing,

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59 or heat-reflective, glazed and coated window and door systems,
60 additional glazing, and reductions in glass area, ~~and other~~
61 ~~window and door system modifications that reduce energy~~
62 ~~consumption.~~

63 c.3. Automatic energy control systems.

64 ~~4. Heating, ventilating, or air-conditioning system~~
65 ~~modifications or replacements.~~

66 ~~5. Replacement or modifications of lighting fixtures to~~
67 ~~increase the energy efficiency of the lighting system, which, at~~
68 ~~a minimum, must conform to the applicable state or local~~
69 ~~building code.~~

70 d.6. Energy recovery systems.

71 e.7. Cogeneration systems that produce steam or forms of
72 energy such as heat, as well as electricity, for use primarily
73 within a facility or complex of facilities.

74 ~~8. Energy conservation measures that reduce British thermal~~
75 ~~units (Btu), kilowatts (kW), or kilowatt hours (kWh) consumed or~~
76 ~~provide long-term operating cost reductions.~~

77 f.9. Renewable energy systems, ~~such as solar, biomass, or~~
78 ~~wind systems.~~

79 g.10. Devices that reduce water consumption or sewer
80 charges.

81 h.11. Energy storage systems, such as fuel cells and
82 thermal storage.

83 i.12. Energy-generating technologies, ~~such as~~
84 ~~microturbines.~~

85 j. Automated, electronic, or remotely controlled
86 technologies, systems, or measures that reduce utility or
87 operating costs.

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88 k. Software-based systems that reduce facility management
89 or other facility operating costs.

90 1. Energy information and control systems that monitor
91 consumption, redirect systems to optimal energy sources, and
92 manage energy-using equipment.

93 2. Installing, replacing, or modifying any of the
94 following:

95 a. Heating, ventilating, or air-conditioning systems.

96 b. Lighting fixtures.

97 3. Implementing a program to reduce energy costs through
98 rate adjustments, load shifting to reduce peak demand, or the
99 use of alternative energy suppliers, including, but not limited
100 to, demand response programs, changes to more favorable rate
101 schedules, negotiation of lower rates using new suppliers, or
102 auditing utility billing and metering.

103 4. An improvement that reduces solid waste and associated
104 removal costs.

105 5. Meter replacement, installation, or modification;
106 installation of an automated meter reading system; or other
107 construction, modification, installation, or remodeling of
108 water, electric, gas, fuel, communication, or other supplied
109 utility system.

110 6. Any other energy conservation measure that reduces
111 British thermal units (Btu), kilowatts (kW), or kilowatt hours
112 (kWh); that reduces fuel or water consumption in the building or
113 waste water production; or that reduces operating costs or
114 provides long-term cost reductions.

115 ~~7.13.~~ Any other repair, replacement, or upgrade of existing
116 equipment that produces measurable savings, or any other

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117 construction, modification, installation, or remodeling that is
118 approved by an agency and that is within the legislative
119 authority granted the agency, such as an energy conservation
120 measure.

121 8. Any other measure not otherwise defined in this chapter
122 which is designed to reduce utility consumption, revenue
123 enhancements, wastewater cost savings, avoided capital costs, or
124 similar efficiency gains to an agency or other governmental
125 unit.

126 (c) "Energy, water, or wastewater cost savings" means a
127 measured reduction in the cost of fuel, energy or water
128 consumption, or wastewater production;~~and~~ stipulated operation
129 and maintenance savings; improvements in supplied utility
130 systems, including, without limitation, revenue enhancements or
131 reduction in net operating costs resulting from increased meter
132 accuracy or performance; and identified avoided capital savings,
133 created from the implementation of one or more energy, water, or
134 wastewater efficiency or conservation measures when compared
135 with an established baseline for the previous cost of fuel,
136 energy or water consumption, wastewater production, and
137 stipulated operation and maintenance, meter accuracy or
138 performance, and identified capital costs.

139 (4) PROCEDURES.—

140 (c) ~~An~~ The agency may enter into a guaranteed energy,
141 water, and wastewater performance savings contract with a
142 guaranteed energy, water, and wastewater performance savings
143 contractor if the agency finds that the amount the agency would
144 spend on the energy, water, and wastewater efficiency and
145 conservation measure is unlikely to ~~measures will not likely~~

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146 exceed the amount of the cost savings for up to 20 years after
147 ~~from~~ the date of installation, based on the life cycle cost
148 calculations provided in s. 255.255, if the recommendations in
149 the report were followed and if the qualified provider or
150 providers give a written guarantee that the cost savings will
151 meet or exceed the costs of the system. However, actual computed
152 cost savings must meet or exceed the estimated cost savings
153 provided in each agency's program approval. Baseline adjustments
154 used in calculations must be specified in the contract. The
155 contract may provide for repayment to the lender of the
156 installation construction loan through installment payments for
157 a period not to exceed 20 years.

