

| Tab 1 SB 252 by Brodeur; (Identical to H 01325) Health Care Cost Savings | | | | | | | |
|---|---|---|-----|--------------|----------------|-------|----------|
| 799080 | A | S | RCS | AEG, Brodeur | btw L.35 - 36: | 01/13 | 01:01 PM |

| Tab 2 SB 350 by Bean; (Identical to H 00269) Procedures for Petitions for Utility Rate Relief | | | | | | | |
|--|--|--|--|--|--|--|--|
|--|--|--|--|--|--|--|--|

| Tab 3 CS/SB 494 by EN, Hutson; (Similar to CS/H 00323) Fish and Wildlife Conservation Commission | | | | | | | |
|---|----|---|-----|-------------|---------------------|-------|----------|
| 305982 | A | S | RCS | AEG, Hutson | Before L.61: | 01/13 | 01:01 PM |
| 135828 | AA | S | RCS | AEG, Hutson | Delete L.174 - 195. | 01/13 | 01:01 PM |

| Tab 4 CS/SB 856 by EN, Brodeur; (Similar to CS/H 00309) Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems | | | | | | | |
|---|---|---|-----|--------------|--------------------|-------|----------|
| 323744 | A | S | RCS | AEG, Brodeur | Delete L.28 - 160: | 01/13 | 01:01 PM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

**APPROPRIATIONS SUBCOMMITTEE ON AGRICULTURE,
ENVIRONMENT, AND GENERAL GOVERNMENT**

Senator Albritton, Chair
Senator Rodrigues, Vice Chair

MEETING DATE: Wednesday, January 12, 2022
TIME: 4:30—6:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

MEMBERS: Senator Albritton, Chair; Senator Rodrigues, Vice Chair; Senators Ausley, Berman, Boyd, Bradley, Brodeur, Garcia, Mayfield, and Stewart

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 1 | SB 252 Brodeur (Identical H 1325) | Health Care Cost Savings; Revising the definition of the term "shoppable health care service" to include certain items and services specified in federal regulation, etc. BI 11/03/2021 Favorable AEG 01/12/2022 Fav/CS AP | Fav/CS Yeas 9 Nays 0 |
| 2 | SB 350 Bean (Identical H 269) | Procedures for Petitions for Utility Rate Relief; Increasing the maximum annual sales, expressed in gigawatt hours, which natural gas or public electric utilities may have to be eligible to request that the Public Service Commission use certain procedures for the utility's petition for rate relief, etc. RI 11/02/2021 Favorable AEG 01/12/2022 Favorable AP | Favorable Yeas 9 Nays 0 |
| 3 | CS/SB 494 Environment and Natural Resources / Hutson (Similar CS/H 323) | Fish and Wildlife Conservation Commission; Revising the notices a person must be given for failure to submit to certain tests for alcohol, chemical substances, or controlled substances; authorizing certain athletic teams or sports affiliated with specified educational institutions to operate a human-powered vessel within the marked channel of the Florida Intracoastal Waterway; revising the vessel conditions that an officer of the Fish and Wildlife Conservation Commission or a law enforcement agency may use to determine that a vessel is at risk of becoming derelict; prohibiting municipalities and counties from designating public bathing beach areas or swim areas within their jurisdictions which are within the marked channel portion of the Florida Intracoastal Waterway or within a specified distance from any portion of the marked channel; providing that all employees of the commission or the Florida Forest Service may operate drones for specified purposes, etc. EN 11/30/2021 Fav/CS AEG 01/12/2022 Fav/CS AP | Fav/CS Yeas 9 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on Agriculture, Environment, and General Government
Wednesday, January 12, 2022, 4:30—6:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---------------------------------|--|--|-------------------------|
| 4 | CS/SB 856 Environment and Natural Resources / Brodeur (Similar CS/H 309) | Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems; Authorizing private provider inspections of onsite sewage treatment and disposal systems under certain conditions; prohibiting the Department of Environmental Protection from charging certain inspection and permit fees; specifying requirements for private providers and onsite sewage treatment and disposal system owners and authorized contractors; revising the list of providers authorized to perform onsite sewage treatment and disposal system evaluations, etc. EN 11/30/2021 Fav/CS AEG 01/12/2022 Fav/CS AP | Fav/CS Yeas 9 Nays 0 |
| 5 | Presentation on Governor's Environment Fiscal Year 2022-2023 Budget Recommendations: Department of Agriculture and Consumer Services Department of Citrus Department of Environmental Protection Fish and Wildlife Conservation Commission | | Presented |
| 6 | Presentation on Governor's General Government Fiscal Year 2022-2023 Budget Recommendations: Department of Business and Professional Regulation Department of Financial Services Office of Financial Regulation Office of Insurance Regulation Department of Lottery Department of Management Services Division of Administrative Hearings Florida Commission on Human Relations Public Employees Relations Commission Department of Revenue Florida Gaming Control Commission Public Service Commission | | Presented |
| Other Related Meeting Documents | | | |

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/SB 252 (526990)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government;
and Senator Brodeur

SUBJECT: Health Care Cost Savings

DATE: January 14, 2022 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|--------------------------|
| 1. | <u>Arnold</u> | <u>Knudson</u> | <u>BI</u> | Favorable |
| 2. | <u>Sanders</u> | <u>Betta</u> | <u>AEG</u> | Recommend: Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

PCS/SB 252 expands the list of shoppable health care services for which a health insurer, group health insurer and health maintenance organization shall offer shared savings incentives under a shared savings incentive program created pursuant to Florida’s Patient Savings Act. The bill incorporates 500 items and services by reference to a table in the United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule published on November 12, 2020.¹

The bill does not impact state revenues or expenditures.

The bill takes effect July 1, 2022.

II. Present Situation:

Patient Savings Act

In 2019,² the Legislature enacted the Patient Savings Act (act),³ which allows health insurers⁴ to create shared savings incentive programs (programs) to encourage insureds to choose lower cost, high quality nonemergency health care services and share any savings realized as a result of the insured’s choice. Health insurers are not required to establish a program under the act, and an insured’s participation in a program offered by a health insurer is similarly voluntary and

¹ Federal Register, Volume 85, No. 219, Table 1–500 Items and Services List, pp. 72182-72190 (2020); available at <https://www.govinfo.gov/content/pkg/FR-2020-11-12/pdf/2020-24591.pdf> (last visited Jan. 4, 2022).

² Chapter 2019-100, Laws of Fla.

³ Sections 627.6387, 627.6648, and 641.31076, F.S.

⁴ The Patient Savings Act also applies to health maintenance organizations.

optional. A health insurer that establishes a program must distribute program payments at least quarterly to participating insureds.

Under the act, a program may offer the following shared savings incentives (incentives) for choosing shoppable health care services (services):

- Premium reduction or return;
- Flexible spending account credit;
- Health savings account credit;
- Health reimbursement account credit;⁵
- Cash or cash equivalent including, but not limited to, merchandise, gift card, or debit card;⁶
- Copayment modification;
- Deductible modification; and
- Coinsurance amount.

Under the act, services within and outside Florida for which incentives may be offered include, but are not limited to:

- Clinical laboratory services;
- Infusion therapy;
- Inpatient and outpatient surgical procedures;
- Obstetrical and gynecological services;
- Inpatient and outpatient nonsurgical diagnostic tests and procedures;
- Physical and occupational therapy services;
- Radiology and imaging services;
- Prescription drugs;
- Services provided through telehealth; and
- Any additional services published by the Agency for Health Care Administration that have the most significant price variation both statewide and regionally pursuant to s. 408.05(3)(m), F.S.

Health insurers offering programs must annually file with the Office of Insurance Regulation the number of participating insureds; the number of instances of participation; the total cost of provided services under the program; the total value of the program payments made to insureds; and the values distributed as premium reductions, credits to flexible spending accounts, credits to health savings accounts, or credits to health reimbursement accounts.⁷

Currently, only one health insurer in Florida offers a program to its policyholders.⁸

⁵ Section 627.6387(3)(e), F.S.

⁶ Section 626.9541(4)(a), F.S.

⁷ Section 627.6387(3)(f), F.S.

⁸ Phone conversation with Jessica Krause, Government Affairs Analyst, Florida Office of Insurance Regulation (Senate Committee on Banking and Insurance) (Oct. 22, 2021).

Federal Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule

On November 12, 2020, the United States Departments of Health and Human Services, Treasury, and Labor published the Transparency in Coverage Final Rule,⁹ imposing new requirements on group health plans and health insurers in the individual and group markets to disclose cost-sharing information, in-network provider negotiated rates, historical out-of-network allowed amounts, and drug pricing information.

Under the Final Rule, for plan years beginning on or after January 1, 2023, plans and issuers must disclose to enrollees, through a self-service online tool, personalized cost-sharing information and negotiated rates for 500 shoppable services (Table 1–500 Items and Services List) identified in the Final Rule. For plan years beginning on or after January 1, 2024, this disclosure requirement will expand to all covered health care items and services, including encounters, procedures, medical tests, supplies, prescription drugs, medical equipment, and fees, including facility fees.

For plan years beginning on or after January 1, 2022, plans and issuers must make publicly available, through standardized, regularly updated, machine-readable files:

- Negotiated rates for in-network providers;
- Historical allowed amounts for out-of-network providers; and
- Prices for prescription drugs.

The Final Rule does not apply to grandfathered health plans; account-based group health plans, such as health reimbursement arrangements (HRAs), including individual-coverage HRAs; or health flexible spending accounts, healthcare-sharing ministries, or short-term limited duration insurance plans.

III. Effect of Proposed Changes:

Section 1 amends s. 627.6387, F.S., to expand the list of shoppable health services for which a health insurer shall offer shared savings incentives under a shared savings incentive program created pursuant to Florida’s Patient Savings Act, to incorporate 500 items and services by reference to a table in the November 12, 2020 United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule.

Section 2 amends s. 627.6648, F.S., to require group health insurers to expand the list of shoppable health services offered under a shared savings incentive program created pursuant to Florida’s Patient Savings Act, to incorporate 500 items and services by reference to a table in the November 12, 2020 United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule.

Section 3 amends s. 641.31076, F.S., to require health maintenance organizations to expand the list of shoppable health services offered under a shared savings incentive program created

⁹ 26 CFR Part 54, 29 CFR Part 2590, 45 CFR Part 147 and 45 CFR Part 158. See Transparency in Coverage; Final Rule, 85 Fed. Reg. 72,158 (Nov. 12, 2020) <https://www.federalregister.gov/documents/2020/11/12/2020-24591/transparency-in-coverage> (last visited Jan. 4, 2022).

pursuant to Florida's Patient Savings Act, to incorporate 500 items and services by reference to a table in the November 12, 2020 United States Departments of Health and Human Services, Treasury, and Labor Transparency in Coverage Final Rule.

Section 4 provides an effective date of July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Requiring private insurers to provide a shoppable health services list under a shared savings incentives program to members and insureds may create an indeterminate yet positive fiscal impact upon the insurer and the insured. Subscribers and members may experience a savings from medical items and services included on the federal list of shoppable health services. However, the impact to premiums, if any, is unknown.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If the Legislature desires to incorporate any subsequent amendment to Table 1–500 Items and Services List of the Transparency in Coverage Final Rule, then s. 627.6387(2)(e)(11), F.S, would need to be reenacted.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 627.6387, 627.6648, and 641.31076.

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

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

Recommended CS by Appropriations Subcommittee on Agriculture, Environment and General Government on January 12, 2022:

The committee substitute requires group health insurers and health maintenance organizations to offer shared savings incentive programs.

B. Amendments:

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 01/13/2022 | . | |
| | . | |
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| | . | |

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Brodeur) recommended the following:

Senate Amendment (with directory and title amendments)

Between lines 35 and 36

insert:

(3) A health insurer shall ~~may~~ offer a shared savings
incentive program to provide incentives to an insured when the
insured obtains a shoppable health care service from the health
insurer's shared savings list. An insured may not be required to
participate in a shared savings incentive program. A health
insurer that offers a shared savings incentive program must:



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11 (a) Establish the program as a component part of the policy
12 or certificate of insurance provided by the health insurer and
13 notify the insureds and the office at least 30 days before
14 program termination.

15 (b) File a description of the program on a form prescribed
16 by commission rule. The office must review the filing and
17 determine whether the shared savings incentive program complies
18 with this section.

19 (c) Notify an insured annually and at the time of renewal,
20 and an applicant for insurance at the time of enrollment, of the
21 availability of the shared savings incentive program and the
22 procedure to participate in the program.

23 (d) Publish on a web page easily accessible to insureds and
24 to applicants for insurance a list of shoppable health care
25 services and health care providers and the shared savings
26 incentive amount applicable for each service. A shared savings
27 incentive may not be less than 25 percent of the savings
28 generated by the insured's participation in any shared savings
29 incentive offered by the health insurer. The baseline for the
30 savings calculation is the average in-network amount paid for
31 that service in the most recent 12-month period or some other
32 methodology established by the health insurer and approved by
33 the office.

34 (e) At least quarterly, credit or deposit the shared
35 savings incentive amount to the insured's account as a return or
36 reduction in premium, or credit the shared savings incentive
37 amount to the insured's flexible spending account, health
38 savings account, or health reimbursement account, or reward the
39 insured directly with cash or a cash equivalent.



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40 (f) Submit an annual report to the office within 90
41 business days after the close of each plan year. At a minimum,
42 the report must include the following information:

43 1. The number of insureds who participated in the program
44 during the plan year and the number of instances of
45 participation.

46 2. The total cost of services provided as a part of the
47 program.

48 3. The total value of the shared savings incentive payments
49 made to insureds participating in the program and the values
50 distributed as premium reductions, credits to flexible spending
51 accounts, credits to health savings accounts, or credits to
52 health reimbursement accounts.

53 4. An inventory of the shoppable health care services
54 offered by the health insurer.

55 Section 2. Paragraph (e) of subsection (2) and subsection
56 (3) of section 627.6648, Florida Statutes, are amended to read:

57 627.6648 Shared savings incentive program.—

58 (2) As used in this section, the term:

59 (e) "Shoppable health care service" means a lower-cost,
60 high-quality nonemergency health care service for which a shared
61 savings incentive is available for insureds under a health
62 insurer's shared savings incentive program. Shoppable health
63 care services may be provided within or outside this state and
64 include, but are not limited to:

65 1. Clinical laboratory services.

66 2. Infusion therapy.

67 3. Inpatient and outpatient surgical procedures.

68 4. Obstetrical and gynecological services.



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69 5. Inpatient and outpatient nonsurgical diagnostic tests
70 and procedures.

71 6. Physical and occupational therapy services.

72 7. Radiology and imaging services.

73 8. Prescription drugs.

74 9. Services provided through telehealth.

75 10. Any additional services published by the Agency for
76 Health Care Administration that have the most significant price
77 variation pursuant to s. 408.05(3)(m).

78 11. The items and services listed in Table 1-500 Items and
79 Services List as published in Volume 85, No. 219 of the Federal
80 Register, pages 72182-72190 (2020).

81 (3) A health insurer shall ~~may~~ offer a shared savings
82 incentive program to provide incentives to an insured when the
83 insured obtains a shoppable health care service from the health
84 insurer's shared savings list. An insured may not be required to
85 participate in a shared savings incentive program. A health
86 insurer that offers a shared savings incentive program must:

87 (a) Establish the program as a component part of the policy
88 or certificate of insurance provided by the health insurer and
89 notify the insureds and the office at least 30 days before
90 program termination.

91 (b) File a description of the program on a form prescribed
92 by commission rule. The office must review the filing and
93 determine whether the shared savings incentive program complies
94 with this section.

95 (c) Notify an insured annually and at the time of renewal,
96 and an applicant for insurance at the time of enrollment, of the
97 availability of the shared savings incentive program and the



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98 procedure to participate in the program.

99 (d) Publish on a web page easily accessible to insureds and
100 to applicants for insurance a list of shoppable health care
101 services and health care providers and the shared savings
102 incentive amount applicable for each service. A shared savings
103 incentive may not be less than 25 percent of the savings
104 generated by the insured's participation in any shared savings
105 incentive offered by the health insurer. The baseline for the
106 savings calculation is the average in-network amount paid for
107 that service in the most recent 12-month period or some other
108 methodology established by the health insurer and approved by
109 the office.

110 (e) At least quarterly, credit or deposit the shared
111 savings incentive amount to the insured's account as a return or
112 reduction in premium, or credit the shared savings incentive
113 amount to the insured's flexible spending account, health
114 savings account, or health reimbursement account, or reward the
115 insured directly with cash or a cash equivalent.

116 (f) Submit an annual report to the office within 90
117 business days after the close of each plan year. At a minimum,
118 the report must include the following information:

119 1. The number of insureds who participated in the program
120 during the plan year and the number of instances of
121 participation.

122 2. The total cost of services provided as a part of the
123 program.

124 3. The total value of the shared savings incentive payments
125 made to insureds participating in the program and the values
126 distributed as premium reductions, credits to flexible spending



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127 accounts, credits to health savings accounts, or credits to
128 health reimbursement accounts.

129 4. An inventory of the shoppable health care services
130 offered by the health insurer.

131 Section 3. Paragraph (e) of subsection (2) and subsection
132 (3) of section 641.31076, Florida Statutes, are amended to read:

133 641.31076 Shared savings incentive program.—

134 (2) As used in this section, the term:

135 (e) "Shoppable health care service" means a lower-cost,
136 high-quality nonemergency health care service for which a shared
137 savings incentive is available for subscribers under a health
138 maintenance organization's shared savings incentive program.
139 Shoppable health care services may be provided within or outside
140 this state and include, but are not limited to:

141 1. Clinical laboratory services.

142 2. Infusion therapy.

143 3. Inpatient and outpatient surgical procedures.

144 4. Obstetrical and gynecological services.

145 5. Inpatient and outpatient nonsurgical diagnostic tests
146 and procedures.

147 6. Physical and occupational therapy services.

148 7. Radiology and imaging services.

149 8. Prescription drugs.

150 9. Services provided through telehealth.

151 10. Any additional services published by the Agency for
152 Health Care Administration that have the most significant price
153 variation pursuant to s. 408.05(3) (m).

154 11. The items and services listed in Table 1-500 Items and
155 Services List as published in Volume 85, No. 219 of the Federal



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156 Register, pages 72182-72190 (2020).

157 (3) A health maintenance organization shall ~~may~~ offer a
158 shared savings incentive program to provide incentives to a
159 subscriber when the subscriber obtains a shoppable health care
160 service from the health maintenance organization's shared
161 savings list. A subscriber may not be required to participate in
162 a shared savings incentive program. A health maintenance
163 organization that offers a shared savings incentive program
164 must:

165 (a) Establish the program as a component part of the
166 contract of coverage provided by the health maintenance
167 organization and notify the subscribers and the office at least
168 30 days before program termination.

169 (b) File a description of the program on a form prescribed
170 by commission rule. The office must review the filing and
171 determine whether the shared savings incentive program complies
172 with this section.

173 (c) Notify a subscriber annually and at the time of
174 renewal, and an applicant for coverage at the time of
175 enrollment, of the availability of the shared savings incentive
176 program and the procedure to participate in the program.

177 (d) Publish on a web page easily accessible to subscribers
178 and to applicants for coverage a list of shoppable health care
179 services and health care providers and the shared savings
180 incentive amount applicable for each service. A shared savings
181 incentive may not be less than 25 percent of the savings
182 generated by the subscriber's participation in any shared
183 savings incentive offered by the health maintenance
184 organization. The baseline for the savings calculation is the



185 average in-network amount paid for that service in the most
186 recent 12-month period or some other methodology established by
187 the health maintenance organization and approved by the office.

188 (e) At least quarterly, credit or deposit the shared
189 savings incentive amount to the subscriber's account as a return
190 or reduction in premium, or credit the shared savings incentive
191 amount to the subscriber's flexible spending account, health
192 savings account, or health reimbursement account, or reward the
193 subscriber directly with cash or a cash equivalent.

194 (f) Submit an annual report to the office within 90
195 business days after the close of each plan year. At a minimum,
196 the report must include the following information:

197 1. The number of subscribers who participated in the
198 program during the plan year and the number of instances of
199 participation.

200 2. The total cost of services provided as a part of the
201 program.

202 3. The total value of the shared savings incentive payments
203 made to subscribers participating in the program and the values
204 distributed as premium reductions, credits to flexible spending
205 accounts, credits to health savings accounts, or credits to
206 health reimbursement accounts.

207 4. An inventory of the shoppable health care services
208 offered by the health maintenance organization.

209
210 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

211 And the directory clause is amended as follows:

212 Delete lines 10 - 11

213 and insert:



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214 Section 1. Paragraph (e) of subsection (2) and subsection
215 (3) of section 627.6387, Florida Statutes, are amended to read:

216

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

218 And the title is amended as follows:

219 Delete lines 3 - 5

220 and insert:

221 ss. 627.6387, 627.6648, and 641.31076, F.S.; revising
222 the definition of the term "shoppable health care
223 service" to include certain items and services
224 specified in federal regulation; requiring, rather
225 than authorizing, health insurers and health
226 maintenance organizations, respectively, to offer
227 shared savings incentive programs;

By Senator Brodeur

9-00174-22

2022252__

1 A bill to be entitled
 2 An act relating to health care cost savings; amending
 3 s. 627.6387, F.S.; revising the definition of the term
 4 "shoppable health care service" to include certain
 5 items and services specified in federal regulation;
 6 providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Paragraph (e) of subsection (2) of section
 11 627.6387, Florida Statutes, is amended to read:
 12 627.6387 Shared savings incentive program.—
 13 (2) As used in this section, the term:
 14 (e) "Shoppable health care service" means a lower-cost,
 15 high-quality nonemergency health care service for which a shared
 16 savings incentive is available for insureds under a health
 17 insurer's shared savings incentive program. Shoppable health
 18 care services may be provided within or outside this state and
 19 include, but are not limited to:
 20 1. Clinical laboratory services.
 21 2. Infusion therapy.
 22 3. Inpatient and outpatient surgical procedures.
 23 4. Obstetrical and gynecological services.
 24 5. Inpatient and outpatient nonsurgical diagnostic tests
 25 and procedures.
 26 6. Physical and occupational therapy services.
 27 7. Radiology and imaging services.
 28 8. Prescription drugs.
 29 9. Services provided through telehealth.

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

9-00174-22

2022252__

30 10. Any additional services published by the Agency for
 31 Health Care Administration that have the most significant price
 32 variation pursuant to s. 408.05(3)(m).
 33 11. The items and services listed in Table 1-500 Items and
 34 Services List as published in Volume 85, No. 219 of the Federal
 35 Register, pages 72182-72190 (2020).
 36 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environment and Natural Resources, *Chair*
Health Policy, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment, and General Government
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Community Affairs

SELECT COMMITTEE:

Select Committee on Pandemic
Preparedness and Response

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR JASON BRODEUR

9th District

November 3, 2021

Honorable Ben Albritton
314 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Albritton,

I am writing to request that **SB 252, Health Care Cost Savings**, be placed on the agenda to be heard in the Appropriations Subcommittee on Agriculture, Environment, and General Government.

I appreciate your consideration in this matter.

Sincerely,

Jason Brodeur

SENT TO: CHAIRMAN
2021 NOV -3 PM 2:46
SENATE APPROPRIATIONS
RECEIVED

Cc: Giovanni Betta, Staff Director
Caroline Goodner, Administrative Assistant

REPLY TO:

☐ 311 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5009

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: November 3, 2021

I respectfully request that **Senate Bill 252**, relating to **Health Care Cost Savings**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9



2022 LEGISLATIVE SESSION

AGENCY: Office of Insurance Regulation

BILL INFORMATION

| | |
|-------------------------|--------------------------|
| BILL NUMBER: | SB 252 |
| BILL TITLE: | Health Care Cost Savings |
| BILL SPONSOR(S): | Sen. Jason Brodeur |
| EFFECTIVE DATE: | 07/01/2022 |

COMMITTEES OF REFERENCE

| # | COMMITTEE |
|---|--|
| 1 | Banking and Insurance |
| 2 | Appropriations Subcommittee on Agriculture, Environment and General Government |
| 3 | Appropriations |

CURRENT COMMITTEE

| |
|-----------------------|
| Banking and Insurance |
|-----------------------|

PREVIOUS LEGISLATION

| BILL NUMBER | BILL NUMBER | SPONSOR | SPONSOR | YEAR | YEAR | LAST ACTION | LAST ACTION |
|-------------|-------------|--------------------|--------------------|------|------|-------------|-------------|
| SB 1144 | SB 1144 | Rep. Jason Brodeur | Rep. Jason Brodeur | 2021 | 2021 | | |

SIMILAR BILLS

| BILL NUMBER | SPONSOR |
|-------------|---------|
| N/A | |

IDENTICAL BILLS

| BILL NUMBER | SPONSOR |
|-------------|---------|
| N/A | |

BILL ANALYSIS INFORMATION

| | |
|-----------------------------|----------------------------|
| DATE OF ANALYSIS: | 9/21/2021 |
| LEAD AGENCY ANALYST: | Christopher Struk |
| ADDITIONAL ANALYSTS: | Susan Lincoln, John Reilly |

| | |
|------------------------|-------------|
| LEGAL ANALYST: | Tyler Parks |
| FISCAL ANALYST: | Richard Fox |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends section 627.6387, Florida Statutes ("F.S."), by expanding the list of shoppable health care services that may be part of an individual health insurer's shared savings program to include a list of health care items and services contained in the "Transparency in Coverage" federal rule.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

HB 1113 (2019) allowed insurers and health maintenance organizations (HMOs) to provide shared savings incentive programs. These programs incentivize insureds to seek needed medical services (referred to as shoppable health care services) from lower-cost providers in return for receiving a portion of the savings realized from the insured using lower cost providers. To date, one carrier has established a shared savings program, which went into effect on January 1, 2021.

