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|--------------|--|---|-----|---------------|-------------------------|----------------|
| Tab 1 | CS/SB 928 by EP, Stargel (CO-INTRODUCERS) Mayfield ; (Similar to CS/CS/1ST ENG/H 00573) Water Protection and Sustainability | | | | | |
| Tab 2 | CS/SB 1018 by EP, Grimsley (CO-INTRODUCERS) Galvano ; (Similar to CS/CS/CS/H 00753) Contaminated Site Cleanup | | | | | |
| 446680 | A | S | RCS | AEN, Grimsley | Delete L.33 - 187: | 04/14 12:53 PM |
| Tab 3 | CS/SB 1104 by EP, Perry ; (Similar to CS/H 00335) Resource Recovery and Management | | | | | |
| 193212 | D | S | RS | AEN, Perry | Delete everything after | 04/14 12:57 PM |
| 234994 | SD | S | RCS | AEN, Perry | Delete everything after | 04/14 12:57 PM |
| Tab 4 | CS/SB 1338 by EP, Book ; (Similar to CS/CS/H 07043) Vessels | | | | | |
| Tab 5 | CS/SB 1452 by TR, Book ; (Similar to H 01161) Taximeters | | | | | |
| Tab 6 | CS/SB 1590 by EP, Latvala (CO-INTRODUCERS) Hutson, Mayfield, Stewart, Hukill ; (Similar to CS/CS/H 01213) Coastal Management | | | | | |
| 371942 | A | S | RCS | AEN, Latvala | Delete L.465 - 533: | 04/14 01:10 PM |
| Tab 7 | CS/SB 1592 by AG, Bean (CO-INTRODUCERS) Baxley, Mayfield ; (Similar to CS/H 01083) Small Food Retailers | | | | | |
| 798052 | T | S | RCS | AEN, Bean | In title, btw L.32 - 33 | 04/14 01:13 PM |

COMMITTEE MEETING EXPANDED AGENDA**APPROPRIATIONS SUBCOMMITTEE ON THE
ENVIRONMENT AND NATURAL RESOURCES****Senator Bradley, Chair
Senator Book, Vice Chair****MEETING DATE:** Thursday, April 13, 2017
TIME: 1:00—2:00 p.m.
PLACE: 301 Senate Office Building**MEMBERS:** Senator Bradley, Chair; Senator Book, Vice Chair; Senators Braynon, Hukill, Hutson, Latvala, Mayfield, and Stewart

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|----------------------------|
| 1 | CS/SB 928 Environmental Preservation and Conservation / Stargel (Similar CS/H 573) | Water Protection and Sustainability; Creating the "Heartland Headwaters Protection and Sustainability Act"; requiring the Polk Regional Water Cooperative, in coordination with its member county and municipal governments, to prepare a comprehensive annual report on certain water resource projects within its members' jurisdictions; authorizing local government infrastructure surtax proceeds to be allocated to regional water supply authorities under certain conditions, etc. EP 03/28/2017 Fav/CS AEN 04/13/2017 Favorable AP | Favorable Yeas 6 Nays 0 |
| 2 | CS/SB 1018 Environmental Preservation and Conservation / Grimsley (Similar CS/CS/H 753) | Contaminated Site Cleanup; Providing an exception to a requirement that an applicant for advanced cleanup demonstrate an ability to pay cost share; requiring that the Department of Environmental Protection determine whether specified requirements are acceptable under certain circumstances; authorizing site assessments in advance of site priority ranking under certain circumstances, etc. EP 03/14/2017 Fav/CS AEN 04/13/2017 Fav/CS AP | Fav/CS Yeas 6 Nays 0 |
| 3 | CS/SB 1104 Environmental Preservation and Conservation / Perry (Similar CS/H 335) | Resource Recovery and Management; Providing that certain pyrolysis facilities are exempt from certain resource recovery regulations; authorizing recovered materials dealers to use pyrolysis facilities for recovered materials processing, etc. EP 03/28/2017 Fav/CS AEN 04/13/2017 Fav/CS AP | Fav/CS Yeas 6 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDAAppropriations Subcommittee on the Environment and Natural Resources
Thursday, April 13, 2017, 1:00—2:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|----------------------------|
| 4 | CS/SB 1338 Environmental Preservation and Conservation / Book (Similar CS/H 7043, Compare S 1542) | Vessels; Providing that vessels without an effective means of propulsion are at risk of becoming derelict under certain conditions; prohibiting anchoring or mooring of vessels and floating structures in certain areas; providing for boating-restricted areas to protect seagrasses on privately owned submerged lands upon application by the owner and commission approval; authorizing a local government to enact and enforce certain regulations for sewage disposal by certain vessels and floating structures, etc. EP 03/22/2017 Fav/CS AEN 04/13/2017 Favorable AP | Favorable Yeas 7 Nays 0 |
| 5 | CS/SB 1452 Transportation / Book (Similar H 1161, Compare CS/CS/H 467, CS/CS/S 498) | Taximeters; Deleting a provision exempting certain taximeters from specified permit requirements; deleting a provision prohibiting the annual permit fees for taximeters from exceeding \$50, etc. TR 03/28/2017 Fav/CS AEN 04/13/2017 Favorable AP | Favorable Yeas 7 Nays 0 |
| 6 | CS/SB 1590 Environmental Preservation and Conservation / Latvala (Similar CS/CS/H 1213) | Coastal Management; Revising the criteria to be considered by the Department of Environmental Protection in determining and assigning annual funding priorities for beach management and erosion control projects; revising the list of projects that are included as inlet management projects; revising the ranking criteria to be used by the department to establish certain funding priorities for certain inlet-caused beach erosion projects; revising requirements for the comprehensive long-term management plan; requiring certain funds from the Land Acquisition Trust Fund to be used for projects that preserve and repair state beaches, etc. EP 03/22/2017 Fav/CS AEN 04/13/2017 Fav/CS AP | Fav/CS Yeas 6 Nays 0 |
| 7 | CS/SB 1592 Agriculture / Bean (Similar CS/H 1083) | Small Food Retailers; Establishing the Healthy Food Assistance Program within the Department of Agriculture and Consumer Services; requiring the Office of Program Policy Analysis and Government Accountability to conduct an independent study evaluating the program's policy impact; providing for future repeal and legislative review, etc. AG 03/21/2017 Fav/CS AEN 04/13/2017 Fav/CS AP | Fav/CS Yeas 6 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Appropriations Subcommittee on the Environment and Natural Resources
Thursday, April 13, 2017, 1:00—2:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|---------------------------------|--|------------------|
| | Other Related Meeting Documents | | |

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 928

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Stargel

SUBJECT: Water Protection and Sustainability

DATE: April 12, 2017 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|-----------------------------|
| 1. | <u>Mitchell</u> | <u>Rogers</u> | <u>EP</u> | Fav/CS |
| 2. | <u>Reagan</u> | <u>Betta</u> | <u>AEN</u> | Recommend: Favorable |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 928 creates the “Heartland Headwaters Protection and Sustainability Act.” The bill contains legislative findings and intent regarding the significance of, and protections for, water resources in the Green Swamp Area of central Florida.

The bill requires the Polk County Regional Water Cooperative (PRWC), in coordination with all of its member county and municipal governments, to prepare a comprehensive annual report on water resource projects identified for priority state funding within its members’ jurisdictions. The report must include lists of projects, identified by the PRWC for priority state funding, ranked in several categories, and the source and amount of financial assistance to be provided by the PRWC, the member county or municipal governments, or other entity for each listed project. The bill requires the PRWC to submit its annual report beginning December 1, 2017 to the Governor, the Legislature, the Department of Environmental Protection (DEP), and appropriate water management districts (WMDs). The bill also requires the PRWC to coordinate with appropriate WMDs on the inclusion in consolidated WMD annual reports of a status report on projects receiving priority state funding.

Finally, the bill clarifies the spending of a discretionary local government infrastructure surtax by authorizing a county or municipality that receives tax proceeds to transfer some part or all of the tax proceeds to a regional water supply authority whose purpose is to develop, recover, store, and supply water.

The bill has no impact on state or local government revenues or expenditures.

II. Present Situation:

Water Supply Planning

The Floridan Aquifer

The Floridan Aquifer is one of the most productive aquifers in the world, underlying approximately 100,000 square miles in southern Alabama, southeastern Georgia, southern South Carolina, and all of Florida. It is a multiple-use aquifer system. Where it contains freshwater, it is the principal source of water supply for several large cities (e.g., Savannah and Brunswick in Georgia; Jacksonville, Tallahassee, Orlando, and St. Petersburg in Florida) and for hundreds of thousands in smaller communities and rural areas.¹

Regional Water Supply Planning

In 1998, each of Florida's five water management districts (WMDs) prepared water supply assessments to determine the existing and future water needs of the state. The WMDs evaluated the adequacy of existing and potential sources to meet reasonable-beneficial needs and sustain natural systems for the following 20-year period. At that time, four of the five WMDs determined that sources were inadequate to meet future needs while sustaining the natural resources and were required to prepare a regional water supply plan (RWSP).²

By the end of 2015, the South Florida WMD, the St. Johns River WMD, and the Southwest Florida WMD had developed RWSPs for all regions within their districts and were working on their next 5-year updates. The Northwest Florida WMD currently has two RWSPs. Additionally, in areas where ground water basins (GWBs) are shared between WMDs, inter-district water supply planning efforts are developed, such as the Central Florida Water Initiative (CFWI) and the North Florida Regional Water supply Partnership involving the Suwannee River WMD and the St. Johns River WMD.³

Regional water supply planning must be conducted in an open public process, in coordination and cooperation with local governments, regional water supply authorities,⁴ government-owned and privately owned water and wastewater utilities, multijurisdictional water supply entities, self-suppliers, reuse utilities, the Department of Environmental Protection (DEP), the Department of Agriculture and Consumer Services (DACS), and other affected and interested parties.⁵ It is based on a 20 year planning period and includes a water supply development component (e.g., further development of fresh ground water and surface water, demineralization of brackish ground water, desalination of seawater, reuse of reclaimed water, water conservation) and a water resource development component (e.g., increasing water storage capabilities through

¹ USGS. *Floridan Aquifer System*, https://pubs.usgs.gov/ha/ha730/ch_g/G-text6.html (last visited Mar. 22, 2017).

² Section 373.709(1), F.S.; DEP, *Regional Water Supply Planning*, <http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm> (last visited Mar. 22, 2017).

³ DEP, *Regional Water Supply Planning Fact Sheet*, <http://www.dep.state.fl.us/water/waterpolicy/docs/factsheets/wrfss-regional-water-supply-planning.pdf> (last visited Mar. 22, 2017).

⁴ A regional water supply authority is created pursuant to s. 373.713, F.S.; It can be an "agency" under ch. 120, F.S.; see s. 120.52(1), F.S.; A "governmental authority" under ch. 367, F.S.; see s. 367.021(7), F.S.

⁵ Section 373.709(1), F.S.; s. 373.036(2), F.S.

surface reservoirs, aquifer storage and recovery) that could meet the projected reasonable-beneficial needs.⁶

Heartland Water Supply Planning Region

The Heartland water supply planning region covers approximately 2,569 square miles and includes Hardee County and the portions of Polk and Highlands counties within the Southwest Florida WMD.⁷ The remaining portions of Polk and Highlands counties are within the South Florida WMD and are in separate water supply planning regions, the Upper Kissimmee and Lower Kissimmee, respectively.⁸

The Central Florida Water Initiative

The Central Florida Water Initiative (CFWI) is a collaborative process involving the DEP, the St. Johns River WMD, the South Florida WMD, the Southwest Florida WMD, DACS, regional public water supply utilities, and other stakeholders to address the current and long-term water supply needs of central Florida without causing harm to the water resources and associated natural systems.⁹ The CFWI area includes all of Orange, Osceola, Polk, and Seminole counties, and southern Lake County.¹⁰ The area covers approximately 5,300 square miles and encompasses:

- The headwaters for seven river systems:
 - The Alafia, located in Polk County;¹¹
 - The Hillsborough, located in the Green Swamp in southeast Pasco County;¹²
 - The Kissimmee;
 - The Ocklawaha, located in the Green Swamp near Lake Apopka, in Orange County;¹³
 - The Peace, located in the Green Swamp in northern Polk County;¹⁴
 - The St. Johns, located in Indian River and Brevard counties;¹⁵
 - The Withlacoochee, located in the Green Swamp in northwestern Polk and southern Sumter counties.¹⁶

⁶ Section 373.709(2), F.S.; DEP, *Regional Water Supply Planning*, <http://www.dep.state.fl.us/water/waterpolicy/rwsp.htm> (last visited Mar. 22, 2017).

⁷ Southwest Florida WMD. *Regional Water Supply Plan*, <https://www.swfwmd.state.fl.us/documents/plans/RWSP/heartland.php> (last visited Mar. 20, 2017).

⁸ Southwest Florida WMD. *Florida's Water Management Districts*, <http://www.swfwmd.state.fl.us/about/wmds.php> (last visited Mar. 22, 2017).

⁹ Section 373.0465(1)(c), F.S.; CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 22, 2017).

¹⁰ Section 373.0465(2)(a), F.S.; CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 21, 2017).

¹¹ See *infra* n. 48 and accompanying text.

¹² Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 20, 2017).

¹³ *Id.*

¹⁴ Southwest Florida WMD. *The Peace River*, <http://www.swfwmd.state.fl.us/education/interactive/peacriver/natural.php>; Southwest Florida WMD. *Green Swamp Interactive*,

<https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 22, 2017).

¹⁵ St. Johns River WMD. *Upper St. Johns River Basin*, <http://www.sjrwm.com/upperstjohnsriver/> (last visited Mar. 21, 2017).

¹⁶ Southwest Florida WMD. *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/rivers.html> (last visited Mar. 20, 2017).

- Four distinct ground water basins (GWBs). These GWBs meet in north-central Polk County, and in general this location represents an important area of recharge with ground water flow radiating out in all directions.¹⁷
- Approximately 1,200 square miles or 782,000 acres of wetlands.
- Approximately 475 square miles or 300,300 acres of open water bodies.
- Seven regional wetlands systems: the Green Swamp, Reedy Creek Swamp, Davenport Creek Swamp, Big Bend Swamp, Cat Island Swamp, Boggy Creek Swamp, and Shingle Creek Swamp.
- Sixteen first, second, and third magnitude springs.¹⁸

Areas that appear to be more susceptible to the effects of ground water withdrawals include the Wekiva Springs/River System, western Seminole County and western Orange County, southern Lake County, the Lake Wales Ridge, and the Southern Water Use Caution Area (SWUCA) in Polk County. The Southwest Florida WMD has already adopted rules for the SWUCA that are as restrictive, if not more restrictive, than those in the CFWI. Since portions of Polk County are in both areas, only the portion of Polk County that is outside the SWUCA is subject to the CFWI rules.¹⁹

The Southern Water Use Caution Area

The SWUCA was established in 1992, by the Southwest Florida WMD, in response to growing water demands from public supply, agriculture, mining, power generation and recreational uses and environmental concerns related to these ground water withdrawals.²⁰ It is an area of approximately 5,100 square miles in the Southern West-Central GWB that includes all of Desoto, Hardee, Manatee, and Sarasota counties and parts of Charlotte, Highlands, Hillsborough, and Polk counties.²¹

In 2006, the Southwest Florida WMD adopted the SWUCA Recovery Strategy²² that has four main goals:

- Achieve minimum flows in the upper Peace River;
- Achieve minimum lake levels in lakes along the Lake Wales Ridge, which extends roughly 90 miles along the center of the state in Polk and Highlands counties;
- Achieve the saltwater intrusion minimum aquifer level; and

¹⁷ CFWI. *Central Florida Water Initiative Guiding Document* (January 2015), http://cfwiwater.com/pdfs/CFWI_Guiding_Document_2015-01-30.pdf (last visited Mar. 22, 2017).

¹⁸ CFWI. *Central Florida Water Initiative Regional Water Supply Plan Public Draft*, http://cfwiwater.com/pdfs/plans/CFWI_RWSP_DrftPblc2_VolIa_5-1-15.pdf (last visited Mar. 22, 2017).

¹⁹ *Id.*

²⁰ Section 373.0363(2)(a), F.S.; Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017); Southwest Florida WMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf (last visited Mar. 21, 2017).

²¹ Section 373.0363(1)(c), F.S.; SWFWMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf (last visited Mar. 20, 2017).

²² The “Southern Water Use Caution Area Recovery Strategy” is the district’s planning, regulatory, and financial strategy for ensuring that adequate water supplies are available to meet growing demands while protecting and restoring the water and related natural resources of the area; s. 373.0363(1)(d), F.S.

- Ensure water supply needs are met for existing and projected reasonable and beneficial uses.²³

Ground water withdrawals have since stabilized in the SWUCA. Water supply needs for the region are being met through the planning period as a result of regional water supply planning and management efforts. However, depressed aquifer levels continue to cause saltwater intrusion into the Floridan Aquifer and contribute to reduced flows in the upper Peace River and lowered lake levels of some of the lakes in the upland areas of Polk and Highlands counties.²⁴ The Southwest Florida WMD has formed two separate stakeholder workgroups to assist in identifying additional options for achieving these goals.²⁵

Consolidated Water Management District Annual Report

Each year, each WMD must prepare and submit to the DEP, the Governor, the President of the Senate, and the Speaker of the House of Representatives a consolidated WMD annual report on the management of water resources. Also, they must provide copies to all legislative committee chairs having substantive or fiscal jurisdiction over the WMDs and the governing board of each county in the WMD having jurisdiction or deriving any funds for operations of the WMD. Copies must also be available to the public, either in printed or electronic format.²⁶

Among other requirements, the report must contain information on all projects related to water quality or water quantity as part of a five-year work program, including:

- A list of all specific projects identified to implement a basin management action plan or a recovery or prevention strategy;
- A priority ranking for each listed project for which state funding through the water resources development work program is requested, which must be made available to the public for comment at least 30 days before submission of the consolidated annual report;
- The estimated cost for each listed project;
- The estimated completion date for each listed project;
- The source and amount of financial assistance to be made available by the DEP, a WMD, or other entity for each listed project; and
- A quantitative estimate of each listed project's benefit to the watershed, water body, or water segment in which it is located.²⁷

²³ Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017).

²⁴ Section 373.0363(2)(b), F.S.; Southwest Florida WMD. *Southern Water Use Caution Area Recovery Strategy* (March 2006), https://www.swfwmd.state.fl.us/documents/plans/swuca_recovery_strategy.pdf (last visited Mar. 22, 2017); CFWI. *Central Florida Water Initiative Regional Water Supply Plan Public Draft*, http://cfwiwater.com/pdfs/plans/CFWI_RWSP_DraftPblc2_VolIa_5-1-15.pdf (last visited Mar. 21, 2017).

²⁵ Southwest Florida WMD. *Southern Water Use Caution Area*, <https://www.swfwmd.state.fl.us/projects/swuca/> (last visited Mar. 22, 2017).

²⁶ Section 373.036(7)(a), F.S.

²⁷ Section 373.036(7)(b)8.a.-f., F.S.

Regional Water Supply Authorities

Counties, municipalities, or special districts may enter into interlocal agreements to create a regional water supply authority (RWSA) for the purpose of developing, recovering, storing, and supplying water for county or municipal purposes that will give priority to reducing adverse environmental effects of excessive or improper withdrawals of water from concentrated areas. These agreements must be approved by the Secretary of the DEP to ensure that the agreement will be in the public interest and complies with the intent and purposes of the Florida Interlocal Cooperation Act.²⁸

In approving such an agreement, the Secretary of the DEP must consider, but is not limited to, the following:

- Whether the geographic territory of the proposed authority is of sufficient size and character to reduce the environmental effects of improper or excessive withdrawals of water from concentrated areas.
- The maximization of economic development of the water resources within the territory of the proposed authority.
- The availability of a dependable and adequate water supply.
- The ability of any proposed authority to design, construct, operate, and maintain water supply facilities in the locations, and at the times necessary, to ensure that an adequate water supply will be available within the authority.
- The effect or impact of any proposed authority on any municipality, county, or existing authority or authorities.²⁹

Currently, there are four RWSAs: Tampa Bay Water (formerly known as the West Coast RWSA), Peace River/Manasota RWSA, Withlacoochee RWSA, and Walton/Okaloosa/Santa Rosa Regional Utility Authority.³⁰

Polk County Regional Water Cooperative

In June 2016, Polk County and 16 municipalities within Polk County³¹ entered into an interlocal agreement to create a RWSA known as the Polk County Regional Water Cooperative (PRWC).³² The role of the PRWC is to proactively identify alternative water resources and projects that ensure the future sustainability of the regional water supply. The PRWC will specifically identify sustainable ground water sources, develop strategies that meet water demands, determine needed infrastructure, and establish consistent rules.³³

²⁸ Sections 373.713(1), F.S., and 163.01, F.S.

²⁹ Section 373.713(1)(a)-(f), F.S.

³⁰ DEO. *Water Supply Planning*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/water-supply-planning> (last visited Mar. 22, 2017).

³¹ The City of Auburndale; City of Bartow; City of Davenport; Town of Dundee; City of Eagle Lake; City of Fort Meade; City of Frostproof; Haines City; City of Lake Alfred; Town of Lake Hampton; City of Lakeland; City of Lake Wales; City of Mulberry; Polk City; and City of Winter Haven; Polk County Regional Water Cooperative. *Members*, <http://www.prcwater.org/Members.aspx> (last visited Mar. 20, 2017).

³² Polk County Regional Water Cooperative. *Interlocal Agreement Relating to the Establishment of the Polk County Regional Water Cooperative*, <http://www.prcwater.org/boccsite/WorkArea/DownloadAsset.aspx?id=11306> (last visited Mar. 22, 2017).

³³ Polk County Regional Water Cooperative. *Homepage* <http://www.prcwater.org/> (last visited Mar. 21, 2017).

The Green Swamp

The Green Swamp includes portions of Polk, Lake, Sumter, Hernando and Pasco counties. The region consists of 560,000 acres of wetlands, flatlands and low ridges bound by prominent sandy ridgelines that form the headwaters of the Withlacoochee,³⁴ the Ocklawaha,³⁵ the Hillsborough³⁶ and the Peace Rivers.³⁷ The Peace and Hillsborough Rivers are potable water sources for Tampa and Sarasota. The Ocklawaha, Withlacoochee and Hillsborough Rivers are designated Outstanding Florida Waters.³⁸

The Green Swamp is elevated above outlying areas and the Floridan Aquifer rises very close to the land surface, which causes the region to function as the pressure head for the aquifer, helping maintain free-flowing springs, rivers, and abundant high quality drinking water. Accordingly, protecting the Green Swamp is vital to protecting the quality and quantity of Florida's water supply. In recognizing the statewide significance of this area's valuable hydrologic functions, second only to that of the Everglades, and the need to specifically regulate encroaching development that would imperil these functions, the state in 1979, designated 322,690 acres of the Green Swamp as an area of critical state concern.³⁹ The designated area is located in northern Polk and southern Lake counties.⁴⁰

Areas of Critical State Concern

The Governor and Cabinet, sitting as the Administration Commission,⁴¹ are authorized to designate certain areas within the state that contain resources of statewide significance as areas of critical state concern.⁴² An area of critical state concern may only be designated for an area:

- Containing, or having a significant impact upon, environmental or natural resources of regional or statewide importance, including, state or federal parks, forests, wildlife refuges, wilderness areas, aquatic preserves, major rivers and estuaries, state environmentally endangered lands, Outstanding Florida Waters,⁴³ and aquifer recharge areas, where uncontrolled development would cause substantial deterioration of such resources;

³⁴ See *supra* n. 17 and accompanying text.

³⁵ See *supra* n. 14 and accompanying text.

³⁶ See *supra* n. 13 and accompanying text.

³⁷ See *supra* n. 15 and accompanying text.

³⁸ DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 22, 2017); "Outstanding Florida Waters" are waters designated by the Environmental Regulation Commission as being worthy of special protection because of their natural attributes; r. 62-302.200(26), F.A.C.

³⁹ Section 380.0551, F.S.; Southwest Florida WMD. *Green Swamp Wilderness Preserve*, <http://www.swfwmd.state.fl.us/recreation/areas/greenswamp.html> (last visited Mar. 22, 2017); DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 21, 2017); Southwest Florida WMD *Green Swamp Interactive*, <https://www.swfwmd.state.fl.us/education/interactive/greenswamp/textonly.html> (last visited Mar. 22, 2017).

⁴⁰ DEO. *Green Swamp Area*, <http://www.floridajobs.org/community-planning-and-development/programs/community-planning-table-of-contents/areas-of-critical-state-concern/the-green-swamp> (last visited Mar. 20, 2017).

⁴¹ See ss. 380.031(1) and 14.202, F.S.

⁴² Section 380.05, F.S.

⁴³ "Outstanding Florida Waters" means waters designated by the Environmental Regulation Commission as worthy of special protection because of their natural attributes; r. 62-302.200(26), F.A.C.

- Containing, or having a significant impact upon, historical or archaeological resources, sites, or statutorily defined historical or archaeological districts, where development would cause substantial deterioration or complete loss of such resources, sites, or districts; or
- Having a significant impact upon, or being significantly impacted by, an existing or proposed major public facility or other area of major public investment including, highways, ports, airports, energy facilities, and water management projects.⁴⁴

In addition to the Green Swamp Area, the Big Cypress Area,⁴⁵ the Florida Keys Area, the City of Key West Area,⁴⁶ and the Apalachicola Bay Area⁴⁷ are areas of critical state concern.

The Alafia River

The Alafia River consists of two major branches, the North Prong and the South Prong, which originate in western Polk County and converge in eastern Hillsborough County to form the river.⁴⁸ The Alafia River now contributes the largest outflow of any river to Tampa Bay. The Hillsborough River was Tampa Bay's biggest freshwater contributor, but a prolonged drought, coupled with Tampa's water needs, has placed heavy demands on the Hillsborough River and its watershed.⁴⁹

The Kissimmee River

The Kissimmee River Basin covers approximately 2,940 square miles in Central Florida. The watershed is approximately 105 miles long, extending from Orlando southward to Lake Okeechobee, encompassing Orange, Osceola, Okeechobee, Highlands, and Polk Counties and a small portion of Lake County.⁵⁰ The basin is made up of more than two dozen lakes in the Kissimmee Chain of Lakes, their tributary streams and associated marshes and the Kissimmee River and floodplain, forming the headwaters of Lake Okeechobee and the Everglades.⁵¹

Historically, the Kissimmee Chain of Lakes and the Kissimmee River were an integrated system of headwater lakes connected by broad shallow wetlands and creeks. These systems were substantially altered by the construction of the Central and South Florida Flood Control Project in the 1960s. The river, which once meandered for 103 miles throughout Central Florida, with its floodplain reaching up to three miles wide, was reconfigured into a 56 mile long canal for flood control. Restoration efforts are underway for portions of the Kissimmee River.⁵²

⁴⁴ Section 380.05(2)(a)-(c), F.S.

⁴⁵ Section 380.055, F.S.

⁴⁶ Section 380.0552, F.S.

⁴⁷ Section 380.0555, F.S.

⁴⁸ USGS. Gerold Morrison and Holly Greening, *Freshwater Flows* ch. 6, p. 169, <https://pubs.usgs.gov/circ/1348/pdf/> (Jan. 2012) (last visited Mar. 20, 2017).

⁴⁹ Southwest Florida WMD. *Alafia River Watershed Excursion*, <http://www.swfwmd.state.fl.us/education/watersheds/alafia/geology> (last visited Mar. 21, 2017).

⁵⁰ DEP, *Kissimmee River Basin Lakes, Rivers, Streams, and Aquifers*, <https://www.dep.state.fl.us/water/monitoring/docs/bmr/kissimmee.pdf> (last visited Mar. 20, 2017).

⁵¹ South Florida WMD. *Kissimmee River*, <https://www.sfwmd.gov/our-work/kissimmee-river> (last visited Mar. 22, 2017).

⁵² *Id.*

Local Government Infrastructure Surtax

A county may levy a discretionary sales surtax of 0.5 percent or one percent pursuant to ordinance enacted by a majority of the members of the county governing authority and approved by a majority of the electors of the county voting in a referendum on the surtax. If municipalities representing a majority of the county's population adopt uniform resolutions establishing the rate of the surtax and calling for a referendum on the surtax, the levy of the surtax must be placed on the ballot and will take effect if approved by a majority of the electors of the county voting in the referendum on the surtax.⁵³ Surtax proceeds and any accrued interest must be expended by the school district, within the county and municipalities within the county, or, in the case of a negotiated joint county agreement, within another county.⁵⁴

III. Effect of Proposed Changes:

The bill creates the "Heartland Headwaters Protection and Sustainability Act."

Section 2 creates s. 373.462, F.S., containing legislative findings and intent regarding the significance of, and protections for, water resources in the Green Swamp Area of central Florida, and providing legislative recognition of the following:

- By law in 1979, portions of Lake and Polk Counties were designated as the Green Swamp Area of Critical State Concern in acknowledgment of the regional and statewide importance of the area in maintaining the quality and quantity of Florida's water supply and water resources for the public and the environment; and
- The Southern Water Use Caution Area (SWUCA) Recovery Strategy dated March of 2006, and the Central Florida Water Initiative (CFWI) Guiding Document dated January 30, 2015, both recognized the fact that the surface water and ground water resources in the heartland counties of Hardee, Highlands, and Polk are integral to the health, public safety, and economic future of the Green Swamp Area and surrounding regions.

The section makes specific legislative findings that:

- The Green Swamp Area and the surrounding region are economically, environmentally, and socially defined by some of the most important and vulnerable water resources in the state;
- The Green Swamp Area, which encompasses approximately 560,000 acres, is located in a regionally significant high recharge area of the Floridan Aquifer system and helps protect coastal communities from saltwater intrusion;
- The Green Swamp Area's unique topography and geology receives no water inputs other than rainfall. The area is essential in maintaining the potentiometric head of the Floridan Aquifer system that directly influences the aquifer's productivity for water supply; and
- The headwaters of six major river systems are located in the Green Swamp Area or in Polk County.

The section makes additional legislative declarations that:

- There is an important state interest in partnering with regional water supply authorities (RWSA), local governments, and water management districts to protect the water resources

⁵³ Section 212.055(2)(a)1., F.S.

⁵⁴ Section 212.055(2)(d), F.S.

of the headwaters of the Alafia, Hillsborough, Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers and surrounding areas; and

- Priority state funding consideration must be given to solutions to manage the water resources of these headwaters and the local Floridan Aquifer system in the most efficient, cost-effective, and environmentally beneficial way.

Section 3 creates s. 373.463, F.S., to require the Polk County Regional Water Cooperative (PRWC), in coordination with all of its member county and municipal governments, to prepare a comprehensive annual report on water resource projects identified for priority state funding within its members' jurisdictions. The report must include, at a minimum:

- Lists of projects, identified by the PRWC for priority state funding, in each of the following categories, which may list the same project in more than one category:
 - Drinking water supply;
 - Wastewater, including reuse;
 - Stormwater and flood control;
 - Environmental restoration; and
 - Conservation;
- A priority ranking within each category for each listed project that will be ready for implementation in the upcoming fiscal year;
- The estimated cost of each listed project;
- The estimated completion date of each listed project; and
- The source and amount of financial assistance to be provided by the PRWC, the member county or municipal governments, or other entity for each listed project.

This section requires the PRWC to submit its annual report beginning December 1, 2017, to the Governor, the Legislature, the Department of Environmental Protection (DEP), and appropriate water management districts. The PRWC is required to coordinate with appropriate water management districts on the inclusion in consolidated water management district annual reports of a status report on projects receiving priority state funding.

Finally, section 4 amends s. 212.055, F.S., to authorize a city or county to transfer the revenues generated by the local government infrastructure surtax to a regional water supply authority to develop, recover, store, and supply water consistent with the purposes specified in s. 212.055(2)(d), F.S.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. **Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill does not impact state or local government revenues or expenditures.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill creates the following sections of the Florida Statutes: 373.462 and 373.463.

This bill substantially amends section 212.055 of the Florida Statutes.

IX. **Additional Information:**

A. Committee Substitute – Statement of Substantial Changes:

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

CS by Environmental Preservation and Conservation on March 28, 2017:

- Removes an exemption from the bill so that the Secretary of the Department of Environmental Protection must, under s. 373.713(1), F.S., approve the Polk County Regional Water Cooperative (PRWC).
- Adds reuse to the wastewater category of projects listed for priority state funding in the annual report by the PRWC.
- Requires the PRWC to submit its annual report beginning December 1, 2017, to the Governor, the Legislature, the DEP, and appropriate water management districts.
- Requires the PRWC to coordinate with appropriate water management districts on the inclusion in consolidated water management district annual reports of a status report on projects receiving priority state funding.

- Clarifies spending of a local government infrastructure surtax by authorizing a county or municipality that receives tax proceeds to transfer some part or all of the tax proceeds to a regional water supply authority whose purpose is to develop, recover, store, and supply water.
- Removes an annual appropriation, beginning in the 2017-2018 fiscal year and ending in the 2036-2037 fiscal year, for an unspecified amount of funds to the DEP for projects identified for priority state funding in the PRWC annual report.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation;
and Senator Stargel

592-03009-17

2017928c1

1 A bill to be entitled
2 An act relating to water protection and
3 sustainability; creating the "Heartland Headwaters
4 Protection and Sustainability Act"; creating s.
5 373.462, F.S.; providing legislative findings and a
6 declaration of important state interest; creating s.
7 373.463, F.S.; requiring the Polk Regional Water
8 Cooperative, in coordination with its member county
9 and municipal governments, to prepare a comprehensive
10 annual report on certain water resource projects
11 within its members' jurisdictions; specifying
12 requirements for such report; specifying to whom such
13 report must be submitted; requiring the Polk Regional
14 Water Cooperative, in coordination with appropriate
15 water management districts, to submit an annual status
16 report on projects receiving priority state funding;
17 requiring that such report be included in specified
18 annual reports; amending s. 212.055, F.S.; authorizing
19 local government infrastructure surtax proceeds to be
20 allocated to regional water supply authorities under
21 certain conditions; providing an effective date.

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

24
25 Section 1. This act may be cited as the "Heartland
26 Headwaters Protection and Sustainability Act."

27 Section 2. Section 373.462, Florida Statutes, is created to
28 read:

29 373.462 Legislative findings and intent.-

592-03009-17

2017928c1

30 (1) The Legislature recognizes that, in 1979, specified
31 portions of Lake and Polk Counties were designated by law as an
32 area of critical state concern, known as the Green Swamp Area,
33 in acknowledgment of their regional and statewide importance in
34 maintaining the quality and quantity of Florida's water supply
35 and water resources for the public and the environment.

36 (2) The Legislature also recognizes that the entire Green
37 Swamp Area, which encompasses approximately 560,000 acres, is
38 located in a regionally significant high recharge area of the
39 Floridan Aquifer system, and that it helps protect coastal
40 communities from saltwater intrusion.

41 (3) The Legislature finds that the Green Swamp Area or Polk
42 County make up the headwaters or portions of the headwaters of
43 six major river systems in the state, the Alafia, Hillsborough,
44 Kissimmee, Ocklawaha, Peace, and Withlacoochee Rivers. In
45 addition, due to the area's unique topography and geology, it
46 receives no water inputs other than rainfall. The area is
47 essential in maintaining the potentiometric head of the Floridan
48 Aquifer system, which directly influences the aquifer's
49 productivity for water supply.

50 (4) The Legislature also finds that the Green Swamp Area
51 and surrounding areas are economically, environmentally, and
52 socially defined by some of the most important and vulnerable
53 water resources in the state.

54 (5) The Legislature recognizes that the Central Florida
55 Water Initiative Guiding Document, dated January 30, 2015, and
56 the Southern Water Use Caution Area Recovery Strategy, dated
57 March 2006, found that the surface water and groundwater
58 resources in the heartland counties of Hardee, Highlands, and

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59 Polk are integral to the health, public safety, and economic
60 future of those regions.

61 (6) The Legislature declares that there is an important
62 state interest in partnering with regional water supply
63 authorities, local governments, and water management districts
64 in accordance with s. 373.705, to protect the water resources of
65 the headwaters of the Alafia, Hillsborough, Kissimmee,
66 Ocklawaha, Peace, and Withlacoochee Rivers and the areas that
67 surround them. The Legislature further declares that priority
68 state funding consideration must be given to funding solutions
69 that manage the water resources of these headwaters and the
70 local Floridan Aquifer system in the most efficient, cost-
71 effective, and environmentally beneficial way.

72 Section 3. Section 373.463, Florida Statutes, is created to
73 read:

74 373.463 Heartland headwaters annual reports.—

75 (1) The Polk Regional Water Cooperative, in coordination
76 with all of its member county and municipal governments, shall
77 prepare a comprehensive annual report on water resource projects
78 identified for priority state funding within its members'
79 jurisdictions. The report must include, at a minimum:

80 (a) A list of projects identified by the cooperative for
81 priority state funding for each of the following categories. A
82 project may be listed in more than one category:

- 83 1. Drinking water supply.
- 84 2. Wastewater, including reuse.
- 85 3. Stormwater and flood control.
- 86 4. Environmental restoration.
- 87 5. Conservation.

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88 (b) A priority ranking for each listed project that will be
89 ready to proceed in the upcoming fiscal year, identified by the
90 categories specified in paragraph (a).

91 (c) The estimated cost of each listed project.

92 (d) The estimated completion date of each listed project.

93 (e) The source and amount of financial assistance to be
94 provided by the cooperative, the member county or municipal
95 governments, or other entities for each listed project.

96 (2) By December 1, 2017, and each year thereafter, the
97 cooperative shall submit the comprehensive annual report to the
98 Governor, the President of the Senate, the Speaker of the House
99 of Representatives, the department, and the appropriate water
100 management districts.

101 (3) The cooperative shall also annually coordinate with the
102 appropriate water management district to submit a status report
103 on projects receiving priority state funding for inclusion in
104 the consolidated water management district annual report
105 required by s. 373.036(7).

106 Section 4. Present paragraph (h) of subsection (2) of
107 section 212.055, Florida Statutes, is redesignated as paragraph
108 (i) of that subsection and amended, and a new paragraph (h) is
109 added to that subsection, to read:

110 212.055 Discretionary sales surtaxes; legislative intent;
111 authorization and use of proceeds.—It is the legislative intent
112 that any authorization for imposition of a discretionary sales
113 surtax shall be published in the Florida Statutes as a
114 subsection of this section, irrespective of the duration of the
115 levy. Each enactment shall specify the types of counties
116 authorized to levy; the rate or rates which may be imposed; the

592-03009-17

2017928c1

117 maximum length of time the surtax may be imposed, if any; the
118 procedure which must be followed to secure voter approval, if
119 required; the purpose for which the proceeds may be expended;
120 and such other requirements as the Legislature may provide.
121 Taxable transactions and administrative procedures shall be as
122 provided in s. 212.054.

123 (2) LOCAL GOVERNMENT INFRASTRUCTURE SURTAX.—

124 (h) A county or municipality that receives proceeds under
125 the provisions of this subsection may transfer such proceeds to
126 an entity created under s. 373.713 whose purpose is to develop,
127 recover, store, and supply water. Such transferred proceeds must
128 be used for the purposes specified in paragraph (d).

129 (i) ~~(h)~~ Notwithstanding any other provision of this section,
130 a county may ~~shall~~ not levy local option sales surtaxes
131 authorized in this subsection and subsections (3), (4), and (5)
132 in excess of a combined rate of 1 percent.