158 (j) In determining the amount the agency will finance to
159 acquire the energy, water, and wastewater efficiency and
160 conservation measures, the agency may reduce such amount by the
161 application of ~~any~~ grant moneys, rebates, or capital funding
162 available to the agency for the purpose of buying down the cost
163 of the guaranteed energy, water, and wastewater performance
164 savings contract. However, in calculating the life cycle cost as
165 required in paragraph (c), the agency shall not apply any
166 grants, rebates, or capital funding.

167 (5) CONTRACT PROVISIONS.—

168 (a) A guaranteed energy, water, and wastewater performance
169 savings contract must include a written guarantee that may
170 include, but is not limited to the form of, a letter of credit,
171 insurance policy, or corporate guarantee by the guaranteed
172 energy, water, and wastewater performance savings contractor
173 that annual cost savings will meet or exceed the amortized cost
174 of energy, water, and wastewater efficiency and conservation

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175 measures.

176 (b) The guaranteed energy, water, and wastewater
177 performance savings contract or the loan agreement related
178 thereto must provide that all repayments to the lender of the
179 installation construction loan payments, except obligations on
180 termination of the contract before its expiration, may be made
181 over time, but may not ~~to~~ exceed 20 years from the date of
182 complete installation and acceptance by the agency, and that the
183 annual cost savings are guaranteed to the extent necessary to
184 make annual payments to satisfy the guaranteed energy, water,
185 and wastewater performance savings contract.

186 (c) The guaranteed energy, water, and wastewater
187 performance savings contract must require that the guaranteed
188 energy, water, and wastewater performance savings contractor to
189 whom the contract is awarded provide a 100-percent public
190 construction bond to the agency for its faithful performance, as
191 required by s. 255.05.

192 (d) The guaranteed energy, water, and wastewater
193 performance savings contract may contain a provision allocating
194 to the parties to the contract ~~any~~ annual cost savings that
195 exceed the amount of the cost savings guaranteed in the
196 contract.

197 (e) The guaranteed energy, water, and wastewater
198 performance savings contract must ~~shall~~ require the guaranteed
199 energy, water, and wastewater performance savings contractor to
200 provide to the agency an annual reconciliation of the guaranteed
201 energy or associated cost savings. If the reconciliation reveals
202 a shortfall in annual energy or associated cost savings, the
203 guaranteed energy, water, and wastewater performance savings

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204 contractor is liable for such shortfall. If the reconciliation
205 reveals an excess in annual cost savings, the excess savings may
206 be allocated under paragraph (d) but may not be used to cover
207 potential energy or associated cost savings shortages in
208 subsequent contract years.

209 (f) The guaranteed energy, water, and wastewater
210 performance savings contract or the loan agreement related
211 thereto must provide for repayment to the lender of the
212 installation construction loan payments of not less than one-
213 twentieth of the price to be paid within 2 years from the date
214 of the complete installation and acceptance by the agency using
215 straight-line amortization for the term of the loan, and the
216 remaining costs to be paid at least quarterly, not to exceed a
217 20-year term, based on life cycle cost calculations.

218 (g) The guaranteed energy, water, and wastewater
219 performance savings contract may extend beyond the fiscal year
220 in which it becomes effective; however, the term of a any
221 contract expires at the end of each fiscal year and may be
222 automatically renewed annually for up to 20 years, subject to
223 the agency making sufficient annual appropriations based upon
224 continued realized energy, water, and wastewater savings.

225 (h) The guaranteed energy, water, and wastewater
226 performance savings contract must stipulate that it does not
227 constitute a debt, liability, or obligation of the state.

228 (i) A facility alteration that includes expenditures that
229 are required to properly implement other energy conservation
230 measures may be included as part of a performance contract. In
231 such case, notwithstanding any provision of law, the
232 installation of these additional measures may be supervised by

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the performance savings contractor.

(6) PROGRAM ADMINISTRATION AND CONTRACT REVIEW.—The Department of Management Services, with the assistance of the Office of the Chief Financial Officer, shall, within available resources, provide technical content assistance to state agencies contracting for energy, water, and wastewater efficiency and conservation measures and engage in other activities considered appropriate by the department for promoting and facilitating guaranteed energy, water, and wastewater performance contracting by state agencies. The Department of Management Services shall review the investment-grade audit for each proposed project and certify that the cost savings are appropriate and sufficient for the term of the contract. The Office of the Chief Financial Officer, with the assistance of the Department of Management Services, shall, within available resources, develop model contractual and related documents for use by state agencies. Before ~~Prior to~~ entering into a guaranteed energy, water, and wastewater performance savings contract, a ~~any~~ contract or lease for third-party financing, or any combination of such contracts, a state agency shall submit such proposed contract or lease to the Office of the Chief Financial Officer for review and approval. The Office of the Chief Financial Officer shall complete its review and approval within 10 business days after receiving the proposed contract or lease. A proposed contract or lease with a state agency must ~~shall~~ include the following:

(a) Supporting information required by s. 216.023(4)(a)9. in ss. 287.063(5) and 287.064(11). For contracts approved under this section, the criteria may, at a minimum, include the

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specification of a benchmark cost of capital and minimum real rate of return on energy, water, or wastewater savings against which proposals shall be evaluated.