On January 1, 2021, the federal "Transparency in Coverage" final rule became effective. The rule was issued by the US Internal Revenue Service, the US Department of Labor, and the US Department of Health and Human Services. One of the requirements of the rule is that hospitals must post consumer costs for 500 health care items and services.

2. EFFECT OF THE BILL:

The bill amends section 627.6387, Florida Statutes ("F.S."), by expanding the list of shoppable health care services that may be part of an individual health insurer's shared savings program to include a list of health care items and services contained in the "Transparency in Coverage" federal rule.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? No

| | |
|--|-----|
| If yes, explain: | |
| Is the change consistent with the agency's core mission? | N/A |
| Rule(s) impacted (provide references to F.A.C., etc.): | |

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

| | |
|-------------------------------------|--|
| Proponents and summary of position: | |
| Opponents and summary of position: | |

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? No

| | |
|--------------------------------|--|
| If yes, provide a description: | |
| Date Due: | |
| Bill Section Number(s): | |

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

| | |
|-------------------------|--|
| Board: | |
| Board Purpose: | |
| Who Appoints: | |
| Changes: | |
| Bill Section Number(s): | |

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? No

| | |
|---|----|
| Revenues: | |
| Expenditures: | |
| Does the legislation increase local taxes or fees? If yes, explain. | No |
| If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase? | |

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? No

| | |
|--|-------------------------|
| Revenues: | |
| Expenditures: | No Fiscal Impact to OIR |
| Does the legislation contain a State Government appropriation? | |
| If yes, was this appropriated last year? | |

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? No

| | |
|---------------|--|
| Revenues: | |
| Expenditures: | |
| Other: | |

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? No

| | |
|-------------------------|--|
| If yes, explain impact. | |
|-------------------------|--|

| | |
|----------------------|--|
| Bill Section Number: | |
|----------------------|--|

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? No

| | |
|--|--|
| If yes, describe the anticipated impact to the agency including any fiscal impact. | |
|--|--|

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? No

| | |
|--|--|
| If yes, describe the anticipated impact including any fiscal impact. | |
|--|--|

ADDITIONAL COMMENTS

This bill amends the shared savings programs for individual insurers but does not amend the programs for group insurers nor Health Maintenance Organizations (HMOs). It may be preferable to add similar language to section 627.6648, F.S., for group insurers, and section 641.31076, F.S., for HMOs.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---------------------------|--|
| Issues/concerns/comments: | |
|---------------------------|--|

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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: SB 350

INTRODUCER: Senator Bean

SUBJECT: Procedures for Petitions for Utility Rate Relief

DATE: January 11, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|------------------|
| 1. | <u>Sharon</u> | <u>Imhof</u> | <u>RI</u> | <u>Favorable</u> |
| 2. | <u>Sanders</u> | <u>Betta</u> | <u>AEG</u> | <u>Favorable</u> |
| 3. | _____ | _____ | <u>AP</u> | _____ |

I. Summary:

SB 350 increases the maximum annual sales threshold for public electric utilities to qualify for rate relief under the Florida Public Service Commission’s (PSC or commission) proposed agency action (PAA) procedure to 1,000 gigawatt hours from 500 gigawatt hours.

The bill may have an insignificant positive fiscal impact on state government expenditures.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Public Service Commission

The PSC is an arm of the legislative branch of government.¹ The PSC ensures that Florida’s consumers receive utility services, including electric, natural gas, telephone, water, and wastewater, in a safe, affordable, and reliable manner.² To do so, the PSC exercises authority over public utilities in one or more of these areas: (1) rate or economic regulation; (2) market competition oversight; and (3) monitoring of safety, reliability, and service issues.³

A public utility includes any person or legal entity supplying electricity or gas, including natural, manufactured, or similar gaseous substance, to or for the public within the state.⁴ Notably, courts have ruled that the sale of electricity to even a single customer makes the provider a “public

¹ Section 350.001, F.S.

² See Florida Public Service Commission (PSC), *The PSC’s Role*, <http://www.psc.state.fl.us> (last visited Jan. 4, 2022).

³ *Id.*

⁴ Section 366.02(1), F.S.

utility” subjecting them to the PSC’s regulatory jurisdiction, under s. 366.02(1), F.S.⁵ The PSC’s jurisdiction over public utilities is exclusive and superior to all other boards, agencies, political subdivisions, municipalities, towns, villages, or counties, and in cases of conflict the PSC prevails.⁶

Office of the Public Counsel

The Office of Public Counsel (OPC) was established by the Florida Legislature, under the legislative branch.⁷ The OPC is tasked with providing legal representation for the general public of Florida in proceedings before the PSC and in other utility related matters.⁸ The Public Counsel is appointed by the Joint Committee on Public Counsel Oversight, which is a standing joint legislative committee, established by the Joint Rules of the Florida Legislature.⁹ The Public Counsel is appointed to a four year term, and may be reappointed, but may not serve more than 12 consecutive years in the position.¹⁰ The Public Counsel must be an attorney admitted to practice before the Florida Supreme Court.¹¹

Fixing and Charging Rates

The PSC is charged with determining and fixing fair, just, and reasonable rates that are requested, demanded, charged, or collected by any public utility for its service.¹² The process for fixing and charging rates is established in s. 366.06, F.S., and its implementing rules.¹³ In addition to a traditional rate case,¹⁴ natural gas and public electric utilities whose annual sales to end users are less than 500 gigawatt hours,¹⁵ may utilize the proposed agency action (PAA) process under s. 366.06(4) F.S.¹⁶

⁵ *Florida Public Service Com’n v. Bryson*, 569 So. 2d 1253, 1255 (Fla. 1990) (finding that even a property management company is a public utility within the PSC’s regulatory jurisdiction); *PW Ventures, Inc. v. Nichols*, 533 So. 2d 281, 284 (Fla. 1988) (finding that “to the public,” as used in ch. 366, F.S., means “to any member of the public,” rather than “to the general public”).

⁶ Section 366.04 (1), F.S.

⁷ Section 350.0614 (2), F.S.; Florida Office of Public Counsel, *About the Office of Public Counsel*, <http://www.floridaopc.gov/Pages/About.aspx> (last visited Jan. 4, 2022).

⁸ Sections 350.0611, F.S.

⁹ Section 350.061(1), F.S.; Joint Rule 4.1(1)(b), Joint Rules of the Florida Legislature.

¹⁰ Section 350.061(1), F.S.

¹¹ *Id.*

¹² Section 366.06(1), F.S.

¹³ Fla. Admin. Code R. 25-6.043 (Investor-Owned Electric Utility Petition for Rate Increase) and 25-6.140 (Electric Public Utilities Proposed Agency Action Notification); Fla. Admin. Code R. 25-7.039 (Natural Gas Utility Petition for Rate Increase); and Fla. Admin. Code R. 25-7.140 (Gas Public Utilities Proposed Agency Action Notification).

¹⁴ In a “rate case,” the utility and affected parties present information and propose future prices and targets. This is a formal process much like a court case. Body of Knowledge on Infrastructure Regulation, *Rate Case*, <https://regulationbodyofknowledge.org/glossary/r/rate-case/> (last visited Jan. 4, 2022).

¹⁵ A megawatt is one million watts and a kilowatt is one thousand watts. A 100 watt light bulb is rated to consume 100 watts of electricity. The average South Atlantic home has a monthly consumption of 1,088 kilowatt hours. United States Nuclear Regulatory Commission, *What is a Megawatt?* <https://www.nrc.gov/docs/ML1209/ML120960701.pdf> (last visited Jan. 4, 2022). A gigawatt is equal to one thousand megawatts. Body of Knowledge on Infrastructure Regulation, *Gigawatt-hours (gWh)*, <https://regulationbodyofknowledge.org/glossary/g/gigawatt-hours-gwh/> (last visited Jan. 4, 2022).

¹⁶ See Fla. Admin. Code R. 25-22.029 (Proposed Agency Action Proceedings); Fla. Admin. Code R. 25-6.140 (Electric Public Utilities Proposed Agency Action Notification); and Fla. Admin. Code R. 25-7.140 (Gas Public Utilities Proposed Agency Action Notification).

Standard Rate Case

The PSC must take final action in a standard rate case within 12 months from the commencement date for final agency action.¹⁷ The “commencement date for final agency action” is determined by the PSC clerk as the date when the utility has met the minimum filing requirements.¹⁸ Minimum filing requirements are established by rule.¹⁹

During the pre-hearing phase, one of the PSC’s commissioners is assigned to preside as the prehearing officer for the docket.²⁰ They will enter an order establishing procedure and set the matter for a final hearing.²¹ During this time, substantially affected persons have the opportunity to intervene and submit discovery and request information from the utility.²² Toward the end of discovery, the utility and parties have a prehearing conference to finalize the issues.²³

The hearing is evidentiary and conducted with the full panel of PSC commissioners, pursuant to ss. 120.569 and 120.57, F.S. In addition, customer service hearings are scheduled where customers provide testimony regarding rates and quality of service. Finally, the parties may file post-hearing briefs. If the parties waive the filing of briefs and consent to a vote at the hearing, the PSC will vote on the merits at another meeting after reviewing the record and any post-hearing filings. At the conclusion of the rate case the PSC issues a written final order, which the parties may appeal.²⁴

Proposed Agency Action Procedure

Under s. 366.06(4), F.S., natural gas utilities and public electric utilities with less than 500 gigawatt hours in annual sales have the option to petition the PSC for rate relief utilizing the PAA procedure.²⁵

A PAA docket will not be immediately set for hearing, but will be scheduled for commission consideration at a regular agenda conference. The PSC’s staff recommendation is prepared for

¹⁷ Section 366.06(3), F.S. A utility seeking to change the rates it charges must first give the commission notice of its selected test year. *See* Fla. Admin. Code R. 25-6.043 and 25-7.039. The concept of a “test year” is used to calculate future rates. This allows for comparison of a defined period’s rate base costs including operating expenses with its total revenues. *See* Utility Dive, *As the power sector transforms, can utilities and customers find common ground on ratemaking?* (July 2, 2018), <https://www.utilitydive.com/news/as-the-power-sector-transforms-can-utilities-and-customers-find-common-gro/526399/> (last visited Jan. 4, 2022).

¹⁸ *See* s. 366.06(3), F.S.

¹⁹ *See* Fla. Admin. Code R. 25-6.043, (Investor-Owned Electric Utility Petition for Rate Increase); Fla. Admin. Code R. 25- 7.039, (Natural Gas Utility Petition for Rate Increase).

²⁰ PSC, *Bill Analysis for SB 350* (Oct. 11, 2021) (on file with the Senate Appropriations Subcommittee on Agriculture, Environment and General Government).

²¹ *Id.*

²² *See* s. 120.569 F.S.; PSC, *Bill Analysis, supra* at n. 20.

²³ PSC, *Bill Analysis, supra* at n. 20.

²⁴ *Id.*

²⁵ Fla. Admin. Code R. 25-22.029 (Proposed Agency Action Notification). The utility must request to use this procedure when it submits its minimum filing requirements. Fla. Admin. Code R. 25-6.140(1)(d); and Fla. Admin. Code R. 25-7.140(1)(d).

the PSC’s consideration at a regular agenda conference.²⁶ The OPC may appear as a party and conduct limited discovery and staff may request information from the utility.²⁷ Customer hearings are scheduled to allow customers to comment on the rates and service offered by the utility.²⁸ Discovery from third parties is not permitted during this initial process. The Administrative Procedure Act only provides for intervention by substantially affected persons after issuance of a written PAA.²⁹

At the agenda conference, the commission will consider the staff recommendation, receive input from the utility and any interested persons and the utility’s customers, and will vote on the request made by the utility. The Commission’s decision is memorialized as a PAA order. A party whose substantial interest may be affected by the PAA order must timely file a petition for administrative hearing; otherwise, an order will be entered making the PAA order a final agency action subject only to appeal.³⁰

In a PAA docket, the statutory deadline for the PSC to enter a PAA order is five months from the commencement date.³¹ If a petition protesting the PAA order is filed, the PSC must render a final decision no later than eight months from the petition’s filing.³² A hearing on a PAA objection may only address the issues disputed in the petition. All other issues are deemed stipulated.³³

Subsection 366.06(4), F.S., was last amended by the Florida Legislature in 1993.³⁴ Currently, none of the public electric utilities regulated by the PSC are eligible to utilize the PAA procedure for rate relief. The following table lists their annual sales in gigawatt hours.³⁵

| ELECTRIC UTILITIES | |
|-----------------------|---------|
| 2020 | GWh |
| Florida Power & Light | 113,531 |
| Duke Energy Florida | 39,230 |
| Tampa Electric | 19,954 |
| Gulf Power | 10,635 |
| FPUC | 650 |

I. Effect of Proposed Changes:

The bill increases the maximum annual sales threshold for public electric utilities to qualify for rate relief under the PSC’s proposed agency action procedure from 500 gigawatt hours to

²⁶ The commission generally conducts one regular agenda conference in every calendar month. PSC, *Bill Analysis, supra* at n. 20.

²⁷ Section 350.0611, F.S.; PSC, *Bill Analysis, supra* at n. 20.

²⁸ PSC, *Bill Analysis, supra* at n. 20.

²⁹ See ss. 120.569 and 120.57, F.S.

³⁰ PSC, *Bill Analysis, supra* at n. 20.

³¹ See s. 366.06(4), F.S.; PSC, *Bill Analysis, supra* at n. 20.

³² See s. 366.06(4), F.S.

³³ Section 120.80(13)(b), F.S.

³⁴ See Ch. 35, s. 5, Laws of Fla. (1993).

³⁵ PSC, *Bill Analysis, supra* at n. 20.

1,000 gigawatt hours. This would allow the Florida Public Utilities Company – Electric Division to be eligible to utilize the proposed agency action procedure for its petition for rate relief.³⁶

The bill is effective July 1, 2022.

II. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

III. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have a positive fiscal impact on public electric utilities that become eligible to utilize the proposed agency action procedure for rate relief in lieu of a standard rate case. This may minimize litigation and regulatory costs. These cost avoidances may result in savings, or prevent increases, to the ratepayers.

It appears the Florida Public Utilities Company's Electric Division will be eligible to utilize the PAA procedure for rate relief due to its annual sale level.

The bill does not affect natural gas utilities regulated by the PSC as they do not have a statutory annual sales threshold to qualify for the PAA procedure.

³⁶ *Id.*

C. Government Sector Impact:

The bill may have an insignificant positive fiscal impact on the PSC and the Office of Public Counsel by saving time and financial resources for rate relief by utilities eligible for the PAA procedure instead of a standard rate case.

IV. Technical Deficiencies:

None.

V. Related Issues:

None.

VI. Statutes Affected:

This bill substantially amends section 366.06 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bean

4-00491-22

2022350__

1 A bill to be entitled
 2 An act relating to procedures for petitions for
 3 utility rate relief; amending s. 366.06, F.S.;
 4 increasing the maximum annual sales, expressed in
 5 gigawatt hours, which natural gas or public electric
 6 utilities may have to be eligible to request that the
 7 Public Service Commission use certain procedures for
 8 the utility's petition for rate relief; making a
 9 technical change; providing an effective date.

10
 11 Be It Enacted by the Legislature of the State of Florida:

12
 13 Section 1. Subsection (4) of section 366.06, Florida
 14 Statutes, is amended to read:

15 366.06 Rates; procedure for fixing and changing.—

16 (4) A natural gas utility or a public electric utility
 17 whose annual sales to end-use customers amount to less than
 18 1,000 ~~500~~ gigawatt hours may specifically request the commission
 19 to process its petition for rate relief using the agency's
 20 proposed agency action procedure, as prescribed by commission
 21 rule. The commission shall enter its vote on the proposed agency
 22 action within 5 months of the commencement date for final agency
 23 action. If the commission's proposed action is protested, the
 24 final decision must be rendered by the commission within 8
 25 months after ~~of~~ the date the protest is filed. At the expiration
 26 of 5 months following the commencement date for final agency
 27 action, if the commission has not taken action or if the
 28 commission's action is protested by a party other than the
 29 utility, the utility may place its requested rates into effect

Page 1 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

4-00491-22

2022350__

30 under bond, escrow, or corporate undertaking subject to refund,
 31 upon notice to the commission and upon filing the appropriate
 32 tariffs. The utility must keep accurate records of amounts
 33 received as provided by subsection (3).

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

Page 2 of 2

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government

Subject: Committee Agenda Request

Date: November 1, 2021

I respectfully request that **Senate Bill #350**, relating to Procedures for Petitions for Utility Rate Relief, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

Date: October 11, 2021

| | | |
|------------------|---------------------------|--------------------------|
| Agency Affected: | Public Service Commission | Telephone: (850)413-6524 |
| Program Manager: | Kaley Slattery | Telephone: (850)413-6125 |
| Agency Contact: | Kaley Slattery | Telephone: (850)413-6125 |
| Respondent: | Katherine Pennington | Telephone: (850)413-6596 |

RE: SB 350

I. SUMMARY

SB 350, sponsored by Senator Bean, would amend the threshold used to determine whether a public electric utility is eligible to have a petition for rate relief considered by the Florida Public Service Commission (FPSC or Commission) under its proposed agency action (PAA) procedure. Under current law, only natural gas utilities and public electric utilities with less than 500 gigawatt hours in annual sales are eligible to request PAA treatment of a petition for rate relief. The bill would raise this threshold for public electric utilities to 1,000 gigawatt hours. The bill would take effect July 1, 2022.

II. PRESENT SITUATION

Section 366.06, Florida Statutes (F.S.), establishes the process for fixing and charging rates. Under this Section and its implementing rules, a utility seeking to change the rates it charges must first give the Commission notice of its selected test year and filing date, and then submit its minimum filing requirements (MFRs).¹ The Commissioner who has been assigned as the Prehearing Officer (PHO) for the docket will enter an Order Establishing Procedure and set the matter for a final hearing. Substantially affected persons will have the opportunity to intervene and propound discovery to the utility. After or near the close of discovery, the PHO will conduct a Prehearing Conference with the utility and parties to finalize the issues. The full Commission will subsequently conduct an evidentiary hearing on these issues pursuant to Sections 120.569 & 120.57, F.S. Customer service hearings are scheduled so the Commission can take testimony from customers regarding the utility's rates and service. The parties will be allowed the opportunity to file post-hearing briefs. Unless the parties waive briefs and consent to a bench vote, the Commission will vote on the merits of the rate request at a later meeting after having the opportunity to review the record and any post-hearing filings. A written final order in accordance with the Commission's vote will be entered and the parties will be afforded the right to file an appeal. The statutory deadline for the Commission to take final agency action by entering a written final order is 12 months from the date on which the MFRs are deemed sufficient.² The full rate case process is lengthy and can be resource intensive.

Subsection 366.06(4), F.S., provides the opportunity for a more expedited disposition of a petition for rate relief. Under this subsection, a natural gas utility or public electric utility with less than 500 gigawatt hours in annual sales has the option to request that the Commission process a petition for rate relief under its PAA procedure as set forth in Rule 25-22.029, F.A.C. The utility must request to use this procedure when it submits its MFRs.³

A docket being processed as PAA will not immediately be set for hearing. Instead, the matter will be scheduled for Commission consideration at a regular agenda conference.⁴ Commission staff will prepare a recommendation for Commission consideration at the agenda conference. Staff may propound data requests to the utility on the request made in the petition as it prepares this recommendation. The Office of Public Counsel may exercise its statutory right to appear as a party in the docket and conduct limited

¹ See Rules 25-6.043 & 25-6.140 (investor-owned electric utilities); 25-7.039 & 25-7.140 (natural gas utilities), Florida Administrative Code (F.A.C.).

² See § 366.06(3), F.S.

³ Rules 25-6.140(1)(d) & 25-7.140(1)(d), F.A.C.

⁴ The Commission generally conducts one regular agenda conference in every calendar month.

discovery. Customer meetings are scheduled to allow customers to comment on the rates and service offered by the utility. However, because the provisions of Sections 120.569 and 120.57, F.S., allowing for intervention by substantially affected persons apply only after issuance of the written PAA, there is no discovery from third parties during this initial process.

At the agenda conference, the Commission will consider the staff recommendation, may receive input from the utility and any interested persons, including customers of the utility, and will vote on the request made by the utility. The Commission’s vote will be memorialized and its decision issued as a PAA order. Unless a party whose substantial interest(s) will or may be affected by the proposed agency action timely files a petition for administrative hearing on the PAA order, a consummating order will be entered and the PAA order will become final agency action, subject only to appeal.⁵

In a docket utilizing this process, the statutory deadline for the Commission to enter a PAA order is 5 months from the date on which the MFRs are deemed sufficient. If a petition for hearing regarding the PAA order is filed, the Commission must render a final decision 8 months from the date the petition is filed.⁶ Pursuant to Section 120.80(13)(b), F.S., a hearing on an objection to a PAA order may only address the issues disputed in the petition; any issues not in dispute are deemed stipulated. This may minimize the scope, and thus the time and expense, associated with such a hearing.

Because there is no third party intervention and active participation in the docket prior to the written PAA order, except by OPC, this procedure provides the potential for the Commission to enter a final order on a request for a rate increase in a manner that minimizes litigation impacts on the utility’s human and financial resources.

III. EFFECT OF PROPOSED CHANGES

The bill amends Subsection 366.06(4), F.S., to raise the annual sales threshold from 500 to 1,000 gigawatt hours for public electric utilities to utilize the PAA process. The table below lists annual sales in gigawatt hours for public electric utilities regulated by the Commission.

| ELECTRIC UTILITIES | |
|-----------------------|---------|
| 2020 | GWh |
| Florida Power & Light | 113,531 |
| Duke Energy Florida | 39,230 |
| Tampa Electric | 19,954 |
| Gulf Power | 10,635 |
| FPUC | 650 |

SB 350 would not affect which Commission-regulated gas utilities are currently eligible to request PAA treatment of a petition for rate relief. The only electric utility not currently eligible to request PAA treatment of a petition for rate relief that would be made eligible for such treatment under SB 350 is Florida Public Utilities Company – Electric Division. As a result of the bill, it would be eligible to make use of the PAA procedure when seeking rate relief in the future. Use of this process by a utility might lower its regulatory costs as compared to a rate case set directly for hearing, and thereby reduce the costs that may be ultimately borne by ratepayers. Other than the Office of Public Counsel appearing under its specific statutory authority,⁷ no third parties have intervened or requested to be listed as interested persons in the

⁵ See Order Nos. PSC-08-0436-PAA-GU (PAA Order) and PSC-08-0849-CO-GU (Consummating Order), issued July 8 and August 1, 2008, in Docket No. 20070592-GU, *In re: Petition for rate increase by St. Joe Natural Gas Company, Inc.*

⁶ See § 366.06(4), F.S.

⁷ See § 366.0611(1), F.S.

last three base rate cases filed by Florida Public Utilities Company.⁸

The bill takes effect July 1, 2022.

IV. ESTIMATED FISCAL IMPACTS ON STATE AGENCIES:

SB 350 could result in potential savings to the Commission and its staff, utilities, and utility customers resulting from utilizing a PAA instead of direct-to-hearing rate case.

V. ESTIMATED FISCAL IMPACTS ON LOCAL GOVERNMENTS:

None.

VI. ESTIMATED IMPACTS ON PRIVATE SECTOR:

SB 350 could offer potential benefit to newly-qualifying utilities resulting from a PAA instead of a direct-to-hearing rate case.

VII. LEGAL ISSUES

A. Does the proposed legislation conflict with existing federal law or regulations? If so, what laws and/or regulations?

No.

B. Does the proposed legislation raise significant constitutional concerns under the U.S. or Florida Constitutions (e.g. separation of powers, access to the courts, equal protection, free speech, establishment clause, and impairment of contracts)?

No.

C. Is the proposed legislation likely to generate litigation and, if so, from what interest groups or parties?

No.

VIII. COMMENTS

No additional comments at this time.

⁸ See Docket Nos. 20140025-EI, 20080366-GU & 20030438-EI.

1/12/2022

Meeting Date

Ag, Env, Gen Govt Approp Subcommittee

Committee

The Florida Senate

APPEARANCE RECORD

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

SB350

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Ramiro Sicre**

Phone **(561) 601-6311**

Address **208 Wildlight Ave**

Email **rsicre@chpk.com**

Street

Yulee

City

FL

State

32097

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Chesapeake Utilities Corporation

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

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

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

S-001 (08/10/2021)

1/12/2022

Meeting Date

Ag, Env, Gen Govt Approp Subcommittee

Committee

The Florida Senate

APPEARANCE RECORD

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

SB350

Bill Number or Topic

Amendment Barcode (if applicable)

Name Mike Cassel

Phone (561) 252-0250

Address 208 Wildlight Ave

Email mcassel@chpk.com

Street

Yulee

FL

32097

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Chesapeake Utilities Corporation

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

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

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

The Florida Senate
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 Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 494 (602302)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Environment and Natural Resources Committee; and Senator Hutson

SUBJECT: Fish and Wildlife Conservation Commission

DATE: January 14, 2022 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|--------------------------|
| 1. | <u>Carroll</u> | <u>Rogers</u> | <u>EN</u> | Fav/CS |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEG</u> | Recommend: Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 494 revises laws administered by the Fish and Wildlife Conservation Commission (FWC) and other law enforcement entities. The bill:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the FWC, to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
- Specifies that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted mooring or other structure.
- Specifies the circumstances in which law enforcement may destroy or dispose of a vessel.
- Reorganizes provisions authorizing the FWC to establish a program to provide grants to local governments for the removal, storage, destruction, and disposal of derelict vessels.
- Allows operation of human-powered vessels in the marked channel of the Florida Intracoastal Waterway for specified reasons.
- Specifies that a certificate of title may not be issued for a public nuisance vessel.
- Specifies that a local government cannot create a public bathing beach or swim area in the marked channel of the Florida Intracoastal Waterway or within 100 feet of the marked channel.
- Adds public nuisance vessels to the definition of abandoned property.