133 Section 5. This act shall take effect July 1, 2017.

134

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17
Meeting Date

928
Bill Number (if applicable)

Topic Water Protection & Sustainability

Amendment Barcode (if applicable)

Name Tom Singleton

Job Title President

Address 285 Taylor Road
Street

Phone (850) 572-9733

Wint-Haw FL 32344
City State Zip

Email tom@HSingletonConsulting.com

Speaking: For Against Information

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

Representing City of Wint-Haw

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

SB 928

Bill Number (if applicable)

Topic Water Protection and Sustainability

Amendment Barcode (if applicable)

Name Frank Bernardino

Job Title _____

Address 201 W. Park Ave Suite 100

Phone 561/718-2345

Street

Tallahassee

City

FL

State

32301

Zip

Email frank@antfieldflorida.com

Speaking: For Against Information

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

Representing Polk County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR KELLI STARGEL

22nd District

COMMITTEES:

Appropriations Subcommittee on Finance and Tax,
Chair
Appropriations Subcommittee on Health and
Human Services, *Vice Chair*
Appropriations
Children, Families, and Elder Affairs
Communications, Energy, and Public Utilities
Military and Veterans Affairs, Space, and Domestic
Security

March 28, 2017

The Honorable Rob Bradley
Senate Appropriations Subcommittee on Environment and Natural Resources, Chair
201 The Capitol
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Bradley:

I respectfully request that SB 928, related to *Water Protection and Sustainability*, be placed on the next committee agenda (**if received**). The House companion, HB 573, is in its second committee.

Thank you for your consideration and please do not hesitate to contact me should you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Kelli Stargel".

Kelli Stargel
State Senator, District 22

Cc: Giovanni Betta/ Staff Director
Lisa Waddell/ AA

REPLY TO:

- 2033 East Edgewood Drive, Suite 1, Lakeland, Florida 33803
- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5022

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 The Environment and Natural Resources

BILL: PCS/CS/SB 1018 (546818)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources;
Environmental Preservation and Conservation Committee; and Senator Grimsley

SUBJECT: Contaminated Site Cleanup

DATE: April 17, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

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

The bill increases expenditures from the Inland Protection Trust Fund by \$5 million annually. The bill will reduce revenues deposited into the General Revenue Fund by \$5 million annually based on a higher volume of tax credits.

II. Present Situation:

Petroleum Restoration Program

Petroleum is stored in thousands of underground and aboveground storage tank systems throughout Florida. Releases of petroleum into the environment may occur as a result of

accidental spills, storage tank system leaks, or poor maintenance practices.¹ These discharges pose a significant threat to groundwater quality, and Florida relies on groundwater for 90 percent of its drinking water.² The identification and cleanup of petroleum contamination is particularly challenging due to Florida's diverse geology, diverse water systems, and the complex dynamics between contaminants and the environment.³

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

Abandoned Tank Restoration Program

In 1990, the legislature established the Abandoned Tank Restoration Program (ATRP). The ATRP was created to address the contamination at facilities that had out-of-service or abandoned tanks as of March 1990. The ATRP originally had a one-year application period, but the deadline was subsequently extended to 1992, then 1994. In 1996, the legislature waived the deadline indefinitely for owners who are unable to pay for the closure of abandoned tanks. To be eligible for the ATRP, applicants must certify that the petroleum system has not stored petroleum products for consumption, use, or sale since March 1, 1990.⁶ In 2016, the legislature eliminated the June 30, 1996 application deadline.⁷

Site Rehabilitation

Florida law requires land contaminated by petroleum to be cleaned up, or rehabilitated, so that the concentration of each contaminant in the ground is below a certain level.⁸ These levels are known as Cleanup Target Levels (CTLs).⁹ Once the CTLs for a contaminated site¹⁰ has been attained, rehabilitation is complete and the site may be closed. When a site is closed, no further

¹ Florida Department of Environmental Protection, Division of Waste Management, *Petroleum Contamination Cleanup and Discharge Prevention Programs* (2012), http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/geninfo/2012Program_Briefing_11Jan12.pdf.

² *Id.*

³ *Id.*

⁴ Ch. 83-310, Laws of Fla.

⁵ Ch. 86-159, Laws of Fla.

⁶ Chapter 89-188, Laws of Fla.

⁷ Section 376.305(6), F.S.

⁸ Sections 376.301(8) and 376.3071(5), F.S.

⁹ *Id.*

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

cleanup action is required unless the contaminant levels increase above the CTLs or another discharge occurs.¹¹

State Funding Assistance for Rehabilitation

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

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

| Table 1: State Assisted Petroleum Cleanup Eligibility Programs | | |
|---|---|---|
| Program Name | Program Dates | Program Description |
| Early Detection Incentive Program (EDI) (s. 376.30371(9), F.S.) | Discharges must have been reported between July 1, 1986, and December 31, 1988, to be eligible | <ul style="list-style-type: none"> • First state-assisted cleanup program • 100 percent state funding for cleanup if site owners reported releases • Originally gave site owners the option of conducting cleanup themselves and receiving reimbursement from the state or having the state conduct the cleanup in priority order • Reimbursement option was phased out, so all cleanups are now conducted by the state |
| Petroleum Liability and Restoration Insurance Program (PLRIP) (s. 376.3072, F.S.) | Discharges must have been reported between January 1, 1989, and December 31, 1998, to be eligible | <ul style="list-style-type: none"> • Required facilities to purchase third party liability insurance to be eligible • Provides varying amounts of state-funded site restoration coverage |
| Abandoned Tank Restoration Program (ATRP) (s. 376.305(6), F.S.) | For petroleum storage systems that have not stored petroleum since March 1, 1990 ¹⁴ | Provides 100 percent state funding for cleanup, less deductible, at facilities that had out-of-service or abandoned tanks as of March 1990 |
| Innocent Victim Petroleum Storage System Restoration Program (s. 376.30715, F.S.) | The application period began on July 1, 2005, and remains open | Provides 100 percent state funding for a site acquired before July 1, 1990, that ceased operating as a petroleum storage or retail business before January 1, 1985 |

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

http://www.dep.state.fl.us/waste/quick_topics/publications/pss/pcp/geninfo/2012Program_Briefing_11Jan12.pdf.

¹² *Id.*

¹³ Section 376.308, F.S.

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

| | | |
|--|---|--|
| <p>Petroleum Cleanup Participation Program (PCPP) (s. 376.3071(13), F.S.)</p> | <p>Remains open</p> | <ul style="list-style-type: none"> • Created to provide financial assistance for sites that had missed all previous opportunities • Only discharges that occurred before 1995 were eligible • Site owner or responsible party must pay 25 percent of cleanup costs¹⁵ • Originally had a \$300,000 cap on the amount of coverage, which was raised to \$400,000 beginning July 1, 2008 |
| <p>Consent Order (aka “Hardship” or “Indigent”) (s. 376.3071(7)(c), F.S.)</p> | <p>The program began in 1986 and remains open</p> | <ul style="list-style-type: none"> • Created to provide financial assistance under certain circumstances for sites that the Department initiates an enforcement action to clean up • An agreement is formed whereby the Department conducts the cleanup and the site owner or responsible party pays for a portion of the costs |

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

Inland Protection Trust Fund

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

Funding for rehabilitation of a site is based on a relative risk scoring system. Each funding-eligible site receives a numeric score based on the threat the site contamination poses to the environment or to human health, safety, or welfare.²³ Sites currently in the Restoration Program range in score from 5 to 115 points, with a score of 115 representing a substantial threat and a

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

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

¹⁷ *Id.*

¹⁸ Section 376.3071(3)-(4), F.S.

¹⁹ Sections 206.9935(3) and 376.3071(6), F.S.

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

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

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

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

score of 5 representing a very low threat.²⁴ Sites are rehabilitated in priority order beginning with the highest score, with funding based on available budget.²⁵ The department sets the priority score funding threshold, which is the minimum score a site must be assigned to receive restoration funding at a particular point in time.²⁶

Expediting Site Rehabilitation

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

Advanced Cleanup

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

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

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

- A commitment to pay 25 percent or more of the total cleanup cost deemed recoverable along with proof of the ability to pay the cost share. Applications submitted for cleanup may be submitted in one of two formats to meet the cost-share requirement:

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

²⁵ Fla. Admin. Code R. 62-771.300.

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

²⁷ Section 376.30713(1), F.S.

²⁸ *Id.*

²⁹ Section 376.30713(1)(d), F.S.

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

- The applicant may use a commitment to pay, a demonstrated cost savings to DEP, or both to meet the requirement; or
- For an application relying on a demonstrated cost savings to the DEP, the applicant shall, in conjunction with the proposed agency term contractor, establish and provide in the application a 25 percent cost savings³¹ to the DEP for cleanup of the site under the application compared to the cost of cleanup of the same site using the current rates provide to the DEP by the proposed agency term contractor. The DEP shall determine whether the cost savings demonstration is acceptable.
- A nonrefundable review fee of \$250 to cover the DEP's administrative costs to review the application;
- A limited contamination assessment report;
- A proposed course of action; and
- A DEP site access agreement, or similar agreement.

The DEP ranks applications based on the percentage of cost-sharing commitment proposed by the applicant, with the highest ranking given to the applicant who proposes the highest percentage of cost sharing. In some circumstances where applicants propose the same percentage of cost sharing and funds are not available to commit to all of such proposals, applicants may raise their individual cost share commitments and the DEP will rerank the applications.³²

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

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

Low Scored Site Initiative

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

³¹ For aggregate applications of five sites or more the percentage is not specified.

³² Section 376.30713(2)(b), F.S.

³³ Section 376.30713(3), F.S.

³⁴ Section 376.30713(4), F.S.

³⁵ Section 376.30713(5), F.S.

³⁶ Section 376.3071(12)(b), F.S.

³⁷ *Id.*

Drycleaning Solvent Cleanup Program

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

Funding: Taxes and Fees

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

Program Application

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

Eligibility and Priority Ranking

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

Scoring System

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

- The threat the site poses to drinking water supplies based on;
 - The size of the largest uncontaminated public water supply well located within one mile of the site;

³⁸ Florida Department of Environmental Protection, *Dry Cleaning Solvent Cleanup Program*, http://www.dep.state.fl.us/waste/quick_topics/publications/wc/drycleaning/information/General-Information_04Jan17.pdf

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ Section 376.3078(3)(e), F.S.

⁴² Section 376.3078(7), F.S.

⁴³ Section 376.3078(8), F.S.

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

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

Contaminated Site Cleanup Criteria

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

Average Costs and Budget Projections

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

⁴⁴ Section 376.3078(7) and (8), F.S.

⁴⁵ Fla. Admin. Code Ch. 62-780.

⁴⁶ Section 376.301(22), F.S.

that are still undergoing cleanup (active) sites. This provides the range in costs associated with closed and active sites.

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

Annual budget projections require the Drycleaning Solvent Cleanup Program to track average costs associated with each phase of cleanup, and to anticipate the number of sites that will transition from one phase of cleanup to the next. Based on a dataset of 322 sites, where the remedy has been selected or the site has been closed, approximately 72 percent of all sites will require active remediation to reach closure, 10 percent will require monitoring only to reach closure, and 18 percent will meet the requirements for no further action following the site assessment. The average cost for site closure will depend on the type of closure achieved (active remediation, monitoring only, or no further action), as shown below.⁴⁷

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

The Brownfields Redevelopment Act

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

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

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

redevelopment, including environmental assessments and cleanups, environmental health studies, and environmental training programs.⁴⁹

In 1997, the Florida Legislature enacted the Brownfields Redevelopment Act (Act).⁵⁰ The Act provides financial and regulatory incentives to encourage voluntary remediation and redevelopment of brownfield sites in order to improve public health and reduce environmental hazards.⁵¹ The Act provides liability protection for program participants who have not caused or contributed to the contamination of a brownfield site on or after July 1, 1997.⁵²

Voluntary Cleanup Tax Credits

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

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

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

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

⁵⁰ Ch. 97-173, s. 1, Laws of Fla.

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

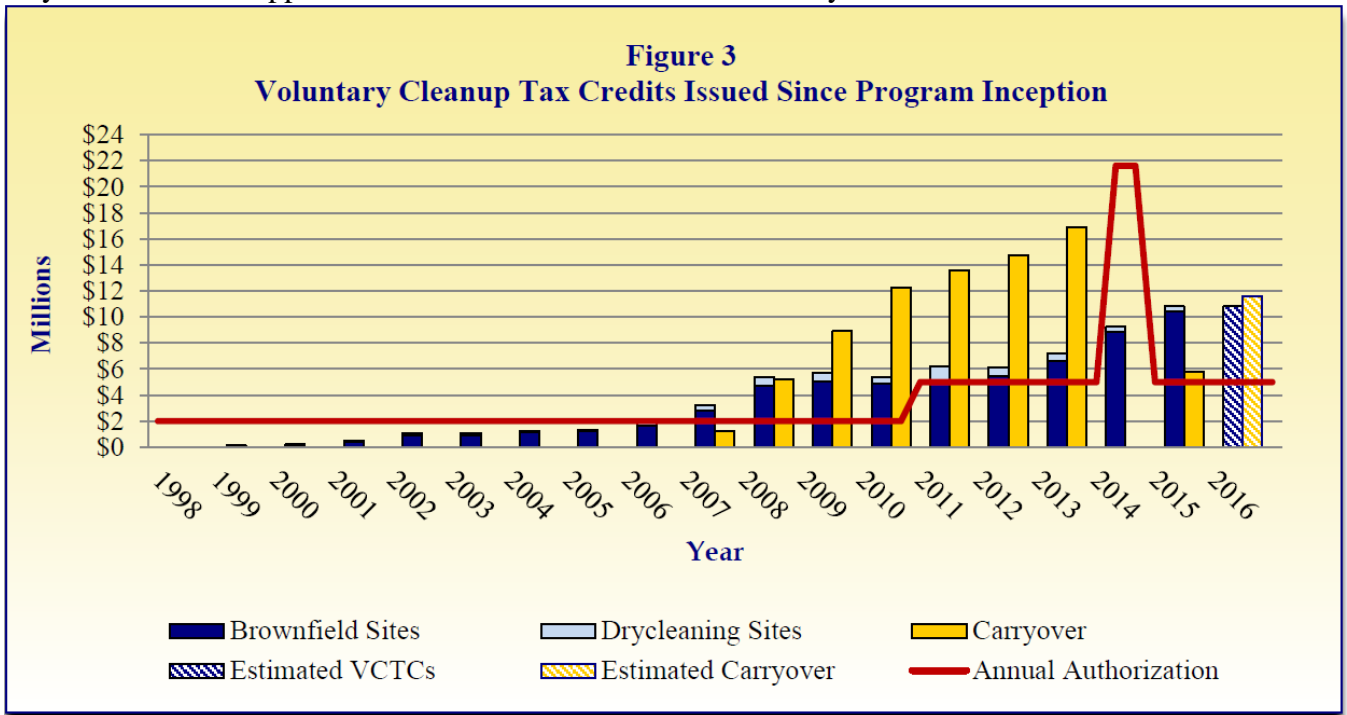
⁵² Section 376.82, F.S.

⁵³ DEP, *Florida Brownfields Redevelopment Program Annual Report* (2016), http://dep.state.fl.us/waste/quick_topics/publications/wc/brownfields/AnnualReport/2016/2015-16_FDEP_Annual.pdf

⁵⁴ Section 376.30781(4), F.S.

⁵⁵ *Id.*

of the 99 applicants for 2015 expenditures. Sixty-four applicants will receive their tax credits in July 2017 and nine applicants will receive their tax credits in July 2018.⁵⁶



III. Effect of Proposed Changes:

Advanced Cleanup - Property Redevelopment

Section 1 amends s. 376.3071, F.S., to provide an exception from penalties for prompt payment to subcontractors pursuant to s. 287.0585, F.S. Section 1 provides that the contractor may remit payment to the subcontractor within 30 working days after the contractor receives payment from the DEP. If the payments are made within this timeframe the penalties do not apply.

Section 2 amends s. 376.30713, F.S., to add legislative findings regarding the rehabilitation of a site contaminated by discharges of petroleum or petroleum products in advance of its priority ranking. The section contains findings that the inability to advance a site’s priority ranking may substantially impede or prohibit property redevelopment and that it is in the public interest and of substantial economic benefit to the state to advance site rehabilitation on a limited basis in order to encourage property redevelopment.

The section creates a separate procedure and criteria for the advancement ahead of its priority ranking of an individual contamination site slated for property redevelopment. The submittal of advanced cleanup applications for such sites are not limited to the two annual application periods from May 1 through June 30 and from November 1 through December 31, as are all other advanced cleanup applications, but are instead accepted on a first-come, first-served basis. Applicants for the advanced cleanup of individual contamination sites slated for redevelopment

⁵⁶ *Id.*

are also not subject to the 25 percent cost share copayment commitment required of other advanced cleanup applicants provided they demonstrate, as deemed acceptable by the Department of Environmental Protection (DEP), that the following have been included in their applications for cleanup:

- A nonrefundable review fee of \$250 for DEP's administrative cost;
- A limited contamination assessment report which is sufficient to support the course of action;
- A proposed course of action for site cleanup;
- A DEP approved agreement with the property owners for site cleanup if the applicant is not the owner;
- Certification to the DEP that the applicant has the authority to enter into an advanced site cleanup contract with the DEP;
- Documentation from the local government having jurisdiction that states that the local government is in agreement with or approves the redevelopment;
- A demonstrated reasonable assurance that the applicant has sufficient financial resources to implement and complete the redevelopment project.

Section 2 provides that site eligibility is not an entitlement to advanced cleanup funding or continued restoration funding.

Section 2 also increases the dollar amount of the contracts for advance cleanup work into which the DEP is authorized to enter from \$25 million to a total of \$30 million in each fiscal year. The DEP is authorized to designate up to \$5 million of those funds for the advance cleanup of individual contaminated sites that meet the criteria in the bill for redevelopment. A single facility or applicant for advance cleanup of an individual contaminated site slated for redevelopment may not be approved for more than \$1 million of cleanup activity per fiscal year.

Section 2 also provides the DEP with the right to terminate or amend the voluntary cost-share agreement with property owners or responsible parties if, the property owners or responsible parties are eligible to bundle multiple sites and fail to do so within three subsequent open application periods or 18 months, whichever is shorter.

Section 2 provides that the property owner or responsible party must agree to conduct limited site assessments within 12 months after execution of the voluntary cost-share agreement.

Advanced Site Assessment - Drycleaning

Section 3 amends s. 376.3078, F.S., to provide a finding that it is in the public interest and of substantial environmental and economic benefit to the state to conduct site assessments on a limited basis at sites contaminated with drycleaning solvents in advance of the priority ranking of contaminated sites.

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

- Information from the site assessment would be sufficient for the DEP to better evaluate the actual risk of the contamination, reducing the risk to public health and the environment;
- The property owner agrees to:

- Implement the appropriate institutional controls at the time the owner requests the advanced site assessment; and
- Upon completion of the cleanup, implement and maintain the required institutional controls, or a combination of institutional and engineering controls, when the site meets site rehabilitation criteria for closure with controls in accordance with the DEP rules for site rehabilitation;
- Current conditions at the site allow the site assessment to be conducted in a manner that will result in cost savings to the Water Quality Assurance Trust Fund;
- The annual Water Quality Assurance Trust Fund appropriation for the drycleaning solvent cleanup program is sufficient to pay for the site assessment; and
- The property owner provides access to the site and has paid the appropriate deductible amount depending on when contamination was reported to the DEP as part of a completed application for the Drycleaning Contamination Cleanup Program to rehabilitate the drycleaning facility.

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

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

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

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

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

- The potential for the development of new site assessment information to allow the DEP to better evaluate the actual risk of the contamination;
- Compatibility with appropriate institutional controls or a combination of institutional and engineering controls;
- The potential for cost savings to the Water Quality Assurance Trust Fund;
- The availability of funds from the annual Water Quality Assurance Trust Fund appropriation for the drycleaning solvent program;

- The DEP's determination of contractor logistics;
- Geographical considerations; and
- Other criteria that the DEP determines are necessary to achieve the most cost-effective approach.

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

Voluntary Cleanup Tax Credit (VCTC) Funding

Sections 4 and 5 amend ss. 220.1845 and 376.30781, F.S., respectively, to increase the annual cap on voluntary cleanup tax credits from \$5 million to \$10 million.⁵⁷

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

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

⁵⁷ Sections 220.1845 and 376.30781, F.S.

C. Government Sector Impact:

The bill will have a \$5 million recurring impact to the Inland Protection Trust Fund by increasing the total amount of contracts the DEP is authorized to approve for advanced cleanup work to \$30 million annually. The bill will have a \$5 million recurring impact to the General Revenue Fund by increasing the annual cap on the voluntary cleanup tax credits to \$10 million.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 376.30713, 376.3078, and 376.86.

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 The Environment and Natural Resources on April 13, 2017:**

The committee substitute:

- Amends s. 376.3071, F.S., to provide an exception from penalties for prompt payment to subcontractors pursuant to s. 287.0585, F.S. Provides that the contractor may remit payment to the subcontractor within 30 working days after the contractor receives payment from the DEP. If the payments are made within this timeframe the penalties do not apply.
- Clarifies requirements for eligibility of advanced site cleanup applicants.
- Provides that site eligibility is not an entitlement to advanced cleanup funding or continued restoration funding.

CS by Environmental Preservation and Conservation on March 14, 2017:

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

B. Amendments:

None.

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



446680

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/14/2017 | . | |
| | . | |
| | . | |
| | . | |

Appropriations Subcommittee on the Environment and Natural Resources (Grimsley) recommended the following:

Senate Amendment (with title amendment)

Delete lines 33 - 187

and insert:

Section 1. Paragraph (h) of subsection (6) of section 376.3071, Florida Statutes, is amended to read:

376.3071 Inland Protection Trust Fund; creation; purposes; funding.—

(6) CONTRACTING AND CONTRACTOR SELECTION REQUIREMENTS.—

(h) The contractor, or the person to whom ~~which~~ the



446680

11 contractor has assigned its right to payment pursuant to
12 paragraph (e), shall make prompt payment to subcontractors and
13 suppliers for their costs associated with an approved contract
14 pursuant to s. 287.0585, except that the contractor, or the
15 person to whom the contractor has assigned its right to payment
16 pursuant to paragraph (e), may remit payments to subcontractors
17 and suppliers within 30 working days after the contractor's
18 receipt of payment by the department before the penalties
19 required by s. 287.0585(1) are applicable.

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

23 376.30713 Advanced cleanup.-

24 (1) In addition to the legislative findings provided in s.
25 376.3071, the Legislature finds and declares:

26 (a) That the inability to conduct site rehabilitation in
27 advance of a site's priority ranking pursuant to s.
28 376.3071(5)(a) may substantially impede or prohibit property
29 redevelopment, property transactions, or the proper completion
30 of public works projects.

31 (c) It is in the public interest and of substantial
32 economic benefit to the state to provide an opportunity for site
33 rehabilitation to be conducted on a limited basis at
34 contaminated sites, in advance of the site's priority ranking,
35 to encourage redevelopment and facilitate property transactions
36 or public works projects.

37 (2) The department may approve an application for advanced
38 cleanup at eligible sites, including applications submitted
39 pursuant to paragraph (c), notwithstanding the site's priority



446680

40 ranking established pursuant to s. 376.3071(5)(a), pursuant to
41 this section. Only the facility owner or operator or the person
42 otherwise responsible for site rehabilitation qualifies as an
43 applicant under this section.

44 (a) Advanced cleanup applications may be submitted between
45 May 1 and June 30 and between November 1 and December 31 of each
46 fiscal year. Applications submitted between May 1 and June 30
47 shall be for the fiscal year beginning July 1. An application
48 must consist of:

49 1. A commitment to pay 25 percent or more of the total
50 cleanup cost deemed recoverable under this section along with
51 proof of the ability to pay the cost share. The department shall
52 determine whether the cost savings demonstration is acceptable.
53 Such determination is not subject to chapter 120.

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

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

61 (II) For an aggregate application relying on a demonstrated
62 cost savings to the department, the applicant shall, in
63 conjunction with the proposed agency term contractor, establish
64 and provide in the application the percentage of cost savings in
65 the aggregate that is being provided to the department for
66 cleanup of the sites under the application compared to the cost
67 of cleanup of those same sites using the current rates provided
68 to the department by the proposed agency term contractor.



446680

69 b. Applications for the cleanup of individual sites may be
70 submitted in one of two formats to meet the cost-share
71 requirement:

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

76 (II) For an individual application relying on a
77 demonstrated cost savings to the department, the applicant
78 shall, in conjunction with the proposed agency term contractor,
79 establish and provide in the application a 25-percent cost
80 savings to the department for cleanup of the site under the
81 application compared to the cost of cleanup of the same site
82 using the current rates provided to the department by the
83 proposed agency term contractor.

84 2. A nonrefundable review fee of \$250 to cover the
85 administrative costs associated with the department's review of
86 the application.

87 3. A limited contamination assessment report.

88 4. A proposed course of action.

89 5. A department site access agreement, or similar
90 agreements approved by the department that do not violate state
91 law, entered into with the property owner or owners, as
92 applicable, and evidence of authorization from such owner or
93 owners for petroleum site rehabilitation program tasks
94 consistent with the proposed course of action where the
95 applicant is not the property owner for any of the sites
96 contained in the application.

97



446680

98 The limited contamination assessment report must be sufficient
99 to support the proposed course of action and to estimate the
100 cost of the proposed course of action. Costs incurred related to
101 conducting the limited contamination assessment report are not
102 refundable from the Inland Protection Trust Fund. Site
103 eligibility under this subsection or any other provision of this
104 section is not an entitlement to advanced cleanup or continued
105 restoration funding. The applicant shall certify to the
106 department that the applicant has the prerequisite authority to
107 enter into an advanced cleanup contract with the department. The
108 certification must be submitted with the application.

109 (b) The department shall rank the applications based on the
110 percentage of cost-sharing commitment proposed by the applicant,
111 with the highest ranking given to the applicant who proposes the
112 highest percentage of cost sharing. If the department receives
113 applications that propose identical cost-sharing commitments and
114 that exceed the funds available to commit to all such proposals
115 during the advanced cleanup application period, the department
116 shall proceed to rerank those applicants. Those applicants
117 submitting identical cost-sharing proposals that exceed funding
118 availability must be so notified by the department and offered
119 the opportunity to raise their individual cost-share
120 commitments, in a period specified in the notice. At the close
121 of the period, the department shall proceed to rerank the
122 applications pursuant to this paragraph.

123 (c) Applications for the advanced cleanup of individual
124 sites scheduled for redevelopment are not subject to the
125 application period limitations or the requirement to pay 25
126 percent of the total cleanup cost specified in paragraph (a) or



446680

127 to the cost-sharing commitment specified in paragraph (1)(d).
128 Applications must be accepted on a first-come, first-served
129 basis and are not subject to the ranking provisions of paragraph
130 (b). Applications for the advanced cleanup of individual sites
131 scheduled for redevelopment must include:

132 1. A nonrefundable review fee of \$250 to cover the
133 administrative costs associated with the department's review of
134 the application.

135 2. A limited contamination assessment report. The report
136 must be sufficient to support the proposed course of action and
137 to estimate the cost of the proposed course of action. Costs
138 incurred related to conducting and preparing the report are not
139 refundable from the Inland Protection Trust Fund.

140 3. A proposed course of action for cleanup of the site.

141 4. If the applicant is not the property owner for any of
142 the sites contained in the application, a department site access
143 agreement, or a similar agreement approved by the department and
144 not in violation of state law, entered into with the property
145 owner or owners, as applicable, and evidence of authorization
146 from such owner or owners for petroleum site rehabilitation
147 program tasks consistent with the proposed course of action.

148 5. A certification to the department stating that the
149 applicant has the prerequisite authority to enter into an
150 advanced cleanup contract with the department. The advanced
151 cleanup contract must include redevelopment and site
152 rehabilitation milestones.

153 6. Documentation, in the form of a letter from the local
154 government having jurisdiction over the area where the site is
155 located, which states that the local government is in agreement



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156 with or approves the proposed redevelopment and that the
157 proposed redevelopment complies with applicable law and
158 requirements for such redevelopment.

159 7. A demonstrated reasonable assurance that the applicant
160 has sufficient financial resources to implement and complete the
161 redevelopment project.

162
163 Site eligibility under this section is not an entitlement to
164 advanced cleanup funding or continued restoration funding.

165 (4) The department may enter into contracts for a total of
166 up to \$30 ~~\$25~~ million of advanced cleanup work in each fiscal
167 year. Up to \$5 million of these funds may be designated by the
168 department for advanced cleanup of individual sites scheduled
169 for redevelopment under paragraph (2) (c).

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

174 (b) A facility or an applicant applying for advanced
175 cleanup of individual sites scheduled for redevelopment pursuant
176 to paragraph (2) (c) may not be approved for more than \$1 million
177 of cleanup activity in any one fiscal year.

178 (c) A property owner or responsible party may enter into a
179 voluntary cost-share agreement in which the property owner or
180 responsible party commits to bundle multiple sites and lists the
181 facilities that will be included in those future bundles. The
182 facilities listed are not subject to agency term contractor
183 assignment pursuant to department rule. The department must
184 reserve ~~reserves~~ the right to terminate or amend the voluntary



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185 cost-share agreement for any identified site under the voluntary
186 cost-share agreement if the property owner or responsible party
187 fails to submit an application to bundle any site, not already
188 covered by an advance cleanup contract, under such voluntary
189 cost-share agreement within three ~~a~~ subsequent open application
190 periods or 18 months, whichever period is shorter, period during
191 which it is eligible to participate. The property owner or
192 responsible party must agree to conduct limited site assessments
193 on the identified sites within 12 months after the execution of
194 the voluntary cost-share agreement. For the purposes of this
195

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

197 And the title is amended as follows:

198 Delete lines 2 - 16

199 and insert:

200 An act relating to contaminated site cleanup; amending
201 s. 376.3071, F.S.; providing an exception to prompt
202 payment requirements to subcontractors and suppliers;
203 amending s. 376.30713, F.S.; revising legislative
204 findings; specifying that applicants for advanced
205 cleanup of certain individual sites are not subject to
206 application period limitations and need not pay a
207 certain cost-sharing commitment; requiring
208 applications by such applicants to be accepted on a
209 first-come, first-served basis; providing that such
210 applications are not subject to certain ranking
211 provisions; specifying application requirements;
212 providing construction; increasing the amount per year
213 that the Department of Environmental Protection may



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214 use for advanced cleanup work; specifying expenditure
215 limitations; revising duties of property owners and
216 responsible parties with respect to voluntary cost-
217 share agreements; amending s.

By the Committee on Environmental Preservation and Conservation;
and Senator Grimsley

592-02440-17

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1 A bill to be entitled
2 An act relating to contaminated site cleanup; amending
3 s. 376.30713, F.S.; revising legislative findings;
4 providing an exception to a requirement that an
5 applicant for advanced cleanup demonstrate an ability
6 to pay cost share; requiring that the Department of
7 Environmental Protection determine whether specified
8 requirements are acceptable under certain
9 circumstances; providing that the application for the
10 cleanup of individual redevelopment sites is not
11 subject to certain application period limitations and
12 cost-share provisions; specifying the application
13 requirements for such sites; conforming provisions to
14 changes made by the act; increasing the amount per
15 year the department may use for advanced cleanup work;
16 specifying expenditure limitations; amending s.
17 376.3078, F.S.; providing a statement of public
18 interest; authorizing site assessments in advance of
19 site priority ranking under certain circumstances;
20 specifying criteria for sites to be eligible for such
21 assessments; specifying what must be demonstrated
22 through such assessments; specifying criteria for the
23 assignment of assessment tasks; specifying funding
24 limitations; specifying the prioritization of
25 requests; amending s. 220.1845, F.S.; increasing the
26 total amount of an authorization for tax credits;
27 amending s. 376.30781, F.S.; increasing the total
28 amount of tax credits the department is responsible
29 for allocating; providing an effective date.

Page 1 of 11

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592-02440-17

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30
31 Be It Enacted by the Legislature of the State of Florida:
32
33 Section 1. Paragraphs (a) and (c) of subsection (1) and
34 subsections (2) and (4) of section 376.30713, Florida Statutes,
35 are amended to read:
36 376.30713 Advanced cleanup.—
37 (1) In addition to the legislative findings provided in s.
38 376.3071, the Legislature finds and declares:
39 (a) That the inability to conduct site rehabilitation in
40 advance of a site's priority ranking pursuant to s.
41 376.3071(5) (a) may substantially impede or prohibit property
42 redevelopment, property transactions, or the proper completion
43 of public works projects.
44 (c) It is in the public interest and of substantial
45 economic benefit to the state to provide an opportunity for site
46 rehabilitation to be conducted on a limited basis at
47 contaminated sites, in advance of the site's priority ranking,
48 to encourage redevelopment and facilitate property transactions
49 or public works projects.
50 (2) The department may approve an application for advanced
51 cleanup at eligible sites, notwithstanding the site's priority
52 ranking established pursuant to s. 376.3071(5) (a), pursuant to
53 this section. Only the facility owner or operator or the person
54 otherwise responsible for site rehabilitation qualifies as an
55 applicant under this section.
56 (a) Advanced cleanup applications may be submitted between
57 May 1 and June 30 and between November 1 and December 31 of each
58 fiscal year. Applications submitted between May 1 and June 30

Page 2 of 11

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592-02440-17 20171018c1

59 shall be for the fiscal year beginning July 1. An application
60 must consist of:

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

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

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

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

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

86 (I) For an individual application proposing that the
87 department enter into a performance-based contract, the

592-02440-17 20171018c1

88 applicant may use a commitment to pay, a demonstrated cost
89 savings to the department, or both to meet the requirement.

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

98 c. Applications for the cleanup of individual redevelopment
99 sites are not subject to the application period limitations
100 specified in paragraph (a) or to the cost-share provisions in
101 paragraph (1) (d) and are accepted on a first-come, first-served
102 basis. Applications for the cleanup of individual redevelopment
103 sites must include:

104 (I) Certification that the applicant has consulted with the
105 local government having jurisdiction over the area about the
106 proposed redevelopment of the site, that the local government is
107 in agreement with or approves the proposed redevelopment, and
108 that the proposed redevelopment complies with applicable laws
109 and requirements for such redevelopment. The certification shall
110 be accomplished by referencing or providing a legally recorded
111 or officially approved land use or site plan, a development
112 order or approval, a building permit, or a similar official
113 document issued by the local government which reflects the local
114 government's approval of the proposed redevelopment of the site
115 or by providing a letter from the local government which
116 describes the proposed redevelopment of the site and expresses

592-02440-17 20171018c1

117 the local government's agreement with or approval of the
 118 proposed redevelopment.

119 (II) A demonstrated reasonable assurance that the applicant
 120 has sufficient financial resources to implement and complete the
 121 redevelopment project.

122 2. A nonrefundable review fee of \$250 to cover the
 123 administrative costs associated with the department's review of
 124 the application.

125 3. A limited contamination assessment report.

126 4. A proposed course of action.

127 5. A department site access agreement, or similar
 128 agreements approved by the department that do not violate state
 129 law, entered into with the property owner or owners, as
 130 applicable, and evidence of authorization from such owner or
 131 owners for petroleum site rehabilitation program tasks
 132 consistent with the proposed course of action where the
 133 applicant is not the property owner for any of the sites
 134 contained in the application.

135
 136 The limited contamination assessment report must be sufficient
 137 to support the proposed course of action and to estimate the
 138 cost of the proposed course of action. Costs incurred related to
 139 conducting the limited contamination assessment report are not
 140 refundable from the Inland Protection Trust Fund. Site
 141 eligibility under this subsection or any other provision of this
 142 section is not an entitlement to advanced cleanup or continued
 143 restoration funding. The applicant shall certify to the
 144 department that the applicant has the prerequisite authority to
 145 enter into an advanced cleanup contract with the department. The

592-02440-17 20171018c1

146 certification must be submitted with the application.

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

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

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

171 (b) A facility or an applicant applying for cleanup of
 172 individual redevelopment sites as referenced in sub-subparagraph
 173 (2) (a)1.c. may not be approved for more than \$1 million of
 174 cleanup activity in each fiscal year.

592-02440-17

20171018c1

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

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

194 376.3078 Drycleaning facility restoration; funds; uses;
 195 liability; recovery of expenditures.—

196 (14) ADVANCED SITE ASSESSMENT.—It is in the public
 197 interest, and of substantial environmental and economic benefit
 198 to the state, to provide an opportunity to conduct site
 199 assessment on a limited basis at contaminated sites in advance
 200 of the ranking of the sites on the priority list as specified in
 201 subsection (8).

202 (a) A real property owner who is eligible for site
 203 rehabilitation at a facility that has been determined eligible

Page 7 of 11

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592-02440-17

20171018c1

204 for the drycleaning solvent cleanup program under this section
 205 may request an advanced site assessment, and the department may
 206 authorize the performance of a site assessment in advance of the
 207 ranking of the site on the priority list as specified in
 208 subsection (8), if the following criteria are met:

209 1. The site assessment information would provide new
 210 information that would be sufficient for the department to
 211 better evaluate the actual risk of the contamination, thereby
 212 reducing the risk to public health and the environment;

213 2. The property owner agrees:

214 a. To implement the appropriate institutional controls
 215 allowed by department rules adopted pursuant to subsection (4)
 216 at the time the property owner requests the advanced site
 217 assessment; and

218 b. To implement and maintain, upon completion of the
 219 cleanup, the required institutional controls, or a combination
 220 of institutional and engineering controls, when the site meets
 221 the site rehabilitation criteria for closure with controls in
 222 accordance with department rules adopted pursuant to subsection
 223 (4);

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

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

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

232 (b) A site may be assessed out of priority ranking order

Page 8 of 11

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592-02440-17 20171018c1

233 when, at the department's discretion, the site assessment will
 234 provide a cost savings to the program.

235 (c) An advanced site assessment must incorporate risk-based
 236 corrective action principles to achieve protection of human
 237 health and safety and the environment in a cost-effective
 238 manner, in accordance with subsection (4). The site assessment
 239 must also be sufficient to estimate the cost and determine the
 240 proposed course of action toward site cleanup. Advanced site
 241 assessment activities performed under this subsection shall be
 242 designed to affirmatively demonstrate that the site meets one of
 243 the following findings based on the following specified
 244 criteria:

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

249 2. Recommend additional groundwater monitoring to support
 250 natural attenuation monitoring or long-term groundwater
 251 monitoring; or

252 3. Recommend "no further action," with or without
 253 institutional controls or institutional and engineering
 254 controls, for those sites that meet the "no further action"
 255 criteria department rules adopted pursuant to subsection (4).

256
 257 If the site does not meet one of the findings specified in
 258 subparagraphs 1.-3., the department shall notify the property
 259 owner in writing of this decision, and the site shall be
 260 returned to its priority ranking order in accordance with its
 261 score.

Page 9 of 11

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592-02440-17 20171018c1

262 (d) Advanced site assessment program tasks shall be
 263 assigned by the drycleaning solvent cleanup program. In addition
 264 to the provisions in paragraph (a), the assignment of site
 265 assessment tasks shall be based on the department's
 266 determination of contractor logistics, geographical
 267 considerations, and other criteria that the department
 268 determines are necessary to achieve the most cost-effective
 269 approach.

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

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

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

280 Section 3. Paragraph (f) of subsection (2) of section
 281 220.1845, Florida Statutes, is amended to read:

282 220.1845 Contaminated site rehabilitation tax credit.—

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

284 (f) The total amount of the tax credits which may be
 285 granted under this section is \$21.6 million in the 2015-2016
 286 fiscal year, ~~and~~ \$5 million in the 2016-2017 fiscal year, and
 287 \$10 million annually thereafter.

288 Section 4. Subsection 4 of section 376.30781, Florida
 289 Statutes, is amended to read:

290 376.30781 Tax credits for rehabilitation of drycleaning-

Page 10 of 11

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592-02440-17

20171018c1

291 solvent-contaminated sites and brownfield sites in designated
292 brownfield areas; application process; rulemaking authority;
293 revocation authority.-

294 (4) The Department of Environmental Protection is
295 responsible for allocating the tax credits provided for in s.
296 220.1845, which may not exceed a total of \$21.6 million in tax
297 credits in the 2015-2016 fiscal year, ~~and~~ \$5 million in tax
298 credits in the 2016-2017 fiscal year, and \$10 million in tax
299 credits annually thereafter.