(b) Documentation supporting recurring funds requirements in ss. 287.063(5) and 287.064(11).

(c) Approval by the head of the agency or his or her designee.

(d) An agency measurement and verification plan to monitor cost savings.

(e) An investment-grade audit, certified by the Department of Management Services, which states that the cost savings are appropriate and sufficient for the term of the contract.

(7) FUNDING SUPPORT.—For purposes of consolidated financing of deferred payment commodity contracts under this section by a state ~~an~~ agency, any such contract must be supported from available funds appropriated to the state agency in an appropriation category, as defined in chapter 216, that the Chief Financial Officer has determined is appropriate or that the Legislature has designated for payment of the obligation incurred under this section.

The Office of the Chief Financial Officer shall not approve any contract submitted under this section from a state agency that does not meet the requirements of this section.

Section 2. This act shall take effect July 1, 2013.

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: SPB 7154

INTRODUCER: For Consideration by the Environmental Preservation and Conservation Committee

SUBJECT: Ratification of Rules Implementing Total Maximum Daily Loads for Impaired Water Bodies

DATE: April 8, 2013

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Hinton	Uchino		Submitted as a Committee Bill
2.				
3.				
4.				
5.				
6.				

I. Summary:

SPB 7154 provides for the legislative ratification of a set of rules establishing total maximum daily loads (TMDLs) by the Department of Environmental Protection (DEP) for various impaired waterbodies in the state. A Statement of Estimated Regulatory Costs (SERC) was produced for each rule and because they each have economic impacts that cross certain thresholds described below, they may not go into effect until they are ratified by the Legislature. The scope of the SPB is limited to this rulemaking condition and does not adopt the substance of any rule into statute.

This SPB only provides for the ratification of this set of rules and does not make any changes to Florida Statutes.

II. Present Situation:

Establishment of TMDLs by the DEP

Under the federal Clean Water Act (CWA), states are required to adopt water quality standards (WQS) for their navigable waters and to review and update those standards at least every three years. These standards must include:

- Designation of a waterbody's beneficial uses, such as water supply, recreation, fish propagation, or navigation;
- Water quality criteria that define the amounts of pollutants, in either numeric or narrative form, that the waterbody can contain without impairment of the designated beneficial uses; and

- Anti-degradation requirements.¹

When a waterbody is unable to maintain its WQS, it is designated as impaired. For impaired waterbodies, the U. S. Environmental Protection Agency (EPA) or the state must set a TMDL establishing the maximum amount of a given pollutant the waterbody can accept while still meeting WQS associated with its designated use. In Florida, the DEP has the authority to establish TMDLs by the Watershed Restoration Act of 1999.² The DEP periodically submits to EPA a list of waterbodies or segments for which TMDL assessments will be conducted. If the assessments show that a particular waterbody is not meeting its WQS, the DEP is then required to set a TMDL, which is done through rulemaking.³

Adoption of TMDL Rules Submitted for Ratification

The DEP develops a TMDL by:

1. assessing the quality of a particular waterbody;
2. determining if that waterbody falls short of the applicable WQS (and is thus “impaired”);
3. discerning which pollutant(s) may cause the impairment;
4. establishing the TMDL necessary to resolve that impairment; and
5. adopting that TMDL by rule.⁴

The DEP also prepares and makes available online a complete report supporting the determination of one or more TMDLs, depending on the affected waterbodies included in the report.⁵

The DEP organizes all TMDLs under a single chapter of rules.⁶ The chapter is divided into sections representing the different water basins identified in the state, with one exception: Rule 62-304.900, F.A.C., is a new TMDL for mercury that applies statewide to all waterbodies. A TMDL for a particular waterbody is adopted as a subsection of the rule representing the water basin encompassing the particular water segment to which the TMDL applies. For each of the six rules below, the DEP used a single rulemaking proceeding to adopt the listed subsections. As part of each proceeding, the DEP prepared a single SERC showing the specified subsections would require legislative ratification. The following rules have been submitted for ratification during the 2013 Regular Session:

- Rule 62-304.300, “St. Marks River Basin TMDLs”: subsections (3) through (7) were adopted on March 2, 2012.
- Rule 62-304.330, “Pensacola Bay Basin TMDLs”: subsections (10) and (11) were adopted on February 7, 2013.
- Rule 62-304.520, “Indian River Lagoon Basin TMDLs”: subsections (14) through (20) were adopted on March 20, 2013.