- Places liability for costs of vessel removal, storage, destruction, and disposition on the owner or responsible party after notice is given.
- Authorizes FWC law enforcement officers to use drones to manage and eradicate invasive plants or animals on public lands and to suppress and mitigate wildfire threats.

The bill will have an indeterminate fiscal impact on the FWC as the derelict vessel removal grants to local governments will be subject to appropriation.

II. Present Situation:

Florida Forever

As a successor to Preservation 2000, the Legislature created the Florida Forever program in 1999 as the blueprint for conserving Florida's natural resources.¹ The Florida Forever Act reinforced the state's commitment to conserve its natural and cultural heritage, provide urban open space, and better manage the land acquired by the state.² Florida Forever encompasses a wide range of goals including: land acquisition; environmental restoration; water resource development and supply; increased public access; public lands management and maintenance; and increased protection of land through the purchase of conservation easements.³ The state has acquired more than 2.4 million acres since 1991 under the Preservation 2000 and the Florida Forever programs.⁴

Fish and Wildlife Conservation Commission

The Fish and Wildlife Conservation Commission (FWC) is responsible for regulating, managing, protecting, and conserving the state's fish and wildlife resources.⁵ The FWC is governed by a board of seven members who are appointed by the Governor and confirmed by the Florida Senate to five-year terms.⁶ Under Article IV, section 9 of the Florida Constitution, the FWC is granted the authority to exercise the regulatory and executive powers of the state with respect to wild animal life, fresh water aquatic life, and marine life.

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the FWC's Division of Law Enforcement and its officers, county sheriffs and deputies, municipal police officers, and any other law enforcement officer.⁷ The

¹ Chapter 99-247, Laws of Fla.

² Department of Environmental Protection (DEP), *Florida Forever Five Year Plan* (2021), 17, available at [FLDEP_DSL_OES_FF_2021Abstract_2.pdf \(floridadep.gov\)](https://www.floridadep.gov/lands/environmental-services/content/faq-florida-forever) (last visited Jan. 10, 2022).

³ Section 259.105, F.S.

⁴ DEP, *Frequently Asked Questions about Florida Forever*, <https://floridadep.gov/lands/environmental-services/content/faq-florida-forever> (last visited Jan. 10, 2022). See Florida Natural Areas Inventory, *Summary of Florida Conservation Lands* (Feb. 2019), available at https://www.fnai.org/PDFs/Maacres_202103_FCL_plus_LTF.pdf (last visited Jan. 10, 2022) for a complete summary of the total amount of conservation lands in Florida.

⁵ FLA. CONST. art. IV, s. 9.

⁶ *Id.*; see also s. 379.102(1), F.S.

⁷ Section 327.70(1), F.S.; see s. 943.10(1), F.S., which defines "law enforcement officer" as any person who is elected, appointed, or employed full time by any municipality or the state or any political subdivision thereof; who is vested with authority to bear arms and make arrests; and whose primary responsibility is the prevention and detection of crime or the enforcement of the penal, criminal, traffic, or highway laws of the state. The definition includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management

Division of Law Enforcement manages the state's waterways to ensure boating safety for residents and visitors.⁸ This includes enforcing boating rules and regulations, coordinating boating safety campaigns and education, managing public waters and access to the waters, conducting boating accident investigations, identifying and removing derelict vessels, and investigating vessel theft and title fraud.⁹

Boating Safety Regulations

A vessel operator in Florida must operate the vessel in a reasonable and prudent manner, having regard for other waterborne traffic, posted speed and wake restrictions, and all other attendant circumstances so as not to endanger the life, limb, or property of another person outside the vessel or due to vessel overloading or excessive speed.¹⁰ Operating a vessel in excess of a posted speed limit is a noncriminal infraction, for which the penalty is \$50.¹¹

Vessel owners and operators must maintain safety equipment in accordance with current Coast Guard safety equipment requirements, unless expressly exempted.¹² Vessel owners and operators are also subject to additional safety requirements relating to appropriate equipment and the use of personal flotation devices.¹³

Testing for Alcohol, Chemical Substances, and Controlled Substances

Anyone who operates a motor vehicle or vessel in the state, by operating such a vehicle or vessel, consents to an approved chemical or physical breath test to determine breath alcoholic content, or a urine test to detect the presence of chemical substances or controlled substances.¹⁴ These tests may be performed if the person is lawfully arrested for any offense allegedly committed while the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances.¹⁵

Additionally, anyone who operates a motor vehicle or vessel in the state consents to an approved blood test to determine blood alcoholic content or to detect the presence of chemical substances or controlled substances.¹⁶ These tests may be performed if there is reasonable cause to believe that the person was driving or in actual physical control of a motor vehicle, or operating a vessel, while under the influence of alcohol or chemical or controlled substances and the person appears for treatment at a hospital, clinic, or emergency vehicle, and the administration of a breath or urine test is impractical or impossible.¹⁷

responsibilities of full-time law enforcement officers, part-time law enforcement officers, or auxiliary law enforcement officers but does not include support personnel employed by the employing agency.

⁸ Fish and Wildlife Conservation Commission (FWC), *Boating*, <https://myfwc.com/boating/> (last visited Nov. 5, 2021).

⁹ FWC, *Law Enforcement*, <https://myfwc.com/about/inside-fwc/le/> (last visited Nov. 5, 2021). See ss. 327.70(1) and (4), F.S.

¹⁰ Section 327.33, F.S.

¹¹ Section 327.73(h), F.S.

¹² Section 327.50, F.S.

¹³ *Id.*

¹⁴ Sections 316.1932(1)(a) and 327.352(1)(a), F.S.

¹⁵ *Id.*

¹⁶ Sections 316.1932(1)(c) and 327.352(1)(c), F.S.

¹⁷ *Id.*

A person who operates a motor vehicle and fails to submit to a breath, urine, or blood test will have his or her driver's license suspended for a period of one year for a first refusal, or 18 months for a repeat refusal.¹⁸ A person who operates a motor vehicle who fails to submit to such test who has previously had his or her license suspended for a prior refusal commits a misdemeanor of the first degree and is subject to additional penalties.¹⁹

A person who operates a vessel and fails to submit to a breath, urine, or blood test is subject to a civil penalty of \$500 for a first refusal.²⁰ A person who operates a vessel and fails to submit to such test who has been previously fined commits a misdemeanor and is subject to additional penalties.²¹

Boating-Restricted Areas

Boating-restricted areas, which may restrict the speed and operation of vessels, may be established on the waters of the state for any purpose necessary to protect the safety of the public, taking into account boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards, as well as seagrass protection on privately owned submerged lands.²²

Local governments have authority to establish boating-restricted areas by ordinance within the portion of the Florida Intracoastal Waterway within their jurisdiction.²³ These areas include, but are not limited to:

- Idle-speed, no wake areas;
- Slow speed, minimum wake areas; and
- Vessel-exclusion zones.

Local governments can establish vessel-exclusion zones if the area is:

- Designated as a public bathing beach or swim area;
- Within 300 feet of a dam, spillway, or flood control structure;
- Reserved as a canoe trail or otherwise limited to vessels under oars or sail; or
- Reserved exclusively for a particular activity and user group separation must be imposed to protect the safety of participants.²⁴

Derelict Vessels

A derelict vessel is a vessel that is left, stored, or abandoned in a wrecked, junked, or substantially dismantled condition upon any public waters of this state; at a port in the state without the consent of the agency that has jurisdiction of the port; or docked, grounded, or

¹⁸ Sections 316.1932(1)(a) and (1)(c), F.S.

¹⁹ *Id.*; s. 316.1939, F.S.

²⁰ Sections 327.352(1)(a) and (1)(c), F.S.

²¹ *Id.*; s. 327.259, F.S.

²² Section 327.46(1), F.S.

²³ *Id.*

²⁴ *Id.*

beached upon the property of another without the consent.²⁵ It is unlawful to store, leave, or abandon any derelict vessel in this state.²⁶

At-Risk Vessels

Neglected or deteriorating vessels may not occupy the waters of this state.²⁷ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have an effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.²⁸

Vessels Declared to be a Public Nuisance

If a vessel is declared at risk of becoming derelict under the same condition three or more times within an 18-month period, and if the determination results in dispositions other than acquittal or dismissal, the vessel is declared to be a public nuisance.²⁹ A vessel is at risk of becoming derelict if any of the following conditions exist:

- The vessel is taking on or has taken on water without an effective means to dewater;
- Spaces on the vessel that are designed to be enclosed are incapable of being sealed off or remain open to the elements for extended periods of time;
- The vessel has broken loose or is in danger of breaking loose from its anchor;
- The vessel is listing due to water intrusion; or
- The vessel does not have effective means of propulsion for safe navigation within 72 hours after the vessel owner or operator receives notice.³⁰

A vessel that is declared to be a public nuisance and threatens navigation, or is a danger to the environment, property, or persons, may be relocated, removed, stored, destroyed, or disposed of by the FWC or other law enforcement.³¹ When a derelict vessel or a vessel declared to be a public nuisance through the process described above is located on the waters of the state, a law enforcement officer shall place a notice on the vessel in a form substantially similar to the one provided by statute.³²

²⁵ Section 823.11(1)(b), F.S.

²⁶ Section 376.15, F.S.; s. 823.11(2), F.S.

²⁷ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

²⁸ Section 327.4107, F.S.

²⁹ Section 327.73(1)(aa), F.S.; s. 327.4107(2), F.S.

³⁰ Section 327.4107(2), F.S.

³¹ Section 327.73(1)(aa), F.S.; s. 823.11(3), F.S.

³² Section 705.103(1)(b), F.S.

Abandoned Vessels

“Abandoned property”³³ means all tangible personal property that does not have an identifiable owner and that has been disposed of on public property in a wrecked, inoperative, or partially dismantled condition or has no apparent intrinsic value to the rightful owner. The term includes derelict vessels, as defined in state law.

When a derelict vessel or a vessel declared to be a public nuisance is on the waters of the state, a law enforcement officer must place a notice of removal on the vessel. The law enforcement agency must then contact the Department of Highway Safety and Motor Vehicles to determine the name and address of the owner, and must mail a copy of the notice to the owner.³⁴

If, after 21 days of posting and mailing the notice, the owner has not removed the vessel from the waters of the state or shown reasonable cause for failure to do so, the law enforcement agency may remove, destroy, or dispose of the vessel.³⁵

The owner of a derelict vessel or a vessel declared to be a public nuisance who does not remove the vessel after receiving notice, is liable to the law enforcement agency for all costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal.³⁶ Upon the final disposition of the vessel, the law enforcement officer must notify the owner of the amount owed. A person who neglects or refuses to pay the amount owed is not entitled to be issued a certificate of registration for the vessel, or any other vessel, until such costs have been paid.³⁷

Local governments are authorized to enact and enforce regulations to implement the procedures for abandoned or lost property that allow a local law enforcement agency, after providing written notice, to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.³⁸

Removal of Derelict Vessels

The FWC’s Division of Law Enforcement and its officers, the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officers have the responsibility and authority to enforce vessel safety and vessel title certificates, liens, and registration.³⁹ Sections 376.15 and 823.11, F.S., both address the treatment of derelict vessels. Much of the language between the two statutes is duplicative.⁴⁰

Both state and local law enforcement are authorized and empowered to relocate, remove, store, destroy, or dispose of a derelict vessel from waters of the state if the derelict vessel threatens navigation or is a danger to the environment, property, or persons.⁴¹ The FWC officers and other law enforcement agency officers or contractors who perform relocation or removal activities at

³³ Section 705.101(3), F.S.

³⁴ Section 705.103(2), F.S.

³⁵ *Id.*

³⁶ Section 705.103(4), F.S.

³⁷ *Id.*

³⁸ Section 327.60(5), F.S.

³⁹ Section 327.70, F.S.

⁴⁰ Section 376.15, F.S.; s. 823.11, F.S.

⁴¹ Section 823.11(3), F.S.; s. 376.15(3)(a), F.S.

the FWC's direction are required to be licensed, insured, and properly equipped to perform the services to be provided.⁴²

The costs incurred by the FWC or another law enforcement agency for relocating or removing a derelict vessel are recoverable against the vessel owner.⁴³ A vessel owner who neglects or refuses to pay the costs of removal, storage, and destruction of the vessel, less any salvage value obtained by its disposal, is not entitled to be issued a certificate of registration for such vessel, or any other vessel or motor vehicle, until the costs are paid.⁴⁴

The FWC has the authority to provide grants, funded from the Marine Resource Conservation Trust Fund or the Florida Coastal Protection Trust Fund, to local governments for the removal of derelict vessels from waters of this state, if funds are appropriated for the grant program.⁴⁵ However, each fiscal year, if all program funds are not requested by and granted to local governments for the removal of derelict vessels by the end of the third quarter, the FWC may use the remainder of the funds to remove, or pay private contractors to remove, derelict vessels.⁴⁶ Pursuant to this, the FWC established the Derelict Vessel Removal Grant Program in 2019.⁴⁷ Grants are awarded based on a set of criteria outlined in FWC rules.⁴⁸

Penalties for Prohibited Acts Relating to Derelict Vessels and Anchoring and Mooring

It is a first degree misdemeanor to store, leave, or abandon a derelict vessel in Florida.⁴⁹ Violations are punishable by imprisonment of no more than one year and a fine of up to \$1,000.⁵⁰ Further, such violation is punishable by a civil penalty of up to \$75,000 per violation per day.⁵¹ Each day during any portion of which the violation occurs constitutes a separate offense.⁵²

An owner or operator of a vessel at risk of becoming derelict on waters of this state or who allows such vessel to occupy such waters, is subject to a uniform boating citation and civil penalty. The civil penalty provided is:

- \$100 for a first offense;
- \$250 for a second offense occurring 30 days or more after a first offense; and
- \$500 for a third offense occurring 30 days or more after a previous offense.⁵³

⁴² Section 823.11(3)(c), F.S.; s. 376.15(3)(c), F.S.

⁴³ Section 823.11(3)(a), F.S.; s. 376.15(3)(a), F.S.

⁴⁴ Section 705.103(4), F.S.

⁴⁵ Section 376.15, F.S.

⁴⁶ Section 376.15, F.S.

⁴⁷ FWC, *FWC Derelict Vessel Removal Grant Program Guidelines, 2* (2019), available at <https://myfwc.com/media/22317/dv-grant-guidelines.pdf> (last visited Nov. 15, 2021). Incorporated by reference in Fla. Admin. Code R. 68-1.003.

⁴⁸ *Id.*

⁴⁹ Sections 376.15(2) and 823.11(2) and (5), F.S. A first degree misdemeanor is punishable by up to one year in county jail and a fine of up to \$1,000. Sections 775.082 and 775.083, F.S.

⁵⁰ Sections 775.082(4)(a) and 775.083(1)(d), F.S.

⁵¹ Sections 376.15(2) and 376.16(1), F.S.

⁵² Section 376.16(1), F.S.

⁵³ Section 327.73(1)(aa), F.S.

An owner or operator of a vessel or floating structure who anchors or moors in a prohibited area is subject to a uniform boating citation and penalties. The civil penalty provided is up to a maximum of:

- \$50 for a first offense;
- \$100 for a second offense; and
- \$250 for a third offense.⁵⁴

Any person who fails to appear or otherwise properly respond to a uniform boating citation must, in addition to the charge relating to the violation of the boating laws, be charged with a second degree misdemeanor, which is punishable by a maximum fine of \$500 and no more than 60 days of imprisonment.⁵⁵

Florida Intracoastal Waterway

The Florida Intracoastal Waterway consists of the following waterways: the Atlantic Intracoastal Waterway, the Georgia state line north of Fernandina to Miami; the Port Canaveral lock and canal to the Atlantic Intracoastal Waterway; the Atlantic Intracoastal Waterway, Miami to Key West; the Okeechobee Waterway, Stuart to Fort Myers; the St. Johns River, Jacksonville to Sanford; the Gulf Intracoastal Waterway, Anclote to Fort Myers; the Gulf Intracoastal Waterway, Carrabelle to Tampa Bay; Carrabelle to Anclote open bay section, using the Gulf of Mexico; the Gulf Intracoastal Waterway, Carrabelle to the Alabama state line west of Pensacola; and the Apalachicola, Chattahoochee, and Flint Rivers in Florida.⁵⁶ The Florida Intracoastal Waterway is shown in the map below.⁵⁷

⁵⁴ Section 327.73(1)(bb), F.S.

⁵⁵ Sections 327.73(1), 775.082, and 775.083, F.S.

⁵⁶ Section 327.02(15), F.S.

⁵⁷ Florida Department of Transportation, *Florida Waterways System Plan*, Figure 1-2 on p. 1-12 (2015), available at https://www.fdot.gov/docs/default-source/seaport/pdfs/2015-Florida-Waterways-System-Plan_Final.pdf (last visited Nov. 5, 2021).



Drones

A drone is a powered, aerial vehicle that does not carry a human operator; uses aerodynamic forces to provide vehicle lift; can fly autonomously or be piloted remotely; can be expendable or recoverable; and can carry a lethal or nonlethal payload.⁵⁸ Florida law prohibits the use of drones by a law enforcement agency to gather evidence or other information, and by a person, state agency, or political subdivision to conduct surveillance on privately-owned real property or on the owner, tenant, occupant, invitee, or licensee of the real property.⁵⁹ The exceptions to the prohibition allow a non-law enforcement employee of the FWC or the Florida Forest Service to use a drone to manage or eradicate invasive exotic plants or animals on public lands and to suppress wildfire threats.⁶⁰

Remote sensing using drones for the surveillance, detection, and reporting of an invasive species can improve early detection of invading plants and animals, making management more efficient and less expensive.⁶¹ Studies have shown that drones can efficiently and inexpensively cover a

⁵⁸ Section 934.50(1)(a), F.S.

⁵⁹ Section 934.50(3), F.S.

⁶⁰ Section 934.50(4)(p), F.S.

⁶¹ Barbara Martinez, Alex Dehgan, Brad Zamft, David Baisch, Colin McCormick, Anthony J. Giordano, Rebecca Aicher, Shah Selbe, Cassie Hoffman, *Advancing federal capacities for the early detection of and rapid response to invasive species*

large geographic range, reach places that are difficult to access, carry a variety of cameras and sensors, collect biological specimens, and target and eliminate individual organisms through ballistic application of herbicides.⁶²

III. Effect of Proposed Changes:

Section 1 amends s. 259.105, F.S., the Florida Forever Act, to require each lead land management agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger the 40 contiguous acres.

If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoises.

Each land management agency must consult with the FWC on feasibility assessments and implementation of gopher tortoise management.

Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.

Section 2 amends s. 327.352, F.S., to change a driver's license suspension to a driving privilege suspension, as related to a refusal to submit to a lawful breath, urine, or blood test.

Section 3 amends s. 327.35215, F.S., to require that the Fish and Wildlife Conservation Commission (FWC) provide the certified statement forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful breath, blood, or urine test.

Section 4 amends s. 327.371, F.S., to allow a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an educational institution.

Section 5 amends s. 327.4107, F.S., to allow an FWC officer or other law enforcement officer to determine that a vessel is at risk of becoming derelict if it is tied to an unlawful or unpermitted structure or mooring.

Section 6 amends s. 327.46, F.S., to clarify that when municipalities and counties establish public bathing beach or swim areas as vessel-exclusion zones, they may not establish them within the marked channel of the Florida Intracoastal Waterway or within 100 feet of any portion of the marked channel.

Section 7 repeals s. 376.15, F.S. The repeal has no effect, as the bill merely moves non-duplicative language in s. 376.15, F.S., relating to derelict vessels and their relocation or removal

through technology innovation, National Invasive Species Council: Contractor's Report, Mar. 2017, *available at* [federal capacities for edrr through technology innovation prepub 8.7.17.pdf \(doi.gov\)](#) (last visited Nov. 15 2021).

⁶² *Id.*

from waters of this state, from that section to s. 823.11, F.S., which also addresses derelict vessels.

Section 8 amends s. 379.101, F.S., to clarify the definitions of “marine fish” and “saltwater fish” to reflect updates in the scientific classification of certain identifying terminology.

Section 9 amends s. 705.101, F.S., to add vessels declared a public nuisance to the definition of abandoned property. Vessels that are abandoned property are declared a public nuisance after having been found at risk of dereliction three or more times for the same condition within 18 months.

Section 10 amends s. 705.103, F.S., relating to procedures for abandoned or lost property. The bill adds vessels declared to be a public nuisance into the notice requirements and liability provisions applicable to owners of, or parties responsible for, derelict vessels. The bill also allows law enforcement officers to dispose of derelict vessels or vessels declared to be a public nuisance. This section also makes technical changes and deletes a cross-reference to s. 376.15, F.S.

Section 11 amends s. 705.103, F.S., as amended by chapters 2019-76 and 2021-184, Laws of Florida, which will be effective July 1, 2023, to make the changes discussed in Section 9 of the bill.

Section 12 amends s. 823.11, F.S., to clarify that additional time provided for an owner or responsible party to remove a derelict vessel from the waters of this state, or to repair and remedy the vessel’s derelict condition in the event of an accident or event, does not apply if the vessel was already derelict. The bill removes language allowing law enforcement to destroy or dispose of derelict vessels threatening navigation or endangering environment, property, or persons. The bill moves language relating to grants for removal and disposal of derelict vessels from s. 376.15, F.S., (deleted by the bill) into s. 823.11, F.S. It also makes technical changes and deletes references to s. 376.15, F.S.

Section 13 amends s. 934.50, F.S., relating to searches and seizure using a drone. The bill deletes language prohibiting law enforcement employees of the FWC and the Florida Forest Service from using a drone to manage and eradicate invasive exotic plants and animals on public lands and to suppress and mitigate wildfire threats.

Section 14 amends s. 327.04, F.S., to delete a reference to s. 376.15, F.S.

Section 15 amends s. 328.09, F.S., to delete and revise a reference to s. 376.15, F.S. The bill also provides that the Department of Highway Safety and Motor Vehicles may not issue a certificate of title for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period. The bill authorizes the department to issue a certificate of title once law enforcement has verified in writing that the vessel is no longer a public nuisance. The bill adds these requirements for public nuisance vessels to the current requirements for derelict vessels.

Section 16 amends s. 25 of ch. 2021-184, Laws of Florida, to remove a reference to s. 376.15, F.S.

Section 17 amends s. 328.72, F.S., to delete and revise a reference to s. 376.15, F.S.

Section 18 amends s. 376.11, F.S., to direct that Florida Coastal Protection Trust Fund moneys may be used to fund grant programs for local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the public waters of the state. The bill also deletes and revises a reference to s. 376.15, F.S.

Sections 19, 20 and 21 reenacts ss. 327.73(1)(dd), 125.01(4), and 379.2412, F.S., to incorporate the amendments made by this bill to allow human-powered vessels to operate in the Florida Intracoastal Waterway for certain reasons, and to make clarifying revisions to the definition of marine and saltwater fish.

Section 22 provides that except as otherwise expressly provided, the effective date is July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. **Government Sector Impact:**

Indeterminate; local governments may benefit from expanded use of grant programs; expanded use of grant programs may necessitate the need for additional funding from state government.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

The amendment in Section 4 revises a section of law authorizing a Fish and Wildlife Conservation Commission or other law enforcement officer to determine if a vessel is at risk of becoming derelict. All existing criteria are related to the condition of the vessel, however the criteria the bill adds is unrelated to the condition of the vessel. A clarification may be appropriate.

VIII. **Statutes Affected:**

This bill amends the following sections of the Florida Statutes: 259.105, 327.352, 327.35215, 327.371, 327.4107, 327.46, 379.101, 705.101, 705.103, 823.11, 934.50, 327.04, 328.09, 328.72, and 376.11.

This bill repeals section 376.15 of the Florida Statutes.

This bill reenacts the following sections of the Florida Statutes: 327.73(1)(dd), 125.01(4), and 379.2412.

IX. **Additional Information:**

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment and General Government on January 12, 2022:

The committee substitute:

- Amends the Florida Forever Act to require each lead land managing agency, in consultation with the Fish and Wildlife Conservation Commission (FWC), to consider in the management plan the feasibility of creating a gopher tortoise recipient site for state lands under its management which are larger than 40 contiguous acres.
 - If the recipient site management is not in conflict with the primary management objects of the parcel, the management plan must contain an assessment of feasibility of managing the site as a recipient site for gopher tortoise.
 - Each land management agency must consult with FWC on feasibility assessments and implementation of gopher tortoise management.
- Provides that gopher tortoise recipient sites should be used, where appropriate, to bring environmentally sensitive tracts under an acceptable level of protection.