300 Section 5. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/13/17

1018

Meeting Date

Bill Number (if applicable)

Topic Contaminated Site Cleanup

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Asst. General Counsel

Address PO Box 1757

Phone 850-222-9684

Street

Tallahassee, FL 32302-1757

Email rohara@flcities.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13

Meeting Date

1018

Bill Number (if applicable)

Topic Drycleaner Cleanup

Amendment Barcode (if applicable)

Name Jeff Littlejohn

Job Title Principal

Address 810 W. College Ave
Street

Phone 363-9644

Tallahassee FL 32312
City State Zip

Email jeff@littlegjohn.com

Speaking: For Against Information

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

Representing Florida Drycleaners Coalition

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.

APPEARANCE RECORD

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

April 13, 2017

Meeting Date

CS/SB 1018

Bill Number (if applicable)

Topic Contaminated Site Cleanup

Amendment Barcode (if applicable)

Name Rheb ("Reeb") Harbison

Job Title Senior Director Government Affairs

Address 301 South Bronough Street Suite 600

Phone 850/577-9090

Street

Tallahassee

FL

32301

Email rheb.harbison@gray-robinson.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Brownfields Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Subcommittee on The Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 29, 2017

I respectfully request that **Senate Bill #1018**, relating to Contaminated Site Cleanup, be placed on the:

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

A handwritten signature in black ink that reads "Denise Grimsley".

Senator Denise Grimsley
Florida Senate, District 26

cc: Giovanni Betta, Staff Director
Lisa Waddell, Committee Administrative Assistant

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 The Environment and Natural Resources

BILL: PCS/CS/SB 1104 (445720)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources;
Environmental Preservation and Conservation Committee; and Senator Perry

SUBJECT: Resource Recovery and Management

DATE: April 17, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1104 adds pyrolysis facilities to those materials and facilities that are exempt from solid waste regulations if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within one year. The bill specifies that the phrase “used or reused” includes, but is not limited to, the conversion by gasification or pyrolysis of post-use polymers into crude oil, fuels, feedstocks, or other raw materials or intermediate or final products.

The bill adds new definitions for the following terms related to the bill’s addition of pyrolysis facilities to those materials and facilities that are eligible for exemption from solid waste regulations:

- Gasification to fuels, chemicals, and feedstocks;
- Post-use polymers;
- Pyrolysis; and
- Pyrolysis facility.

The bill also amends existing definitions of terms to add references based on the exemption from solid waste regulations for converting post-use polymers by gasification or pyrolysis to fuels, chemicals, and feedstocks.

Finally, the bill provides that a recovered materials dealer may process recovered materials at a pyrolysis facility to satisfy local government registration and reporting requirements for a recovered materials business.

This bill may have a positive fiscal impact on businesses, including governmental entities, operating recovered materials processing facilities that convert recovered materials by pyrolysis or gasification to fuels, chemicals, and feedstocks by exempting them from solid waste regulations.

Under the bill, the Department of Environmental Protection may incur costs relating to rulemaking to conform to the provisions of this legislation. These costs are expected to be insignificant and can be absorbed within current resources..

II. Present Situation:

Gasification

Gasification is a manufacturing process that converts material containing carbon—such as coal, petroleum coke, biomass, or waste—into synthesis gas (syngas) by creating a chemical reaction with the material at high temperatures, without combustion, with a controlled amount of oxygen and/or steam. Gasification may be used to produce electricity, chemicals, fuels, fertilizers, plastics, and other products. The U.S. Department of Energy believes gasification is a method to reduce our nation's dependence on foreign oil and provide a clean, carbon capture-ready source of energy.¹

Recently, efforts have increased to utilize gasification to convert municipal solid waste (MSW) into energy rather than traditional incineration. Incineration uses MSW as a fuel to create heat and electricity by burning the MSW with high volumes of air to form carbon dioxide and heat. Waste-to-energy plants then use these hot gases to make steam used to generate electricity. During the process, toxins escape in the exhaust steam.²

The MSW is not a fuel in the gasification process, but rather is a feedstock³ for a high temperature chemical conversion process. In the gasifier, MSW reacts with little or no oxygen, breaking down the feedstock into simple molecules and converting them into syngas. Instead of making just heat and electricity as is done with incineration, the syngas produced by gasification can be turned into commercial products such as transportation fuels, chemicals, and fertilizers. Further, the gasification process controls the release of toxins by inhibiting the formation of

¹ Gasification and Syngas Technologies Council, *The Gasification Process*, <http://www.gasification-syngas.org/technology/the-gasification-process/> (last visited March 23, 2017); U.S. Department of Energy, *National Energy Technology Laboratory, What is Gasification?* <https://www.netl.doe.gov/research/coal/energy-systems/gasification/publications/photo#whatis> (last visited March 23, 2017).

² Gasification and Syngas Technologies Council, *Gasification v. Incineration*, <http://www.gasification-syngas.org/applications/gasification-vs-incineration/> (last visited March 21, 2017).

³ Feedstock is raw material supplied to a machine or processing plant. Merriam-Webster, *Feedstock*, <https://www.merriam-webster.com/dictionary/feedstock> (last visited March 23, 2017).

dioxins or furans by limiting oxygen in the chemical reaction. Lastly, the ash from gasification may be used to make cement, roofing shingles, asphalt filler, and material for sandblasting.⁴

Pyrolysis

Pyrolysis is the heating of a material, such as plastics, at high temperatures in the absence of oxygen. Sometimes this process includes the introduction of pressure or water. Without oxygen, the material does not combust, but rather the chemical compounds that make up the material thermally decompose into gases and oil. Pyrolysis oil may be used directly as fuel or further refined into diesel or jet fuel.⁵

Due to the increased demand for plastics and fuels and limited space in solid waste facilities, solid waste managers have increased efforts to employ pyrolysis on non-recycled plastics. Pyrolysis may be used to decrease the need to dispose plastics in landfills and create a renewable source of energy and fuels.⁶ The fuel produced from the pyrolysis of plastics does not contain sulphur because the plastic feedstock does not contain sulphur.⁷ Because pyrolysis does not incinerate the plastic waste, the emission of harmful compounds is reduced.⁸

Solid Waste Regulation

“Solid waste” is sludge unregulated under the federal Clean Water Act or Clean Air Act, sludge from a waste treatment works, water supply treatment plant, or air pollution control facility, or garbage, rubbish, refuse, special waste, or other discarded material, including solid, liquid, semisolid, or contained gaseous material resulting from domestic, industrial, commercial, mining, agricultural, or governmental operations.⁹

The Department of Environmental Protection (DEP) implements and enforces the state’s solid waste management program.¹⁰ The solid waste management program includes a waste tire management program,¹¹ administration of solid waste grant programs,¹² and the classification, construction, operation, maintenance, and closure of solid waste management facilities.¹³

⁴ Gasification and Syngas Technologies Council, *Gasification v. Incineration*, <http://www.gasification-syngas.org/applications/gasification-vs-incineration/> (last visited March 23, 2017).

⁵ Whole System Foundation, *Recycling and Pyrolysis of Plastic*, http://www.whole-systems.org/recycling_and_pyrolysis_of_plastic.html (last visited March 22, 2017).

⁶ Feng Gao, *Pyrolysis of Waste Plastics into Fuels*, 6, available at https://ir.canterbury.ac.nz/bitstream/handle/10092/4303/Thesis_fulltext.pdf;jsessionid=75F7FC1942BA6D076AE426687A9FD20F?sequence=1 (last visited March 22, 2017).

⁷ *Id.* at 7.

⁸ Debora Almeida and Maria de Fatima Marques, *Thermal and catalytic pyrolysis of plastic waste*, http://www.scielo.br/scielo.php?script=sci_arttext&pid=S0104-14282016000100007 (last visited March 21, 2017).

⁹ Section 403.703(32), F.S.

¹⁰ Section 403.705, F.S.

¹¹ Section 403.717, F.S.; Fla. Admin. Code Ch. 62-701.

¹² Section 403.7095, F.S.; Fla. Admin. Code Ch. 62-716.

¹³ Section 403.703(35), F.S., defines a “solid waste management facility” as any solid waste disposal area, volume reduction plant, transfer station, materials recovery facility, or other facility, the purpose of which is resource recovery or the disposal, recycling, processing, or storage of solid waste. The term does not include recovered materials processing facilities that meet the requirements of s. 403.7046, F.S., except the portion of such facilities, if any, which is used for the management of solid waste.

Section 403.7045(1), F.S., exempts certain wastes and activities from regulation under the Resource Recovery and Management Act.¹⁴ This includes exemption of recovered materials and recovered materials processing facilities from solid waste regulations if they meet certain criteria.¹⁵

“Recovered materials” are metal, paper, glass, plastic, textile, or rubber materials that have known recycling potential, can be feasibly recycled, and have been diverted and source separated or have been removed from the solid waste stream for sale, use, or reuse as raw materials, whether or not the materials require subsequent processing or separation from each other. The term does not include materials destined for any use that constitutes disposal. Recovered materials are not solid waste.¹⁶ A “recovered materials processing facility” is a facility engaged solely in the storage, processing, resale, or reuse of recovered materials.¹⁷ “Recycling” is any process that collects separates, or processes and reuses or returns solid waste, or materials that would otherwise become solid waste, to use in the form of raw materials or products.¹⁸

Recovered materials or recovered materials processing facilities do not have to meet the solid waste regulations if:

- A majority of the recovered materials at the facility are demonstrated to be sold, used, or reused within one year;
- The recovered materials handled by the facility or the byproducts of operations that process recovered materials are not discharged or deposited upon any land or water by the owner or operator of such facility so that such recovered materials enter the environment such that a threat of contamination in excess of the applicable DEP standards and criteria is caused;
- The recovered materials handled by the facility are not hazardous wastes;¹⁹ and
- The facility is registered with the DEP.²⁰

Solid waste regulations that apply to non-exempt recovered materials and recovered materials processing facilities include requirements:

- That a solid waste management facility obtain a permit to store, process, or dispose of solid waste;
- That a permit be obtained to construct, operate, maintain, modify, or close a solid waste management facility;
- For siting, that prohibit the storage or disposal of solid waste in certain areas;

¹⁴ Chapter 88-130, Laws of Fla.; Ch. 403, F.S.; *See* 99-60 Fla. Op. Att’y Gen. 3 (1999).

¹⁵ Section 403.7045(1)(e), F.S.; *see also* Fla. Admin. Code R. 62-701.220(2)(c).

¹⁶ Section 403.703(24), F.S.

¹⁷ Section 403.703(25), F.S.

¹⁸ Section 403.703(27), F.S.

¹⁹ “Hazardous waste” is solid waste, or a combination of solid wastes, that, because of its quantity, concentration, or physical, chemical, or infectious characteristics, may cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible or incapacitating reversible illness or may pose a substantial present or potential hazard to human health or the environment when improperly transported, disposed of, stored, treated, or otherwise managed. s. 403.703(13), F.S.

²⁰ Section 403.7045(1)(e), F.S.; Fla. Admin. Code R. 62-701.220(2)(c). Any person in Florida who handles, purchases, receives, recovers, sells or is an end user of 600 tons or more of recovered materials must annually report to DEP, and to all counties from which it received materials, certain information for the preceding calendar year, unless such person is exempt. Section 403.7046, F.S., and Fla. Admin. Code R. 62-722.400(2).

- For burning, that place stringent controls on open burning of solid waste and prohibit controlled burning except in a permitted incinerator or at a facility authorized by a site certification order;
- That a solid waste management facility obtain a specific permit to dispose of hazardous waste;
- That prohibit the disposal of certain items in waste-to-energy facilities;²¹
- For leachate control systems; and
- For closure of a facility and providing financial assurance of closure cost coverage.²²

Solid waste management facility construction and operation permit fees range from \$500 to \$10,000. Operation permits are valid for 5 years, but may be obtained for longer periods of time by paying a pro-rated fee amount for the number of years in the permit length beyond the five-year term.²³

The DEP does not require solid waste combustors to obtain a solid waste permit if the facility operates under a current valid permit for a stationary source of air pollution, open burning, or electrical power plant and transmission line siting.²⁴ A “solid waste combustor” is an enclosed device that uses controlled combustion whose primary purpose is to thermally break down solid, liquid, or gaseous combustible solid wastes to an ash residue that contains little or no combustible material. A solid waste combustor includes any facility that uses incineration, gasification, or pyrolysis to break down solid waste.²⁵ “Combustion” is the treatment of solid waste in a device that uses heat as the primary means to change the chemical, physical, or biological character or composition of the waste. Combustion processes include incineration, gasification, and pyrolysis.²⁶

III. Effect of Proposed Changes:

Section 2 amends s. 403.7045, F.S., to exempt pyrolysis facilities from solid waste regulations if a majority of the recovered materials at a facility are demonstrated to be sold, used, or reused within one year.²⁷ This section specifies that the phrase “used or reused” includes, but is not limited to, the conversion by gasification or pyrolysis of post-use polymers into crude oil, fuels, feedstocks, or other raw materials or intermediate or final products.

Section 1 amends s. 403.703, F.S., to add new definitions for terms related to the bill’s addition of pyrolysis facilities to those materials and facilities that are eligible for exemption from solid waste regulations, as follows:

- “Gasification” is defined as a process through which post-use polymers are heated and converted to synthesis gas in an oxygen-deficient atmosphere, and then converted to crude oil, fuels, or chemical feedstocks.

²¹ Fla. Admin. Code R. 62-701.300 and Fla. Admin. Code R. 62-701.320.

²² Fla. Admin. Code R. 62-701.710.

²³ Fla. Admin. Code R. 62-701.315.

²⁴ Fla. Admin. Code R. 62-701.320(14)(a) and (b) and Fla. Admin. Code R. 62-701.710(1)(a).

²⁵ Fla. Admin. Code R. 62-701.200(108).

²⁶ Fla. Admin. Code R. 62-701.200(21).

²⁷ Section 403.7045(1)(e)1., F.S.

- "Post-use polymer" is defined as a plastic polymer that:²⁸
 - Is derived from any domestic, commercial, or municipal activity;
 - Not recycled in commercial markets; and
 - May otherwise become waste if not converted to manufacture crude oil, fuels, or other raw materials or intermediate or final products using gasification or pyrolysis.

A post-use polymer may contain incidental contaminants or impurities such as paper labels or metal rings.

- "Pyrolysis" is defined as a process through which post-use polymers are heated in the absence of oxygen until melted and thermally decomposed, and then cooled, condensed, and converted to:
 - Crude oil, diesel, gasoline, home heating oil, or another fuel;
 - Feedstocks;
 - Diesel and gasoline blendstocks;
 - Chemicals, waxes, or lubricants; or
 - Other raw materials or intermediate or final products.
- "Pyrolysis facility" is defined as a facility that receives, separates, stores, and converts post-use polymers, using gasification or pyrolysis.
- A pyrolysis facility meeting the conditions of s. 403.7045(1)(e) (exemption from solid waste regulations) is not a solid waste management facility under the definition.

This section also modifies existing definitions of terms to add references based on the bill's addition of pyrolysis facilities to those materials and facilities that are eligible for exemption from solid waste regulations, as follows:

- "Recycling" is amended to also include any process by which solid waste, or materials that would otherwise become solid waste, are reused or returned to use in the form of intermediate or final products, and further defines raw materials or intermediate or final products as including, but not limited to:
 - Crude oil;
 - Fuels; and
 - Fuel substitutes; and
- "Solid waste management facility" is amended to exclude pyrolysis facilities that meet the requirements of s. 403.7046, F.S., except the portion of such facilities, if any, which is used for the management of solid waste, from the definition.

Section 3 amends s. 403.7046, F.S., to include a pyrolysis facility with a recovered materials processing facility as a facility where a recovered materials dealer may process recovered materials to satisfy local government registration and reporting requirements for a recovered materials business.

Owners or operators of facilities converting recovered materials by pyrolysis or gasification to fuels, chemicals, and feedstocks that are exempted from solid waste regulations under this bill may still be required to meet other regulatory requirements, such as:

- Registering recovered materials processing facilities with DEP;

²⁸ A polymer is a chemical compound or mixture of compounds formed by polymerization and consisting essentially of repeating structural units. See Merriam-Webster, *Polymer*, <https://www.merriam-webster.com/dictionary/polymer>, (last visited March 23, 2017).

- Obtaining a stationary source of air pollution permit;
- Obtaining an open burning permit; or
- Obtaining an electrical power plant and transmission line siting permit.

Lastly, sections 4 through 7 amend ss. 171.205(2), 316.003(28), 377.709(2)(f), and 487.048(1), F.S., respectively, to conform cross-references.

Section 8 provides an effective date of July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

This bill may have a positive fiscal impact on businesses operating recovered materials processing facilities that convert recovered materials by pyrolysis or gasification to fuels, chemicals, and feedstocks by exempting them from solid waste regulations.

C. Government Sector Impact:

The bill may have a positive fiscal impact on governmental entities operating recovered materials processing facilities that convert recovered materials by pyrolysis or gasification to fuels, chemicals, and feedstocks by exempting them from solid waste regulations.

The DEP will likely need to revise its solid waste rules as a result of the statutory changes in the bill, but such revisions are anticipated to have an insignificant fiscal impact. The DEP has sufficient rulemaking authority to amend its solid waste regulations to conform to changes made in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 403.703, 403.7045, and 403.7046.

This bill amends the following sections of the Florida Statutes: 171.205, 316.003, 377.709, and 487.048.

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 The Environment and Natural Resources on April 13, 2017:

The CS/CS is a strike-all amendment that provides technical corrections which do not change the substance of the bill.

CS by Environmental Preservation and Conservation on March 28, 2017:

- Rewords the definitions of “gasification,” “post-use polymer,” and “pyrolysis facility” for clarification purposes and makes minor technical changes to reflect the rewording of the definitions.
- Changes the definition of “post-use polymer” from a plastic polymer that is recycled in commercial markets to a plastic polymer that is not recycled in commercial markets.
- Removes post-use polymers that are converted to manufacture fuels, chemicals, feedstocks, or other raw materials or intermediate or final products using gasification or pyrolysis from the definition of “recovered materials” and makes minor technical changes to reflect this change in the definition.
- Removes pyrolysis facilities from the definition of “recovered materials processing facility” and makes minor technical changes to reflect this change in the definition.
- Includes a pyrolysis facility with a recovered materials processing facility as facilities where a recovered materials dealer may process recovered materials to satisfy local government registration and reporting requirements for a recovered materials business; and
- Changes the effective date from “on becoming a law” to July 1, 2017.

B. Amendments:

None.

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



193212

LEGISLATIVE ACTION

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Appropriations Subcommittee on the Environment and Natural Resources (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Present subsections (2) and (3) of section 403.703, Florida Statutes, are renumbered as subsections (3) and (2), respectively, subsections (10) through (22) are renumbered as subsections (11) through (23), respectively, present subsection (23) is renumbered as subsection (25), present subsections (24) through (43) are renumbered as subsections (28)



193212

11 through (47), respectively, present subsections (24), (27),
12 (32), and (35) are amended, and new subsections (10), (24),
13 (26), and (27) are added to that section, to read:

14 403.703 Definitions.—As used in this part, the term:

15 (10) "Gasification" means a process through which post-use
16 polymers are heated and converted to synthesis gas in an oxygen-
17 deficient atmosphere, and then converted to crude oil, fuels, or
18 chemical feedstocks.

19 (24) "Post-use polymer" means a plastic polymer that is
20 derived from any domestic, commercial, or municipal activity and
21 recycled in commercial markets which may otherwise become waste
22 if not converted to manufacture crude oil, fuels, or other raw
23 materials or intermediate or final products using gasification
24 or pyrolysis. As used in this part, a post-use polymer may
25 contain incidental contaminants or impurities such as paper
26 labels or metal rings.

27 (26) "Pyrolysis" means a process through which post-use
28 polymers are heated in the absence of oxygen until melted and
29 thermally decomposed, and then cooled, condensed, and converted
30 to any of the following:

31 (a) Crude oil, diesel, gasoline, home heating oil, or
32 another fuel.

33 (b) Feedstocks.

34 (c) Diesel and gasoline blendstocks.

35 (d) Chemicals, waxes, or lubricants.

36 (e) Other raw materials or intermediate or final products.

37 (27) "Pyrolysis facility" means a facility that receives,
38 separates, stores, and converts post-use polymers, using
39 gasification or pyrolysis. A pyrolysis facility meeting the



193212

40 conditions of s. 403.7045(1)(e) is not a solid waste management
41 facility.

42 (28)(24) "Recovered materials" means metal, paper, glass,
43 plastic, textile, or rubber materials that have known recycling
44 potential, can be feasibly recycled, and have been diverted and
45 source separated or have been removed from the solid waste
46 stream for sale, use, or reuse as raw materials, regardless of
47 whether ~~or not~~ the materials require subsequent processing or
48 separation from each other, and include post-use polymers that
49 are converted to manufacture crude oil, fuels, or other raw
50 materials or intermediate or final products using gasification
51 or pyrolysis. ~~but~~ The term does not include materials destined
52 for any use that constitutes disposal. As used in this part,
53 recovered materials do not constitute as described in this
54 subsection are not solid waste.

55 (31)(27) "Recycling" means any process by which solid
56 waste, or materials that would otherwise become solid waste, are
57 collected, separated, or processed and reused or returned to use
58 in the form of raw materials or intermediate or final products,
59 including, but not limited to, crude oil, fuels, and fuel
60 substitutes.

61 (36)(32) "Solid waste" means sludge unregulated under the
62 federal Clean Water Act or Clean Air Act, sludge from a waste
63 treatment works, water supply treatment plant, or air pollution
64 control facility, or garbage, rubbish, refuse, special waste, or
65 other discarded material, including solid, liquid, semisolid, or
66 contained gaseous material resulting from domestic, industrial,
67 commercial, mining, agricultural, or governmental operations.
68 Recovered materials as defined in subsection (28) ~~(24)~~ are not



193212

69 solid waste.

70 ~~(39)~~⁽³⁵⁾ "Solid waste management facility" means any solid
71 waste disposal area, volume reduction plant, transfer station,
72 materials recovery facility, or other facility, the purpose of
73 which is resource recovery or the disposal, recycling,
74 processing, or storage of solid waste. The term does not include
75 recovered materials processing facilities or pyrolysis
76 facilities that meet the requirements of s. 403.7046, except the
77 portion of such facilities, if any, which is used for the
78 management of solid waste.

79 Section 2. Subsection (1) of section 403.7045, Florida
80 Statutes, is amended to read:

81 403.7045 Application of act and integration with other
82 acts.—

83 (1) The following wastes or activities may ~~shall~~ not be
84 regulated pursuant to this act:

85 (a) Byproduct material, source material, and special
86 nuclear material, the generation, transportation, disposal,
87 storage, or treatment of which is regulated under chapter 404 or
88 the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923,
89 as amended;

90 (b) Suspended solids and dissolved materials in domestic
91 sewage effluent or irrigation return flows or other discharges
92 which are point sources subject to permits pursuant to this
93 chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217;

94 (c) Emissions to the air from a stationary installation or
95 source regulated under this chapter or the Clean Air Act, Pub.
96 L. No. 95-95;

97 (d) Drilling fluids, produced waters, and other wastes



193212

98 associated with the exploration for, or development and
99 production of, crude oil or natural gas which are regulated
100 under chapter 377; or

101 (e) Recovered materials, ~~or~~ recovered materials processing
102 facilities, or pyrolysis facilities, except as provided in s.
103 403.7046, if:

104 1. A majority of the recovered materials at the facility
105 are demonstrated to be sold, used, or reused within 1 year. As
106 used in this subparagraph, the term "used or reused" includes
107 the conversion of post-use polymers into crude oil, fuels,
108 feedstocks, or other raw materials or intermediate or final
109 products by gasification or pyrolysis, as defined in s. 403.703.

110 2. The recovered materials handled by the facility or the
111 products or byproducts of operations that process recovered
112 materials are not discharged, deposited, injected, dumped,
113 spilled, leaked, or placed into or upon any land or water by the
114 owner or operator of the ~~such~~ facility so that the ~~such~~
115 recovered materials, products or byproducts, or any constituent
116 thereof may enter other lands or be emitted into the air or
117 discharged into any waters, including groundwaters, or otherwise
118 enter the environment such that a threat of contamination in
119 excess of applicable department standards and criteria is
120 caused.

121 3. The recovered materials handled by the facility are not
122 hazardous wastes as defined in ~~under~~ s. 403.703~~7~~ and rules
123 adopted under this section promulgated pursuant thereto.

124 4. The facility is registered as required in s. 403.7046.

125 (f) Industrial byproducts, if:

126 1. A majority of the industrial byproducts are demonstrated



193212

127 to be sold, used, or reused within 1 year.

128 2. The industrial byproducts are not discharged, deposited,
129 injected, dumped, spilled, leaked, or placed upon any land or
130 water so that such industrial byproducts, or any constituent
131 thereof, may enter other lands or be emitted into the air or
132 discharged into any waters, including groundwaters, or otherwise
133 enter the environment such that a threat of contamination in
134 excess of applicable department standards and criteria or a
135 significant threat to public health is caused.

136 3. The industrial byproducts are not hazardous wastes as
137 defined in ~~under~~ s. 403.703 and rules adopted under this
138 section.

139
140 Sludge from an industrial waste treatment works that meets the
141 exemption requirements of this paragraph is not solid waste as
142 defined in s. 403.703 ~~s. 403.703(32)~~.

143 Section 3. Paragraph (b) of subsection (3) of section
144 403.7046, Florida Statutes, is amended to read:

145 403.7046 Regulation of recovered materials.—

146 (3) Except as otherwise provided in this section or
147 pursuant to a special act in effect on or before January 1,
148 1993, a local government may not require a commercial
149 establishment that generates source-separated recovered
150 materials to sell or otherwise convey its recovered materials to
151 the local government or to a facility designated by the local
152 government, nor may the local government restrict such a
153 generator's right to sell or otherwise convey such recovered
154 materials to any properly certified recovered materials dealer
155 who has satisfied the requirements of this section. A local



193212

156 government may not enact any ordinance that prevents such a
157 dealer from entering into a contract with a commercial
158 establishment to purchase, collect, transport, process, or
159 receive source-separated recovered materials.

160 (b)1. Before engaging in business within the jurisdiction
161 of the local government, a recovered materials dealer must
162 provide the local government with a copy of the certification
163 provided for in this section. In addition, the local government
164 may establish a registration process whereby a recovered
165 materials dealer must register with the local government before
166 engaging in business within the jurisdiction of the local
167 government. Such registration process is limited to requiring
168 the dealer to register its name, including the owner or operator
169 of the dealer, and, if the dealer is a business entity, its
170 general or limited partners, its corporate officers and
171 directors, its permanent place of business, evidence of its
172 certification under this section, and a certification that the
173 recovered materials will be processed at a recovered materials
174 processing facility or pyrolysis facility satisfying the
175 requirements of this section. The local government may not use
176 the information provided in the registration application to
177 compete unfairly with the recovered materials dealer until 90
178 days after receipt of the application. All counties, and
179 municipalities whose population exceeds 35,000 according to the
180 population estimates determined pursuant to s. 186.901, may
181 establish a reporting process that must be limited to the
182 regulations, reporting format, and reporting frequency
183 established by the department pursuant to this section, which
184 must, at a minimum, include requiring the dealer to identify the



193212

185 types and approximate amount of recovered materials collected,
186 recycled, or reused during the reporting period; the approximate
187 percentage of recovered materials reused, stored, or delivered
188 to a recovered materials processing facility or pyrolysis
189 facility or disposed of in a solid waste disposal facility; and
190 the locations where any recovered materials were disposed of as
191 solid waste. The local government may charge the dealer a
192 registration fee commensurate with and no greater than the cost
193 incurred by the local government in operating its registration
194 program. Registration program costs are limited to those costs
195 associated with the activities described in this subparagraph.
196 Any reporting or registration process established by a local
197 government with regard to recovered materials is governed by
198 this section and department rules adopted pursuant thereto.

199 2. Information reported under this subsection which, if
200 disclosed, would reveal a trade secret, as defined in s.
201 812.081, is confidential and exempt from s. 119.07(1) and s.
202 24(a), Art. I of the State Constitution. This subparagraph is
203 subject to the Open Government Sunset Review Act in accordance
204 with s. 119.15 and shall stand repealed on October 2, 2021,
205 unless reviewed and saved from repeal through reenactment by the
206 Legislature.

207 Section 4. Subsection (2) of section 171.205, Florida
208 Statutes, is amended to read:

209 171.205 Consent requirements for annexation of land under
210 this part.—Notwithstanding part I, an interlocal service
211 boundary agreement may provide a process for annexation
212 consistent with this section or with part I.

213 (2) If the area to be annexed includes a privately owned



193212

214 solid waste disposal facility as defined in s. 403.703 ~~s.~~
215 ~~403.703(33)~~ which receives municipal solid waste collected
216 within the jurisdiction of multiple local governments, the
217 annexing municipality must set forth in its plan the effects
218 that the annexation of the solid waste disposal facility will
219 have on the other local governments. The plan must also indicate
220 that the owner of the affected solid waste disposal facility has
221 been contacted in writing concerning the annexation, that an
222 agreement between the annexing municipality and the solid waste
223 disposal facility to govern the operations of the solid waste
224 disposal facility if the annexation occurs has been approved,
225 and that the owner of the solid waste disposal facility does not
226 object to the proposed annexation.

227 Section 5. Subsection (28) of section 316.003, Florida
228 Statutes, is amended to read:

229 316.003 Definitions.—The following words and phrases, when
230 used in this chapter, shall have the meanings respectively
231 ascribed to them in this section, except where the context
232 otherwise requires:

233 (28) HAZARDOUS MATERIAL.—Any substance or material which
234 has been determined by the secretary of the United States
235 Department of Transportation to be capable of imposing an
236 unreasonable risk to health, safety, and property. This term
237 includes hazardous waste as defined in s. 403.703 ~~s.~~
238 ~~403.703(13)~~.

239 Section 6. Paragraph (f) of subsection (2) of section
240 377.709, Florida Statutes, is amended to read:

241 377.709 Funding by electric utilities of local governmental
242 solid waste facilities that generate electricity.—



193212

243 (2) DEFINITIONS.—As used in this section, the term:
244 (f) "Solid waste facility" means a facility owned or
245 operated by, or on behalf of, a local government for the purpose
246 of disposing of solid waste, as ~~that term is~~ defined in s.
247 403.703 ~~s. 403.703(32)~~, by any process that produces heat and
248 incorporates, as a part of the facility, the means of converting
249 heat to electrical energy in amounts greater than actually
250 required for the operation of the facility.

251 Section 7. Subsection (1) of section 487.048, Florida
252 Statutes, is amended to read:

253 487.048 Dealer's license; records.—

254 (1) Each person holding or offering for sale, selling, or
255 distributing restricted-use pesticides must obtain a dealer's
256 license from the department. Application for the license shall
257 be filed with the department by using a form prescribed by the
258 department or by using the department's website. The license
259 must be obtained before entering into business or transferring
260 ownership of a business. The department may require examination
261 or other proof of competency of individuals to whom licenses are
262 issued or of individuals employed by persons to whom licenses
263 are issued. Demonstration of continued competency may be
264 required for license renewal, as set by rule. The license shall
265 be renewed annually as provided by rule. An annual license fee
266 not exceeding \$250 shall be established by rule. However, a user
267 of a restricted-use pesticide may distribute unopened containers
268 of a properly labeled pesticide to another user who is legally
269 entitled to use that restricted-use pesticide without obtaining
270 a pesticide dealer license. The exclusive purpose of
271 distribution of the restricted-use pesticide is to keep it from



193212

272 becoming a hazardous waste as defined in s. 403.703 ~~s.~~
273 ~~403.703(13)~~.

274 Section 8. This act shall take effect July 1, 2017.

275

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

277 And the title is amended as follows:

278 Delete everything before the enacting clause
279 and insert:

280 A bill to be entitled
281 An act relating to resource recovery and management;
282 amending s. 403.703, F.S.; revising definitions;
283 defining the terms "gasification," "post-use polymer,"
284 "pyrolysis," and "pyrolysis facility"; amending s.
285 403.7045, F.S.; providing that certain pyrolysis
286 facilities are exempt from certain resource recovery
287 regulations; conforming a cross-reference; amending s.
288 403.7046, F.S.; authorizing recovered materials
289 dealers to use pyrolysis facilities for recovered
290 materials processing; amending ss. 171.205, 316.003,
291 377.709, and 487.048, F.S.; conforming cross-
292 references; providing an effective date.



234994

LEGISLATIVE ACTION

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| Comm: RCS | . | |
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Appropriations Subcommittee on the Environment and Natural Resources (Perry) recommended the following:

1 **Senate Substitute for Amendment (193212) (with title**
2 **amendment)**

3
4 Delete everything after the enacting clause
5 and insert:

6 Section 1. Present subsections (2) and (3) of section
7 403.703, Florida Statutes, are renumbered as subsections (3) and
8 (2), respectively, present subsections (10) through (22) are
9 renumbered as subsections (11) through (23), respectively,
10 subsection (23) is renumbered as subsection (25), present



234994

11 subsections (24) through (43) are renumbered as subsections (28)
12 through (47), respectively, present subsections (27), (32), and
13 (35) are amended, and new subsections (10), (24), (26), and (27)
14 are added to that section, to read:

15 403.703 Definitions.—As used in this part, the term:

16 (10) "Gasification" means a process through which post-use
17 polymers are heated and converted to synthesis gas in an oxygen-
18 deficient atmosphere, and then converted to crude oil, fuels, or
19 chemical feedstocks.

20 (24) "Post-use polymer" means a plastic polymer that is
21 derived from any domestic, commercial, or municipal activity and
22 which might otherwise become waste if not converted to
23 manufacture crude oil, fuels, or other raw materials or
24 intermediate or final products using gasification or pyrolysis.
25 As used in this part, post-use polymer may contain incidental
26 contaminants or impurities, such as paper labels or metal rings.
27 Post-use polymers intended to be converted as described in this
28 subsection are not solid waste.

29 (26) "Pyrolysis" means a process through which post-use
30 polymers are heated in the absence of oxygen until melted and
31 thermally decomposed, and then cooled, condensed, and converted
32 to any of the following:

33 (a) Crude oil, diesel, gasoline, home heating oil, or
34 another fuel.

35 (b) Feedstocks.

36 (c) Diesel and gasoline blendstocks.

37 (d) Chemicals, waxes, or lubricants.

38 (e) Other raw materials or intermediate or final products.

39 (27) "Pyrolysis facility" means a facility that receives,



234994

40 separates, stores, and converts post-use polymers, using
41 gasification or pyrolysis. A pyrolysis facility meeting the
42 conditions of s. 403.7045(1)(e) is not a solid waste management
43 facility.

44 (31)-(27) "Recycling" means any process by which solid
45 waste, or materials that would otherwise become solid waste, are
46 collected, separated, or processed and reused or returned to use
47 in the form of raw materials or intermediate or final products.
48 Such raw materials or intermediate or final products include,
49 but are not limited to, crude oil, fuels, and fuel substitutes.

50 (36)-(32) "Solid waste" means sludge unregulated under the
51 federal Clean Water Act or Clean Air Act, sludge from a waste
52 treatment works, water supply treatment plant, or air pollution
53 control facility, or garbage, rubbish, refuse, special waste, or
54 other discarded material, including solid, liquid, semisolid, or
55 contained gaseous material resulting from domestic, industrial,
56 commercial, mining, agricultural, or governmental operations.
57 Recovered materials as defined in subsection (28) and post-use
58 polymers as defined in subsection (24) are not solid waste.

59 (39)-(35) "Solid waste management facility" means any solid
60 waste disposal area, volume reduction plant, transfer station,
61 materials recovery facility, or other facility, the purpose of
62 which is resource recovery or the disposal, recycling,
63 processing, or storage of solid waste. The term does not include
64 recovered materials processing facilities or pyrolysis
65 facilities that meet the requirements of s. 403.7046, except the
66 portion of such facilities, if any, which is used for the
67 management of solid waste.

68 Section 2. Subsection (1) of section 403.7045, Florida



234994

69 Statutes, is amended to read:

70 403.7045 Application of act and integration with other
71 acts.—

72 (1) The following wastes or activities may ~~shall~~ not be
73 regulated pursuant to this act:

74 (a) Byproduct material, source material, and special
75 nuclear material, the generation, transportation, disposal,
76 storage, or treatment of which is regulated under chapter 404 or
77 the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923,
78 as amended.†

79 (b) Suspended solids and dissolved materials in domestic
80 sewage effluent or irrigation return flows or other discharges
81 which are point sources subject to permits pursuant to this
82 chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217.†

83 (c) Emissions to the air from a stationary installation or
84 source regulated under this chapter or the Clean Air Act, Pub.
85 L. No. 95-95.†

86 (d) Drilling fluids, produced waters, and other wastes
87 associated with the exploration for, or development and
88 production of, crude oil or natural gas which are regulated
89 under chapter 377.†~~or~~

90 (e) Recovered materials, post-use polymers, ~~or~~ recovered
91 materials processing facilities, or pyrolysis facilities, except
92 as provided in s. 403.7046, if:

93 1. A majority of the recovered materials or post-use
94 polymers at the facility are demonstrated to be sold, used, or
95 reused within 1 year. As used in this subparagraph, the terms
96 “used” or “reused” include, but are not limited to, the
97 conversion of post-use polymers into crude oil, fuels,



234994

98 feedstocks, or other raw materials or intermediate or final
99 products by gasification or pyrolysis, as defined in s. 403.703.

100 2. The recovered materials or post-use polymers handled by
101 the facility or the products or byproducts of operations that
102 process recovered materials or post-use polymers are not
103 discharged, deposited, injected, dumped, spilled, leaked, or
104 placed into or upon any land or water by the owner or operator
105 of the such facility so that the such recovered materials or
106 post-use polymers, products or byproducts, or any constituent
107 thereof may enter other lands or be emitted into the air or
108 discharged into any waters, including groundwaters, or otherwise
109 enter the environment such that a threat of contamination in
110 excess of applicable department standards and criteria is
111 caused.

112 3. The recovered materials or post-use polymers handled by
113 the facility are not hazardous wastes as defined in under s.
114 403.703, and rules adopted under this section promulgated
115 pursuant thereto.

116 4. The facility is registered as required in s. 403.7046.

117 (f) Industrial byproducts, if:

118 1. A majority of the industrial byproducts are demonstrated
119 to be sold, used, or reused within 1 year.

120 2. The industrial byproducts are not discharged, deposited,
121 injected, dumped, spilled, leaked, or placed upon any land or
122 water so that such industrial byproducts, or any constituent
123 thereof, may enter other lands or be emitted into the air or
124 discharged into any waters, including groundwaters, or otherwise
125 enter the environment such that a threat of contamination in
126 excess of applicable department standards and criteria or a



234994

127 significant threat to public health is caused.

128 3. The industrial byproducts are not hazardous wastes as
129 defined in ~~under~~ s. 403.703 and rules adopted under this
130 section.

131

132 Sludge from an industrial waste treatment works that meets the
133 exemption requirements of this paragraph is not solid waste as
134 defined in s. 403.703 ~~s. 403.703(32)~~.

135 Section 3. Subsection (1) of section 403.7046, Florida
136 Statutes, and paragraph (b) of subsection (3) of that section,
137 are amended to read:

138 403.7046 Regulation of recovered materials.—

139 (1) Any person who handles, purchases, receives, recovers,
140 sells, or is an end user of recovered materials or post-use
141 polymers shall annually certify to the department on forms
142 provided by the department. The department may by rule exempt
143 from this requirement generators of recovered materials or post-
144 use polymers; persons who handle or sell recovered materials or
145 post-use polymers as an activity which is incidental to the
146 normal primary business activities of that person; or persons
147 who handle, purchase, receive, recover, sell, or are end users
148 of recovered materials or post-use polymers in small quantities
149 as defined by the department. The department shall adopt rules
150 for the certification of and reporting by such persons and shall
151 establish criteria for revocation of such certification. Such
152 rules shall be designed to elicit, at a minimum, the amount and
153 types of recovered materials or post-use polymers handled by
154 registrants, and the amount and disposal site, or name of person
155 with whom such disposal was arranged, of any solid waste



234994

156 generated by such facility. By February 1 of each year,
157 registrants shall report all required information to the
158 department and to all counties from which it received materials.
159 Such rules may provide for the department to conduct periodic
160 inspections. The department may charge a fee of up to \$50 for
161 each registration, which shall be deposited into the Solid Waste
162 Management Trust Fund for implementation of the program.