¹ 33 U.S.C. s. 1251, et seq.

² Section 403.067, F.S.

³ Section 403.067(2), F.S.

⁴ DEP, *Total Maximum Daily Loads Program*, <http://www.dep.state.fl.us/water/tmdl/index.htm>, (last visited Apr. 6, 2013).

⁵ DEP, *Final TMDL Documents*, http://www.dep.state.fl.us/water/tmdl/final_tmdl.htm, (last visited Apr. 6, 2013); and DEP, *Draft TMDL Documents*, http://www.dep.state.fl.us/water/tmdl/draft_tmdl.htm, (last visited Apr. 6, 2013).

⁶ Chapter 62-304, F.A.C., “Total Maximum Daily Loads.”

- Rule 62-304.610, “Hillsborough River Basin TMDLs”: subsection (12), was adopted on August 20, 2012.
- Rule 62-304.645, “Springs Coast Basin TMDLs”: subsections (13) and (14), were adopted on March 8, 2013.
- Rule 62-304.900, “Statewide TMDLs.” The mercury TMDL was adopted on November 21, 2012.⁷

In the certification submitted to the Department of State when these rules were filed for adoption, the DEP stated that rules regarding TMDLs for Sykes Creek and Goat Creek (Marine Segment), adopted as part of the Indian River Lagoon Basin TMDLs, would not require legislative ratification.⁸

Rulemaking Authority and Legislative Ratification

A rule is an agency statement of general applicability that interprets, implements, or prescribes law or policy, including the procedure and practice requirements of an agency as well as certain types of forms. Rulemaking authority is delegated by the Legislature through statute and authorizes an agency to adopt, develop, establish, or otherwise create a rule. Unless directed by the Legislature, agencies do not have discretion to engage in rulemaking. To adopt a rule an agency must have a general grant of authority from the Legislature to implement a specific law by rulemaking. The grant of rulemaking authority does not need to be detailed.⁹ The specific statute being interpreted or implemented through rulemaking must provide specific standards and guidelines to preclude the administrative agency from exercising unbridled discretion in creating policy or applying the law.¹⁰

An agency begins the formal rulemaking process by filing a notice of the proposed rule. The notice is published by the Department of State in the Florida Administrative Register and must provide certain information, including the text of the proposed rule, a summary of the agency’s SERC, if one is prepared, and how a party may request a public hearing on the proposed rule. Pursuant to s. 120.541(2), F.S., the SERC must include an economic analysis projecting a proposed rule’s adverse effect on specified aspects of the state’s economy or increase in regulatory costs.

The economic analysis mandated for each SERC under s. 120.541, F.S., must analyze a rule’s potential impact over the five year period from when the rule goes into effect. A rule meeting any of these three thresholds must be ratified by the Legislature before it becomes effective:

- If it is likely to have an adverse impact on economic growth, private sector job creation or employment, or private sector investment in excess of \$1 million in the aggregate within five years after the implementation of the rule;

⁷ E-mail from Katie Kelly, Deputy Legislative Affairs Director, DEP, (Apr. 8, 2013) (on file with the Senate Committee on Environmental Preservation and Conservation).

⁸ Florida Department of State, *Florida Administrative Register: Proposed Rule 62-304.520*, <https://www.flrules.org/gateway/RuleNo.asp?title=TOTAL%20MAXIMUM%20DAILY%20LOADS&ID=62-304.520> (click on document link for ID 12652794) (last visited Apr. 7, 2013).

⁹ *Save the Manatee Club, Inc.*, *supra* at 599.

¹⁰ *Sloban v. Florida Board of Pharmacy*, 982 So.2d 26, 29-30 (Fla. 1st DCA 2008); *Board of Trustees of the Internal Improvement Trust Fund v. Day Cruise Association, Inc.*, 794 So.2d 696, 704 (Fla. 1st DCA 2001).

- If it is likely to have an adverse impact on business competitiveness, including the ability of persons doing business in the state to compete with persons doing business in other states or domestic markets, productivity, or innovation, in excess of \$1 million in the aggregate within five years after the implementation of the rule; and
- If it is likely to increase regulatory costs, including any transactional costs, in excess of \$1 million in the aggregate within five years after the implementation of the rule.

Present law distinguishes between a rule being “adopted” and becoming enforceable or “effective.”¹¹ Pursuant to s. 120.54(3), F.S., a rule must be filed for adoption before it may go into effect and cannot be filed for adoption until completion of the rulemaking process.