CS by Environment and Natural Resources on November 30, 2021:

- Requires that the Fish and Wildlife Conservation Commission, not the Department of Highway Safety and Motor Vehicles (department), provide the forms that a law enforcement officer must fill out upon arresting a person for refusing to submit to lawful a breath, blood, or urine test.
- Removes the requirement, created by the underlying bill, that the department must have substantial, competent evidence that shows demonstrable harm before establishing springs protection zones.
- Allows a person to operate a human-powered vessel within the boundaries of the marked channel of the Florida Intracoastal Waterway when participating in interscholastic, intercollegiate, intramural, or club athletic teams or sports affiliated with an education institution.
- Provides that the department may not issue a certificate of title to an applicant for a vessel that has been deemed a public nuisance after having been found at risk of becoming derelict three or more times within an 18-month period.
- Authorizes the department to issue a certificate of title once law enforcement has verified in writing that a vessel is no longer a public nuisance.
- Allows moneys from the Florida Coastal Protection Trust Fund to be granted to local governments for the removal of public nuisance vessels, in addition to derelict vessels, from the waters of the state.
- Reenacts the noncriminal infraction relating to the regulation of human-powered vessels to incorporate the amendment made by the strike-all.
- Retains all other provisions in the bill except as otherwise described.

B. Amendments:

None.



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Appropriations Subcommittee on Agriculture, Environment, and General Government (Hutson) recommended the following:

Senate Amendment (with title amendment)

Before line 61

insert:

Section 1. Paragraphs (a) and (b) of subsection (2) of section 259.105, Florida Statutes, are amended to read:

259.105 The Florida Forever Act.—

(2) (a) The Legislature finds and declares that:

1. Land acquisition programs have provided tremendous financial resources for purchasing environmentally significant



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11 lands to protect those lands from imminent development or
12 alteration, thereby ensuring present and future generations'
13 access to important waterways, open spaces, and recreation and
14 conservation lands.

15 2. The continued alteration and development of the state's
16 natural and rural areas to accommodate the state's growing
17 population have contributed to the degradation of water
18 resources, the fragmentation and destruction of wildlife
19 habitats, the loss of outdoor recreation space, and the
20 diminishment of wetlands, forests, working landscapes, and
21 coastal open space.

22 3. The potential development of the state's remaining
23 natural areas and escalation of land values require government
24 efforts to restore, bring under public protection, or acquire
25 lands and water areas to preserve the state's essential
26 ecological functions and invaluable quality of life.

27 4. It is essential to protect the state's ecosystems by
28 promoting a more efficient use of land, to ensure opportunities
29 for viable agricultural activities on working lands, and to
30 promote vital rural and urban communities that support and
31 produce development patterns consistent with natural resource
32 protection.

33 5. The state's groundwater, surface waters, and springs are
34 under tremendous pressure due to population growth and economic
35 expansion and require special protection and restoration
36 efforts, including the protection of uplands and springsheds
37 that provide vital recharge to aquifer systems and are critical
38 to the protection of water quality and water quantity of the
39 aquifers and springs. To ensure that sufficient quantities of



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40 water are available to meet the current and future needs of the
41 natural systems and citizens of the state, and assist in
42 achieving the planning goals of the department and the water
43 management districts, water resource development projects on
44 public lands, if compatible with the resource values of and
45 management objectives for the lands, are appropriate.

46 6. The needs of urban, suburban, and small communities in
47 the state for high-quality outdoor recreational opportunities,
48 greenways, trails, and open space have not been fully met by
49 previous acquisition programs. Through such programs as the
50 Florida Communities Trust and the Florida Recreation Development
51 Assistance Program, the state shall place additional emphasis on
52 acquiring, protecting, preserving, and restoring open space,
53 ecological greenways, and recreation properties within urban,
54 suburban, and rural areas where pristine natural communities or
55 water bodies no longer exist because of the proximity of
56 developed property.

57 7. Many of the state's unique ecosystems, such as the
58 Florida Everglades, are facing ecological collapse due to the
59 state's burgeoning population growth and other economic
60 activities. To preserve these valuable ecosystems for future
61 generations, essential parcels of land must be acquired to
62 facilitate ecosystem restoration.

63 8. Access to public lands to support a broad range of
64 outdoor recreational opportunities and the development of
65 necessary infrastructure, if compatible with the resource values
66 of and management objectives for such lands, promotes an
67 appreciation for the state's natural assets and improves the
68 quality of life.



69 9. Acquisition of lands, in fee simple, less than fee
70 interest, or other techniques must ~~shall~~ be based on a
71 comprehensive science-based assessment of the state's natural
72 resources which targets essential conservation lands by
73 prioritizing all current and future acquisitions based on a
74 uniform set of data and planned so as to protect the integrity
75 and function of ecological systems and working landscapes, and
76 provide multiple benefits, including preservation of fish and
77 wildlife habitat, recreation space for urban and rural areas,
78 and the restoration of natural water storage, flow, and
79 recharge.

80 10. The state has embraced performance-based program
81 budgeting as a tool to evaluate the achievements of publicly
82 funded agencies, build in accountability, and reward those
83 agencies which are able to consistently achieve quantifiable
84 goals. While previous and existing state environmental programs
85 have achieved varying degrees of success, few of these programs
86 can be evaluated as to the extent of their achievements,
87 primarily because performance measures, standards, outcomes, and
88 goals were not established at the outset. Therefore, the Florida
89 Forever program must ~~shall~~ be developed and implemented in the
90 context of measurable state goals and objectives.

91 11. The state must play a major role in the recovery and
92 management of its imperiled species through the acquisition,
93 restoration, enhancement, and management of ecosystems that can
94 support the major life functions of such species. It is the
95 intent of the Legislature to support local, state, and federal
96 programs that result in net benefit to imperiled species habitat
97 by providing public and private land owners meaningful



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98 incentives for acquiring, restoring, managing, and repopulating
99 habitats for imperiled species. It is the further intent of the
100 Legislature that public lands, both existing and to be acquired,
101 identified by the lead land managing agency, in consultation
102 with the Fish and Wildlife Conservation Commission for animals
103 or the Department of Agriculture and Consumer Services for
104 plants, as habitat or potentially restorable habitat for
105 imperiled species, be restored, enhanced, managed, and
106 repopulated as habitat for such species to advance the goals and
107 objectives of imperiled species management for conservation,
108 recreation, or both, consistent with the land management plan
109 without restricting other uses identified in the management
110 plan. It is also the intent of the Legislature that of the
111 proceeds distributed pursuant to subsection (3), additional
112 consideration be given to acquisitions that achieve a
113 combination of conservation goals, including the restoration,
114 enhancement, management, or repopulation of habitat for
115 imperiled species. The council, in addition to the criteria in
116 subsection (9), shall give weight to projects that include
117 acquisition, restoration, management, or repopulation of habitat
118 for imperiled species. The term "imperiled species" as used in
119 this chapter and chapter 253, means plants and animals that are
120 federally listed under the Endangered Species Act, or state-
121 listed by the Fish and Wildlife Conservation Commission or the
122 Department of Agriculture and Consumer Services. As part of the
123 state's role, all state lands that have imperiled species
124 habitat must ~~shall~~ include as a consideration in management plan
125 development the restoration, enhancement, management, and
126 repopulation of such habitats. Each lead land managing agency,



127 in consultation with the Fish and Wildlife Conservation
128 Commission, shall consider in the management plan for all state
129 lands under its management which are greater in size than 40
130 contiguous acres the feasibility of using a portion of the
131 property as a gopher tortoise recipient site. If, during
132 consultation with the Fish and Wildlife Conservation Commission,
133 the lead land managing agency determines that the recipient site
134 management is not in conflict with the primary management
135 objects of the parcel, the management plan must contain a
136 component or section prepared by a qualified wildlife biologist
137 which assesses the feasibility of managing the site as a
138 recipient site for gopher tortoises, consistent with the rules
139 of the Fish and Wildlife Conservation Commission. Each land
140 management agency shall consult with the Fish and Wildlife
141 Conservation Commission on feasibility assessments and
142 implementation of gopher tortoise management. In addition, the
143 lead land managing agency of such state lands may use fees
144 received from public or private entities for projects to offset
145 adverse impacts to imperiled species or their habitat in order
146 to restore, enhance, manage, repopulate, or acquire land and to
147 implement land management plans developed under s. 253.034 or a
148 land management prospectus developed and implemented under this
149 chapter. Such fees shall be deposited into a foundation or fund
150 created by each land management agency under s. 379.223, s.
151 589.012, or s. 259.032(9)(c), to be used solely to restore,
152 manage, enhance, repopulate, or acquire imperiled species
153 habitat.

154 12. There is a need to change the focus and direction of
155 the state's major land acquisition programs and to extend



156 funding and bonding capabilities, so that future generations may
157 enjoy the natural resources of this state.

158 (b) The Legislature recognizes that acquisition of lands in
159 fee simple is only one way to achieve the aforementioned goals
160 and encourages the use of less-than-fee interests, other
161 techniques, and the development of creative partnerships between
162 governmental agencies and private landowners. Such partnerships
163 may include those that advance the restoration, enhancement,
164 management, or repopulation of imperiled species habitat on
165 state lands as provided for in subparagraph (a)11. Easements
166 acquired pursuant to s. 570.71(2)(a) and (b), land protection
167 agreements, and nonstate funded tools such as rural land
168 stewardship areas, sector planning, gopher tortoise recipient
169 sites, and mitigation should be used, where appropriate, to
170 bring environmentally sensitive tracts under an acceptable level
171 of protection at a lower financial cost to the public, and to
172 provide private landowners with the opportunity to enjoy and
173 benefit from their property.

174 Section 2. Section 379.51, Florida Statutes, is created to
175 read:

176 379.51 Penalties for death or injury of gopher tortoises or
177 destruction of their burrows.—

178 (1) Unless otherwise provided by law, a person, firm, or
179 corporation that commits a violation of any rule of the Fish and
180 Wildlife Conservation Commission relating to the conservation of
181 gopher tortoises or their burrows which results in the
182 destruction of a burrow or the death or injury of a gopher
183 tortoise must be punished as provided in subsection (2).

184 (2) (a) For a first conviction, the person, firm, or



185 corporation commits a misdemeanor of the first degree,
186 punishable by imprisonment as provided in s. 775.082 or by a
187 fine of not less than \$100 nor more than \$500 for each gopher
188 tortoise death or injury or burrow destroyed, or by both such
189 imprisonment and fine.

190 (b) For a second or subsequent conviction, the person,
191 firm, or corporation commits a felony of the third degree,
192 punishable by imprisonment as provided in s. 775.082 or by a
193 fine of not less than \$5,000 for each gopher tortoise death or
194 injury or burrow destroyed, or by both such imprisonment and
195 fine.

196
197 ===== T I T L E A M E N D M E N T =====

198 And the title is amended as follows:

199 Delete line 3

200 and insert:

201 Commission; amending s. 259.105, F.S.; requiring land
202 management agencies to consider, in consultation with
203 the Fish and Wildlife Conservation Commission, as part
204 of certain state land management plans, the
205 feasibility of using portions of such lands as gopher
206 tortoise recipient sites; requiring the agencies to
207 consult with the commission on required feasibilities
208 assessments and the implementation of management
209 strategies; creating s. 379.51, F.S.; providing
210 criminal penalties for any person, firm, or
211 corporation that violates certain commission rules
212 resulting in the death or injury of a gopher tortoise
213 or the destruction of gopher tortoise burrows;



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214 providing graduated criminal penalties for second or
215 subsequent convictions; amending ss. 327.352 and
216 327.35215, F.S.;



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Appropriations Subcommittee on Agriculture, Environment, and
General Government (Hutson) recommended the following:

1 **Senate Amendment to Amendment (305982) (with title**
2 **amendment)**

3
4 Delete lines 174 - 195.

5
6 ===== T I T L E A M E N D M E N T =====

7 And the title is amended as follows:

8 Delete lines 209 - 215

9 and insert:

10 strategies; amending ss. 327.352 and

By the Committee on Environment and Natural Resources; and
Senator Hutson

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1 A bill to be entitled
2 An act relating to the Fish and Wildlife Conservation
3 Commission; amending ss. 327.352 and 327.35215, F.S.;
4 revising the notices a person must be given for
5 failure to submit to certain tests for alcohol,
6 chemical substances, or controlled substances; making
7 technical changes; amending s. 327.371, F.S.;
8 authorizing certain athletic teams or sports
9 affiliated with specified educational institutions to
10 operate a human-powered vessel within the marked
11 channel of the Florida Intracoastal Waterway; amending
12 s. 327.4107, F.S.; revising the vessel conditions that
13 an officer of the Fish and Wildlife Conservation
14 Commission or a law enforcement agency may use to
15 determine that a vessel is at risk of becoming
16 derelict; amending s. 327.46, F.S.; prohibiting
17 municipalities and counties from designating public
18 bathing beach areas or swim areas within their
19 jurisdictions which are within the marked channel
20 portion of the Florida Intracoastal Waterway or within
21 a specified distance from any portion of the marked
22 channel; repealing s. 376.15, F.S., relating to
23 derelict vessels and the relocation and removal of
24 such vessels from the waters of this state; amending
25 s. 379.101, F.S.; revising the definitions of the
26 terms "marine fish" and "saltwater fish"; amending s.
27 705.101, F.S.; revising the definition of the term
28 "abandoned property" to include vessels declared to be
29 a public nuisance; amending s. 705.103, F.S.;

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30 clarifying the notice requirements and procedures for
31 vessels declared to be public nuisances; amending s.
32 823.11, F.S.; making technical changes; authorizing
33 the commission to establish a program to provide
34 grants to local governments for certain actions
35 regarding derelict vessels and those declared to be a
36 public nuisance; specifying sources for the funds to
37 be used, subject to an appropriation; authorizing the
38 commission to use funds not awarded as grants for
39 certain purposes; requiring the commission to adopt
40 rules for the grant applications and the criteria for
41 allocating the funds; amending s. 934.50, F.S.;
42 providing that all employees of the commission or the
43 Florida Forest Service may operate drones for
44 specified purposes; amending ss. 327.04, 328.09,
45 328.72, and 376.11, F.S.; conforming provisions to
46 changes made by the act; repealing s. 25, chapter
47 2021-184, Laws of Florida, relating to derelict
48 vessels; reenacting s. 327.73(1)(dd), F.S., relating
49 to noncriminal boating infractions, to incorporate the
50 amendment made to s. 327.371, F.S., in a reference
51 thereto; reenacting ss. 125.01(4) and 379.2412, F.S.,
52 relating to powers and duties of legislative and
53 governing bodies of counties and state preemption of
54 the regulating of taking or possessing saltwater fish,
55 respectively, to incorporate the amendment made to s.
56 379.101, F.S., in a reference thereto; providing
57 effective dates.
58

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

60
61 Section 1. Paragraphs (a) and (c) of subsection (1) of
62 section 327.352, Florida Statutes, are amended to read:

63 327.352 Tests for alcohol, chemical substances, or
64 controlled substances; implied consent; refusal.-

65 (1)(a)1. The Legislature declares that the operation of a
66 vessel is a privilege that must be exercised in a reasonable
67 manner. In order to protect the public health and safety, it is
68 essential that a lawful and effective means of reducing the
69 incidence of boating while impaired or intoxicated be
70 established. Therefore, a person who accepts the privilege
71 extended by the laws of this state of operating a vessel within
72 this state is, by operating such vessel, deemed to have given
73 his or her consent to submit to an approved chemical test or
74 physical test including, but not limited to, an infrared light
75 test of his or her breath for the purpose of determining the
76 alcoholic content of his or her blood or breath if the person is
77 lawfully arrested for any offense allegedly committed while the
78 person was operating a vessel while under the influence of
79 alcoholic beverages. The chemical or physical breath test must
80 be incidental to a lawful arrest and administered at the request
81 of a law enforcement officer who has reasonable cause to believe
82 such person was operating the vessel within this state while
83 under the influence of alcoholic beverages. The administration
84 of a breath test does not preclude the administration of another
85 type of test. The person shall be told that his or her failure
86 to submit to any lawful test of his or her breath under this
87 chapter will result in a civil penalty of \$500, and ~~shall also~~

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88 ~~be told~~ that if he or she refuses to submit to a lawful test of
89 his or her breath and he or she has been previously fined under
90 s. 327.35215 or ~~has previously had his or her driving privilege~~
91 has been previously driver license suspended for refusal to
92 submit to any lawful test of his or her breath, urine, or blood,
93 he or she commits a misdemeanor of the first degree, punishable
94 as provided in s. 775.082 or s. 775.083, in addition to any
95 other penalties provided by law. The refusal to submit to a
96 chemical or physical breath test upon the request of a law
97 enforcement officer as provided in this section is admissible
98 into evidence in any criminal proceeding.

99 2. A person who accepts the privilege extended by the laws
100 of this state of operating a vessel within this state is, by
101 operating such vessel, deemed to have given his or her consent
102 to submit to a urine test for the purpose of detecting the
103 presence of chemical substances as set forth in s. 877.111 or
104 controlled substances if the person is lawfully arrested for any
105 offense allegedly committed while the person was operating a
106 vessel while under the influence of chemical substances or
107 controlled substances. The urine test must be incidental to a
108 lawful arrest and administered at a detention facility or any
109 other facility, mobile or otherwise, which is equipped to
110 administer such tests at the request of a law enforcement
111 officer who has reasonable cause to believe such person was
112 operating a vessel within this state while under the influence
113 of chemical substances or controlled substances. The urine test
114 must shall be administered at a detention facility or any other
115 facility, mobile or otherwise, which is equipped to administer
116 such test in a reasonable manner that will ensure the accuracy

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117 of the specimen and maintain the privacy of the individual
 118 involved. The administration of a urine test does not preclude
 119 the administration of another type of test. The person shall be
 120 told that his or her failure to submit to any lawful test of his
 121 or her urine under this chapter will result in a civil penalty
 122 of \$500, and ~~shall also be told~~ that if he or she refuses to
 123 submit to a lawful test of his or her urine and he or she has
 124 been previously fined under s. 327.35215 or ~~has previously had~~
 125 his or her driving privilege has been previously ~~driver license~~
 126 suspended for refusal to submit to any lawful test of his or her
 127 breath, urine, or blood, he or she commits a misdemeanor of the
 128 first degree, punishable as provided in s. 775.082 or s.
 129 775.083, in addition to any other penalties provided by law. The
 130 refusal to submit to a urine test upon the request of a law
 131 enforcement officer as provided in this section is admissible
 132 into evidence in any criminal proceeding.

133 (c) A person who accepts the privilege extended by the laws
 134 of this state of operating a vessel within this state is, by
 135 operating such vessel, deemed to have given his or her consent
 136 to submit to an approved blood test for the purpose of
 137 determining the alcoholic content of the blood or a blood test
 138 for the purpose of determining the presence of chemical
 139 substances or controlled substances as provided in this section
 140 if there is reasonable cause to believe the person was operating
 141 a vessel while under the influence of alcoholic beverages or
 142 chemical or controlled substances and the person appears for
 143 treatment at a hospital, clinic, or other medical facility and
 144 the administration of a breath or urine test is impractical or
 145 impossible. As used in this paragraph, the term "other medical

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146 facility" includes an ambulance or other medical emergency
 147 vehicle. The blood test must ~~shall~~ be performed in a reasonable
 148 manner. A person who is incapable of refusal by reason of
 149 unconsciousness or other mental or physical condition is deemed
 150 not to have withdrawn his or her consent to such test. A person
 151 who is capable of refusal shall be told that his or her failure
 152 to submit to such a blood test will result in a civil penalty of
 153 \$500. The refusal to submit to a blood test upon the request of
 154 a law enforcement officer is ~~shall be~~ admissible in evidence in
 155 any criminal proceeding.

156 Section 2. Subsections (1) and (2) of section 327.35215,
 157 Florida Statutes, are amended to read:

158 327.35215 Penalty for failure to submit to test.-

159 (1) A person ~~who is~~ lawfully arrested for an alleged
 160 violation of s. 327.35 ~~and~~ who refuses to submit to a blood
 161 test, breath test, or urine test pursuant to s. 327.352 is
 162 subject to a civil penalty of \$500.

163 (2) When a person refuses to submit to a blood test, breath
 164 test, or urine test pursuant to s. 327.352, a law enforcement
 165 officer ~~who is~~ authorized to make arrests for violations of this
 166 chapter shall file with the clerk of the court, on a form
 167 provided by the commission department, a certified statement
 168 that probable cause existed to arrest the person for a violation
 169 of s. 327.35 and that the person refused to submit to a test as
 170 required by s. 327.352. Along with the statement, the officer
 171 shall ~~must~~ also submit a sworn statement on a form provided by
 172 the commission department that the person has been advised of
 173 both the penalties for failure to submit to the blood, breath,
 174 or urine test and the procedure for requesting a hearing.

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175 Section 3. Present paragraph (c) of subsection (1) of
 176 section 327.371, Florida Statutes, is redesignated as paragraph
 177 (d), and a new paragraph (c) is added to that subsection, to
 178 read:

179 327.371 Human-powered vessels regulated.—

180 (1) A person may operate a human-powered vessel within the
 181 boundaries of the marked channel of the Florida Intracoastal
 182 Waterway as defined in s. 327.02:

183 (c) When participating in interscholastic, intercollegiate,
 184 intramural, or club athletic teams or sports affiliated with an
 185 educational institution identified in s. 1000.21, s. 1002.01(2),
 186 s. 1003.01(2), s. 1005.02(4), or s. 1005.03(1)(d).

187 Section 4. Paragraph (f) is added to subsection (2) of
 188 section 327.4107, Florida Statutes, to read:

189 327.4107 Vessels at risk of becoming derelict on waters of
 190 this state.—

191 (2) An officer of the commission or of a law enforcement
 192 agency specified in s. 327.70 may determine that a vessel is at
 193 risk of becoming derelict if any of the following conditions
 194 exist:

195 (f) The vessel is tied to an unlawful or unpermitted
 196 structure or mooring.

197 Section 5. Paragraph (b) of subsection (1) of section
 198 327.46, Florida Statutes, is amended to read:

199 327.46 Boating-restricted areas.—

200 (1) Boating-restricted areas, including, but not limited
 201 to, restrictions of vessel speeds and vessel traffic, may be
 202 established on the waters of this state for any purpose
 203 necessary to protect the safety of the public if such

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204 restrictions are necessary based on boating accidents,
 205 visibility, hazardous currents or water levels, vessel traffic
 206 congestion, or other navigational hazards or to protect
 207 seagrasses on privately owned submerged lands.

208 (b) Municipalities and counties may establish the following
 209 boating-restricted areas by ordinance, including,
 210 notwithstanding the prohibition in s. 327.60(2)(c), within the
 211 portion of the Florida Intracoastal Waterway within their
 212 jurisdiction:

213 1. An ordinance establishing an idle speed, no wake
 214 boating-restricted area, if the area is:

215 a. Within 500 feet of any boat ramp, hoist, marine railway,
 216 or other launching or landing facility available for use by the
 217 general boating public on waterways more than 300 feet in width
 218 or within 300 feet of any boat ramp, hoist, marine railway, or
 219 other launching or landing facility available for use by the
 220 general boating public on waterways not exceeding 300 feet in
 221 width.

222 b. Within 500 feet of fuel pumps or dispensers at any
 223 marine fueling facility that sells motor fuel to the general
 224 boating public on waterways more than 300 feet in width or
 225 within 300 feet of the fuel pumps or dispensers at any licensed
 226 terminal facility that sells motor fuel to the general boating
 227 public on waterways not exceeding 300 feet in width.

228 c. Inside or within 300 feet of any lock structure.

229 2. An ordinance establishing a slow speed, minimum wake
 230 boating-restricted area if the area is:

231 a. Within 300 feet of any bridge fender system.

232 b. Within 300 feet of any bridge span presenting a vertical

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233 clearance of less than 25 feet or a horizontal clearance of less
234 than 100 feet.

235 c. On a creek, stream, canal, or similar linear waterway if
236 the waterway is less than 75 feet in width from shoreline to
237 shoreline.

238 d. On a lake or pond of less than 10 acres in total surface
239 area.

240 e. Within the boundaries of a permitted public mooring
241 field and a buffer around the mooring field of up to 100 feet.

242 3. An ordinance establishing a vessel-exclusion zone if the
243 area is:

244 a. Designated as a public bathing beach or swim area,
245 except that public bathing beach or swim areas may not be
246 established in whole or in part within the marked channel of the
247 Florida Intracoastal Waterway or within 100 feet of any portion
248 of the marked channel.

249 b. Within 300 feet of a dam, spillway, or flood control
250 structure.

251

252 Vessel exclusion zones created pursuant to this subparagraph
253 must be marked with uniform waterway markers permitted by the
254 commission in accordance with this chapter. Such zones may not
255 be marked by ropes.

256 Section 6. Section 376.15, Florida Statutes, is repealed.

257 Section 7. Subsections (22) and (34) of section 379.101,
258 Florida Statutes, are amended to read:

259 379.101 Definitions.—In construing these statutes, where
260 the context does not clearly indicate otherwise, the word,
261 phrase, or term:

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262 (22) "Marine fish" means any saltwater species of finfish
263 of the classes Agnatha, Chondrichthyes, and Osteichthyes, and
264 marine invertebrates ~~of~~ in the classes Gastropoda ~~and~~, Bivalvia,
265 the subphylum ~~and~~ Crustacea, or the phylum Echinodermata;
266 however, the term ~~but~~ does not include nonliving shells or
267 echinoderms.