163 (3) Except as otherwise provided in this section or
164 pursuant to a special act in effect on or before January 1,
165 1993, a local government may not require a commercial
166 establishment that generates source-separated recovered
167 materials to sell or otherwise convey its recovered materials to
168 the local government or to a facility designated by the local
169 government, nor may the local government restrict such a
170 generator's right to sell or otherwise convey such recovered
171 materials to any properly certified recovered materials dealer
172 who has satisfied the requirements of this section. A local
173 government may not enact any ordinance that prevents such a
174 dealer from entering into a contract with a commercial
175 establishment to purchase, collect, transport, process, or
176 receive source-separated recovered materials.

177 (b)1. Before engaging in business within the jurisdiction
178 of the local government, a recovered materials dealer or
179 pyrolysis facility must provide the local government with a copy
180 of the certification provided for in this section. In addition,
181 the local government may establish a registration process
182 whereby a recovered materials dealer or pyrolysis facility must
183 register with the local government before engaging in business
184 within the jurisdiction of the local government. Such



234994

185 registration process is limited to requiring the dealer or
186 pyrolysis facility to register its name, including the owner or
187 operator of the dealer or pyrolysis facility, and, if the dealer
188 or pyrolysis facility is a business entity, its general or
189 limited partners, its corporate officers and directors, its
190 permanent place of business, evidence of its certification under
191 this section, and a certification that the recovered materials
192 or post-use polymers will be processed at a recovered materials
193 processing facility or pyrolysis facility satisfying the
194 requirements of this section. The local government may not use
195 the information provided in the registration application to
196 compete unfairly with the recovered materials dealer until 90
197 days after receipt of the application. All counties, and
198 municipalities whose population exceeds 35,000 according to the
199 population estimates determined pursuant to s. 186.901, may
200 establish a reporting process that must be limited to the
201 regulations, reporting format, and reporting frequency
202 established by the department pursuant to this section, which
203 must, at a minimum, include requiring the dealer or pyrolysis
204 facility to identify the types and approximate amount of
205 recovered materials or post-use polymers collected, recycled, or
206 reused during the reporting period; the approximate percentage
207 of recovered materials or post-use polymers reused, stored, or
208 delivered to a recovered materials processing facility or
209 pyrolysis facility or disposed of in a solid waste disposal
210 facility; and the locations where any recovered materials or
211 post-use polymers were disposed of as solid waste. The local
212 government may charge the dealer or pyrolysis facility a
213 registration fee commensurate with and no greater than the cost



234994

214 incurred by the local government in operating its registration
215 program. Registration program costs are limited to those costs
216 associated with the activities described in this subparagraph.
217 Any reporting or registration process established by a local
218 government with regard to recovered materials or post-use
219 polymers is governed by this section and department rules
220 adopted pursuant thereto.

221 2. Information reported under this subsection which, if
222 disclosed, would reveal a trade secret, as defined in s.
223 812.081, is confidential and exempt from s. 119.07(1) and s.
224 24(a), Art. I of the State Constitution. This subparagraph is
225 subject to the Open Government Sunset Review Act in accordance
226 with s. 119.15 and shall stand repealed on October 2, 2021,
227 unless reviewed and saved from repeal through reenactment by the
228 Legislature.

229 Section 4. Subsection (2) of section 171.205, Florida
230 Statutes, is amended to read:

231 171.205 Consent requirements for annexation of land under
232 this part.—Notwithstanding part I, an interlocal service
233 boundary agreement may provide a process for annexation
234 consistent with this section or with part I.

235 (2) If the area to be annexed includes a privately owned
236 solid waste disposal facility as defined in s. 403.703 ~~s.~~
237 ~~403.703(33)~~ which receives municipal solid waste collected
238 within the jurisdiction of multiple local governments, the
239 annexing municipality must set forth in its plan the effects
240 that the annexation of the solid waste disposal facility will
241 have on the other local governments. The plan must also indicate
242 that the owner of the affected solid waste disposal facility has



234994

243 been contacted in writing concerning the annexation, that an
244 agreement between the annexing municipality and the solid waste
245 disposal facility to govern the operations of the solid waste
246 disposal facility if the annexation occurs has been approved,
247 and that the owner of the solid waste disposal facility does not
248 object to the proposed annexation.

249 Section 5. Subsection (28) of section 316.003, Florida
250 Statutes, is amended to read:

251 316.003 Definitions.—The following words and phrases, when
252 used in this chapter, shall have the meanings respectively
253 ascribed to them in this section, except where the context
254 otherwise requires:

255 (28) HAZARDOUS MATERIAL.—Any substance or material which
256 has been determined by the secretary of the United States
257 Department of Transportation to be capable of imposing an
258 unreasonable risk to health, safety, and property. This term
259 includes hazardous waste as defined in s. 403.703 ~~s.~~
260 ~~403.703(13)~~.

261 Section 6. Paragraph (f) of subsection (2) of section
262 377.709, Florida Statutes, is amended to read:

263 377.709 Funding by electric utilities of local governmental
264 solid waste facilities that generate electricity.—

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

266 (f) "Solid waste facility" means a facility owned or
267 operated by, or on behalf of, a local government for the purpose
268 of disposing of solid waste, as ~~that term is~~ defined in s.
269 403.703 ~~s. 403.703(32)~~, by any process that produces heat and
270 incorporates, as a part of the facility, the means of converting
271 heat to electrical energy in amounts greater than actually



234994

272 required for the operation of the facility.

273 Section 7. Subsection (1) of section 487.048, Florida
274 Statutes, is amended to read:

275 487.048 Dealer's license; records.—

276 (1) Each person holding or offering for sale, selling, or
277 distributing restricted-use pesticides must obtain a dealer's
278 license from the department. Application for the license shall
279 be filed with the department by using a form prescribed by the
280 department or by using the department's website. The license
281 must be obtained before entering into business or transferring
282 ownership of a business. The department may require examination
283 or other proof of competency of individuals to whom licenses are
284 issued or of individuals employed by persons to whom licenses
285 are issued. Demonstration of continued competency may be
286 required for license renewal, as set by rule. The license shall
287 be renewed annually as provided by rule. An annual license fee
288 not exceeding \$250 shall be established by rule. However, a user
289 of a restricted-use pesticide may distribute unopened containers
290 of a properly labeled pesticide to another user who is legally
291 entitled to use that restricted-use pesticide without obtaining
292 a pesticide dealer license. The exclusive purpose of
293 distribution of the restricted-use pesticide is to keep it from
294 becoming a hazardous waste as defined in s. 403.703 ~~s.~~
295 ~~403.703(13)~~.

296 Section 8. This act shall take effect July 1, 2017.

297
298 ===== T I T L E A M E N D M E N T =====

299 And the title is amended as follows:

300 Delete everything before the enacting clause



234994

301 and insert:

302 A bill to be entitled
303 An act relating to resource recovery and management;
304 amending s. 403.703, F.S.; defining the terms
305 "gasification," "post-use polymer," "pyrolysis," and
306 "pyrolysis facility" and revising definitions;
307 amending s. 403.7045, F.S.; providing that certain
308 pyrolysis facilities are exempt from certain resource
309 recovery regulations; conforming a cross-reference;
310 amending s. 403.7046, F.S.; requiring certain handlers
311 of post-use polymers to certify to the Department of
312 Environmental Protection; revising rule requirements
313 relating to such certification; authorizing recovered
314 materials dealers to use pyrolysis facilities for
315 recovered materials or post-use polymers processing;
316 amending ss. 171.205, 316.003, 377.709, and 487.048,
317 F.S.; conforming cross-references; providing an
318 effective date.

By the Committee on Environmental Preservation and Conservation;
and Senator Perry

592-03010-17

20171104c1

1 A bill to be entitled
2 An act relating to resource recovery and management;
3 amending s. 403.703, F.S.; revising definitions;
4 defining the terms "gasification," "post-use polymer,"
5 "pyrolysis," and "pyrolysis facility"; amending s.
6 403.7045, F.S.; providing that certain pyrolysis
7 facilities are exempt from certain resource recovery
8 regulations; conforming a cross-reference; amending s.
9 403.7046, F.S.; authorizing recovered materials
10 dealers to use pyrolysis facilities for recovered
11 materials processing; amending ss. 171.205, 316.003,
12 377.709, and 487.048, F.S.; conforming cross-
13 references; providing an effective date.
14
15 Be It Enacted by the Legislature of the State of Florida:
16
17 Section 1. Present subsections (2) and (3) of section
18 403.703, Florida Statutes, are redesignated as subsections (3)
19 and (2), respectively, present subsections (10) through (22) of
20 that section are redesignated as subsections (11) through (23),
21 respectively, present subsection (23) of that section is
22 redesignated as subsection (25), present subsections (24)
23 through (43) of that section are redesignated as subsections
24 (28) through (47), respectively, present subsections (27), (32),
25 and (35) of that section are amended, and new subsections (10),
26 (24), (26), and (27) are added to that section, to read:
27 403.703 Definitions.—As used in this part, the term:
28 (10) "Gasification" means a process through which post-use
29 polymers are heated and converted to synthesis gas in an oxygen-

Page 1 of 10

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

592-03010-17

20171104c1

30 deficient atmosphere, and then converted to crude oil, fuels, or
31 chemical feedstocks.
32 (24) "Post-use polymer" means a plastic polymer that is
33 derived from any domestic, commercial, or municipal activity;
34 that is not recycled in commercial markets; and may otherwise
35 become waste if not converted to manufacture crude oil, fuels,
36 or other raw materials or intermediate or final products using
37 gasification or pyrolysis. A post-use polymer may contain
38 incidental contaminants or impurities such as paper labels or
39 metal rings.
40 (26) "Pyrolysis" means a process through which post-use
41 polymers are heated in the absence of oxygen until melted and
42 thermally decomposed, and then cooled, condensed, and converted
43 to:
44 (a) Crude oil, diesel, gasoline, home heating oil, or
45 another fuel;
46 (b) Feedstocks;
47 (c) Diesel and gasoline blendstocks;
48 (d) Chemicals, waxes, or lubricants; or
49 (e) Other raw materials or intermediate or final products.
50 (27) "Pyrolysis facility" means a facility that receives,
51 separates, stores, and converts post-use polymers, using
52 gasification or pyrolysis. A pyrolysis facility meeting the
53 conditions of s. 403.7045(1)(e) is not a solid waste management
54 facility.
55 (31)-(27) "Recycling" means any process by which solid
56 waste, or materials that would otherwise become solid waste, are
57 collected, separated, or processed and reused or returned to use
58 in the form of raw materials or intermediate or final products.

Page 2 of 10

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592-03010-17

20171104c1

59 Such raw materials or intermediate or final products may
 60 include, but are not limited to, crude oil, fuels, and fuel
 61 substitutes.

62 ~~(36)-(32)~~ "Solid waste" means sludge unregulated under the
 63 federal Clean Water Act or Clean Air Act, sludge from a waste
 64 treatment works, water supply treatment plant, or air pollution
 65 control facility, or garbage, rubbish, refuse, special waste, or
 66 other discarded material, including solid, liquid, semisolid, or
 67 contained gaseous material resulting from domestic, industrial,
 68 commercial, mining, agricultural, or governmental operations.
 69 Recovered materials as defined in subsection (28) ~~(24)~~ are not
 70 solid waste.

71 ~~(39)-(35)~~ "Solid waste management facility" means any solid
 72 waste disposal area, volume reduction plant, transfer station,
 73 materials recovery facility, or other facility, the purpose of
 74 which is resource recovery or the disposal, recycling,
 75 processing, or storage of solid waste. The term does not include
 76 recovered materials processing facilities or pyrolysis
 77 facilities that meet the requirements of s. 403.7046, except the
 78 portion of such facilities, if any, which is used for the
 79 management of solid waste.

80 Section 2. Subsection (1) of section 403.7045, Florida
 81 Statutes, is amended to read:

82 403.7045 Application of act and integration with other
 83 acts.—

84 (1) The following wastes or activities may ~~shall~~ not be
 85 regulated pursuant to this act:

86 (a) Byproduct material, source material, and special
 87 nuclear material, the generation, transportation, disposal,

592-03010-17

20171104c1

88 storage, or treatment of which is regulated under chapter 404 or
 89 the federal Atomic Energy Act of 1954, ch. 1073, 68 Stat. 923,
 90 as amended;

91 (b) Suspended solids and dissolved materials in domestic
 92 sewage effluent or irrigation return flows or other discharges
 93 which are point sources subject to permits pursuant to this
 94 chapter or s. 402 of the Clean Water Act, Pub. L. No. 95-217;

95 (c) Emissions to the air from a stationary installation or
 96 source regulated under this chapter or the Clean Air Act, Pub.
 97 L. No. 95-95;

98 (d) Drilling fluids, produced waters, and other wastes
 99 associated with the exploration for, or development and
 100 production of, crude oil or natural gas which are regulated
 101 under chapter 377; or

102 (e) Recovered materials, ~~or~~ recovered materials processing
 103 facilities, or pyrolysis facilities, except as provided in s.
 104 403.7046, if:

105 1. A majority of the recovered materials at the facility
 106 are demonstrated to be sold, used, or reused within 1 year. As
 107 used in this subparagraph, the terms "used" or "reused" include,
 108 but are not limited to, the conversion of post-use polymers into
 109 crude oil, fuels, feedstocks, or other raw materials or
 110 intermediate or final products by gasification or pyrolysis.

111 2. The recovered materials handled by the facility or the
 112 products or byproducts of operations that process recovered
 113 materials are not discharged, deposited, injected, dumped,
 114 spilled, leaked, or placed into or upon any land or water by the
 115 owner or operator of the ~~such~~ facility so that the ~~such~~
 116 recovered materials, products or byproducts, or any constituent

592-03010-17 20171104c1

117 thereof may enter other lands or be emitted into the air or
 118 discharged into any waters, including groundwaters, or otherwise
 119 enter the environment such that a threat of contamination in
 120 excess of applicable department standards and criteria is
 121 caused.

122 3. The recovered materials handled by the facility are not
 123 hazardous wastes as defined in ~~under~~ s. 403.703, and in rules
 124 adopted under this section promulgated pursuant thereto.

125 4. The facility is registered as required in s. 403.7046.
 126 (f) Industrial byproducts, if:

127 1. A majority of the industrial byproducts are demonstrated
 128 to be sold, used, or reused within 1 year.

129 2. The industrial byproducts are not discharged, deposited,
 130 injected, dumped, spilled, leaked, or placed upon any land or
 131 water so that such industrial byproducts, or any constituent
 132 thereof, may enter other lands or be emitted into the air or
 133 discharged into any waters, including groundwaters, or otherwise
 134 enter the environment such that a threat of contamination in
 135 excess of applicable department standards and criteria or a
 136 significant threat to public health is caused.

137 3. The industrial byproducts are not hazardous wastes as
 138 defined in ~~under~~ s. 403.703 and in rules adopted under this
 139 section.

140
 141 Sludge from an industrial waste treatment works that meets the
 142 exemption requirements of this paragraph is not solid waste as
 143 defined in s. 403.703 ~~403.703(32)~~.

144 Section 3. Paragraph (b) of subsection (3) of section
 145 403.7046, Florida Statutes, is amended to read:

592-03010-17 20171104c1

146 403.7046 Regulation of recovered materials.-

147 (3) Except as otherwise provided in this section or
 148 pursuant to a special act in effect on or before January 1,
 149 1993, a local government may not require a commercial
 150 establishment that generates source-separated recovered
 151 materials to sell or otherwise convey its recovered materials to
 152 the local government or to a facility designated by the local
 153 government, nor may the local government restrict such a
 154 generator's right to sell or otherwise convey such recovered
 155 materials to any properly certified recovered materials dealer
 156 who has satisfied the requirements of this section. A local
 157 government may not enact any ordinance that prevents such a
 158 dealer from entering into a contract with a commercial
 159 establishment to purchase, collect, transport, process, or
 160 receive source-separated recovered materials.

161 (b)1. Before engaging in business within the jurisdiction
 162 of the local government, a recovered materials dealer must
 163 provide the local government with a copy of the certification
 164 provided for in this section. In addition, the local government
 165 may establish a registration process whereby a recovered
 166 materials dealer must register with the local government before
 167 engaging in business within the jurisdiction of the local
 168 government. Such registration process is limited to requiring
 169 the dealer to register its name, including the owner or operator
 170 of the dealer, and, if the dealer is a business entity, its
 171 general or limited partners, its corporate officers and
 172 directors, its permanent place of business, evidence of its
 173 certification under this section, and a certification that the
 174 recovered materials will be processed at a recovered materials

592-03010-17 20171104c1

175 processing facility or pyrolysis facility satisfying the
 176 requirements of this section. The local government may not use
 177 the information provided in the registration application to
 178 compete unfairly with the recovered materials dealer until 90
 179 days after receipt of the application. All counties, and
 180 municipalities whose population exceeds 35,000 according to the
 181 population estimates determined pursuant to s. 186.901, may
 182 establish a reporting process that must be limited to the
 183 regulations, reporting format, and reporting frequency
 184 established by the department pursuant to this section, which
 185 must, at a minimum, include requiring the dealer to identify the
 186 types and approximate amount of recovered materials collected,
 187 recycled, or reused during the reporting period; the approximate
 188 percentage of recovered materials reused, stored, or delivered
 189 to a recovered materials processing facility or pyrolysis
 190 facility or disposed of in a solid waste disposal facility; and
 191 the locations where any recovered materials were disposed of as
 192 solid waste. The local government may charge the dealer a
 193 registration fee commensurate with and no greater than the cost
 194 incurred by the local government in operating its registration
 195 program. Registration program costs are limited to those costs
 196 associated with the activities described in this subparagraph.
 197 Any reporting or registration process established by a local
 198 government with regard to recovered materials is governed by
 199 this section and department rules adopted pursuant thereto.
 200 2. Information reported under this subsection which, if
 201 disclosed, would reveal a trade secret, as defined in s.
 202 812.081, is confidential and exempt from s. 119.07(1) and s.
 203 24(a), Art. I of the State Constitution. This subparagraph is

592-03010-17 20171104c1

204 subject to the Open Government Sunset Review Act in accordance
 205 with s. 119.15 and shall stand repealed on October 2, 2021,
 206 unless reviewed and saved from repeal through reenactment by the
 207 Legislature.
 208 Section 4. Subsection (2) of section 171.205, Florida
 209 Statutes, is amended to read:
 210 171.205 Consent requirements for annexation of land under
 211 this part.—Notwithstanding part I, an interlocal service
 212 boundary agreement may provide a process for annexation
 213 consistent with this section or with part I.
 214 (2) If the area to be annexed includes a privately owned
 215 solid waste disposal facility as defined in s. 403.703
 216 ~~403.703(33)~~ which receives municipal solid waste collected
 217 within the jurisdiction of multiple local governments, the
 218 annexing municipality must set forth in its plan the effects
 219 that the annexation of the solid waste disposal facility will
 220 have on the other local governments. The plan must also indicate
 221 that the owner of the affected solid waste disposal facility has
 222 been contacted in writing concerning the annexation, that an
 223 agreement between the annexing municipality and the solid waste
 224 disposal facility to govern the operations of the solid waste
 225 disposal facility if the annexation occurs has been approved,
 226 and that the owner of the solid waste disposal facility does not
 227 object to the proposed annexation.
 228 Section 5. Subsection (28) of section 316.003, Florida
 229 Statutes, is amended to read:
 230 316.003 Definitions.—The following words and phrases, when
 231 used in this chapter, shall have the meanings respectively
 232 ascribed to them in this section, except where the context

592-03010-17

20171104c1

233 otherwise requires:

234 (28) HAZARDOUS MATERIAL.—Any substance or material which
 235 has been determined by the secretary of the United States
 236 Department of Transportation to be capable of imposing an
 237 unreasonable risk to health, safety, and property. This term
 238 includes hazardous waste as defined in s. 403.703 ~~403.703(13)~~.

239 Section 6. Paragraph (f) of subsection (2) of section
 240 377.709, Florida Statutes, is amended to read:

241 377.709 Funding by electric utilities of local governmental
 242 solid waste facilities that generate electricity.—

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

244 (f) "Solid waste facility" means a facility owned or
 245 operated by, or on behalf of, a local government for the purpose
 246 of disposing of solid waste, as ~~that term is~~ defined in s.
 247 403.703 ~~403.703(32)~~, by any process that produces heat and
 248 incorporates, as a part of the facility, the means of converting
 249 heat to electrical energy in amounts greater than actually
 250 required for the operation of the facility.

251 Section 7. Subsection (1) of section 487.048, Florida
 252 Statutes, is amended to read:

253 487.048 Dealer's license; records.—

254 (1) Each person holding or offering for sale, selling, or
 255 distributing restricted-use pesticides must obtain a dealer's
 256 license from the department. Application for the license shall
 257 be filed with the department by using a form prescribed by the
 258 department or by using the department's website. The license
 259 must be obtained before entering into business or transferring
 260 ownership of a business. The department may require examination
 261 or other proof of competency of individuals to whom licenses are

592-03010-17

20171104c1

262 issued or of individuals employed by persons to whom licenses
 263 are issued. Demonstration of continued competency may be
 264 required for license renewal, as set by rule. The license shall
 265 be renewed annually as provided by rule. An annual license fee
 266 not exceeding \$250 shall be established by rule. However, a user
 267 of a restricted-use pesticide may distribute unopened containers
 268 of a properly labeled pesticide to another user who is legally
 269 entitled to use that restricted-use pesticide without obtaining
 270 a pesticide dealer license. The exclusive purpose of
 271 distribution of the restricted-use pesticide is to keep it from
 272 becoming a hazardous waste as defined in s. 403.703 ~~403.703(13)~~.
 273 Section 8. This act shall take effect July 1, 2017.
 274

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

SB-1104

Bill Number (if applicable)

234994-Sub Amend.

Amendment Barcode (if applicable)

Topic Resource Recovery & Mgt.

Name Cameron Yarbrough

Job Title _____

Address 215 S. Monroe St.
Street

Phone _____

Tallahassee FL 32301
City State Zip

Email Cyarbrough@gonster.com

Speaking: For Against Information

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

Representing Advanced Disposal

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 the Senator or Senate Professional Staff conducting the meeting)

4/13/17

Meeting Date

SB 1104

Bill Number (if applicable)

234994

Amendment Barcode (if applicable)

Topic RESOURCE RECOVERY & MANAGEMENT

Name KEYNA CORY

Job Title LOBBYIST

Address 730 E. PARK AVE

Phone 850 681-1065

Street

TANAHASSEE FL 32301

Email keynacory@paconsultants.com

City

State

Zip

Speaking: For Against Information

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

Representing NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-13-17

Meeting Date

SB 1104

Bill Number (if applicable)

Topic Plastics to fuel legislation

Amendment Barcode (if applicable)

Name Thomas Beusse

Job Title Mgr., State Affairs

Address 1995 N. Park Pl NW

Phone 706-202-9308

Street

Atlanta

GA

30339

City

State

Zip

Email thomas-beusse@^{American}chemistry.com

Speaking: For Against Information

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

Representing American Chemistry Council

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

SB 1104

Bill Number (if applicable)

Topic RESOURCE RECOVERY + MANAGEMENT

Amendment Barcode (if applicable)

Name KEYNA CORY

Job Title LOBBYIST

Address 730 E. PARK AVE

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TALLAHASSEE FL 32301

Email keynacory@paconsultants.com

City

State

Zip

Speaking: For Against Information

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

Representing NATIONAL WASTE + RECYCLING ASSN - FL CHAPTER

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-13-17
Meeting Date

SB 1102
Bill Number (if applicable)

Topic Plastic to Fuel Legislation

Amendment Barcode (if applicable)

Name DAN DEMKO

Job Title BUSINESS DEVELOPMENT

Address P.O. Box 1057

Phone 440-487-8611

Street BURTON OH 44021
City State Zip

Email DAN.DEMKO@RESPolyflow.com
- CCIA

Speaking: For Against Information

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

Representing RESPolyflow LLC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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 The Environment and Natural Resources

BILL: CS/SB 1338

INTRODUCER: Environmental Preservation and Conservation Committee and Senator Book

SUBJECT: Vessels

DATE: April 12, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|-----------------------------|
| 1. | Istler | Rogers | EP | Fav/CS |
| 2. | Reagan | Betta | AEN | Recommend: Favorable |
| 3. | | | AP | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1338 implements many of the findings and recommendations of the Florida Fish and Wildlife Conservation Commission (FWC) in its report on the pilot program relating to the anchoring or mooring of vessels outside public mooring fields. The bill addresses issues relating to:

- Derelict vessels by:
 - Providing that a vessel is at risk of becoming derelict if an owner or operator of a vessel cannot demonstrate within 72 hours after notification by a law enforcement officer that the vessel has an effective means of propulsion or provide documentation of having ordered the necessary parts for vessel repair;
 - Elevating the civil penalties for having an expired vessel registration longer than six months;
 - Prohibiting the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer until such vessel is no longer deemed a derelict vessel; and
 - Exempting law enforcement officers who post a notice on a derelict vessel which he or she ascertains as lost or abandoned property from the additional requirement that such notice be sent by certified mail to the owner of the property when the law enforcement officer has given such owner notice of a violation of derelict vessels and issued him or her a citation for such violation.
- Anchoring or mooring in certain areas by prohibiting vessels or floating structures from anchoring or mooring within:

- 150 feet of any vessel launching or loading facility;
- 100 feet of public mooring field boundaries; or
- 300 feet of a superyacht repair facility.
- Local governmental authority by:
 - Amending the definition of the term “live-aboard vessel” to revise local governmental authority relating to the anchoring and mooring of vessels;
 - Authorizing local governments to enact and enforce regulations that require owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper sewage disposal if such vessel has been anchored or moored for 10 consecutive days within the marked boundaries of permitted mooring fields or federally designated no discharge zones, provided the FWC has determined that adequate pumpout services are provided by such local government; and
 - Authorizing local governments to enact and enforce regulations that allow the local government to remove a vessel affixed to a public dock within its jurisdiction which has been deemed abandoned or lost property.

The bill allows that private residential multifamily docks that were grandfathered-in to use sovereignty submerged lands to exceed the 1:1 ratio for number of moored boats to the number of units within a private multifamily development.

The bill authorizes the FWC to establish boating restricted areas upon request of a private property owner of submerged lands that are adjacent to Outstanding Florida Waters or an aquatic preserve for the sole purpose of protecting any seagrass and contiguous seagrass habitat within their property boundaries from seagrass scarring due to propeller dredging.

The bill may have an indeterminate fiscal impact on state and local governments.

II. Present Situation:

Anchoring or mooring refers to a boater’s practice of seeking and using a safe harbor on the public waterway system for an undefined duration. Anchoring is accomplished using an anchor carried on the vessel.¹ Mooring is accomplished through the utilization of moorings permanently affixed to the bottom. Anchorages are areas that boaters regularly use for anchoring or mooring, whether designated or managed for that purpose or not. Mooring fields are areas designated and used for a system of properly spaced moorings.²

The anchoring of vessels has created conflicts in some areas of the state related to the use and enjoyment of the waters for many years. These issues include, but are not limited to:

- The locations where anchored vessels accumulate;
- Unattended vessels;
- Anchored vessels that are dragging anchor or not showing proper lighting;
- Vessels that are not maintained properly;

¹ Section 327.02, F.S., defines the term “vessel” to include every description of watercraft, barge, and airboat, other than a seaplane on the water, used or capable of being used as a means of transportation on water.

² Ankersen, Hamann, & Flagg, *Anchoring Away: Government Regulation and the Rights of Navigation in Florida*, 2 (Rev. May 2012) available at <http://nsgl.gso.uri.edu/flsgp/flsgpt12001.pdf> (last visited Mar. 15, 2017).

- Vessels that become derelict;
- Interpretation of state laws leading to inconsistent regulation of anchoring on state waters and confusion among the boating community; and
- Questions about local governmental authority to regulate anchoring.³

Lease of Sovereignty Submerged Lands

The Board of Trustees of the Internal Improvement Trust Fund (BOT) is responsible for the administration and disposition of the state's sovereignty submerged lands.⁴ The BOT is composed of the Governor, the Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture.⁵ Waterfront landowners must receive the BOT's authorization to build docks and related structures on sovereignty submerged lands. The Department of Environmental Protection (DEP) administers all staff functions on the BOT's behalf.⁶

Florida recognizes riparian rights for landowners with waterfront property bordering navigable waters, which include the rights of ingress, egress, boating, bathing, fishing, and others as defined by law.⁷ Riparian landowners must obtain a sovereignty submerged lands authorization in the form of a letter of consent, consent by rule, or a lease prior to installation and maintenance of docks, piers, and boat ramps on sovereignty submerged land.

A preempted area is the area of sovereignty submerged lands from which any traditional public uses have been or will be excluded by an activity, such as the area occupied by docks, piers, and other structures; the area between a dock and the shoreline where access is not allowed, between docks, or areas where mooring routinely occurs that are no longer reasonably accessible to the general public; permanent mooring areas not associated with docks; and swimming areas enclosed by nets, buoys, or similar marking systems.⁸ The preemption ratio is the ratio of the preempted area in square feet to the number of linear feet of shoreline owned by the applicant.⁹ A dock that preempts more than the 10:1 preemption ratio requires a lease.

A lease agreement between the state and the property owner transfers the use, possession, and control of sovereignty submerged lands to the property owner for up to 10 years. The annual lease fees for a standard term lease are calculated through a formula based on annual income, square footage, or a minimum annual fee. Extended term leases are available, under limited conditions, for up to 25 years. Annual lease fees for extended term leases are calculated in the same fashion as standard lease fees but with a multiplier for the term in years.

³ Fish and Wildlife Conservation Commission (FWC), *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 6 (Dec. 21, 2016), available at <http://myfwc.com/media/4126646/anchoringandmooringpilotprogramreport122116.pdf> (last visited Mar. 15, 2017).

⁴ Section 253.03(8)(b), F.S., defines submerged lands as publicly owned lands below the ordinary high-water mark of fresh waters and below the mean high-water line of salt waters extending seaward to the outer jurisdiction of the state.

⁵ Section 253.02(1), F.S.

⁶ Section 253.03, F.S.

⁷ Section 253.141(1), F.S.

⁸ Fla. Admin. R. 18-21.003

⁹ Fla. Admin. R. 18-21.005.

A private residential multi-family dock that is designed to moor up to the number of units within the multi-family development is not required to pay a lease fee if the preempted area is less than the 10:1 preempted ratio.¹⁰ When the lease requirements were first adopted, a grandfathering-in program was established, which postponed the requirement for leases and payment of lease fees until January 1, 1998, provided the facility was registered by September 30, 1984.¹¹ Because many facilities missed the original deadline, a second grandfathering program was adopted in 1990, which allowed unregistered facilities to apply for a lease under the program by April 1, 1991.¹²

State Regulation of the Anchoring or Mooring of Vessels

The BOT is authorized to adopt rules governing all uses of sovereignty submerged lands including rules for anchoring, mooring, or otherwise attaching to the bottom, the establishment of anchorages, the discharge of sewage, pump-out requirements, and facilities associated with anchorages.¹³ Such rules must control the use of sovereignty submerged lands as a place of business or residence but are prohibited from interfering with commerce or the transitory operation of vessels through navigable water.¹⁴ The BOT has yet to adopt rules relating to the anchoring of vessels on the waters of the state.

Section 327.44, F.S., prohibits a person from anchoring a vessel, except in cases of emergency, in a manner which unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. Anchoring under bridges or in, or adjacent to, heavily traveled channels constitutes interference, if unreasonable under the prevailing circumstances.¹⁵ Interference with navigation is a noncriminal infraction, punishable by a civil penalty of \$50.¹⁶

The FWC and other law enforcement agencies are authorized to relocate or remove a vessel that unreasonably or unnecessarily constitutes a navigational hazard or interferes with another vessel. The FWC or any law enforcement agency that relocates or removes a vessel under these circumstances is to be held harmless for all damages to the vessel resulting from the relocation or removal unless the damage results from gross negligence or willful misconduct.¹⁷ The costs to relocate or remove a vessel under these circumstances are recoverable against the vessel owner.¹⁸

Section 327.4108, F.S., prohibits, with specified exceptions, the anchoring of a vessel between one-half hour after sunset and one-half hour before sunrise in the following designated anchoring limitation areas:

¹⁰ Section 253.0374, F.S. See also DEP, *Construction Criteria for Docks, Piers, and Marinas-Not in an Aquatic Preserve*, http://publicfiles.dep.state.fl.us/dworm/slerp/erphelp/mergedProjects/docksguide/Not_in_AP/Private_Multi_Family_or_Multi_Slip.htm (last visited Mar. 23, 2017).

¹¹ R. Steven Lewis, Matthew Butler, and Timothy Rach, *Special Permitting Considerations for Sovereign Lands and Aquatic Preserves*, 19 (July 2014) available at <http://floridaenet.com/wp-content/uploads/2015/10/Special-Permitting-Considerations-for-Sovereign-Lands-and-Aquatic-Preserves-July-2014-00354627xBA9D6.pdf> (last visited Mar. 23, 2017).

¹² *Id.*

¹³ Section 253.03(7), F.S.

¹⁴ See Fla. Admin. Code ch. 18-21.

¹⁵ Section 327.44(2), F.S.

¹⁶ Section 327.73, F.S.

¹⁷ Section 327.44(3), F.S.

¹⁸ Section 327.44(5), F.S.

- The section of Middle River lying between Northeast 21st Court and the Intracoastal Waterway in Broward County.
- Sunset Lake in Miami-Dade County.
- The sections of Biscayne Bay in Miami-Dade County lying between:
 - Rivo Alto Island and Di Lido Island;
 - San Marino Island and San Marco Island; or
 - San Marco Island and Biscayne Island.¹⁹

This prohibition expires upon the Legislature's adoption of the FWC's recommendations for the regulation of mooring vessels outside public mooring fields developed under the pilot program.²⁰

Local Regulation of the Anchoring or Mooring of Vessels

Local governments are authorized by general permit to construct, operate, and maintain public mooring fields, each for up to 100 vessels.²¹ Mooring fields are required to be located where navigational access already exists between the mooring field and the nearest customarily used access channel or navigable waters which the mooring field is designed to serve. Each mooring field must be associated with a land-based support facility that provides amenities and conveniences, such as parking, bathrooms, showers, and laundry facilities. Major boat repairs and maintenance, fueling activities other than from the land-based support facility, and boat hull scraping and painting are not authorized within mooring fields.²²

Local governments are authorized to enact and enforce ordinances that prohibit or restrict the mooring or anchoring of floating structures²³ or live-aboard vessels²⁴ within their jurisdictions and vessels that are within the marked boundaries of permitted mooring fields.²⁵ However, local governments are prohibited from enacting, continuing in effect, or enforcing any ordinance or local regulation that regulates the anchoring of vessels, other than live-aboard vessels, outside the marked boundaries of permitted mooring fields.²⁶ Local governments are only authorized to enact and enforce regulations regarding the mooring or anchoring of vessels that are located within marked boundaries of a mooring field.²⁷

¹⁹ Section 327.4108, F.S.

²⁰ Section 327.4108(7), F.S.

²¹ See s. 373.118, F.S. and Fla. Admin. Code R. 62-330.420(1).

²² See Fla. Admin. Code R. 62-330.420.

²³ Section 327.02, F.S., defines the term "floating structure" as a "floating entity, with or without accommodations built thereon, which is not primarily used as a means of transportation on water but which serves purposes or provides services typically associated with a structure or other improvement to real property. The term includes an entity used as a residence, place of business, or office with public access; a hotel or motel; a restaurant or lounge; a clubhouse; a meeting facility; a storage or parking facility; or a mining platform, dredge, dragline, or similar facility or entity represented as such."

²⁴ Section 327.02, F.S., defines the term "live-aboard vessel" as "a vessel used solely as a residence and not for navigation; a vessel represented as a place of business or a professional or other commercial enterprise; or a vessel for which a declaration of domicile has been filed. The definition expressly excludes commercial fishing boats."

²⁵ Section 327.60(3), F.S.

²⁶ Section 327.60(2)(f), F.S.

²⁷ Section 327.60, F.S.

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 beached upon the property of another without the consent of the owner of the property.²⁸

It is unlawful to store, leave, or abandon a derelict vessel in Florida.²⁹ Those who are found in violation of this prohibition commit a first degree misdemeanor.³⁰ Additionally, s. 376.16, F.S., provides that a violation of derelict vessel laws also subjects the violator to a civil penalty of up to \$50,000 per violation.³¹ Each day during any portion of which the violation occurs constitutes a separate offense.³²

Removal of Derelict Vessels

Chapters 327 and 328, F.S., concerning vessel safety and vessel title certificates, liens, and registration, are enforced by the Division of Law Enforcement of the Florida Fish and Wildlife Conservation Commission (FWC) and its officers, and the sheriffs of the various counties and their deputies, municipal police officers, and any other law enforcement officer as defined in s. 943.10, F.S.³³

Section 823.11, F.S., allows for the relocation or removal of a derelict vessel from public waters if the derelict vessel obstructs or threatens to obstruct navigation or in any way constitutes a danger to the environment, property, or persons. The costs incurred for relocating or removing a derelict vessel are recoverable against the vessel owner. 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 disposal of the vessel, 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.³⁴

According to the FWC, removal costs for derelict vessels are approximately \$350 to \$450 per foot of vessel length. However, a floating vessel may be towed to a boat ramp or hoist and pulled from the water at a much lower cost. Relocation may cost nothing if a law enforcement officer is

²⁸ Section 823.11(1)(b), F.S.

²⁹ Section 823.11(2), F.S.

³⁰ A first degree misdemeanor is punishable by a term of imprisonment of no more than one year and a fine of up to \$1,000.

³¹ Section 376.16(1), F.S.

³² *Id.*

³³ Section 943.10(1), F.S., defines the term “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 also includes all certified supervisory and command personnel whose duties include, in whole or in part, the supervision, training, guidance, and management 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.”

³⁴ Section 705.103(4), F.S.

able to tow it to a suitable location. Costs for professional towing services are approximately \$200 per hour.³⁵

The FWC maintains a statewide database of vessels that have been investigated by a law enforcement officer and deemed to be either derelict or at risk of becoming derelict. The database related to at-risk vessels is largely incomplete, because the current effort related to at-risk vessels is a voluntary, community-oriented policing effort. A total of 166 derelict vessels were removed by local governments in 2014 at a cost of approximately \$665,500, or \$4,009 per vessel.³⁶

The FWC held six public meetings in 2015 to seek public input on the problem of derelict vessels and possible solutions. Participants were asked to respond to a survey to indicate their level of support for eight solutions to address problems related to derelict vessels. The concept of prohibiting a vessel at risk of becoming derelict from anchoring on Florida waters received 85.2 percent support from respondents.³⁷

At-risk vessels

In 2016, the legislature passed ch. 2016-108, Laws of Florida, to prohibit neglected vessels or those in deteriorating conditions from anchoring, mooring, or occupying the waters of the state.³⁸ 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; or
- The vessel is left or stored aground unattended in such a state that would prevent the vessel from getting underway, or is listing due to water intrusion, or is sunk or partially sunk.³⁹

A violation for anchoring, mooring, or occupying a vessel at risk of becoming derelict on the waters of the state is a noncriminal infraction, for which the civil penalty is:

- Fifty dollars, for a first offense.
- One hundred dollars, for a second offense occurring 30 days or more after a first offense.
- Two hundred and fifty dollars, for a third or subsequent offense occurring 30 days or more after a previous offense.⁴⁰

Anchoring and Mooring Pilot Program

In 2009, the Legislature created the Anchoring and Mooring Pilot Program to explore options for local governments to regulate the anchoring and mooring of non-live-aboard vessels outside the

³⁵ FWC, *2016 Agency Bill Analysis for HB 7025*, (Jan. 6, 2016) (on file with the Senate Committee on Environmental Preservation and Conservation).

³⁶ *Id.*

³⁷ *Id.*

³⁸ Chapter 2016-108, Laws of Fla.; s. 327.4107, F.S.

³⁹ Section 327.4107, F.S.