Impact of Rules

Except for the statewide mercury TMDL, each rule creates the TMDL for one or more specific pollutants for a particular waterbody. While the implementation of each of these separate TMDLs is projected to increase regulatory costs by over \$1 million in the first five years of operation, the adoption of TMDLs by the DEP using a thorough scientific process maintains Florida’s overall compliance with the Clean Water Act and precludes the EPA from setting TMDLs in Florida.

III. Effect of Proposed Changes:

SPB 7154 ratifies the included TMDL rules, allowing each to become effective.

Section 1 provides for legislative ratification of the following rules:

- Rule 62-304.300, subsections (3) through (7), F.A.C.;
- Rule 62-304.330, subsections (10) and (11), F.A.C.;
- Rule 62-304.520, subsections (14) through (20), F.A.C.;
- Rule 62-304.610, subsection (12), F.A.C.;
- Rule 62-304.645, subsections (13) and (14), F.A.C.; and
- Rule 62-304.900, F.A.C. (the statewide mercury TMDL).

The SPB expressly limits ratification to the rules listed. It also directs that the act shall not be codified in the Florida Statutes but only noted in the historical comments to each rule by the Department of State. Additionally, the SPB directs that it does not alter rulemaking authority, does not constitute legislative preemption of or exception to any provision of law governing adoption or enforcement of the rules listed, and does not cure any rulemaking defect or preempt any challenge based on a lack of authority or a violation of the legal requirements governing the adoption of any of the cited rules.

Section 2 provides the act goes into effect upon becoming a law.

¹¹ Section 120.54(3)(e)6, F.S. Before a rule becomes enforceable, thus “effective,” the agency first must complete the rulemaking process and file the rule for adoption with the Department of State.

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:

If the rules are ratified, the private sector will begin to bear the costs of compliance for the requirements of the TMDLs. This may be a positive result since the TMDLs will not be set by the EPA, but the effect is indeterminate.

C. Government Sector Impact:

If the rules are not ratified, the EPA may set TMDLs in Florida for these impaired waterbodies. It is beneficial for the state to maintain control of setting TMDLs in Florida instead of relying on the EPA to do so.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

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

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

None.

B. Amendments:

None.

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

FOR CONSIDERATION By the Committee on Environmental Preservation and Conservation

592-03603-13

20137154__

A bill to be entitled
An act relating to ratification of rules implementing total maximum daily loads for impaired water bodies; ratifying specified rules of the Department of Environmental Protection for the sole and exclusive purpose of satisfying any condition on effectiveness pursuant to s. 120.541(3), F.S., which requires ratification of any rule meeting any of the specified thresholds for likely adverse impact or increase in regulatory costs; providing an effective date.

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

Section 1. (1) The following rules are ratified for the sole and exclusive purpose of satisfying any condition on effectiveness imposed under s. 120.541(3), Florida Statutes:

(a) Subsections (3) through (7) of rule 62-304.300, Florida Administrative Code, entitled "St. Marks River Basin TMDLs," relating to total maximum daily loads for impaired water bodies within the St. Marks River Basin, as filed for adoption with the Department of State pursuant to the certification package dated March 2, 2012.

(b) Subsections (10) and (11) of rule 62-304.330, Florida Administrative Code, entitled "Pensacola Bay Basin TMDLs," relating to total maximum daily loads for impaired water bodies within the Pensacola Bay Basin, as filed for adoption with the Department of State pursuant to the certification package dated February 7, 2013.

(c) Subsections (14) through (20) of rule 62-304.520,

592-03603-13

20137154__

Florida Administrative Code, entitled "Indian River Lagoon Basin TMDLs," relating to total maximum daily loads for impaired water bodies within the Indian River Lagoon, as filed for adoption with the Department of State pursuant to the certification package dated March 20, 2013.

(d) Subsection (12) of rule 62-304.610, Florida Administrative Code, entitled "Hillsborough River Basin TMDLs," relating to total maximum daily loads for impaired water bodies within the Hillsborough River Basin, as filed for adoption with the Department of State pursuant to the certification package dated August 20, 2012, and as further corrected by the letter from the Department of Environmental Protection to the Department of State dated February 13, 2013.

(e) Subsections (13) and (14) of rule 62-304.645, Florida Administrative Code, entitled "Springs Coast Basin TMDLs," relating to total maximum daily loads for impaired water bodies within the Springs Coast Basin, as filed for adoption with the Department of State pursuant to the certification package dated March 8, 2013.

(f) Rule 62-304.900, Florida Administrative Code, entitled "Statewide TMDLs," relating to a statewide total daily maximum load for mercury-impaired water bodies within the state, as filed for adoption with the Department of State pursuant to the certification package dated November 21, 2012.