268 (34) "Saltwater fish" means:

269 (a) Any saltwater species of finfish of the classes
270 Agnatha, Chondrichthyes, or Osteichthyes and marine
271 invertebrates of the classes Gastropoda ~~and~~, Bivalvia, the
272 subphylum ~~or~~ Crustacea, or ~~of~~ the phylum Echinodermata; however,
273 the term ~~but~~ does not include nonliving shells or echinoderms;
274 and

275 (b) All classes of pisces, shellfish, sponges, and
276 crustaceans ~~crustacea~~ native to salt water.

277 Section 8. Subsection (3) of section 705.101, Florida
278 Statutes, is amended to read:

279 705.101 Definitions.—As used in this chapter:

280 (3) "Abandoned property" means all tangible personal
281 property that does not have an identifiable owner and that has
282 been disposed on public property in a wrecked, inoperative, or
283 partially dismantled condition or has no apparent intrinsic
284 value to the rightful owner. The term includes derelict vessels
285 as defined in s. 823.11 and vessels declared a public nuisance
286 pursuant to s. 327.73(1)(aa).

287 Section 9. Paragraph (a) of subsection (2) and subsection
288 (4) of section 705.103, Florida Statutes, are amended to read:

289 705.103 Procedure for abandoned or lost property.—

290 (2)(a)1. Whenever a law enforcement officer ascertains

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291 that:

292 a. An article of lost or abandoned property other than a
 293 derelict vessel or a vessel declared a public nuisance pursuant
 294 to s. 327.73(1)(aa) is present on public property and is of such
 295 nature that it cannot be easily removed, the officer shall cause
 296 a notice to be placed upon such article in substantially the
 297 following form:

298
 299 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 300 PROPERTY. This property, to wit: ...(setting forth brief
 301 description)... is unlawfully upon public property known as
 302 ...(setting forth brief description of location)... and must be
 303 removed within 5 days; otherwise, it will be removed and
 304 disposed of pursuant to chapter 705, Florida Statutes. The owner
 305 will be liable for the costs of removal, storage, and
 306 publication of notice. Dated this: ...(setting forth the date of
 307 posting of notice)..., signed: ...(setting forth name, title,
 308 address, and telephone number of law enforcement officer)....

309
 310 b. A derelict vessel or a vessel declared a public nuisance
 311 pursuant to s. 327.73(1)(aa) is present on the waters of this
 312 state, the officer shall cause a notice to be placed upon such
 313 vessel in substantially the following form:

314
 315 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 316 VESSEL. This vessel, to wit: ...(setting forth brief
 317 description)... has been determined to be ...(derelict or a
 318 public nuisance)... and is unlawfully upon waters of this state
 319 ...(setting forth brief description of location)... and must be

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320 removed within 21 days; otherwise, it will be removed and
 321 disposed of pursuant to chapter 705, Florida Statutes. The owner
 322 and other interested parties have the right to a hearing to
 323 challenge the determination that this vessel is derelict or
 324 otherwise in violation of the law. Please contact ...(contact
 325 information for person who can arrange for a hearing in
 326 accordance with this section)... The owner or the party
 327 determined to be legally responsible for the vessel being upon
 328 the waters of this state in a derelict condition or as a public
 329 nuisance will be liable for the costs of removal, destruction,
 330 and disposal if this vessel is not removed by the owner. Dated
 331 this: ...(setting forth the date of posting of notice)...,
 332 signed: ...(setting forth name, title, address, and telephone
 333 number of law enforcement officer)....

334
 335 2. The notices required under subparagraph 1. may not be
 336 less than 8 inches by 10 inches and must ~~shall~~ be sufficiently
 337 weatherproof to withstand normal exposure to the elements. In
 338 addition to posting, the law enforcement officer shall make a
 339 reasonable effort to ascertain the name and address of the
 340 owner. If such is reasonably available to the officer, she or he
 341 shall mail a copy of such notice to the owner on or before the
 342 date of posting. If the property is a motor vehicle as defined
 343 in s. 320.01(1) or a vessel as defined in s. 327.02, the law
 344 enforcement agency shall contact the Department of Highway
 345 Safety and Motor Vehicles in order to determine the name and
 346 address of the owner and any person who has filed a lien on the
 347 vehicle or vessel as provided in s. 319.27(2) or (3) or s.
 348 328.15(1). On receipt of this information, the law enforcement

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349 agency shall mail a copy of the notice by certified mail, return
 350 receipt requested, to the owner and to the lienholder, if any,
 351 except that a law enforcement officer who has issued a citation
 352 for a violation of ~~s. 376.15~~ or s. 823.11 to the owner of a
 353 derelict vessel is not required to mail a copy of the notice by
 354 certified mail, return receipt requested, to the owner. For a
 355 derelict vessel or a vessel declared a public nuisance pursuant
 356 to s. 327.73(1)(aa), the mailed notice must inform the owner or
 357 responsible party that he or she has a right to a hearing to
 358 dispute the determination that the vessel is derelict or
 359 otherwise in violation of the law. If a request for a hearing is
 360 made, a state agency shall follow the processes set forth in s.
 361 120.569. Local governmental entities shall follow the processes
 362 set forth in s. 120.569, except that a local judge, magistrate,
 363 or code enforcement officer may be designated to conduct such a
 364 hearing. If, at the end of 5 days after posting the notice in
 365 sub-subparagraph 1.a., or at the end of 21 days after posting
 366 the notice in sub-subparagraph 1.b., and mailing such notice, if
 367 required, the owner or any person interested in the lost or
 368 abandoned article or articles described has not removed the
 369 article or articles from public property or shown reasonable
 370 cause for failure to do so, and, in the case of a derelict
 371 vessel or a vessel declared a public nuisance pursuant to s.
 372 327.73(1)(aa), has not requested a hearing in accordance with
 373 this section, the following shall apply:

374 a. For abandoned property other than a derelict vessel or a
 375 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),
 376 the law enforcement agency may retain any or all of the property
 377 for its own use or for use by the state or unit of local

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378 government, trade such property to another unit of local
 379 government or state agency, donate the property to a charitable
 380 organization, sell the property, or notify the appropriate
 381 refuse removal service.

382 b. For a derelict vessel or a vessel declared a public
 383 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
 384 agency or its designee may:

385 (I) Remove the vessel from the waters of this state and
 386 destroy and dispose of the vessel or authorize another
 387 governmental entity or its designee to do so; or

388 (II) Authorize the vessel's use as an artificial reef in
 389 accordance with s. 379.249 if all necessary federal, state, and
 390 local authorizations are received.

391 A law enforcement agency or its designee may also take action as
 392 described in this sub-subparagraph if, following a hearing
 393 pursuant to this section, the judge, magistrate, administrative
 394 law judge, or hearing officer has determined the vessel to be
 395 derelict as provided in s. 823.11 or otherwise in violation of
 396 the law in accordance with s. 327.73(1)(aa) and a final order
 397 has been entered or the case is otherwise closed.

398 (4) The owner of any abandoned or lost property, or in the
 399 case of a derelict vessel or a vessel declared a public nuisance
 400 pursuant to s. 327.73(1)(aa), the owner or other party
 401 determined to be legally responsible for the vessel being upon
 402 the waters of this state in a derelict condition or as a public
 403 nuisance, who, after notice as provided in this section, does
 404 not remove such property within the specified period ~~is shall be~~
 405 liable to the law enforcement agency, other governmental entity,
 406

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407 or the agency's or entity's designee for all costs of removal,
 408 storage, ~~and~~ destruction, and disposal of such property, less
 409 any salvage value obtained by disposal of the property. Upon
 410 final disposition of the property, the law enforcement officer
 411 or representative of the law enforcement agency or other
 412 governmental entity shall notify the owner or in the case of a
 413 derelict vessel or vessel declared a public nuisance pursuant to
 414 s. 327.73(1)(aa), the owner or other party determined to be
 415 legally responsible, if known, of the amount owed. In the case
 416 of an abandoned vessel or motor vehicle, any person who neglects
 417 or refuses to pay such amount is not entitled to be issued a
 418 certificate of registration for such vessel or motor vehicle, or
 419 any other vessel or motor vehicle, until such costs have been
 420 paid. A person who has neglected or refused to pay all costs of
 421 removal, storage, disposal, and destruction of a vessel or motor
 422 vehicle as provided in this section, after having been provided
 423 written notice via certified mail that such costs are owed, and
 424 who applies for and is issued a registration for a vessel or
 425 motor vehicle before such costs have been paid in full commits a
 426 misdemeanor of the first degree, punishable as provided in s.
 427 775.082 or s. 775.083. The law enforcement officer or
 428 representative of the law enforcement agency or other
 429 governmental entity shall supply the Department of Highway
 430 Safety and Motor Vehicles with a list of persons whose vessel
 431 registration privileges and motor vehicle privileges have been
 432 revoked under this subsection. The department or a person acting
 433 as an agent of the department may not issue a certificate of
 434 registration to a person whose vessel and motor vehicle
 435 registration privileges have been revoked, as provided by this

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436 subsection, until such costs have been paid.
 437 Section 10. Effective July 1, 2023, paragraph (a) of
 438 subsection (2) of section 705.103, Florida Statutes, as amended
 439 by chapters 2019-76 and 2021-184, Laws of Florida, is amended to
 440 read:
 441 705.103 Procedure for abandoned or lost property.—
 442 (2)(a)1. Whenever a law enforcement officer ascertains
 443 that:
 444 a. An article of lost or abandoned property other than a
 445 derelict vessel or a vessel declared a public nuisance pursuant
 446 to s. 327.73(1)(aa) is present on public property and is of such
 447 nature that it cannot be easily removed, the officer shall cause
 448 a notice to be placed upon such article in substantially the
 449 following form:
 450
 451 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 452 PROPERTY. This property, to wit: ...(setting forth brief
 453 description)... is unlawfully upon public property known as
 454 ...(setting forth brief description of location)... and must be
 455 removed within 5 days; otherwise, it will be removed and
 456 disposed of pursuant to chapter 705, Florida Statutes. The owner
 457 will be liable for the costs of removal, storage, and
 458 publication of notice. Dated this: ...(setting forth the date of
 459 posting of notice)..., signed: ...(setting forth name, title,
 460 address, and telephone number of law enforcement officer)....
 461
 462 b. A derelict vessel or a vessel declared a public nuisance
 463 pursuant to s. 327.73(1)(aa) is present on the waters of this
 464 state, the officer shall cause a notice to be placed upon such

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465 vessel in substantially the following form:

466
 467 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 468 VESSEL. This vessel, to wit: ...(setting forth brief description
 469 of location)... has been determined to be ...(derelict or a
 470 public nuisance)... and is unlawfully upon the waters of this
 471 state ...(setting forth brief description of location)... and
 472 must be removed within 21 days; otherwise, it will be removed
 473 and disposed of pursuant to chapter 705, Florida Statutes. The
 474 owner and other interested parties have the right to a hearing
 475 to challenge the determination that this vessel is derelict or
 476 otherwise in violation of the law. Please contact ...(contact
 477 information for person who can arrange for a hearing in
 478 accordance with this section)... The owner or the party
 479 determined to be legally responsible for the vessel being upon
 480 the waters of this state in a derelict condition or as a public
 481 nuisance will be liable for the costs of removal, destruction,
 482 and disposal if this vessel is not removed by the owner. Dated
 483 this: ...(setting forth the date of posting of notice)...,
 484 signed: ...(setting forth name, title, address, and telephone
 485 number of law enforcement officer)....

486
 487 2. The notices required under subparagraph 1. may not be
 488 less than 8 inches by 10 inches and must ~~shall~~ be sufficiently
 489 weatherproof to withstand normal exposure to the elements. In
 490 addition to posting, the law enforcement officer shall make a
 491 reasonable effort to ascertain the name and address of the
 492 owner. If such is reasonably available to the officer, she or he
 493 shall mail a copy of such notice to the owner on or before the

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494 date of posting. If the property is a motor vehicle as defined
 495 in s. 320.01(1) or a vessel as defined in s. 327.02, the law
 496 enforcement agency shall contact the Department of Highway
 497 Safety and Motor Vehicles in order to determine the name and
 498 address of the owner and any person who has filed a lien on the
 499 vehicle or vessel as provided in s. 319.27(2) or (3) or s.
 500 328.15. On receipt of this information, the law enforcement
 501 agency shall mail a copy of the notice by certified mail, return
 502 receipt requested, to the owner and to the lienholder, if any,
 503 except that a law enforcement officer who has issued a citation
 504 for a violation of ~~s. 376.15~~ s. 823.11 to the owner of a
 505 derelict vessel is not required to mail a copy of the notice by
 506 certified mail, return receipt requested, to the owner. For a
 507 derelict vessel or a vessel declared a public nuisance pursuant
 508 to s. 327.73(1)(aa), the mailed notice must inform the owner or
 509 responsible party that he or she has a right to a hearing to
 510 dispute the determination that the vessel is derelict or
 511 otherwise in violation of the law. If a request for a hearing is
 512 made, a state agency shall follow the processes as set forth in
 513 s. 120.569. Local governmental entities shall follow the
 514 processes set forth in s. 120.569, except that a local judge,
 515 magistrate, or code enforcement officer may be designated to
 516 conduct such a hearing. If, at the end of 5 days after posting
 517 the notice in sub-subparagraph 1.a., or at the end of 21 days
 518 after posting the notice in sub-subparagraph 1.b., and mailing
 519 such notice, if required, the owner or any person interested in
 520 the lost or abandoned article or articles described has not
 521 removed the article or articles from public property or shown
 522 reasonable cause for failure to do so, and, in the case of a

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523 derelict vessel or a vessel declared a public nuisance pursuant
 524 to s. 327.73(1)(aa), has not requested a hearing in accordance
 525 with this section, the following shall apply:

526 a. For abandoned property other than a derelict vessel or a
 527 vessel declared a public nuisance pursuant to s. 327.73(1)(aa),
 528 the law enforcement agency may retain any or all of the property
 529 for its own use or for use by the state or unit of local
 530 government, trade such property to another unit of local
 531 government or state agency, donate the property to a charitable
 532 organization, sell the property, or notify the appropriate
 533 refuse removal service.

534 b. For a derelict vessel or a vessel declared a public
 535 nuisance pursuant to s. 327.73(1)(aa), the law enforcement
 536 agency or its designee may:

537 (I) Remove the vessel from the waters of this state and
 538 destroy and dispose of the vessel or authorize another
 539 governmental entity or its designee to do so; or

540 (II) Authorize the vessel's use as an artificial reef in
 541 accordance with s. 379.249 if all necessary federal, state, and
 542 local authorizations are received.

543
 544 A law enforcement agency or its designee may also take action as
 545 described in this sub-subparagraph if, following a hearing
 546 pursuant to this section, the judge, magistrate, administrative
 547 law judge, or hearing officer has determined the vessel to be
 548 derelict as provided in s. 823.11 or otherwise in violation of
 549 the law in accordance with s. 327.73(1)(aa) and a final order
 550 has been entered or the case is otherwise closed.

551 Section 11. Present subsections (4), (5), and (6) of

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552 section 823.11, Florida Statutes, are redesignated as
 553 subsections (5), (6), and (7), respectively, a new subsection
 554 (4) is added to that section, and subsection (1), paragraph (c)
 555 of subsection (2), subsection (3), and present subsections (5)
 556 and (6) of that section are amended, to read:

557 823.11 Derelict vessels; relocation or removal; penalty.—

558 (1) As used in this section ~~and s. 376.15~~, the term:

559 (a) "Commission" means the Fish and Wildlife Conservation
 560 Commission.

561 (b) "Derelict vessel" means a vessel, as defined in s.
 562 327.02, that is:

563 1. In a wrecked, junked, or substantially dismantled
 564 condition upon any waters of this state.

565 a. A vessel is wrecked if it is sunken or sinking; aground
 566 without the ability to extricate itself absent mechanical
 567 assistance; or remaining after a marine casualty, including, but
 568 not limited to, a boating accident, extreme weather, or a fire.

569 b. A vessel is junked if it has been substantially stripped
 570 of vessel components, if vessel components have substantially
 571 degraded or been destroyed, or if the vessel has been discarded
 572 by the owner or operator. Attaching an outboard motor to a
 573 vessel that is otherwise junked will not cause the vessel to no
 574 longer be junked if such motor is not an effective means of
 575 propulsion as required by s. 327.4107(2)(e) and associated
 576 rules.

577 c. A vessel is substantially dismantled if at least two of
 578 the three following vessel systems or components are missing,
 579 compromised, incomplete, inoperable, or broken:

580 (I) The steering system;

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581 (II) The propulsion system; or
 582 (III) The exterior hull integrity.

583
 584 Attaching an outboard motor to a vessel that is otherwise
 585 substantially dismantled will not cause the vessel to no longer
 586 be substantially dismantled if such motor is not an effective
 587 means of propulsion as required by s. 327.4107(2)(e) and
 588 associated rules.

589 2. At a port in this state without the consent of the
 590 agency having jurisdiction thereof.

591 3. Docked, grounded, or beached upon the property of
 592 another without the consent of the owner of the property.

593 (c) "Gross negligence" means conduct so reckless or wanting
 594 in care that it constitutes a conscious disregard or
 595 indifference to the safety of the property exposed to such
 596 conduct.

597 (d) "Willful misconduct" means conduct evidencing
 598 carelessness or negligence of such a degree or recurrence as to
 599 manifest culpability, wrongful intent, or evil design or to show
 600 an intentional and substantial disregard of the interests of the
 601 vessel owner.

602 (2)

603 (c) The additional time provided in subparagraph (b)2. for
 604 an owner or responsible party to remove a derelict vessel from
 605 the waters of this state or to repair and remedy the vessel's
 606 derelict condition ~~This subsection~~ does not apply to a vessel
 607 that was derelict upon the waters of this state before the
 608 stated accident or event.

609 (3) The commission, an officer of the commission, or a law

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610 enforcement agency or officer specified in s. 327.70 may
 611 relocate, remove, and store, ~~destroy, or dispose of~~ or cause to
 612 be relocated, removed, and stored, ~~destroyed, or disposed of~~ a
 613 derelict vessel from waters of this state as defined in s.
 614 327.02 if the derelict vessel obstructs or threatens to obstruct
 615 navigation or in any way constitutes a danger to the
 616 environment, property, or persons. The commission, an officer of
 617 the commission, or any other law enforcement agency or officer
 618 acting pursuant to this subsection to relocate, remove, and
 619 store, ~~destroy, dispose of~~ or cause to be relocated, removed,
 620 and stored, ~~destroyed, or disposed of~~ a derelict vessel from
 621 waters of this state shall be held harmless for all damages to
 622 the derelict vessel resulting from such action unless the damage
 623 results from gross negligence or willful misconduct.

624 (a) ~~Removal of derelict vessels under this subsection may~~
 625 ~~be funded by grants provided in ss. 206.606 and 376.15. The~~
 626 ~~commission shall implement a plan for the procurement of any~~
 627 ~~available federal disaster funds and use such funds for the~~
 628 ~~removal of derelict vessels.~~

629 ~~(b)~~ All costs, including costs owed to a third party,
 630 incurred by the commission, another law enforcement agency, or a
 631 governmental subdivision, when the governmental subdivision has
 632 received authorization from a law enforcement officer or agency,
 633 in the relocation, removal, storage, destruction, or disposal of
 634 a derelict vessel are recoverable against the vessel owner or
 635 the party determined to be legally responsible for the vessel
 636 being upon the waters of this state in a derelict condition. The
 637 Department of Legal Affairs shall represent the commission in
 638 actions to recover such costs. As provided in s. 705.103(4), a

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639 person who neglects or refuses to pay such costs may not be
 640 issued a certificate of registration for such vessel or for any
 641 other vessel or motor vehicle until such costs have been paid. A
 642 person who has neglected or refused to pay all costs of removal,
 643 storage, destruction, or disposal of a derelict vessel as
 644 provided in this section, after having been provided written
 645 notice via certified mail that such costs are owed, and who
 646 applies for and is issued a registration for a vessel or motor
 647 vehicle before such costs have been paid in full commits a
 648 misdemeanor of the first degree, punishable as provided in s.
 649 775.082 or s. 775.083.

650 (b)(e) A contractor performing such activities at the
 651 direction of the commission, an officer of the commission, a law
 652 enforcement agency or officer, or a governmental subdivision,
 653 when the governmental subdivision has received authorization for
 654 the relocation or removal from a law enforcement officer or
 655 agency, pursuant to this section must be licensed in accordance
 656 with applicable United States Coast Guard regulations where
 657 required; obtain and carry in full force and effect a policy
 658 from a licensed insurance carrier in this state to insure
 659 against any accident, loss, injury, property damage, or other
 660 casualty caused by or resulting from the contractor's actions;
 661 and be properly equipped to perform the services to be provided.

662 (4)(a) Removal of derelict vessels under this subsection
 663 may be funded by grants provided in s. 206.606.

664 (b) The commission may implement a plan for the procurement
 665 of any available federal disaster funds and use such funds for
 666 the removal of derelict vessels.

667 (c) The commission may establish a program to provide

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668 grants to local governments for the removal, storage,
 669 destruction, and disposal of derelict vessels from the waters of
 670 this state. This grant funding may also be used for the removal,
 671 storage, destruction, and disposal of vessels declared a public
 672 nuisance pursuant to s. 327.73(1)(aa). The program must be
 673 funded from the Marine Resources Conservation Trust Fund or the
 674 Florida Coastal Protection Trust Fund. Notwithstanding s.
 675 216.181(11), funds available for these grants may only be
 676 authorized by appropriations acts of the Legislature. In a given
 677 fiscal year, if all funds appropriated pursuant to this
 678 paragraph are not requested by and granted to local governments
 679 for the removal, storage, destruction, and disposal of derelict
 680 vessels or vessels declared a public nuisance pursuant to s.
 681 327.73(1)(aa) by the end of the third quarter, the Fish and
 682 Wildlife Conservation Commission may use the remainder of the
 683 funds to remove, store, destroy, and dispose of, or to pay
 684 private contractors to remove, store, destroy, and dispose of,
 685 derelict vessels or vessels declared a public nuisance pursuant
 686 to s. 327.73(1)(aa). The commission shall adopt by rule
 687 procedures for local governments to submit a grant application
 688 and criteria for allocating available funds. Such criteria must
 689 include, at a minimum, the following:

690 1. The number of derelict vessels within the jurisdiction
 691 of the applicant.

692 2. The threat posed by such vessels to public health or
 693 safety, the environment, navigation, or the aesthetic condition
 694 of the general vicinity.

695 3. The degree of commitment of the local government to
 696 maintain waters free of abandoned and derelict vessels and to

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697 seek legal action against those who abandon vessels in the
 698 waters of this state as defined in s. 327.02.

699 ~~(6)(5)~~ A person, firm, or corporation violating this
 700 section commits a misdemeanor of the first degree and shall be
 701 punished as provided by law. A conviction under this section
 702 does not bar the assessment and collection of a the civil
 703 penalty ~~provided in s. 376.16 for violation of s. 376.15~~. The
 704 court having jurisdiction over the criminal offense,
 705 notwithstanding any jurisdictional limitations on the amount in
 706 controversy, may order the imposition of such civil penalty in
 707 addition to any sentence imposed for the first criminal offense.

708 ~~(7)(6)~~ If an owner or a responsible party of a vessel
 709 determined to be derelict through an administrative or criminal
 710 proceeding has been charged by an officer of the commission or
 711 any law enforcement agency or officer as specified in s. 327.70
 712 under subsection (5) for a violation of subsection (2) ~~or a~~
 713 ~~violation of s. 376.15(2)~~, a person may not reside or dwell on
 714 such vessel until the vessel is removed from the waters of the
 715 state permanently or returned to the waters of the state in a
 716 condition that is no longer derelict.

717 Section 12. Paragraph (p) of subsection (4) of section
 718 934.50, Florida Statutes, is amended to read:

719 934.50 Searches and seizure using a drone.—

720 (4) EXCEPTIONS.—This section does not prohibit the use of a
 721 drone:

722 (p) By an ~~a non-law enforcement~~ employee of the Fish and
 723 Wildlife Conservation Commission or of the Florida Forest
 724 Service for the purposes of managing and eradicating invasive
 725 exotic plants or animals on public lands and suppressing and

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726 mitigating wildfire threats.

727 Section 13. Section 327.04, Florida Statutes, is amended to
 728 read:

729 327.04 Rules.—The commission may adopt rules pursuant to
 730 ss. 120.536(1) and 120.54 to implement this chapter, the
 731 provisions of chapter 705 relating to vessels, and s. 823.11
 732 ~~and 823.11~~ conferring powers or duties upon it.

733 Section 14. Subsection (4) of section 328.09, Florida
 734 Statutes, is amended to read:

735 328.09 Refusal to issue and authority to cancel a
 736 certificate of title or registration.—

737 (4) The department may not issue a certificate of title to
 738 an applicant for a vessel that has been deemed derelict or a
 739 public nuisance by a law enforcement officer under s.
 740 327.73(1)(aa) or s. 823.11 ~~or s. 823.11~~. A law enforcement
 741 officer must inform the department in writing, which may be
 742 provided by facsimile, e-mail ~~electronic mail~~, or other
 743 electronic means, of the vessel's derelict or public nuisance
 744 status and supply the department with the vessel title number or
 745 vessel identification number. The department may issue a
 746 certificate of title once a law enforcement officer has verified
 747 in writing, which may be provided by facsimile, e-mail
 748 ~~electronic mail~~, or other electronic means, that the vessel is
 749 no longer a derelict or public nuisance vessel.