⁴⁰ Section 327.40(1)(a)(a), F.S.

marked boundaries of public mooring fields.⁴¹ The pilot program is administered by the FWC in consultation with the DEP.⁴²

The following local governments were selected as participants in the pilot program and were authorized to regulate anchoring and mooring outside the marked boundaries of permitted mooring fields:

- The city of St. Augustine;
- The city of St. Petersburg;
- The city of Sarasota;
- Monroe County in partnership with the cities of Marathon and Key West; and
- Martin County in partnership with the city of Stuart.⁴³

The pilot program and the local government ordinances developed under the program are set to expire July 1, 2017, unless reenacted by the legislature.⁴⁴

The FWC's Anchoring and Mooring Pilot Program Findings and Recommendations Report

The FWC in 2016 published a report of its findings and recommendations upon completion of the pilot program.⁴⁵ The following recommendations were made based on lessons learned by the FWC through the individual pilot program participating local governments, public responses to surveys, and additional input from key stakeholders:

- Provide an allowance for a 300-foot buffer extending beyond mooring field boundaries within which anchoring is prohibited, to further protect the safety of mooring field users;
- Retain state authority to regulate the anchoring of vessels in the state or, if the state chooses to grant such authority to local governments, restrict such authority to counties in order to minimize confusion among boaters;
- Quantify the economic benefits and document the environmental benefits of mooring fields;
- Establish anchoring limited areas through a universal, statewide prohibition against allowing an anchored vessel to come within 150 feet of any marina, boat ramp, or other vessel launching and loading facility; and
- Require certain vessels within specified areas of Monroe County waters to demonstrate proof of compliance with marine sanitation device pump out requirements.⁴⁶

Additionally, the FWC provided the following recommendations to prevent or remove derelict vessels on the waters of the state:

- Place a hold on titles of vessels deemed derelict;
- Limit who may renew a vessel registration;
- Increase the penalties for repeat violations of expired vessel registrations;
- Authorize an alternate means of notification to derelict vessel owners; and

⁴¹ Chapter 2009-86, s. 48, Laws of Fla.; s. 327.4105, F.S.

⁴² Section 327.4105, F.S.

⁴³ FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations*, 15 (Dec. 21, 2016).

⁴⁴ Section 327.4105(6), F.S. The pilot program was originally set to expire on July 1, 2014. However, the program was extended to provide more time to fully evaluate each pilot program location. See ch. 2014-136, s. 2, Laws of Fla.

⁴⁵ See FWC, *Anchoring and Mooring Pilot Program Report of Findings and Recommendations* (Dec. 21, 2016), for the full report.

⁴⁶ *Id.* at 50-54.

- Add another condition to the definition of the term “at-risk vessel” which would define a vessel that is incapable of effective navigation when the owner or operator cannot demonstrate an effective means of propulsion for the purpose of safe navigation as an at-risk vessel.⁴⁷

The FWC did not provide recommendations related to the following issues:

- Stored vessels;
- Inoperable vessels being used as residences;
- State-wide marine sanitation; and
- Setbacks from shorelines or private docks.⁴⁸

Boating Restricted Areas

Section 327.46, F.S., authorizes the FWC to establish restrictions on vessel speeds and vessel traffic on the waters of the state for any purpose necessary to protect the safety of the public, if such restrictions are necessary based on boating accidents, visibility, hazardous currents or water levels, vessel traffic congestion, or other navigational hazards. Boating-restricted areas are adopted by the FWC by rule.⁴⁹

Each boating-restricted area must be developed in consultation and coordination with the governing body of the county or municipality in which the boating-restricted area is located. When the boating-restricted area is to be on the navigable waters of the United States, the FWC must consult and coordinate with the United States Coast Guard and the United States Army Corps of Engineers.

Local governments are authorized to establish boating-restricted areas by ordinance within certain parameters.⁵⁰ Such ordinances must be reviewed by the FWC and determined necessary to protect public safety based upon substantial competent evidence.⁵¹ The following types of restrictions are authorized to be established:

- An ordinance establishing an idle speed, no wake⁵² boating-restricted area, if the area is:
 - Within 500 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways more than 300 feet in width.
 - Within 300 feet of any boat ramp, hoist, marine railway, or other launching or landing facility available for use by the general boating public on waterways not exceeding 300 feet in width.
 - Within 500 feet of fuel pumps or dispensers at any marine fueling facility that sells motor fuel to the general boating public on waterways more than 300 feet in width.
 - Within 300 feet of the fuel pumps or dispensers at any licensed terminal facility that sells motor fuel to the general boating public on waterways not exceeding 300 feet in width.

⁴⁷ *Id.* at 52-54.

⁴⁸ *Id.* at 54-56.

⁴⁹ See Fla. Admin. Code Ch. 68D-24, for established boating restricted areas by county.

⁵⁰ Section 327.46(1)(b), F.S.

⁵¹ *Id.*

⁵² Fla. Admin. Code R. 68D-24.002, defines the term “Idle Speed No Wake” to mean that a vessel cannot proceed at a speed greater than necessary to maintain steerageway.

- Inside or within 300 feet of any lock structure.⁵³
- An ordinance establishing a slow speed, minimum wake⁵⁴ boating-restricted area if the area is:
 - Within 300 feet of any bridge fender system.
 - Within 300 feet of any bridge span presenting a vertical clearance of less than 25 feet or a horizontal clearance of less than 100 feet.
 - On a creek, stream, canal, or similar linear waterway if the waterway is less than 75 feet in width from shoreline to shoreline.
 - On a lake or pond of less than 10 acres in total surface area.⁵⁵
- An ordinance establishing a vessel-exclusion zone if the area is:
 - Designated as a public bathing beach or swim area.
 - Within 300 feet of a dam, spillway, or flood control structure.⁵⁶

The penalty for operating a vessel in a prohibited manner within a boating-restricted area that has been clearly marked by regulatory markers is a noncriminal infraction, punishable by a civil penalty of \$50.⁵⁷

Protection of Seagrass

According to s. 253.04, F.S., the state has a duty to conserve and improve state-owned lands and the products thereof, including the preservation and regeneration of seagrass. A person operating a vessel outside a lawfully marked channel in a careless manner that causes seagrass scarring in an aquatic preserve, except for Lake Jackson, Oklawaha River, Wekiva River, and Rainbow Springs aquatic preserves, commits a noncriminal infraction punishable by:

- Fifty dollars, for a first offense.
- Two hundred and fifty dollars, for a second offense occurring within 12 months after a prior conviction.
- Five hundred dollars, for a third offense occurring within 36 months after a prior conviction.
- One thousand dollars, for a fourth or subsequent offense occurring within 72 months after a prior conviction.⁵⁸

Spring Protection Zones

Section 327.45, F.S., authorizes the FWC to establish protection zones that restrict the speed and operation of vessels to protect and prevent harm to springs.⁵⁹ Such harm includes negative impacts to water quality, water quantity, hydrology, wetlands, and aquatic and wetland-dependent species.⁶⁰ The penalty for operating a vessel in violation of a spring

⁵³ Section 327.46(1)(b), F.S.

⁵⁴ Fla. Admin. Code R. 68D-24.002, defines the term “Slow Speed Minimum Wake” to mean that a vessel must be fully off plane and completely settled in the water and it may not proceed greater than that speed which is reasonable and prudent to avoid the creation of an excessive wake or other hazardous condition under existing circumstances.

⁵⁵ Section 327.46(1)(b), F.S.

⁵⁶ *Id.*

⁵⁷ Section 327.73, F.S.

⁵⁸ *Id.*

⁵⁹ Section 327.45, F.S.

⁶⁰ *Id.*

protection zone is a noncriminal infraction charged as a uniform boating citation of which the civil penalty is:

- Fifty dollars, for a first offense.
- Two hundred and fifty dollars, for a second offense occurring within 12 months after a prior conviction.
- Five hundred dollars, for a third offense occurring within 36 months after a prior conviction.
- One thousand dollars, for a fourth or subsequent offense occurring within 72 months after a prior conviction.⁶¹

The FWC is responsible for the posting and maintenance of regulatory markers to identify protection zones.⁶²

Uniform Waterway Markers

The FWC has established a uniform system of regulatory markers compatible with the system of regulatory markers prescribed by the United States Coast Guard in the United States Aids to Navigation System.⁶³ The Division of Law Enforcement's Boating Waterways Section, within the FWC, permits and regulates the placement of markers in, on, and over the waters and shores of Florida.⁶⁴

A person or municipality, county, or other governmental entity may not place any uniform waterway marker in, on, or over the waters or shores of the state without a permit.⁶⁵ The FWC will not issue any permit authorizing placement of regulatory markers implementing municipal or county ordinances that:

- Are in violation of s. 327.60, F.S., relating to limitations on local regulations;
- Establish boating-restricted areas until such ordinances have been reviewed and approved by the Boating and Waterways Section; or
- Regulate vessel speed or operation for manatee protection purposes, until such ordinances have been reviewed and approved by the FWC, coordinated through the Imperiled Species Management Section, and provided that such ordinances do not apply within the marked navigation channel of the Florida Intracoastal Waterway or to the waters within 100 feet of said channel.⁶⁶

III. Effect of Proposed Changes:

The bill implements many of the Florida Fish and Wildlife Conservation Commission's (FWC) recommendations for the anchoring and mooring of vessels on state waters as provided in its report on the pilot program relating to the anchoring or mooring of vessels outside public mooring fields.

⁶¹ Section 327.73, F.S.

⁶² Section 327.45, F.S.

⁶³ Section 327.41, F.S.; *see* 33 C.F.R. §§ 62.1-62.65.

⁶⁴ Fla. Admin. Code R. 68D-23.102.

⁶⁵ Section 327.40, F.S.

⁶⁶ Fla. Admin. Code R. 68D-23.101.

At-risk and Derelict Vessels

Section 2 amends s. 327.02, F.S., to define the term “barge” to mean “a flat-bottomed vessel used for the transport of goods on inland waterways which is propelled by its own power or towed by another vessel;” and to define the term “effective means of propulsion for safe navigation” to mean “when a vessel, other than a barge, is equipped with a functioning motor, controls, and steering system; or rigging and sails that are present and in good working order, and a functioning steering system.”

Section 4 amends s. 327.4107, F.S., to provide an additional condition for which an officer may deem a vessel at risk of becoming derelict. Under this section, a vessel is at risk of becoming derelict if within 72 hours after the owner or operator of the vessel receives written notification by an officer that the vessel does not have an effective means of propulsion for safe navigation, the vessel still does not have an effective means of propulsion for safe navigation and the owner or operator is unable to provide a receipt, proof of purchase, or other documentation of having ordered necessary parts for vessel repair. This section authorizes the written notice to be provided by electronic mail or by other electronic documentation. The FWC is authorized to adopt rules to implement the new condition for at-risk vessels.

Sections 10 and 12 amend ss. 327.73 and 328.72, F.S., respectively, to provide the following penalties for an expired vessel registration:

- The owner or operator of a vessel with an expired registration of six months or less, upon a first or subsequent offense, commits a noncriminal infraction, punishable by a civil penalty of up to \$50;
- The owner or operator of a vessel with an expired registration of more than six months, upon a first offense, commits a noncriminal infraction punishable by a civil penalty of up to \$250; and
- The owner or operator of a vessel with an expired registration of more than six months, upon a second or subsequent offense, commits a noncriminal infraction, punishable by a civil penalty of up to \$500. Additionally, such a violator may not just pay the civil penalty by mail or in person within 30 days of receipt of the citation, but must appear before the designated official at the time and location of a scheduled hearing.

Section 11 amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles (DHSMV) from issuing a certificate of title to any applicant for any vessel that has been deemed derelict by a law enforcement officer. A law enforcement officer must inform the DHSMV in writing, which may include facsimile, electronic mail, or other electronic documentation, of the vessel’s derelict status and must supply the vessel title number or vessel identification number. The DHSMV is authorized to issue a certificate of title once a law enforcement officer has verified in writing that the vessel is no longer a derelict vessel.

Section 13 amends s. 705.103, F.S., to exempt officers who post a notice on a derelict vessel which he or she ascertains as lost or abandoned property from the additional requirement that such notice be sent by certified mail to the owner of the property when the law enforcement officer has given such owner notice of a violation of derelict vessels and issued a violation of such to the owner.

Anchoring or Mooring Limitation Areas

Section 6 creates s. 327.4109, F.S., to prohibit the anchoring or mooring of a vessel or floating structure within:

- 150 feet of any marina, boat ramp, or other vessel launching or loading facility;
- 300 feet of a superyacht repair facility; or
- 100 feet of public mooring field boundaries or a lesser distance if approved by the FWC upon request by a local government within which the mooring field is located.

Section 6 defines the term “superyacht repair facility” to mean a facility that can provide service or repair to a yacht with a load line of 79 feet or more in length.

Exceptions to the anchoring and mooring prohibitions for vessel launching or loading facilities or public mooring field boundaries are allowed if:

- The vessel suffers a mechanical failure that poses an unreasonable risk of harm to the vessel or the people on board unless the vessel anchors or moors. In such an event, the vessel may anchor or moor for five business days or until the vessel is repaired, whichever occurs first; or
- Imminent or existing weather in the vicinity of the vessel poses an unreasonable risk of harm to the vessel or the persons on board unless the vessel anchors or moors. The vessel may anchor or moor until weather conditions no longer pose such risk. During a hurricane or tropical storm, weather conditions are deemed to no longer pose an unreasonable risk of harm when the hurricane or tropical storm warning affecting the area has expired.

Additionally, this section exempts all of the following vessels from the anchoring or mooring prohibition:

- Vessels owned or operated by a governmental entity;
- Construction or dredging vessels on an active job site;
- Vessels actively engaged in commercial fishing; and
- Vessels engaged in recreational fishing when the persons onboard are actively tending hook and line fishing gear or nets.

This section prohibits a vessel or floating structure from anchoring, mooring, tying, or otherwise affixing or allowing the vessel or floating structure to remain anchored, moored, tied, or otherwise affixed to an unpermitted, unauthorized, or otherwise unlawful object that is on or affixed to the bottom of waters of the state. This prohibition does not apply to a private mooring owned by the owner of private submerged lands.

A violation of an anchoring or mooring prohibition under the bill is a noncriminal infraction for a first violation, punishable by a civil penalty of up to \$50; second violation, punishable by a civil penalty of up to \$100; or a third or subsequent violation, punishable by a civil penalty of up to \$250. Additionally, the bill authorizes any such noncriminal violation to be enforced by a uniform boating citation issued to the owner or operator of a vessel or floating structure unlawfully anchored, moored, tied, or otherwise affixed in a prohibited area.

Section 5 amends s. 327.4108, F.S., to keep the designated anchoring limitation areas in place after the Legislature adopts the FWC's recommendations for the regulation of mooring vessels outside of public mooring fields.

Local Regulation of the Anchoring or Mooring of Vessels

Section 2 amends s. 327.02, F.S., to revise the definition of "live-aboard vessel" to remove vessels represented as a place of business or a professional or other commercial enterprise and include vessels used as residences which does not have an effective means of propulsion for safe navigation. Additionally, the definition is revised to expressly exclude commercial vessels and barges, rather than just commercial fishing boats.

Section 8 amends s. 327.60, F.S., to authorize local governments to enact and enforce regulations requiring owners or operators of vessels or floating structures subject to marine sanitation requirements to provide proof of proper disposal of sewage by means of an approved pumpout service, pumpout facility, or waste reception facility if the vessel is anchored or moored for more than 10 consecutive days within the following areas:

- Marked boundaries of a permitted mooring field under the jurisdiction of the local government; or
- Designated no discharge zones pursuant to 40 C.F.R. s. 1700.10, including those provided under 53 F.R. 1678 (1988) for Destin Harbor; 64 F.R. 46390 (1999) for the City of Key West; and 67 F.R. 35735 (2002) for the Florida Keys National Marine Sanctuary.⁶⁷

Before a local government may adopt an ordinance to enact and enforce such regulations, the local government is required to provide adequate sewage pumpout services. The bill prohibits any ordinance that is adopted from taking effect until the FWC has reviewed the ordinance and determined that the ordinance is consistent with the requirements. The bill clarifies that local governments may enact or enforce sewage pumpout requirements for live-aboard vessels within any areas of its jurisdiction. The FWC is authorized to adopt rules to implement the provisions relating to local governmental authority to adopt ordinances for marine sanitation requirements authorized pursuant to the bill.

Additionally, Section 8 authorizes a local government to enact and enforce regulations that allow the local government to remove a vessel affixed to a public dock within its jurisdiction which has been deemed abandoned or lost property.

Private Residential Multifamily Docks

Section 1 amends s. 253.0347, F.S., to allow private residential multifamily docks grandfathered-in to use sovereignty submerged lands by January 1, 1998, pursuant to former Florida Administrative Code Rule 18-21.00405, as it existed in rule on March 15, 1990, to exceed the 1:1 ratio for the number of moored boats to the number of units within the private multifamily development, as previously authorized under the grandfather program.

⁶⁷ United States Environmental Protection Agency, *No-Discharge Zones by State*, <https://www.epa.gov/vessels-marinas-and-ports/no-discharge-zones-ndzs-state#fl> (last visited Mar. 17, 2017).

Boating Restricted Areas

Section 7 amends s. 327.46, F.S., to authorize the FWC to establish boating restricted areas by rule upon request of owners of private submerged lands that are adjacent to Outstanding Florida Waters⁶⁸ or an aquatic preserve for the sole purpose of protecting any seagrass and contiguous seagrass habitat within their private property boundaries from seagrass scarring due to propeller dredging. Owners making such request must demonstrate to the FWC clear ownership of the submerged lands.

The term “seagrass” is defined to mean “Cuban shoal grass (*Halodule wrightii*), turtle grass (*Thalassia testudinum*), manatee grass (*Syringodium filiforme*), star grass (*Halophila engelmannii*), paddle grass (*Halophila decipiens*), Johnson’s seagrass (*Halophila johnsonii*), or widgeon grass (*Ruppia maritima*).”⁶⁹

The bill requires the commission to develop rules to implement the establishment of boating restricted areas, including, but not limited to, establishing an application process and criteria for meeting the request requirements. Private property owners are required to apply to the FWC for a uniform waterway marker permit for marking any boating-restricted area established by rule.

Section 3 amends s. 327.391, F.S., to conform a cross-reference for s. 327.02, F.S., relating to definitions.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

⁶⁸ Section 403.061(27), F.S., requires the Department of Environmental Protection to establish “Outstanding Florida Waters” which are water bodies worthy of special protection because of their natural attributes.

⁶⁹ See s. 253.04, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate fiscal impact on both state and local governments. While the FWC and local governments may experience positive fiscal impacts resulting from the issuance of boating citations, they may also experience increased costs due to increased enforcement efforts.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 253.0347, 327.02, 327.391, 327.4107, 327.4108, 327.46, 327.60, 327.70, 327.73, 328.09, 328.72, and 705.103.

This bill creates section 327.4109 of the Florida Statutes.

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

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

CS by Environmental Preservation and Conservation on March 22, 2017:

The CS/SB 1338 does the following:

- Amends s. 253.0347, F.S., to authorize grandfathered-in private residential multifamily docks to exceed the amount of moored boats to the number of units within the private multifamily development.
- Defines the term “barge” to mean a flat-bottomed vessel used for the transport of goods on inland waterways that is propelled by its own power or towed by another vessel.
 - Exempts barges from the definition of the term “effective means of propulsion for safe navigation” and from the definition of the term “live-aboard vessel.”
- Revises the definition of the term “live-aboard vessel” to remove vessels represented as a place of business or a professional or other commercial enterprise.
 - Adds such vessels as vessels that local governments are authorized to regulate outside public mooring fields.
 - Expressly exempts commercial vessels rather than commercial fishing boats from the definition of live-aboard vessel.

- Revises the condition under which a vessel may be deemed at-risk if it does not have an effective means of propulsion for safe navigation by:
 - Clarifying that the notice must be written but may be provided electronically;
 - Provides the vessel owner or operator the opportunity to provide documentation of having ordered necessary parts for vessel repair; and
 - Authorizes the FWC to adopt rules to implement.
- Revises the amendment to s. 327.4108, F.S., instead of striking through the entire subsection the amendment adds that this section shall remain in affect notwithstanding the Legislature’s adoption of FWC’s recommendations.
- Revises s. 327.4109, F.S., relating to anchoring or mooring prohibited by:
 - Adding an additional prohibition on the anchoring or mooring of a vessel within 300 feet of a superyacht repair facility and defines the term “superyacht repair facility.”
 - Revising the 300 feet prohibition relating to public mooring fields to 100 feet. Authorizes the FWC to adopt rules to implement.
 - Revising the circumstances under which a vessel may anchor within 100 feet of a public mooring field and within 150 feet of a vessel launching or loading facility to authorize anchoring or mooring for 5 business days for repairs instead of 3.
 - Removes the criminal penalty for second and subsequent violations.
- Amends s. 327.46, F.S., to authorize the FWC to establish boating restricted areas to protect seagrasses on privately owned submerged lands upon request by owners of such lands which are adjacent to Outstanding Florida Waters or an aquatic preserve.
- Revises the amendment to s. 327.60, F.S., to limit the proof of pumpout requirements to vessels when anchored or moored for more than 10 consecutive days within the specified areas.
- Authorizes local governments to enact and enforce regulations which allow the local government to remove a vessel affixed to a public dock within its jurisdiction that is abandoned or lost property.
- Removes the criminal penalty for violating registration renewal requirements a second or subsequent time.
- Amends s. 328.09, F.S., to prohibit the Department of Highway Safety and Motor Vehicles from issuing a certificate of title to any applicant for any vessel that has been deemed derelict until the officer informs the department in writing that the vessel is no longer derelict.

B. Amendments:

None.

By the Committee on Environmental Preservation and Conservation;
and Senator Book

592-02750-17

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1 A bill to be entitled
2 An act relating to vessels; amending s. 253.0347,
3 F.S.; providing an exemption from sovereignty
4 submerged lease fees for grandfathered private
5 residential multifamily docks; amending s. 327.02,
6 F.S.; defining terms; revising the definition of the
7 term "live-aboard vessel"; amending s. 327.391, F.S.;
8 conforming a cross-reference; amending s. 327.4107,
9 F.S.; providing that vessels without an effective
10 means of propulsion are at risk of becoming derelict
11 under certain conditions; authorizing the Fish and
12 Wildlife Conservation Commission to adopt rules;
13 amending s. 327.4108, F.S.; removing the expiration of
14 provisions relating to anchoring of vessels in
15 anchoring limitation areas; creating s. 327.4109,
16 F.S.; prohibiting anchoring or mooring of vessels and
17 floating structures in certain areas; providing
18 exceptions and penalties; authorizing the commission
19 to adopt rules; amending s. 327.46, F.S.; providing
20 for boating-restricted areas to protect seagrasses on
21 privately owned submerged lands upon application by
22 the owner and commission approval; authorizing the
23 commission to adopt rules; defining the term
24 "seagrass"; amending s. 327.60, F.S.; authorizing a
25 local government to enact and enforce certain
26 regulations for sewage disposal by certain vessels and
27 floating structures; requiring local governments with
28 requirements for sewage disposal to provide adequate
29 sewage pumpout services; requiring the commission to

Page 1 of 20

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592-02750-17

20171338c1

30 review such requirements and make certain
31 determinations; authorizing the commission to adopt
32 rules; providing applicability; authorizing local
33 governments to remove certain abandoned or lost
34 vessels; amending s. 327.70, F.S.; providing for
35 issuance of uniform boating citations for anchoring or
36 mooring where prohibited; amending s. 327.73, F.S.;
37 providing penalties for anchoring or mooring where
38 prohibited; amending s. 328.09, F.S.; prohibiting the
39 issuance of certificate of title for derelict vessels;
40 amending s. 328.72, F.S.; revising the penalties for
41 operation, use, or storage of a vessel with an expired
42 registration; amending s. 705.103, F.S.; providing an
43 exception for certified mail for a derelict vessel;
44 providing an effective date.
45
46 Be It Enacted by the Legislature of the State of Florida:
47
48 Section 1. Paragraph (f) of subsection (2) of section
49 253.0347, Florida Statutes, is amended to read:
50 253.0347 Lease of sovereignty submerged lands for private
51 residential docks and piers.—
52 (2)
53 (f) A lessee of sovereignty submerged lands for a private
54 residential multifamily dock designed to moor boats up to the
55 number of units within the multifamily development is not
56 required to pay lease fees for a preempted area equal to or less
57 than 10 times the riparian shoreline along sovereignty submerged
58 land on the affected waterbody times the number of units with

Page 2 of 20

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592-02750-17 20171338c1

59 docks in the private multifamily development. Private
 60 residential multifamily docks grandfathered-in to use
 61 sovereignty submerged lands by January 1, 1998, pursuant to
 62 former rule 18-21.00405, Florida Administrative Code, as it
 63 existed in rule on March 15, 1990, may exceed the number of
 64 moored boats for the number of units within the private
 65 multifamily development as previously authorized under the
 66 grandfather program.

67 Section 2. Present subsections (3) through (10) and present
 68 subsections (11) through (44) of section 327.02, Florida
 69 Statutes, are renumbered as subsections (4) through (11) and
 70 subsections (13) through (46), respectively, new subsections (3)
 71 and (12) are added to that section, and present subsection (19)
 72 of that section is amended, to read:

73 327.02 Definitions.—As used in this chapter and in chapter
 74 328, unless the context clearly requires a different meaning,
 75 the term:

76 (3) “Barge” means a flat-bottomed vessel used for the
 77 transport of goods on inland waterways which is propelled by its
 78 own power or towed by another vessel.

79 (12) “Effective means of propulsion for safe navigation”
 80 means when a vessel, other than a barge, is equipped with:

81 (a) A functioning motor, controls, and steering system; or

82 (b) Rigging and sails that are present and in good working
 83 order, and a functioning steering system.

84 (21)(19) “Live-aboard vessel” means:

85 (a) A vessel used solely as a residence and not for
 86 navigation;

87 (b) ~~A vessel represented as a place of business or a~~

592-02750-17 20171338c1

88 ~~professional or other commercial enterprise, or~~
 89 ~~(e) A vessel for which a declaration of domicile has been~~
 90 ~~filed pursuant to s. 222.17; or~~
 91 (c) A vessel used as a residence which does not have an
 92 effective means of propulsion for safe navigation.
 93

94 A commercial vessel and a barge are ~~fishing boat~~ is expressly
 95 excluded from the term “live-aboard vessel.”

96 Section 3. Subsection (1) of section 327.391, Florida
 97 Statutes, is amended to read:

98 327.391 Airboats regulated.—

99 (1) The exhaust of every internal combustion engine used on
 100 any airboat operated on the waters of this state shall be
 101 provided with an automotive-style factory muffler, underwater
 102 exhaust, or other manufactured device capable of adequately
 103 muffling the sound of the exhaust of the engine as described in
 104 s. 327.02(29) s. 327.02(27). The use of cutouts or flex pipe as
 105 the sole source of muffling is prohibited, except as provided in
 106 subsection (4). Any person who violates this subsection commits
 107 a noncriminal infraction punishable as provided in s. 327.73(1).

108 Section 4. Paragraph (e) is added to subsection (2) of
 109 section 327.4107, Florida Statutes, to read:

110 327.4107 Vessels at risk of becoming derelict on waters of
 111 this state.—

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

116 (e) The vessel does not have an effective means of

592-02750-17 20171338c1

117 propulsion for safe navigation within 72 hours after the owner
 118 or operator of the vessel receives written notice, which may
 119 include electronic mail or by other electronic documentation, of
 120 such from an officer, and the vessel owner or operator is unable
 121 to provide a receipt, proof of purchase, or other documentation
 122 of having ordered necessary parts for vessel repair. The
 123 commission may adopt rules to implement this paragraph.

124 Section 5. Subsection (7) of section 327.4108, Florida
 125 Statutes, is amended to read:

126 327.4108 Anchoring of vessels in anchoring limitation
 127 areas.-

128 (7) This section shall remain in effect notwithstanding
 129 ~~expires upon~~ the Legislature's adoption of the commission's
 130 recommendations for the regulation of mooring vessels outside of
 131 public mooring fields pursuant to s. 327.4105.

132 Section 6. Section 327.4109, Florida Statutes, is created
 133 to read:

134 327.4109 Anchoring or mooring prohibited; exceptions;
 135 penalties.-

136 (1) (a) A vessel or floating structure may not anchor or
 137 moor such that the nearest approach of the anchored vessel is:

138 1. Within 150 feet of any marina, boat ramp, boatyard, or
 139 other vessel launching or loading facility;

140 2. Within 300 feet of a superyacht repair facility. For
 141 purposes of this subparagraph, a "superyacht repair facility"
 142 means a facility that can provide service or repair to a yacht
 143 with a load line of 79 feet or more in length; or

144 3. Within 100 feet of a public mooring field boundary or a
 145 lesser distance if approved by the commission upon request by a

592-02750-17 20171338c1

146 local government within which the mooring field is located. The
 147 commission may adopt rules to implement this subparagraph.

148 (b) Paragraph (a) does not apply to:

149 1. A vessel owned or operated by a governmental entity.

150 2. A construction or dredging vessel on an active job site.

151 3. A vessel actively engaged in commercial fishing.

152 4. A vessel actively engaged in recreational fishing if the
 153 persons onboard are actively tending hook and line fishing gear
 154 or nets.

155 (2) Notwithstanding paragraph (1)(a), an owner or operator
 156 of a vessel may anchor or moor within 150 feet of any marina,
 157 boat ramp, boatyard, or other vessel launching or loading
 158 facility or within 100 feet of public mooring field boundaries
 159 if:

160 (a) The vessel suffers a mechanical failure that poses an
 161 unreasonable risk of harm to the vessel or the persons on board
 162 such vessel. The owner or operator of the vessel may anchor or
 163 moor for 5 business days or until the vessel is repaired,
 164 whichever occurs first; or

165 (b) Imminent or existing weather conditions in the vicinity
 166 of the vessel pose an unreasonable risk of harm to the vessel or
 167 the persons on board. The owner or operator of the vessel may
 168 anchor or moor until weather conditions no longer pose such
 169 risk. During a hurricane or tropical storm, weather conditions
 170 are deemed to no longer pose an unreasonable risk of harm when
 171 the hurricane or tropical storm warning affecting the area has
 172 expired.

173 (3) The owner or operator of a vessel or floating structure
 174 may not anchor, moor, tie, or otherwise affix or allow the

592-02750-17 20171338c1

175 vessel or floating structure to remain anchored, moored, tied,
 176 or otherwise affixed to an unpermitted, unauthorized, or
 177 otherwise unlawful object that is on or affixed to the bottom of
 178 the waters of this state. This subsection does not apply to a
 179 private mooring owned by the owner of private submerged lands.

180 (4) A violation of this section is a noncriminal infraction
 181 punishable as provided in s. 327.73(1)(bb).

182 Section 7. Subsection (1) of section 327.46, Florida
 183 Statutes, is amended to read:

184 327.46 Boating-restricted areas.-

185 (1) Boating-restricted areas, including, but not limited
 186 to, restrictions of vessel speeds and vessel traffic, may be
 187 established on the waters of this state for any purpose
 188 necessary to protect the safety of the public if such
 189 restrictions are necessary based on boating accidents,
 190 visibility, hazardous currents or water levels, vessel traffic
 191 congestion, or other navigational hazards or to protect
 192 seagrasses on privately owned submerged lands.

193 (a) The commission may establish boating-restricted areas
 194 by rule pursuant to chapter 120.

195 (b) Municipalities and counties have the authority to
 196 establish the following boating-restricted areas by ordinance:

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

199 a. Within 500 feet of any boat ramp, hoist, marine railway,
 200 or other launching or landing facility available for use by the
 201 general boating public on waterways more than 300 feet in width
 202 or within 300 feet of any boat ramp, hoist, marine railway, or
 203 other launching or landing facility available for use by the

592-02750-17 20171338c1

204 general boating public on waterways not exceeding 300 feet in
 205 width.

206 b. Within 500 feet of fuel pumps or dispensers at any
 207 marine fueling facility that sells motor fuel to the general
 208 boating public on waterways more than 300 feet in width or
 209 within 300 feet of the fuel pumps or dispensers at any licensed
 210 terminal facility that sells motor fuel to the general boating
 211 public on waterways not exceeding 300 feet in width.

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

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

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

216 b. Within 300 feet of any bridge span presenting a vertical
 217 clearance of less than 25 feet or a horizontal clearance of less
 218 than 100 feet.

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

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

224 3. An ordinance establishing a vessel-exclusion zone if the
 225 area is:

226 a. Designated as a public bathing beach or swim area.

227 b. Within 300 feet of a dam, spillway, or flood control
 228 structure.

229 (c) Municipalities and counties have the authority to
 230 establish by ordinance the following other boating-restricted
 231 areas:

232 1. An ordinance establishing an idle speed, no wake

592-02750-17 20171338c1

233 boating-restricted area, if the area is within 300 feet of a
 234 confluence of water bodies presenting a blind corner, a bend in
 235 a narrow channel or fairway, or such other area if an
 236 intervening obstruction to visibility may obscure other vessels
 237 or other users of the waterway.

238 2. An ordinance establishing a slow speed, minimum wake, or
 239 numerical speed limit boating-restricted area if the area is:

240 a. Within 300 feet of a confluence of water bodies
 241 presenting a blind corner, a bend in a narrow channel or
 242 fairway, or such other area if an intervening obstruction to
 243 visibility may obscure other vessels or other users of the
 244 waterway.

245 b. Subject to unsafe levels of vessel traffic congestion.

246 c. Subject to hazardous water levels or currents, or
 247 containing other navigational hazards.

248 d. An area that accident reports, uniform boating
 249 citations, vessel traffic studies, or other creditable data
 250 demonstrate to present a significant risk of collision or a
 251 significant threat to boating safety.

252 3. An ordinance establishing a vessel-exclusion zone if the
 253 area is reserved exclusively:

254 a. As a canoe trail or otherwise limited to vessels under
 255 oars or under sail.

256 b. For a particular activity and user group separation must
 257 be imposed to protect the safety of those participating in such
 258 activity.

260 Any of the ordinances adopted pursuant to this paragraph shall
 261 not take effect until the commission has reviewed the ordinance

592-02750-17 20171338c1

262 and determined by substantial competent evidence that the
 263 ordinance is necessary to protect public safety pursuant to this
 264 paragraph. Any application for approval of an ordinance shall be
 265 reviewed and acted upon within 90 days after receipt of a
 266 completed application. Within 30 days after a municipality or
 267 county submits an application for approval to the commission,
 268 the commission shall advise the municipality or county as to
 269 what information, if any, is needed to deem the application
 270 complete. An application shall be considered complete upon
 271 receipt of all requested information and correction of any error
 272 or omission for which the applicant was timely notified or when
 273 the time for such notification has expired. The commission's
 274 action on the application shall be subject to review under
 275 chapter 120. The commission shall initiate rulemaking no later
 276 than January 1, 2010, to provide criteria and procedures for
 277 reviewing applications and procedures for providing for public
 278 notice and participation pursuant to this paragraph.

279 (d)1. Owners of private submerged lands that are adjacent
 280 to Outstanding Florida Waters, as defined in s. 403.061(27), or
 281 an aquatic preserve established under ss. 258.39-258.399, may
 282 request that the commission establish boating-restricted areas
 283 for the sole purpose of protecting any seagrass and contiguous
 284 seagrass habitat within their private property boundaries from
 285 seagrass scarring due to propeller dredging. Owners making a
 286 request pursuant to this paragraph must demonstrate to the
 287 commission clear ownership of the submerged lands.

288 2. The commission shall adopt rules to implement this
 289 paragraph, including, but not limited to, establishing an
 290 application process and criteria for meeting the requirements of

592-02750-17

20171338c1

291 subparagraph 1.292 3. Each approved boating-restricted area must be
293 established by commission rule.294 4. For marking boating-restricted areas established
295 pursuant to this paragraph, private property owners must apply
296 to the commission for a uniform waterway marker permit in
297 accordance with ss. 327.40 and 327.41.298 (e) As used in this section, the term "seagrass" has the
299 same meaning as in s. 253.04.300 Section 8. Subsections (2) and subsection (3) of section
301 327.60, Florida Statutes, are amended, and subsections (4) and
302 (5) are added to that section, to read:

303 327.60 Local regulations; limitations.-

304 (2) Nothing in this chapter or chapter 328 shall be
305 construed to prevent the adoption of any ordinance or local
306 regulation relating to operation of vessels, except that a
307 county or municipality may shall not enact, continue in effect,
308 or enforce any ordinance or local regulation:309 (a) Establishing a vessel or associated equipment
310 performance or other safety standard, imposing a requirement for
311 associated equipment, or regulating the carrying or use of
312 marine safety articles;313 (b) Relating to the design, manufacture, or installation,
314 ~~or use~~ of any marine sanitation device on any vessel, except as
315 authorized in subsection (4);316 (c) Regulating any vessel upon the Florida Intracoastal
317 Waterway;

318 (d) Discriminating against personal watercraft;

319 (e) Discriminating against airboats, for ordinances adopted

Page 11 of 20

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592-02750-17

20171338c1

320 after July 1, 2006, unless adopted by a two-thirds vote of the
321 governing body enacting such ordinance;322 (f) Regulating the anchoring of vessels ~~other than live-~~
323 ~~aboard vessels~~ outside the marked boundaries of mooring fields
324 permitted as provided in s. 327.40, except for:325 1. Live-aboard vessels; and326 2. Vessels represented as a place of business or a
327 professional or other commercial enterprise. This does not
328 include commercial vessels or barges;329 (g) Regulating engine or exhaust noise, except as provided
330 in s. 327.65; or331 (h) That conflicts with any provisions of this chapter or
332 any amendments thereto or rules adopted thereunder.333 (3) Nothing in this section shall be construed to prohibit
334 local governmental authorities from the enactment or enforcement
335 of regulations that which prohibit or restrict the mooring or
336 anchoring of floating structures, ~~or~~ live-aboard vessels, or
337 vessels represented as a place of business or a professional or
338 other commercial enterprise, other than commercial vessels or
339 barges, within their jurisdictions or of any vessels within the
340 marked boundaries of mooring fields permitted as provided in s.
341 327.40. However, local governmental authorities are prohibited
342 from regulating the anchoring outside of such mooring fields of
343 commercial vessels or barges and any vessels other than live-
344 aboard vessels as defined in s. 327.02.345 (4) (a) A local government may enact and enforce regulations
346 requiring owners or operators of vessels or floating structures
347 subject to the marine sanitation requirements of s. 327.53, when
348 anchored or moored for more than 10 consecutive days within the

Page 12 of 20

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592-02750-17 20171338c1

349 following areas, to provide proof of proper sewage disposal by
 350 means of an approved sewage pumpout service, approved sewage
 351 pumpout facility, or approved waste reception facility:

352 1. Marked boundaries of a permitted mooring field under the
 353 jurisdiction of the local government; or

354 2. Designated no-discharge zones pursuant to 40 C.F.R. s.
 355 1700.10, and those provided in Volume 53, No. 13 of the Federal
 356 Register, page 1678 (1988); Volume 64, No. 164 of the Federal
 357 Register, pages 46390-46391 (1999); and Volume 67, No. 98 of the
 358 Federal Register, pages 35735-35743 (2002).

359 (b) Before a local government may adopt an ordinance to
 360 enact and enforce such regulations, the local government must
 361 provide adequate sewage pumpout services. Any ordinance adopted
 362 pursuant to this subsection may not take effect until the
 363 commission has reviewed and approved the ordinance as being
 364 consistent with the requirements of this subsection.

365 (c) The commission may adopt rules to implement this
 366 subsection.

367 (d) This subsection does not prohibit a local government
 368 from enacting or enforcing sewage pumpout requirements for live-
 369 aboard vessels within any areas of its jurisdiction.

370 (5) A local government may enact and enforce regulations
 371 that allow the local government to remove a vessel affixed to a
 372 public dock within its jurisdiction which is abandoned or lost
 373 property pursuant to s. 705.103(1).