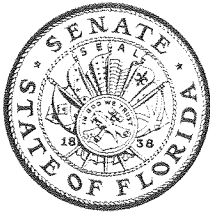
(2) This act serves no other purpose and shall not be codified in the Florida Statutes. After this act becomes law, its enactment and effective dates shall be noted in the Florida Administrative Code or the Florida Administrative Register or both, as appropriate. This act does not alter rulemaking

592-03603-13

20137154__

59 authority delegated by prior law, does not constitute
60 legislative preemption of or exception to any provision of law
61 governing adoption or enforcement of the rules cited, and is
62 intended to preserve the status of any cited rule as a rule
63 under chapter 120, Florida Statutes. This act does not cure any
64 rulemaking defect or preempt any challenge based on a lack of
65 authority or a violation of the legal requirements governing the
66 adoption of any rule cited.

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Health
and Human Services, *Chair*
Agriculture
Appropriations
Appropriations Subcommittee on Criminal and
Civil Justice
Children, Families, and Elder Affairs
Environmental Preservation and Conservation
Health Policy

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR DENISE GRIMSLEY

21st District

January 16, 2013

The Honorable Charles S. "Charlie" Dean, Sr.
311 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Chairman Dean,

I am writing to request permission to be excused from the Environmental Preservation and Conservation Committee meeting to be held on Tuesday, April 9, 2013.

Sincerely,

A handwritten signature in cursive script that reads "Denise Grimsley".

Denise Grimsley
District 21

A handwritten signature in cursive script that reads "Charles S. Dean, Sr.".

Cc: The Honorable Charles S. "Charlie" Dean, Sr.
Chair, Environmental Preservation and Conservation Committee

Pepper Uchino, Staff Director

REPLY TO:

- ☐ 205 South Commerce Avenue, Suite A, Sebring, Florida 33870
- ☐ 212 East Stuart Avenue, Lake Wales, Florida 33853
- ☐ 306 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5021

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Military Affairs, Space, and Domestic Security, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Children, Families, and Elder Affairs
Criminal Justice
Environmental Preservation and Conservation

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR THAD ALTMAN

16th District

April 5, 2013

The Honorable Charles S. Dean, Chair
Senate Committee on Environmental Preservation and Conservation
311 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chair Dean:

I respectfully request an excused absence for the Committee on Environmental Preservation and Conservation meeting on April 9, 2013 at 4:00 pm. Please contact me or my Legislative Assistants Rick Kendust or Selene Bruns if you have any questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Thad Altman".

Thad Altman

A handwritten signature in black ink that reads "Pepper Uchino". Above the signature, the word "Approved:" is written in a smaller, cursive script.

cc: Pepper Uchino, Staff Director, 325 Knott Building
Kim Bonn, Committee Administrative Assistant, 325 Knott Building

REPLY TO:

- ☐ 6767 North Wickham Road, Suite 211, Melbourne, Florida 32940 (321) 752-3138
- ☐ 314 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4/9/13

Meeting Date

FL

Topic Renewable ~~Fuel~~ Fuel Standard Act Bill Number SB 320
(if applicable)

Name Dan Cummings Amendment Barcode _____
(if applicable)

Job Title Vice President

Address 925 74th Ave SW Phone 772-794-7902

Vero Beach FL 32968
City State Zip

E-mail ~~dan@ineos.com~~ bioinfo@
~~ineos.com~~ ineos.com

Speaking: ☐ For ☒ Against ☐ Information

Representing INEOS Bio

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4-9-13

Meeting Date

Topic Repeal of FL RFS Bill Number SB 320
Name Bradley Krohn Amendment Barcode _____ (if applicable)
Job Title Manager, Highlands EnviroFuels, LLC
Address 10027 Water Works Lane Phone 813-758-8091
Street City State Zip E-mail bKrohn@usenvirofuels.com
Riverview FL 33578
City State Zip
Speaking: ☐ For ☒ Against ☐ Information
Representing Highlands EnviroFuels, LLC
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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

APRIL 9, 2013
Meeting Date

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

Topic FLORIDA RENEWABLE FUEL STD. ACT

Bill Number SB 320
(if applicable)

Name BOBBY LIKIS

Amendment Barcode _____
(if applicable)

Job Title PRESIDENT / CEO

Address 5675 N. DAVIS HWY.
PENSACOLA FL 32503
Street City State Zip

Phone 850-572-4440

E-mail BOBBY@CARCLINICNETWORK.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing _____

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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4/9/13

Meeting Date

Repeal of

Topic Florida Renewable Fuel Standard Act

Bill Number 320
(if applicable)