750 Section 15. Section 25 of chapter 2021-184, Laws of
 751 Florida, is repealed.

752 Section 16. Paragraph (c) of subsection (15) of section
 753 328.72, Florida Statutes, is amended to read:

754 328.72 Classification; registration; fees and charges;

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755 surcharge; disposition of fees; fines; marine turtle stickers.-
 756 (15) DISTRIBUTION OF FEES.—Except as provided in this
 757 subsection, moneys designated for the use of the counties, as
 758 specified in subsection (1), shall be distributed by the tax
 759 collector to the board of county commissioners for use only as
 760 provided in this section. Such moneys to be returned to the
 761 counties are for the sole purposes of providing, maintaining, or
 762 operating recreational channel marking and other uniform
 763 waterway markers, public boat ramps, lifts, and hoists, marine
 764 railways, boat piers, docks, mooring buoys, and other public
 765 launching facilities; and removing derelict vessels, debris that
 766 specifically impedes boat access, not including the dredging of
 767 channels, and vessels and floating structures deemed a hazard to
 768 public safety and health for failure to comply with s. 327.53.
 769 Counties shall demonstrate through an annual detailed accounting
 770 report of vessel registration revenues that the registration
 771 fees were spent as provided in this subsection. This report
 772 shall be provided to the Fish and Wildlife Conservation
 773 Commission no later than November 1 of each year. If, before
 774 January 1 of each calendar year, the accounting report meeting
 775 the prescribed criteria has still not been provided to the
 776 commission, the tax collector of that county may not distribute
 777 the moneys designated for the use of counties, as specified in
 778 subsection (1), to the board of county commissioners but shall,
 779 for the next calendar year, remit such moneys to the state for
 780 deposit into the Marine Resources Conservation Trust Fund. The
 781 commission shall return those moneys to the county if the county
 782 fully complies with this section within that calendar year. If
 783 the county does not fully comply with this section within that

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CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01302-22

2022494c1

784 calendar year, the moneys shall remain within the Marine
 785 Resources Trust Fund and may be appropriated for the purposes
 786 specified in this subsection.
 787 (c) From the vessel registration fees designated for use by
 788 the counties in subsection (1), the following amounts shall be
 789 remitted to the state for deposit into the Marine Resources
 790 Conservation Trust Fund to fund derelict vessel removal grants,
 791 as appropriated by the Legislature pursuant to s. 823.11(4)(c)
 792 ~~s. 376.15~~:
 793 1. Class A-2: \$0.25 for each 12-month period registered.
 794 2. Class 1: \$2.06 for each 12-month period registered.
 795 3. Class 2: \$9.26 for each 12-month period registered.
 796 4. Class 3: \$16.45 for each 12-month period registered.
 797 5. Class 4: \$20.06 for each 12-month period registered.
 798 6. Class 5: \$25.46 for each 12-month period registered.
 799 Section 17. Paragraph (h) of subsection (6) of section
 800 376.11, Florida Statutes, is amended to read:
 801 376.11 Florida Coastal Protection Trust Fund.—
 802 (6) Moneys in the Florida Coastal Protection Trust Fund may
 803 be used for the following purposes:
 804 (h) The funding of a grant program to local governments,
 805 pursuant to s. 823.11(4)(c) ~~s. 376.15(3)(d) and (e)~~, for the
 806 removal of derelict and public nuisance vessels from the public
 807 waters of the state.
 808 Section 18. For the purpose of incorporating the amendment
 809 made by this act to section 327.371, Florida Statutes, in a
 810 reference thereto, paragraph (dd) of subsection (1) of section
 811 327.73, Florida Statutes, is reenacted to read:
 812 327.73 Noncriminal infractions.—

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592-01302-22

2022494c1

813 (1) Violations of the following provisions of the vessel
814 laws of this state are noncriminal infractions:

815 (dd) Section 327.371, relating to the regulation of human-
816 powered vessels.

817
818 Any person cited for a violation of any provision of this
819 subsection shall be deemed to be charged with a noncriminal
820 infraction, shall be cited for such an infraction, and shall be
821 cited to appear before the county court. The civil penalty for
822 any such infraction is \$50, except as otherwise provided in this
823 section. Any person who fails to appear or otherwise properly
824 respond to a uniform boating citation shall, in addition to the
825 charge relating to the violation of the boating laws of this
826 state, be charged with the offense of failing to respond to such
827 citation and, upon conviction, be guilty of a misdemeanor of the
828 second degree, punishable as provided in s. 775.082 or s.
829 775.083. A written warning to this effect shall be provided at
830 the time such uniform boating citation is issued.

831 Section 19. For the purpose of incorporating the amendment
832 made by this act to section 379.101, Florida Statutes, in a
833 reference thereto, subsection (4) of section 125.01, Florida
834 Statutes, is reenacted to read:

835 125.01 Powers and duties.—

836 (4) The legislative and governing body of a county shall
837 not have the power to regulate the taking or possession of
838 saltwater fish, as defined in s. 379.101, with respect to the
839 method of taking, size, number, season, or species. However,
840 this subsection does not prohibit a county from prohibiting, for
841 reasons of protecting the public health, safety, or welfare,

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592-01302-22

2022494c1

842 saltwater fishing from real property owned by that county, nor
843 does it prohibit the imposition of excise taxes by county
844 ordinance.

845 Section 20. For the purpose of incorporating the amendment
846 made by this act to section 379.101, Florida Statutes, in a
847 reference thereto, section 379.2412, Florida Statutes, is
848 reenacted to read:

849 379.2412 State preemption of power to regulate.—The power
850 to regulate the taking or possession of saltwater fish, as
851 defined in s. 379.101, is expressly reserved to the state. This
852 section does not prohibit a local government from prohibiting,
853 for reasons of protecting the public health, safety, or welfare,
854 saltwater fishing from real property owned by that local
855 government.

856 Section 21. Except as otherwise expressly provided in this
857 act, this act shall take effect July 1, 2022.

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The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: December 14, 2021

I respectfully request that **Senate Bill #494**, relating to The Florida Fish and Wildlife Conservation Commission, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in cursive script that reads "Travis Hutson".

Senator Travis Hutson
Florida Senate, District 7

The Florida Senate

APPEARANCE RECORD

494 (as amended)

1/12/22

Meeting Date

Bill Number or Topic

App. Sub. on Ag., Environment, & General Govt. Committee

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

Amendment Barcode (if applicable)

Name Jessica Crawford

Phone 850-487-3795

Address 1020 S. Meridian St. Street

Email Jessica.Crawford@myfloridaclear.com

Tallahassee City

FL State

32399 Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

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

Florida Fish & Wildlife Conservation Commission

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/12/22
Meeting Date

494
Bill Number (if applicable)

Topic FWC BOATING SAFETY

Amendment Barcode (if applicable)

Name JEFFREY STARZKY

Job Title CEO CAPITOL ALLIANCE GROUP

Address 100 E. COLLEGE AVE

Phone 850 224 1000

Street DH

City FL State FL Zip 32201

Email JEFFREYSTARZKY@GMAIL.COM

Speaking: For Against Information

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

Representing City of St Petersburg

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate

APPEARANCE RECORD

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

1/12/22

Meeting Date

S 494

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name MSTA CALDER

Phone 850-228-5900

Address 3740 Ravine Dr.

Email metaoalder@gmail.com

Street

TALLAHASSEE FL

32312

City

State

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

LEAGUE OF WOMEN VOTERS FLORIDA

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Appropriations Subcommittee on Agriculture, Environment, and General Government

BILL: PCS/CS/SB 856 (356200)

INTRODUCER: Appropriations Subcommittee on Agriculture, Environment, and General Government; Environment and Natural Resources Committee; and Senator Brodeur

SUBJECT: Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems

DATE: January 14, 2022 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|------------|--------------------------|
| 1. | <u>Collazo</u> | <u>Rogers</u> | <u>EN</u> | Fav/CS |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEG</u> | Recommend: Fav/CS |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 856 authorizes the owner (or an authorized contractor) of an onsite sewage treatment and disposal system (OSTDS) to hire a private provider to inspect the OSTDS. The owner or contractor would pay the private provider directly, so long as the owner or contractor has a written contract with the private provider for the inspection.

The bill prohibits the Florida Department of Environmental Protection (DEP) from charging an inspection fee for an OSTDS inspection performed by a private provider under these circumstances.

The bill provides that OSTDS inspections may only be performed by a private provider (or an authorized representative) and identifies the qualifications to be a private provider.

The bill requires an owner or an authorized contractor using a private provider for an OSTDS inspection to provide notice to the DEP within certain timeframes before the first scheduled inspection by the DEP. It also prescribes what information the notice must include, including information regarding the private provider and an owner acknowledgment in a form specified in the bill.

The bill authorizes the DEP to audit up to 25 percent of private providers each year to ensure the accurate performance of OSTDS inspections by a private provider, this provision does not,

however, prevent the DEP from investigating complaints. Work on a building, a structure, or an OSTDS may proceed after inspection and approval by a private provider if the owner or authorized contractor has given notice of the inspection as described in the bill and, subsequent to such inspection and approval, such work may not be delayed for completion of an inspection audit by the DEP.

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

The bill may result in reduced revenues to the DEP due to reduced inspection fees that would now be collected by private providers.

II. Present Situation:

Onsite Sewage Treatment and Disposal Systems

OSTDSs, commonly referred to as “septic systems,” generally consist of two basic parts: the septic tank and the drainfield.¹ Waste from toilets, sinks, washing machines, and showers flows through a pipe into the septic tank, where anaerobic bacteria break the solids into a liquid form. The liquid portion of the wastewater flows into the drainfield, which is generally a series of perforated pipes or panels surrounded by lightweight materials such as gravel or Styrofoam. The drainfield provides a secondary treatment where aerobic bacteria continue deactivating the germs. The drainfield also provides filtration of the wastewater, as gravity draws the water down through the soil layers.²

¹ Department of Health (DOH), *Septic System Information and Care*, <http://columbia.floridahealth.gov/programs-and-services/environmental-health/onsite-sewage-disposal/septic-information-and-care.html> (last visited Nov. 18, 2021); Environmental Protection Agency, *Types of Septic Systems*, <https://www.epa.gov/septic/types-septic-systems> (last visited Nov. 18, 2021) (showing the graphic provided in the analysis).

² *Id.*



There are an estimated 2.6 million OSTDSs in Florida, providing wastewater disposal for 30 percent of the state's population.³ In Florida, development in some areas is dependent on OSTDSs due to the cost and time it takes to install central sewer systems.⁴ For example, in rural areas and low-density developments, central sewer systems are not cost-effective. Less than one percent of OSTDSs in Florida are actively managed under operating permits and maintenance agreements.⁵ The remainder of systems are generally serviced only when they fail, often leading to costly repairs that could have been avoided with routine maintenance.⁶

The Clean Waterways Act transferred the Onsite Sewage Program from the Department of Health (DOH) to the DEP, effective July 1, 2021.⁷ Accordingly, as of July 1, 2021, the DEP has assumed responsibility for conducting inspections associated with the construction, installation, maintenance, modification, abandonment, operation, use, or repair of OSTDSs for residences and certain other establishments.⁸

³ DOH, *Onsite Sewage*, <http://www.floridahealth.gov/environmental-health/onsite-sewage/index.html> (last visited Nov. 18, 2021).

⁴ DOH, *Report on Range of Costs to Implement a Mandatory Statewide 5-Year Septic Tank Inspection Program*, § 1.0 (Oct. 1, 2008), available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/research/documents/rrac/2008-11-06.pdf> (last visited Nov. 18, 2021). The report begins on page 56 of the PDF.

⁵ *Id.*

⁶ *Id.*

⁷ Chapter 2020-150, s. 2, Laws of Fla.

⁸ Section 381.0065(3)(b), F.S. Although the Department of Environmental Protection (DEP) is now responsible for the Onsite Sewage Program, the DEP and the DOH have agreed that county health departments should continue to have a role in the inspection, permitting, and tracking of OSTDSs, under the direction of DEP. See DOH and DEP, *Interagency Agreement between Florida Department of Environmental Protection and Florida Department of Health in Compliance with Florida's Clean Waterways Act for Transfer of the Onsite Sewage Program*, available at <http://www.floridahealth.gov/environmental-health/onsite-sewage/documents/interagency-agreement-between-fdoh-fdep-onsite-signed-06302021.pdf> (last visited Nov. 18, 2021).

DEP Inspections for Construction, Alteration, and Abandonment of OSTDSs

Regarding the installation or construction of OSTDSs, the DEP's Onsite Sewage Program regulations provide that, before covering an OSTDS with earth and before placing an OSTDS into service, a person installing or constructing any portion of an OSTDS must notify the DEP of the completion of construction activities and must have the system inspected by the DEP for compliance with applicable regulatory requirements, except for repair installations, which may be inspected by either the DEP or a master septic tank contractor under certain conditions.⁹

If an owner or an owner's authorized representative is proposing alterations to an existing and prior-approved OSTDS that will modify its sewage characteristics or increase sewage flow, the owner or authorized representative is required to apply for and receive reapproval of the OSTDS by the DEP prior to any alteration of the OSTDS. The owner or authorized representative must first have all system tanks pumped by a permitted septage disposal service, then have either a registered septic tank contractor, state-licensed plumber, person certified under s. 381.0101, F.S., or a master tank contractor determine the tank volume and perform a visual tank inspection to detect any observable defects or leaks in the tank. The person performing the inspection must submit the results of the inspection to the DEP.¹⁰

Whenever an owner or the owner's authorized representative wishes to abandon an OSTDS, the owner or the representative must apply for a permit from the DEP to abandon the OSTDS and submit the required fee.¹¹ Upon receiving a permit, the tank must be pumped out by a permitted septage disposal company, unless the tank is already empty and dry, in which case a written statement to that effect must be provided to the DEP. The bottom of the tank must then be opened or ruptured, or the entire tank collapsed, so as to prevent the tank from retaining water. The tank must also be filled with clean sand or other suitable material and completely covered with soil. The DEP or the local utility or plumbing authority performing the system abandonment must then perform an inspection of the system abandonment.¹²

The DEP maintains a schedule of fees, including inspection fees, for the services it provides.¹³

Periodic Evaluation and Assessment of Onsite Sewage Treatment and Disposal Systems

A county or municipality that contains a first magnitude spring must, and any county or municipality that does not contain a first magnitude spring may, develop and adopt by local ordinance an OSTDS evaluation and assessment program meeting the requirements of state law.¹⁴ There are exceptions. If a county or municipality that contains a first magnitude spring has already adopted an OSTDS evaluation and assessment program, and it meets the grandfathering provisions of the statute, it is exempt from the requirement.¹⁵ The governing body of a local

⁹ Fla. Admin. Code R. 62-6.003(2), (3).

¹⁰ Fla. Admin. Code R. 62-6.001(4), (4)(b), (5).

¹¹ Fla. Admin. Code R. 62-6.011(2)(a). However, permitting is not necessary if a local utility or local plumbing authority performs a system abandonment program that includes completion of the other steps identified in the rule. Fla. Admin. Code R. 62-6.011(3).

¹² Fla. Admin. Code R. 62-6.011(2).

¹³ Fla. Admin. Code R. 62-6.030.

¹⁴ Section 381.00651(2), F.S.

¹⁵ *Id.*

government can also choose to opt out of the requirement by adopting a resolution by a 60 percent vote that indicates an intent to not adopt an OSTDS evaluation and assessment program.¹⁶

If adopted, the OSTDS evaluation and assessment program requires that each OSTDS within all or part of the county's or municipality's jurisdiction be evaluated once every five years to assess the fundamental operational condition of the system and to identify system failures.¹⁷ Evaluations must be performed by a qualified contractor, who may be a septic tank contractor or master septic tank contractor registered under state law; a professional engineer having wastewater treatment system experience and licensed under state law; or an environmental health professional certified under state law in the area of OSTDS evaluation.¹⁸ Evaluations and pump-outs may also be performed by an authorized employee working under the supervision of one of these individuals.¹⁹

The county or municipality adopting the OSTDS evaluation and assessment program may develop a reasonable fee schedule in consultation with the county health department. Fees are assessed to the system owner during the inspection and separately identified on the invoice of the qualified contractor. Fees are then remitted by the qualified contractor to the county health department.²⁰

III. Effect of Proposed Changes:

Section 1 amends s. 381.0065, F.S., to authorize – notwithstanding any other law, ordinance, or policy – the owner of an OSTDS, or a contractor upon the owner's written authorization, to hire a private provider to perform an inspection of the owner's OSTDS and pay the private provider directly if the inspection is the subject of a written contract between the private provider, or the private provider's firm, and the owner or the authorized contractor.

The bill prohibits the DEP from charging an inspection fee for an OSTDS inspection performed by a private provider under written contract with an owner or authorized contractor in accordance with the bill and DEP rules.

The bill provides that OSTDS inspections may only be performed by a private provider, or an authorized representative of a private provider, who is:

- An environmental health professional certified in accordance with state law;
- A master septic tank contractor registered in accordance with state law;
- A professional engineer licensed in accordance with state law, who has passed all parts of the Onsite Sewage Treatment Disposal System Accelerated Certification Training; or
- A person who is working under the supervision of a licensed professional engineer and who has passed all parts of the Onsite Sewage Treatment Disposal System Accelerated Certification Training.

¹⁶ *Id.*

¹⁷ Section 381.00651(6)(a), F.S.

¹⁸ Section 381.00651(6)(b), F.S.

¹⁹ *Id.*

²⁰ Section 381.00651(8), F.S.

The bill requires an owner or an authorized contractor using a private provider for an OSTDS inspection to provide notice to the DEP at the time of the permit application or by 2 p.m. local time, two business days before the first scheduled inspection by the DEP. The notice must include all of the following information:

- For each private provider or authorized representative performing the inspection:
 - Name and firm name, address, telephone number, and e-mail address;
 - Professional license or certification number; and
 - Qualification statement or resume.
- An acknowledgment from the owner in substantially the following form:

“I have elected to use one or more private providers to perform an onsite sewage treatment and disposal system inspection that is the subject of the enclosed permit application. I understand that the department may not perform the required onsite sewage treatment and disposal system inspection to determine compliance with the applicable codes, except to the extent authorized by law. Instead, the inspection will be performed by the licensed or certified private provider identified in the application. By executing this form, I acknowledge that I have made inquiry regarding the competence of the licensed or certified private provider and am satisfied that my interests are adequately protected. I agree to indemnify, defend, and hold harmless the department from any claims arising from my use of the licensed or certified private provider identified in the application to perform the onsite sewage treatment and disposal system inspection that is the subject of the enclosed permit application. Additionally, I understand that in the event the onsite sewage treatment and disposal system does not comply with applicable rules and law, I will be responsible for remediating the system in accordance with existing law.”

Moreover, if an owner or authorized contractor makes any changes to the listed private provider or the service to be performed by the private provider, the owner or the authorized contractor must update the notice to reflect the change within one business day after the change. The change of an authorized representative identified in the permit application does not require a revision of the permit and the DEP may not charge a fee for making such change.

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

The bill requires that the DEP adopt rules to implement the bill and that the rulemaking process shall be initiated by August 31, 2022.

Section 2 amends the definition of “qualified contractors” in s. 381.00651(6)(b), F.S., to provide that qualified contractors may be private providers or authorized representatives of private providers as described in the bill.

The bill also amends s. 381.00651(8), F.S., to clarify that nothing in that subsection, which authorizes counties and municipalities (in consultation with the county health department) to charge fees for required springs protection/voluntarily-adopted OSTDS inspection programs, may be construed as authorizing the DEP to charge an inspection fee for an OSTDS inspection performed by a private provider in accordance with the bill.

Section 3 provides that the bill takes effect July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private sector businesses that can serve the functions provided for in the bill may see a positive fiscal impact from the bill.

C. **Government Sector Impact:**

The DEP, the DOH, and county health departments may experience a negative fiscal impact due to the recovery of fewer onsite sewage treatment and disposal system inspection fees.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 381.0065 and 381.00651.

IX. **Additional Information:**

A. **Committee Substitute – Statement of Changes:**

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

Recommended CS/CS by Appropriations Subcommittee on Agriculture, Environment, and General Government on January 12, 2022:

The committee substitute :

- Clarifies that the inspection must follow all regulatory requirements.
- Amends the acknowledgment form from the owner, such that the owner also acknowledges that in the event the onsite sewage treatment and disposal system (OSTDS) does not comply with applicable rules and law, the owner will be responsible for remediating the system in accordance with existing law.
- Provides that the department may audit up to 25 percent of private providers each year to ensure the accurate performance of OSTDSs.
- Provides that the bill may not be construed as preventing the department from investigating complaints.
- Provides that work may not be delayed for completion of an inspection audit by the department unless deficiencies are found in the audit.
- Provides that the department must adopt rules to implement the bill, and must initiate rulemaking by August 31, 2022.
- Revises the effective date to July 1, 2022.

CS by Environment and Natural Resources on November 30, 2021:

Revises an existing definition of qualified contractors in state law to incorporate the list of private providers in the bill by reference. The bill also clarifies that a certain statutory provision authorizing counties and municipalities to charge fees for required springs protection/voluntarily-adopted OSTDS inspection programs may not be construed as

authorizing the DEP to charge an inspection fee for inspections performed by private providers.

B. Amendments:

None.

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



323744

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 01/13/2022 | . | |
| | . | |
| | . | |
| | . | |

Appropriations Subcommittee on Agriculture, Environment, and
General Government (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete lines 28 - 160

and insert:

private provider to perform an inspection that follows
applicable regulatory requirements of the onsite sewage
treatment and disposal system and pay the private provider
directly if the inspection is the subject of a written contract
between the private provider or the private provider's firm and
the owner or the authorized contractor.



323744

11 (b) The department may not charge an inspection fee for an
12 onsite sewage treatment and disposal system inspection performed
13 by a private provider under written contract with an owner or
14 authorized contractor in accordance with this section and
15 department rules.

16 (c) A private provider or an authorized representative of a
17 private provider may perform onsite sewage treatment and
18 disposal system inspections if they are:

19 1. An environmental health professional certified under s.
20 381.0101;

21 2. A master septic tank contractor registered under part
22 III of chapter 489;

23 3. A professional engineer licensed under chapter 471 and
24 has passed all parts of the Onsite Sewage Treatment Disposal
25 System Accelerated Certification Training; or

26 4. Working under the supervision of a licensed professional
27 engineer and has passed all parts of the Onsite Sewage Treatment
28 Disposal System Accelerated Certification Training.

29 (d) An owner or authorized contractor using a private
30 provider for an onsite sewage treatment and disposal system
31 inspection must provide notice to the department at the time of
32 permit application or by 2 p.m. local time, 2 business days
33 before the first scheduled inspection by the department. The
34 notice must include all of the following information:

35 1. For each private provider or authorized representative
36 performing the inspection:

37 a. Name and firm name, address, telephone number, and e-
38 mail address.

39 b. Professional license or certification number.



323744

40 c. Qualification statement or resume.

41 2. An acknowledgment from the owner in substantially the
42 following form:

43
44 I HAVE ELECTED TO USE ONE OR MORE PRIVATE PROVIDERS TO PERFORM
45 AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT
46 IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. I UNDERSTAND
47 THAT THE DEPARTMENT MAY NOT PERFORM THE REQUIRED ONSITE SEWAGE
48 TREATMENT AND DISPOSAL SYSTEM INSPECTION TO DETERMINE COMPLIANCE
49 WITH THE APPLICABLE CODES, EXCEPT TO THE EXTENT AUTHORIZED BY
50 LAW. INSTEAD, THE INSPECTION WILL BE PERFORMED BY THE LICENSED
51 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION. BY
52 EXECUTING THIS FORM, I ACKNOWLEDGE THAT I HAVE MADE INQUIRY
53 REGARDING THE COMPETENCE OF THE LICENSED OR CERTIFIED PRIVATE
54 PROVIDER AND AM SATISFIED THAT MY INTERESTS ARE ADEQUATELY
55 PROTECTED. I AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE
56 DEPARTMENT FROM ANY CLAIMS ARISING FROM MY USE OF THE LICENSED
57 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION TO
58 PERFORM THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM
59 INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT
60 APPLICATION. ADDITIONALLY, I UNDERSTAND THAT IN THE EVENT THE
61 ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM DOES NOT COMPLY WITH
62 APPLICABLE RULES AND LAW, I WILL BE RESPONSIBLE FOR REMEDIATING
63 THE SYSTEM IN ACCORDANCE WITH EXISTING LAW.

64
65 If an owner or authorized contractor makes any changes to the
66 listed private provider or the service to be performed by the
67 private provider, the owner or the authorized contractor must
68 update the notice to reflect the change within 1 business day



323744

69 after the change. The change of an authorized representative
70 identified in the permit application does not require a revision
71 of the permit and the department may not charge a fee for making
72 such change.

73 (e) The department may audit up to 25 percent of private
74 providers each year to ensure the accurate performance of onsite
75 sewage treatment and disposal system inspections. This
76 subsection may not be construed to prevent the department from
77 investigating complaints. Work on an onsite sewage treatment and
78 disposal system may proceed after inspection and approval by a
79 private provider if the owner or authorized contractor has given
80 notice of the inspection pursuant to paragraph (d). Subsequent
81 to such inspection and approval, such work may not be delayed
82 for completion of an inspection audit by the department unless
83 deficiencies are found in the audit.