374 Section 9. Subsection (3) of section 327.70, Florida
 375 Statutes, is amended to read:

376 327.70 Enforcement of this chapter and chapter 328.-

377 (3) (a) Noncriminal violations of the following statutes may

592-02750-17 20171338c1

378 be enforced by a uniform boating citation mailed to the
 379 registered owner of an unattended vessel anchored, aground, or
 380 moored on the waters of this state:

381 1. Section 327.33(3)(b), relating to navigation rules.

382 2. Section 327.44, relating to interference with
 383 navigation.

384 3. Section 327.50(2), relating to required lights and
 385 shapes.

386 4. Section 327.53, relating to marine sanitation.

387 5. Section 328.48(5), relating to display of decal.

388 6. Section 328.52(2), relating to display of number.

389 7. Section 327.4107, relating to vessels at risk of
 390 becoming derelict.

391 8. Section 327.4109, relating to prohibited anchoring or
 392 mooring.

393 (b) Citations issued to livery vessels under this
 394 subsection shall be the responsibility of the lessee of the
 395 vessel if the livery has included a warning of this
 396 responsibility as a part of the rental agreement and has
 397 provided to the agency issuing the citation the name, address,
 398 and date of birth of the lessee when requested by that agency.
 399 The livery is not responsible for the payment of citations if
 400 the livery provides the required warning and lessee information.

401 (c) A noncriminal violation of s. 327.4108 may be enforced
 402 by a uniform boating citation issued to the operator of a vessel
 403 unlawfully anchored in an anchoring limitation area.

404 (d) A noncriminal violation of s. 327.4109 may be enforced
 405 by a uniform boating citation issued to an owner or operator of
 406 a vessel or floating structure unlawfully anchored, moored,

592-02750-17 20171338c1

407 tied, or otherwise affixed in a prohibited area.
 408 Section 10. Paragraph (g) of subsection (1) of section
 409 327.73, Florida Statutes, is amended, and paragraph (bb) is
 410 added to that section, to read:
 411 327.73 Noncriminal infractions.—
 412 (1) Violations of the following provisions of the vessel
 413 laws of this state are noncriminal infractions:
 414 (g) Section 328.72(13), relating to operation with an
 415 expired registration, for which the penalty is:
 416 1. For a first or subsequent offense of 328.72(13) (a), up
 417 to a maximum of \$50.
 418 2. For a first offense of 328.72(13) (b), up to a maximum of
 419 \$250.
 420 3. For a second or subsequent offense of 328.72(13) (b), up
 421 to a maximum of \$500, and the violator may not have the
 422 provisions of paragraph (4) (a) available to him or her but must
 423 appear before the designated official at the time and location
 424 of the scheduled hearing.
 425 (bb) Section 327.4109, relating to prohibited anchoring or
 426 mooring, for which the penalty is:
 427 1. For a first offense, up to a maximum of \$50.
 428 2. For a second offense, up to a maximum of \$100.
 429 3. For a third or subsequent offense, up to a maximum of
 430 \$250.
 431
 432 Any person cited for a violation of any provision of this
 433 subsection shall be deemed to be charged with a noncriminal
 434 infraction, shall be cited for such an infraction, and shall be
 435 cited to appear before the county court. The civil penalty for

Page 15 of 20

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592-02750-17 20171338c1

436 any such infraction is \$50, except as otherwise provided in this
 437 section. Any person who fails to appear or otherwise properly
 438 respond to a uniform boating citation shall, in addition to the
 439 charge relating to the violation of the boating laws of this
 440 state, be charged with the offense of failing to respond to such
 441 citation and, upon conviction, be guilty of a misdemeanor of the
 442 second degree, punishable as provided in s. 775.082 or s.
 443 775.083. A written warning to this effect shall be provided at
 444 the time such uniform boating citation is issued.
 445 Section 11. Subsection (4) is added to section 328.09,
 446 Florida Statutes, to read:
 447 328.09 Refusal to issue and authority to cancel a
 448 certificate of title or registration.—
 449 (4) The department may not issue a certificate of title to
 450 any applicant for any vessel that has been deemed derelict by a
 451 law enforcement officer under s. 823.11. A law enforcement
 452 officer must inform the department in writing, which may include
 453 facsimile, electronic mail, or other electronic documentation,
 454 of the vessel's derelict status and must supply the vessel title
 455 number or vessel identification number. The department may issue
 456 a certificate of title once a law enforcement officer has
 457 verified in writing, which may include facsimile, electronic
 458 mail, or other electronic documentation, that the vessel is no
 459 longer a derelict vessel.
 460 Section 12. Subsection (13) of section 328.72, Florida
 461 Statutes, is amended to read:
 462 328.72 Classification; registration; fees and charges;
 463 surcharge; disposition of fees; fines; marine turtle stickers.—
 464 (13) EXPIRED REGISTRATION.—The operation, use, or storage

Page 16 of 20

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592-02750-17 20171338c1

465 on the waters of this state of a previously registered vessel is
 466 subject to the following penalties:

467 (a) The owner or operator of a vessel with an expired
 468 registration of 6 months or less commits a noncriminal
 469 infraction, punishable as provided in s. 327.73(1)(g)1.

470 (b) The owner or operator of a vessel with an expired
 471 registration of more than 6 months commits a noncriminal
 472 infraction, punishable as provided in s. 327.73(1)(g)2. and 3
 473 ~~after the expiration of the registration period is a noncriminal~~
 474 ~~violation, as defined in s. 327.73.~~ This subsection does not
 475 apply to vessels lawfully stored at a dock or in a marina.

476 Section 13. Subsection (2) of section 705.103, Florida
 477 Statutes, is amended to read:

478 705.103 Procedure for abandoned or lost property.—

479 (2) Whenever a law enforcement officer ascertains that an
 480 article of lost or abandoned property is present on public
 481 property and is of such nature that it cannot be easily removed,
 482 the officer shall cause a notice to be placed upon such article
 483 in substantially the following form:

484
 485 NOTICE TO THE OWNER AND ALL PERSONS INTERESTED IN THE ATTACHED
 486 PROPERTY. This property, to wit: ...(setting forth brief
 487 description)... is unlawfully upon public property known as
 488 ...(setting forth brief description of location)... and must be
 489 removed within 5 days; otherwise, it will be removed and
 490 disposed of pursuant to chapter 705, Florida Statutes. The owner
 491 will be liable for the costs of removal, storage, and
 492 publication of notice. Dated this: ...(setting forth the date of
 493 posting of notice)..., signed: ...(setting forth name, title,

Page 17 of 20

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592-02750-17 20171338c1

494 address, and telephone number of law enforcement officer)....

495
 496 Such notice shall be not less than 8 inches by 10 inches and
 497 shall be sufficiently weatherproof to withstand normal exposure
 498 to the elements. In addition to posting, the law enforcement
 499 officer shall make a reasonable effort to ascertain the name and
 500 address of the owner. If such is reasonably available to the
 501 officer, she or he shall mail a copy of such notice to the owner
 502 on or before the date of posting. If the property is a motor
 503 vehicle as defined in s. 320.01(1) or a vessel as defined in s.
 504 327.02, the law enforcement agency shall contact the Department
 505 of Highway Safety and Motor Vehicles in order to determine the
 506 name and address of the owner and any person who has filed a
 507 lien on the vehicle or vessel as provided in s. 319.27(2) or (3)
 508 or s. 328.15(1). On receipt of this information, the law
 509 enforcement agency shall mail a copy of the notice by certified
 510 mail, return receipt requested, to the owner and to the
 511 lienholder, if any, except that when a law enforcement officer
 512 has given the owner of a derelict vessel notice of a violation
 513 of s. 823.11 and issued a citation for the violation, the
 514 officer is not required to send notice by certified mail to the
 515 owner. If, at the end of 5 days after posting the notice and
 516 mailing such notice, if required, the owner or any person
 517 interested in the lost or abandoned article or articles
 518 described has not removed the article or articles from public
 519 property or shown reasonable cause for failure to do so, the
 520 following shall apply:

521 (a) For abandoned property, the law enforcement agency may
 522 retain any or all of the property for its own use or for use by

Page 18 of 20

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592-02750-17 20171338c1

523 the state or unit of local government, trade such property to
 524 another unit of local government or state agency, donate the
 525 property to a charitable organization, sell the property, or
 526 notify the appropriate refuse removal service.

527 (b) For lost property, the officer shall take custody and
 528 the agency shall retain custody of the property for 90 days. The
 529 agency shall publish notice of the intended disposition of the
 530 property, as provided in this section, during the first 45 days
 531 of this time period.

532 1. If the agency elects to retain the property for use by
 533 the unit of government, donate the property to a charitable
 534 organization, surrender such property to the finder, sell the
 535 property, or trade the property to another unit of local
 536 government or state agency, notice of such election shall be
 537 given by an advertisement published once a week for 2
 538 consecutive weeks in a newspaper of general circulation in the
 539 county where the property was found if the value of the property
 540 is more than \$100. If the value of the property is \$100 or less,
 541 notice shall be given by posting a description of the property
 542 at the law enforcement agency where the property was turned in.
 543 The notice must be posted for not less than 2 consecutive weeks
 544 in a public place designated by the law enforcement agency. The
 545 notice must describe the property in a manner reasonably
 546 adequate to permit the rightful owner of the property to claim
 547 it.

548 2. If the agency elects to sell the property, it must do so
 549 at public sale by competitive bidding. Notice of the time and
 550 place of the sale shall be given by an advertisement of the sale
 551 published once a week for 2 consecutive weeks in a newspaper of

592-02750-17 20171338c1

552 general circulation in the county where the sale is to be held.
 553 The notice shall include a statement that the sale shall be
 554 subject to any and all liens. The sale must be held at the
 555 nearest suitable place to that where the lost or abandoned
 556 property is held or stored. The advertisement must include a
 557 description of the goods and the time and place of the sale. The
 558 sale may take place no earlier than 10 days after the final
 559 publication. If there is no newspaper of general circulation in
 560 the county where the sale is to be held, the advertisement shall
 561 be posted at the door of the courthouse and at three other
 562 public places in the county at least 10 days prior to sale.
 563 Notice of the agency's intended disposition shall describe the
 564 property in a manner reasonably adequate to permit the rightful
 565 owner of the property to identify it.

566 Section 14. This act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-13-17

Meeting Date

1338

Bill Number (if applicable)

Topic VESSELS

Amendment Barcode (if applicable)

Name JERRY PAUL

Job Title _____

Address _____

Phone 850-386-5267

Street

Email _____

City

State

Zip

Speaking: For Against Information

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

Representing SEVEN SEAS CRUISING ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

1338

Bill Number (if applicable)

Topic Vessels

Amendment Barcode (if applicable)

Name Kelly Mallette

Job Title _____

Address 104 West Jefferson Street

Phone (850) 224-3427

Street

Tallahassee, FL 32301

Email kelly@rlbookpa.com

City

State

Zip

Speaking: For Against Information

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

Representing City of Ft. Lauderdale and Concerned Waterfront Homeowners Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

~~Meeting Date~~
Meeting Date 4/13

1338
Bill Number (if applicable)

Topic Anchoring

Amendment Barcode (if applicable)

Name BONNIE BASHAM

Job Title _____

Address 133 OAK Street #15

Phone 810 933 7277

Valley Fl 32301
City State Zip

Email Capital.ideas@att.net

Speaking: For Against Information

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

Representing BOAT U.S.

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Environmental Preservation and Conservation, *Chair*
Appropriations Subcommittee on the Environment and Natural Resources, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and Human Services
Health Policy
Rules

SENATOR LAUREN FRANCES BOOK

Democratic Leader Pro Tempore
32nd District

March 23, 2017

The Honorable Rob Bradley
Chair, Appropriations Subcommittee on
The Environment and Natural Resources

Via Email

Dear Chair Bradley:

Senate Bill 1338 has passed the first committee of reference, and the next reference is the Appropriations Subcommittee on the Environment and Natural Resources.

When the bill is received in your committee, I would appreciate your placing it on the next available agenda.

Thank you for your consideration.

Sincerely,

Lauren Book
State Senator, District 32

Cc: Mr. Gino Betta, Staff Director; Ms. Lisa Waddell, Committee Administrative Assistant

REPLY TO:

☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 The Environment and Natural Resources

BILL: CS/SB 1452

INTRODUCER: Transportation Committee and Senator Book

SUBJECT: Taximeters

DATE: April 12, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|-----------------------------|
| 1. | <u>Jones</u> | <u>Miller</u> | <u>TR</u> | Fav/CS |
| 2. | <u>Blizzard</u> | <u>Betta</u> | <u>AEN</u> | Recommend: Favorable |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1452 excludes taximeters and transportation measurement systems from the definition of “weights and measures” for purposes of state regulation by the Department of Agriculture and Consumer Services (DACS). A taximeter is a device that automatically calculates at a predetermined rate or rates and indicates the charge for hire of a vehicle.

As conforming changes, the bill deletes provisions that:

- Exempt such devices from state permit requirements if regulated by a local government, and
- Subject taximeters to a \$50 maximum state permit fee.

In effect, the bill will no longer require taximeters or other devices that measure time and distance to charge a fare for the transportation of persons in a motor vehicle, to be inspected or permitted by the DACS.

The bill will reduce revenues deposited into the General Inspection Trust Fund within the DACS by \$129,500 due to the elimination of taximeter permit fees. However, the trust fund can sustain the revenue reduction associated with the elimination of the costs of regulation of the taximeters.

The bill takes effect July 1, 2017.

II. Present Situation:

Currently, the Bureau of Standards within the Department of Agriculture and Consumer Services (DACS) is generally responsible for the inspection of weights and measures devices or instruments in Florida.¹ Section 531.37(1), F.S., defines “weights and measures” as all weights and measures of every kind, instruments, and devices for weighing and measuring, and any appliance and accessories associated with any or all such instruments and devices. The definition excludes those weights and measures used to inspect the accuracy of devices used in conjunction with aviation fuel.²

The DACS’ responsibilities concerning weights and measures includes, but is not limited to:

- Establishing standards of weight, measure, or count and reasonable standards of fill for packaged commodities, as necessary;
- Providing exemptions to ch. 531, F.S., when appropriate to maintain good commercial practices within the state;
- Conducting investigations necessary to ensure compliance with ch. 531, F.S.;
- Testing annually the standards of weight and measure used by any city or county; and
- Inspecting and testing weights and measures commercially used to determine weight, measure, or count of goods being sold, or in computing the charge or payment for services rendered on the basis of weight, measure, or count.³

For the purpose of consumer protection, the Bureau of Standards within the DACS is also empowered under s. 531.42, F.S., to enforce the proper use of weights and measuring instruments or devices and the advertisement of the correct weight or measurement on a good for sale.

Taximeters

A taximeter is a device that automatically calculates at a predetermined rate or rates and indicates the charge for hire of a vehicle.⁴

A weights and measures instrument or device, which includes taximeters, may not be used for commercial purposes within the state without first being permitted by the DACS.⁵ Section 531.63, F.S., provides that the commercial use permit fee, which is issued annually, for a taximeter may not exceed \$50. Currently, the annual permit fee for such taximeters is \$35.⁶ According to the DACS, it currently permits approximately 3,700 taximeters annually.⁷

¹ See ch. 531, F.S., “Weights and Measures Act of 1971.”

² Section 531.37(1), F.S.

³ Section 531.41, F.S.

⁴ U.S. Department of Commerce, National Institute of Standards and Technology, *Handbook 44, Section 5.54 Taximeters* (2012), <https://www.nist.gov/sites/default/files/documents/pml/wmd/pubs/2011/10/26/5-54-12-hb44-final.pdf> (last visited Mar. 24, 2017).

⁵ Section 531.60, F.S.

⁶ DACS, *Laws and Rules – Bureau of Standards* (January 2015), available at http://www.freshfromflorida.com/content/download/42262/890253/2015_STANDARDS_LAWS_&_RULES.pdf at p. 33 (last visited Mar. 24, 2017).

⁷ DACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).

However, taximeters are exempt from such state permitting requirements if the taximeter is tested for accuracy and compliance with state standards by a local government and licensed, permitted, or registered by such local government.⁸ The extent of local government regulation and permitting of taximeters is unknown.

III. Effect of Proposed Changes:

Section 1 amends s. 531.37, F.S., to exclude taximeters and transportation measurement systems from the definition of “weights and measures” provided in s. 531.37(1), F.S.

Because taximeters would no longer be subject to state regulation, section 2 amends s. 531.61, F.S., to delete language that exempts taximeters from state weights and measures permit requirements if the device is locally regulated.

In addition, section 3 amends s. 561.63, F.S., to remove taximeters from a list of weights and measure instruments subject to a commercial use permit fee (of up to \$50 in this case).

In effect, the bill will no longer require taximeters or other transportation measurement systems to be inspected or permitted by the DACS.

The bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Taxi drivers and other individuals who are currently required to have their weights and measures device permitted by DACS to transport persons in a motor vehicle for a fare

⁸ Section 531.61(1), F.S.

will save the fees associated with the DACS permitting process. However, these savings may be offset to the extent local governments increase regulation of these devices.

C. **Government Sector Impact:**

The DACS expects to lose roughly \$129,500 annually beginning in Fiscal Year 2017-2018 due to the loss of taximeter permit fees.⁹ However, as an offset to the lost revenues, the DACS will no longer incur administrative costs or expenses related to the regulation and permitting of taximeters. The General Inspection Trust Fund can sustain the reduction in permit fee revenues and the expenditures related to the regulation of taximeters.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 531.37, 531.61, and 531.63.

IX. Additional Information:

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

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

CS by Transportation on March 28, 2017:

The CS removes that “any device that measures time and distance for the purpose of charging a fare for the transportation of persons in a motor vehicle” is excluded from the definition of “weights and measures,” and instead provides that “taximeters and transportation measurement systems” are excluded.

B. **Amendments:**

None.

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

⁹ DACS, *SB 1452 Agency Analysis* (Mar. 13, 2017) (on file with the Senate Committee on Transportation).

By the Committee on Transportation; and Senator Book

596-03005-17

20171452c1

1 A bill to be entitled
 2 An act relating to taximeters; amending s. 531.37,
 3 F.S.; revising the definition of the term "weights and
 4 measures"; amending s. 531.61, F.S.; deleting a
 5 provision exempting certain taximeters from specified
 6 permit requirements; amending s. 531.63, F.S.;
 7 deleting a provision prohibiting the annual permit
 8 fees for taximeters from exceeding \$50; providing an
 9 effective date.

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

11 Section 1. Subsection (1) of section 531.37, Florida
12 Statutes, is amended to read:

13 531.37 Definitions.—As used in this chapter:

14 (1) "Weights and measures" means all weights and measures
 15 of every kind, instruments, and devices for weighing and
 16 measuring, and any appliance and accessories associated with any
 17 or all such instruments and devices, excluding taximeters,
 18 transportation measurement systems, and those weights and
 19 measures used for the purpose of inspecting the accuracy of
 20 devices used in conjunction with aviation fuel.

21 Section 2. Subsection (1) of section 531.61, Florida
 22 Statutes, is amended, and present subsections (2) and (3) of
 23 that section are redesignated as subsections (1) and (2),
 24 respectively, to read:

25 531.61 Exemptions from permit requirement.—Commercial
 26 weights or measures instruments or devices are exempt from the
 27 requirements of ss. 531.60-531.66 if:
 28
 29

596-03005-17

20171452c1

30 ~~(1) The device is a taximeter that is licensed, permitted,~~
 31 ~~or registered by a municipality, county, or other local~~
 32 ~~government and is tested for accuracy and compliance with state~~
 33 ~~standards by the local government in cooperation with the state~~
 34 ~~as authorized in s. 531.421.~~

35 Section 3. Paragraph (g) of subsection (2) of section
 36 531.63, Florida Statutes, is amended, and present paragraphs (h)
 37 and (i) of that subsection are redesignated as paragraphs (g)
 38 and (h), respectively, to read:

39 531.63 Maximum permit fees.—The commercial use permit fees
 40 established for weights or measures instruments or devices shall
 41 be in an amount necessary to administer this chapter but may not
 42 exceed the amounts provided in this section.

43 (2) For other measuring devices, the annual permit fees per
 44 device may not exceed the following:

45 ~~(g) Taximeters.....\$50.~~

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

1452

Meeting Date

Bill Number (if applicable)

Topic Taximeters

Amendment Barcode (if applicable)

Name Rana Brom

Job Title

Address 18851 NE 29 Ave STE 1010

Phone 305.935.1866

Street

City

Aventura, FL 33180

State

Zip

Email Rana@RUBookPA.com

Speaking: For Against Information

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

Representing FLA Taxicab Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on the Environment
and Natural Resources, *Vice Chair*
Appropriations
Appropriations Subcommittee on Health and
Human Services
Health Policy
Rules

SENATOR LAUREN FRANCES BOOK

Democratic Leader Pro Tempore
32nd District

March 30, 2017

The Honorable Rob Bradley
Chair, Appropriations Subcommittee on
The Environment and Natural Resources

Dear Chair Bradley:

Senate Bill 1452, Taximeters, has been referred to the Appropriations Subcommittee on
The Environment and Natural Resources.

I respectfully request that you place Senate Bill 1452 on your next agenda.

Thank you for your consideration.

Sincerely,

Lauren Book
State Senator, District 32

Cc: Mr Giovanni Betta, Staff Director
Ms. Lisa Waddell, Committee Administrative Assistant

REPLY TO:

☐ 202 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 The Environment and Natural Resources

BILL: PCS/CS/SB 1590 (516016)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources;
Environmental Preservation and Conservation Committee; and Senator Latvala and
others

SUBJECT: Coastal Management

DATE: April 17, 2017 REVISED: _____

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

Please see Section IX. for Additional Information:
COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 1590 revises the beach nourishment and inlet management project funding criteria and requires a minimum distribution of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million to be appropriated annually from the Land Acquisition Trust Fund for projects that preserve and repair the state’s beaches in accordance with the revised project funding criteria.

II. Present Situation:

Beach and Shore Preservation

Fronting the Atlantic Ocean, the Gulf of Mexico, or the Straits of Florida, the state has 825 miles of sandy coastline.¹ Beaches are one of Florida’s most valuable resources and serve multiple important functions including providing habitat and protection for several species of plants and animals, attracting visitors and new residents to the state, and providing a line of defense against

¹ Florida Department of Environmental Protection (DEP), *Beaches and Coastal Systems: About Us*, <http://www.dep.state.fl.us/beaches/> (last visited Mar. 16, 2017).

major storms.² Specifically, beaches are the most important feature of Florida's brand, accounting for 25.5 percent of the state's attractiveness to visitors.³

Beaches require ongoing maintenance to curtail erosion, which threatens this valuable state resource.⁴ While beaches are naturally prone to erosion due to natural forces, such as wind-driven currents and tides and storms, human-induced erosion is attributable to the construction and maintenance of navigation inlets and the development and placement of infrastructure in close proximity to the shore.⁵

Critically Eroded Beaches Report

The Florida Department of Environmental Protection (DEP) is required to determine which beaches are critically eroded and in need of restoration and nourishment.⁶ According to the DEP, there are 411.2 miles of critically eroded beach, 8.7 miles of critically eroded inlet shoreline, 93.5 miles of non-critically eroded beach, and 3.2 miles of non-critically eroded inlet shoreline statewide.⁷ Erosion is critical if "there is a threat to or loss of one of four specific interests – upland development, recreation, wildlife habitat, or important cultural resources."⁸

One way to restore eroded beaches is through beach nourishment, which is the replacement of sand that a beach has lost.⁹ In a typical beach nourishment project, sand is collected from an offshore location by a dredge and piped onto the beach.¹⁰ Bulldozers are then used to move the new sand on the beach until the beach matches the project design profile.¹¹ The DEP is authorized to review innovative technologies for beach nourishment and, on a limited basis, authorize alternatives to traditional dredge and fill projects to determine the most cost-effective techniques for beach nourishment.¹²

² *Id.*

³ Office of Economic & Demographic Research (EDR), *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015), available at <http://edr.state.fl.us/Content/returnoninvestment/BeachReport.pdf> (last visited Mar. 16, 2017).

⁴ DEP, *Beaches and Coastal Systems: Why Restore Eroded Beaches?*, <http://www.dep.state.fl.us/beaches/programs/becp/restore.htm> (last visited Mar. 16, 2017).

⁵ DEP, *Strategic Beach Management Plan*, 1 (July 2015), available at <http://www.dep.state.fl.us/beaches/publications/pdf/SBMP/SBMP-Introduction.pdf> (last visited Mar. 16, 2017).

⁶ Section 161.101(1), F.S.

⁷ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 4, 5 (Aug. 2016), available at <http://www.dep.state.fl.us/beaches/publications/pdf/CriticalErosionReport.pdf> (last visited Mar. 16, 2017). The term "critically eroded shoreline" is defined in Fla. Admin. Code R. 62B-36.002 to mean "a segment of shoreline where natural processes or human activities have caused, or contributed to, erosion and recession of the beach and dune system to such a degree that upland development, recreational interests, wildlife habitat or important cultural resources are threatened or lost. Critically eroded shoreline may also include adjacent segments or gaps between identified critical erosion areas which, although they may be stable or slightly erosional now, their inclusion is necessary for continuity of management of the coastal system or for the design integrity of adjacent beach management projects."

⁸ DEP, Division of Water Resource Management, *Critically Eroded Beaches in Florida*, 7 (Aug. 2016).

⁹ See s. 161.021, F.S.

¹⁰ DEP, *Beaches and Coastal Systems: Why Restore Eroded Beaches?*, <http://www.dep.state.fl.us/beaches/programs/becp/restore.htm> (last visited Mar. 16, 2017).

¹¹ *Id.*

¹² Section 161.082, F.S.

Strategic Beach Management Plan

The DEP is required to develop and maintain a comprehensive long-term management plan for the restoration and maintenance of the state's critically eroded beaches.¹³ The beach management plan is required, in part, to:

- Address long-term solutions to the problem of critically eroded beaches;
- Evaluate each improved, modified, or altered inlet and determine whether the inlet is a significant cause of beach erosion;
- Design criteria for beach restoration and beach nourishment projects;
- Identify causes of shoreline erosion and change, calculate erosion rates, and project long-term erosion for all major beach and dune systems by surveys and profiles;
- Study dune and vegetative conditions; and
- Establish a prioritized list of beach restoration and beach nourishment projects and the funding levels needed for such projects.¹⁴

The State Beach Management Plan (SBMP) is a dynamic management tool for use by state, local, and federal government officials. The SBMP is updated periodically as specific strategies are implemented, new resources and opportunities are identified, and proposed strategies are developed by the DEP and federal or local government sponsors. The DEP prepares the SBMP at the regional level.¹⁵ The regional plans include recommendations of appropriate funding mechanisms for implementing projects in the beach management plan and describe the historical and present beach restoration activities taken to restore and manage Florida's beaches.¹⁶

Long Range Budget Plan

The statewide long range budget plan projects the 10-year planning needs for federal, state, and local governments necessary to implement the SBMP.¹⁷ The budget plan is subdivided by the same regions as the SBMP and provides a statewide view of many individual project efforts. The budget plan is used to encourage cooperation and coordination among local, state, and federal entities and organizations responsible for managing beaches.

Beach Management Funding Assistance Program

Pursuant to declared state public policy, the Legislature is required to fund beach restoration and nourishment projects, including inlet management projects, that cost-effectively provide beach-quality material for adjacent critically eroded beaches.¹⁸ Such projects must be in an area designated as critically eroded shoreline, or benefit an adjacent critically eroded shoreline; have a clearly identifiable beach management benefit consistent with the state's beach management plan; and be designed to reduce potential upland damage or mitigate adverse impacts caused by improved, modified, or altered inlets, coastal armoring, or existing upland development.¹⁹

¹³ Section 161.161, F.S.

¹⁴ *Id.*

¹⁵ See DEP, *Beaches and Coastal Systems: Publications*, <http://www.dep.state.fl.us/beaches/publications/index.htm#SBMP> (last visited Mar. 16, 2017), for each regional plan.

¹⁶ Section 161.161, F.S.

¹⁷ DEP, *Florida Beach Management Program, Long Range Budget Plan for 2017-2027*, 1 (Dec. 1, 2016), available at <http://www.dep.state.fl.us/beaches/programs/becp/docs/LRBP-FY1727.pdf> (last visited Mar. 16, 2017).

¹⁸ Section 161.088, F.S.

¹⁹ *Id.*

The DEP authorizes disbursements made to the DEP from the Land Acquisition Trust Fund (LATF) to carry out the state's responsibilities for a comprehensive, long-range, statewide beach management plan for erosion control; beach preservation, restoration, and nourishment; storm and hurricane protection; and other activities authorized pursuant to s. 28, Article X of the State Constitution.²⁰ The DEP established the Beach Management Funding Assistance Program for the purpose of working in concert with local, state, and federal governmental entities to achieve the protection, preservation, and restoration of Florida's sandy beaches.²¹

Section 161.101, F.S., authorizes the state to pay up to 75 percent of the actual costs for restoring and nourishing critically eroded beaches in recognition that local beach communities derive the primary benefits from the presence of adequate beaches.²² The local government in which the beach is located is responsible for the balance of such costs.²³ However, that section of law also provides that "until the unmet demand for repairing Florida's damaged beaches and dunes is satisfied, it is the further intent of the Legislature to cost share such projects equally between the state and local sponsors."²⁴

In order to receive state funds, projects are required to provide adequate public access, protect natural resources, and protect endangered and threatened species.²⁵ Additionally, the DEP is not authorized to fund projects that provide only recreational benefits. All funded projects are required to have an identifiable beach erosion control or beach preservation benefit directed toward maintaining or enhancing the sand in the system. All of the following activities are ineligible for cost-sharing:

- Recreational structures, such as piers, decks, and boardwalks.
- Park activities and facilities, except for erosion control.
- Aesthetic vegetation.
- Water quality components of stormwater management systems.
- Experimental or demonstration projects, unless favorably peer-reviewed or scientifically documented.
- Hard structures, unless designed for erosion control or to enhance beach nourishment project longevity or bypassing performance.
- Operations and maintenance, with the exception of nourishment.
- Maintenance and repair of over-walks.
- Navigation construction, operation, and maintenance activities, except those elements whose purpose is to place or keep sand on adjacent beaches.²⁶

The DEP is required to consider the following criteria in determining annual funding priorities:

- The severity of erosion conditions, the threat to existing upland development, and recreational or economic benefits;

²⁰ Section 161.091(1), F.S.

²¹ Fla. Admin. Code R. 62B-36.001.

²² Section 161.101(1), F.S.

²³ *Id.*

²⁴ Section 161.101(15), F.S.

²⁵ Section 161.101(12), F.S.

²⁶ Section 161.101(13), F.S.

- The availability of federal matching dollars;
- The extent of the local government sponsor’s financial and administrative commitment to the project, including a long-term financial plan with a designated funding source for initial construction and periodic maintenance;
- Previous state commitment and involvement in the project;
- The anticipated physical performance of the proposed project, including the frequency of periodic planned nourishment;
- The extent to which the proposed project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches;
- Innovative, cost-effective, and environmentally sensitive applications to reduce erosion;
- Projects that provide enhanced habitat within or adjacent to designated refuges of nesting sea turtles;
- The extent to which local or regional sponsors of beach erosion control projects agree to coordinate the planning, design, and construction of their projects to take advantage of identifiable cost savings; and
- The degree to which the project addresses the state’s most significant beach erosion problems.²⁷

The DEP established a priority ranking system to implement the statutory criteria for beach and inlet management projects for funding assistance.²⁸ The ranking system is based on points. Under the system a project receives a total point score based on project ranking criteria. The total amount of points available for beach management projects is 115 points and the total for inlet

| Statutory Criteria | Number of Component Criteria | Available Points |
|---|------------------------------|------------------|
| Beach Management | | |
| Significance | 6 | 20 |
| Local Sponsor Financial and Administrative Commitment | 6 | 10 |
| Previous State Commitment | 4 | 10 |
| Availability of Federal Funds | 3 | 10 |
| Project Performance | 2 | 10 |
| Recreational and Economic Benefits | 1 | 10 |
| Severity of Erosion | 1 | 10 |
| Mitigation of Inlet Effects | 1 | 10 |
| Threat to Upland Structures | 1 | 10 |
| Innovative Technologies | 2 | 5 |
| Regionalization | 1 | 5 |
| Enhance Refuges of Nesting Sea Turtle | 1 | 5 |
| Total | 29 | 115 |

| Statutory Criteria | Number of Component Criteria | Available Points |
|---|------------------------------|------------------|
| Inlet Management | | |
| Balancing the Sediment Budget | 1 | 20 |
| Inlet Management Plan | 3 | 15 |
| Local Sponsor Financial and Administrative Commitment | 6 | 10 |
| Previous State Commitment | 4 | 10 |
| Availability of Federal Funding | 3 | 10 |
| Sand Reaching the Inlet | 1 | 10 |
| Cost Effectiveness | 1 | 10 |
| Enhanced Project Performance | 1 | 5 |
| Total | 20 | 90 |

²⁷ Section 161.101(14), F.S.

²⁸ Fla. Admin. Code R. 62B-36.006.

management projects is 90 points.²⁹ The charts provided above indicate the number of component criteria under each statutory criteria as developed by the DEP.³⁰

In December of 2014, the Office of Program Policy Analysis and Government Accountability (OPPAGA) released a report evaluating the DEP process for selecting and prioritizing beach management and inlet management projects. The review considered the current statutory criteria and related administrative rules and the funding request application process, information requirements, and timeline. Further, OPPAGA reviewed how the DEP uses each ranking criteria for establishing the annual priority order for beach management and restoration projects.

The report made several findings, including:

- Certain criteria accounts for the majority of the points awarded;
- Certain criteria only applies to a limited number of projects;
- The criteria do not adequately take into account the economic impact of beach projects;
- The criteria do not adequately account for a project's cost effectiveness or performance;
- The criteria do not take into account the impacts of recent storms or the current conditions of the shoreline;
- Stakeholders found the application requirements for funding to be too complicated and time consuming; and
- Stakeholders perceived a bias for projects that received federal funding.³¹

The American Society of Civil Engineers rated Florida's coastal areas infrastructure as a D+, citing to the fact that over the last 10 years, the average difference between requested and state appropriated funds exceeded \$40 million per year.³² The Office of Economic and Demographic Research determined that the state's investment in beach management and restoration generated a positive return on investment of 5.4.³³ A return greater than one means that the tax revenues generated by tourists to the state more than cover the state's expenditures on beaches.

Land Acquisition Trust Fund

Documentary stamp tax revenues are collected under ch. 201, F.S., which requires an excise tax to be levied on two classes of documents: deeds and other documents related to real property, which are taxed at the rate of \$0.70 per \$100; and certificates of indebtedness, promissory notes, wage assignments, and retail charge account agreements, which are taxed at \$0.35 per \$100.³⁴

²⁹ See DEP, *Beach Management Funding Assistance Program, Local Government Funding Requests: Ranking Criteria for Beach and Inlet Management Projects*, (Updated 2013), available at <http://www.dep.state.fl.us/BEACHES/programs/becp/docs/ranking-methodology-62B36.pdf> (last visited Mar. 17, 2017).

³⁰ Office of Program Policy Analysis & Government Accountability (OPPAGA), *The Beach Management Funding Assistance Program Was Recently Improved, but Some Stakeholder Concerns Persist*, 4 (Dec. 2014), available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1412rpt.pdf> (last visited Mar. 17, 2017).

³¹ *Id.* at 6-12.

³² American Society of Civil Engineers, *2016 Report Card for Florida's Infrastructure*, http://www.infrastructurereportcard.org/wp-content/uploads/2017/01/2016_RC_Final_screen.pdf (last visited Mar. 16, 2017).

³³ EDR, *Economic Evaluation of Florida's Investment in Beaches: Identifying the State's Brand, Calculating the Return on Investment of Beach Restoration and Assessing the Risk of Disasters*, 1 (Jan. 2015).

³⁴ See ss. 201.02 and 201.08, F.S.

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

As provided by law, to finance or refinance: the acquisition and improvement of land, water areas, and related property interests, including conservation easements, and resources for conservation lands including wetlands, forests, and fish and wildlife habitat; wildlife management areas; lands that protect water resources and drinking water sources, including lands protecting the water quality and quantity of rivers, lakes, streams, springsheds, and lands providing recharge for groundwater and aquifer systems; lands in the Everglades Agricultural Area and the Everglades Protection Area, as defined in Article II, Section 7(b); beaches and shores; outdoor recreation lands, including recreational trails, parks, and urban open space; rural landscapes; working farms and ranches; historic or geologic sites; together with management, restoration of natural systems, and the enhancement of public access or recreational enjoyment of conservation lands.³⁵

To implement s. 28, Art. X of the State Constitution, the Legislature in the 2015 Special Session A passed ch. 2015-229, Laws of Florida.³⁶ This act, in part, amended the following sections of law:

- Section 201.15, F.S., to conform to the constitutional requirement that the LATF receive at least 33 percent of net revenues derived from documentary stamp taxes; and
- Section 375.041, F.S., to designate the LATF within the Department of Environmental Protection as the trust fund to serve as the constitutionally mandated depository for a percentage of the documentary stamp tax revenues.³⁷

In 2016, the Legislature passed ch. 2016-201, Laws of Florida, referred to as “Legacy Florida.”³⁸ Legacy Florida amended s. 375.041, F.S., to require specified minimum distributions from the LATF. Under s. 375.041, F.S., funds deposited into the LATF must be distributed in the following order and amounts:

- First, obligations relating to debt service, specifically:
 - First to payments relating to debt service on Florida Forever bonds and Everglades restoration bonds; and
 - Then to payments relating to debt service on bonds issued before February 1, 2009, by the South Florida Water Management District and the St. Johns River Water Management District;
- Then, before funds are authorized to be appropriated for other uses:
 - A minimum of the lesser of 25 percent of the funds remaining after the payment of debt service or \$200 million annually for Everglades projects that implement the

³⁵ FLA. CONST. art. X, s. 28.

³⁶ Chapter 2015-229, Laws of Fla.

³⁷ Chapter 2015-229, s. 9, s. 50, Laws of Fla.

³⁸ Chapter 2016-201, Laws of Fla.

Comprehensive Everglades Restoration Plan (CERP), the Long-Term Plan,³⁹ or the Northern Everglades and Estuaries Protection Program (NEEPP), with priority given to Everglades projects that reduce harmful discharges of water from Lake Okeechobee to the St. Lucie or Caloosahatchee estuaries in a timely manner. The following specified distributions are required from these funds:

- \$32 million through the 2023-2024 fiscal year for the Long-Term Plan;
- After deducting the \$32 million, the minimum of the lesser of 76.5 percent of the remainder or \$100 million through the 2025-2026 Fiscal Year for the CERP; and
- Any remaining funds for Everglades projects under the CERP, the Long-Term Plan, or the NEEPP.
- A minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million annually for springs restoration, protection, and management projects; and
- Five million annually to the St. Johns River Water Management District for projects dedicated to the restoration of Lake Apopka.⁴⁰
- Then any remaining moneys are authorized to be appropriated for the purposes set forth in s. 28, Art. X, of the State Constitution.⁴¹

The General Revenue Estimating Conference in December of 2016 estimated that for the 2017-2018 fiscal year a total of \$2.48 billion would be collected in documentary stamp taxes. Thirty-three percent of the net revenues collected or approximately \$814.1 million must be deposited into the LATF as required under s. 28, Art. X of the State Constitution.⁴²

III. Effect of Proposed Changes:

Beach Management Project Funding

Section 1 amends s. 161.101(14), F.S., to revise the beach management project funding criteria and require the Department of Environmental Protection (DEP) to adopt by rule a scoring system to determine annual funding priorities. The bill requires the scoring system to be consistent with the following criteria equally weighted within the following specified tiers:

Tier 1 (20 percent of the total project score)

Tier 1 consists of the tourism-related return on investment and economic impact of the project. The return on investment of the project equals the ratio of the tourism-related tax revenues for the most recent year to the amount of state funding requested for the proposed project. The economic impact of the project equals the ratio of the tourism-related tax revenues to all county tax revenues for the most recent year.

The DEP is required to calculate such ratios using state sales tax and tourism development tax data of the county having jurisdiction over the project area. If multiple counties have jurisdiction over the project area, the DEP is required to assess each county individually using these ratios

³⁹ Note that the “Long-Term Plan” includes the Restoration Strategies Regional Water Quality Plan.