Name Dusty Holley

Amendment Barcode _____
(if applicable)

Job Title Director of Field Services

Address 800 Shakeray Rd

Phone (407) 433-6437

Street

Kissimmee

FL

34742

City

State

Zip

E-mail dusty@floridacattlemen.org

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Cattlemen's 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 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4/9/13

Meeting Date

Topic Florida Renewable Fuel Standard Act

Bill Number 320
(if applicable)

Name Kelly Davis

Amendment Barcode _____
(if applicable)

Job Title Legislative Intern/lobbyist

Address 207 W Park Ave Suite B
Street

Phone 850 577 6500

Tallahassee, FL 32301
City State Zip

E-mail legis@asrlegal.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Fertilizer & Agrichemical Association

Appearing at request of Chair: ☐ Yes ☒ No

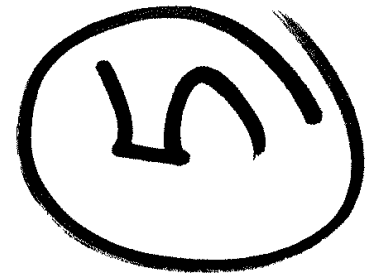
Lobbyist registered with Legislature: ☒ Yes ☐ No

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD



4-9-13

Meeting Date

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

Topic Ethanol

Bill Number 320
(if applicable)

Name Missy Timmins

Amendment Barcode _____
(if applicable)

Job Title _____

Address 2910 Kerry Forest Pkwy ^{D4-368}
Street

Phone 668-8000

ILH 32309
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Marine Industries Association of FLA.

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

5

Meeting Date _____

Topic Repeal of Renewable Fuel Standard Bill Number S.B. 320
(if applicable)

Name Patrick Ahlm Amendment Barcode _____
(if applicable)

Job Title Assistant Director, Gov't & Regulatory Affairs

Address 28100 Bonita Grande Drive, St 200 Phone _____
Street

Bonita Springs FL 33928 E-mail patrick.ahlm@algenol.com
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing _____

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

April 9

Meeting Date

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

Topic RFS

Bill Number 320
(if applicable)

Name RAY HODGE

Amendment Barcode _____
(if applicable)

Job Title Dir. of Government Affairs

Address 19039 121st Rd.
Street
M'Alpin, FL 32062
City State Zip

Phone 407-257-6782

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing Southeast Milk

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4 / 9 / 2013

Meeting Date

Topic _____

Bill Number 320
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4-9-13

Meeting Date

Topic Renewable Fuels

Name Susan Glickman

Job Title Lobbyist

Address PO Box 310

Street

Indian Rocks Bch FL 33785

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing Southern Alliance for Clean Energy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

Bill Number 320
(if applicable)

Amendment Barcode _____
(if applicable)

Phone 727-742-9003

E-mail susanglickman@
verizon.net

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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4/9/13

Meeting Date

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

Topic	SB0320 - Florida Renewable Fuels Std	Bill Number	SB 0320
Name	Chris Caldwell	Amendment Barcode	(if applicable)
Job Title	Government Affairs Manager - DuPont		(if applicable)
Address	1051 E. CARY ST. Suite 1420	Phone	804-658-8367
Street	Richmond, VA 23219	E-mail	CHRIS.CALDWELL@DUPONT.COM
City	State	Zip	
Speaking:	☐ For	☒ Against	☐ Information
Representing	DuPont		
Appearing at request of Chair:	☐ Yes	☒ No	Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

5

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

4-9-13

Meeting Date

Topic ETHANOL MANDATE

Bill Number 320
(if applicable)

Name BONNIE BASHAM

Amendment Barcode _____
(if applicable)

Job Title _____

Address 133 Oak St, #15

Phone 850 933 7277

Street

JLH

FL

32301

City

State

Zip

E-mail Capital.idea@att.net

Speaking: ☒ For ☐ Against ☐ Information

Representing BOAT US

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

T.P.C.

4/9/2013

Meeting Date

Topic _____

Bill Number 466
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

✓
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4/9/2013

Meeting Date

Topic _____

Bill Number 958
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH
Street

Phone 727-897-9291

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

7

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

9 APR 13
Meeting Date

Topic _____

Bill Number 958
(if applicable)

Name RICHARD BRIGHTMAN

Amendment Barcode _____
(if applicable)

Job Title HOPPING GREEN + SAILS

Address _____
Street
TALLAHASSEE
City State Zip

Phone _____

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing SPECTRA ENERGY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.9.13

Meeting Date

Topic Natural Gas Storage

Bill Number 958
(if applicable)

Name Rob Wilson

Amendment Barcode _____
(if applicable)