84 (f) The department shall adopt rules to implement this
85 subsection and shall initiate such rulemaking by August 31,
86 2022.

87 Section 2. Paragraph (b) of subsection (6) and subsection
88 (8) of section 381.00651, Florida Statutes, are amended to read:

89 381.00651 Periodic evaluation and assessment of onsite
90 sewage treatment and disposal systems.—

91 (6) The requirements for an onsite sewage treatment and
92 disposal system evaluation and assessment program are as
93 follows:

94 (b) *Qualified contractors.*—Each evaluation required under
95 this subsection must be performed by a qualified contractor, who
96 may be a private provider or an authorized representative of a
97 private provider as described in s. 381.0065(8)(c) a ~~septic tank~~



323744

98 ~~contractor or master septic tank contractor registered under~~
99 ~~part III of chapter 489, a professional engineer having~~
100 ~~wastewater treatment system experience and licensed under~~
101 ~~chapter 471, or an environmental health professional certified~~
102 ~~under this chapter in the area of onsite sewage treatment and~~
103 ~~disposal system evaluation.~~ Evaluations and pump-outs may also
104 be performed by an authorized employee working under the
105 supervision of an individual listed in this paragraph; however,
106 all evaluation forms must be signed by a qualified contractor in
107 writing or by electronic signature.

108 (8) The county health department, in coordination with the
109 department, shall administer any evaluation program on behalf of
110 a county, or a municipality within the county, that has adopted
111 an evaluation program pursuant to this section. In order to
112 administer the evaluation program, the county or municipality,
113 in consultation with the county health department, may develop a
114 reasonable fee schedule to be used solely to pay for the costs
115 of administering the evaluation program. Such a fee schedule
116 shall be identified in the ordinance that adopts the evaluation
117 program. When arriving at a reasonable fee schedule, the
118 estimated annual revenues to be derived from fees may not exceed
119 reasonable estimated annual costs of the program. Fees shall be
120 assessed to the system owner during an inspection and separately
121 identified on the invoice of the qualified contractor. Fees
122 shall be remitted by the qualified contractor to the county
123 health department.

124 (a) The county health department's administrative
125 responsibilities include the following:

126 1. ~~(a)~~ Providing a notice to the system owner at least 60



323744

127 days before the system is due for an evaluation. The notice may
128 include information on the proper maintenance of onsite sewage
129 treatment and disposal systems.

130 2.~~(b)~~ In consultation with the department, providing
131 uniform disciplinary procedures and penalties for qualified
132 contractors who do not comply with the requirements of the
133 adopted ordinance, including, but not limited to, failure to
134 provide the evaluation report as required in this subsection to
135 the system owner and the county health department. Only the
136 county health department may assess penalties against system
137 owners for failure to comply with the adopted ordinance,
138 consistent with existing requirements of law.

139 (b) Nothing in this subsection may be construed as
140 authorizing the department to charge an inspection fee for an
141 onsite sewage treatment and disposal system inspection performed
142 by a private provider in accordance with s. 381.0065(8).

143 Section 3. This act shall take effect July 1, 2022.

144
145 ===== T I T L E A M E N D M E N T =====

146 And the title is amended as follows:

147 Delete lines 12 - 13

148 and insert:

149 performance of a specified percentage of such
150 inspections; providing construction; providing audit
151 conditions; requiring the department to adopt rules
152 and to initiate rulemaking by a specified date;
153 amending s. 381.00651, F.S.; revising the

By the Committee on Environment and Natural Resources; and
Senator Brodeur

592-01305-22

2022856c1

A bill to be entitled

An act relating to private provider inspections of onsite sewage treatment and disposal systems; amending s. 381.0065, F.S.; authorizing private provider inspections of onsite sewage treatment and disposal systems under certain conditions; prohibiting the Department of Environmental Protection from charging certain inspection and permit fees; specifying requirements for private providers and onsite sewage treatment and disposal system owners and authorized contractors; authorizing the department to audit the performance of such inspections; providing audit conditions; amending s. 381.00651, F.S.; revising the list of providers authorized to perform onsite sewage treatment and disposal system evaluations; providing for applicability; providing an effective date.

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

Section 1. Subsection (8) is added to section 381.0065, Florida Statutes, to read:

381.0065 Onsite sewage treatment and disposal systems; regulation.—

(8) PRIVATE PROVIDER INSPECTIONS.—

(a) Notwithstanding any other law, ordinance, or policy, the owner of an onsite sewage treatment and disposal system or a contractor upon the owner's written authorization may hire a private provider to perform an inspection of the onsite sewage treatment and disposal system and pay the private provider

Page 1 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01305-22

2022856c1

directly if the inspection is the subject of a written contract between the private provider or the private provider's firm and the owner or the authorized contractor.

(b) The department may not charge an inspection fee for an onsite sewage treatment and disposal system inspection performed by a private provider under written contract with an owner or authorized contractor in accordance with this section and department rules.

(c) Onsite sewage treatment and disposal system inspections may only be performed by a private provider or an authorized representative of a private provider who is:

1. An environmental health professional certified under s. 381.0101;

2. A master septic tank contractor registered under part III of chapter 489;

3. A professional engineer licensed under chapter 471 and has passed all parts of the Onsite Sewage Treatment Disposal System Accelerated Certification Training; or

4. Working under the supervision of a licensed professional engineer and has passed all parts of the Onsite Sewage Treatment Disposal System Accelerated Certification Training.

(d) An owner or authorized contractor using a private provider for an onsite sewage treatment and disposal system inspection must provide notice to the department at the time of permit application or by 2 p.m. local time, 2 business days before the first scheduled inspection by the department. The notice must include all of the following information:

1. For each private provider or authorized representative performing the inspection:

Page 2 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01305-22

2022856c1

59 a. Name and firm name, address, telephone number, and e-
60 mail address.

61 b. Professional license or certification number.

62 c. Qualification statement or resume.

63 2. An acknowledgment from the owner in substantially the
64 following form:

65
66 I HAVE ELECTED TO USE ONE OR MORE PRIVATE PROVIDERS TO PERFORM
67 AN ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM INSPECTION THAT
68 IS THE SUBJECT OF THE ENCLOSED PERMIT APPLICATION. I UNDERSTAND
69 THAT THE DEPARTMENT MAY NOT PERFORM THE REQUIRED ONSITE SEWAGE
70 TREATMENT AND DISPOSAL SYSTEM INSPECTION TO DETERMINE COMPLIANCE
71 WITH THE APPLICABLE CODES, EXCEPT TO THE EXTENT AUTHORIZED BY
72 LAW. INSTEAD, THE INSPECTION WILL BE PERFORMED BY THE LICENSED
73 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION. BY
74 EXECUTING THIS FORM, I ACKNOWLEDGE THAT I HAVE MADE INQUIRY
75 REGARDING THE COMPETENCE OF THE LICENSED OR CERTIFIED PRIVATE
76 PROVIDER AND AM SATISFIED THAT MY INTERESTS ARE ADEQUATELY
77 PROTECTED. I AGREE TO INDEMNIFY, DEFEND, AND HOLD HARMLESS THE
78 DEPARTMENT FROM ANY CLAIMS ARISING FROM MY USE OF THE LICENSED
79 OR CERTIFIED PRIVATE PROVIDER IDENTIFIED IN THE APPLICATION TO
80 PERFORM THE ONSITE SEWAGE TREATMENT AND DISPOSAL SYSTEM
81 INSPECTION THAT IS THE SUBJECT OF THE ENCLOSED PERMIT
82 APPLICATION.

83
84 If an owner or authorized contractor makes any changes to the
85 listed private provider or the service to be performed by the
86 private provider, the owner or the authorized contractor must
87 update the notice to reflect the change within 1 business day

Page 3 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01305-22

2022856c1

88 after the change. The change of an authorized representative
89 identified in the permit application does not require a revision
90 of the permit and the department may not charge a fee for making
91 such change.

92 (e) The department may audit the performance of an onsite
93 sewage treatment and disposal system inspection by a private
94 provider. However, the same private provider may not be audited
95 more than four times in a month unless the department determines
96 that an onsite sewage treatment and disposal system inspected by
97 the private provider should not have passed inspection. Work on
98 a building, a structure, or an onsite sewage treatment and
99 disposal system may proceed after inspection and approval by a
100 private provider if the owner or authorized contractor has given
101 notice of the inspection pursuant to paragraph (d) and,
102 subsequent to such inspection and approval, such work may not be
103 delayed for completion of an inspection audit by the department.

104 Section 2. Paragraph (b) of subsection (6) and subsection
105 (8) of section 381.00651, Florida Statutes, are amended to read:
106 381.00651 Periodic evaluation and assessment of onsite
107 sewage treatment and disposal systems.—

108 (6) The requirements for an onsite sewage treatment and
109 disposal system evaluation and assessment program are as
110 follows:

111 (b) Qualified contractors.—Each evaluation required under
112 this subsection must be performed by a qualified contractor, who
113 may be a private provider or an authorized representative of a
114 private provider as described in s. 381.0065(8)(c) a septic tank
115 contractor or master septic tank contractor registered under
116 part III of chapter 489, a professional engineer having

Page 4 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01305-22

2022856c1

117 ~~wastewater treatment system experience and licensed under~~
 118 ~~chapter 471, or an environmental health professional certified~~
 119 ~~under this chapter in the area of onsite sewage treatment and~~
 120 ~~disposal system evaluation.~~ Evaluations and pump-outs may also
 121 be performed by an authorized employee working under the
 122 supervision of an individual listed in this paragraph; however,
 123 all evaluation forms must be signed by a qualified contractor in
 124 writing or by electronic signature.

125 (8) The county health department, in coordination with the
 126 department, shall administer any evaluation program on behalf of
 127 a county, or a municipality within the county, that has adopted
 128 an evaluation program pursuant to this section. In order to
 129 administer the evaluation program, the county or municipality,
 130 in consultation with the county health department, may develop a
 131 reasonable fee schedule to be used solely to pay for the costs
 132 of administering the evaluation program. Such a fee schedule
 133 shall be identified in the ordinance that adopts the evaluation
 134 program. When arriving at a reasonable fee schedule, the
 135 estimated annual revenues to be derived from fees may not exceed
 136 reasonable estimated annual costs of the program. Fees shall be
 137 assessed to the system owner during an inspection and separately
 138 identified on the invoice of the qualified contractor. Fees
 139 shall be remitted by the qualified contractor to the county
 140 health department.

141 (a) The county health department's administrative
 142 responsibilities include the following:

143 ~~1. (a)~~ Providing a notice to the system owner at least 60
 144 days before the system is due for an evaluation. The notice may
 145 include information on the proper maintenance of onsite sewage

Page 5 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

592-01305-22

2022856c1

146 treatment and disposal systems.

147 ~~2. (b)~~ In consultation with the department, providing
 148 uniform disciplinary procedures and penalties for qualified
 149 contractors who do not comply with the requirements of the
 150 adopted ordinance, including, but not limited to, failure to
 151 provide the evaluation report as required in this subsection to
 152 the system owner and the county health department. Only the
 153 county health department may assess penalties against system
 154 owners for failure to comply with the adopted ordinance,
 155 consistent with existing requirements of law.

156 (b) Nothing in this subsection shall be construed as
 157 authorizing the department to charge an inspection fee for an
 158 onsite sewage treatment and disposal system inspection performed
 159 by a private provider in accordance with s. 381.0065(8).

160 Section 3. This act shall take effect upon becoming a law.

Page 6 of 6

CODING: Words ~~stricken~~ are deletions; words underlined are additions.



The Florida Senate

Committee Agenda Request

To: Senator Ben Albritton, Chair
Appropriations Subcommittee on Agriculture, Environment, and General
Government

Subject: Committee Agenda Request

Date: December 6, 2021

I respectfully request that **Senate Bill 856**, relating to **Private Provider Inspections of Onsite Sewage Treatment and Disposal Systems**, be placed on the:

- committee agenda at your earliest possible convenience.
- next committee agenda.

A handwritten signature in black ink that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

The Florida Senate

APPEARANCE RECORD

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

S 856 Bill Number or Topic

Amendment Barcode (if applicable)

1/12/22 Meeting Date

Ap Sub on AE + GG Committee

Name META CALDER

Phone 850-228-5900

Address 3740 RAVINE DR. Street

Email metaorleans@gmail.com

TALLAHASSEE FL 32312 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[x] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

FLORIDA LEAGUE OF WOMEN VOTERS

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

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

The Florida Senate

APPEARANCE RECORD

SB 856

1-13-21

Meeting Date

Approps Sub-Ag, Enviro & General Gov't

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

KARI HEBRANK

Phone

850-566-7824

Address

215 S. MONROE ST. #500

Email

khebrank@carltonfields.com

Street

TALLAHASSEE

FL

32301

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:

FHBA



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

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

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The Florida Senate

APPEARANCE RECORD

SB 856

1/12/22

Meeting Date

Bill Number or Topic

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

As Appropriations

Committee

Amendment Barcode (if applicable)

Name Manny Reyes

Phone 305-282-9199

Address 118 N. Monroe St #321

Street

Email Manny@PereiraReyes.com

Tallahassee FL 32301

City

State

Zip

Speaking: For Against Information OR Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

Florida Onsite Wastewater Association

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

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



FREEDOM FIRST BUDGET



FISCAL YEAR 2022-2023



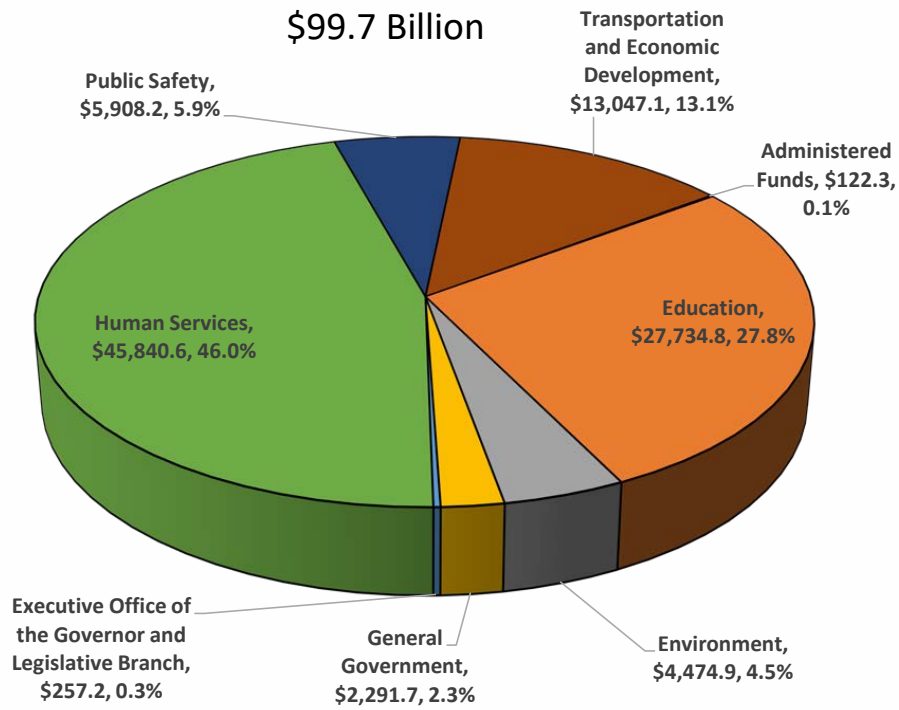
Governor's Office of Policy and Budget Environment Unit

Department of Agriculture and Consumer Services
Department of Citrus
Department of Environmental Protection
Fish and Wildlife Conservation Commission
Public Service Commission

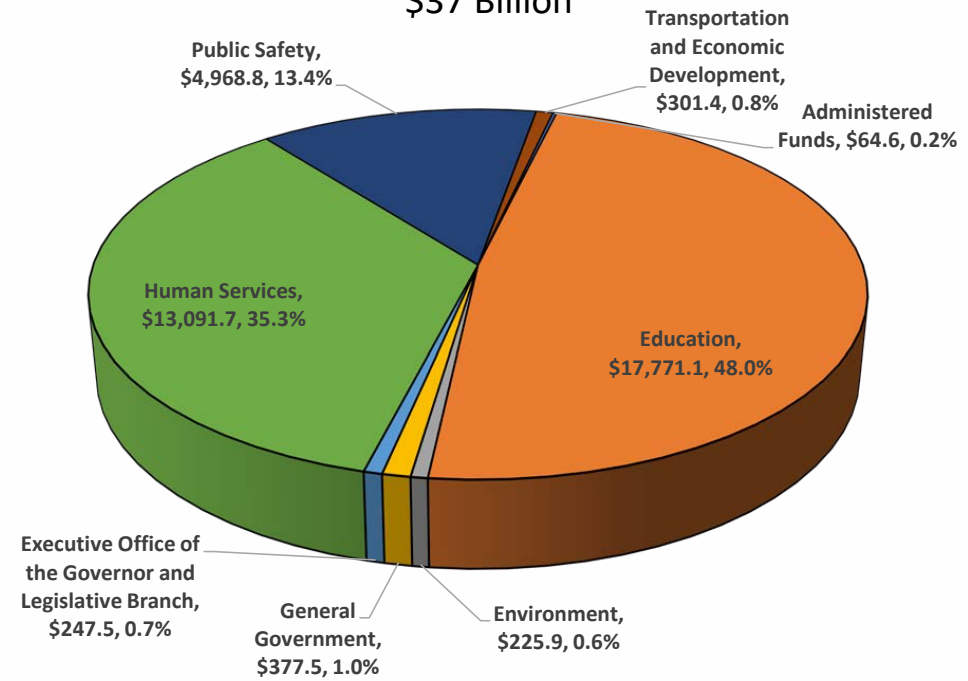


Freedom First Budget

Total Budget
\$99.7 Billion



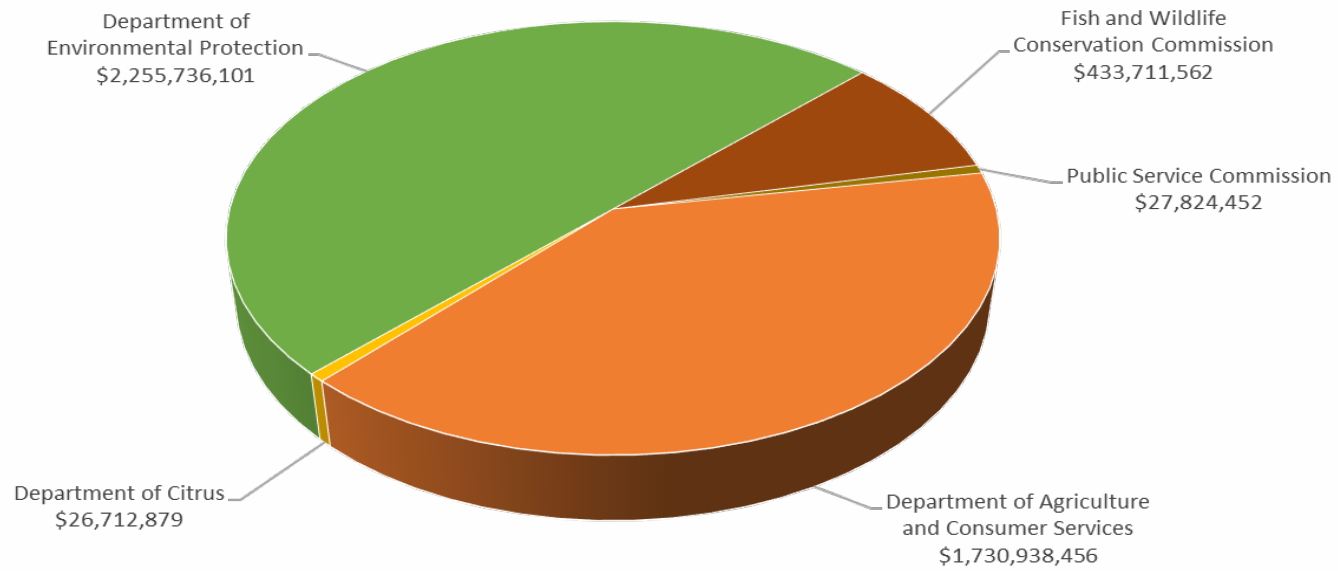
General Revenue
\$37 Billion



- Health and Human Services represents the largest portion of the total budget.
- Education represents the largest portion of the General Revenue budget.

Freedom First Budget Fiscal Year 2022-23

Environment over \$4.4 Billion



Statewide Employee Pay Increases

| Pay Plan | Number of Filled FTE | Average Base Salary Rate Prior to Compression | Average Base Salary Rate After Compression | Average Base Salary Rate Increase | Percentage Increase |
|--|----------------------|---|--|-----------------------------------|---------------------|
| Career Service | 64,043 | \$39,905 | \$41,410 | \$1,505 | 4% |
| Selected Exempt | 15,320 | \$61,035 | \$63,200 | \$2,165 | 4% |
| Senior Management | 568 | \$119,885 | \$120,507 | \$622 | 1% |
| Remaining Pay Plans | 14,079 | \$61,836 | \$63,613 | \$1,777 | 3% |
| All Pay Plans in State Personnel System | 94,009 | \$47,129 | \$48,777 | \$1,648 | 3% |

State Employee Pay Increases

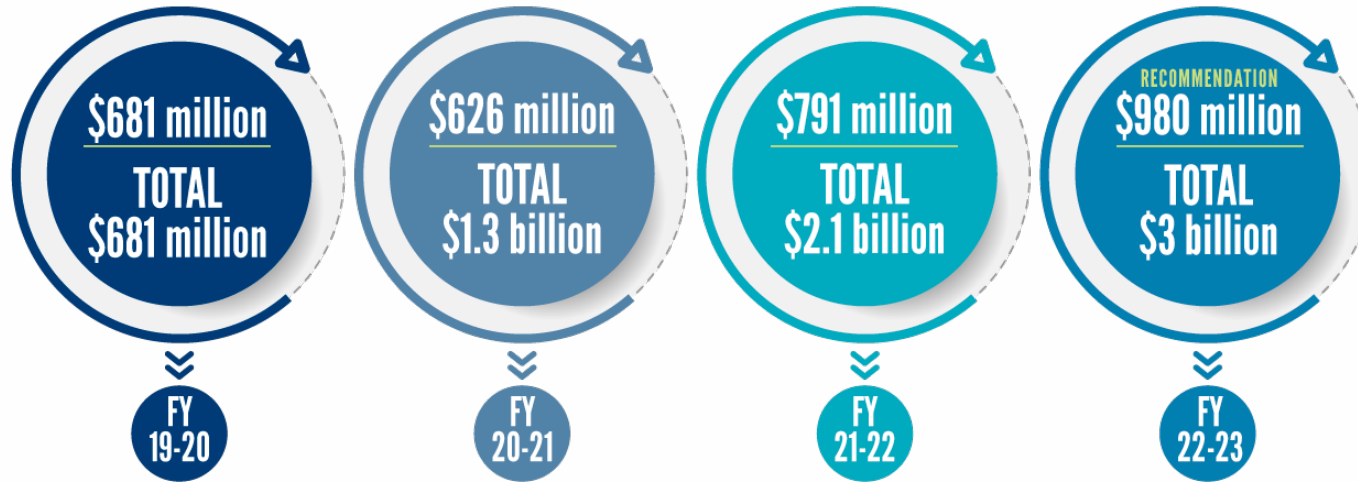
| Pay Issue | Amount |
|--|----------------------|
| State Law Enforcement Officers within DACS, DEP and FWCC | \$17.8 million |
| State Employee Pay Increases | \$18.5 million |
| <i>Department of Agriculture and Consumer Services</i> | <i>\$6.7 million</i> |
| <i>Department of Environmental Protection</i> | <i>\$5.9 million</i> |
| <i>Fish and Wildlife Conservation Commission</i> | <i>\$5.2 million</i> |
| <i>Public Service Commission</i> | <i>\$614,445</i> |
| <i>Department of Citrus</i> | <i>\$55,283</i> |

Other Agency Pay Issues

| Pay Issue | Amount |
|---------------------------------------|----------------------|
| DACS - State Firefighters | \$1.3 million |
| DEP/FWCC - Salary Grant Authority | \$120,000 |
| FWCC - Criminal Justice Incentive Pay | \$100,000 |
| Total Environment | \$1.5 million |

Protection of Water Resources Progress

Goal: \$2.5 billion for Everglades restoration and protection of water resources over four years



\$980 Million for Protection of Our Water Resources

| Major Issues Funded | Amount |
|--|----------------------|
| Everglades Restoration | \$660 million |
| Targeted Water Quality Improvements | \$195 million |
| Springs Restoration | \$50 million |
| Alternative Water Supply Grant Program | \$40 million |
| Water Quality Enhancement & Accountability | \$10.8 million |
| Innovative Solutions to Algae | \$15 million |
| Red Tide Grant Program | \$5 million |
| FWC Center for Red Tide Research | \$4.2 million |
| Total Proposed for Everglades & Water Resources | \$980 million |

Resilient Florida Program

\$552 million for resiliency including planning, coral reef protection and the implementation of statewide resiliency projects.