⁴⁰ Section 375.041, F.S.

⁴¹ *Id.*

⁴² EDR, Revenue Estimating Conference, *Documentary Stamp Tax, Executive Summary* (Dec. 12, 2016) available at <http://www.edr.state.fl.us/Content/conferences/docstamp/docstampexecsummary.pdf> (last visited Mar. 15, 2017).

and then calculate the average of the ratios of each county to determine the final overall assessment for a multicounty project.

Tier 2 (45 percent of the total project score)

Tier 2 consists of the following criteria:

- The availability of federal matching dollars, considering federal authorization, the federal cost-share percentage, and the status of the funding award;
- The storm damage reduction benefits of the project based on the following considerations:
 - The current conditions of the project area, including any recent storm damage impacts, as a percentage of the volume of sand lost since the most recent beach nourishment event or most recent beach surveys. If the project area has not been previously restored, the DEP must use the historical background erosion rate;
 - The overall potential threat to existing upland development, including public and private structures and infrastructure, based on the percentage of vulnerable shoreline within the project boundaries;
 - The value of upland property benefiting from the protection provided by the project and its subsequent maintenance. A property must be within one-quarter mile of the project boundaries to be considered under this criterion; and
- The cost-effectiveness of the project based on the yearly cost per volume per mile of proposed beach fill placement. The DEP is required to consider the following criteria when assessing cost-effectiveness:
 - The existence of projects with proposed structural or design components to extend the beach nourishment interval;
 - Existing beach nourishment projects that reduce upland storm damage costs by incorporating new or enhanced dune structures or new or existing dune restoration and revegetation projects;
 - Proposed innovative technologies designed to reduce project costs; and
 - Regional sediment management strategies and coordination to conserve sand source resources and reduce project costs.

Tier 3 (20 percent of the total project score)

Tier 3 consists of the following criteria:

- Previous state commitment and involvement in the project, considering previously funded phases, the total amount of previous state funding, and previous partial appropriations for the proposed project;
- The recreational benefits of the project based on:
 - The accessible beach area added by the project; and
 - The percentage of linear footage within the project boundaries that is zoned:
 - As recreational or open space;
 - For commercial use; or
 - Otherwise allows for public lodging establishments;
- The extent to which the project mitigates the adverse impact of improved, modified, or altered inlets on adjacent beaches; and

- The degree to which the project addresses the state’s most significant beach erosion problems based on the ratio of the linear footage of the project shoreline to the cubic yards of sand placed per mile per year.

Tier 4 (15 percent of the total project score)

Tier 4 consists of:

- Increased prioritization of projects that have been on the DEP’s ranked project list for successive years and that have not previously secured state funding for project implementation;
- Environmental habitat enhancement, recognizing state or federal critical habitat areas for threatened or endangered species which may be subject to extensive shoreline armoring or recognizing areas where extensive shoreline armoring threatens the availability or quality of habitat for such species. Turtle-friendly designs, dune and vegetation projects for areas with redesigned or reduced fill templates, proposed incorporation of best management practices and adaptive management strategies to protect resources, and innovative technologies designed to benefit critical habitat preservation; and
- The overall readiness of the project to proceed in a timely manner considering the project’s readiness for the construction phase of development, the status of required permits, the status of any needed easement acquisition, the availability of local funding sources, and the establishment of an erosion control line. If the DEP identifies specific reasonable and documented concerns that the project will not proceed in a timely manner, the DEP may choose not to include the project in the annual funding priorities submitted to the Legislature.

Section 2 amends s. 161.101(20), F.S., to revise provisions relating project lists, reporting requirements, and surplus funding in the following manner:

Project lists, notification, and summary reports

Section 2 requires the DEP to update their active project list at least quarterly, rather than by fiscal year. Section 2 also revises the definition of the term “significant change” to include a project-specific change or cumulative changes which exceed the project’s original allocation by \$500,000 or more. The revised definition requires the DEP to notify the Governor and the Legislature when such change exceeds the project’s original allocation by \$500,000 or more in addition to a change exceeding 25 percent of the original allocation.

The DEP is required to prepare a summary of project activities, their funding status, and changes to annual project lists for the current and preceding fiscal year, which must be included in the DEP’s submission of its annual legislative budget request.

Funding for specific projects on annual project lists approved by the Legislature is required to remain available for 18 months. The bill requires the DEP, rather than the local project sponsor, to notify the Executive Office of the Governor and the Legislature when appropriated project dollars are released to a project sponsor.

Surplus funding

Section 2 requires the DEP to provide supporting justification in addition to notification to the Executive Office of the Governor and the Legislature regarding its intent regarding the use of surplus dollars for projects that have a significant change. The bill authorizes such surplus funds to be used for beach restoration and nourishment projects in addition to being available for inlet management projects, reversion as part of the next appropriations process, or used for other specified priority projects on active project lists.

The DEP is not required to provide such notice and justification for the use of surplus funds for projects that do not have a significant change. However, the DEP must post the uses of such surplus funds on the project listing page on its website.

Inlet Management Projects

Section 3 amends s. 161.143, F.S., to revise the funding priorities for inlet management projects.

Section 3 requires that projects considered for funding under the inlet management program are required to be considered separate and apart from projects reviewed and prioritized under the tiered structure for beach nourishment projects. The bill requires that the inlet management projects funded by the DEP constitute the intended scope of inlet management and of the state's public policy relating to improved navigation inlets found in s. 161.142, F.S. The bill expands the types of inlet management projects that the DEP may consider for priority funding to include improvements of infrastructure to facilitate sand bypassing.

Section 3 requires the DEP to give equal consideration to the listed criteria and revises such ranking criteria by:

- Requiring the DEP to consider the cost-effectiveness of sand made available by a proposed inlet management project or activity relative to other sand source opportunities that could be used to address inlet-caused erosion;
- Removing the term "existing" from the provision requiring the DEP to consider the extent to which bypassing activities at an inlet would benefit from modest, cost-effective improvements when considering the volumetric increases from the proposed project;
- Removing the requirement that the DEP consider the interest and commitment of local governments as demonstrated by their willingness to coordinate the planning, design, construction, and maintenance of an inlet management project and their financial plan for funding the local cost share for initial construction, ongoing sand bypassing, channel dredging, and maintenance;
- Revising the requirements relating to inlet management plans or local-government-sponsored inlet studies by requiring the DEP to consider the existence of a proposed or recently updated inlet management plan or a local-government-sponsored inlet study addressing the mitigation of an inlet's erosive effects on adjacent beaches; and
- Clarifying that the DEP is to consider the criteria used for ranking beach nourishment projects for inlet management projects if the criteria is distinct from and not duplicative of the inlet management project ranking criteria.

Section 3 authorizes the DEP to pay from legislative appropriations up to 75 percent of the construction costs of an initial major inlet management project component for the purpose of mitigating the erosive effects of the inlet to the shoreline and balancing sediment budget. The remaining balance is required to be paid from other funding sources, such as local sponsors. All other project costs not associated with an initial major project component are required to be shared equally by state and local sponsors.

Section 3 removes the authorization for the DEP to employ university-based or other contractual sources for studies that are consistent with the public policy of the state relating to improved navigation inlets.

Section 3 revises the requirements for the inlet management project list, which the DEP is required to submit to the Legislature by:

- Removing the requirement that:
 - The list include studies, projects, or other activities that address the management of at least 10 separate ranked inlets;
 - At least 50 percent of the funds appropriated for feasibility and design category in the DEP's fixed capital outlay funding request be available for projects on the current year's inlet management project list which involve the study for, or design or development of, an inlet management project;
 - All statewide beach management funds that remain unencumbered or are allocated to non-project-specific activities for projects on legislatively approved inlet management project lists be made available;
 - The Legislature designate one of the three highest projects on the inlet management project list in any year as the Inlet of the Year and requirements of the DEP relating thereto; and
- Requiring that the DEP:
 - Designate for projects on the current year's list, in priority order, an amount that is at least equal to the greater of:
 - Ten percent of the total amount that the Legislature appropriates in the fiscal year for statewide beach management; or
 - The percentage of inlet management funding requests from local sponsors as a proportion of the total amount of statewide beach management dollars requested in a given year;
 - Include inlet monitoring activities ranked on the inlet management project list as one aggregated subcategory on the overall inlet management project list; and
 - Update and maintain an annual report on its website concerning the extent to which each inlet project has succeeded in balancing the sediment budget of the inlet and adjacent beaches and in mitigating the inlet's erosive effects on adjacent beaches. The report must provide an estimate of the quantity of sediment bypasses, transferred, or otherwise placed on adjacent eroding beaches, or in such beaches' nearshore area, for the purpose of offsetting the erosive effects of inlets on the beaches of this state.

Strategic Beach Management Plan

Section 4 amends s. 161.161, F.S., to require the DEP in developing and maintaining the Strategic Beach Management Plan (SBMP) to:

- Include recommendations for improvement of infrastructure to facilitate sand bypassing to mitigate the erosive impact of an inlet that causes beach erosion;
- Consider the establishment of regional sediment management alternatives for one or more individual beach and inlet sand bypassing projects as an alternative to beach restoration when appropriate and cost-effective, and recommend the location of such regional sediment management alternatives and the source of beach-compatible sand;
- In addition to identifying shoreline erosion and change, determine erosion rates, and maintain an updated list of critically eroded sandy beaches based on data, analyses, and investigations of shoreline conditions;
- In addition to studying dune and vegetation conditions, identify existing beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events;
- Document procedures and policies for preparing post-storm damage assessments and corresponding recovery plans, including repair cost estimates; and
- Identify and assess appropriate management measures for all of the state's critically eroded sandy beaches.

Section 4 removes the requirement that the DEP, in developing and maintaining the SBMP:

- Include cost estimates necessary to take inlet corrective measures and recommendations regarding cost sharing among the beneficiaries of such inlet;
- Evaluate the establishment of feeder beaches as an alternative to direct beach restoration and recommend the location of such feeder beaches;
- Project long-term erosion for all major beach and dune systems by surveys and profiles;
- Identify shoreline development and degree of density;
- In identifying short-and long-term economic costs and benefits of beaches, include recreational value to user groups, tax base, revenues generated, and beach acquisition and maintenance costs;
- Identify alternative management responses to prevent inappropriate development and redevelopment on migrating beaches;
- Consider abandonment as an alternative management response;
- Establish criteria, including costs and specific implementation actions, for alternative management techniques; and
- Submit regional plans on a set schedule and in accordance with certain requirements.

Section 4 authorizes the DEP to hold a public meeting in the region which the plan is prepared through a publicly noticed webinar. The bill requires the comprehensive long-term management plan to include, at a minimum, a strategic beach management plan, a critically eroded beaches report, and a statewide long range budget plan.

Long range budget plan

The DEP is required to provide a long range budget plan that includes at least five years of planned beach nourishment and inlet management project funding needs as identified, and subsequently refined, by local government sponsors. The plan is required to consist of a three-year work plan and a long-range plan that identifies projects for inclusion in the Fourth and Fifth ensuing years.

The long range budget plan must include a three-year work plan for beach restoration, beach nourishment and inlet management projects. The three-year work plan is required to list planned projects for each of the three fiscal years addressed in the work plan. The three-year work plan must:

- Identify beach restoration, beach nourishment and inlet management projects viable for implementation during the next three ensuing fiscal years, as determined by available cost-sharing, local sponsor support, regulatory considerations, and the ability of the project to proceed as scheduled;
- For year fiscal year, identify proposed projects and their current development status, listing them in priority order based on the applicable criteria; and
- Be accompanied by a three-year financial forecast for the availability of funding for the projects based on funds dedicated through the Land Acquisition Trust Fund.

Section 4 authorizes specific funding requests and criteria ranking to be modified as warranted in each successive fiscal year, provided that such modifications are documented and submitted to the Legislature with each three-year work plan. Year One projects consist of projects identified for funding consideration in the ensuing fiscal year.

Projects for consideration in the Fourth and Fifth ensuing years may be presented by region and do not need to be presented by priority order. However, the DEP is required to identify issues that may prevent successful completion of such projects and recommend solutions that would allow the projects to progress into the three-year work plan.

Section 4 also requires the DEP to present the three-year work plan to the Legislature each year.

Land Acquisition Trust Fund

Section 5 amends s. 375.041, F.S., to require an annual appropriation from the Land Acquisition Trust Fund in the amount of a minimum of the lesser of 7.6 percent of the funds remaining after the payment of debt service or \$50 million. Such funds are required to be appropriated annually for projects that preserve and repair the state's beaches.

Section 5 also requires that the amount of the distribution to be calculated to be reduced by an amount equal to the debt service paid on bonds issues for projects that preserve or repair the state's beaches issued after July 1, 2016.

Except for section 1 and section 4 of the bill, which take effect July 1, 2018, the bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have a positive, indeterminate fiscal impact to local governments that receive funding for beach nourishment. The bill has a negative, recurring appropriation to the Land Acquisition Trust Fund (LATF) which requires the minimum of the lesser of 7.6 percent of the remainder of funds after the payment of debt service within the LATF or \$50 million. However, some of the costs may be offset depending on the return on investment the state receives related to beach restoration and nourishment projects.

VI. Technical Deficiencies:

If the intent of this legislation is to establish a continuing appropriation of \$50 million annually, without further legislative action in subsequent fiscal years, the language “shall be appropriated annually” should be clarified to read, “is appropriated annually.”

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 161.101, 161.143, 161.161, and 375.041.

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 The Environment and Natural Resources on April 13, 2017:

The committee substitute clarifies that beach restoration projects are included in developing and maintaining the Strategic Beach Management Plan.

CS by Environmental Preservation and Conservation on March 22, 2017:

CS/SB 1590 pushes back the effective date for the amendment to s. 161.101(14), F.S., relating to the scoring system for beach management project funding and s. 161.161, F.S., relating to the procedure for the approval of projects for beach and inlet management.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 04/14/2017 | . | |
| | . | |
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Appropriations Subcommittee on the Environment and Natural Resources (Latvala) recommended the following:

Senate Amendment

Delete lines 465 - 533
and insert:
beach projects without dune features or with dunes without adequate elevations, and encourage dune restoration and revegetation to be incorporated as part of storm damage recovery projects or future dune maintenance events.

(i) Identify beach areas used by marine turtles and develop strategies for protection of the turtles and their nests and



371942

11 nesting locations.

12 (j) Identify alternative management responses to preserve
13 undeveloped beach and dune systems and, to restore damaged beach
14 and dune systems. In identifying such management responses, the
15 department shall consider, at a minimum, and to prevent
16 inappropriate development and redevelopment on migrating
17 beaches, and consider beach restoration and nourishment,
18 armoring, relocation and abandonment, dune and vegetation
19 restoration, and acquisition.

20 (k) Document procedures and policies for preparing post-
21 storm damage assessments and corresponding recovery plans,
22 including repair cost estimates ~~Establish criteria, including~~
23 ~~costs and specific implementation actions, for alternative~~
24 ~~management techniques.~~

25 (l) Identify and assess ~~Select and recommend~~ appropriate
26 management measures for all of the state's critically eroded
27 sandy beaches in a beach management program.

28 ~~(m) Establish a list of beach restoration and beach~~
29 ~~nourishment projects, arranged in order of priority, and the~~
30 ~~funding levels needed for such projects.~~

31 (2) The comprehensive long-term management plan developed
32 and maintained by the department pursuant to subsection (1) must
33 include, at a minimum, a strategic beach management plan, a
34 critically eroded beaches report, and a statewide long-range
35 budget plan. The long-range budget plan must include a 3-year
36 work plan for beach restoration, beach nourishment, and inlet
37 management projects that lists planned projects for each of the
38 3 fiscal years addressed in the work plan.

39 (a) The strategic beach management plan must identify and



371942

40 recommend appropriate measures for all of the state's critically
41 eroded sandy beaches and may incorporate plans ~~be prepared at~~
42 the regional level taking into account ~~based upon~~ areas of
43 greatest need and probable federal and local funding. Upon
44 approval in accordance with this section, such regional plans,
45 along with the 3-year work plan identified in subparagraph
46 (c)1., shall be components of the statewide beach management
47 ~~plan and shall~~ serve as the basis for state funding decisions
48 ~~upon approval in accordance with chapter 86-138, Laws of~~
49 ~~Florida. In accordance with a schedule established for the~~
50 ~~submission of regional plans by the department, any completed~~
51 ~~plan must be submitted to the secretary of the department for~~
52 ~~approval no later than March 1 of each year. These regional~~
53 ~~plans shall include, but shall not be limited to,~~
54 ~~recommendations of appropriate funding mechanisms for~~
55 ~~implementing projects in the beach management plan, giving~~
56 ~~consideration to the use of single-county and multicounty taxing~~
57 ~~districts or other revenue generation measures by state and~~
58 ~~local governments and the private sector. Prior to finalizing~~
59 the strategic beach management ~~presenting the plan to the~~
60 ~~secretary of the department,~~ the department shall hold a public
61 meeting in the region areas for which the plan is prepared or
62 through a publicly noticed webinar. ~~The plan submission schedule~~
63 ~~shall be submitted to the secretary for approval. Any revisions~~
64 ~~to such schedule must be approved in like manner.~~

65 (b) The critically eroded beaches report must be developed
66 and maintained based primarily on the requirements specified in
67 paragraph (1) (e).

68 (c) The statewide long-range budget plan must include at



371942

69 least 5 years of planned beach restoration, beach nourishment,
70 and inlet management project funding needs as identified, and
71 subsequently refined, by local government sponsors. This plan
72 shall consist of two components:
73 1. A 3-year work plan that identifies beach restoration,
74 beach nourishment, and

By the Committee on Environmental Preservation and Conservation;
and Senators Latvala, Hutson, and Mayfield

592-02736A-17

20171590c1

1 A bill to be entitled
2 An act relating to coastal management; amending s.
3 161.101, F.S.; revising the criteria to be considered
4 by the Department of Environmental Protection in
5 determining and assigning annual funding priorities
6 for beach management and erosion control projects;
7 specifying tiers for such criteria; requiring tiers to
8 be given certain weight; requiring the department to
9 update active project lists on its website; redefining
10 the term "significant change"; revising the
11 department's reporting requirements; specifying
12 allowable uses for certain surplus funds; revising the
13 requirements for a specified summary; requiring that
14 funding for certain projects remain available for a
15 specified period; amending s. 161.143, F.S.;

16 specifying the scope of certain projects; revising the
17 list of projects that are included as inlet management
18 projects; requiring that certain projects be
19 considered separate and apart from other specified
20 projects; revising the ranking criteria to be used by
21 the department to establish certain funding priorities
22 for certain inlet-caused beach erosion projects;
23 revising provisions authorizing the department to
24 spend certain appropriated funds for the management of
25 inlets; deleting a provision authorizing the
26 department to spend certain appropriated funds for
27 specified inlet studies; revising the required
28 elements of the department's report of prioritized
29 inlet management projects; revising the funds that the

Page 1 of 22

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592-02736A-17

20171590c1

30 department must make available to certain inlet
31 management projects; requiring the department to
32 include specified activities on the inlet management
33 project list; deleting provisions requiring the
34 department to make available funding for specified
35 projects; deleting a requirement that the Legislature
36 designate a project as an Inlet of the Year; requiring
37 the department to update and maintain a report
38 regarding the progress of certain inlet management
39 projects; revising the requirements for the report;
40 deleting certain temporary provisions relating to
41 specified appropriations; amending s. 161.161, F.S.;

42 revising requirements for the comprehensive long-term
43 management plan; requiring the plan to include a
44 strategic beach management plan, a critically eroded
45 beaches report, and a statewide long-range budget
46 plan; providing for the development and maintenance of
47 such plans; deleting a requirement that the department
48 submit a certain beach management plan on a certain
49 date each year; requiring the department to hold a
50 public meeting before finalization of the strategic
51 beach management plan; requiring the department to
52 submit a 3-year work plan and a related forecast for
53 the availability of funding to the Legislature;
54 amending s. 375.041, F.S.; requiring certain funds
55 from the Land Acquisition Trust Fund to be used for
56 projects that preserve and repair state beaches;
57 providing effective dates.

Page 2 of 22

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592-02736A-17

20171590c1

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

60
61 Section 1. Effective July 1, 2018, subsection (14) of
62 section 161.101, Florida Statutes, is amended to read:

63 161.101 State and local participation in authorized
64 projects and studies relating to beach management and erosion
65 control.—

66 (14) The intent of the Legislature in preserving and
67 protecting Florida's sandy beaches pursuant to this act is to
68 direct beach erosion control appropriations to the state's most
69 severely eroded beaches, and to prevent further adverse impact
70 caused by improved, modified, or altered inlets, coastal
71 armoring, or existing upland development. In establishing annual
72 project funding priorities, the department shall seek formal
73 input from local coastal governments, beach and general
74 government interest groups, and university experts. The
75 department shall adopt by rule a scoring system to determine
76 annual project funding priorities. The scoring system must
77 consist of the following criteria equally weighted within the
78 following specified tiers ~~criteria to be considered by the~~
79 ~~department in determining annual funding priorities shall~~
80 ~~include:~~

81 (a) Tier 1 must account for 20 percent of the total score
82 and consist of the tourism-related return on investment and the
83 severity of erosion conditions, the threat to existing upland
84 development, and recreational and/or economic impact of the
85 project. The return on investment of the project is the ratio of
86 the tourism-related tax revenues for the most recent year to the
87 amount of state funding requested for the proposed project. The

Page 3 of 22

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592-02736A-17

20171590c1

88 economic impact of the project is the ratio of the tourism-
89 related tax revenues for the most recent year to all county tax
90 revenues for the most recent year. The department must calculate
91 these ratios using state sales tax and tourism development tax
92 data of the county having jurisdiction over the project area. If
93 multiple counties have jurisdiction over the project area, the
94 department must assess each county individually using these
95 ratios. The department shall calculate the mean average of these
96 ratios to determine the final overall assessment for the
97 multicounty project benefits.

98 (b) Tier 2 must account for 45 percent of the total score
99 and consist of the following criteria:

100 1. The availability of federal matching dollars,
101 considering federal authorization, the federal cost-share
102 percentage, and the status of the funding award;—

103 2. The storm damage reduction benefits of the project based
104 on the following considerations:

105 a. The current conditions of the project area, including
106 any recent storm damage impact, as a percentage of volume of
107 sand lost since the most recent beach nourishment event or most
108 recent beach surveys. If the project area has not been
109 previously restored, the department must use the historical
110 background erosion rate;

111 b. The overall potential threat to existing upland
112 development, including public and private structures and
113 infrastructure, based on the percentage of vulnerable shoreline
114 within the project boundaries; and

115 c. The value of upland property benefiting from the
116 protection provided by the project and its subsequent

Page 4 of 22

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592-02736A-17

20171590c1

117 maintenance. A property must be within one-quarter mile of the
 118 project boundaries to be considered under the criterion
 119 specified in this subparagraph; and
 120 3. The cost-effectiveness of the project based on the
 121 yearly cost per volume per mile of proposed beach fill
 122 placement. The department shall also consider the following when
 123 assessing cost-effectiveness pursuant to this subparagraph:
 124 a. The existence of projects with proposed structural or
 125 design components to extend the beach nourishment interval;
 126 b. Existing beach nourishment projects that reduce upland
 127 storm damage costs by incorporating new or enhanced dune
 128 structures or new or existing dune restoration and revegetation
 129 projects;
 130 c. Proposed innovative technologies designed to reduce
 131 project costs; and
 132 d. Regional sediment management strategies and coordination
 133 to conserve sand source resources and reduce project costs.
 134 (c) Tier 3 must account for 20 percent of the total score
 135 and consist of the following criteria: ~~The extent of local~~
 136 ~~government sponsor financial and administrative commitment to~~
 137 ~~the project, including a long-term financial plan with a~~
 138 ~~designated funding source or sources for initial construction~~
 139 ~~and periodic maintenance.~~
 140 ~~1.(d) Previous state commitment and involvement in the~~
 141 ~~project, considering previously funded phases, the total amount~~
 142 ~~of previous state funding, and previous partial appropriations~~
 143 ~~for the proposed project;~~
 144 2. The recreational benefits of the project based on:
 145 a. The accessible beach area added by the project; and

Page 5 of 22

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592-02736A-17

20171590c1

146 b. The percentage of linear footage within the project
 147 boundaries that is zoned:
 148 (I) As recreational or open space;
 149 (II) For commercial use; or
 150 (III) To otherwise allow for public lodging
 151 establishments;-
 152 ~~(e) The anticipated physical performance of the proposed~~
 153 ~~project, including the frequency of periodic planned~~
 154 ~~nourishment.~~
 155 3.(f) The extent to which the ~~proposed~~ project mitigates
 156 the adverse impact of improved, modified, or altered inlets on
 157 adjacent beaches; and-
 158 ~~(g) Innovative, cost effective, and environmentally~~
 159 ~~sensitive applications to reduce erosion.~~
 160 ~~(h) Projects that provide enhanced habitat within or~~
 161 ~~adjacent to designated refuges of nesting sea turtles.~~
 162 ~~(i) The extent to which local or regional sponsors of beach~~
 163 ~~erosion control projects agree to coordinate the planning,~~
 164 ~~design, and construction of their projects to take advantage of~~
 165 ~~identifiable cost savings.~~
 166 4.(j) The degree to which the project addresses the state's
 167 most significant beach erosion problems based on the ratio of
 168 the linear footage of the project shoreline to the cubic yards
 169 of sand placed per mile per year.
 170 (d) Tier 4 must account for 15 percent of the total score
 171 and consist of the following criteria:
 172 1. Increased prioritization of projects that have been on
 173 the department's ranked project list for successive years and
 174 that have not previously secured state funding for project

Page 6 of 22

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592-02736A-17

20171590c1

175 implementation;

176 2. Environmental habitat enhancement, recognizing state or
 177 federal critical habitat areas for threatened or endangered
 178 species which may be subject to extensive shoreline armoring or
 179 recognizing areas where extensive shoreline armoring threatens
 180 the availability or quality of habitat for such species. Turtle-
 181 friendly designs, dune and vegetation projects for areas with
 182 redesigned or reduced fill templates, proposed incorporation of
 183 best management practices and adaptive management strategies to
 184 protect resources, and innovative technologies designed to
 185 benefit critical habitat preservation may also be considered;
 186 and

187 3. The overall readiness of the project to proceed in a
 188 timely manner considering the project's readiness for the
 189 construction phase of development, the status of required
 190 permits, the status of any needed easement acquisition, the
 191 availability of local funding sources, and the establishment of
 192 an erosion control line. If the department identifies specific
 193 reasonable and documented concerns that the project will not
 194 proceed in a timely manner, the department may choose not to
 195 include the project in the annual funding priorities submitted
 196 to the Legislature.

197
 198 ~~If in the event that~~ more than one project qualifies equally
 199 under the provisions of this subsection, the department shall
 200 assign funding priority to those projects shown to be most ~~that~~
 201 ~~are~~ ready to proceed.

202 Section 2. Subsection (20) of section 161.101, Florida
 203 Statutes, is amended to read:

Page 7 of 22

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592-02736A-17

20171590c1

204 161.101 State and local participation in authorized
 205 projects and studies relating to beach management and erosion
 206 control.—

207 (20) The department shall maintain active project lists,
 208 updated at least quarterly, ~~listings~~ on its website by fiscal
 209 year in order to provide transparency regarding those projects
 210 receiving funding and the funding amounts, and to facilitate
 211 legislative reporting and oversight. In consideration of this
 212 intent:

213 (a) The department shall notify the Executive Office of the
 214 Governor and the Legislature regarding any significant changes
 215 in the funding levels of a given project as initially requested
 216 in the department's budget submission and subsequently included
 217 in approved annual funding allocations. The term "significant
 218 change" means a project-specific change or cumulative changes
 219 that exceed the project's original allocation by \$500,000 or
 220 that exceed ~~those changes exceeding~~ 25 percent of the a
 221 project's original allocation.

222 1. Except as provided in subparagraph 2., if there is
 223 surplus funding, the department must provide a notification and
 224 supporting justification shall be provided to the Executive
 225 Office of the Governor and the Legislature to indicate whether
 226 surplus ~~additional~~ dollars are intended to be used for inlet
 227 management projects pursuant to s. 161.143 or for beach
 228 restoration and beach nourishment projects, offered for
 229 reversion as part of the next appropriations process, or used
 230 for other specified priority projects on active project lists.

231 2. For surplus funds for projects that do not have a
 232 significant change, the department may use such funds for the

Page 8 of 22

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592-02736A-17

20171590c1

233 same purposes identified in subparagraph 1. The department shall
 234 post the uses of such funds on the project listing web page of
 235 its website. No other notice or supporting justification is
 236 required before the use of surplus funds for a project that does
 237 not have a significant change.

238 (b) The department shall prepare a summary of specific
 239 project activities for the current fiscal year, their funding
 240 status, and changes to annual project lists for the current and
 241 preceding fiscal year. shall be prepared by The department shall
 242 include the summary and included with the department's
 243 submission of its annual legislative budget request.

244 (c) Funding for specific projects on annual project lists
 245 approved by the Legislature must remain available for such
 246 projects for 18 months. A local project sponsor may at any time
 247 release, in whole or in part, appropriated project dollars by
 248 formal notification to the department. The department, which
 249 shall notify the Executive Office of the Governor and the
 250 Legislature of such release and. Notification must indicate in
 251 the notification how the project dollars are recommended
 252 intended to be used after such release.

253 Section 3. Subsections (2) through (5) of section 161.143,
 254 Florida Statutes, are amended to read:

255 161.143 Inlet management; planning, prioritizing, funding,
 256 approving, and implementing projects.-

257 (2) The department shall establish annual funding
 258 priorities for studies, activities, or other projects concerning
 259 inlet management. Such inlet management projects constitute the
 260 intended scope of this section and s. 161.142 and consist of
 261 include, but are not limited to, inlet sand bypassing,

592-02736A-17

20171590c1

262 improvement of infrastructure to facilitate sand bypassing,
 263 modifications to channel dredging, jetty redesign, jetty repair,
 264 disposal of spoil material, and the development, revision,
 265 adoption, or implementation of an inlet management plan.
 266 Projects considered for funding pursuant to this section shall
 267 be considered separate and apart from projects reviewed and
 268 prioritized in s. 161.101(14). The funding priorities
 269 established by the department under this section must be
 270 consistent with the requirements and legislative declaration in
 271 ss. 161.101(14), 161.142, and 161.161(1)(b). In establishing
 272 funding priorities under this subsection and before transmitting
 273 the annual inlet project list to the Legislature under
 274 subsection (4) ~~(5)~~, the department shall seek formal input from
 275 local coastal governments, beach and general government
 276 associations and other coastal interest groups, and university
 277 experts concerning annual funding priorities for inlet
 278 management projects. In order to maximize the benefits of
 279 efforts to address the inlet-caused beach erosion problems of
 280 this state, the ranking criteria used by the department to
 281 establish funding priorities for studies, activities, or other
 282 projects concerning inlet management must include equal
 283 consideration of:

284 (a) An estimate of the annual quantity of beach-quality
 285 sand reaching the updrift boundary of the improved jetty or
 286 inlet channel.

287 (b) The severity of the erosion to the adjacent beaches
 288 caused by the inlet ~~and the extent to which the proposed project~~
 289 ~~mitigates the erosive effects of the inlet.~~

290 (c) The overall significance and anticipated success of the

592-02736A-17 20171590c1

291 proposed project in mitigating the erosive effects of the inlet,
 292 balancing the sediment budget of the inlet and adjacent beaches,
 293 and addressing the sand deficit along the inlet-affected
 294 shorelines.

295 (d) The extent to which ~~existing~~ bypassing activities at an
 296 inlet would benefit from modest, cost-effective improvements
 297 when considering the volumetric increases from the proposed
 298 project, the availability of beach-quality sand currently not
 299 being bypassed to adjacent eroding beaches, and the ease with
 300 which such beach-quality sand may be obtained.

301 (e) The cost-effectiveness of sand made available by a
 302 proposed inlet management project or activity relative to other
 303 sand source opportunities that would be used to address inlet-
 304 caused beach erosion ~~The interest and commitment of local~~
 305 ~~governments as demonstrated by their willingness to coordinate~~
 306 ~~the planning, design, construction, and maintenance of an inlet~~
 307 ~~management project and their financial plan for funding the~~
 308 ~~local cost share for initial construction, ongoing sand~~
 309 ~~bypassing, channel dredging, and maintenance.~~

310 (f) The existence of a proposed or recently updated ~~The~~
 311 ~~previous completion or approval of a state-sponsored inlet~~
 312 ~~management plan or a local-government-sponsored inlet study~~
 313 ~~addressing concerning the inlet addressed by the proposed~~
 314 ~~project, the ease of updating and revising any such plan or~~
 315 ~~study, and the adequacy and specificity of the plan's or study's~~
 316 ~~recommendations concerning the mitigation of an inlet's erosive~~
 317 ~~effects on adjacent beaches.~~

318 (g) The degree to which the proposed project will enhance
 319 the performance and longevity of proximate beach nourishment

592-02736A-17 20171590c1

320 projects, thereby reducing the frequency of such periodic
 321 nourishment projects.

322 (h) The project-ranking criteria in s. 161.101(14) to the
 323 extent such criteria are applicable to inlet management studies,
 324 projects, and activities and are distinct from, and not
 325 duplicative of, the criteria listed in paragraphs (a)-(g).

326 (3) The department may pay from legislative appropriations
 327 up to 75 percent of the construction costs of an initial major
 328 inlet management project component for the purpose of mitigating
 329 the erosive effects of the inlet to the shoreline and balancing
 330 the sediment budget. The remaining balance of such construction
 331 costs must be paid from other funding sources, such as local
 332 sponsors. All project costs not associated with an initial major
 333 inlet management project component must be shared equally by
 334 state and local sponsors in accordance with, pursuant to s.
 335 161.101 and notwithstanding s. 161.101(15), pay from legislative
 336 appropriations provided for these purposes 75 percent of the
 337 total costs, or, if applicable, the nonfederal costs, of a
 338 study, activity, or other project concerning the management of
 339 an inlet. The balance must be paid by the local governments or
 340 special districts having jurisdiction over the property where
 341 the inlet is located.

342 ~~(4) Using the legislative appropriation to the statewide~~
 343 ~~beach-management-support category of the department's fixed~~
 344 ~~capital outlay funding request, the department may employ~~
 345 ~~university-based or other contractual sources and pay 100~~
 346 ~~percent of the costs of studies that are consistent with the~~
 347 ~~legislative declaration in s. 161.142 and that:~~

348 ~~(a) Determine, calculate, refine, and achieve general~~

592-02736A-17

20171590c1

349 consensus regarding net annual sediment transport volumes to be
 350 used for the purpose of planning and prioritizing inlet
 351 management projects; and

352 ~~(b) Appropriate, assign, and apportion responsibilities~~
 353 ~~between inlet beneficiaries for the erosion caused by a~~
 354 ~~particular inlet on adjacent beaches.~~

355 (4)(5) The department shall annually provide an inlet
 356 management project list, in priority order, to the Legislature
 357 as part of the department's budget request. ~~The list must~~
 358 ~~include studies, projects, or other activities that address the~~
 359 ~~management of at least 10 separate inlets and that are ranked~~
 360 ~~according to the criteria established under subsection (2).~~

361 (a) The department shall designate for make available at
 362 least 10 percent of the total amount that the Legislature
 363 appropriates in each fiscal year for statewide beach management
 364 for the three highest-ranked projects on the current year's
 365 inlet management project list, in priority order, an amount that
 366 is at least equal to the greater of:

367 1. Ten percent of the total amount that the Legislature
 368 appropriates in the fiscal year for statewide beach management;
 369 or

370 2. The percentage of inlet management funding requests from
 371 local sponsors as a proportion of the total amount of statewide
 372 beach management dollars requested in a given year.

373 (b) The department shall include inlet monitoring
 374 activities ranked on the inlet management project list as one
 375 aggregated subcategory on the overall inlet management project
 376 list make available at least 50 percent of the funds
 377 appropriated for the feasibility and design category in the

592-02736A-17

20171590c1

378 department's fixed capital outlay funding request for projects
 379 on the current year's inlet management project list which
 380 involve the study for, or design or development of, an inlet
 381 management project.

382 ~~(c) The department shall make available all statewide beach~~
 383 ~~management funds that remain unencumbered or are allocated to~~
 384 ~~non-project-specific activities for projects on legislatively~~
 385 ~~approved inlet management project lists. Funding for local-~~
 386 ~~government-specific projects on annual project lists approved by~~
 387 ~~the Legislature must remain available for such purposes for a~~
 388 ~~period of 18 months pursuant to s. 216.301(2)(a). Based on an~~
 389 ~~assessment and the department's determination that a project~~
 390 ~~will not be ready to proceed during this 18 month period, such~~
 391 ~~funds shall be used for inlet management projects on~~
 392 ~~legislatively approved lists.~~

393 (5)(d) The Legislature shall designate one of the three
 394 highest projects on the inlet management project list in any
 395 year as the Inlet of the Year. The department shall update and
 396 maintain an annual annually report on its website to the
 397 Legislature concerning the extent to which each inlet project
 398 designated by the Legislature as Inlet of the Year has succeeded
 399 in balancing the sediment budget of the inlet and adjacent
 400 beaches and in, mitigating the inlet's erosive effects on
 401 adjacent beaches. The report must provide an estimate of the
 402 quantity of sediment bypassed, transferred, and transferring or
 403 otherwise placed placing beach-quality sand on adjacent eroding
 404 beaches, or in such beaches' nearshore area, for the purpose of
 405 offsetting the erosive effects of inlets on the beaches of this
 406 state.

592-02736A-17

20171590c1

407 ~~(e) Notwithstanding paragraphs (a) and (b), and for the~~
 408 ~~2016-2017 fiscal year only, the amount allocated for inlet~~
 409 ~~management funding is provided in the 2016-2017 General~~
 410 ~~Appropriations Act. This paragraph expires July 1, 2017.~~

411 Section 4. Effective July 1, 2018, subsections (1) and (2)
 412 of section 161.161, Florida Statutes, are amended, and present
 413 subsections (3) through (7) are redesignated as subsections (4)
 414 through (8), respectively, to read:

415 161.161 Procedure for approval of projects.-

416 (1) The department shall develop and maintain a
 417 comprehensive long-term beach management plan for the
 418 restoration and maintenance of the state's critically eroded
 419 beaches fronting the Atlantic Ocean, Gulf of Mexico, and Straits
 420 of Florida. In developing and maintaining this the beach
 421 management plan, the department shall:

422 (a) Address long-term solutions to the problem of
 423 critically eroded beaches in this state.

424 (b) Evaluate each improved, modified, or altered inlet and
 425 determine whether the inlet is a significant cause of beach
 426 erosion. With respect to each inlet determined to be a
 427 significant cause of beach erosion, the plan shall include+
 428 ~~±~~ the extent to which such inlet causes beach erosion and
 429 recommendations to mitigate the erosive impact of the inlet,
 430 including, but not limited to, ~~recommendations regarding~~ inlet
 431 sediment bypassing; improvement of infrastructure to facilitate
 432 sand bypassing; modifications to channel dredging, jetty design,
 433 and disposal of spoil material; establishment of feeder beaches;
 434 and beach restoration and beach nourishment; ~~and~~

435 ~~2. Cost estimates necessary to take inlet corrective~~

592-02736A-17

20171590c1

436 ~~measures and recommendations regarding cost sharing among the~~
 437 ~~beneficiaries of such inlet.~~

438 (c) Evaluate Design criteria for beach restoration and
 439 beach nourishment projects, including, but not limited to, ~~±~~
 440 ~~±~~ dune elevation and width and revegetation and
 441 stabilization requirements, ~~±~~ and

442 ~~2-~~ beach profiles ~~profile~~.

443 (d) Consider Evaluate the establishment of regional
 444 sediment management alternatives for one or more individual
 445 beach and inlet sand bypassing projects ~~feeder beaches~~ as an
 446 alternative to ~~direct~~ beach restoration when appropriate and
 447 cost-effective, and recommend the location of such regional
 448 sediment management alternatives ~~feeder beaches~~ and the source
 449 of beach-compatible sand.