Job Title _____

Address 113 E. College Ave
Street

Phone 514-5183

Tallahassee FL 32301
City State Zip

E-mail rwilson@wilsonjackson.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA ENERGY PIPELINE ASSOCIATION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/9/13

Meeting Date

Topic Underground Natural Gas Storage

Bill Number 958
(if applicable)

Name Ryan Matthews

Amendment Barcode _____
(if applicable)

Job Title Leg Advocate

Address PO Box 1757

Phone 222 9684

Tallahassee FL 32301
City State Zip

E-mail rmatthews@flcities.com

Speaking: ☐ For ☒ Against ☐ Information

Representing FL League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

7

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

4/9/13

Meeting Date

Topic Underground Natural Gas

Bill Number SB 958
(if applicable)

Name Stephen James

Amendment Barcode _____
(if applicable)

Job Title Legislative Staff Attorney

Address 110 S Monroe
Street

Phone (850) 922-4300

Tallahassee FL 32301
City State Zip

E-mail s.james@fl-counties.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Florida Association of Counties

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

9 APR 13
Meeting Date

Topic _____

Bill Number 984
(if applicable)

Name RICHARD BRIGHTMAN

Amendment Barcode _____
(if applicable)

Job Title HAPPING GREEN @ SAMS

Address _____
Street TALHANNISSE
City _____ State _____ Zip _____

Phone _____

E-mail _____

Speaking: ☐ For ☐ Against ☒ Information

Representing SPECTRA ENERGY

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)



THE FLORIDA SENATE
APPEARANCE RECORD

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

7/19/2013

Meeting Date

Topic _____

Bill Number 984
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

9

4/9/13
Meeting Date

Topic Hydrolic Fracturing

Bill Number 1028
(if applicable)

Name DAVID MICA

Amendment Barcode _____
(if applicable)

Job Title DIRECTOR

Address 215 S. MONROE ST Ste 800
Street

Phone 561-6300

TALLAHASSEE FL 32301
City State Zip

E-mail MICAD@API.ORG

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA Petroleum Council

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

9

Meeting Date _____

Topic Fracturing Chemical

Bill Number 1028
(if applicable)

Name Dr. Ron SAFF

Amendment Barcode _____
(if applicable)

Job Title Physician

Address 2300 Centerville Road

Phone 386-6680

Street
City Tallahassee State FL Zip 32308

E-mail ronsaft@aol.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Physicians for Sound Reasoning

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

9

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

3/9/13
Meeting Date

Topic Fracturing

Bill Number 1028
(if applicable)

Name Letitia Adams

Amendment Barcode _____
(if applicable)

Job Title Director of Policy

Address 136 S. Bronough

Phone 850/521-1200

Jacksonville FL 32301
City State Zip

E-mail ladams@flchamber.com

Speaking: ☒ For ☐ Against ☐ Information

Representing FL Chamber

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

9

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

4/9/13
Meeting Date

Topic FRACKING DISCLOSURE Bill Number 1028
Name DAVID CULLEN Amendment Barcode _____
(if applicable) (if applicable)

Job Title _____
Address 1674 UNIVERSITY PKWY Phone 941.323.2404
Street SARASOTA FL 34243 E-mail culld@senate.fl.gov
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Representing SIERRA CLUB FLORIDA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

9

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

4-9-13

Meeting Date

Topic Fracking Chemical Disclosure Act

Bill Number SB 1028
(if applicable)

Name Stephanie Kunkel

Amendment Barcode _____
(if applicable)

Job Title _____

Address 1143 Albritton Dr

Phone 850-320-4208

Street

Tallahassee

FL

32301

City

State

Zip

E-mail Step.Kunkel@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Representing Clean Water Action

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.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

9

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

4 / 9 / 2013

Meeting Date

Topic _____

Bill Number 1028
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705
City State Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☒ For ☐ Against ☒ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

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4-9-13

Meeting Date

Topic mitigation

Bill Number 1104
(if applicable)

Name Lori Killinger

Amendment Barcode _____
(if applicable)

Job Title attorney/lobbyist

Address _____

Phone 850 222 5702

Tallahassee FL
City State Zip

E-mail lkillinge

Speaking: ☒ For ☐ Against ☐ Information

Representing Florida Association of Mitigation Bankers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

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

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9 APRIL

Meeting Date

Topic ENERGY EFFICIENCY

Bill Number 1594
(if applicable)

Name MIKE BJORKLUND

Amendment Barcode _____
(if applicable)

Job Title DIR. OF LEG. AFFAIRS

Address 2914 APALACHEE PKWY
Street

Phone 877-6166

TALL FL 32301
City State Zip

E-mail _____

Speaking: ☒ For ☐ Against ☐ Information

Representing FLORIDA ELECTRIC CO-OPS

WAIVE in Support

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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S-001 (10/20/11)