Clean Land and Air Investments



| Major Issues Funded | Amount |
|--|---------------|
| Petroleum Tanks Cleanup | \$125 million |
| Dry Cleaning Solvent Contaminated Site Cleanup | \$7 million |
| Hazardous Waste Contaminated Site Cleanup | \$4 million |
| Perflucorooctanoic Acid (PFOA) and Perfluorooctane Sulfonate (PFOS) Contaminants Cleanup | \$1 million |
| Final Implementation of \$166 million Volkswagen Mitigation Plan | \$53 million |

Florida's Prized Properties

| Major Issues Funded | Amount |
|----------------------------|---------------|
| Florida Forever Program | \$100 million |
| State Park Infrastructure | \$52 million |
| Beach Nourishment Projects | \$50 million |



Additional Environment Issues

- **\$29.2 million** for Citrus Industry
 - \$8 million for Citrus Research
 - \$6.2 million for Citrus Health Response Program
 - \$15 million for Consumer Awareness
- **\$11.2 million** for Non-Native Species Control, including
 - \$3 million for Python removal
- **\$3.8 million** for Manatee Care and Management

Office of Policy and Budget

Kim Cramer
Environment Policy Coordinator

Secretary Shawn Hamilton
Department of Environmental Protection

The Florida Senate

APPEARANCE RECORD

Governor's Recommended Budget

January 12, 2022

Meeting Date

Subcommittee on Agriculture, Environment & General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kim Cramer Phone 850- 717-9382

Address 400 South Monroe Street Email Kim.Cramer@laspbs.state.fl.us

Street

Tallahassee Florida 32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

The Executive Office of the Governor

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

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

S-001 (08/10/2021)

January 12, 2022

Meeting Date

Subcommittee on Agriculture, Environment, & General Government

Committee

The Florida Senate

APPEARANCE RECORD

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

Governor's Recommended Budget

Bill Number or Topic

Amendment Barcode (if applicable)

Name Shawn Hamilton Phone 850- 245-2035

Address 3900 Commonwealth Blvd. Email Shawn.Hamilton@FloridaDEP.gov

Street

Tallahassee Florida 32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Department of Environmental Protection

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

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



FREEDOM FIRST BUDGET



FISCAL YEAR 2022-2023

Appropriations Subcommittee on Agriculture,
Environment, and General Government

FREEDOM FIRST BUDGET

General Government

2022-2023





Governor's Office of Policy and Budget General Government Unit

Department of Business and Professional Regulation

Florida Gaming Control Commission

Department of Lottery

Department of Management Services

Florida Digital Service

Division of Administrative Hearings

Commission on Human Relations

Public Employee Relations Commission

Department of Financial Services

Office of Financial Regulation

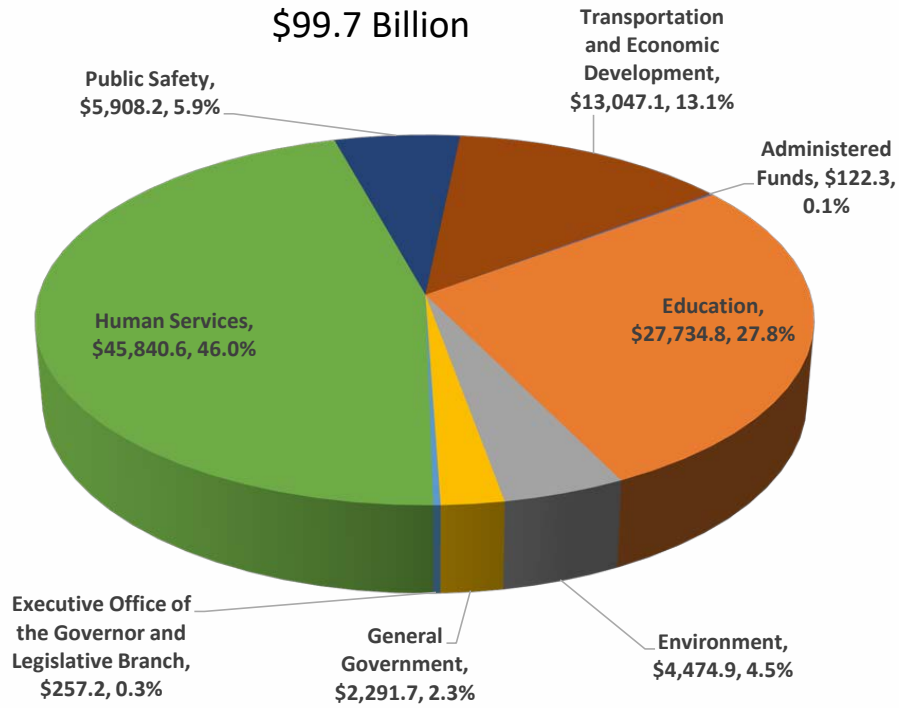
Office of Insurance Regulation

Department of Revenue

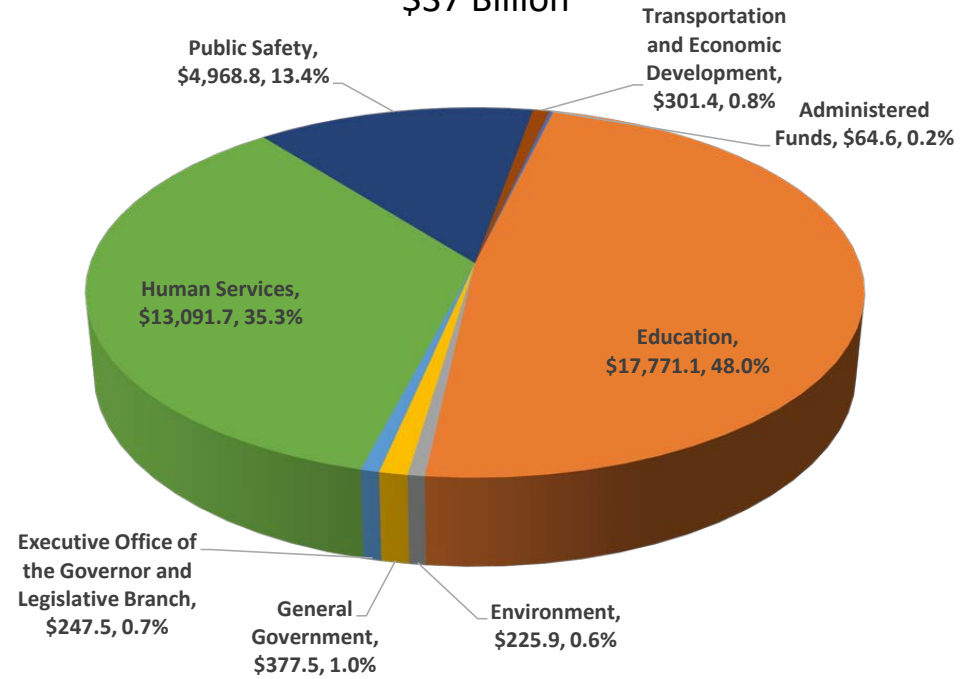


Freedom First Budget

Total Budget
\$99.7 Billion



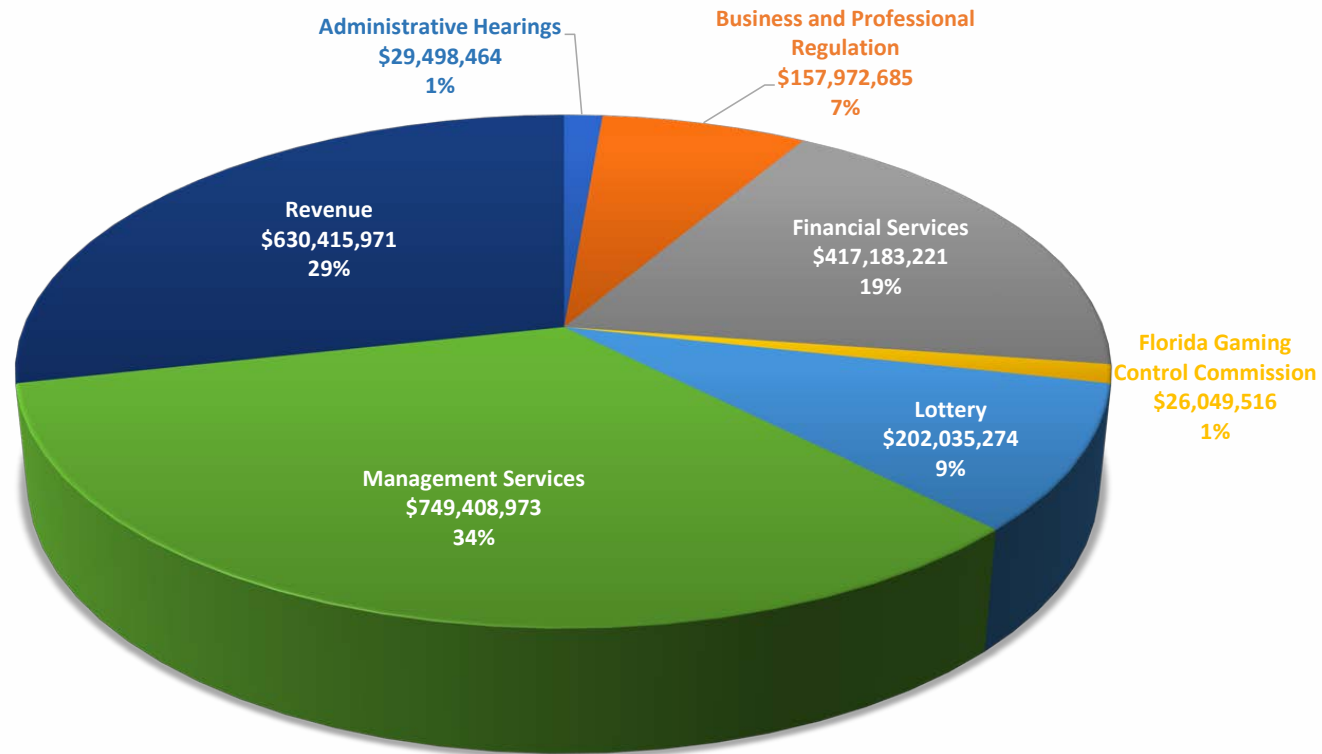
General Revenue
\$37 Billion



- Health and Human Services represents the largest portion of the total budget
- Education represents the largest portion of the General Revenue budget

Governor's Recommended Budget Fiscal Year 2022-23

General Government \$2.2 billion



State Employee Pay Increases

| Pay Plan | Number of Filled FTE | Average Base Salary Rate Prior to Compression | Average Base Salary Rate After Compression | Average Base Salary Rate Increase | Percentage Increase |
|---|----------------------|---|--|-----------------------------------|---------------------|
| Career Service | 64,043 | \$39,905 | \$41,410 | \$1,505 | 4% |
| Selected Exempt | 15,320 | \$61,035 | \$63,200 | \$2,165 | 4% |
| Senior Management | 568 | \$119,885 | \$120,507 | \$622 | 1% |
| Remaining Pay Plans | 14,079 | \$61,836 | \$63,613 | \$1,777 | 3% |
| All Pay Plans in State Personnel System | 94,009 | \$47,129 | \$48,777 | \$1,648 | 3% |

General Government Agencies State Employee Pay Increases

| Pay Issue | Amount |
|---|----------------------|
| State Law Enforcement Officers within DPBR, DFS, and DOL | \$7 million |
| State Employee Pay Increases | \$21.8 million |
| <i>Department of Business and Professional Regulation</i> | <i>\$2.9 million</i> |
| <i>Florida Gaming Control Commission</i> | <i>\$233,263</i> |
| <i>Department of Lottery</i> | <i>\$797,966</i> |
| <i>Department of Management Services (includes PERC & FCHR)</i> | <i>\$2.3 million</i> |

**General Government Agencies
State Employee Pay Increases – Continued**

| Pay Issue | Amount |
|--|---------------|
| <i>Division of Administrative Hearings</i> | \$267,002 |
| <i>Department of Financial Services</i> | \$6.5 million |
| <i>Department of Revenue</i> | \$8.8 million |

General Government Agencies Targeted Agency Specific Pay Issues

| Pay Issue | Amount |
|--|---------------|
| DBPR Attorney Pay Increase | \$269,946 |
| DOL Market Pay Increase for Employees | \$157,091 |
| DMS - FLDS Pay Increase for Information Technology Employees | \$880,017 |
| DOAH Judges Competitive Salary Increase | \$1.7 million |
| DOR Pay Increases for Employees | \$9.8 million |

Department of Business and Professional Regulation

| Major Issues Funded | Amount |
|--|------------------------------------|
| Customer Experience Modernization & Return Call Software | \$4.7 million / 2 positions |
| Transfer to Florida Gaming Control Commission | (\$14.3) million / (109) positions |
| Florida PALM Readiness | \$385,000 |
| Pay Increases to Attract and Retain Qualified Attorneys | \$269,946 |
| Law Enforcement Training and Equipment | \$165,460 |

Florida Gaming Control Commission

| Major Issues Funded | Amount |
|--|------------------------------|
| Executive Staffing and Facilities | \$5.8 million / 51 positions |
| Division of Gaming Enforcement | \$3.3 million / 20 positions |
| Pari-Mutuel Wagering (transfer from DBPR) | \$9 million / 59 positions |
| Slot Machine Regulation (transfer from DBPR) | \$5.1 million / 50 positions |
| Information Technology Resources | \$2.6 million |

Department of Lottery

| Major Issues Funded | Amount |
|---|---------------|
| Market Pay Increases for Employees | \$157,091 |
| Florida PALM Readiness | \$735,904 |
| Increased Payments due to Higher Ticket Sales | \$3.2 million |

Department of Management Services

| Major Issues Funded | Amount |
|--|-------------------------|
| Statewide Law Enforcement Radio System | \$10.6 million |
| State Law Enforcement Training Facility Design and Study | \$6 million |
| Emergency 911 Call Routing Solutions | \$6 million |
| Next Generation MyFloridaMarketPlace | \$5.8 million |
| Fixed Capital Outlay Project Management | \$925,105 / 3 Positions |
| Florida Facilities Pool Maintenance and Repair | \$6.4 million |

Department of Management Services

| Major Issues Funded | Amount |
|--|---------------|
| Fraud, Waste and Abuse Analytic Solution | \$2.2 million |
| PeopleFirst System Integration to Florida PALM | \$2.7 million |
| PeopleFirst System Business Case | \$1.2 million |
| Increased Employee Assistance Benefits | \$219,561 |

Department of Management Services - Florida Digital Service

| Major Issues Funded | Amount |
|---|---------------------|
| Maintain Current Cybersecurity Initiatives | \$30 million |
| <i>Enterprise Threat Protection and End User Defense</i> | <i>\$16 million</i> |
| <i>Cybersecurity Operations Center and Vulnerability Management</i> | <i>\$8 million</i> |
| <i>Cybersecurity Asset Inventory and Governance</i> | <i>\$6 million</i> |

Department of Management Services - Florida Digital Service

| Major Issues Funded | Amount |
|---|------------------------------|
| Robotic Processing Automation | \$2 million |
| Enterprise Cloud Solutions | \$2 million |
| Data Catalog | \$1.4 million |
| Additional Staffing Resources to Support the Enterprise | \$3.1 million / 17 Positions |

Division of Administrative Hearings

| Major Issues Funded | Amount |
|--|------------------------------|
| Administrative Law Judge Competitive Salary Increase <i>13% increase from \$126,000 to \$146,000</i> | \$912,122 |
| Judges of Compensation Claims Competitive Salary Increase <i>12% increase from \$128,000 to \$146,000</i> | \$788,288 |
| Reduce Vacant Positions | (\$784,178) / (21) Positions |

Department of Financial Services

| Major Issues Funded | Amount |
|---|----------------------|
| Information Technology Initiatives | \$8.5 million |
| <i>End of Life Telephone and Contact Center Refresh</i> | <i>\$3.2 million</i> |
| <i>Internal Systems Integration to PALM</i> | <i>\$2.5 million</i> |
| <i>Anti-Fraud Database Access</i> | <i>\$984,000</i> |
| <i>Cryptocurrency Conversion Services</i> | <i>\$200,000</i> |
| <i>Other Initiatives</i> | <i>\$1.6 million</i> |

Department of Financial Services

| Major Issues Funded | Amount |
|---------------------------------------|----------------------------|
| PALM Project (FLAIR Replacement) | \$37.2 million |
| Law Enforcement Funding | \$4 million / 12 Positions |
| State Fire Marshal Initiatives | \$906,810 / 1 Position |
| Additional Staffing Resources for OIR | \$327,635 / 2 Positions |
| Additional Staffing Resources for OFR | \$305,642 / 3 Positions |

Department of Revenue

| Major Issues Funded | Amount |
|--|----------------------------------|
| Pay Increases to Attract and Retain Employees | \$9.8 million |
| <i>General Tax Administration (\$2.50/hour pay increase)</i> | <i>\$1 million</i> |
| <i>Child Support Program (\$2.50/hour pay increase)</i> | <i>\$8.4 million</i> |
| <i>Property Tax Oversight</i> | <i>\$428,621</i> |
| Distribution to Fiscally Constrained and Small Counties | \$39.5 million |
| Efficiency Savings | (\$4.3) million / (28) Positions |

Department of Revenue

| Major Issues Funded | Amount |
|---|----------------------|
| Information Technology Initiatives | \$9 million |
| <i>Child Support Automation Management System Migration</i> | <i>\$4.5 million</i> |
| <i>Suntax Migration to the Cloud</i> | <i>\$1.8 million</i> |
| <i>Image Management System Maintenance & Support</i> | <i>\$760,823</i> |
| <i>Other Initiatives</i> | <i>\$1.9 million</i> |

Office of Policy and Budget

General Government Unit

Executive Office of the Governor

850-717-9509

1/12/22

Meeting Date

The Florida Senate APPEARANCE RECORD

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

Governor's Budget

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Brandi Gunder

Phone 850-717-9345

Address _____
Street

Email brandi.gunder@last4s.
state.fl.
us

Tallahassee, FL 32399
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
The Governor's Office

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

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

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The Florida Senate

APPEARANCE RECORD

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

DBPR Budget Reels

Bill Number or Topic

1/12/22

Meeting Date

Approps. on Env and Gen Gov

Committee

Amendment Barcode (if applicable)

Name Melanie Griffin

Phone

Address 2601 Blair Stone Road

Street

Email melanie.griffin@myfloridareels.com

Tallahassee

City

FL

State

32301

Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

DBPR

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

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The Florida Senate

APPEARANCE RECORD

Governor's Recommended Budget

January 12, 2022

Meeting Date

Subcommittee on Agriculture, Environment & General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Mike Milnes Phone 850- 717-9515

Address 400 South Monroe Street Email Michael.Milnes@laspbs.state.fl.us

Street

Tallahassee Florida 32399

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

The Executive Office of the Governor

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S-001 (08/10/2021)

1-12-22

The Florida Senate APPEARANCE RECORD

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

Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Julie Brown

Phone

813-208-1030

Address

Email

Julie.Brown@fgcc.fl.gov

Street

Tampa, FL 33627

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

N/A

1/12/2022

Meeting Date

Subcommittee on Agriculture, Environment, and General Government

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

Bill Number or Topic

N/A

Committee

Amendment Barcode (if applicable)

Name **John F. Davis**

Phone **850-487-7728**

Address **250 Marriott Drive**

Email **davisj@flalottery.com**

Street

Tallahassee

Florida

32301

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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1/12/22

Meeting Date

APPEARANCE RECORD

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

Bill Number or Topic

Appropriations Subcommittee on Agriculture, Environment, & General Government

Committee

Amendment Barcode (if applicable)

Name Todd Inman

Phone 850-545-4693

Address 4050 Esplanade Way

Street

Email tyler.russell@dms.fl.gov

Tallahassee

City

FL

State

32399

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: Florida

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

Department of Management Services

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The Florida Senate

APPEARANCE RECORD

Governor's Recommended Budget

January 12, 2022

Meeting Date

Subcommittee on Agriculture, Environment & General Government

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

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name **Mike Atchley** Phone **850- 717-9385**

Address **400 South Monroe Street** Email **Mike.Atchley@laspbs.state.fl.us**

Street

Tallahassee **Florida** **32399**

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

The Executive Office of the Governor

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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Meeting Date

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Todd Iman

Phone

270 570 8633

Address

1403 Rachel Lane

Email

todd.iman@dns.fl.gov

Street

City

Orlando

State

FL

Zip

32309

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

State of Florida

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR BEN ALBRITTON

26th District

January 12, 2022

President Simpson,

Please consider this letter a request for Sen. Albritton to receive an excused absence from the Appropriations Subcommittee on Agriculture, Environment, and General Government today.

Best regards,

A handwritten signature in blue ink, appearing to read "Ben Albritton".

Sen. Ben Albritton
District 26

COMMITTEES:

Appropriations Subcommittee on Agriculture,
Environment, and General Government, *Chair*
Children, Families, and Elder Affairs, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Environment and Natural Resources
Health Policy
Regulated Industries
Rules

JOINT COMMITTEE:

Joint Administrative Procedures Committee,
Alternating Chair

REPLY TO:

- 150 North Central Avenue, Bartow, Florida 33830 (863) 534-0073
- 410 Taylor Street, Suite 106, Punta Gorda, Florida 33950 (941) 575-5717
- 314 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5026

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Agriculture, Environment, and General Government Judge:

Started: 1/12/2022 4:30:23 PM

Ends: 1/12/2022 5:50:52 PM

Length: 01:20:30

4:30:23 PM Sen. Rodrigues (Chair)
4:32:05 PM S 494
4:32:20 PM Sen. Hutson
4:33:36 PM Am. 305982
4:33:44 PM Sen. Hutson
4:34:24 PM Am. 135828
4:34:30 PM Sen. Hutson
4:34:53 PM Jessica Crawford, Florida Fish and Wildlife Conservation Commission, waives in support
4:35:27 PM Am. 305982 (con't)
4:35:47 PM S 494 (con't)
4:36:11 PM Jeffrey Sharkey, City of St. Petersburg, waives in support
4:36:26 PM Meta Calder, League of Women Voters Florida, waives in support
4:36:47 PM Sen. Boyd
4:37:08 PM Sen. Rodrigues
4:37:28 PM Sen. Garcia
4:37:56 PM Sen. Hutson
4:38:28 PM S 350
4:38:45 PM Sen. Bean
4:40:49 PM Ramiro Sicre, Chesapeake Utilities Corporation, waives in support
4:41:01 PM Mike Cassel, Chesapeake Utilities Corporation, waives in support
4:41:24 PM Sen. Bean, waives close
4:41:52 PM S 252
4:42:01 PM Sen. Brodeur
4:43:18 PM Am. 799080
4:43:35 PM Sen. Brodeur
4:44:12 PM Sen. Brodeur
4:44:22 PM S 252 (con't)
4:44:40 PM Sen. Brodeur
4:45:17 PM S 856
4:45:37 PM Sen. Brodeur
4:47:22 PM Am. 323744
4:47:27 PM Sen. Brodeur
4:48:29 PM Sen. Stewart
4:48:53 PM Sen. Brodeur
4:49:11 PM Sen. Stewart
4:49:25 PM Sen. Brodeur
4:49:52 PM Sen. Mayfield
4:50:34 PM Sen. Brodeur
4:51:10 PM Sen. Mayfield
4:51:21 PM Sen. Brodeur
4:51:57 PM Sen. Brodeur
4:52:11 PM S 856 (con't)
4:52:25 PM Meta Calder, Florida League of Women Voters, waives in support
4:52:37 PM Kari Hebrank, Lobbyist, Florida Homebuilders Association
4:53:49 PM Manny Reyes, Florida Onsite Wastewater Association, waives in support
4:54:10 PM Sen. Mayfield
4:56:29 PM Sen. Garcia
4:57:40 PM Sen. Stewart
4:58:10 PM Sen. Rodrigues
4:59:05 PM Sen. Brodeur
5:00:23 PM TAB 5 - Presentation on Governor's Environment FY 2022-2023 Budget Recommendations: Agriculture and Environment

5:00:42 PM Kim Cramer, Environment Policy Coordinator, Executive Office of the Governor
5:05:52 PM Shawn Hamilton, Secretary, Dept. of Environmental Protection
5:12:43 PM Sen. Berman
5:13:05 PM S. Hamilton
5:13:17 PM Sen. Berman
5:13:47 PM S. Hamilton
5:14:36 PM Sen. Berman
5:15:01 PM S. Hamilton
5:15:45 PM Sen. Ausley
5:16:00 PM S. Hamilton
5:16:10 PM Sen. Ausley
5:16:36 PM S. Hamilton
5:16:55 PM K. Cramer
5:18:39 PM Sen. Rodrigues
5:19:03 PM K. Cramer
5:19:33 PM TAB 6 - Presentation on Governor's General Government FY 2022-2023 Budget Recommendations:
General Government
5:19:54 PM Brandi Gunder, Office of the Governor
5:23:27 PM Melanie Griffin, Secretary, Dept. of Business and Professional Regulation
5:26:15 PM Mike Milnes, Deputy Policy Coordinator, Executive Office of the Governor
5:26:51 PM Julie Brown, Chairman, Florida Gaming Control Commission
5:31:00 PM M. Milnes
5:31:10 PM John F. Davis, Secretary, Florida Lottery
5:35:51 PM M. Milnes
5:36:01 PM Todd Inman, Secretary, Dept. of Management Services
5:42:48 PM M. Milnes
5:48:13 PM Sen. Ausley
5:49:14 PM B. Gunder
5:49:47 PM Sen. Ausley
5:50:13 PM M. Milnes