450 (e) Identify causes of shoreline erosion and change,
 451 determine calculate erosion rates, and maintain an updated list
 452 of critically eroded sandy beaches based on data, analyses, and
 453 investigations of shoreline conditions and project long-term
 454 erosion for all major beach and dune systems by surveys and
 455 profiles.

456 (f) ~~Identify shoreline development and degree of density~~
 457 ~~and~~ Assess impacts of development and coastal protection
 458 ~~shoreline protective~~ structures on shoreline change and erosion.

459 (g) Identify short-term and long-term economic costs and
 460 benefits of beaches to the state of Florida and individual beach
 461 communities, ~~including recreational value to user groups, tax~~
 462 ~~base, revenues generated, and beach acquisition and maintenance~~
 463 ~~costs~~.

464 (h) Study dune and vegetation conditions, identify existing

592-02736A-17

20171590c1

465 beach nourishment projects without dune features or with dunes
 466 without adequate elevations, and encourage dune restoration and
 467 revegetation to be incorporated as part of storm damage recovery
 468 projects or future dune maintenance events.

469 (i) Identify beach areas used by marine turtles and develop
 470 strategies for protection of the turtles and their nests and
 471 nesting locations.

472 (j) Identify alternative management responses to preserve
 473 undeveloped beach and dune systems and, to restore damaged beach
 474 and dune systems. In identifying such management responses, the
 475 department shall consider, at a minimum, and to prevent
 476 inappropriate development and redevelopment on migrating
 477 beaches, and consider beach restoration and nourishment,
 478 armoring, relocation and abandonment, dune and vegetation
 479 restoration, and acquisition.

480 (k) Document procedures and policies for preparing post-
 481 storm damage assessments and corresponding recovery plans,
 482 including repair cost estimates. Establish criteria, including
 483 costs and specific implementation actions, for alternative
 484 management techniques.

485 (l) Identify and assess ~~Select and recommend~~ appropriate
 486 management measures for all of the state's critically eroded
 487 sandy beaches in a beach management program.

488 ~~(m) Establish a list of beach restoration and beach~~
 489 ~~nourishment projects, arranged in order of priority, and the~~
 490 ~~funding levels needed for such projects.~~

491 (2) The comprehensive long-term management plan developed
 492 and maintained by the department pursuant to subsection (1) must
 493 include, at a minimum, a strategic beach management plan, a

592-02736A-17

20171590c1

494 critically eroded beaches report, and a statewide long-range
 495 budget plan. The long-range budget plan must include a 3-year
 496 work plan for beach nourishment projects and inlet management
 497 projects that lists planned projects for each of the 3 fiscal
 498 years addressed in the work plan.

499 (a) The strategic beach management plan must identify and
 500 recommend appropriate measures for all of the state's critically
 501 eroded sandy beaches and may incorporate plans be prepared at
 502 the regional level taking into account based upon areas of
 503 greatest need and probable federal and local funding. Upon
 504 approval in accordance with chapter 86-138, Laws of Florida,
 505 such regional plans, along with the 3-year work plan identified
 506 in subparagraph (c)1., shall be components of the statewide
 507 beach management plan and shall serve as the basis for state
 508 funding decisions upon approval in accordance with chapter 86-
 509 138, Laws of Florida. In accordance with a schedule established
 510 for the submission of regional plans by the department, any
 511 completed plan must be submitted to the secretary of the
 512 department for approval no later than March 1 of each year.
 513 These regional plans shall include, but shall not be limited to,
 514 recommendations of appropriate funding mechanisms for
 515 implementing projects in the beach management plan, giving
 516 consideration to the use of single county and multicounty taxing
 517 districts or other revenue generation measures by state and
 518 local governments and the private sector. Prior to finalizing
 519 the strategic beach management presenting the plan to the
 520 secretary of the department, the department shall hold a public
 521 meeting in the region areas for which the plan is prepared or
 522 through a publicly noticed webinar. The plan submission schedule

592-02736A-17

20171590c1

523 shall be submitted to the secretary for approval. Any revisions
524 to such schedule must be approved in like manner.

525 (b) The critically eroded beaches report must be developed
526 and maintained based primarily on the requirements specified in
527 paragraph (1) (e).

528 (c) The statewide long-range budget plan must include at
529 least 5 years of planned beach nourishment and inlet management
530 project funding needs as identified, and subsequently refined,
531 by local government sponsors. This plan shall consist of two
532 components:

533 1. A 3-year work plan that identifies beach nourishment and
534 inlet management projects viable for implementation during the
535 next 3 ensuing fiscal years, as determined by available cost-
536 sharing, local sponsor support, regulatory considerations, and
537 the ability of the project to proceed as scheduled. The 3-year
538 work plan must, for each fiscal year, identify proposed projects
539 and their current development status, listing them in priority
540 order based on the applicable criteria established in ss.
541 161.101(14) and 161.143(2). Specific funding requests and
542 criteria ranking, pursuant to ss. 161.101(14) and 161.143(2),
543 may be modified as warranted in each successive fiscal year, and
544 such modifications must be documented and submitted to the
545 Legislature with each 3-year work plan. Year one projects shall
546 consist of those projects identified for funding consideration
547 in the ensuing fiscal year.

548 2. A long-range plan that identifies projects for inclusion
549 in the fourth and fifth ensuing fiscal years. These projects may
550 be presented by region and do not need to be presented in
551 priority order; however, the department should identify issues

592-02736A-17

20171590c1

552 that may prevent successful completion of such projects and
553 recommend solutions that would allow the projects to progress
554 into the 3-year work plan.

555 ~~(3)(2) Annually,~~ The secretary shall annually present the
556 3-year work plan to the Legislature. The work plan must be
557 accompanied by a 3-year financial forecast for the availability
558 of funding for the projects, based on funds dedicated in s.
559 375.041 ~~recommendations for funding beach erosion control~~
560 ~~projects prioritized according to the criteria established in s.~~
561 ~~161.101(14).~~

562 Section 5. Paragraph (b) of subsection (3) of section
563 375.041, Florida Statutes, is amended to read:

564 375.041 Land Acquisition Trust Fund.—

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

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

570 1. A minimum of the lesser of 25 percent or \$200 million
571 shall be appropriated annually for Everglades projects that
572 implement the Comprehensive Everglades Restoration Plan as set
573 forth in s. 373.470, including the Central Everglades Planning
574 Project subject to Congressional authorization; the Long-Term
575 Plan as defined in s. 373.4592(2); and the Northern Everglades
576 and Estuaries Protection Program as set forth in s. 373.4595.
577 From these funds, \$32 million shall be distributed each fiscal
578 year through the 2023-2024 fiscal year to the South Florida
579 Water Management District for the Long-Term Plan as defined in
580 s. 373.4592(2). After deducting the \$32 million distributed

592-02736A-17 20171590c1

581 under this subparagraph, from the funds remaining, a minimum of
 582 the lesser of 76.5 percent or \$100 million shall be appropriated
 583 each fiscal year through the 2025-2026 fiscal year for the
 584 planning, design, engineering, and construction of the
 585 Comprehensive Everglades Restoration Plan as set forth in s.
 586 373.470, including the Central Everglades Planning Project
 587 subject to Congressional authorization. The Department of
 588 Environmental Protection and the South Florida Water Management
 589 District shall give preference to those Everglades restoration
 590 projects that reduce harmful discharges of water from Lake
 591 Okeechobee to the St. Lucie or Caloosahatchee estuaries in a
 592 timely manner. For the purpose of performing the calculation
 593 provided in this subparagraph, the amount of debt service paid
 594 pursuant to paragraph (a) for bonds issued after July 1, 2016,
 595 for the purposes set forth under paragraph (b) shall be added to
 596 the amount remaining after the payments required under paragraph
 597 (a). The amount of the distribution calculated shall then be
 598 reduced by an amount equal to the debt service paid pursuant to
 599 paragraph (a) on bonds issued after July 1, 2016, for the
 600 purposes set forth under this subparagraph.

601 2. A minimum of the lesser of 7.6 percent or \$50 million
 602 shall be appropriated annually for spring restoration,
 603 protection, and management projects. For the purpose of
 604 performing the calculation provided in this subparagraph, the
 605 amount of debt service paid pursuant to paragraph (a) for bonds
 606 issued after July 1, 2016, for the purposes set forth under
 607 paragraph (b) shall be added to the amount remaining after the
 608 payments required under paragraph (a). The amount of the
 609 distribution calculated shall then be reduced by an amount equal

592-02736A-17 20171590c1

610 to the debt service paid pursuant to paragraph (a) on bonds
 611 issued after July 1, 2016, for the purposes set forth under this
 612 subparagraph.

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

620 4. A minimum of the lesser of 7.6 percent or \$50 million
 621 shall be appropriated annually for projects that preserve and
 622 repair the state's beaches as provided in s. 161.091(3). The
 623 calculation provided in this subparagraph shall be performed
 624 using the same formula as described in subparagraph 2.

625 Section 6. Except as otherwise provided in this act, this
 626 act shall take effect July 1, 2017.

THE FLORIDA SENATE
APPEARANCE RECORD

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

04/13/17

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Rebecca O'Hara

Job Title Asst. General Counsel

Address PO Box 1757

Phone 850-222-9684

Street

Tallahassee, FL 32302-1757

Email rohara@flcities.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida League of Cities

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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4-13-17
Meeting Date

1590
Bill Number (if applicable)

Topic Beaches

Amendment Barcode (if applicable)

Name Richard Gentry

Job Title _____

Address 2305 Braeburn Circle

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Tall FL 32309

City

State

Zip

Email rgentry@comcast.net

Speaking: For Against Information

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

Representing Escambia County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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9/13/17

Meeting Date

1590

Bill Number (if applicable)

Topic

Coastal Management

Amendment Barcode (if applicable)

Name

Susan Harbink

Job Title

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Phone

724.1000

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Lallahassee FL 32301

State

Zip

Email

shadana@flcounties.com

Speaking:

For

Against

Information

Waive Speaking:

In Support

Against

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

Representing

Florida Assoc of Counties

Appearing at request of Chair:

Yes

No

Lobbyist registered with Legislature:

Yes

No

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

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THE FLORIDA SENATE
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4/13/17
Meeting Date

1590
Bill Number (if applicable)

Topic ~~ISSUES~~ COASTAL MANAGEMENT

Amendment Barcode (if applicable)

Name EDWARD G. LABRADOR, ESQ.

Job Title DIRECTOR, INTERGOVERNMENTAL AFFAIRS

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State

33301
Zip

Email elabrador@broward.org

Speaking: For Against Information

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

Representing BROWARD COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
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4/13/17

Meeting Date

1590

Bill Number (if applicable)

Topic COASTAL MANAGEMENT

Amendment Barcode (if applicable)

Name LISA HURLEY

Job Title _____

Address 311 E. PARK AVE

Phone 800.224.5081

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Email lhurley@senate.fl.gov

City

State

Zip

Speaking: For Against Information

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

Representing FLAGLER COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17
Meeting Date

1590
Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Joe Mobley

Job Title The Florantus Group
Representing St. Johns County

Address 300 Adams Street
Street

Phone 850-222-1959

Jay FL
City State Zip

Email _____

Speaking: For Against Information

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

Representing St. Johns County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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4-13-17

Meeting Date

1590

Bill Number (if applicable)

Topic Coastal mgmt

Amendment Barcode (if applicable)

Name Missy Timmins (Margaret)

Job Title _____

Address 2910 Kerry Forest Pkwy D-368 Phone 264-3225
Street

City

State

Zip

Email _____

Speaking: For Against Information

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

Representing Pinellas County Board of Commissioners

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1590
Bill Number (if applicable)

Meeting Date _____

Topic coastal management

Amendment Barcode (if applicable) _____

Name Sydney Ridley

Job Title Govt affairs

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: For Against Information

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

Representing Sarasota County Govt

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

1590

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Diana Ferguson

Job Title Attorney

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Phone 850-681-6788

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Talco

City

FL

State

32301

Zip

Email dferguson@mtu.edu -
ecoria.com

Speaking: For Against Information

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

Representing Miami-Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

April 13, 17
Meeting Date

SB 1590
Bill Number (if applicable)

Topic Coastal Management

Amendment Barcode (if applicable)

Name Debbie Flack

Job Title President

Address 1961 Chatsworth Way
Street

Phone 850/510-5409

Tallahassee
City State Zip

Email floridabeaches@fsbpa.com

Speaking: For Against Information

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

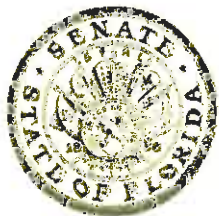
Representing FL SHORE & BEACH PRESERVATION ASSOC

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Commerce and Tourism
Environmental Preservation and Conservation
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR JACK LATVALA

16th District

March 22, 2017

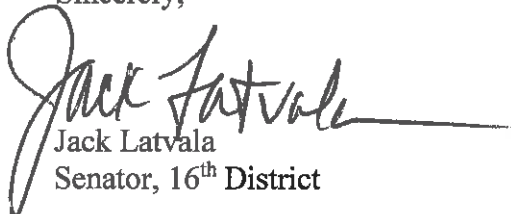
The Honorable Rob Bradley
414 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chairman Bradley,

I respectfully request you place Committee Substitute for Senate Bill 1590, relating to Coastal Management, on your Appropriations Subcommittee on the Environment and Natural Resources agenda at your earliest convenience.

Should you have any questions or concerns regarding this legislation, please do not hesitate to contact me personally.

Sincerely,


Jack Latvala
Senator, 16th District

cc: Giovanni Betta, Staff Director

REPLY TO:

- 26133 U.S. Highway 19 North, Suite 201, Clearwater, Florida 33763 (727) 793-2797 FAX: (727) 793-2799
- 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: www.flsenate.gov

JOE NEGRON
President of the Senate

ANITERE FLORES
President Pro Tempore

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 The Environment and Natural Resources

BILL: PCS/CS/SB 1592 (301744)

INTRODUCER: Appropriations Subcommittee on The Environment and Natural Resources; Agriculture Committee; and Senator Bean and others

SUBJECT: Small Food Retailers

DATE: April 17, 2017

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|--------------------------|
| 1. | <u>Becker</u> | <u>Becker</u> | <u>AG</u> | <u>Fav/CS</u> |
| 2. | <u>Blizzard</u> | <u>Betta</u> | <u>AEN</u> | <u>Recommend: Fav/CS</u> |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

PCS/CS/SB 1592 creates the Healthy Food Assistance Program (program) within the Florida Department of Agriculture and Consumer Services (department). The goal of the program is to provide access for small food retailers to receive assistance for projects that increase the availability and sales of fresh and nutritious food. The bill directs the Office of Program Policy Analysis and Government Accountability (OPPAGA) to conduct an independent study to evaluate the policy impact of placing healthy food in previously underserved communities. It provides requirements and guidelines for the department to administer the program, which includes the submission of an annual report to the legislature.

The bill has no impact on state revenues or expenditures because implementation of the program is contingent upon an appropriation.

The bill repeals the Healthy Food Financing Initiative.

The bill takes effect July 1, 2017.

II. Present Situation:

A 2014 study commissioned by the Department of Agriculture and Consumer Services (department) on the Impact of Food Deserts on Diet-Related Outcomes made several key

findings, one of which was that access to quality retail grocers in Florida is strongly linked to a variety of diet-related health outcomes and that individuals living in places more than a half mile from the nearest full-service grocer and who lack access to a vehicle are more likely to die prematurely from diabetes, diet-related cancers, stroke, and liver disease than individuals living where grocers are closer and vehicles are more available.¹ The American Heart Association reports that low-income areas have more convenience stores than supermarkets, thus limiting healthy options in those areas and specifically that 2.5 million Floridians live in areas where fresh food is not readily available.²

The U.S. Department of Agriculture maintains a Food Access Research Atlas (atlas), which presents a spatial overview of food access indicators for low-income and other census tracts using different measures of supermarket accessibility, provides food access data for populations within census tracts, and offers census-tract-level data on food access that can be downloaded for community planning or research purposes.³

Limited access to supermarkets, supercenters, grocery stores, or other sources of healthy and affordable food may make it harder for some Americans to eat a healthy diet. According to the atlas, there are many ways to define which areas are considered “food deserts” and many ways to measure food store access for individuals and for neighborhoods. Most measures and definitions take into account at least some of the following indicators of access: accessibility to sources of healthy food, as measured by distance to a store or by the number of stores in an area; individual-level resources that may affect accessibility, such as family income or vehicle availability; and neighborhood-level indicators of resources, such as the average income of the neighborhood and the availability of public transportation.⁴

The Healthy Food Financing Initiative was created in 2016 to provide financial assistance for the rehabilitation or expansion of grocery retail outlets located in underserved or low-income communities. The goal of the program is to improve the public health and well-being of low-income children, families, and older adults by increasing access to fresh produce and other nutritious food.⁵

III. Effect of Proposed Changes:

Section 1 creates s. 595.430, F.S., to establish the Healthy Food Assistance Program to provide a process for small food retailers to receive assistance for projects that increase the availability and sales of fresh and nutritious food, including fresh vegetables, fruits, meats, and seafood in low-income and moderate-income communities. This section directs OPPAGA to conduct an independent study to evaluate the policy impact of placing healthy food in previously

¹ Impact on Food Deserts on Diet-Related Health Outcomes, see <http://www.freshfromflorida.com/Divisions-Offices/Food-Nutrition-and-Wellness/Florida-s-Roadmap-To-Living-Healthy/Impact-of-Food-Deserts-on-Diet-Related-Health-Outcomes>, (Site last visited 03/20/2017).

² See <http://www.dccpta.org/wp-content/uploads/2015/10/Healthy-Food-FL-FACT-SHEET.pdf>. (Site last visited 03/20/2017).

³ U.S. Department of Agriculture, Food Access Research Atlas, Overview, <https://www.ers.usda.gov/data-products/food-access-research-atlas/> (last visited 03/20/2017).

⁴ U.S. Department of Agriculture, Food Access Research Atlas, About the Atlas, <https://www.ers.usda.gov/data-products/food-access-research-atlas/about-the-atlas/> (last visited 03/20/2017).

⁵ s. 500.81, F.S.

underserved communities. Unless saved from repeal, this section and ss. 595.431-595.433 F.S., will be repealed June 30, 2020.

Section 2 creates s. 595.431, F.S., to define the following terms:

- “Low-income community” is a population census tract that meets at least one of the following criteria:
 - The poverty rate is at least 20 percent;
 - In the case of a low-income community located outside a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income; or
 - In the case of a low-income community located within a metropolitan area, the median family income does not exceed 80 percent of the statewide median family income or 80 percent of the metropolitan area’s median family income, whichever is greater.
- “Moderate-income community” is a population census tract in which the median family income is between 81 percent and 95 percent of the statewide median family income or metropolitan area’s median family income.
- “Program” is the Healthy Food Assistance Program.
- “Project administrator” is an entity selected by the department to manage the program.
- “Small food retailer” is a retail store of less than 3,000 square feet, such as a corner store, convenience store, neighborhood store, small grocery store, or bodega, which sells a limited selection of foods and other products.

Section 3 creates s. 595.432, F.S., to outline the duties and responsibilities of the department regarding the program. The department shall administer and develop guidelines for the program. The department will establish program administrator guidelines, including the development of an application process for project administrators and accountability mechanisms for projects receiving assistance under the program. At a minimum, a project administrator must be a not-for-profit entity and have demonstrated experience in developing and implementing strategies for healthy food retail in small stores. The department will establish criteria for a project administrator to use in determining which projects to select and provide materials to a project administrator that educate consumers on the benefits of healthy eating. The department must electronically submit an annual report to the legislature that includes, but is not limited to; projects funded, project expenditures, the geographic distribution of funds, program results, and the program’s impact on any health-related initiatives. Additionally, the department’s ability to implement the program is contingent upon an annual appropriation by the Legislature.

Section 4 creates s. 595.433, F.S., to establish the duties and responsibilities of the project administrators. The project administrator shall:

- Establish and administer an application process for small food retailers to participate in the program. In order to receive assistance under the program, a small food retailer must, at a minimum be located in a low-income or moderate-income community and accept, or agree to apply to and accept, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits.
- Promote program availability throughout the state and try to raise funds from other private and public sources.

- Use up to 10 percent of the funds distributed by the department for administrative and operational costs associated with operating the program, if other budgets or in-kind resources do not cover such costs.
- Collect and provide data and other information quarterly as required by the department.
- Establish goals, standards, and accountability mechanisms for eligible project applicants to ensure that the funds spent is consistent with the purpose of the program.
- Develop a plan for eligible project applicants by describing specific goals for increasing the sales of produce and other healthy food and educating customers on the benefits of healthy eating. This includes, but is not limited to, engaging communities to support participating small food retailers and seeking guidance from state, county, or municipal agencies, public or private universities, cooperative extension services, community-based organizations, and community members.
- Establish standards to assess whether project goals are met.
- Ensure expenditures are appropriate by monitoring the activities of small food retailers.
- Expend funds for each approved project only for the following purposes:
 - Refrigeration, display shelving, or other equipment that small food retailers need, up to a maximum of \$7,500 per retailer.
 - Materials and supplies for nutrition education and healthy food promotion.
 - Initial purchases of healthy foods, including dairy products, and fresh produce, up to a maximum of \$2,000 per year.

For purposes of this section, a project administrator is not subject to chapter 287, F.S., the state procurement laws.

Section 5 repeals section 500.81, F.S., which established the Healthy Food Financing Initiative.

Section 6 provides the bill takes effect July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may result in a positive fiscal impact to retailers who are eligible for funding through the Healthy Food Assistance Program.

C. Government Sector Impact:

The bill provides that implementation of the Healthy Food Assistance Program is contingent upon an annual appropriation by the Legislature.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 595.430, 595.431, 595.432, 595.433.

This bill repeals section 500.81 of the Florida Statutes.

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

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

Recommended CS/CS by Appropriations Subcommittee on The Environment and Natural Resources on April 13, 2017:

The CS adds an introductory statement acknowledging that adult overweight and obese individuals can also be malnourished which can lead to increased risk of adverse health consequences.

CS/SB by Agriculture on March 21, 2017:

The CS clarifies that in order to be eligible for the program retailers must accept, or agree to apply to and accept, both Supplemental Nutrition Assistance Program (SNAP) and Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) benefits.

B. Amendments:

None.



798052

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RCS | . | |
| 04/14/2017 | . | |
| | . | |
| | . | |
| | . | |

Appropriations Subcommittee on the Environment and Natural Resources (Bean) recommended the following:

Senate Amendment

In title, between lines 32 and 33
insert:

WHEREAS, overweight and obese individuals, particularly older adults, can also be malnourished, defined as lacking the proper amount of essential nutrients, thus often increasing their risk of muscle wasting, which can lead to disability and poor health outcomes, and

By the Committee on Agriculture; and Senators Bean and Baxley

575-02673-17

20171592c1

1 A bill to be entitled
 2 An act relating to small food retailers; creating s.
 3 595.430, F.S.; establishing the Healthy Food
 4 Assistance Program within the Department of
 5 Agriculture and Consumer Services; providing a
 6 purpose; requiring the Office of Program Policy
 7 Analysis and Government Accountability to conduct an
 8 independent study evaluating the program's policy
 9 impact; providing for future repeal and legislative
 10 review; creating s. 595.431, F.S.; providing
 11 definitions; creating s. 595.432, F.S.; requiring the
 12 department to develop guidelines and administer the
 13 program; providing department duties and
 14 responsibilities; providing for funding; creating s.
 15 595.433, F.S.; providing duties and responsibilities
 16 of program administrators; exempting program
 17 administrators from provisions relating to state
 18 procurement of certain property and services;
 19 repealing s. 500.81, F.S., relating to the Healthy
 20 Food Financing Initiative; providing an effective
 21 date.
 22
 23 WHEREAS, overweight children and adults are at greater risk
 24 for numerous adverse health consequences, including type 2
 25 diabetes, heart disease, stroke, high blood pressure, high
 26 cholesterol, certain cancers, asthma, low self-esteem,
 27 depression, and other debilitating diseases, and
 28 WHEREAS, in Florida, nearly 27 percent of adults were
 29 considered overweight or obese in 2015, and nearly 13 percent of

Page 1 of 8

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20171592c1

30 children were considered overweight and obese in 2011, and
 31 WHEREAS, obese children are at least twice as likely as
 32 non-obese children to become obese adults, and
 33 WHEREAS, obesity-related health conditions have serious
 34 economic costs, and
 35 WHEREAS, annual health care costs from obesity are at least
 36 \$190 billion dollars, or 21 percent of the nation's total health
 37 care spending, and are expected to rise substantially, and
 38 WHEREAS, roughly 40 percent of these costs are paid through
 39 Medicare and Medicaid, meaning that taxpayers pay much of the
 40 cost, and
 41 WHEREAS, Medicare and Medicaid spending would be reduced by
 42 8.5 percent and 11.8 percent, respectively, in the absence of
 43 obesity-related spending, and
 44 WHEREAS, annual medical expenditures in Florida related to
 45 obesity are estimated at \$6,675,670,940 with approximately \$2.6
 46 billion of this amount paid by Medicare and Medicaid in the
 47 state, and
 48 WHEREAS, many Americans, particularly those in low-income
 49 neighborhoods, rural areas, and communities of color, reside
 50 where adequate access to full-service grocery stores is not
 51 guaranteed, and
 52 WHEREAS, low-income areas have more than twice as many
 53 convenience stores and four times as many small grocery stores
 54 as high-income areas, and
 55 WHEREAS, proximity to convenience stores within a
 56 neighborhood is associated with higher rates of obesity and
 57 diabetes, and
 58 WHEREAS, small food retailers tend to sell few fresh

Page 2 of 8

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59 produce, whole grains, or low-fat dairy products, and
 60 WHEREAS, small food retailers commonly sell highly
 61 processed foods that are high in fat and low in nutrients, and
 62 WHEREAS, small food retailers tend to charge higher prices
 63 for their food as compared to grocery stores and supermarkets,
 64 and
 65 WHEREAS, providing assistance to existing small food
 66 retailers to stock fresh produce and other healthy foods and
 67 promote good nutrition can provide residents with access to
 68 healthier foods, and
 69 WHEREAS, community programs that work with small food
 70 retailers have shown promise in increasing healthy food sales,
 71 improving store offerings, and promoting good nutrition, and
 72 WHEREAS, the program established pursuant to this act is
 73 intended to be a source of funding to provide assistance for
 74 Florida's small food retailers operating in certain urban and
 75 rural areas so that the retailers sell more fresh fruits and
 76 vegetables and other healthy foods at affordable prices to
 77 neighboring residents in an effort to improve residents' diets
 78 and health, NOW, THEREFORE,
 79
 80 Be It Enacted by the Legislature of the State of Florida:
 81
 82 Section 1. Section 595.430, Florida Statutes, is created to
 83 read:
 84 595.430 Healthy Food Assistance Program.-
 85 (1) There is established within the department the Healthy
 86 Food Assistance Program.
 87 (2) The purpose of the program is to provide a process for

Page 3 of 8

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575-02673-17 20171592c1

88 small food retailers to receive assistance for projects that
 89 increase the availability and sales of fresh and nutritious
 90 food, including fresh vegetables, fruits, meats, and seafood in
 91 low-income and moderate-income communities.
 92 (3) The Office of Program Policy Analysis and Government
 93 Accountability shall conduct an independent study to evaluate
 94 the policy impact of placing healthy food in previously
 95 underserved communities.
 96 (4) This section and ss. 595.431-595.433 are repealed June
 97 30, 2020, unless reviewed and saved from repeal through
 98 reenactment by the Legislature.
 99 Section 2. Section 595.431, Florida Statutes, is created to
 100 read:
 101 595.431 Definitions.-As used in ss. 595.430-595.433, the
 102 term:
 103 (1) "Low-income community" means a population census tract,
 104 as reported in the most recent United States Census Bureau
 105 American Community Survey, which meets one of the following
 106 criteria:
 107 (a) The poverty rate is at least 20 percent;
 108 (b) In the case of a low-income community located outside a
 109 metropolitan area, the median family income does not exceed 80
 110 percent of the statewide median family income; or
 111 (c) In the case of a low-income community located within a
 112 metropolitan area, the median family income does not exceed 80
 113 percent of the statewide median family income or 80 percent of
 114 the metropolitan area's median family income, whichever is
 115 greater.
 116 (2) "Moderate-income community" means a population census

Page 4 of 8

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117 tract, as reported in the most recent United States Census
 118 Bureau American Community Survey, in which the median family
 119 income is between 81 percent and 95 percent of the statewide
 120 median family income or metropolitan area's median family
 121 income.

122 (3) "Program" means the Healthy Food Assistance Program
 123 established within the department pursuant to s. 595.430.

124 (4) "Project administrator" means an entity selected by the
 125 department to manage the program to assist small food retailers
 126 in low-income and moderate-income communities in the state.

127 (5) "Small food retailer" means a small-scale retail store
 128 of less than 3,000 square feet, such as a corner store,
 129 convenience store, neighborhood store, small grocery store, or
 130 bodega, which sells a limited selection of foods and other
 131 products.

132 Section 3. Section 595.432, Florida Statutes, is created to
 133 read:

134 595.432 Duties and responsibilities of the department.—

135 (1) The department shall administer the program and develop
 136 guidelines for the operation of the program. The guidelines may
 137 include procedures for granting appropriated funds to a
 138 qualified project administrator to provide assistance to small
 139 food retailers in urban and rural low-income and moderate-income
 140 communities to increase the sales of fresh produce and other
 141 healthy foods.

142 (2) In administering the program, the department shall:

143 (a) Establish program administrator eligibility guidelines,
 144 including, but not limited to, the development of an application
 145 process for project administrators and monitoring and

575-02673-17

20171592c1

146 accountability mechanisms for projects receiving assistance
 147 under the program. At a minimum, a project administrator must be
 148 a not-for-profit entity and have demonstrated experience in
 149 developing and implementing strategies for healthy food retail
 150 in small stores.

151 (b) Establish criteria for a project administrator to use
 152 in determining which projects to select, including, but not
 153 limited to, consideration of the level of need in the area
 154 proposed to be served by the applicant.

155 (c) Provide materials to a project administrator that
 156 educate consumers on the benefits of healthy eating and
 157 encourage, when possible, buying Fresh From Florida agricultural
 158 products for distribution.

159 (d) Electronically submit an annual report to the President
 160 of the Senate and the Speaker of the House of Representatives
 161 regarding the program, including, but not limited to, projects
 162 funded, project expenditures, the geographic distribution of
 163 funds, program results, and the program's impact on any health-
 164 related initiatives.

165 (3) The department's performance and obligation to pay
 166 under this section is contingent upon an annual appropriation by
 167 the Legislature.

168 Section 4. Section 595.433, Florida Statutes, is created to
 169 read:

170 595.433 Duties and responsibilities of project
 171 administrators.—

172 (1) A project administrator shall be responsible for
 173 implementing and operating the program. The project
 174 administrator shall:

575-02673-17

20171592c1

175 (a) Establish and administer an application process for
 176 small food retailers to participate in the program. At a
 177 minimum, in order to receive assistance under the program, a
 178 small food retailer must:

- 179 1. Be located in a low-income community or moderate-income
 180 community.
- 181 2. Accept, or agree to apply to and accept, Supplemental
 182 Nutrition Assistance Program (SNAP) and Special Supplemental
 183 Nutrition Program for Women, Infants, and Children (WIC)
 184 benefits.
- 185 (b) Promote program availability throughout the state and
 186 undertake efforts to raise funds from other private and public
 187 sources.
- 188 (c) Use up to 10 percent of the funds distributed by the
 189 department for administrative and operational costs associated
 190 with operating the program, if such costs are not covered by
 191 other budgets or in-kind resources.
- 192 (d) Collect and provide data and other information
 193 quarterly as required by the department.
- 194 (e) Establish defined goals, standards, and accountability
 195 mechanisms for eligible project applicants to ensure that the
 196 expenditure of moneys is consistent with the purpose of the
 197 program.
- 198 (f) Develop a plan for eligible project applicants by
 199 describing specific goals for increasing the sales of produce
 200 and other healthy foods and educating consumers on the benefits
 201 of healthy eating, including, but not limited to, mechanisms to:
- 202 1. Engage communities to support participating small food
 203 retailers.

Page 7 of 8

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20171592c1

204 2. Seek guidance from state, county, or municipal agencies,
 205 private or public universities, cooperative extension services,
 206 community-based organizations, and community members.

- 207 (g) Establish standards to assess whether project goals are
 208 met.
- 209 (h) Ensure expenditures are appropriate by monitoring the
 210 activities of small food retailers.
- 211 (i) Expend funds for each approved project only for the
 212 following purposes:
- 213 1. Refrigeration, display shelving, or other equipment that
 214 small food retailers need, up to a maximum of \$7,500 per
 215 retailer.
- 216 2. Materials and supplies for nutrition education and
 217 healthy food promotion.
- 218 3. Initial purchases of healthy foods, including dairy
 219 products, and fresh produce, up to a maximum of \$2,000 per
 220 retailer.
- 221 (2) For purposes of this section, a project administrator
 222 is not subject to chapter 287.
- 223 Section 5. Section 500.81, Florida Statutes, is repealed.
- 224 Section 6. This act shall take effect July 1, 2017.

Page 8 of 8

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17
Meeting Date

1592
Bill Number (if applicable)

Topic SMALL FOOD RETAILERS

Amendment Barcode (if applicable)

Name RIVERS H. BASFORD, III

Job Title GOVERNMENT RELATIONS DIRECTOR

Address 2851 REMINGTON GREEN HC

Phone 850-566-9119

TALLAHASSEE, FL 32308
City State Zip

Email Rivers.Basford@heart.org

Speaking: For Against Information

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

Representing AMERICAN HEART ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

1592

Bill Number (if applicable)

Topic Small Food Retailers

Amendment Barcode (if applicable)

Name Fely Curva, Ph.D.

Job Title Partner, Curva & Associates LLC

Address 1212 Piedmont Dr.

Phone (850)508-2256

Street

Tallahassee

FL

32312

Email curva@mindspring.com

City

State

Zip

Speaking: For Against Information

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

Representing Society of Health & Physical Educators (SHAPE) FL

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

1592

Bill Number (if applicable)

Topic SMALL FOOD RETAILERS

Amendment Barcode (if applicable)

Name DIANA PADGETT

Job Title GIOV. CONSULTANT

Address 1371 MILLSTREAM RD.
Street

Phone 850-212-4204

TALL FL 32312
City State Zip

Email DHPCONSULTING @
EARTHLINK.NET

Speaking: For Against Information

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

Representing ABBOTT NUTRITION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/13/17

Meeting Date

CS/SB 1592

Bill Number (if applicable)

Topic CS/SB 1592 Small Food Retailers

Amendment Barcode (if applicable)

Name Allison Wiman

Job Title Policy Analyst

Address 106 N. Bronough

Phone 321-7204 (850)

Street

Tallahassee

FL

32301

Email awiman@Florida

City

State

Zip

Taxwatch.org

Speaking: For Against Information

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

Representing Florida Tax Watch

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)



The Florida Senate

Committee Agenda Request

To: Senator Rob Bradley, Chair
Appropriations Subcommittee on The Environment and Natural Resources

Subject: Committee Agenda Request

Date: March 23, 2017

I respectfully request that **Senate Bill # 1592**, relating to Small Food Retailers, 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

CourtSmart Tag Report

Room: SB 301

Case No.:

Type:

Caption: Senate Appropriations Subcommittee on Environment and Natural Resources

Judge:

Started: 4/13/2017 12:59:13 PM

Ends: 4/13/2017 1:22:50 PM

Length: 00:23:38

12:59:41 PM Recording Paused
1:00:11 PM Recording Resumed
1:00:16 PM Sen. Bradley (Chair)
1:01:02 PM S 1338
1:01:16 PM Sen. Book
1:02:50 PM Sen. Bradley
1:02:58 PM Kelly Mallette, City of Fort Lauderdale and Concerned Waterfront Homeowners Association (waives in support)
1:03:05 PM Bonnie Basham, Boat U.S. (waives in support)
1:03:16 PM Jerry Paul, Seven Seas Cruising Association (waives in support)
1:03:41 PM S 1452
1:03:47 PM Sen. Book
1:04:47 PM Sen. Bradley
1:05:01 PM Rava Brown, Florida Taxicab Association (waives in support)
1:05:48 PM Sen. Book (Chair)
1:05:51 PM Sen. Braynon
1:05:54 PM Sen. Book
1:06:03 PM S 928
1:06:10 PM Sen. Mayfield
1:07:23 PM Sen. Book
1:07:39 PM Tom Singleton, President, City of Winter Haven (waives in support)
1:07:43 PM Frank Bernardino, Polk County (waives in support)
1:08:17 PM S 1592
1:08:28 PM Sen. Baxley
1:08:50 PM Sen. Book
1:08:56 PM Am. 798052
1:09:00 PM Sen. Baxley
1:09:12 PM Sen. Book
1:09:37 PM Rivers Baford, Government Relations Director, American Heart Association (waives in support)
1:09:46 PM Fely Curva, Ph. D., Partner, Curva and Associates LLC, Society of Health and Physical Education (waives in support)
1:09:53 PM Diana Padgett, Government Consultant, Abbott Nutrition (waives in support)
1:10:25 PM Allison Wiman, Policy Analyst, Florida Tax Watch (waives in support)
1:10:29 PM Sen. Book
1:10:49 PM S 1592 (cont.)
1:11:25 PM S 1104
1:11:31 PM Sen. Perry
1:11:40 PM Am. 234994
1:12:32 PM Sen. Book
1:12:45 PM Keyna Cory, Lobbyist, National Waste and Recycling Association (waives in support)
1:12:51 PM Cameron Yarbrough, Advanced Disposal (waives in support)
1:13:12 PM S 1104 (cont.)
1:13:38 PM Thomas Beusse, Manager, State Affairs, American Chemistry Council (waives in support)
1:13:41 PM Sen. Book
1:13:46 PM Keyna Cory, Lobbyist, National Waste and Recycling Association (waives in support)
1:13:55 PM Dan Demio, Business Development, Respolyflow LLC (waives in support)
1:14:04 PM Sen. Perry
1:14:20 PM Sen. Book
1:14:44 PM S 1590
1:14:57 PM Sen. Latvala
1:16:06 PM Sen. Book
1:16:13 PM Am. 371942

1:16:18 PM Sen. Latvala
1:16:29 PM Sen. Book
1:16:54 PM S 1590 (cont.)
1:17:06 PM Rebecca O'Hara, Assistant General Counsel, Florida League of Cities (waives in support)
1:17:12 PM Richard Gentry, Escambia County (waives in support)
1:17:18 PM Susan Harbin, Florida Association of Counties (waives in support)
1:17:25 PM Edward Labrador, Esq., Director, Intergovernmental Affairs, Broward County (waives in support)
1:17:28 PM Lisa Hurley, Flagler County (waives in support)
1:17:33 PM Joe Mobley, The Fiorentino Group, St. Johns County (waives in support)
1:17:37 PM Missy Timmins, Pinellas County Board of Commissioners (waives in support)
1:17:41 PM Sydney Ridley, Government Affairs, Sarasota County Government (waives in support)
1:17:47 PM Diana Ferguson, Attorney, Miami-Dade County (waives in support)
1:17:51 PM Debbie Flack, President, Florida Shore and Beach Preservation Association (waives in support)
1:18:03 PM Sen. Latvala
1:18:16 PM Sen. Book
1:18:50 PM S 1018
1:19:03 PM Sen. Grimsley
1:20:05 PM Sen. Book
1:20:12 PM Am. 446680
1:20:18 PM Sen. Grimsley
1:21:06 PM Sen. Book
1:21:21 PM S 1018 (cont.)
1:21:36 PM Rebecca O'Hara, Assistant General Counsel, Florida League of Cities (waives in support)
1:21:43 PM Jeff Littlejohn, Principal, Florida Drycleaners Coalition (waives in support)
1:21:49 PM Rheb Harbison, Senior Director, Government Affairs, Florida Brownsfield Association (waives in support)
1:22:37 PM Sen. Latvala
1:22:42 PM Sen. Book